

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.)

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

M.C. MEHTA Petitioner(s)

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.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

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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)

Date: 09/10/2006 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.

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. Nikhil Nayyar, Adv.

Mr. Ankit Singhal, Adv.

Mr. B.V. Balramdas, Adv.

Mr. Pradeep Mishra, 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. Kamendra Mishra, Adv.

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For CPCB

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.

Mr. Vishwajit Singh, Adv.

Ms. Mridula Ray Bhardwaj, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A

.Nos.455 &

456:

Let these I.As. be taken over by the learned amicus who may

analyse the facts stated therein and place before us the points necessary
for
our determination.

I.A.No.453:

Pursuant to our order dated 28.10.2006, a meeting has been
held
presided over by Mr. C. Babu Rajeev, Director General of Archaeological
Survey of India (ASI). An affidavit affirmed by one Dr.
D. Dayalan,
Superintending Archaeologist, Agra Circle, ASI has been placed before us.
Copies of the said affidavit has been served upon the learned amicus Mr.
Krishan Mahajan as also upon Mr. M.C. Mehta. They submit
that some
alternative land sites/structures are available for continuation of the
facilitation centers outside the Taj Complex.

Mr. Goolam E. Vahanvati, learned Solicitor General, appearing on
behalf of the Archaeological Survey of India very fairly
states that if a
suggestion to that effect is made the same shall be considered by ASI.

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Keeping in view the importance of the question involved, we are of
the opinion that members of the Monitoring Committee shall visit Taj
Complex, Agra, on any date suitable to them and submit a report to this
Court. In the event it is found that any land site/structure is not available

for starting facilitation centers, some alternatives thereto may also be suggested. An advance copy of the said suggestion should be furnished to the learned Solicitor General in order to enable him to place the view points of the ASI before us so that this Court may pass a complete and effective order in this behalf.

We are assured that no construction/breaking up of any wall would be carried out without the express leave of this Court.

By an order dated 21.11.2001 this Court relying on or on the basis of a news item appearing in the Hindustan Times, issued certain directions by drawing up a contingency plan, whereby inter alia it was directed:

"The above contingency Plan will come into action when information is received either from Archaeological Survey of India or from other sources about the proposed agitation/procession or sudden influx of visitors to the monument, which may result in vandalism or damage to the monument. Dy. Supdt. of local intelligence unit will also activate L.T.U. Personnel to gather advance intelligence for this purpose. Addl. Supdt. of Police (City) Agra will be responsible for implementation of the above Contingency Plan. He will ensure that Contingency Plan is executed properly and well in time. Under no circumstances unruly crowd should be allowed to gather near or inside the Taj Mahal. Addl. Supdt. of Police (City) Agra will be responsible for proper rehearsal of this Contingency Plan and he will also co-ordinate with Archaeological Survey of India and Addl. District Magistrate (City) Agra to ensure

smooth implementation of the above scheme.

The concerned authorities are directed to implement the same at the earliest. The Superintendent of Police of Agra City is directed to ensure that in no circumstances unruly crowd be permitted to enter the Taj premises or gather near about."

Despite said order, this Court again had to take notice of similar

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incident as appearing in a news item published in Times of India dated 6th August, 2006, whereupon notices were issued to the Agra Development Authority and the Commandant of CISF, Agra. It was hoped and trusted that for meeting emergent situations the authorities concerned, namely, ASI, CISF and Agra Development Authority would apply their mind and come out with an agreed solution.

An affidavit affirmed by Mr. Arun Kumar Sinha, Secretary, Home Department, State of U.P., filed on 20th September, 2006 deals with the question as to how the said Contingency Plan evolved by this Court in its order dated 26th November, 2001 has been implemented. While delineating the implementation, as regard the main steps taken to further strengthen the security of Taj Mahal and prevent any untoward activity on part of the visitors, our attention has been drawn to the following:

- A control room functions in Taj Mahal through which CISF, District

Police and District Magistrate along with other Executive Magistrates are connected. CISF has VHF connectivity through which it remains in touch with City Control Room, Police Barriers, Police Station Taj Ganj, Police Out Posts Taj Mahal.

