

(2001) 06 AP CK 0004

Andhra Pradesh High Court

Case No: Writ Petition No's. 21495, 22303 of 1998 and 10113 of 1995

T. Ramakrishna Rao

APPELLANT

Vs

Principal Secretary to Govt. of
A.P. and others

RESPONDENT

Date of Decision: June 15, 2001

Acts Referred:

- Constitution of India, 1950 - Article 21, 226, 39, 48A
- Criminal Procedure Code, 1973 (CrPC) - Section 144
- Hyderabad City Police Act, 1348 - Section 21, 22
- Hyderabad Municipal Corporation Act, 1955 - Section 312, 316, 319, 337, 522
- Water (Prevention and Control of Pollution) Act, 1974 - Section 24

Citation: (2001) 5 ALD 299 : (2001) 4 ALT 654

Hon'ble Judges: S.B. Sinha, C.J; S.R. Nayak, J

Bench: Division Bench

Advocate: Mr. Shyam S. Agarwal and Mr. T. Jagdish, for the Appellant; Advocate-General, Government Pleader for Home, Mr. Ghanta Rama Rao, SC for MCH, M/s K.N. Jwala, SC for APSEB, Mr. S.V. Bhatt for Mr. E. Kalyan Ram, SC for APPCB, Mr. P.M. Gopal Rao, SC for HUDA, Mr. S. Kishan Rao and Mr. T. Muralidhar Rao, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

S.B. Sinha, C.J.

These writ petitions involve a common question as regards the steps required to be taken by the respondents herein for the protection of the lake known as Hussain sagar in relation to ecology, pollution, environment and encroachment.

2. Writ Petition No.21495 of 1998 is a Public Interest Litigation case taken up on the basis of a letter written by Sri T. Ramakrishna Rao, Advocate based on the news item "Lakes which lack a saviour" published in the Indian Express dated 11-7-1998.

3. The petitioner states that the 400 years old Hussain sagar lake which was originally spread over 1664 hectares for the purpose of supplying drinking water to the residents of Hyderabad and surrounding areas during 1864-1930 was now shrunk to nearly 350 hectares, due to encroachments both by the land grabbers and the State Government for formation of Necklace road and other slip roads, Buddha Poornima project.

A star hotel has also encroached upon the lake and 25% of the lake on the western side was encroached by slum dwellers. The lake became polluted with domestic waste and industrial effluents being let into it. Government constituted Hyderabad lake Conservation and Management Authority, but it failed to take concrete steps to preserve the lakes. The lake is now looked after jointly by the Municipal Corporation of Hyderabad, Pollution Control Board, Hyderabad Urban Development Authority and Hyderabad Metropolitan Water Supply and Sewerage Board. But, there was no coordination between the said authorities resulting in the number of colonies coming up in catchments and tank bed area. No step has been taken to ban washing of clothes and cleaning of animals in the lakes.

Though the lake has become a centre of tourist attraction, no steps have been taken by the Government to protect the same environmentally. The inaction on the part of the above authorities led to alleged environmental degradation and destruction of the ecology of the lake and the same is violative of the fundamental rights of the citizen guaranteed under Article 21 of the Constitution of India to have pollution free atmosphere. Therefore, the petitioner sought for issuance of a writ of mandamus directing the respondents to remove all the encroachments in the area of 1664 hectares of the Hussain sagar lake.

4. WP No.22303 of 1998 is filed by Smt. C. Jayashree Sarathy, Advocate of this Court seeking the following prayer:

The Hon"ble Court may be pleased to issue appropriate directions and writ particularly one in the nature of mandamus directing the respondents:

1. not to allow immersion of Ganesh idols in Hussain sagar lake, Hyderabad.
2. to identify lakes and rivers in twin cities of Hyderabad and Secunderabad the outskirts for immersion of Sri Ganesh idols;
3. to direct the A.P. Pollution Control Board to assess the effect of immersion of Sri Ganesh Idols in Hussain sagar lake, Hyderabad and submit report to this Hon"ble Court, and
4. to direct the respondent No.1 to commence and intensify awareness campaign impressing upon the citizens about their duties to protect the environment and cleanliness of Hussain sagar lake and to co-operate the implementation of the ambitious plan drawn by the respondent No. 1 to convert Hyderabad - Secunderabad into a dream land for visitors and also residents, as reported in the

Deccan Chronicle dated 1-8-1998 and issue writ or direction in the nature of writ as this Hon"ble Court deems fit an in the circumstances of the case".

