

**HONOURABLE THE ACTING CHIEF JUSTICE
SRI JUSTICE M.S.RAMACHANDRA RAO
AND
HONOURABLE SRI JUSTICE T. VINOD KUMAR**

C.C. (SR) No.3139 of 2014

ORDER: *(Per Sri Justice M.S.Ramachandra Rao)*

This is a Contempt Case filed alleging willful disobedience of the order dt.10.09.2013 in W.P.No.25058 of 2011 passed by a Division Bench of the Andhra Pradesh High Court consisting of then the Hon'ble the Chief Justice and Justice K.C. Bhanu.

2. In the Writ Petition, the petitioner, who is an Advocate and a Social Worker, complained of the action of the respondents therein in permitting immersion of all types of idols including idols made with Plaster of Paris (POP) in the Hussain Sagar Lake and sought protection of the said lake from water pollution.

3. He alleged that idols were being manufactured with POP and hazardous chemicals to a length ranging from 6 inches to more than 5 ft height using iron fabrication, that synthetic paints were being used, that idols made of POP will not melt in water upto 2 months and water pollution is caused by immersion of such idols in the Hussain Sagar Lake. He pointed out that the immersion of idols also entails much expenditure to the State Government towards security arrangements, hiring cranes and it would be better if people were to be encouraged to use clay idols and immerse them in their own residences so as to reduce the pollution in the said Lake. He pointed out that the air quality near the

Hussain Sagar Lake is poor and the water therein is unusable and sometimes there is foul smell as well.

The order dt.10.09.2013 in WP No. 25058 of 2011

4. By a brief order passed on 10.09.2013, the Division Bench disposed of the Writ Petition following a previous order passed by a Division Bench of the Andhra Pradesh High Court on 15.06.2001 in W.P.No.21495 of 1998 and batch and directed the respondents to implement the said order.

The order dt.15-6-2001 in WP.No.21495 of 1998 and batch

5. In the order dt.15-06-2001, the Division Bench considered several aspects in relation to immersion of Ganesh idols in the Hussain Sagar Lake, and after referring to a study report of the Environmental Protection Training and Research Institute (which highlighted (a) the extent of pollution in the said lake caused by immersion of idols with synthetic paints, distemper and made of steel or wood, (b) also the fact that POP does not show serious solubility potential in water at laboratory conditions and contributes to physical pollution, and (c) also the fact that the lake was already polluted with Calcium and Sulphate released into the water from the domestic and industrial effluents), and after referring to the provisions of the Hyderabad Municipal Corporation Act, 1955, came to the conclusion that provisions therein are not being implemented.

The Bench also highlighted the role of the then A.P. Pollution Control Board and observed that it ought to have issued requisite

directions from time to time having regard to the magnitude of the problem.

It then gave a series of directions as under:

(a) Immersion of idols should take place in accordance with the schedule fixed by the police authorities or by the District Authorities, as the case may be;

(b) Within 24 hours of immersion of idols, the remains of the idols, accumulated debris, straw/jute strings etc. and all other waste materials related to the immersion of idols will have to be removed from the water body and are to be transported to the solid waste dumping sites of the Hyderabad Municipal Corporation for ultimate disposal, unless the same is collected by idol makers or others for recycling.

(c) Local Police Station shall ensure the removal, transportation and disposal of the remains of idol and other waste materials with active cooperation of local bodies and disposal of waste material is to be carried out by the Hyderabad Municipal Corporation.

(d) The Police authorities will keep the AP Pollution Control Board informed in order to enable the said Board to perform its supervisory functions and the police may also seek advice and guidance from the Board as and when required.

(e) Under no circumstances, the removed waste materials be burnt or disposed of in a manner other than mentioned in para (b) above.

(f) Person(s) intending to reuse the remains of the idols/structure of the idols are free to lift the same from the water body and its bed and they may be encouraged to do the same immediately after idol immersion by police and local authority.

