

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.1785 IN 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 directions on behalf of Ridge Management Board and office report)

(For Directions)

With I.A. No.1806 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For vacation of stay on behalf of State of Haryana)

I.A. No.1815 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For vacation/modification of order dated 06/05/2002)

I.A. Nos.1817-1818 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For direction)

I.A. No.1819 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For impleadment and directions)

I.A. No.1822 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For intervention on behalf of Pali Mohabatabad Stone Crusher Owners Association)

I.A. No.1823 in W.P.(C) No.4677 of 1985

(For impleadment/modification)

I.A. No.1824 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677 of 1985

(For impleadment and direction on behalf of M/s. Dilip Singh & Co.)

I.A. No.1825 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For impleadment)

I.A. No.1794 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For impleadment/modification)

I.A. No.1796 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For impleadment)

I.A. No.1832 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677 of 1985

(For impleadment and directions on behalf of Mr. Krishan Pal Gujjar, MLA)

I.A. Nos.1835-1836 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677/1985

(For intervention/further directions on behalf of M/s. Hem Mining Co.

and Deposit Mining Co.)

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I.A. No.1838 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677 of 1985

(For impleadment/direction on behalf of Shri A.K. Pathak)

I.A. Nos.1839-1840 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677/1985

(For impleadment and direction on behalf of M/s. Lucky Minerals)

Cont.Pet. (C) No.186 in W.P.(C) No.4677 of 1985

(With appln.(s) for exemption from filing O.T.)

Writ Petition (C) No.410 of 2002

(With appln.(s) for stay)

Writ Petition (C) No.661 of 2002

(With appln.(s) for ex-parte stay, directions and exemption from filing

O.T.)

Writ Petition (C) No.428 of 2002

(With appln.(s) for stay, directions, vacating stay, exemption from

filing O.T.,intervention and I.A. No.9 for directions)

Writ Petition (C) No.624 of 2002

Cont.Pet. (C) No.568 of 2002 in Writ Petition (C) No.428 of 2002

I.A. No.1866 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(for direction on behalf of Mr. Som Prakash Sethi)

I.A. Nos.1858-1859 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677/1985

(For direction)

Office Report dated 6th October, 2004

(Regarding the mining activity in Mehrauli Ridge Area as reflected in
Nav Bharat Times)

I.A. No.1785 in W.P.(C) No.4677 of 1985

Cont. Pet.(C) No.542 of 2004 in Writ Petition (C) No.428 of 2002

I.A. No.1885 in I.A. No.1785 in W.P.(C) No.4677 of 1985

(For modification of interim order dated 06/05/2002)

Date: 29/03/2005 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE TARUN CHATTERJEE

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

For Petitioner(s) In-Person

In I.A. No.1785: Mr. D.S. Mahra,Adv.

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In I.A. No.1806/: Mr. G.E. Vahanvati,SG.

State of Haryana Mr. M.L. Verma,Sr.Adv.

Mr. Rajeev Dutta, Sr. Adv.

Mr. Neeraj Kumar Jain, Adv.

Mr. Ajay Siwach, Adv.

Mr. T.V. George, Adv.

Ms. Kavita Wadia, Adv.

In I.A. No.1815: Mr. Ejaz Maqbool, Adv.

Mr. Gourav Kejriwal, Adv.

Mr. Abhimeet Sinha, Adv.

Ms. Minakshi Nag, Adv.

Mr. Vikash Singh, Adv.

In I.A. Nos.1817-18: Mr. Bharat Sangal, Adv.

In I.A. No.1819: Ms. Bina Gupta, Adv.

In I.A. No.1822: Mr. C.D. Singh, Adv.

In I.A. No.1823: Mr. Mahabir Singh, Adv.

In I.A. No.1824: Mr. Shiva Pujan Singh, Adv.

In I.A. No.1825: Ms. Vijay Laxmi Menon, Adv.

In I.A. Nos.1794 &
1796: Mr. Mohan Pandey, Adv.

In I.A. No.1832: Ms. Nanita Sharma, Adv.