5. The petitioner states that mass immersion of Ganesh idols in Hussain sagar lake is being done since 1980 at the behest of the political leaders and the same has been causing hindrance to the object of the State to develop the lake into pollution free, serene and attractive tourist centre. During the Ganesh Chaturthi festive season, there had been tapping of electricity from the poles and no action has been taken by the electricity board against the illegal pilferers. It is alleged that the immersion of idols pollute the waters of the lake and unless crores of rupees are spent for cleansing the same, the situation would not improve, as a result whereof, the environment and ecology near the lake is badly affected. The practice of immersion of idols into a lake with no flowing water is a hazardous one and directions should be issued to stop the immersion of idols in the lake. It was further prayed that report should be called for from the Pollution Control Board to assess the damage caused due to the immersion of idols into the lake and also due to the discharge of effluents into the lake by the industries.

6. In WP No.22303 of 1998, the Assistant Secretary to Government filed a counter-affidavit stating that the Governmental authorities have issued instructions to initiate action on the findings and suggestions of the Justice M. Krishna Rao commission of enquiry. The said counter refers to various measures purported to have been taken by the Government for smooth running of centralized immersion procession. Notifications have allegedly been issued every year restricting the use of horn type loud speakers. In exercise of the powers vested under Sections 21 and 22(iv) of the Hyderabad City Police Act and Section 144 Cr.PC. the Commissioner of Police, Hyderabad and Secunderabad issued notification on 31-7-1998 informing the public and the concerned organisers that Ganesh idols can be installed at various localities only after obtaining prior permission in writing from the concerned Divisional Assistant Commissioner of Police of and separate permission will have to be sought for each installation. No unauthorised electrical connections at pandals are being allowed and the organisers have to apply in advance for supply of electricity and permissions will be accorded only after verification fixing slab rates as per the usage of electricity as well as size of the Ganesh idols.

7. As regards the pollution of the lake on account of immersion of idols, it was stated in the counter that a meeting was conducted on 22-7-1998 with the members of Bhagyanagar Ganesh Utsav Samithi and all concerned officials by the Commissioner of Police to discuss location of alternative sites and immersion of idols with a view to prevent pollution of Hussain sagar, but the members of the Samithi did not agree for immersion of idols in the lakes other than Hussainsagar and also to reduce the height of idols. The Chief Secretary allegedly held a meeting with all the concerned on 5-8-1998 to discuss various arrangements to be made for Ganesh Immersion and in the said meeting discussions took place regarding decentralization of the

procession and immersion of idols at other places i.e., Saroornagar and Balapur tanks. It was opined that idols from Rangareddy District and surrounding areas can be immersed in the said tanks. The desirability of immersion of Ganesh idols on the other side of railway track was discussed and it was felt that idols coming from some parts of Secunderabad area and up to Panjagutta area would be immersed in the other side of Hussainsagar. Alternate arrangements for immersion of idols are being proposed at Hasmatpet tank in Secunderabad area in addition to Saroornagar and Mir-alam tanks. Organisers had also been requested for local immersion and to utilise Saroornagar, Mir-alam and Hasmatpet tanks for immersion to reduce pressure on the main procession.