The Bench further observed that it will be open to the parties to bring before the Court any other or further suggestions if any occasion arises there for or in the event it is found by the Authorities that any technical or other difficulty is faced while implementing above directions.

The instant CCSR No. 3139 of 2014

6. Alleging that these directions have been violated, and officials of the State Government, who have a statutory duty to maintain the standard and purity of the Hussain Sagar lake, had failed or neglected to perform their duty, that the bund of the Lake is weakening on account of the immersion of idols and other materials such as POP, steel, iron rods etc. deposited on the tank bund side, that the 'polluter pays' principle is not being followed, that the State is wasting public money and ignoring the guidelines framed by the Central Pollution Control Board, that a G.O.Rt.No.581 dt.21-11-2016 constituting District Level Committees to oversee and monitor action plan relating to immersion of idols in water bodies across the State was not being implemented, this Contempt Case was filed.

The events after filing of the CCSR No.3139 of 2014

7. Since 2015, this matter had underwent several adjournments and from time to time certain orders were passed by the Division Benches of this Court presided over by the then Chief Justices for prevention of further pollution.

8. Ultimately, on 05-08-2021, the Bench presided over by the then Chief Justice requested the learned Special Government Pleader attached to the Office of the learned Advocate General to clarify as to whether the State is permitting the assembling of people to celebrate Ganesh Utsav scheduled on 10-09-2021 or not, and further whether permission is being granted to immerse Ganesh idols in the Hussain Sagar Lake.

9. The Special Government Pleader sought time to obtain instructions and the matter was adjourned to 11-08-2021.

10. On 11-08-2021, he again sought time till 18-08-2021.

11. While granting such time, the Bench directed him to file a brief affidavit from the respondents clarifying their stand.

12. In spite of the said two opportunities, when no affidavit was filed, on 18-08-2021, the Bench granted one last opportunity to the State Government and the Greater Hyderabad Municipal Corporation (GHMC) to file their affidavits failing which it directed the Senior Officer of the GHMC and one from the Police Commissionerate at Hyderabad to be present to assist the Court with proper instructions.

13. On 01-09-2021, when the matter was listed, at request of the respondents, it was adjourned to 06-09-2021.

14. But the case was listed only on 07-09-2021.

15. In this case, the petitioner has filed a memo on 17-08-2021 and a report in the form of an affidavit on 06-09-2021.

16. The Telangana State Pollution Control Board (8th respondent) filed a counter-affidavit on 17-08-2021 and a fresh report on 03-09-2021.

17. The Commissioner of Police, Hyderabad (9th respondent) filed a counter-affidavit on 31-08-2021.

18. The Commissioner of the GHMC (10th respondent) filed a counter-affidavit on 17-08-2021 and additional counters on 31-08-2021 and 06-09-2021.

19. The Bhagyanagar Ganesh Utsav Samithi (12th respondent) filed a memo on 06-09-2021.

20. Many suggestions / advice is contained in these affidavits and counter-affidavits and the accompanying documents, which we have noted.

21. Heard party-in-person, Sri Radhive Reddy, learned Special Government Pleader for the learned Advocate General, Sri P.Shiva Kumar for Telangana State Pollution Control Board and Sri L.Ravichander, learned Senior Counsel for respondent No.12 on 07.09.2021.

The consideration by the Court

22. Lord Ganesha is worshipped in this State as in other parts of the Country as a deity who removes obstacles to success in life and who ensures success.

23. The Ganesh Chaturdhi Festival is an annual event occurring usually in the month of September of every year. Devotees purchase idols of Lord Ganesh, offer prayers and prasadam to the deity and immerse the idol in a water body usually after 11 days.

24. In the City of Hyderabad, this Festival has been celebrated with great pomp and grandeur in the last 5 decades and immersion of idols of Lord Ganesh is being permitted in the Hussain Sagar Lake which is in the heart of the City of Hyderabad.

25. There is a bund for the lake on one side and there is a road on the bund connecting the City of Hyderabad to its twin city of Secunderabad. The said bund was erected long back.