In I.A. Nos.1835-36: Mr. Jasbir S. Malik, Adv.
Mr. S.K. Sabharwal, Adv.

In I.A. Nos.1838 & Mr. K.B. Rohtagi, Adv.
1839-1840: Ms. Aparna Rohtagi, Adv.
Mr. Mahesh Kasana, Adv.

In Cont.Pet.186/2003, Mr. Naresh Kaushik, Adv.
568/2002, 542/2004, Ms. Shilpa Chohan, Adv.

WP 661/2002, 428/2002 Ms. Lalita Kaushik, Adv.
& 624/2002:

In WP 410/2002 & Mr. Shanti Bhushan, Sr. Adv.

I.A. Nos. 1866 & 1885: Mr. Dhruv Mehta, Adv.

Mr. Mohit Chaudhary, Adv.

Mr. Harshvardhan Jha, Adv.

for M/s. K.L. Mehta & Co., Adv.

In I.A. Nos. 1858-59: Mr. Sandeep Sethi, Sr. Adv.

Ms. Shobha, Adv.

For Respondent(s) Mr. M.C. Mehta, Adv.

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Mr. Ashok Bhan, Adv.

Ms. Kiran Bhardwaj, Adv.

Ms. Anil Katiyar, Adv.

Mr. D.S. Mahra, Adv.

Mr. Rajeev Dutta, Sr. Adv.

Mr. Vikas Sharma, Adv.

Ms. Anil Katiyar, Adv.

Mr. B.V. Balramdas, Adv.

Ms. Sheil Sethi, Adv.

For CPCB: Mr. Vijay Panjwani, Adv.

For D.D.A.: Mr. V.B. Saharya, Adv.

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

Mr. D.N. Goburdhan, Adv.

Ms. Pinky Anand, Adv.

Ms. Geeta Luthra, Adv.

Mr. Shanti Bhushan, Sr. Adv.

Mr. Dhruv Mehta, Adv.

Mr. Mohit Chaudhary, Adv.

Mr. Harshvardhan Jha,Adv.
for M/s. K.L. Mehta & Co.,Adv.

Mr. K.B. Rohtagi,Adv.
Ms. Aparna Rohatgi,Adv.
Mr. Mahesh Kasana,Adv.

Mr. R.S. Suri,Adv.

Mr. J.P. Dhanda,Adv.

Mr. Neeraj Kumar Sharma,Adv.

Mr. A.D.N. Rao,Adv.

Ms. Indra Sawhney,Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A. No.1885 in I.A. No.1785 in W.P.(C) No.4677 of 1985:

The learned counsel seeks leave to withdraw the
interlocutory
application at this stage with liberty to file it at an appropriate stage, if n
eed
be. The interlocutory application is dismissed as withdrawn.

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I.A. Nos.1858-1859 in I.A. No.1785 in I.A. No.22 in W.P.(C) No.4677/1985:

On the oral application of the learned counsel, State of Rajasthan

is impleaded as a party. Amended memo of parties shall be filed within one week. Notice shall issue to the State of Rajasthan.

Replies have been filed by the Ministry of Environment and Forest, though copies thereof have not been supplied to the learned Amicus Curiae but has been supplied to the learned counsel for the applicant today. Let the copies be supplied now within three days. Response to those replies may be filed within two weeks.

Cont. Pet.(C) No.542 of 2004 in Writ Petition (C) No.428 of 2002 and Writ

Petition (C) No.428 of 2002:

In regard to continued illegal mining activities in Gurgaon District, expressing grave concern, this Court made an order on 25th January, 2005, requiring filing of affidavits by various functionaries. Pursuant to the said order, requisite affidavits have been filed. We have perused the affidavits filed, including that of the Chief Secretary to the Government of Haryana, Deputy Commissioner, Gurgaon, and the Inspector General of Police, Gurgaon Range. The learned Solicitor General, appearing for the State of Haryana, has drawn our attention to a letter dated 14th February, 2005, addressed to the Commissioner and Secretary, Government of Haryana, Mines and Geology Department, seeking approval of the State Government of the Action Plan, enclosed with the said letter, stating that the Action Plan will be implemented as soon as its approval is received from the Government.

