

Ten years of Activism & Service

FORUM FOR A BETTER HYDERABAD

NEWS LETTER : 13 NOVEMBER - DECEMBER - 2010

(Private Circulation only)

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ACTIVITIES :

NOVEMBER - DECEMBER - 2010

HERITAGE: GOLCONDA FORT: GOLF COURSE

1. Forum had addressed a detailed 14-Pg letter to Shri Sitaram Yechury, MP, Chairperson, Committee on Transport, Tourism & Culture on 4.10.2010, explaining the reasons for our objection to the Golf Course and requesting his intervention. Representatives of Forum and PUCAAR also met Shri Yechury when he recently visited Hyderabad.

2. Fencing along the road to Hathian Ki Jhar:

Hyderabad Golf Association (HGA) have been fencing on North sides of a road leading to/coming from Hathian Ki Jhar, which will prevent public access not only to the Jhar but also to Mullah Khayali and Mustafa Khan Mosques. The work involved digging to fix poles, not permissible in terms of AM & ASR Act/Rules, and also MoU since lay-out plan has not yet been approved. On our insistence, SA-ASI pleaded with HGA verbally to stop the work, but has neither issued any written order nor is inclined to lodge a police complaint. On the contrary, HGA has made a complaint to Golconda PS that the Forum has prevented the contractor from doing his work for which there is permission. However, HGA are not showing the claimed permission and ASI have denied having granted any permission.

3. Golf Course in the Naya Quila area:

The Superintending Archaeologist, ASI Hyderabad has written to the Secretary, Hyderabad Golf Association on 3.11.2010 requesting him to stop all the activities in the Naya Quila area till approval of layout plan is received from DG, ASI.

4. Violations by HGA:

Copy of Forum's letter dt.6.11.2010 (-in association with PUCAAR, Friends of Golconda, Heritage Watch, Apna Watan, Forum for Sustainable Development, etc.-) to the Secy. Deptt. of Youth Advancement, Tourism & Culture Govt. of AP, with copy to the Collector & District Magistrate, Hyderabad.

Sub: Recent violations by Hyderabad Golf Association of A.P. High Court interim direction dated 8.6.10 ; section 8 of MOU dt 23.9.09; section 19(1) of AM & ASR Act 1958.

We have to bring to your notice several violations made by the HGA, in flagrant violation of the captioned requirements. These were all reported to the SA-ASI Hyderabad as and when these occurred. These letters are copied vide..... . His initial response in all these case was to avoid taking any action to stop the works, taking a plea that the HGA is not listening to ASI, that the police is not acting, etc, etc ; and only after the prompt and kind intervention of the Hyderabad Collector and District Magistrate, did he act. Now he pleads, when we met him on 4th November that he gets no help from the Secretary, YAT&C and he has produced to us his letter dt 11.10.10 which he had written to HGA and endorsed to you, in which he alleged no action was taken by you, letters written dt 2.11 and 3.11.10 to you for your action. Copies of these letters are at annexure....

As you know, the Honourable A.P. High Court's interim injunction has relaxed the earlier total stay order only to "the grassing of the area of course under the supervision of the authorities to ensure that the contours are not changed". Secondly, in terms of clause 8 of the MOU dt 23.9.09, HGA is prohibited from undertaking any work till the lay out plan of the golf course including the completed portion, both within the fort walls and outside, is finally approved by ASI New Delhi, which is not yet done. Thirdly, section 19(1) of AM & ASR Act 1958 prohibits any digging for any purpose other than cultivation, that too only up to one foot. **All these requirements have been flagrantly violated by the HGA.**

The S.A. ASI has clearly failed to discharge his prime responsibility as custodian of this Monument and protect the Nayaqila from the ravages by HGA. We consider, however that your department as the representative of GoAP with whom the MoU was signed, and as licensor of the work to HGA (the licensee), has a paramount responsibility to ensure compliance by HGA with the MOU, and of the Court order, and to render all assistance to SA, ASI, Hyderabad as and when required. You may recall that the then Managing Director of APTDCL had given an undertaking in December 2008 to the Court that he will ensure that such work was done " strictly in accordance with the conditions imposed by the 1st respondent (ASI, New Delhi)..." .