8. As regards the pollution of the lake due to carrying of industrial effluents into the lake through various nalas in the city, it is stated that Kukatpally nala through which both industrial and domestic effluents were being carried are now being conveyed through the duplicate K.S. main which ultimately joins the Amberpet Sewerage Treatment Plant. A sewerage treatment plant has also been commissioned to treat sewerage coming from Banajra and Balkapur channels and it is only after treatment the water is let into the lake. It is also contended that the Environmental Protection Training and Research Institute (EPTRI) conducted study on the Hussain sagar specifically on immersion of Ganesh idols and their impact on the lake water. The report reveals that heavy metals used in some idols and the paints on the idols could have residual toxic impact over the course of time. The study recommends removal of the idols preferably made of Gypsum after immersion and notes that the substitution of vegetable dyes for synthetic dyes used in the idols would not represent much improvement in environmental terms. The EPTRI has also prepared a short-term remedy action plan which could lead to substantial control of phosphate inflows, algal growth and improvement in the general health of lake. The short-term proposals aims at bringing up the water quality in the Hussain sagar to lake water standard-B i.e., bathing quality. Efforts are also being made to reduce pollution by taking steps to remove polluting material from the lake soon after the immersion ceremony. The organizers of the procession, however, did not agree to the idea of localized immersion processions. The religious sentiments of various sections of the people had to be weighed with the law and order problem while also tackling the problem of pollution of the environment in and around Hussain sagar lake in a practical manner.

9. The APSEB in their counter contended that temporary electrical supply is being provided during Ganesh Utsav on payment of lumpsum amounts in advance on fixed slab rates. The Board is taking action whenever there was illegal pilferage of electric supply. As there was sufficient load on the transformers there will not be any interruption for the consumers during festival.

10. WP No.10113 of 1995 is filed by two petitioners who are said to be public-spirited citizens seeking the following prayer:

This Hon^{ble} Court may be pleased to issue an appropriate writ, order or direction more in the nature of certiorarised mandamus declaring the action of the respondents in not maintaining the fresh water lake permitting, conniving and engineering the free flow of contaminants and sewerage water into "Hussainsagar fresh water lake" though the storm water canal as bad, illegal, unconstitutional, violative of fundamental rights.

11. It is stated that the house of the 1st petitioner who is an ex-serviceman is located beside a storm water drain constructed in the year 1970 at Begumpet for easy passage of water in the Hussain sagar lake from the accumulated rainwater received in the upper reaches viz., Yousufguda, Yellareddyguda, Jubilee Hills, Banjara Hills etc. The said drain was constructed by the Municipal Corporation of Hyderabad after acquiring the lands belonging to private parties in order to prevent inundation of area in the upper reaches and for clearing the flooding of and accumulation of water in low-lying areas and to enable free flow of water into Hussainsagar. Consequent to the formation of Hyderabad Metropolitan Water Supply and Sewerage Board, the storm water drain was transferred to the Board. Some of the residents in the upper reaches are letting out sewerage into the storm water drain which resulted in contaminated filth being drained into the lake. Though several complaints were made to the Board, no action has been taken. The respondents are under constitutional obligation to protect the lake from pollution and to safeguard the environment and ecology near the lake. In view of Articles 39(e) and 48A read with Article 21 of the Constitution of India, the State was under an obligation to provide healthier, cleaner and pollution free environment. The petitioner has referred to Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment Protection Act, 1986 enacted by the Parliament. u/s 24 of Water (Prevention and Control of Pollution) Act, 1974 letting of sewage or any pollutants into the stream is prohibited. The lake is polluted with lead, poisonous minerals etc., as a result, the air in the environment is polluted. The MCH was under an obligation under Sections 295, 298 and 296 of the MCH Act to maintain the drain system effectively. The inaction of the respondents is in total derogation of the positive obligation cast on the respondents -authorities to maintain environment as required under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and the Air (Preventive of Control of Pollution) Act, 1981 and also opposed to the provisions of Sections 312, 316, 319(b), 337, 522 and 596 of the Hyderabad Municipal Corporation Act, 1955.