26. For such immersion of idols, people from different parts of the City of Hyderabad travel in groups in lorries, buses, cars, tempos and utilize the cranes erected on the tank bund by the Municipal Corporation and at other places around the Hussain Sagar Lake for immersion of idols. A large police force is utilized by the State Government to ensure the safety and security of the persons who come to the area around the Hussain Sagar Lake for immersion of idols.

27. Over a period of time, the general public are being made aware of the risk of water pollution in the Hussain Sagar Lake and being encouraged to use clay idols made using natural colours on account of initiatives taken by the Telangana State Pollution Control Board, the GHMC and also the Police Department, but the use of such idols is still very small compared to the number of Plaster of Paris idols painted with synthetic colours and made from steel or iron fabrication which are sold and utilized by people of the city for offering puja.

28. According to the counter-affidavit filed by the Telangana State Pollution Control Board (8th respondent), it had monitored the activities in 2019 Ganesh Chaturdhi Festival and had noticed that *before immersion*, the Dissolved Oxygen Values were in the range of 1.0 mg/l to 6.4 mg/l and the Biochemical Oxygen Demand values were in the range of 34 mg/l to 38 mg/l; but *during immersion* the Dissolved Oxygen Values were in the range of 1.4 mg/l to 5.8 mg/l and Biochemical Oxygen Demand Values were in the range of 21 mg/l to 58 mg/l. *According to the Board, it indicates water quality deteriorated during the immersion period.*

The Revised guidelines issued by the Central Pollution Control Board on 12.5.2020

29. The Telangana State Pollution Control Board (8th respondent), in its counter affidavit has also referred to the Revised Guidelines issued by the Central Pollution Control Board on 12.05.2020.

30. The said Guidelines state *inter alia* :

- (i) that *idols made up of POP shall be banned*;
- (ii) use of toxic and non-biodegradable chemical Dyes / oil paints for painting idols should be strictly prohibited;
- (iii) use of enamel and synthetic dye based paints on idols should be discouraged and instead use of eco-friendly water based biodegradable and non-toxic natural dyes should be encouraged;
- (iv) as far as possible, low height and eco-friendly idols should be used.

The said guidelines also elaborately lay down the role and responsibilities of the local and urban authorities such as:

- (a) grant of licences only to those idol manufacturers/craftsmen/artisans who use only eco-friendly natural clay materials (but not Plaster of Paris or baked clay) in making idols prior to festive times; as far as possible;
- (b) instead of immersion of idols in water bodies, all the Resident Welfare Associations or individual households in a City or a Town should be encouraged to create temporary ponds/tanks of suitable size and adequate capacity with necessary provision for collection and storage of segregated waste prior to immersion;
- (c) the waste generated should be collected and disposed of safely by the Urban bodies and Local Authorities within 24 hours;

(d) temporary idol immersion Ponds/tanks with liner made with well graded /highly impervious clay or eco-synthetic liner should be arranged at suitable locations;

(e) in the interest of protection of environment, urban and local bodies shall impose restrictions on height of the idol to the idol making Agencies/manufacturers/craftsmen as lesser the size of the idol, better would be the immersion process and less consumption of materials required for making the idols.

It also directed the education of public of all these measures.

It directed the State Pollution Control Boards to conduct water quality assessment of the water bodies pre-immersion, during immersion and post-immersion on the basis of prescribed parameters and reports should be shared with the Ministry of Environment, Forest and Climate Change, Ministry of Jal Shakti and Central Pollution Control Board within two (2) months.

There are several other guidelines which we have not referred to here which are relevant.

The current status of implementation of the CPCB guidelines

31. Only some of these recommendations of the central Pollution Control Board such as creation of 25 baby ponds within the limits of the GHMC, distribution of small environment friendly clay Ganesh idols upto 50,000 by GHMC and 75,000 such idols by the Hyderabad

Metropolitan Development Authority, have been implemented to a limited extent.

32. Removing accumulated debris, straw/ jute strings etc and all other waste material relating to immersion of idols is stated to be done by GHMC and certain awareness programmes in coordination with NGOs have been taken up.

