

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.22 IN WRIT PETITION (CIVIL) NO.4677 OF 1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Direction)

With Suo Moto Cont. Pet. (C) No.116/2006 in I.A. No.22 in Writ Petition

(C) No.4677 of 1985

And I.A. No.1958 in I.A. No.22 in Writ Petition (C) No.4677 of 1985

(Appln.(s) for Directions)

Date: 17/08/2006 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

Mr. Ranjit Kumar,Sr.Adv. (A.C.) (N/P)

For Petitioner(s)

In-person (N/P)

For Respondent(s)

Mr. Sanjiv Sen,Adv.

Mr. Praveen Swarup,Adv.

Mr. Vijay Panjwani,Adv.

Mr. Gopal Subramanian,ASG.

Ms. Sandhya Goswami,Adv.

Mr. Devadatt Kamat,Adv.

Mr. V.K. Verma,Adv.

Mr. B.K. Prasad,Adv.

Mr. Ashok Bhan,Adv.

Ms. Kiran Bharadwaj,Adv.

Ms. Anil Katiyar,Adv.

Mr. V.B. Saharya,Adv.

for M/s. Saharya & Co.,Adv.

Mr. D.N. Goburdhan,Adv.

Ms. Pinky Anand,Adv.

Ms. Geeta Luthra,Adv.

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Ms. Sheil Sethi,Adv.

Mr. B.V. Balaram Das,Adv.

Mr. P. Parmeswaran,Adv.

UPON hearing counsel the Court made the following

O R D E R

We have perused the affidavits filed pursuant to the orders dated 17th July, 2006. The Commissioner, Municipal Corporation of Delhi, has filed along with his affidavit dated 27th July, 2006, Annexures 'A' and 'B'. Annexures 'A' and 'B' give zone-wise break-up of cases of tampering with seals affixed by the Municipal Corporation of Delhi and names

and

particulars of the persons who tampered with the seals. Notice shall issue to the persons and the establishments mentioned in these annexures to show cause why action for contempt of court for tampering with the seal placed under the orders of this Court be not taken against them. It would be for the Municipal Corporation of Delhi to take out Dasti notices and serve on the concerned parties/persons said to have tampered with the seals.

In respect of four properties mentioned in the affidavit stated to

be in the West Zone at Raja Garden, Annexure 'A' states that the seal was

tampered by a mob led by Mr. Harsharan Singh Balli. Mr. H.S. Balli is

present in Court. We have perused the affidavit filed by Mr. H.S. Balli

pursuant to the directions earlier issued. Having regard to the affidavit in

question, we issue notice to Mr. H.S. Balli to show cause why action for

contempt of court be not taken against him. We direct him to file affidavit

in regard to what is stated against him in Annexure 'A' to the affidavit of

the Commissioner, above-referred. A copy of this affidavit with annexures

shall be supplied to him by the counsel for the Municipal Corporation of

Delhi within one week.

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Goburdhan, learned counsel appearing for the Delhi Government, states that copies of four F.I.Rs. have already been supplied to him. In respect of videography, learned counsel states that steps have been taken to obtain copies thereof and on receipt of copies of the videography, the same will be supplied to Mr. H.S. Balli. We hope that they will be obtained expeditiously and supplied as early as possible, preferably within a period of two weeks.

Within a period of four weeks of the receipt of these documents, Mr. H.S.

Balli is directed to file a reply in regard to allegations of tampering with

seal, be it at Tilak Nagar, Rajouri Garden, Moti Nagar or Raja Gardan, namely, in the West Zone.

The Municipal Corporation of Delhi affidavit dated 14th July, 2006, in paragraph (5) states that in pursuance of the Report of the Monitoring Committee dated 13th April, 2006, (Paragraph (15) of the Report), the matter was investigated and the allegations of not sealing the properties were found to be substantiated by the Vigilance Department.

The Report of the Monitoring Committee is that four properties were not sealed because of some mal-practices by the officers of the Municipal Corporation of Delhi. Further, according to the affidavit, the

Superintending Engineer and the Assistant Engineer of the Zone were found responsible for not getting the properties sealed. The Assistant Engineer,

according to the Municipal Corporation of Delhi, has been dismissed from

the services of the Municipal Corporation. Insofar as the misconduct on the

part of the Superintending Engineer is concerned, the affidavit states that

order for initiation of regular departmental action for major penalty proceedings against him have been issued. The affidavit does not disclose as to whether the Superintending Engineer has been placed under suspension pending the departmental

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action and what is the stage of the departmental action. Mr. Sanjiv Sen,

learned counsel appearing for the Municipal Corporation of Delhi, states

that the officer has not been placed under suspension and he is, at present,

not in a position to state as to the stage of the departmental action. It seems

quite strange that on the basis of the same investigation and, probably, the

same material, one officer has been dismissed and the other officer, against

whom the Municipal Corporation of Delhi has found the allegations of not

sealing because of mal-practice substantiated, is merrily continuing in

service and even the stage of the departmental action is not known. The

Municipal Corporation of Delhi is directed to look into the matter and file a

detailed affidavit in this respect within four weeks from today.

The Delhi Development Authority, in the two affidavits one filed on 18th July, 2006, and the other filed on 27th July, 2006, has categorically

stated that the activities carried on in village Najafgarh in the name of Fun

and Food Village, which was sealed by the sealing team of the Municipa  
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Corporation of Delhi on 7th April, 2006 and was subsequently permitted to be de-sealed on furnishing the affidavit by the owner of the establishment, is illegal because the site under reference is located within the green belt which is part of the Planning Zone 'G' and such activities are not permitted within the green belt. It is further stated that the establishment under reference is situated in Najafgarh which does not fall within the development area of the Delhi Development Authority, as envisaged under Section 12 of the Delhi Development Authority Act, and it falls under the jurisdiction of the Municipal Corporation of Delhi. Again, on behalf of the Municipal Corporation of Delhi, time is sought to take instructions. We fail to understand that what prevented the Municipal Corporation of Delhi to instruct the counsel even after one month, the first affidavit having been filed by the Delhi Development

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Authority on 18th July, 2006. Be that as it may, the Municipal Corporation of Delhi shall file its response on the activity under reference within two weeks.

On the issue of preparation and/or approval of the zonal plans in respect of some of the zones, a perusal of the affidavit of the Delhi Development Authority filed on 27th July, 2005 and Interlocutory

Application No.1958 of 2006 filed by the Union of India seeking extension of

time shows that the facts given in the affidavit of the Delhi Development Authority and the interlocutory application filed by the Union of India are

not ad idem, inasmuch as, according to the affidavit, draft zonal plan of

Zone 'J' has been approved whereas, according to the application, six months' time is sought to complete the statutory process of notification of

Zonal Development Plan for Zone 'J'. The matter should be discussed

between the officers of the Union of India and the Delhi Development Authority and necessary corrections made either in the affidavit or in the

interlocutory application or both. A copy of the affidavit and the

interlocutory application shall also be supplied to Mr. Ranjit Kumar, learned amicus curiae. These steps be taken within one week. The

interlocutory application shall be taken up for hearing on the next date of

hearing with other matters.

Delhi Police is permitted to file an affidavit within one week.

The matters are adjourned for six weeks.

[ T.I. Rajput ]

A.R.-cum-P.S.

[ V.P. Tyagi ]

Assistant Registrar