

ITEM NO.301

COURT NO.8

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 &amp; ORS.

Respondent(s)

(For directions)

WITH

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(For directions)

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

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

WRIT PETITION (CIVIL) NO. 193 OF 2004

AJAY K. AGRAWAL

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With office report)

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)

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For modification of Court's order dated 04.04.2005)

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

Date: 07/08/2006 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,Adv.

Petitioner-in-person.

Ms. Shilpa Chohan,Adv.

Mrs. Lalita Kaushik,Adv.

For Respondent(s)/ Mr. Ghoolam Vahanvati, SG

Applicant(s) Mr. A.D.N. Rao,Adv.

Mr. Devadatt Kamat,Adv.  
Mr. P. Parmeshwaran,Adv.  
Mr. Gopal Subramanium, ASG  
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.  
Mr. Ajay Siwach,AAG  
Mr. T.V. George,Adv.  
Mr. R.K. Jain, Sr.Adv.  
Mr. Rakesh K. Khanna,Adv.  
Dr. Rashmi Khanna,Adv.  
Miss Jahanvi Warah,Adv.  
Mr. Reetesh Singh,Adv.  
Mr. S.M.A.Kazmi, Adv.Gen.,U.P.  
Mr. Virender Bhatia,Adv.  
Mr. R.G. Padia,Adv.  
Mr. S. Wasim A. Qadri,Adv.  
Mr. Rajeev Dubey,Adv.  
Mr. Kamlendra Mishra,Adv.  
Mrs. Rekha Pandey,Adv.

Mrs. Anil Katiyar,Adv.

For CPCB

Mr. Vijay Panjwani,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.No.452:

An application has been filed on behalf of the Central Bureau of

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Investigation for modification of this Court's order dated 4.4.2005, inter alia on the premise that the services of Shri Nirajnayan who was connected with the investigation of an offence, are no longer required. In the said application it has categorically been stated that the aforesaid Shri Nirajnayan has been on deputation with CBI for about seven years and in the interest of administration it is necessary to repatriate him to his parent cadre. It is stated that the investigation in the criminal case against the authorities/officers concerned is over. It is also stated that the investigation in the matter of acquisition of assets disproportionate to the known sources of income of the concerned authorities/ officers is also over. It may also be

placed on record that the CVC has no objection if Shri Nirajnayan is repatriated to his parent cadre. We may also notice that it has been observed in our order dated 25.10.2004 that this Court has not been monitoring the case of disproportionate assets case.

In this view of the matter, we are of the opinion that the prayer made in the application should be allowed and the CBI may release Shri Nirajnayan in order to repatriate him to his parent cadre subject to any other or further orders which may be passed by an appropriate court, if any occasion arises therefor. The I.A. is allowed accordingly.

I.A.No.404:

Put up after the disposal of I.A. Nos.451, 438, 431 etc. etc. in WP

(C) No.13381/1984.

I.A.No.376:

A draft reply on behalf of the Archaeological Survey of India (ASI) has been filed in Court today. We are not satisfied with the same. A responsible officer must file a proper affidavit within 10 days stating therein as to what steps have been taken in regard to implementation of this Court's order dated 30.12.1996. We have been taken through the main judgment of this Court dated 30.12.1996.

Paragraph 38 of the said judgment reads as under:

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"The Court is separately monitoring the following issues for controlling air pollution in TTZ:

(a) The setting up of Hydro-cracker unit and various other devices by the Mathura Refinery.

(b) The Setting up of 50-Bed Hospital and two mobile dispensaries by the Mathura Refinery to provide medical aid to the people living in the surrounding areas (Court order dated 7.8.1996).

(c) Construction of Agra bypass to divert all the traffic which passes through the city. Under directions of this Court, 24 kms' stretch of the bypass shall be completed by the end of December 1996. (Court order dated 10.4.1996)

(d) Additional amount of Rs.99.54 crores sanctioned by the Planning Commission to be utilised by the State Government for the construction of electricity supply project to ensure 100 per cent uninterrupted electricity to the TTZ. This is necessary to stop the operation of generating sets which are major source of air pollution in the TTZ. (Court orders dated 10.4.1996, 10.5.1996, 30.8.1996, 4.9.1996 and 10.9.1996).

