

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.1980 in I.A.No.1970 in WRIT PETITION (CIVIL) NO(s). 4677 OF 1985

M.C.MEHTA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(For direction/modification)

With I.A.No.1983 in WRIT PETITION (CIVIL) NO(s). 4677 OF 1985
(For modification)

Date: 18/10/2006 These Petitions were 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

Amicus Curiae:Mr. Ranjit Kumar, Sr.Adv.

For Petitioner(s)Mr. M.C. Mehta, Adv. (NP)

For Applicants(s)
in IA 1980-UOI:Mr. G.E. Vahanvati, S.G.
Ms. Indira Jaising, Sr.Adv.
Mr. Devadatt Kamat, Adv.
Mr. T.A. Khan, Adv.
Mr. V.K. Verma, Adv.

in IA 1983:Mr. Mukul Rohtagi, Sr.Adv.
Mr. Mahendra Rana, Adv.
Mr. Rana Mukherjee, Adv.
Mr. Siddharth Gautam, Adv.
Mr. Goodwill Indeevar, Adv.

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

Mr. Somvir Singh Deswal, Adv.
Mr. Shree Pal Singh, Adv.

For Respondent(s)
-MCD:Mr. Sanjiv Sen, Adv.
Mr. Praveen Swarup, Adv.

-DDA:Mr. V.B. Saharya, Adv.
for M/s. Saharya & Co., Advs.

-Delhi Police:Mr. Ashok Bhan, Adv.
Ms. Kiran Bhardwaj, Adv.
Mr. R.C. Kathia, Adv.
Mr.M.P.S. Tomar, Adv.
Mr. D.S. Mahra, Adv.

-DPCC, NCT of Delhi:Mr. D.N. Goburdhan, Adv.

Ms. Pinky Anand, Adv.

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

I.A.No.1980:

Having heard learned Solicitor General for the applicant, Mr. Ranjit Kumar, learned amicus curiae, and other learned counsel and having regard to the difficulties explained, we direct that the undertakings stipulated to be filed before the Monitoring Committee, in terms of the direction contained in para 21(iii) of our order dated 29th September, 2006, by 10th November, 2006 shall now be filed on or before 31st January, 2007. In short, the date 10th November, 2006 in the said direction is substituted by the date 31st January, 2007, all other conditions remaining the same. We further clarify that the restraint of issuing notification as contained in the said order is not in respect of any notification that may have to be issued for the purposes of 2021 Master Plan of Delhi. In that order, we were not concerned with the Master Plan 2021.

The application is disposed of accordingly.

I.A.No.1983:

In view of the order passed in I.A.No.1980 above, this application stands disposed of.

Report No.8 of the Monitoring Committee:

We have perused the 8th report of the Monitoring Committee dated 17th October, 2006.

The recommendation contained in para 1 of the report, except last three lines, are accepted. The said three lines read as under:

In addition, it is presumed by the Monitoring Committee that small shops will also be allowed in A & B category of colonies as per the Hon ble Court s order dated 29.09.2006.

The learned Solicitor General, on instructions, states that the Government is not contemplating to allow small shops in colonies of category A & B. In this view of the stand, the afore-quoted recommendation is not accepted.

In respect of para 4 of the report relating to the sealing of liquor shops in convenient/local shopping centres located in residential areas, we find no ground to direct sealing of liquor shops. The convenient/local shopping centres are in the commercial areas earmarked in residential areas and there does not appear to be any legal impediment for the liquor trade to be conducted from the said commercial areas. However, the liquor trade cannot be permitted to be carried on in mixed land use since the first floor onwards are expected to be used for residential purposes only and thus liquor trade in such residential areas cannot be allowed to be continued. This part of recommendation in para 4 of the report is accepted.

Regarding recommendations 5 and 6 regarding professional activities and the basement are concerned, learned Solicitor General states that since the matter is under consideration of the Government, for the present, the sealing in respect thereof may not be continued. Learned counsel further states that it will take about six weeks to decide these matters. Further, it may be noted that in para 21(v)(e) of our order dated 29th September, 2006, for illustrative purpose, only four professions were mentioned but it is clear that other professions are not excluded. The term professionals has been made inclusive by use of the word including . In view of the above, for the present, sealing need not continue in respect of the activities mentioned in para 5 and 6 of the report of the Monitoring Committee. The recommendation in regard to desealing, contained in para 7 of the report, is also accepted.

The Municipal Corporation of Delhi is directed to file its report/response, within four weeks, in regard to what is stated by the Monitoring Committee in para 8, namely, large number of building basement, lower basement, ground floor + four floors having come up in blatant violation of the Building Bye Laws .

In view of the time having been extended as above, the matter,

instead of November, 2006, be now listed in February, 2007.
The Monitoring Committee is directed to supply copy of each
of its report to learned Solicitor General and learned counsel for
the Municipal Corporation of Delhi.

(N. Annapurna)
Court Master

(V.P. Tyagi)
Asstt. Registrar