

ITEM NO.1

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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) STATUS OF GROUND WATER

(2) REPORT NOS. 122 AND 125 SUBMITTED BY MONITORING COMMITTEE

(3) IA NO. 43487/2018 (APPLN. FOR DIRECTIONS ON B/O GOVT. OF NCT OF DELHI) ALONGWITH REPORT NO. 123 SUBMITTED BY MONTIROING COMMITTEE)

(4) IA NOS. 2069-2069A (APPLNS. FOR DIRECTIONS)

(5) IA NO. 2180 (APPLN. FOR DIRECTIONS)

(6) IA NOS. 2181-2182 (APPLNS. FOR QUASHMENT OF ORDINANCE DT. 15.9.2007 AND IMPLEADMENT)

(7) IA NO. 2256 (APPLN. FOR DIRECTIONS)

(8) IA NO. 2331 (APPLN. FOR CHALLENGING THE NOTIFICATIONS DT. 16.6.2008 AND 12.8.2008)

(9) IA NO. 2441 (APPLN. FOR DIRECTIONS)

(10) IA NOS. 95108/2018 (APPLN. FOR IMPLEADMENT ON B/O SOCIETY FOR PROTECTION OF CULTURE ETC.)

(11) IA NOS. 109155 AND 109158/2018 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O FORUM OF MCD ENGINEERS)

(12) I.A. Nos. 116725, 116730 and 121071

WITH

W.P.(C) No. 144/2009 (PIL-W)

W.P.(C) No. 212/2008 (PIL-W)

W.P.(C) No. 266/2006 (PIL-W)

W.P.(C) No. 263/2006 (PIL-W)

W.P.(C) No. 229/2008 (PIL-W)

W.P.(C) No. 264/2006 (PIL-W)

SLP(C) No. 10599/2007 (XIV)

W.P.(C) No. 450/2006 (PIL-W)

W.P.(C) No. 464/2006 (PIL-W)

W.P.(C) No. 470/2006 (PIL-W)

S.L.P.(C)...CC No. 14752-14753/2012 (XIV)

W.P.(C) No. 569/2006 (PIL-W)

W.P.(C) No. 563/2006 (PIL-W)

W.P.(C) No. 610/2006 (PIL-W)

Date : 07-09-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Ranjit Kumar, Sr. Advocate (A.C.)

Mr. A.D.N. Rao, Advocate (A.C.)

Ms. Anitha Shenoy, Advocate (A.C.)

Mr. Rishi Raj Sharma, Adv.

Ms. Srishti Agnihotri, Adv.

Mr. Sudipto Sircar, Adv.

Remya Raj, Adv.

Petitioner-In-Person

For Respondent(s) Mr. A.N.S. Nadkarni, ASG

Mr. R. Bala, Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. Pranay Ranjan, Adv.

Mr. Sachin Sharma, Adv.

Mr. Raj Bahadur Yadav, Adv.

Mr. D.L. Chidanand, Adv.

Mr. Ritesh Kumar, Adv.

Ms. Suhasini Sen, Adv.

Mr. Arvind Sharma, Adv.

Mr. G.S. Makker, AOR

Mr. B.V. Balram Das, Advocate

CPCB Mr. Vijay Panjwani, Adv.

SDMC Mr. Sanjiv Sen, Sr. Adv.

Mr. Praveen Swarup, Advocate
Mr. Sayan Ray, Adv.
Mr. R.K. Singh, Adv.
Mr. Soumo Patil, Adv.

DDA

Mr. Maninder Singh, ASG
Ms. Garima Prashad, Advocate
Mr. G.S. Oberoi, Adv.
Mr. Prabhash Bajaj, Adv.
Mr. Mohit Kumar Bansal, Adv.

Ms. Anil Katiyar, Advocate

Mr. D.N. Goburdhun, Advocate
Ms. Pallavi Chopra, Adv.

Applicant-In-Person

Mr. Arvind Kumar Sharma, Advocate

Col. P.S. Sharma, Advocate

Applicant

Mr. Siddharth Luthra, Sr. Adv.
Mr. Jasmeet Singh, Advocate.
Mr. Naman Joshi, Adv.
Mr. Hemant Jain, Adv.
Mr. R. J. Saluja, Adv.

Mr. Rohan Thawani, Adv.
Ms. Vandana Sehgal, Adv.
Mr. Hardeep Singh Anand, Adv.
Mr. Anand Daga, Adv.
Ms. Gunjan Ahuja, Adv.
Mr. Iqram Govind Singh, Adv.

Mr. Chirag M. Shroff, Adv.

UPON hearing the counsel the Court made the following

O R D E R

STATUS OF GROUND WATER

The learned ASG says that he would like to file an additional affidavit.

List the matter on 03.10.2018.

Report No.122 dated 02.07.2018 filed by the Monitoring Committee

We have gone through the Report and it appears that this Report is in the nature of important submissions made by the Monitoring Committee. Liberty is granted to the learned *Amicus* to make the submissions contained in the Report at the time of final hearing of the matter.

Report No. 122 stands disposed of in view of the above.

Report No. 128 dated 05.09.2018 filed by the Monitoring Committee

We have gone through the Report and there are six headings given by the Monitoring Committee:

1. Compliance Report in respect of orders passed by this Court.

It is stated that all the relevant information is being placed by the Monitoring Committee on its website i.e. www.monitoringcommittee.nic.in. A bank account has also been opened in the name of the Supreme Court Monitoring Committee.

It is further stated that the procedure for permanent de-sealing has also been indicated on the website.