The site integrity of the Golconda Fort and Nayaqila area, which is un-explored virgin territory is a competitive advantage of the Fort for its recognition as a World Heritage Site, over its competitors elsewhere. Once it is so recognized, its tourism revenue will increase immensely. Let us not, least of all the Tourism department, spoil that prospect by trying to protect a golf club which has been a chronic, persistent violator of all rules and regulations, at the cost of the Monument.

We request you to take urgent action in the matter; to remove all the violations by the HGA as mentioned above, and to prevent recurrence of any violation. Meanwhile, please acknowledge receipt.

5. Contour Map of Naya Quila area - Violation of clauses 8 & 9 of MoU.

As per MoU signed by HGA with GoAP, "The GOAP shall ensure that the development of the Golf Course by HGA in the Naya Qila is along the existing contours of the land and that all development works, landscaping etc., shall strictly be as per the provisions of the AM & ASR Act, 1958 and Rules 1959 and 1992.

The interim direction dt.8.6.10 of the Hon'ble A.P.High Court also permits only grassing without change of contours. In reply to Forum's letter seeking a contour map of the Naya Qila area. ASI, Hyderabad Circle vide their reply dt.8.11.10, has sent a map of the area showing water bodies, etc., but without showing the contours of the surface. **Further, the map is drawn by HGA only**, not by ASI or GoAP. and is, therefore, not acceptable. It has been sent by ASI, Hyderabad to ASI, New Delhi, who have not approved it and reportedly want a map drawn by ASI, Hyderabad. What is needed for reference to detect any change in contours is a map prior to handing over of the Naya Qila area to the HGA. The Forum have requested the Collector, Hyderabad District on 8.12.2010 to arrange drawing of a map of the contour of the area, after weeding out the changes already made by HGA- by leveling/ digging/ breaking of rocks/ upturning grave yards/cutting water channels/filling up and flattening moat beds, etc.. The help of National Remote Sensing Agency may be taken for the purpose. This task should not be left to ASI, Hyderabad but should be under the joint supervision of the Collector and ASI, as well as the involvement of some non- official experts, like Heritage Conservation Committee.

6. Particular of lands allotted to HGA?

Despite application under RTI Act to ASI, Hyderabad, FBH have not been able to receive relevant information on the actual extent of land allotted to HGA, relative survey nos., share of different types of land (viz., Patta land, Private land, Govt.land, water surface area), how much has already been leased, location of waterbody (ies) & Deccani gardens in the plan of the Golf Course, area of Golf Course in Naya Quila area, area of Golf Course in Jamalikunta area. We were advised after considerable time that such information are available only with Dept.of YA T&C, GoAP. Forum have submitted application dt. 10.12.2010 to YAT&C Dept. under RTI Act for the information.

7. Supervision by Govt. appointed Committee?

GoAP by a GO dt. 19.07.2010 have constituted a committee to supervise the work being undertaken by HGA. The Committee comprises MD-APTDC, District Collector- Hyderabad, and SA-ASI- Hyderabad. This committee after inspection of the Golf Course on 11.8.2010 have permitted "certain basic works" by HGA. Some of the conclusions of this committee are not acceptable to the Forum in view of limitations under section 19 (1) of AS & AMR Act 1958 and the interim order dt. 8.6.2010 of A.P. High Court which permits only "grassing" without change of contour. FBH have taken up with ASI, Hyderabad and other committee members by letter dt. 10.12.10.

8. Letter dt. 23.12.2010 by Save our Urban Lakes (SOUL) & Forum For A Better Hyderabad to the Chief Secretary, Govt. of A.P.

Sub: Recent digging in Shatam Talab on 20 and 21 December by GHMC.

