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W.P(C)No. 13381 OF 1984
ITEM No.301 +305

Court No. 4

SECTION PIL
A/N MATTER

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.13381/1984

M.C. MEHTA

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(for directions)

(REPORT RECEIVED FROM CENTRAL WATER AND POWER RESEARCH STATION, KHADAKWASLA)
WITH

I.A.No.387 in W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions filed by A.C.)

WITH I.A.NO.388 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions)

I.A.NOS. 389-390 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions filed by A.C.)

I.A. 404 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions)

I.A. 415 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions)

I.A. 416 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions)

I.A. 419-420 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions and exemption from filing O.T. on behalf of Mr.V.K. Gupta)

I.A. 423-424 IN WP(C) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions and exemption from filing O.T on behalf of)

W.P.(c) 193/2004 Ajay K. Agrawal vs. UOI & Ors.
(with Office Report)

SLP (crl) 3109-3111/2004 Ajay K. Agrawal vs. P.L.Punia & Ors.
(with appln. for ex-parte stay and
exemption from filing c/c of the impugned judgment and Office report)

Date : 25/10/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner (s)
in IA 388

In Person

For the Applicant(s):
in IAs 376,387,389-90,

404,416 Mr.Krishan Mahajan,Adv.(A.C.)

in IA 415,WP 193/04,
SLP (crl) 3109-3111/04 Mr.Ajay K. Aggarwal,In person

IA 419-420 Mr.A.K. Ganguli,Sr.Adv.,
Mr.Vishwajit Singh,Adv.

for Applicant in Mr.Ranjit Kumar,Sr.Adv.,
IA 423-424 Mr.Pranab Kumar Pullick,Adv.

For Respondent (s)
For CBI Mr.G.E. Vahanvati,SG
Mr.P. Parmeswaran,Adv.

for UOI,Ministry of Mr.Hemant Sharma,Adv.,
Home Affairs Mr.Sushma Suri,Adv.

for UOI,Ministry of Mr.Hemant Sharma,Mr.Vineet Malhotra,
Environment Mrs.Anil Katiyar,Advs.

For UOI Mr.B.V. Balramdas,Adv.

For U.P.Jal Nigam Mr.Ajay K. Aggarwal,Adv.
Ms.Alka Agrawal,Adv.,
Ms.Anamika Agrawal,Adv.

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

Mr.M.C. Mehta,In Person

for State of U.P. Mr.Ashok H. Desai,Sr.Adv.,
Mr.P.P. Rao,Sr.Adv.,
Mr.Virendra K. Bhatia,AG (U.P.)
Mr.Kamlendra Mishra,
Mr.Rajeev Kumar Dubey,Ms.Rashmi Singh,
Mr.R.K. Singh,Advs.

for CPCB: Mr.Vijay Panjwani,Adv.

for UPSPCB: Mr.Pradeep Mishra,Adv.

For Agra Nagar Nigam: Dr.Sumant Bhardwaj,Adv.,
Mrs.Mridula Ray Bhardwaj,Adv.

For Agra Dev.Authority Mr.Ashok K. Srivastava,Adv.

Mr.Santosh Kumar,Adv.,
Mr.Atishi Dipankar,Adv.

For R-1 in SLP 3109-11/04 Mr.Rakesh Dwivedi,Sr.Adv.,
Mr.K.K. Mohan,Adv.

Mr.Shail Kumar Dwivedi,Adv.

UPON hearing counsel the Court made the following

O R D E R

By the Order dated 19th July 2004 this Court had inter alia directed (1) the CBI to prepare a nd supply self-contained notes in respect of the findings against the officers of the U.P.Sta te Government as also of the Central Government to the respective governments within a peri od of one week from date. We are told by the learned Solicitor General appearing on behalf of the CBI that this has been complied with.

(2) The U.P. State Government and the Central Government have been directed to take further action on such copies and complete the disciplinary proceedings within a period of three we eks from the date of the order.

Mr.Ashok Desai, the learned senior counsel appearing for the State of U.P. has stated that wi th regard to Shri Bagga, on the basis of the earlier note submitted by the CBI (referred to as CBI I), the departmental enquiry is complete and the recommendations for punishment to be in flicted on the charged officer had been forwarded to the U.P.S.C. where it is pending consider

ation. It is also stated that departmental enquiry on the basis of the second note submitted by CBI (CBI II) has been initiated. As far as Shri Punia is concerned, the departmental enquiry on the basis of the CBI I note had been completed but no order has been passed thereon. Further proceedings have not been initiated on the basis of the note supplied by the CBI (CBI Note II). It is submitted that the CBI report to the effect that this charged officer had acted without consulting the then Chief Minister, could not be made the basis of a charge in the absence of the statement of the then Chief Minister which was still in the custody of the CBI. Learned Solicitor appearing for the CBI has stated that the statement was required in connection with a decision to be taken on FIR RC 0062003A0018. The legal scrutiny in respect of that nearing completion. Three more weeks time is required to do this end after which the statement required by the State Government could be made available to it. Mr. Mahajan, the learned amicus-curiae has stated before us that there were in fact other materials before the State Government concerning the financial improprieties and irregularities committed by Shri P.L. Punia on the basis of which charges could be framed by the State Government.

