

ITEM NO.1

COURT NO.1

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.1995 in I.A.No.22 in

WRIT PETITION (CIVIL) NO(s).4677 OF 1985.

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS

Respondent(s)

[For modification of Court's

orders 29.09.06 & 06.11.2006 on behalf of U.O.I.]

WITH

I.A.No.1998 in I.A.No.22 in W.P.(C)No.4677/1985

[For modification of Court's Orders dt.29.09.06; 18.10.06 &

06.11.2006 on behalf of MCD]

Date: 15/11/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Mr. Ranjit Kumar, Sr. Adv. (A.C.)

For Petitioner(s)

Mr. M.C. Mehta, Adv.

For Applicant (s)

Mr. G.E. Vahanvati, SG

Mr. Amarendra Sharan, ASG
Ms. Indra Jaising, Sr. Adv.
Mr. Tufail A. Khan, Adv.
Mr. Devdatt Kamat, Adv.
Mr. V.K. Verma, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Sanjeev Sen, Adv.
Mr. Praveen Swarup, Adv.

For Respondent(s)

Mr. Vishnu B. Saharya, Adv. for
M/s. Saharya & Co., Adv.

Mr. D.N. Goburdhan, Adv.
Ms. Pinky Anand, Adv.
Ms. Geeta Luthra, Adv.

2

Mr. Rana Mukherjee, Adv.
Mr. Siddharth Gautam, Adv.
Mr. Goodwill Indeevar, Adv.

RWA

Mr. Jasbir Singh Malik, Adv.
Mr. Nitin Kumar, Adv.
Mr. S.K. Sabharwal, Adv.

Delhi Police

Mr. Ashok Bhan, Adv.
Mrs. Kiran Bhardwaj, Adv.
Mr. R.C. Kathia, Adv.

NCRPB

Ms. Sheel Sethi, Adv.

UPON hearing counsel the Court made the following

O R D E R

Two applications have been filed - one, on behalf of Union of India

(I.A.No.1995) and other on behalf of Municipal Corporation of Delhi (M.C.D.).

The substantial prayers made in the two applications are same. The applicants

and pray that there are about 25000 establishments comprising of traders

the professionals who had given their undertakings but are covered under

thus, notifications dated 07th September 2006 and 15th September 2006 and, t

ner they may be permitted to continue with their activities in the same man

29th other establishments have been permitted in terms of the order of

ally September 2006. However, our order dated 29th September 2006 specific

mentions as to how the cases of those who gave undertakings were different. It

is also so mentioned in the order dated 06th November 2006.

eral big The application filed by M.C.D. in para 5 states that sev

large establishments like, huge showrooms, shopping malls, fitness centres,

lude, office spaces, automobile showrooms etc. have been sealed. These inc

Haldiram, CTC Plaza, Thapar House, Bata Showroom, Pulse-Impulse Fitness

Centre, Yamaha Showroom, office of Telecommunication Regulatory Authority

of India (TRAI), Rana Automobile, Nirmal Furnishing, IGP Mall, Regency

Guest House, Sita Play School, Kangaroo Kids, Shehnaz Hussain Beauty

Products Shop, Shopping Arcades which house offices, Jewellery Showrooms ,
Boutiques etc. We have also perused the 12th Report of the Monitoring
ring

3

Committee dated 14th November 2006. Para 5 thereof reads as under :

6th "5. As directed by the Hon'ble Supreme Court in its order dated
November, 2006, 59 members of Vikas Marg Vyapar Mandal have
filed applications wherein they have stated that the misuser has been
stopped in confirmation of which photographs of the establishments of
the applicants were enclosed. The representatives of the Vyapar
Mandal who met the Monitoring Committee stated that they have
removed the signboards but have not vacated the premises or removed
the goods but have kept the premises under lock and key. In addition
to the applications filed by the members of the Vikas Marg Vyapar
Mandal many other traders have also filed affidavits before the
Monitoring Committee that they have stopped the mis-user or vacated
the premises and that they would not use those premises contrary to
the undertakings. The Hon'ble Supreme Court may kindly consider
the recommendation of the Monitoring Committee for not sealing the
premises of the traders who have voluntarily closed their shops either
by vacating or by keeping them duly locked till further orders of the
Hon'ble Supreme Court.'

To consider the relief sought for in these applications in respect of these
25000 establishments, above referred, we permit them to inform the Monitoring
Committee that in terms of their undertakings they have stopped the misuser. If
such information is given, the Monitoring Committee, for the present, shall not

resort to disconnection of other amenities or sealing of their premises. Further, the Monitoring Committee may conduct, if necessary, a random check and thereafter report to this Court by 20th November 2006, on consideration of the report of the Monitoring Committee the Court would further hear the learned counsel and consider whether such traders for the present can be temporarily relieved of their undertakings so as to place them at par with others in terms of the orders dated 29th September 2006 and 18th October 2006. This will also be applicable in respect to other two categories, viz., one- who have already shut down their premises and two, whose premises have been sealed as also those who have stopped the misuser in terms of undertaking. The Monitoring Committee may also mention particular establishments which, in its opinion, may not be granted any temporary relief having regard to the larger public interest and the extensive nature of the commercial activity carried upon.

The aforesaid directions would, however, not be applicable in respect of

4

the roads/areas which have no protection of any nature even as per the case of the Government/M.C.D. In the earlier application, it was mentioned that there are over 5000 establishments covered under this category which have no protection. In respect of those establishments, the process of sealing will continue.

Further, on consideration of the 12th Report, we exempt the following

categories by including them in the category already exempted from sealing :

1. Ration shops and Kerosene shops under the Public Distribution

System of NCT; and

2. Cycle repair shops.

This will be in addition to 22 activities already approved in the category

of small shops. For further consideration, list these applications on 21
st

November 2006.

(Subhash Chander)

Court Master

(V.P. Tyagi)

Assistant Registrar