12. In WP No. 10113 of 1995, the Hyderabad Metro Water Supply and Sewerage Board filed status report contending that only 62% of the MCH area is covered by the existing sewerage system and the same is overloaded due to the rapid growth of population of twin cities. The existing sewerage system laid in the year 1931 needs rehabilitation, strengthening and extension to cater the growing needs of the population of the twin cities in a phased manner depending upon the availability of funds. Various development works have been taken up as per the Master Plan in

various schemes planned by the Board for strengthening and improvement of the existing sewerage system. A major portion of the expenditure is allocated towards cleaning the Hussain sagar lake. Suitable works are being executed to ensure that no pollution enters Hussain sagar by 31-3-1998. It was stated that where there is no sewerage system naturally the residents of localities connect their house drains to the storm water drain causing sewage to flow therein. If the request of the petitioner is to be considered, it requires coverage of the entire drainage area of Yousufguda nala upstream of the petitioner's house with regular sewerage system which requires huge funds. To see that no sewage flows in Yousufguda nala it requires number of branch and sub-sewers to be laid in the entire drainage area. The works will be taken up in phased manner depending upon the availability of funds. In order to see that the lake is free from pollution number of works have been identified on priority basis to divert the sewage away from the Hussain sagar lake at a cost of about Rs. 36.00 crores under the ongoing World Bank Project. Once these works are completed by 31-3-1998 the entry of sewage into Hussain sagar lake from the five storm water nalas, namely, (1) Kukatpally nala, (2) Picket nala (3) Balakpur channel, (4) Banjara nala land (5) Yousufguda nala will be avoided and the lake gets itself rejuvenated due to successive over flows in monsoon season in a period of five years.

13. The Municipal Corporation of Hyderabad has filed a counter-affidavit contending that several unauthorised sewerage connections made illegally into the storm water drain is resulting in contamination of the lake. The Sewerage Board has to initiate action for disconnecting the illegal sewerage connections. The storm water drain which is under the control of the MCH is being desilted whenever it is silted up and the routine desilting work is also being undertaken before monsoon every year. However, covering of drain wherever open involves huge financial expenditure as the open drains have to be covered with reinforced cement concrete so that the same could be used as public ways and streets and it is being undertaken in a phased manner depending upon the availability of funds.

14. These writ petitions are required to be considered having regard to the aforementioned factual matrix.

15. Immersion of idols particularly Ganesh Idols in Hussain sagar lake had been a major source of communal disharmony at one point of time in the twin cities. Various Committees have been appointed which had submitted their reports.

In the year 1985, One Man Commission headed by Hon"ble Sri Justice M. Krishna Rao was constituted in the wake upon of communal disturbances in the twin cities of Hyderabad and Secunderabad. The said Commission had also gone into the matter of immersion of idols in the lake. In the report regarding immersion of idols, it was stated at pages 32 and 33 of the report:

There can be no objection for persons worshipping Lord Vinayaka to make an idol of any size to suit their fancy or vanity. But the question arises whether worshippers should make huge idols of abnormal size and that too for the purpose of taking them through the streets for immersion. If the same idol for which worship was performed is to be immersed, the worshippers should make a small idol which would permit of being carried by hand or at the most in a rickshaw. Hence, a notification should be issued by the Government that no idol should be prepared which is more than three feet in height. If that is so there would be no need to introduce lorries, for carrying the idols in the procession.

Nothing has been placed before us to show as to whether the State or the other statutory authorities have taken any steps as regard implementation of the said report.

16. The Environmental Protection Training and Research Institute in their study report stated:

Hyderabad is bestowed with a number of man-made lakes. One of the oldest of these water bodies is the Hussain sagar lake. Having lost its irrigation and drinking water potential, the lake is today an urban attraction. Situated between the twin cities of Hyderabad and Secunderabad with the largest statue of the Buddha in a vertical position, located strategically on the eastern side and gardens developing all around, the Hussain sagar lake today serves as a public lung space, a flood control reservoir and as a source of ground water recharge for the downstream residential colonies besides for the community as a sewage disposal. The lake spreads over an area of about 5.7 sq. kms. In terms of water quality indicators, the lake can be classified as "Ecologically dead" with no healthy bio-cycles regenerating productive capacities. It is selected as one of the Ministry of Environment and Forests, protection of lake and water bodies project.

