

Court No. 8
26.10.2023
(Item No. SL-1)
(JB/AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A.(P) 569 of 2023

People United For Better Living In Calcutta (PUBLIC)
through Shri Pradeep Kakkar (Founder Member)
VS
State of West Bengal & Ors.

Mr. Siddhartha Mitra
Mr. Dipendra Nath Chunder
Ms. Ajeyaa Choudhury
Mr. Sagnik Mukherjee
..... for the petitioner

Mr. Tapan Kumar Mukherjee
Mr. Shamim ul Bari
Mr. Somnath Naskar
..... for respondent No. 1/State

1. The affidavit of service is kept on record.

2. The present Public Interest Litigation is for a direction on the respondent No. 3 which is the Rail Vikas Nigam Limited (RVNL) for stopping the construction work in the Maidan area adjoining the Victoria Memorial. The petitioner before us is People United For Better Living in Calcutta (PUBLIC) which is a voluntary, non-profit and a non-political citizen action group, founded in 1990. The petitioner claims to have undertaken several initiatives for protection of environment and wildlife in the State of West Bengal.

3. The petitioner's cause of action arises from three letters written to the CPIO under The Right to Information Act, 2005, seeking information on the basis of RVNL's decision to construct a Metro Station on the Maidan. All the three letters flag RVNL

uprooting 700 trees for the project, 200 of which are for facilitating movement of the machinery and equipment for the project. The first of the three letters were sent on 26th September, 2023, followed by the other two on 28th and 29th September, 2023 respectively. The CPIO has not replied to any of these three letters; the time period for reply to at least the first letter expires today.

4. The petitioner also sent a letter to the Chairman and Managing Director of RVNL on 28th September, 2023 with a similar complaint with regard to the construction of the Metro Station Maidan and the chopping down of 700 trees. RVNL has also remained silent and has not cared to reply to this letter.

5. The immediate concern of the petitioner is the random and unexplained uprooting of 700 trees from the Maidan area. The petitioner apprehends the construction work to commence any day now. The petitioner also complains that RVNL may not have the requisite permission for cutting down 700 trees.

6. The State is represented. Learned counsel submits that the State has nothing to do with the complaint.

7. RVNL and Ministry of Environment are not represented despite being served on 23rd October, 2023.

8. The non-representation of both RVNL as well as the Union of India, who is the custodian of Maidan, does not help matters since the Court has been deprived of a clearer factual picture of what exactly the RVNL proposes to do in the Maidan and whether RVNL could have opted for an alternative site for construction of the Metro Station. The Court hence must proceed on the material disclosed in the petition. It is significant, however, that none of the respondents have come forward to dispute the contentions raised in the letters written by way of a reply.

9. An article published in the Times of India on 19th September, 2023 mentions that 700 trees in the Maidan will be transplanted by reason of the construction of the Mominpur-Esplanade section of the Metro Station. The article mentions that apart from barricading 700 meters of Maidan for pre-construction work, the authorities also plan to yank out the trees with sizeable girth.

10. Any resident of Kolkata would agree that the Maidan is much more than an open space. The Maidan is one of the lungs of the city and literally serves as a hub of recreational activities to Kolkatans. The Maidan is a metaphor of a city which “breathes” a culture of community activities. In that sense, a Maidan, shorn of trees, would irrevocably change the cityscape to a thirsty and arid space.

11. It is important to bear in mind that Kolkata has been identified as the city with the highest rise in average temperatures since 1950 - compared to the other mega cities in the country. A study by the Intergovernmental Panel on Climate Change is a scary wake-up call.

12. It is therefore all the more essential that indiscriminate cutting down of trees should be prevented at any cost; particularly in the absence of a credible explanation given by the concerned authorities. 700 trees mentioned in the petitioner's letters, is alarming to say the least. Both RVNL and the CPIO have a collective duty to preserve the ecological balance of the city of Kolkata.

13. The Court is hence inclined to pass a limited order of injunction on RVNL to immediately stop uprooting trees in the Maidan area until RVNL and the Union of India/Ministry of Environment (respondent No. 2) file their respective affidavits.

14. The respondents will file their respective affidavits by 5th November, 2023.

15. The petitioner will communicate this order to the respondents by 12.00 P.M. tomorrow i.e. 27th October, 2023.

16. List this matter on 9th November, 2023 before the available Vacation Bench subject to the convenience of the Court.

17. The interim order shall be in place till 17th November, 2023.

(Bibhas Ranjan De, J)

(Moushumi Bhattacharya, J.)