- Under Chapter 11 of the Security Scheme special stress has been given on control and regulation of crowd which includes political rallies and festivals etc.
- The contingency scheme (chapter-12) specifically deals with unidentified persons attempting to force entry or scale the boundary of Taj Mahal and other unwarranted attempts to threaten the security of Taj Mahal.
- Outside Taj Mahal (within periphery of 500 mtrs.) 7 barriers equipped with armed police, dragon lights, wireless sets and other equipments have been placed to regulate any sudden influx.
- Sufficient numbers of fire extinguisher have been installed inside Taj Mahal campus to handle any contingency.
- There is arrangement of Door Frame Metal Detectors (DFMD) to detect if any objectionable material being carried with the visitors.

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- All the three entry points to Taj Mahal have detailed arrangement of frisking and physical checking of visitors. There are female CISF personnel to frisk lady visitors.
- The State Government has sanctioned 756 additional police personnel

for Taj Mahal. The Director General of Police have been authorised to recruit additional police personnel. Police Head Quarter has already started recruiting additional police personnel. (Annexure 1 and 2)

- Meanwhile the Director General of Police has shifted additional police force to Taj Mahal from existing resources.
- One additional company of PAC has been deployed to strengthen existing security arrangement. This unit is specifically meant for dealing with contingencies.

On a perusal of the said affidavit, however, it appears that in effect and substance the same deals with the aspects of the inside security of the Taj Mahal but the U.P. Police is principally concerned with providing of the external security at the Taj Complex. If this Court had to draw a Contingency Plan having regard to the news item that appeared in the Hindustan Times on November 21, 2001, we fail to understand as to how a similar situation was allowed to take place on 6th August, 2006. In this connection we may also place on record the order dated 28.8.2006 passed by this Court, which is in the following terms:

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"A proposal has been mooted at the Bar that if some land can be allotted by the Agra Development Authority beyond/around the periphery of 500 mts. which can be utilized by the CISF personnel as a Checking Counter-cum-Facilitation Center, much of the problems which are being faced today in regard to security of the

monument may not occur in future. We, therefore, direct that on 2.9.2006 the Superintendent of ASI, a high ranking officer of CISF, the Vice-Chairman of Agra Development Authority as also the Commissioner of Agra Division shall meet in the Chambers of Chairman, Agra Development Authority for taking an appropriate decision in the matter.

In the said meeting, location of the vendors shall also be discussed and resolved apart from the question of installing the Counter-cum-Facilitation Center. In this connection the said authorities or the officers nominated by them shall visit the spot and select a vacant place which may be available for the aforementioned purpose.

A suitable plan may also be prepared by the officers of the Agra Development Authority, in the event a suitable place is found out as an outcome of the said meeting and visit to the spot by the officers concerned, be arranged so that necessary directions can be issued by this Court for allotment of the said land by the Agra Development Authority in favour of the ASI. We also direct the authorities of the ASI to consider the desirability of issuing the tickets of entering into the monument to limited number of visitors for a limited duration."

In this view of the matter we direct the Secretary, Home

Department, State of U.P. to affirm a further affidavit stating as to what

other or further steps are proposed to be taken to tackle such an extraordinary contingency, particularly on the following occasions:

(i) Ram Barat after Dussehra

(ii) Zaireen returning from Ajmer Sareef prayers

(iii) Urs around August

(iv) Rallies

(v) Clubbing of National holidays with weekends

(vi) December 20 to January 5 - Peak Tourist Season.

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Let such an affidavit be filed within three weeks, an advance copy whereof may be served upon the learned amicus curiae Mr. Krishan Mahajan, so that by the next date fixed the response thereto may also be given by him.

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

We request the learned amicus to take note of the contents of this SLP and make submissions thereon on the next date of hearing.

Put up after four weeks.

(A.S. BISHT)

COURT MASTER

(PUSHAP LATA BHARDWAJ)

COURT MASTER