At the end of the Ganesh Chaturthi festivals in September, numerous idols are immersed in the Hussain sagar lake by the worshipping community. The sensitive nature of this religious right has prevented any concerted effort by the State Government or the community to regulate the activity according to the bio-assimilative capacity of the lake. Perhaps for the same reason, no serious examination of the environmental or epidemiological impact of this immersion process, going on each year since the seventies, is undertaken.

It was Further stated:

Based on the field data obtained on quantities of materials and the number of idols of different from the Offices of I & CAD (Mechanical Engg, Division) and Police Commissioner, EPTRI estimated an annual average of 13,900 (average of total number of idols immersed over a period of 4 years 1993 to 1996) idols being immersed in the Hussainsagar. This works out to a quantity of 30,12,781 kgs of solid material including 15,972 litres of paint, 8012 kg of distemper and allied refractory

organics, 4,94,585, kgs. Of steel and 1,41,603.8 cft of wood added each year to the lake. Further, other solid wastes like flowers paper garlands and other materials used during the festivals are also dumped during the immersion period.

The experiments conducted in the EPTRI lab showed that idols of category 1 (upto 5 ft in height) made of white clay, paper and gum, break open when immersed in water. The idols of category 2 (above 5 ft in height) made of Plaster of Paris/illite clay immersed in water, are not affected even after ten days of contact with water. It was inferred that idols of category 2 are not affected even after 60 days of contact with water as even after lab scale immersion in mild acid water diluted hydrochloric acid) they were found intact. In other words, large idols can be safely withdrawn from the lake after immersion.

Impact on water, air and sediment:

The basic material (white clay) used in the preparation of category 1 idols increased the alkalinity of water, adding carbonates, bicarbonate and sulphates to the water.

The Plaster of Paris/illite clay used in category 2 idols, do not show serious solubility potential in water, at laboratory conditions. These may not contribute any direct chemical load to the water, but only physical pollution.

The lake is already polluted with Calcium and Sulphate released into waters from various sources of pollution (domestic and industrial effluents carried by various nalas) Ganesh Immersion is adding 0.08×10000000 kgs of Calcium Sulphate each year, to already polluted lake water.

The lake at present is almost a stagnant eco-system and the feasibility of dilution benefits seem remote as the concentration of the sulphates is mainly pockets, where the immersion takes place. Sulphate reduction by anaerobic bacteria goes on slowly in the pockets of immersion causing the release of H₂S gas. But, such activity caused by Ganesh idols is insignificant when compared to degrading sulphates from other polluting sources.

From the field data is clear that approximately 1.5 to 2 litres of paints and 1/2 kg of distemper in addition to 200 ml of varnish and 50 to 60 ml of pigments are required for painting an idol of 5 feet height. As most of the pigments used in the paints are metal based salts and as they are caged in polymeric molecules of the base paints, when dispersed, there is very little possibility of immediate (10 days) leaching of these metals into the waters. This is supported by the experiments conducted in the EPTRI laboratory.

Lead, copper, manganese, nickel, cobalt, chromium, mercury, cadmium are some of the heavy metals present in the pigments used in the paints applied on the Ganesh idols. These metals are bound in an intact film of paint and due to the hydrophobic nature of the organic paints, leaching of these metals into the waters may not be possible immediately after immersion. But, over a period of time, the metal particles

are released from this film due to slow disintegration and these get accumulated in the sediment. Thus, these paints may become a potential source of heavy metal accumulation in the water and sediment of the Hussainsagar.

The leachates from iron rods may add heavy metal pollution, both to sediments and waters.

Heavy wooden planks dumped in the lake along with the idols may add to the sediments as they undergo slow biodegradation.

Ganesh idols are brought for immersion using trucks and small tempos during the festival period and for a period of 3-4 days especially on Nimajjanam, there is continuous movement of this kind of vehicles in the lake periphery. This causes increased levels of air pollutants like particulate matter, CO, CO₂, NO and SO in the area though monitored figures are not readily available.

During immersion, increased movement of people in groups, vehicles and the musical instruments played in the procession increase noise levels, though this does not affect the lake directly.