2. Functioning of the Monitoring Committee

It is stated that the Monitoring Committee is doing its best to comply with the orders passed by this Court and to ensure that there are no encroachments or unauthorized constructions or misuse of property in Delhi but the Monitoring Committee is not getting adequate support from the executing agencies namely MCD, NDMC, DDA and the Police. Therefore, there are existing constraints with the

result that the Monitoring Committee has not been able to fully comply with the orders passed by this Court.

We request the Monitoring Committee to continue with its onerous task and we expect the statutory bodies (mentioned above) as well as the Police to render all necessary assistance to the Monitoring Committee in carrying out its task. If there are any specific complaints, these should be brought to the notice of this Court as has been done in the past.

Needless to say that any complaint made by the Monitoring Committee brought to the notice of this Court will be taken up with all due seriousness.

3. Channel of communications for redressal by the Aggrieved / Defaulting Public on sealing matters

It is stated that some of the defaulting individuals / organizations are approaching the Courts - whether it is the High Court or the District Court and even in one case the State Consumer Disputes Redressal Commission.

It is submitted by the Monitoring Committee that these Courts and the Commission do not have any jurisdiction over these issues in view of the order passed by this Court.

The learned Amicus will bring it to the notice of the Courts and the Commission that *prima facie* jurisdiction does not lie with them leaving it for the Courts to take a decision in the matter.

4. Issue of Advance Notice before Sealing

This matter needs to be discussed in great detail.

Mr. A.N.S. Nadkarni, the learned ASG says that he will sit down with the learned Amicus and chart out an agreed course of action with regard to issuing notice either through newspapers or through other means to the alleged defaulters.

List the matter on 12.09.2018 for this purpose.

5. Encroachment on Delhi Development Authority (DDA) Land

We are constrained to note that there is a huge amount of encroachment on DDA land as well as on the land of North Delhi Municipal Corporation (NDMC), South Delhi Municipal Corporation (SDMC) and East Delhi Municipal Corporation (EDMC).

As on 31.08.2018, it is stated that the NDMC has cleared 844.33 kms of encroachment, SDMC has cleared 811 kms of encroachment and EDMC has cleared 601.2 kms of encroachment. New Delhi Municipal Council has cleared 11 kms of encroachment and the DDA has cleared 12.44 kms of encroachment.

The total clearances are approx. 2280 kms.

The magnitude of the problem of encroachments in Delhi is quite apparent and it is a matter of great distress that more than 2000 kms of roads in Delhi have been encroached upon.

It is submitted by Mr. Maninder Singh, the learned ASG that efforts are being made now to clear the encroachments and steps are being taken with due promptitude.

We expect the Statutory Authorities to take up the matter with great urgency. There appear to be few thousand kms of roads in Delhi and more than 2000 kms have already been encroached upon. This is simply not acceptable.

6. Forest Land and Water Bodies

It is submitted by the Monitoring Committee that there are large areas in Asola and Bhatti Mines which have been encroached upon. The Forest Authorities must make all efforts to retrieve the encroached land.

It is submitted by the Monitoring Committee that there are several water bodies in Delhi that have dried up, encroached upon or acquired for infrastructural development.

The destruction of water bodies in Delhi is a matter of grave concern and it is submitted by the Monitoring Committee that the Delhi Jal Board must take steps to revive the water bodies in Delhi.

Mr. D.N. Goburdhan, learned counsel appearing on behalf of the Delhi Government says that he will file an affidavit giving full details with regard to the action taken by the Forest Authorities to retrieve the encroached forest land. He also states that an affidavit will be filed by the Delhi Jal Board with respect to the water bodies.

It is made clear that once the Special Task Force, that has been constituted, clears the encroachments, the statutory bodies will ensure that there is no further encroachment on the cleared portions.

List the matter for further consideration with regard to Item Nos. 4 and 6 on 12.09.2018.

Report No. 125 dated 31.07.2018 filed by the Monitoring Committee

We have gone through the Report of the Monitoring Committee. One of the grievances pointed out is to the effect that the Special Task Force is not keeping the Monitoring Committee informed of the activities.

We have made it clear to Mr. Maninder Singh, the learned ASG that the reports of the Special Task Force and details of their meetings etc. should be placed on the website of the Special Task Force so that the information is made available to everybody.

It is also made clear that the Reports of the Special Task Force should be shared with the Monitoring Committee. The learned ASG states that all Reports have already been supplied to the Monitoring Committee. In case there is any lapse in this regard, the Special Task Force will look into it and rectify it.

We expect the Special Task Force and the Monitoring Committee to work together for the purposes for which both of them have been set up so that there is no confusion or misunderstanding between them.

Report No. 125 stands disposed of in view of the above.

I.A. No. 43487/2018 and Report No. 123

The survey of 279 streets were apparently carried out by the Municipal Corporation in 2007.

We would like to have the latest status of these streets on affidavit by the Municipal Corporations / Delhi Government.

Needful be done within three weeks.

List the matter on 03.10.2018.

I.A. No. 95108/2018

We are not inclined to entertain this application.

The application is dismissed. Any grievance may be brought to the notice of the learned *Amicus*.

I.A. Nos. 109155 & 109158/2018

I.A. No. 109155 (Application for impleadment) is allowed for the purposes of I.A. No. 109158/2018.

Mr. A.N.S. Nadkarni, the learned ASG seeks some time to look into the matter.

List the application on 03.10.2018.

I.A. Nos. 116725, 116730 and 121071

We are not inclined to entertain these applications.

The applications are dismissed. Any grievance may be brought to the notice of the learned *Amicus*.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
ASSISTANT REGISTRAR