

ITEM NO.301

COURT NO.6

SECTION PIL

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

RECORD OF PROCEEDINGS

I.A. No.376 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions)

WITH

I.A. Nos.395-397 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For impleadment, exemption from filing O.T. and permission to file addl. documents on behalf of NPCC)

S.L.P.(C)...CC NO.12071 of 2005

M/S. MOHAN BRICKFIELD

Petitioner(s)

VERSUS

U.P. POLLUTION CONTROL BOARD & ORS.

Respondent(s)

(With appln. for c/delay in filing SLP and office report)

I.A. No.387 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions)

I.A. No.389 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions)

I.A. No.390 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For exemption from filing O.T.)

I.A. No.444 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

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VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions)

IN THE MATTER OF : ARCHAEOLOGICAL SURVEY OF INDIA

I.A. No.453 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Re: News item Dated 06.08.06)

I.A. No.457 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Re: News item Dated 25.08.06 and three photographs)

I.A. No.455 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For intervention)

I.A. No.456 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For permission for placing on record certain important facts
pertaining to facilitation centre at Tajmahal)

I.A. No.428 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions)

WITH

I.A. No.460 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

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M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions)

I.A. No.461 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For exemption from filing O.T.)

I.A. No.404 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For exemption from filing O.T.)

I.A. No.462 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Appln. for direction on behalf of Hind Glass Works)

I.A. No.463 in WRIT PETITION (CIVIL) NO. 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Appln. for exemption from filing O.T. on behalf of Hind Glass Works)

Date: 19/02/2007 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s)

Mr. Krishan Mahajan, Adv. (A.C.)

Mr. M.C. Mehta, Petitioner-in-person. (N.P.)

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Ms. Shilpa Chohan, Adv.

Mrs. Lalita Kaushik, Adv.

For Respondent(s)/

Mr. Ghoolam E. Vahanvati, SG

Applicant(s)

Mr. A.D.N. Rao, Adv.

Mr. Devadatt Kamat, Adv.

Mr. P. Parmeshwaran, Adv.

Mr. B. Datta, ASG

Mrs. Rekha Pandey, Adv.

Mr. R.C. Kathia, Adv.

Mrs. Rekha Pandey, Adv.

Mrs. Sushma Suri, Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Ankit Singhal, Adv.

Mr. B.V. Balramdas, Adv.

Mr. Pradeep Mishra, Adv.

Mr. Mohd. Taiyab Khan, Adv.

Mr. Shakil Ahmad Syed, Adv.

For Central Vigilance

Commission

Mr. M.N. Rao, Sr. Adv.

Mr. Sanjay R. Hegde, Adv.

Mr. Anil Kr. Mishra, Adv.

For Agra Dev.

Authority

Mr. Ashok K. Srivastava, Adv.

Mr. Saurabh Trivedi, Adv.

For State of Haryana

Mr. Ajay Siwach, AAG

Mr. T.V. George, Adv.

For State of U.P.

Mr. R.G. Padia, Sr. Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. Rajeev Dubey, Adv.

Mr. Kamalendra Mishra, Adv.

Mr. Vijay Panjwani,Adv.

Mr. Rakesh K. Khanna,Adv.

Dr. Rashmi Khanna,Adv.

Miss Jahanvi Warah,Adv.

Mr. Reetesh Singh,Adv.

Mrs. Rekha Pandey,Adv.

Mrs. Anil Katiyar,Adv.

Mr. Atishi Dipankar,Adv.

Mr. Ajay Kumar Aggarwal,Adv.

Ms. Binu Tamta,Adv.

Mr. K.K. Mohan,Adv.

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Mr. Vishwajit Singh,Adv.

Dr. Sumant Bhardwaj,Adv.

Ms. Mridula Ray Bhardwaj,Adv.

Ms. S. Dutta,Adv.

UPON hearing counsel the Court made the following

O R D E R

All the applications for exemption from filing O.T. are

allowed.

I.A.No.460:

As requested by the learned Solicitor General, three weeks'

further time is granted for responding to the various points raised by the learned Amicus in his report. Reply by the learned amicus to the said response of the Solicitor General, if any, be filed before the next date fixed.

An application has been filed by the State of U.P. inter alia

for permitting it to remove the trees on the roads proposed to be

constructed, the details whereof are as under:

(i) Kheria Air Port Road to Taj Mahal (Eastern Gate)

Via Mall Road and Shashtri Crossing

(Length 5.56 Km).