Physical impacts:

From the exercise carried out in this project it is concluded that the Ganesh idol immersion every year, adds solid wastes of

30,12,781 kgs in the form of base material

15,972 litis in the form of dry paint

8012 kgs in the form of distemper

4,94,585 kgs of steel

1,41,603.8 cft of wood

Taking of the peripheral area of immersion as 1500m x 10m, it is calculated that 0.133 m siltation is taking place each year. This situation quantity insignificant when compared to natural situations taking place in irrigation related reservoirs.

Epidemiological impacts:

Toxic metals and refractory organics present in the synthetic paints of the idols when sent separately from other than idol sources, may not have much health impact. But, as cattle drink the lake waters, there is possibility of these materials finding a way into the human food chain, introducing carcinogens. Children swimming in the lake in the summer may suffer from skin irritation and stomach disorder due to drinking small quantities of lake water. However, no direct health impacts can be attributable, only to the idols.

Inorganic sulphates released from the base material may aggravate H₂S gas through prevailing anaerobic conditions in the lake. This may have toxic effects on aquatic biota in the lake.

The highly complex organic molecules present in the paints may undergo slow biodegradation and end up as toxic organics like Poly Chlorinated Biphenyles under the prevailing complex conditions of the already polluted lake. These may add to the existing toxicity in the lake.

17. This report depicts a dismal picture and should have altered the State Government and other statutory authorities for the purpose of taking steps to stop the maladies, but, again nothing much appears to have been done in this direction.

18. Hussainsagar, which was having an area of 1664 hectares of land, has now reduced to 350 acres, because of unauthorised encroachments made by several people. Even there has been encroachment in the catchment area.

Providing of clean environment to its citizens is the constitutional obligation of the State and to have such a clean environment for existence is a fundamental right guaranteed under Article 21 of the Constitution to a citizen.

The Municipal Corporation of Hyderabad Act contains various provisions for providing of clean water to the citizens of the twin cities.

19. The relevant provisions of the Hyderabad Municipal Corporation Act, 1955 may, before adverting to the other questions, be noticed:

312. Sewage and rain water drains to be distinct :--Wherever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Commissioner to require that there shall be one drain or sullage excrementitious matter and polluted water and another and an entirely distinct drain for rain water and unpolluted sub-soil water or for both rain water and unpolluted subsoil water each emptying into Board sewer and municipal drain respectively or other places legally set apart for the discharge of drainage.

316. All drains and cesspools to be properly covered and ventilated :--(1) Every drain and cesspool, whether belonging to the Corporation or to another person shall be provided with proper traps and coverings and with proper means of ventilation.

(2) The Commissioner may, by written notice require the owner of any drain or cesspool not belonging to the Corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the Corporation.

319. Appointment of places for emptying of drains and disposal of sewage :--The Commissioner may cause any municipal drain to empty into a tank or other place whether within or without the city and in any manner, which he shall deem suitable for such purposes:

Provided that-

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance;

337. Prohibition of acts contravening the provision of this Chapter or done without sanction :--No person shall-

(a) in contravention of any of the provisions of this Chapter or any notice issued for direction given under this Chapter, or without the written permission of the Commissioner, in any way alter the fixing, disposition or position of; or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change, any drain, ventilation, shaft or pipe, cesspool, water-closet, privy, latrine, urinal or bathing or washing place or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the Commissioner, renew, re-build, or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine, or urinal or bathing or washing place, or any fitting or appliance, which has been, or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this Chapter;

(c) without the written permission of the Commissioner, make any projection over or encroachment upon or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, water closet, privy, latrine, or bathing or washing place :

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding two feet over any window which does not front a wall or window of any adjoining house;

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or any drain, any brick, stone, earth, ashes, or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed.

(e) pass, or cause or permit to be passed, into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain has not been provided;

522. Prohibition of corruption of water by chemicals, etc :--(1) No person engaged in any trade or manufacture specified in Part IV of Schedule P shall-

(a) wilfully cause or suffer to be brought or to flow into any lake reservoir, cistern, well, duct or other place for water belonging to the Corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such -trade or manufacture as aforesaid;

(b) wilfully do any act, connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well duct or other place

of water is fouled or corrupted.

