

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.11776 of 2011

ORDER:

The relief sought for in the writ petition is to declare the attempt of the respondents, in seeking to raise an unauthorised concrete construction adjacent to the dilapidated Indira Priya Darsini Hall in the Public Garden, Nampally, Hyderabad as illegal and arbitrary.

The Public Gardens was established in Acs.54.00 of land in 1868 AD. This garden was developed and improved by the Nizam of Hyderabad, and is one of the renowned parks and a much needed lung space in the heart of the city. The petitioner had earlier filed W.P.No.14677 of 2009 questioning the action of the respondents in constructing the protocol building in the precincts of the Public Garden as also the validity of G.O.Ms.No.35 dated 02.03.2007 in W.P.No.23690 of 2009. They had also filed W.P.No.16534 of 2009 questioning allotment of Acs.3.20 of land for parking of MLAs and Ministers. All the three writ petitions were clubbed together and an interim order was initially passed directing the respondents to stop construction of the protocol building in the Public Gardens. Thereafter, the interim order was modified and permission was granted to proceed with the construction subject to the result of the Writ Petitions.

The petitioner apprehends that, besides the protocol building, the respondents were taking steps to build another concrete structure adjacent to the Indira Priya Darsini Hall which was constructed on the space used for a children park; and one of the very few lung spaces in the city would slowly vanish.

That public parks, which constitute much needed open spaces, are essential in every city is widely acknowledged. Not only do they provide the much required lung space for inhabitants in the city, they are also used by the general public for amusement and recreation.

Several individuals make use of these parks for their regular exercise. Before resorting to construction of buildings, in the earmarked public parks, the Government is obligated to take a considered decision as to whether or not such construction is absolutely essential.

While admitting the writ petition on 17.06.2014, notice was issued in the WPMP. There has been no interim order in force for the past more than three and half years. As the respondents have not filed their counter-affidavit, we are unaware of what transpired thereafter.

Suffice it, therefore, to dispose of the writ petition directing the respondents to take all necessary steps as are required to protect public parks, as they constitute much needed lung space in the city. Before according permission, for construction of any concrete structure within the precincts of the Public Gardens, the respondents shall examine all aspects and take a considered decision on whether it is essential for such a building to be constructed, and record reasons therefor.

The Writ Petition is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

19th January, 2018
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Date: 19.01.2018

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