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issued vide order dated 13.08.2001 by the Division Bench of Hon'ble Court W.P. No.32232/1998 & connected matters.

2. The said fresh constructions are carried out contrary to the provisions contained in KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) ACT, 1985.
3. There is an urgent need to preserve the notified Park and also to restore the Park to its original glory, in the interest of the general public who are entitled to clean air and lung space.
4. Hence, this writ petition in the public interest.

Bengaluru

5.01.2021

ADVOCATE FOR PETITIONER

**BETW**

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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
(ORIGINAL JURISDICTION)

W.P. No.

/2021 (PIL -GM RES )

**BETWEEN:**

Cubbon Park Walkers Association  
(registered as a society under the Karnataka  
Societies Registration Act, 1960 )  
No. 19, 1<sup>st</sup> floor, 18<sup>th</sup> Cross  
Cubbonpet, Bangalore - 560 002  
( Represented by its President  
Sri. S. Umesh )

**... PETITIONER**

**A N D:**

1. The State of Karnataka  
Represented by Chief Secretary  
Government of Karnataka  
Vidhana Soudha  
Bangalore - 560 001
2. The Principal Secretary  
The Department of Horticulture  
Govt. of Karnataka  
Bangalore -560 001
3. The Principal Secretary  
Public Works Department  
Government of Karnataka  
K.R. Circle  
Bangalore - 560 001
4. The Director of Horticulture ( Cubbon Park )  
Govt. of Karnataka  
Cubbon Park  
Bangalore -560 001
5. The Joint Director of Horticulture (Cubbon Park)  
Govt. of Karnataka  
Cubbon Park,  
Bangalore -560 001
6. The Deputy Director of Horticulture (Cubbon Park)  
Govt. of Karnataka  
Cubbon Park,  
Bangalore -560 001

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7. The Secretary  
Department of Animal Husbandry & Fisheries  
4<sup>th</sup> Floor, Vikasa Soudha  
Bangalore-560 001
8. The Deputy Commissioner  
Law & Order Section  
Cubbon Park Police Station  
Bangalore - 560 001
9. The Hon'ble Lokayuktha  
Multi storeyed building  
Bangalore - 560 001
10. Bangalore Water Supply & Sewerage Board  
Cauveri Bhavan  
Bangalore - 560 001  
( Represented by its Managing Director )
11. The Century Club  
( A Society registered under the provisions of Karnataka  
Societies Registration Act, 1960 )  
No. 1, Seshadri Road  
Bangalore -560 001  
( Represented by its Secretary )
12. The Karnataka State Lawn Tennis Association,  
Cubbon Park,  
Bengaluru- 560001  
( Represented by its Secretary )
13. The Karnataka Government Secretariat Club  
Cubbon Park,  
Bengaluru- 560001  
( Represented by its Secretary )
14. The Karnataka State Government Employees' Association  
No. 1. , Cubbon Park  
Bangalore - 560 001  
( Represented by its Secretary )
15. The Press Club  
Cubbon Park,  
behind Bengaluru General Post Office,  
Bengaluru, Karnataka 560001  
(Represented by its Secretary)
16. The Young Men's Christian Association  
Nrupathunga Rd, Ambedkar Veedhi,  
Sampangi Rama Nagara,  
Bengaluru, Karnataka 560001  
( Represented by its Secretary )

**..RESPONDENTS**

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## WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

The Petitioner above named begs to submit as follows :

1. The Petitioner is an association registered under the Karnataka Societies Registration Act, 1960 having its office at No. 19, 1<sup>st</sup> floor, 18<sup>th</sup> Cross, Cubbonpet, Bangalore - 560 002 and is represented by its President Sri.S. Umesh in the present proceedings. A Copy of Registration Certificate dated 04.05.2019 issued by the competent authority is enclosed as **ANNEXURE -A**. The President of the Association is a practising advocate and an Environmentalist. The Petitioner has no personal/individual interest in the matter,
2. The Petitioner Association is extensively involved in the preservation and protection of the historical place of Bangalore i.e., Cubbon Park for the past 8 years. In this regard, the Petitioner has initiated several proactive steps to preserve the heritage value of the Cubbon Park. The Petitioner has been instrumental in moving the Hon'ble Lokayukta in the for ensuring scientific survey of Cubbon Park area and prevention of illegal constructions/encroachments within the Cubbon Park area.
3. As per the website maintained by the Bangalore Urban District administration:
  - i) Cubbon Park, officially known as Sri. Chamarajendra Park is a historic park, located in the heart of the city in the Central Administrative Area. The park provides sylvan surroundings to the State Legislature building- the Vidhana Soudha, the High Court Buildings - the Attara Kacheri and several other organizations located along the periphery and within the park which constitute the Central Administrative Area.
  - ii) Cubbon Park has a history of over 100 years. It was established in the year 1870 by Sri John Meade, the then acting Commissioner of Mysore. The vast landscape of the park was conceived by Major General Richard Sankey, the then Chief Engineer of the State. As a mark of honour to Sri John Meade, the park was initially named