(2) The Commissioner may, after giving not less than twenty-four hours previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits; and if upon such examination it appears that sub-section (1) has been contravened by reason of anything contained in or proceedings from the said works, pipes or conduits, the expenses of such laying open and examination, and of any measure which the Commissioner shall in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits, or by the person who has the management or control thereof, or through whose neglect or fault the said sub-section has been contravened but if it appears that there has been no contravention of the said sub-section, that said expenses, and the compensation for any damage occasioned by the said laying open and examination shall be paid by the Commissioner.

596. Certain offences punishable with fine :--Whoever-

(a) contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of the table in the Schedule U, or

(b) fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be punished, for each such offence, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

There cannot, therefore, be any doubt that the Hyderabad Municipal Corporation has a statutory duty to see that the legislative intent as regards the maintenance of standard of purity of water in the lake is maintained.

20. It is unfortunate that the official respondents had failed or neglected to perform their statutory duties in this regard. It is also unfortunate that the State has failed to act even in terms of the recommendations of the various Committees set up for various purposes from time to time.

The lakes in and around the twin cities and Hussain sagar in particular are being polluted by reason of immersion of idols is beyond cavil of any doubt. The duty of the State would be to see that immersion of Ganesh idols installed at several localities in the twin cities may conveniently be immersed in other lakes including Saroornagar Lake, Balapur Lake. Requisite steps should be taken by the Government including widening of the tank bund road, putting up of steel barricades. Similarly, arrangements should also be made for immersion of idols in relation to some localities in Meer Alam Tank, Balapur Tank and other tanks.

21. Immersion of idols should be divided in several tanks so as to minimise the pollution which may be created by reason of immersion of idols.

The duty of the A.P. Pollution Control Board in this regard is immense. It, in our opinion, having regard to the magnitude of the problem, ought to have issued requisite directions from time to time.

We may notice that guidelines in almost similar situation had been issued by the West Bengal Pollution Control Board with regard to maintenance and cleanliness of the water of river Ganga after immersion of idols on different festive occasions which are as follows:

1. Immersion of idols to river Ganga should take place in accordance with the Schedule fixed up by the Police authorities or by the District authorities, as the case may be.
2. Within 24 hours of the immersion of the 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 river water-body and are to be transported to the solid waste dumping sites of the local Municipal Corporation/ Municipality for ultimate disposal, unless the same is collected by idol makers or others for recycling.
3. 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 materials to be carried out by the local Municipal Corporation/ Municipality.
4. The Police authorities will keep the Board informed in order to enable the Board to perform its supervisory functions and the police may also seek advice and guidance from the Board as and when required.
5. Under no circumstances, the removed waste materials be burnt or disposed of in a manner other than mentioned in para 2 above.
6. Person (s) intending to reuse the remains of the idols/structure of the idols are free to lift the same from the river and its bed and they may be encouraged to do the same immediately after idol immersion by police and local authority.

It appears to us that the State apart from acting in terms of the recommendations of the Committees should take similar measures.

22. The respondents, must follow the said guidelines on the same lines and/or other stricter measures having regard to the fact that in twin cities of Hyderabad and Secunderabad, idols are immersed in lakes and not rivers like Ganga.

23. The respondents are also directed to implement its plan of rehabilitation strengthening and extension of the existing drainage and sewerage system on priority basis and complete the same as expeditiously as possible and not later than one year from date.

24. The Municipal Corporation of Hyderabad and Sewerage Board must take all steps to perform their statutory function as noticed supra and see to it that all illegal and unauthorised sewerage connections with the storm water drain be disconnected and the drain be desilted regularly. Maintenance of storm water drain must also be done on a priority basis.

The writ petitions are confined to the aforementioned matters alone.

It would be open to the parties to file separate applications in relation to other matters, if any.

25. It will be open to the parties to bring before this Court any other or further suggestions if any occasion arises therefore and in the event it is found by the authorities that any technical or other difficulty is faced while implementing the said directions.

26. These writ petitions are disposed of with the aforementioned directions.