

ITEM NO.11

COURT NO.2

SECTION PIL-W

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

Writ Petition(s)(Civil) No(s).4677/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(In RE.: SEALING ISSUE)

(1) ONLY ISSUE OF ADVANCE NOTICE BEFORE SEALING IN REPORT NO. 128
SUBMITTED BY MONITORING COMMITTEE

(2) REPORT NO. 133 SUBMITTED BY MONITORING COMMITTEE

Date : 01-11-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE S. ABDUL NAZEER

Mr. Ranjit Kumar, Sr. Adv. (A.C.)
Mr. A.D.N. Rao, Advocate (A.C.)
Ms. Anitha Shenoy, Advocate (A.C.)
Mr. Rishi Raj Sharma, Adv.
Mr. Sudipto Sircar, Adv.
Ms. Srishti Agnihotri, Adv.
Ms. Soumya Singh, Adv.

For Petitioner(s) Petitioner-in-person

For Respondent(s)

UOI

Mr. A.N.S. Nadkarni, ASG
Mr. R. Balasubramanian, Adv.
Mr. Sachin Sharma, Adv.
Mr. Pranay Ranjan, Adv.
Mr. S. Wasim A. Qadri, Adv.
Mr. D.L. Chidanand, Adv.
Mr. Raj Bahadur, Adv.
Mr. Ritesh Kumar, Adv.
Ms. Suhasini Sen, Adv.
Ms. Aarti Sharma, Adv.
Mr. G.S. Makker, Adv.
Ms. Anil Katiyar, Advocate
Mr. B.V. Balram Das, Advocate
Mr. Arvind Kumar Sharma, Advocate

	Ms. Rachna Gupta, Adv. Mr. Vikas Chaudhary, Adv.
DDA	Mr. P.S. Narasimha, ASG Mr. G.S. Oberoi, Adv. Ms. Garima Prasad, Adv.
NCT of Delhi	Mr. D.N. Goburdhun, Advocate Ms. Gauri Goburdhun, Adv. Ms. Pallavi Chopra, Adv. Mr. Chirag M. Shroff, Adv. Ms. Neha Sangwan, Adv. Ms. Joyshree Barman, Adv.
MCD	Mr. Sanjiv Sen, Sr. Adv. Mr. Praveen Swarup, Advocate Mr. Sayan Ray, Adv. Mr. Soumo Palit, Adv. Mr. Gaurang Kanth, Adv. Mr. B.C. Santosh Kumar, Adv. Mr. S. Wasim A. Qadri, Adv. Mr. Zaid Ali Subzposh, Adv. Mr. Pravin Swaroop, Adv. Mr. Ajay Bansal, Adv. Mr. Gaurav Yadava, Adv.
NDMC	Mr. Yoginder Handoo, Adv. Mr. Prashant Bhatnagar, Adv.
CPCB	Mr. Vijay Panjwani, Adv.

UPON hearing the counsel the Court made the following
O R D E R

REPORT NO. 128 SUBMITTED BY MONITORING COMMITTEE (ISSUE OF ADVANCE NOTICE BEFORE SEALING)

It seems that subsequent to the orders passed by this Court in Report No.128, there does not seem to be any agreement between learned *amicus curiae* and the Union of India despite our giving time to them to arrive at some agreed solution for giving advance notice before sealing premises for mis-user.

In view of the above, learned *amicus curiae* suggests the following by way of recommendation for sealing of premises that are being mis-used. The proposal is to the following effect:

1. The concerned municipal authorities, accompanied if necessary, by the representatives of the Monitoring Committee, will visit the premises which are allegedly being misused for unauthorized activity. The team will videograph the unauthorized activity in the presence of the persons who are misusing the premises for unauthorized activity.
2. It will be put to the persons who are misusing the premises for unauthorized activity to produce the permission or the licence to carry out that unauthorized activity. In the event, such a permission or licence is produced the matter closes then and there.
3. In the event, the persons are unable to produce any permission or licence, he or she will be given 48 hours' to produce the permission or licence.

At the end of those 48 hours, the team which had videographed the unauthorized use or mis-use will visit the premises again and if the persons concerned are in a position to produce the licence or permission, the matter ends then and there.

However, in the event the persons are unable to produce any permission or licence, the premises will be sealed due to the unauthorized mis-use. However,

further, if the person or person Incharge gives an undertaking which will be video recorded that the mis-use will be stopped, then 48 hours' time will be given for stopping the mis-use and an affidavit will be filed before the concerned authority in terms of this Court's order dated 24.03.2006 [reported in (2006) 3 SCC 429] to the effect that the unauthorized activity will not be started or some other unauthorized activity will not be started.

In other words, the entire process of stoppage of unauthorized mis-user will be completed within 48 hours in some circumstances and on the outside within 96 hours.

Learned *amicus curiae* points out that laxity in sealing is giving an opportunity to misusers to clean up their act.

Learned Additional Solicitor General appearing for the Union of India says that he would like to take instructions in this regard.

Learned Additional Solicitor General appearing for the Delhi Development Authority also says that he would like to take instructions in this regard.

List the matter tomorrow (02.11.2018).

REPORT NO. 133 SUBMITTED BY MONITORING COMMITTEE

List the report tomorrow (02.11.2018).

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
ASSISTANT REGISTRAR