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as "Meade's Park" and subsequently it was called the Cubbon Park. Since the inception of the park, it was developed and improved by adding new structures and features. In the year 1927, the park was officially renamed as "Sri. Chamarajendra Park" to commemorate the Silver Jubilee of Sri. Krishnaraja Wodeyar's rule in Mysore State. Cubbon Park is under the control of the Department of Horticulture. The Deputy Director of Horticulture (Cubbon Park) is responsible for the administration and maintenance of the park.

4. The official Respondents 1 to 8 herein are entrusted with a solemn duty to preserve and protect the aforesaid heritage place. Respondent No. 9 is arrayed as a party since the Petitioner submitted a series of complaints to Hon'ble Lokayukta in the matter of illegal constructions by the organisations housed in the Cubbon Park. A Copy of Complaint dated 08.07.2013 is enclosed as **ANNEXURE-B**. Subsequently, the Petitioner submitted another complaint dated 26.06.2014 in relation to illegal constructions by the YMCA and PWD Department. A Copy of complaint dated 26.06.2014 is enclosed as **ANNEXURE-C**. Further, the Petitioner submitted yet another complaint dated 10.01.2019 in the matter of illegal constructions. A Copy of Complaint dated 10.01.2019 is enclosed as **ANNEXURE-D**. These proceedings have not yielded the desired result and the illegal constructions are completed and in fact, continuing also contrary to law. The organisations who are housed in the Cubbon are made as party respondent Nos 11 to 16 in the present proceedings.
5. Respondent No.3 has constructed and permitted the construction of several buildings within the Cubbon park area even after filing of the complaint to Lokayukta. The photographs evidencing the construction in one such instance i.e., building for housing Karnataka Engineering Service Association are enclosed as **ANNEXURE - E**.

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6. The Respondent No. 4 (Hopcoms, Hudson Circle, Cubbon Park premises) has commenced construction work in the Cubbon Park area. In this regard, the Petitioner submitted a complaint dated 06.12.2020 to the Principal Secretary, Horticulture Department. A Copy of Complaint dated 06.12.2020 is enclosed as **ANNEXURE-F**. The photographs evidencing the constructions are enclosed as **ANNEXURE - G & G1**.

7. The Respondent No.7 (Department of Animal Husbandry & Fisheries) has constructed buildings within the Cubbon Park area even after filing of the complaint in the year 2013. The Photographs evidencing the permanent constructions are enclosed as **ANNEXURE - H**.

8. The Respondent No. 10 (Bangalore Water Supply & Sewerage Board) has put up permanent structures during period 2015 to 2020 and is operating a Tertiary Treatment Plant. The photographs evidencing the existence of permanent structures put up by the Respondent No. 10 are enclosed as **ANNEXURE - J & J1**.

9. The Respondent No. 12 ( Century Club ) who are the Lessee/s have put up permanent structures and have also constructed the swimming pool even after filing of the complaint dated 08.07.2013 before the Hon'ble Lokayukta. The Photographs evidencing the permanent structures so put up by the Respondent No. 12 are enclosed as **ANNEXURE - K & K1**.

10. Respondent No.13 (KSLTA ) has constructed Swimming Pool, Extra Tennis Court, Rooms etc. even after filing of the complaint dated 08.07.2013 before the Hon'ble Lokayukta. The Photographs evidencing the permanent structures so put up by the Respondent No. 13 are enclosed as **ANNEXURE - L**.