We draw your kind attention to an incident of digging that was going on inside Shatam Talab on 20th and 21st December. Despite orders by Hyderabad District Collector and GHMC Central Zonal Commissioner to stop the work immediately on receipt of our complaint, the work continued for two days. The act constitutes a serious violation of the AM & ASR Act 1958 and also WALTERA. Under the Act, construction and/ or use of heavy machinery is prohibited within 100 meters of a protected monument and protected Golconda Fort monument includes the Fort wall. The digging was going on within that prohibited distance. Secondly, the digging was going on within the Shatam Talab, which is one of the 21 lakes first identified for protection under the Lake Protection Committee. Besides, no construction is permissible within 30 meters of such a lake. We enclose a few photographs of the site of work vis a vis the Fort wall and the Talab, and use of JCB machine. (The work was stopped after the Forum's representation)

We could gather that while the ostensible purpose of the digging was to prepare for extending an existing road, for which there was no need, the real objective was to lay a wall in the interest of the Hyderabad golf association (HGA), cutting into the lake bed. It may be recalled that earlier also, construction work was done at another site near the Talab under the order of the GHMC and it was stopped under our pressure, objection from ASI, New Delhi and Hyderabad, and the kind intervention of the present Collector. It is mysterious how a similar illegal work, this time in the Talab itself, was commenced and could continue for a few days, even after the orders of the District Collector and Central Zonal Commissioner, GHMC to stop the work. There seems to have a wrong assumption in some quarters that since the Shatam talab has been leased to the HGA (which too is a highly objectionable decision which we are going to take up shortly), HGA are free to do whatever they like with regard to the lake, in utter disregard to AM & ASR Act 1958, WALTERA and the Lake Protection Authority. Was GHMC being used to serve the purpose of HGA.....? And was HGA's work sought

to be done under the GHMC banner with no cost to the former? It may be recalled that on an earlier occasion, the Moat wall was split apart to make a passage for golfers to pass from Jamalikunta part to Nayaqila part of the golf course, and it was done on the pretext of laying pipes by the HMW& SB. The latter denied having undertaken any such work and stated that their sign and caution boards had been stolen and placed on the site. Under the High Court's order the Moat wall was closed by ASI, Hyderabad, after attempts were made by HGA to stop the closing.

How at all was an order passed by GHMC to sanction such work? Who passed the order? What notes were put up, by whom, and what notings were recorded? Was GHMC being used to serve the purpose of HGA? Was any attempt being made by any person to stall implementation of the orders of the Collector and/ or the Zonal Commissioner to stop the work?

The matter is serious. We seek a full-fledged investigation. We have written also to the Collector & District Magistrate, Hyderabad and the Central Zonal Commissioner, GHMC

9. Request to ASI

On 22.12.10, Forum have telephoned and sent SMS to the S.A, ASI, Hyderabad mentioning that since construction work inside Shatam Talab and close to the Golconda Fort wall was going on, ASI should take immediate action, file police complaint and invoke Sec.19 (I) of AM & ASR Act 1958. (The work was stopped after the Forum's representation)

HERITAGE: Victoria Maternity Hospital:

State Government have de-notified the building in 2010 from the list of Heritage Buildings (notified on 23.03.1998). Writ Petition No. 14488 of 2010 was filed by the Forum along with a Core Committee Member of INTACH Hyderabad Chapter and some others for cancelling the order of de-notification. A.P. High Court in its order dt. 28.9.2010 has however dismissed our petition and has sustained the order of de-notification. The legal issues involved are being examined.

URBAN PLANNING – HERITAGE: New construction:

A multistoried structure has been constructed next to Jubilee Hall, and opposite to Jawahar Balbhavan. These two are notified Heritage Buildings and hence construction is prohibited within 30 metres thereof. Sanction particulars, names of owner and builder, etc., were not displayed. Forum have written to the Commissioner, HMDA on 3rd Nov, 2010 (with copies to GHMC, MA&UD Dept., HCC) seeking to know whether approval was accorded by HMDA after obtaining advice from Heritage Conservation Committee (in terms of HUDA Zoning Regulations) and whether the building plan was approved by GHMC. No reply has been received.