The State Government will pass an order on the first disciplinary enquiry initiated by the State Government in respect of Shri P.L. Punia within a week from date. As far as the second disciplinary enquiry is concerned which arises out of CBI II and otherwise the State Government may defer initiation of the proceedings until availability of the statement of the former Chief Minister of the State which will be made available for a period of three weeks.

If within such time such statement is not made available by the CBI, the U.P. State Government will formulate charges on the basis of whatever material is available with it and complete the disciplinary enquiry on the basis thereof within a period of six weeks thereafter.

As far as Shri V.K. Gupta is concerned, the State Government has informed that the disciplinary enquiry against Shri V.K. Gupta on the basis of CBI I showed that Shri V.K. Gupta was not culpable in respect of the charges framed. Second disciplinary proceedings had been initiated against Shri V.K. Gupta on the basis of CBI II. Shri V.K. Gupta is represented by Shri A.K. Ganguli, Sr. Adv. It is submitted by him that the

second chargesheet was merely a repetition of the first. It will be open to Shri V.K. Gupta to take all such defences in the second disciplinary proceedings.

As far as Shri R.K. Sharma is concerned, we are informed that the disciplinary enquiry arising out of the CBI I has already been completed and recommendation for his punishment has been forwarded to the U.P.S.C. before which the recommendations are pending. It is also stated that fresh disciplinary enquiry has been initiated on the basis of CBI II which is still pending.

As far as Shri K.C. Mishra is concerned, the Central Government has informed us that disciplinary enquiry is completed and the recommendations for his punishment has been made to the Department of Personnel before which the recommendation is still pending.

As far as the pending disciplinary proceedings are concerned, on the basis of CBI II or otherwise, they shall be completed within a period of six weeks from date.

As far as investigation on FIR RC 0062003A0018 is concerned, investigation is complete and legal scrutiny to be completed within three weeks by the Director, CBI. After the legal scrutiny is completed, the same shall be submitted before this Court.

RE: FIR RC 0062003A0019 The further investigation report filed by the CBI in this connection while indicating large-scale irregularities does not in fact show any link between such irregularities and the Taj Corridor Matter which is the subject matter of reference before the Special Bench. The CBI therefore is at liberty to proceed with and take action on the basis of their investigation in respect of this FIR. In the event any link is disclosed in the course of such investigation between facts as found and the Taj Corridor Project, the CBI will bring the same to the notice of this Court. In any event, the CBI will be entitled to take action on the basis of the investigation as it may think fit.

The State Government has placed on record copies of suspension orders, copies of revocation together with the rules as directed by this Court's Order dated 19.7.2004. The learned amicus-curiae states that the rules as placed on record do not permit for any "compulsory waiting". List this matter for hearing separately on this issue on the next date of hearing.

RE: DISCIPLINARY PROCEEDINGS. By this Court's Order dated 18.9.2003 the NPCC or the competent authority including the Central Government had been directed to initiate enquiry against Shri S.C. Bali, Managing Director, NPCC. The learned Solicitor General is directed to take necessary instructions as to the steps taken by the NPCC/competent authority/Central Government in this regard within a period of two weeks.

RE: TECHNICAL REPORT NO. 4132 (JULY 2004) MATHEMATICAL MODEL STUDIES TO ASSESS THE IMPACT OF RECLAMATIONS ON THE MONUMENTS IN AGRA U.P. Notice to be given with regard to the impact of the river Yamuna of the Taj Corridor Project to the Central Water and Power Research Station Kanpur through its Director, the ASI and the CPCB. The ASI and CPCB will give a report as to the impact if any which may have taken place to the infrastructure of the Taj by the work carried out on the river bed of Yamuna and any projected impact that may be occasioned.

I.A.No.404 To be listed on next hearing together with the three other matters specified a

bove namely issues relating to NPCC, investigation against Shri Bali and impact assessment of reports of ASI and CPCB.

SLP (crl).3109-3111/2004 Counter be filed within two weeks.

I.A.Nos.416,419-420. In view of the order passed today, no order is required to be passed on these I.As. which stand disposed of accordingly.

I.A. No.423 I.A. is dismissed as withdrawn. Liberty is granted to the petitioner to approach such other authority as it may otherwise be entitled to in accordance with law.

RE:REPORT OF THE MONITORING COMMITTEE DATED 9.10.2004 Copies of the report if not already made available be made available to the ASI, State of U.P., CPCB. All three authorities to file their response before the next date of hearing.

MATTERS WHICH DO NOT PERTAIN TO TAJ CORRIDOR Delinked. To be placed before Hon'ble The Chief Justice of India for being listed before an appropriate Bench.

CBI Report dated 13.9.2004 and 25.10.2004 opened in Court. Let it be resealed and be kept in a sealed cover in the safe custody of Registrar(Judicial).

(Vijay Kumar Sharma) (Madhu Saxena)
AR cum PS to Hon.Judge Court Master