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ITEM NO.56

Court No.9

SECTION PIL

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

SUO MOTU WRIT PETITION (CIVIL) NO(s). 284 OF 2012

COURT ON ITS OWN MOTION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With office report )

Date: 20/07/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s)

By Courts Motion

For Respondent(s)

Mr. Sidharth Luthra, ASG  
Ms. Ranjana Narayan, Adv.  
Mr. T.A. Khan, Adv.  
Mr. B.K. Prasad, Adv.

State of J & K

Mr. M.I. Qadri, AG  
Mr. Gaurav Pachnanda, Sr. AAG  
Mr. Sunil Fernandes, Adv.  
Ms. Vernika Tomar, Adv.  
Mr. Krishanu Adhikary, Adv.

Mr. U.K. Jalali, Sr. Adv.  
Mr. Mishra Saurabh, Adv.  
Ms. Vanshaiya Shukla, Adv.

Ms. Rekha Palli, Adv.  
Mr. A.V. Palli, Adv.  
Mr. Anupam Raina, Adv.

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

We have requested the learned Solicitor General of India to assist the Court in this case along with Mr. Siddharth Luthra, learned ASG.

We have heard learned counsel appearing for the various parties at some length.

It remains undisputed that it is not an adversial litigation. We must appreciate the attitude adopted on behalf of the various Governments, statutory bodies as well as the private entrepreneurs.

Lack of public amenities, facilities, health care, particularly the high rate of mortality, which has been highlighted in the various press cuttings and in our order dated 13th July, 2012, requires attention of all concerned. This being a matter of serious concern, having serious technical, geographical and environmental issues, it will not be appropriate for this Court to venture into providing detailed steps and measures that are required to be taken by the Union of India, State Government and the Shrine Board. This Court lacks the expertise in this

regard. But, at the same time, it is not a matter which can be ignored by this Court, as the basic and fundamental rights of the citizens of this country are at stake.

Thus, we consider it appropriate to constitute a Special High Powered Committee (for short 'SHPC') which would visit the site, examine various facets and submit its suggestions in the form of a Report that would enable this Court to pass appropriate directions. The inspection by the SHPC and its suggestions should be aimed at protecting the interest of the yatris, ensuring proper management, due regard to environmental protection and ensure health care. We do not wish to limit the scope of enquiry and consequential suggestions by the SHPC.

For this purpose, we constitute the following SHPC:

The Amarnath Shrine Board, the statutory body  
Secretary, Ministry of Environment and Forest  
Secretary, Ministry of Home Affairs,  
Secretary, Ministry of Health and Family Welfare,  
Chief Secretary, State of Jammu & Kashmir,  
Member Secretary, Central Pollution Control Board, New Delhi  
Director General of Police, State of Jammu & Kashmir  
Director General, CRPF  
Director General, Border Security Force  
Director General, Border Roads Organisation  
Home Secretary, State of Jammu & Kashmir  
Secretary, PWD, State of Jammu & Kashmir

We hereby make it clear that the Secretaries/Director Generals can be the members of the SHPC themselves or nominate any officer not below the rank of Additional Secretary/Addl. Director General to be the nominees of their respective Departments on the SHPC.

The Governor of Jammu & Kashmir is the Chairman of the Amarnath Shrine Board. Thus, we consider it appropriate that he be the Chairman of this SHPC and would nominate a CEO and an environmentalist for and on behalf of the Shrine Board.

We would expect the SHPC to visit and examine the different routes leading to the Holy cave, particularly the glacier immediately prior to the Holy Cave. The preliminary findings recorded by the SHPC shall be subject matter of discussion with the Governor of the State of Jammu and Kashmir, being in Chair. Upon due deliberations and counter-suggestions, if any, received by the Chairman, a final report shall be prepared. The said final report would be placed before this Court within the time schedule specified in this order and without fail. This would enable this Court to direct timely execution of the recommendations of the SHPC. This will also ensure that the next yatra to the Holy Cave shall be less hazardous, beneficial and appropriately managed, at least with basic human facilities being available to the yatris. This will also help in taking of appropriate steps, well in advance, the required governments.

The Committee shall examine and report in relation to the matters, inter alia, the following:-

Construction of proper passages, wide enough and with due support on both sides, for the traffic of pedestrian yatris, on horses and by palkis from Panchtarni to the Holy Cave.  
Providing one-way passage with separate tracks, one for pedestrians and other for horses, carriages and palkis near the Shrine.  
Providing of health check-up facilities on both the passages from Baltal and Panchtarni to the Holy Cave.  
Providing of proper public amenities and facilities on way and at the lower end of the glaciers near the Holy Cave.  
All such other steps which are required to be taken for preventing unfortunate deaths of the yatris, going on yatra to the Holy Cave.  
Deployment of more forces and to provide better conditions of service for the members of the forces, posted on way and at the Holy Cave.  
Environmental Impact Assessment.

The manner and methods to be adopted to attain the above, with least damage or interference with the environment of the entire zone right from Baltal to the Holy Cave from different routes.

Deployment of more medical teams, at regular distance on all the passages leading to the Holy Cave.

Registration of yatris at Jammu, Srinagar, Baltal and Panchtarni.

It should also consider the possibility of limited number of yatris being released from Srinagar to Baltal to ensure better management, hygiene, healthcare and betterment of the yatris, who stay their overnight.

Medical examination at the time of registration and on way.

This Committee shall visit the site during the current period, that means, prior to the closure of passage to the Holy Cave.

An application has been moved before us by a private party, we do not consider it appropriate that private party should be permitted to intervene in this PIL. However, they are granted liberty to move a petition before the Committee appointed by this Court and make submissions which may be considered in accordance with law and policy of the Government.

Chief Secretary, Jammu & Kashmir shall be the nodal Officer for holding the meetings, preparation of minutes and presenting the report before this Court.

We are informed that the Chief Secretary is present in the Court. He may take steps forthwith.

List the matter on Monday, the 13th August, 2012.

| (DEEPAK MANSUKHANI)  
| Court Master

| (M.S. NEGI)  
| Court Master

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