

13.12.2017 Present Ms. Seema K. Guleria, Advocate, for the petitioners.

Mr. Shrawan Dogra, Advocate General with Mr. Anup Rattan and Mr. Varun Chandel, Additional Advocates General and Mr. J.K. Verma, Deputy Advocate General, for the respondent-State.

Mr. Hamender Chandel, Advocate, for respondents No.5 to 8.

Affidavit of Mission Director, IDIPT-HP dated 12.12.2017, is taken on record.

2. We notice that timeline for completion of the project has been laid down and work of restoration is now likely to be completed before June, 2018.

3. There is yet another issue which needs to be addressed, rather urgently, by the Government and that being, as to how best the building can be put to use. In this regard, we notice certain communications exchanged between the Asian Development Bank (ADB) and Department of Tourism and Civil Aviation, Himachal Pradesh, which is evident from para-8 of the affidavit, which we reproduce as under:

“8. That over the years, the woodwork at many places of the Town Hall building decayed and after restoration of Gaiety theatre it was realized that Town Hall may also be restored to its original structure. The plans were got approved from Municipal Corporation, Shimla as well as from Heritage committee with the aim of bringing out the original character of the building. The last visit by ADB Mission was held on 10<sup>th</sup> -13<sup>th</sup>

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October 2017. The ADB requested DOTCA to firm up on the use of building, upon completion and emphasized that the building needs to be used for public purposes and should not be used for any office purposes and use of building should be in line with the objectives of the Project outcomes. Department has already taken up the issue of use of building with the Govt. The status of the Town Hall project is attached at **Annexure-“C”**.”

4. When we peruse Annexure 'C', we notice that the building, which hitherto before known as 'Town Hall', used as office of Municipal Corporation, Shimla, was actually designed as "New Library & Offices" by Scottish Architect Mr. James Ransome. Except for some public utility offices, essentially the building was used for the purposes of Library. In fact, the original building, designed as Library, was constructed in the year 1908. It was only subsequently, much later on that offices were shifted and after partition of the country, some of the offices of the Municipal Corporation were housed therein.

5. Considering the "priceless architectural marvel" of the building, the Asian Development Bank (ADB), funded restoration of the building. The character and status of the building, undoubtedly, is that of a heritage property.

6. It is a matter of record that for the last two years, work of preservation and restoration of the building is in progress. More than ₹8.00 crore stands invested by the ADB for such purpose.

7. Article 51-A (Part-IVA) of the Constitution of India mandates that it shall be the duty of every citizen of India to value and preserve the rich heritage of our composite culture.

8. In fact, with respect to another building in the town, i.e. Vice Regal Lodge, having great historical importance and significance, apart from being an architectural wonder, when an attempt was made to convert the same into a hotel, Hon'ble the Apex Court intervened and directed the said property to be protected and preserved, so that cultural and historical heritage of India and beauty and grandeur of the monuments is preserved. Further, in the very same report [*Rajeev Mankotia v. Secretary to the President of India & others*, (1997) 10 SCC 441], the Court observed that "Similar places of interest, though of recent origin, need to be preserved and maintained as manifestation of our cultural heritage or historical evidence. Similar efforts should also be made by the Government of India, in particular the Tourism Department, to attract foreign tourist and to give them good account of our past and glory of the people of India as message to other countries and territories".

9. The need to protect and preserve such buildings stands reiterated by the Apex Court also in *K. Guruprasad Rao v. State of Karnataka & others*, (2013) 8 SCC 418.

10. Undoubtedly, the building, which is commonly known as the 'Town Hall', undoubtedly, is an important and significant landmark of the town. Intrinsically, it is part of its heritage.

11. It is in this backdrop, we are of the considered view that a decision must be taken with regard to proper use

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of the building after its restoration. Perhaps it can be used for housing a Library and other public conveniences, rather than leaving it at the mercy of the "*Babus*", for nailing the restored wooden panels and work of art, only for the purposes of hanging the annual calendars or pasting the same all over the walls.

12. Thankfully, now Shimla has been declared as a smoking-free town and as such, the walls would not be smeared with butts of cigarettes and bidis. Also, on account of ban on Tobacco and Gutka, the walls would not be strewn with red stains all over.

13. We have seen that with the restoration of adjoining historical building, i.e. the Gaiety Theatre, in the town, activities of art and culture have improved and increased manifold. Performers and artists have now got a platform to exhibit their talent. Not only the locals but even the tourists are being benefited. Also, the Department of Art and Culture, generating revenue for maintenance of the building. The culture of knowing and understanding art, in whatever form, is being picked up by the younger generation and solely on account of the exposure, which both the artists, admirers or criticizers have got. After all, Art and Culture are also true forms of expression of thought, which, in our considered view, needs to be propagated, inculcated and promoted, more so amongst the future generation.

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14. Perhaps, larger public interest would be served by setting up a museum/library in the building.

Let Chief Secretary to the Government of Himachal Pradesh file his personal affidavit before next date of hearing

List on **3.1.2018**.

(Sanjay Karol)  
Acting Chief Justice

December 13, 2017 (vikrant/sd)

(Sandeep Sharma)  
Judge

High Court of H.P.