33. There are also 16 other lakes located within the GHMC limits apart from the Hussain Sagar Lake where immersion of idols is said to be permitted.

34. However, the main recommendations about licensing of idol manufacturing only to persons making idols with eco-friendly and biodegradable materials has not been done and POP idols are still being made and sold in large numbers using synthetic paints and chemicals of very big sizes and height. The respondent Nos.1 to 11 have not banned the manufacture of POP idols in spite of the recommendation of the Central Pollution Control Board made on 12.05.2020.

35. The Telangana State Pollution Control Board (8th respondent), which is supposed to implement the guidelines issued by the Central Pollution Control Board, though having statutory powers under the Water (Prevention of Pollution) Control Act, 1974 and the Environment (Protection) Act, 1986 to give directions, seems somewhat reluctant to take measures for violation of its advice/directions for a more eco-friendly Ganesh immersion in the Hussain Sagar Lake.

36. The respondent Nos.1 to 11 ought to have banned manufacture and sale of POP Ganesh idols since the Central Pollution Control Board Guidelines dt.12.05.2020 were known to them and they had ample time to do so before the Ganesh Chaturthi Festival on 10.09.2021. Due to their inaction, people who were making their living by producing/making idols already would have purchased materials including POP and synthetic paints. Thus any direction issued now not to allow sale or use of the said idols would hit them hard. However, the Court cannot ignore the possible threat of further water pollution to the Hussain Sagar Lake.

37. So the respondent Nos.1 to 11 are directed to permit immersion of POP Ganesh idols (i) in baby ponds already constructed by the GHMC or (ii) separate areas / ponds which do not result / spread the water pollution into the main water body. The respondent Nos.1 to 11 can also explore the use of inflatable rubber dam wall as was used while carrying on dredging operations in the Hussain Sagar Lake earlier by encircling the area for immersion of idols as an alternative.

38. In the past, access to the Hussain Sagar Lake was only through Tank Bund on which there is a road which connects Hyderabad to Secunderabad. But over a period of time, with the formation of Necklace Road, the lake is accessible from all sides. Therefore, immersion can be permitted by respondent Nos.1 to 11 of non-POP mud idols which do not have synthetic paint only through the other side of the Hussain Sagar Lake for example, P.V.Ghat, Secretariat road, Sanjeevaiah Park road etc.

39. Recently, the Tank Bund of the Hussain Sagar Lake was renovated with new pavements, gardens, vintage lamp posts and beautified by spending considerable public money. If immersion is permitted by erecting cranes on this road on the Tank Bund of the said Lake, it would result in damage all the new fittings and further expenditure would require to be incurred by the State to restore *status quo ante*. Therefore, we direct the respondent Nos.1 to 11 not to permit immersion of Ganesh idols from the Tank Bund side of the Hussain Sagar Lake.

40. That apart, Covid-19 pandemic is still continuing and there is a risk of events such as Ganesh immersion taking place at a single place such as Hussain Sagar Lake turning into Super Virus Spreader event because even vaccinations available currently do not offer complete immunity to the virus, which is said to be mutating into variants, some of whom are more virulent. The scientific community is predicting a third wave of the pandemic in this month or October, 2021.

Conclusion

41. Therefore, keeping in mind pollution of the Hussain Sagar Lake as well as Covid-19 pandemic, the following directions are issued to the respondents 1 to 11 for strict implementation in the interest of the public :

- (1) The respondents 1 to 11 shall not allow idols made of Plaster of Paris to be immersed in Hussainsagar Lake and other lakes in the city;