(e) The construction of Gokul Barrage, water supply work of Gokul Barrage, roads around Gokul Barrage, Agra Barrage and water supply of Agra Barrage, have also been undertaken on a time-schedule basis to supply drinking water to the residents of Agra and to bring life into River Yamuna which is next to the Taj. (Court order dated 10.5.1996 and 30.8.1996).

(f) Green Belt as recommend by NEERI has been set up around Taj. Pursuant to continuous monitoring of this Court, the Green Belt has become a reality.

(g) This Court suggested to the Planning Commission by order dated 4.9.1996 to consider sanctioning separate allocation for the city of Agra and the creation of separate cell under the control of Central Government to safeguard and preserve the Taj, the city of Agra and other national heritage monuments in the TTZ.

(h) All emporia and shops functioning within the Taj premises have been directed to be closed.

(i) Directions have been issued to the Government of India to decide the issue, pertaining to declaration of Agra as heritage city within two months."

With a view to consider implementation of the said judgment, we issue the following directions seriatum:

(a) Re: Setting up of Hydro-cracker unit and other devices by the Mathura Refinery - No further action is required to be taken.

(b) Re: Setting up of 50-Bed Hospital - For the present and unless something is brought to our notice in future no immediate further action is necessary.

(c) Re: Construction of Agra Bypass - The State of U.P. is hereby directed to submit a status report as to whether a bypass has been constructed to divert all the traffic which passes through the city.

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(d) Re: Sanction of additional amount of Rs.99.54 crores for construction of electricity supply projects by the Planning Commission.

It is stated by Mr. Pradeep Mishra, learned counsel appearing on behalf of the U.P. Power Corporation that that the said sum was sanctioned

by the Planning Commission and pursuant thereto steps have been taken for supply of uninterrupted electricity to the TTZ area. The learned counsel, however, stated that only in case of trips owing to local faults, generators are required to be operated and not otherwise.

According to the learned amicus Mr. Krishan Mahajan, after laying the foundation stone of the electricity projects no further action has been taken. Let the Managing Director of the U.P. Power Corporation and the Principal Secretary, Department of Environment, State of U.P., file status report/ affidavit in this regard. Let a status report in this regard be also filed by the TTZ Board.

(f) Re: Green Belt as recommend by NEERI - The learned amicus is requested to visit the area and submit a fresh status report.

(g) Re: The Chief Secretary of the State of U.P. on behalf of the Mission Management Board is directed to submit a report as to the amount deposited and the amount lying with it and the proposals pending with it in this behalf.

(i) Re: The learned Solicitor General for India is requested to seek instructions as to what steps have been taken by the Government of India on the issue pertaining to the declaration of Agra as a Heritage City.

I.A.No

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(Re: Newspaper Report dated 6.8.2006

Issue notice. Let notice be issued to the Agra Development

Authority also. Notice may also be served upon Mr. Ashok Kumar Srivastava, who normally appears for the said authority.

A newspaper report dated 6th August, 2006 has been placed before us by Mr. M.C. Mehta. Let this report be placed on record and a copy thereof be sent to the Chairman, Agra Development Authority for his response thereto.

Issue notice also the Commandant of the CISF, Agra.

We hope and trust that for meeting emergent situation, i.e. when hundreds of people visit the Taj at the same time, the authorities concerned, namely, ASI, CISF and the Agra Development Authority shall apply their mind and come out with an agreed solution.

List this I.A. on 21.8.2006.

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All the status reports and responses thereto, if any, may be filed on or before 25.8.2006. List all other I.As. on 28.8.2006.

(A.S. BISHT)

COURT MASTER

(PUSHAP LATA BHARDWAJ)

COURT MASTER