(ii) Shashtri Crossing to Hotel Trident Crossing

Via Hotel Mughal Sheraton

(Length 3 Kms)

(iii) Hotel Trident Crossing to 10th Km. Mile Stone

on Agra Fatehabad Road Via J.P. Hotel

(Length 3.06 Kms.)

(iv) J.P. Crossing to Taj Eastern Gate

(Length 2.35 Kms.)

TOTAL

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Trees 23

By an order dated 27.11.2006, had asked Mr.Vijay

Panjwani, learned counsel to seek instructions in the matter in that

behalf from the Central Pollution Control Board. Learned counsel on

instructions submits that it is crucial that a "quick environment

impact assessment" is carried out in respect of the project in

question. The learned amicus also submits that in absence of the

entire project being placed before this Court, it would not be possible

for him to respond to the said application filed by the State of U.P.

According to the learned amicus, whether any approval of the

concerned department for felling of trees have been obtained or not

may itself be an issue.

We would, therefore, direct the State of U.P. to file an

additional affidavit annexing therewith a copy of the proposed

project. A statement may also be made therein as to whether any

environment impact assessment has been carried out by the

competent authority and, if not, whether the State of U.P. proposes to

approach the competent authority in that behalf. The Central

Pollution Control Board is directed to file its response to the said

application by way of an affidavit affirmed by a responsible officer.

We would also request the learned Solicitor General to seek

instructions as to whether the project has received approval of the

competent authority of the Central Government and, if so, whether the statutory requirements have been complied with before grant of such approval. Such affidavits may be filed within three weeks.

Put up after three weeks.

I.A.No.404:

By an order dated 18.9.2003, this Court directed the Central

Bureau of Investigation to carry out investigation in relation to the matters specified therein. A First Information Report was lodged on

5.10.2003, pursuant thereto or in furtherance thereof. They filed a

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writ petition before the Lucknow Bench of the Allahabad High Court,

praying, inter alia, for the following reliefs:

"(a) a writ, order or direction in the nature of certiorari quashing the impugned First Information Report dated 5.10.2003 which has been registered as Case No.11 of 2003, R.C. No.18 of 2003 U/S. 120-B read with S.420, 467, 468, 471 IPC and under Section 13(2) read with 13(1) of the Prevention of Corruption Act, 1988, as contained in Annexure No.4 to this Writ Petition."

The said writ petition was disposed of by a Division Bench of

the High Court by its judgment and order dated 29.10.2003 directing:

"Considering the law laid down by the Apex Court in Joginder Kumar's case (1994 (4) SCC 260), and the nature of allegations made against all the three petitioners before this Court and other attending circumstances, we dispose of all the three writ petitions by providing that the petitioners in all the three writ petitions will not be arrested in the crime in question, till the conclusion of the investigation, but they shall cooperate with the ongoing investigation and will not leave the country without written permission of the court, having jurisdiction to take cognizance of the offences on the police report."

The learned amicus has filed this application inter alia praying for the following reliefs:

"Considering the correctness and propriety of the October 22, 2003 order of the Lucknow Bench of the Hon'ble High Court of Judicature at Allahabad passed in Writ Petition 5300 of 2003 (M/B) connected with Writ Petition 5315(M/B) of 2003 and Writ Petition 5341 (M/B) of 2003 and pass appropriate orders thereon."

Before this Court, the CBI has submitted its final report. The

said matter has been disposed of by this Court in terms of its judgment

dated 27.11.2006. The learned amicus, however, submits that in view of the nature of the order passed by this Court on 27.11.2006, neither a writ petition should have been entertained by the High Court nor the directions, as noticed hereinbefore, should have been issued in terms of the said order dated 22.10. 2003. It was urged that the High Court having regard to the 'judicial discipline', ought to have referred the matter to this Court.

In view of the nature of the order passed by the High Court, we are of the opinion that this application has become infructuous inasmuch as the order passed by the High Court has already been worked out. In the aforementioned situation, in our opinion, it is not necessary for us to make any comment on the maintainability of the writ petition or the merit of the order passed by the High Court. This application is, therefore, disposed of accordingly.

S.L.P.(C) No...CC 12071/2005

We had requested the learned amicus to take note of the contents of this SLP and make submissions thereon. Learned amicus seeks and is granted three weeks' further time for the said purpose. Put up after three weeks.

I.A.No.462:

Issue notice.

Mr. Wasim A. Qadri, Advocate accepts notice on behalf of the State of U.P. The Department of Industries shall file counter affidavit within two weeks and rejoinder thereto, if any, may be filed within one week thereafter.

List all the I.As. after three weeks.

(A.S. BISHT)

BHARDWAJ)

COURT MASTER

(PUSHAP LATA

COURT MASTER