- (2) respondent Nos.1 to 11 shall permit immersion of POP Ganesh idols (i) in baby ponds already constructed by the GHMC or (ii) separate areas / ponds which do not result / spread the water pollution into the main water body. The respondent Nos.1 to 11 can also explore the use of inflatable rubber dam wall as was used while carrying on dredging operations in the Hussain Sagar Lake earlier by encircling the area for immersion of idols as an alternative;
- (3) respondent Nos.1 to 11 shall not permit immersion of Ganesh idols from the Tank Bund side of the Hussain Sagar Lake;
- (4) immersion can be permitted by respondent Nos.1 to 11 of non-POP idols which do not have synthetic paint only through the other side of the Hussain Sagar Lake for example, P.V.Ghat, Secretariat road, Sanjeevaiah Park road etc.
- (5) Use of low height and eco-friendly idols shall be encouraged to avoid impact on the environment and also to carry out rituals in simple and easy manner without gathering of large crowds;
- (6) License/Permits may be limited to fixed number of Pandals in their respective areas by the Local / Urban Bodies;
- (7) Respondent Nos.1 to 11 shall regulate the number of idols, area-wise, coming to Hussain Sagar Lake for immersion on the last day;

- (8) Simple and quiet celebrations should be encouraged instead of cultural or entertainment programs with large congregations during festival period;
- (9) Public Pandals may be advised to switch over to online Darshan or relay the celebrations through social media platforms, websites or local cable television networks;
- (10) Household immersion of small Ganesh idols at the respective homes of devotees in a eco-friendly manner i.e. in a bucket filled with water, should be encouraged; and
- (11) Temporary idol immersion ponds/tanks with proper liner may be provided to avoid large gatherings at same place.
- (12) The GHMC (10th respondent) shall make available masks free of cost in adequate number on the last day of immersion of Ganesh idols in the Hussain Sagar lake.

42. The Commissioner of Police, Hyderabad (9th respondent) shall also instruct all Station House Officers and Divisional Police Officers to ensure

(a) Large Congregations do not take place at places where festivities are being celebrated and should fix the maximum number of people who can congregate at a particular time within a Pandal;

(b) Wearing of masks and mandate the organizers of festivities to provide sufficient sanitizers;

(c) after coordinating with concerned Departments, timely removal, transportation and disposal of the remains of the idols and other waste material from the Hussain Sagar Lake immediately after immersion as is being done every year;

(e) adequate number of Police personnel are engaged to enforce social distancing as far as possible and also to avoid any law and order problems;

(f) that there is no playing of loud music in the Ganesh Pandals so that there is no disturbance to neighbours / students/people who are unwell. Use of loudspeakers should not be permitted after 10 p.m.;

(g) that Ganesh Pandals are not set up on the roads obstructing smooth flow of traffic.

(h) that appropriate Fire Safety Equipment has been provided at all Ganesh Pandals by the organisers.

We further direct that the respondents 1 to 11 to implement the guidelines issued on 12-5-2020 by the Central Pollution Control Board as set out in para 30 above, and other guidelines too to the extent to the extent possible, by issuing appropriate Government Orders by 31.03.2022 much before the Ganesh Chaturdhi festival of the year 2022.

If not, the 8th respondent shall take steps to ensure that the said guidelines are implemented by exercising its statutory powers under the Environment Protection Act,1986 or the Water (Prevention and Control of Pollution) Act,1974.

The respondent Nos.1 to 11 shall also give wide publicity to this order through Print and Electronic media throughout the period commencing from 10.09.2021 till the completion of the immersion of the idols.

The petitioner is also given liberty to revive this CC if no action is taken by the respondents 1 to 11 in that regard.

43. Since the issues raised in this CC (SR) are important issues of water pollution of the Hussain Sagar Lake and ensuring of safe celebrations of Ganesh Chaturthi Festival on 10.09.2021 and immersion of idols thereafter, and in view of the prevalence of Covid-19 pandemic, these directions are being issued treating the issues arising in this CC as a *suo motu* Public Interest Litigation case.

44. The Contempt Case is closed with the above directions. No costs.

45. Pending miscellaneous petitions, if any, in this Contempt Case shall stand closed.

M.S.RAMACHANDRA RAO, ACJ

T. VINOD KUMAR, J

Date: 09-09-2021

Note :- Issue C.C. today.

B/o.

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