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W.P(C)No. 13381 OF 1984
ITEM NO.1COURT NO.3 SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.NO 364 in WP @ no.13381/1984

M.C. MEHTA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent (s)

(for directions on behalf of M/s.Gehlot Brick Field)

WITH I.A.NOS.163-165,166-168 & 169-171 in WP @ 13381/1984
MC.MEHTA VS. UOI & ORS.

(for directions and accepting English translation and stay on behalf of Durgesh Brick Kiln
)

I.A.Nos.172-174 in WP @ No.13381/1984 MC. MEHTA VS. UOI & ORS.
(Mahinder Pal Singh Yadav & Anr.)

I.A.Nos.306-310 in W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.
(for directions on behalf of Durgesh Brick Kiln)

I.A.Nos.311-324 in W.P.(c) 13381/1984

I.A.No.376 in W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.

WITH

I.A.NO.387 in W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.

I.A.NO.388 IN W.P.(c) 13381/1984 MC. MEHTA VS UOI & ORS.

(appln. for directions)

I.A.NOS.389-390 IN W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.

WITH

I.A.NO.394 IN W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.

(Santosh Ent. Udyog)

I.A.Nos. 395-397 in W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.

(for directions and exemption from filing O.T. and permission to file addl. documents on behalf of N.P.C.C. Ltd.)

WITH

I.A.NO.345 IN W.P.(c) 13381/1984 MC. MEHTA VS. UOI & ORS.

(for directions)

WITH

I.A.NO.371 IN W.P.(C) 13381/1984 MC. MEHTA VS. UOI & ORS.

(On behalf of Pooja Brick Field)

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I.A.NOS.366-369 IN W.P.(C) 13381/1984 MC. MEHTA VS. UOI & ORS.

(for impleadment, directions and exemption from filing O.T. on behalf of Bajrang Brick Field & Ors.)

WITH

I.A.NO.391 in W.P.(C) 13381/1984 MC. MEHTA VS. UOI & ORS.

(For directions on behalf of M/s.Jai Amba Brick Field with office report)

Date: 11/09/2003 These petitions were called on for hearing today.

CORAM:

HON'BLE MR.JUSTICE M.B. SHAH

HON'BLE DR.JUSTICE AR. LAKSHMANAN

For the Petitioner (s)
Mr.Sudhir Kulshreshta,Adv.

Mr.M.C.Mehta,In person

Pt. Parmanand Katara,Adv.,
Dr.Kailash Chand,Adv.

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

Mr.Sushil Kumar Jain,Adv.
Mr.Ajay Kumar Aggarwal,Adv.

Mr.Dipankar Gupta,Sr.Adv.,
Mr.Atish Dipankar,Adv.,
Mr.Santosh Kumar,Adv.

Mr.Ajay Kr.Aggarwal,In person

For the Respondent (s)
for State of U.P.Mr.Rakesh Dwivedi,Sr.Adv.,
Mr.Dinesh Dwivedi,Sr.Adv.,
Mr.Kamlendra Mishra,

for CBIMr.Altaf Ahmed, ASG
Mr.A. Mariarputham,Adv.,
Mr.P. Parmeswaran,Adv.

For ASIMr.Mukul Rohtagi, ASG
Ms.Kiran Bhardwaj,Adv.,
Ms.Anil Katiyar,Adv.

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Mr.L. Nageshwara Rao,ASG
Mr.Hemant Sharma,Adv.,
Mrs.Anil Katiyar,Adv.

Ms.Niranjana Singh,Adv.,
Mrs.Anil Katiyar,Adv.

Mr.Ashok K.Srivastava,Adv.

Mr.Krishan Mahajan,Adv.

Mr.Vijay Panjwani,Adv.

Mr.Pradeep Misra,Adv.

Mr.Rajendra Singhvi,Adv.,
Mr.Ashok K Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

Taj Corridor Matter. CBI has submitted its report which is in two covers. Small cover is opened. Report be kept in sealed covers in the Registry.

At the request of the learned ASG adjourned to 18.9.2003.

I.A.Nos.163-165,172-174,364 &366-369 .

It has been mentioned by the learned counsel for the applicants that previously there was an order passed by this Court directing joint inspection and that joint inspection was carried out. However, considering the fact that one year has elapsed after the joint inspection, the Committee shall again carry out joint inspection within one month from today. If it is found that applicants have complied with the NEERI report as well as other requirements under the Act, it would be open to the applicants to re-start the brick kiln after inspection report.

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Matters relating to Brick Kiln.

Heard the learned counsel for the parties.

In view of the order dated 10.5.1996 passed in M.C. Mehta (Taj Trapezium Pollution) vs. Union of India & Ors. reported (2001) 9 SCC 235, several brick kilns which were closed by the said order had filed applications seeking re-opening or re-starting of the brick kilns.

