

ITEM NO.301

COURT NO.8

SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 6079/2017

M/S. GOYA RESORTS PVT LTD

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([PART HEARD BY HON'BLE VIKRAM NATH AND HON'BLE AHSANUDDIN
AMANULLAH, JJ.]
IA No. 182137/2023 - INTERVENTION APPLICATION)

WITH

C.A. No. 6086-6089/2017 (IV)

C.A. No. 6074-6075/2017 (IV)

C.A. No. 9014/2017 (IV)

C.A. No. 6081/2017 (IV)

C.A. No. 6068/2017 (IV)

C.A. No. 6067/2017 (IV)

C.A. No. 6069/2017 (IV)

C.A. No. 6080/2017 (IV)

C.A. No. 6070/2017 (IV)

Date : 21-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s) Mr. Suryanarayana Singh, Sr. Adv.
Ms. Pragati Neekhra, AOR
Mr. Aditya Bhanu Neekhra, Adv.
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Mr. Adrish Dutta, Adv.
M/S. Parekh & Co., AOR

Mr. K N Balgopal Adv.Gen.Of State Of Nagaland,
Sr. Adv.
Ms. K. Enatoli Sema, AOR
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

Mr. Dhruv Mehta, Sr. Adv.
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Ms. Sonal K. Chopra, Adv.
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Mr. Arvind Kumar Sharma, AOR

Dr. Monika Gusain, AOR

Ms. Anubha Agrawal, AOR

Mr. Gaurav Dhama, AAG, Punjab
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Ms. Malvika Raghavan, Adv.
Mr. Robin Singh, Adv.

Mr. Kuldip Singh, AOR

Mr. Ajay Pal, AOR

Mr. Mukesh Kumar Maroria, AOR

Ms. Ranjeeta Rohatgi, AOR

Mr. Nidhesh Gupta, Sr. Adv.

Ms. Japneet Kaur, Adv.

Ms. Vriti Gujral, Adv.

Mr. G. Balaji, AOR

Mr. Rohan Thawani, Adv.

Ms. Pooja Dhar, AOR

Ms. Aakriti Vikas, Adv.

Mr. Pratul Pratap Singh, Adv.

Ms. S. Ambica, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Learned Attorney General has placed before us an Office Memorandum dated 20th February, 2024, the contents of the said Memorandum are reproduced hereunder :-

*"55/Dir(Lands)/2023
Government Of India
Ministry of Defence*

South Block, New Delhi
Dated 20 February, 2024

Office Memorandum

Subject: Review of Works of Defence Act (WoDA)
1903 - Constitution of Committee - reg.

The undersigned is directed to refer to the order dated 09.08.2023 passed by the Hon'ble Supreme Court in Civil Appeal No 0079/2017 titled as M/s Goya Resort Pvt Ltd Vs UoI and Others. The Hon'ble Apex Court in the ibid order have observed whether the enactment of Works of Defence Act 1903 can be sustained or declared unconstitutional being inconsistent with Part III of the Constitution of India.

2. In view of the above, it has been decided to constitute a Committee comprising of the following members to review the existing provisions of WoDA, 1903 in light of the Constitutional provisions, and suggest suitable amendments in the Act, as required -

- i. Defence Secretary - Chairman
- ii. Secretary, M/o Housing and Urban Affairs
- iii. Secretary, D/o Legal Affairs, M/o Law and Justice
- iv. CISC, HQ IDS
- v. Addl. Secretary (Pers), D/o Expenditure, M/o Finance

3. The terms of Reference of the Committee may be as under:

a. To review the provisions of WoDA 1903 with reference to the provisions contained in Part III of the Constitution and examine any inconsistency.

b. To assess the sensitivity of defence installations and extent of restrictions to be imposed around them to ensure security and safety of

such installations and persons residing in the vicinity thereof.

c. To make suitable recommendations regarding the amendments required in WoDA 1903 for prescribing a just and equitable mechanism for placing suitable restrictions around sensitive defence establishments from national security perspective and to ensure safety of the people in the vicinity thereof.

d. Any other matter consequent and incidental thereto.

4. The committee shall submit its report in 4 months time for consideration of the Government.

5. This issues with the approval of the Raksha Mantri.

(R.S. Yadav)
Under Secretary to the Govt. of India
Tele: 23012715

To

The Chairman and all members of the Committee

Copy to :-

1. OSD to Defence Secretary
2. PPS to Secretary, DMA
3. PPS to Secretary, DoE, MoF
4. PPS to AS, DoD
5. PPS to JS(L&W), MoD
6. Director (Lands)

*****"

From a perusal of the Office Memorandum, it appears that the Committee so constituted for the terms of reference, requires four months' time to submit its report.

Learned senior counsel appearing for the appellants have strongly opposed the grant of any time and have submitted that this exercise is being taken by the Union of India since 2013 as would be reflected from the various orders passed since 2013 onwards. We have been taken through some of the orders.

Considering the facts and circumstances and the Office Memorandum, as stated above, we feel that four months' time is on the higher side, as such we grant two months' time to the Committee to submit its report. Upon perusal of the report, further appropriate orders would be passed accordingly.

In the Office Memorandum, the Civil Appeal number has been wrongly mentioned as '0079 of 2017' whereas it should be read as '6079 of 2017'. The respondents would get the same corrected.

It had been pointed out that the Committee constituted under the aforesaid Office Memorandum, consists of the Secretaries of various departments however, there is no expert of legal field in the

said Committee. As such, we direct the respondent-
Union of India to ensure that in the Committee one
State Law Officer be included.

List the Appeals again on 24th April, 2024 at
2.00 P.M. as PART-HEARD before this Bench with due
approval of Hon'ble the Chief Justice of India.

(SONIA BHASIN)
COURT MASTER (SH)

(RANJANA SHAILEY)
COURT MASTER (NSH)