ENVIRONMENT- FORESTS:

Dr.YSR Smruthi Vanam:

Forum had written to the Principal Secretary to the Chief Minister and Principal Chief Conservator of Forests on 27.8.2010 to shelve the project as clearance from the Ministry of Environment & Forests, GoI has not been received. On request by the P.C.C. of Forests, Forum furnished a copy of GoI, MoE&F New Delhi Memo dt. 14.05.10 (to the members of National Tiger Conservation Authority) again to the PCCF on 30.11.2010.

ENVIRONMENT- WATER BODIES:

1. Proposed YSR Memorial near IMAX:

Forum jointly with PUCAAR, SOUL, and Prof. Haragopal presented a detailed documented presentation to the Experts' Committee set up by the Supreme Court. The Committee would have submitted its report to the Court. Forum is in touch with the lawyers.

2. Proposed Food Courts near IMAX:

Reply dt. 21.10.10 from Chief Engineer (I/c) HMDA confirmed that HMDA would offer covered space beside IMAX for restaurants/food courts and indoor entertainment centre, on license fee basis. Forum have again objected to the proposal, vide extracts from Forum's letter dt. 2.12.2010 to the Commissioner HMDA (with copy to MD-BPPA):

- You have invited tenders for the project, leaving upon a tenderer to obtain the necessary approvals from concerned authorities, such as, Traffic, Solid waste disposal plan, Building permission, etc., etc. Without examining these aspects, the nature and contents of the project are already laid down in item 1 – Food courts, Party zone, small Exhibitions, Events, Entertainment, and Fitness centre. Almost the sole criterion for selection of the bidder is the ability to run restaurants, plus of course, financial strength. The focus of the project is very clear and will necessarily lead to more pollution and congestion in various obvious ways.
- We question the propriety of the project itself which has to be first cleared by you, before the issue of obtaining approvals for consequential works from the respective authorities should arise. Further, the CE's reply to item no 4 of our letter dt 21.10.10 shows that instead of making an objective assessment on possible pollution, merely a conjecture has been made viz., there may not be much effect. As per Police Dept. the number of vehicles plying in the surrounding areas of Hussainsagar lake increased from 13,069 in 2000 to 9,91,560 in 2010 up to 22.10.10. Other factors such as food courts, large gatherings, etc will additionally contribute to pollution.
- Referring to item no 5 of the letter, we are of the view that as the project involves construction / alteration in the existing structure of 1100 sqmts, the work cannot be undertaken without prior clearance of the Supreme Court.
- The best course of action will be to restore the area to the lake to which it originally belonged. In case it is not

feasible to do so, the area can be put to better use, from the environmental point of view, even for revenue earning. Food courts, Party zones, Entertainment, and Events must not be created / allowed in the area under any circumstances; while Fitness centre/ Gymnasium may be allowed. You may think of Science and Environment museum for children (- reference report of the Special committee appointed by the Supreme Court-); Art Gallery ; Display of Crafts ; Folk arts; etc.

- Air conditioning in the area should be strictly prohibited.
- The area must not be let out on long lease but lease periods should be short while renewable, with clear rules and guidelines and under strict supervision of HMDA, SOUL, APPCB and some non- governmental experts.

RIGHT TO INFORMATION ACT: Immovable Property Returns of Government Officers:

Sri O.M. Debara (Forum's General Secretary) had applied to Public Information Officer (PIO) and Dy. Secretary to GoAP-GA (SC.X) Deptt. on 29.09.2008 seeking the following information.

1. Copies of Immovable Property Reports (IPR)/ statements filed by IAS/IPS/IFS officers under GoAP during the years 2006-2008. If any officer had not filed the statement, what action was taken and copies of his previous year's return.

2. Names of officers who are members of Adarshnagar Mutually Aided Co Op. Housing Society and Koheinoor Civil Services Mutually Aided Co Op. Housing Society and whether they have taken permission from the Government for making their contribution to the Society towards purchase of the land or not?

The PIO in his order No.2077/SC.X/A3/2008-1 dt. 22.10.2008 informed that the information sought by the applicant cannot be furnished in terms of the provisions of Sec. 8(1) (j) of the RTI Act, 2005.