It is stated in the applications that they have complied with the recommendations of NEERI, guidelines issued by Central Pollution Control Board (CPCB) and they are also in a position to comply with the standards indicated at Serial No.74 (amended in 2002) Environment Protection Rules, 1986. This Court constituted a five member joint inspection team comprising of two scientists from CPCB, two from UPCB and one representative of ASI to verify the adequacy of pollution control measures taken by the brick kilns. After perusing the inspection report filed by CPCB on behalf of the joint inspection team this Court directed brick kilns to re-start the manufacturing process.

By filing applications and the need to monitor compliance of environmental norms, it will be appropriate to nominate CPCB to consider these applications in future.

Hence, Chairman, Central Pollution Control Board is directed to constitute a committee consisting of the following:-

1. Scientist of Director/Addl. Director level;
2. A representative of the Archaeological Survey of India;
3. A representative of the Ministry of Environment and Forests;
4. One member of the U.P. Pollution Control Board;

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5. One member of the Central Pollution Control Board.

The meeting of the Committee would be held in Agra. The Committee may seek any information or expert opinion from any persons/officers. The order passed by the Committee shall be final. Before filing applications to the aforesaid Committee, it is directed that all brick kilns will immediately apply for electricity connection, get a meter installed and pay for the energy consumed on monthly basis. After 30 days from today the free single point electric connection meant for agriculture use only will be disconnected by the electricity supplier.

The concerned District Magistrate will file a status report in this regard before the aforesaid Committee within 60 days from today. All applications of brick kiln owners are disposed of accordingly.

I.A.No.345. On 2.9.2003, this I.A. was taken for hearing and the following order was passed:-

"Heard learned counsel for the parties.

Learned counsel for the Rajasthan Pollution Control Board has pointed out affidavit filed on 5th April 2003 wherein it has been stated that without obtaining prior consent of the Pollution Control Board as provided under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 some persons are carrying out mining operation of stones in Senehri Pahari Village Sunehra. In paragraph 4(b), it has been stated as under:--

That the board carried out its own inspection on 28.3.2003 and thereafter submits as follows:

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1. That mining activities in two blocks for an area of 80.79 hectares is being carried on by one Shri Giriraj Dharan Tayal.

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ii. That the above activity is being carried on manually on a hill situated on the brink of the Boarder of Rajasthan and Uttar Pradesh. Despite manual mining fugitive emission were observed.

iii. That load of truck were found carrying the masonry stone and the villagers informed that the owners has a stone crusher in Barsana (U.P.) where these stone is being used for crushing.

iv. That villagers of the village Sunehra informed the inspecting team that blasting is done in the night and splinters of the stone is destroying their crop and also causing serious air and stone pollution.

As against this, learned counsel Mr. Agarwal, contends that persons who are carrying out the mining operations have approached the High Court and have obtained the stay order.

In our view, once the permission is not granted by the Pollution Control Board under Section 21 of the Act, such mining activity cannot be permitted to be continued. However at the request of the learned counsel one week's time is granted to obtain necessary instructions.

Authorities to find out whether the mining operations are carried out in forest area or no

t."

On the basis of the aforesaid Order, Rajasthan State Pollution Control Board has passed an order on 10.9.2003 to the following effect:-

"Apropos above, your application for consent to operate under reference is hereby refused under the provisions of Section 21(4) of Air (Prevention and Control of Pollution) Act, 1981 for the reasons given below:

1. That you are carrying out mining activities, without obtaining prior consent to establish, in Sunehari Pahari, Vill. Sunehra Tehsil Kama, Distt. Bharatpur over an area of 80.79 hectares in block No. 1 and 2 displayed on the sign board fixed in your mining area with lease No.84-99

2. That you have not provided any feasibility report on pollution control measures which may include methods for controlling fugitive emissions, overburden

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management surface and ground water control, reclamation of abandoned mine area etc. Thus, you have failed to provide any pollution control measures whatsoever.

3. That you have submitted that only manual mining is carried out but at the same time you have appointed competent blaster and mining mat with the permission of Joint Explosive Controller, Faridabad. Thus your statements are contrary to each other which require separate pollution abatement system. Besides, the residents of village Sunehara have reported that blasting is carried out in your mines in night and splinters of the stone is destroying their crops and also causing air and noise pollution.

It is to inform you that after refusal of consent to operate legally you cannot operate your plant."

From the aforesaid order it is apparently clear that Shri Giriraj Dharan Tayal is carrying out illegal mining activity without obtaining necessary permission from the competent authority.

And the Rajasthan State Pollution Control Board has directed Shri Giriraj Dharan Tayal not to carry out mining operation further. Hence for such mining operation appropriate action be taken. Meantime, Superintendent of Police, Bharatpur (Rajasthan) is directed to see that Giriraj Dharan Tayal does not carry out any mining operation in Sunehri Pahari, village Sunehara, Tahsil Kama, Distt. Bharatpur.

I.A.Nos.306-310, I.A.No.371. At the request of the learned counsel for the applicants adjourned to 18.9.2003.

(Vijay Kumar Sharma)

(Janki Bhatia)

AR-cum-PS to Hon. Judge

Court Master

Copy of this order be given to the learned counsel for the Rajasthan State Pollution Control Board dasti.