



## T. RAMAKRISHNA RAO V. CHAIRMAN, HYDERABAD URBAN DEVELOPMENT AUTHORITY, HYD. AND OTHERS

2001 SCC OnLine AP 613

**Country:** India

**Region:** Asia

**Year:** 2001

**Court:** High Court of Judicature of Andhra Pradesh at Hyderabad

**Health Topics:** Environmental health, Public safety, Water, sanitation and hygiene

**Human Rights:** Right to a clean environment, Right to health, Right to life, Right to water and sanitation

### Facts

The petitioner, Mr. T Ramakrishna Rao, was a member of the A.P. High Court Bar. He wrote a letter dated 13-12-1998 to the Andhra Pradesh High Court. The basis of the letter was a news article titled "A Victim of Urbanisation" published in an English daily, The Indian Express on 28-11-1998. The article highlighted the environmental degradation and damage caused to a lake Durgum Cheruvu at Jubilee Hills. The Registrar of the Court took the letter as a suo moto writ petition (Public Interest Litigation) under Article 226 of the Indian Constitution, which provides the power of issuing the writ and other legal remedies to the High Courts. The registry framed prayer for the issuance of the writ of mandamus directing the appropriate state authorities to take steps to reduce the pollution of the river and stop construction in its vicinity. The court observed that a substantial amount of conventional and non-conventional water pollutants were being discharged into the lake. The respondents, in this case, were five public authorities in the state of Andhra Pradesh.

### Decision and Reasoning

The Court issued directions to the respondent authorities to the effect of not polluting Durgum Cheruvu by discharging pollutants. It also ordered the respondents to strictly comply with the provisions of Environment (Protection) Act, 1986, Air (Prevention, Control of Pollution) Act, 1981, Water (Prevention, Control of Pollution) Act, 1974 and the Hyderabad Metropolitan Water Supply and Sewerage Act, 1989.

Thereafter, the Court held that the duty to protect the environment should fall not only on citizens but also on State organs, including the Courts. In the opinion of the Court, all the activities of the State authorities which upset the ecological balance ought to be prohibited in the light of Article 21 of the Constitution of India which provides for the fundamental right to life and liberty. The Court held that the enjoyment of right under Article 21 of the Constitution of India makes the preservation of the environment important as life cannot be fully enjoyed without the same. Additionally, the Court held that a Public Interest Litigation under Article 226 of the Constitution of India, which empowers the High Courts to issue writs, can be filed not only for the protection of fundamental rights under Part III of the Constitution but also to prevent the Executive from doing activities that go against the public interest.

### Decision Excerpts

"In the premise of the established facts and the relevant principles of Environmental Law, the next question for the Court to consider is how to protect the renowned Durgam Cheruvu and, in that direction, what should be the appropriate directions that may be issued to the respondents public and statutory authorities. Protection of the environment is not only the duty of the citizens but also the obligation of the State and all its other organs including the Courts. Environmental Law and the Court's role in protecting the environment and ecology should succeed in unshackling the man's right to life and personal liberty from the clutches of common law theory of individual ownership and Laissez-Faire self-help doctrine. Examining the matter from the above point of view, it will be reasonable to hold that the enjoyment of life and its attainment and fulfillment guaranteed by Article 21 of the Constitution embraces the protection and preservation of nature's gift without which life cannot be enjoyed. The slow poisoning of nature and environment in any form should be regarded as amounting to a violation of Article 21 of the Constitution. In that view of the matter, it becomes necessary for the Constitutional Courts to enforce the citizen's guaranteed rights under Article 21 of the Constitution of India against the State and State authorities and the concerned statutory authorities and to forbid all actions of those authorities from upsetting the ecological and environmental balance." (Paragraph 18)

“the High Court can also entertain PIL cases under Article 226 of the Constitution not only to enforce the Fundamental Rights guaranteed to persons and citizens in Part III of the Constitution but also to restrain the Executive from evading the public interest. It is also beyond any cavil of doubt, by reason of several decisions of the Supreme Court and of this Court, that the burden to prove would be upon the polluters, in the instant case, the respondent-authorities, to show that any developmental activity in and around DurgamCheruvu that may be undertaken by them, could be a sustainable one.” (Paragraph 21)

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