Shri Debara filed appeal dated 11.11.2008 before the appellate authority i.e., Principal Secretary to Govt. (Poll), GA (SC.X) Deptt. The said authority in his letter dated 4.12.2008 informed Shri Debara that third party information being called for in respect of the members of the service can not be furnished u/s 11 (1) of RTI Act. After hearing the appellant, an order was passed on 23.01.2009 rejecting the request of the appellant under Secs. 8(1) (j) and 11(1) of RTI Act, 2005.

Not satisfied, Shri Debara preferred 2nd appeal before the A.P. Information Commission stating that the order dated 23.01.2009 is contrary to the provisions of the RTI Act, 2005 and the same is liable to be set-aside.

After a few adjournments, Full Bench of the Commission consisting of the Chief Information

Commissioner (Shri Jannat Husain) and the Information Commissioners (Shri R. Dileep Reddy and Shri K. Sudhakar Rao) heard the arguments and perused written submission of both the parties on 11.11.2010. (Shri Ambaty Subba Rao, Information Commissioner could not attend the hearing due to ill health)

In this connection, certain prior orders are relevant to be mentioned.

The Hon'ble High Court of Karnataka at Bangalore in Writ Petition No.7953 of 2007 (GM-RES) in its order dated 16.07.2008 held that the assets of public servants are not exempt from disclosure under Sec.8(1) (j) of the RTI Act, 2005.

The Chief Information Commissioner, Central Information Commission vide order dated 24.06.2009 in Appeal No.CIC/WB/A/2007/01593 and order dated 25.08.2010 in Appeal No.CIC/WB/A/2009/000669 while allowing the appeals filed by the appellants directed the CPIOs to furnish the information taking the view that the property statements are not confidential documents and, therefore disclosable.

The Information Commissioner, Central Information Commission vide order dated 12.11.2009 in Appeal No.CIC/SG/A/2009/002343 while taking the view that the assets of a public servant are not exempt U/s 8(1) (j) allowed the appeal filed by the appellant and directed the PIO to provide the information.

The counsel of Shri Debara argued that as the established laws/rules mandate maintenance of immovable property returns of All India Service Officers, the disclosure of the same was in public interest.

The Full Bench of A.P. Information Commission after going through the material papers filed by both the parties and hearing the arguments passed the following order dt. 15.11.2010 (in Appeal No. 2485/CIC/2009):

- The information pertaining to the Immovable Property Returns of the IAS, IPS and IFS officers shall be furnished and directed the PIO of GAD,AP to provide the information free of cost to the appellant within 30 days from the date of receipt of the order with compliance to the Commission.
- In respect of Item No.2 of the information sought by the appellant, the provisions of Section 11 of the RTI Act, 2005 will not be attracted and the information is disclosable. The PIO was directed to furnish this information free of cost to the appellant within 30 days from the date of receipt of this order with compliance to the Commission.

Readers may send views on the Newsletters by email or by post.

Membership Form

FORUM
FOR A BETTER
HYDERABAD

FORUM FOR A BETTER HYDERABAD (F B H)

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To Forum For A Better Hyderabad

I hereby apply for being enrolled as a Member of **FORUM FOR A BETTER HYDERABAD** in my individual capacity / on behalf of _____ (Name of Organisation).

I subscribe to the Forum's objectives. I also agree to pay the Admission Fee/Annual Subscription* as fixed from time to time. I understand that the decision of the Executive Committee of FBH regarding my application for Membership will be final. I am hereby submitting cheque/D.D.No/cash _____ dated _____ drawn on _____ for Rs. _____ in favour of **Forum For A Better Hyderabad** .

Date

Category

(SIGNATURE OF APPLICANT)

Address:

_____ E-mail: _____
_____ Tel No: _____ Mobile: _____

(One photo with signature on reverse is attached.)

***Individual** : Annual : Rs 100/-

Life : Rs.1,000/-

* **Institutional** : Annual : Rs 500/-

Life : Rs. 5,000/-