11. The Respondent No. 14 ( Secretariat Club ) has constructed a Generator Room Tennis Court etc. even after filing of the complaint dated 08.07.2013 before the Hon'ble Lokayukta. The Photographs evidencing the constructions are enclosed as **ANNEXURE - M & M1.**
12. Respondent No. 15 (The Karnataka State Government Employees' Association) who is hosing their office and also have constructed function hall called "NGO Hall "have commenced construction of new buildings. The Photographs evidencing the existence of structures and new constructions are enclosed as **ANNEXURE - N & N1.**
13. Respondent No. 16 (The Press Club) has constructed new buildings even after filing of the complaint to the Lokayukta and horticulture department. The photographs evidencing the structures are enclosed as **ANNEXURE - P TO P3.**
14. Respondent No. 17 (YMCA) have put up new constructions even after filing of the complaint to Hon'ble Lokayukta. The Photographs evidencing the new constructions are enclosed as **ANNEXURE - Q TO Q3.**
15. Way back in the year 2001, Hon'ble Court passed an order dated 13.08.2001 in W.P.No.32232/1998 & connected matters in the matter of fresh constructions to be put up in the Cubbon Park area. The relevant portion of the order/judgement is extracted below for ready reference :
- An apprehension has been expressed by the learned counsel for the petitioners that in future, there could be further notifications deleting some more area and resorting to constructions over such area and in course of time, there is every likelihood of the Cubbon park area being diluted. It is submitted that the preservation of lung space in a busy city and maintenance of parks is essential for the health and recreation of the public and there is no guarantee that the*

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*Government will not resort to subterfuge to overcome the provisions of the Government park (preservation) Act. Sharing the concern of the petitioners for the preservation of as much open space as possible and the need to develop the parks, we direct that no further constructions (other than those referred to supra) shall be made within the limits of the park specified under the Notification of 1998 without obtaining the clearance from this Court for proceeding with fresh constructions.*

A Copy of Division Bench Order/Judgement dated: 13.08.2001 is enclosed as **ANNEXURE-R**.

16. In addition, there is complete contravention of the provisions contained in KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) ACT, 1985 in the matter of new constructions made by the concerned respondents.
17. Hence, the Petitioner is constrained to approach this Hon'ble Court in the public interest on the following amongst other

#### **GROUND**

18. That, no clearance is obtained by the concerned Respondents from this Hon'ble Court as directed by the Division Bench of this Hon'ble Court vide order dated 13.08.2001 in W.P. No.32232/1998 & connected matters and the constructions have come into existence and is also ongoing with impunity, in utter breach of the directions given by this Hon'ble Court. The said constructions have affected the environment and if allowed to remain is continuously affecting the quality of life of citizens which is violative of rights guaranteed under article 21 of the constitution of India.
19. That, the Cubbon Park is a notified Park under the KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) ACT, 1985 and new constructions taken up by the concerned Respondents is in utter violation of the provisions contained in the Act.

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20. That, if the constructions are allowed to remain, it will cause irreparable loss and injury to the general public. Therefore, the said illegal constructions are required to be demolished and the Cubbon Park is required to be restored to its original glory.
21. That, the Rule of Law mandates that all the Respondents carry out their activities in a law conforming manner and compliance with the provisions contained in KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) ACT, 1985 and the Judgement dated 13.08.2001 passed in W.P.No.32232/1998 & connected matters.
22. The Petitioner has not filed any writ petition on the same cause of action and no other proceedings are pending.
23. The Petitioner is presented in public and interest and the Petitioner has no personal interest in the outcome of the proceedings.

#### **GROUND FOR INTERIM PRAYER**

24. The Respondent No. 4 and 14 have commenced the construction work (as is evident at Annexures- G & N) in utter breach of the Judgement dated 13.08.2001 passed by the Hon'ble Division Bench in W.P. No.32232/1998 & connected matters and the same is in contravention of the KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES PRESERVATION AND REGULATION) ACT, 1985. Therefore, there is an urgent need to restrain the Respondent Nos. 4 & 14 from proceeding with further constructions. The public at large will be put to irreparable loss and injury if the constructions are allowed to be continued. At the same time, all the Respondents are required to be restrained from putting up any further constructions in the Cubbon Park, during the pendency of the instant writ petition.

PRAYER

25.

Wherefore, it is humbly prayed that this Hon'ble Court be pleased to -

- i) Issue a writ of mandamus or any other appropriate writ, order or direction to Respondent Nos. 1 to 8 to ensure strict compliance with the directions contained vide order dated 13.08.2001 in W.P. No.32232/1998 & connected matters which holds the field. *as per Annexure R.*
- ii) Issue an appropriate direction to Respondent Nos. 10 to 16 to forth with demolishing the constructions which have been completed in utter disregard of the provisions contained in KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) ACT, 1985 and contrary to directions to issued by the Hon'ble Division Bench in W.P. No. 32232/1998 and connected matters. *as per Annexure R.*
- iii) Issue an appropriate order /direction to Respondent No. 9 to take necessary and appropriate action in the matter of illegal constructions which have come up in the Cubbon Park area in pursuant to complaints lodged by the Petitioner.
- iv) Grant such other and further relief/s as may be found appropriate in the interest of justice and equity.