The Action Plan seeks to stop illegal mining activities in District Gurgaon by taking appropriate steps at three different levels, i.e., source level, transit level and consumption level. Details have been provided as to the requirement of infrastructure and other staff personnel and facilities required to implement the Action Plan. Apart from these three levels, other measures have been suggested, including the constitution of team by the Transport Department. We have been told that the Action Plan is receiving attention of the State Government and a decision is likely to be taken thereupon shortly. Since nearly six weeks have expired when the Action Plan was sent, we direct the State Government to decide the matter expeditiously and, in any case, not later than three weeks from today so that the same can be put into operation, if approved. We wish to make it clear that the State Government need not wait for the approval of this Court for putting into operation the said Action Plan.

Even the affidavits filed by high State functionaries show a dismal position of continued illegal mining activities in the area despite repeated orders of this Court. Besides the implementation of the Action Plan and pending its approval by the State Government, as above noticed, it would be necessary to issue some directions to effectively check the illegal mining activities. We may note that though various persons were convicted but on being asked about the orders of conviction, the learned Solicitor General fairly stated that in almost all the cases, only nominal fines have been

imposed. However, our attention has been drawn to the affidavits setting out the factum of the re-opening of some of the investigations. We may also draw the attention of the

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State Government to the provisions of the Environment (Protection) Act, 1986, in particular Section 15 thereof, which provides that punishment can be extended up to five years with fine and under sub-section (2) thereof, the punishment can be extended up to seven years.

The State Government is directed to impound the vehicles wherever the same are found carrying illegal mined materials. In that connection, we are told that some of the vehicles carrying such materials were without even registered number plates. We fail to understand that if any vehicle plies on road without registered numbers, what prevents the authorities to impound such vehicle. How can a vehicle without a registered number plate can be permitted to ply or permitted to be plied with forged documents. Further, the State Government shall issue directions that the vehicles carrying mined materials shall accompany a certificate to be issued by the Mining Officer of the State Government and any vehicle carrying materials without such certificate would be impounded. Likewise, the crusher shall also be given a copy of the said certificate to be issued by the Mining Officer to show that the material being crushed is as a result of legal and not illegal mining. Absence of such certificate would result in

cancellation/ suspension of the licence of the crusher. These measures shall come into effect forthwith. The State Government is directed to file the status report along with an affidavit to show the results at the ground level as a result of the implementation of these directions and/or implementation of the Action Plan by 6th May, 2005.

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The State Government is directed to give wide publicity to the above directions so as to put to notice those persons who may be indulging in illegal mining activities.

The presence of the alleged contemnors is dispensed with for the next date of hearing.

Office Report dated 6th October, 2004

(Regarding the mining activity in Mehrauli Ridge Area as reflected in Nav Bharat Times)

Notice was issued on the basis of the news item that appeared in Nav Bharat Times on 5th July, 2004. Reply thereto has been filed by Shri Ashok Kumar Biswal, Deputy Conservator of Forests [South], Tughlakabad, Delhi. The affidavit of Mr. Biswal is utterly vague. No details have been given as to the steps taken against those who were found indulging in illegal mining activities or those who manhandled the staff of the forest department

while on duty to check illegal mining activities in various forests in Mehrauli range. We direct the Delhi Government to file a better affidavit within three weeks giving all details clearly stating, on oath, as to the existence or otherwise of the illegal mining activities in the areas in question. Response thereto may be filed within two weeks thereafter.

The Registry is directed to treat this matter as an interlocutory application and number be given accordingly.

I.A. No.9 in I.A. Nos.6 and 7 in W.P. (C) No.428/2002:

The respondents, State of Haryana and the Union of India, shall file replies within three weeks. Rejoinder affidavit be filed within one week thereafter.

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Office Report dated 28th March, 2005, shows that six parties have not deposited the requisite amount in the Registry. The Haryana State Pollution Control Board is directed to recover the same from those parties and deposit the amount in this Court within eight weeks.

List all the matters on 9th May, 2005.

I.A. No.1806 in I.A. No.1785 in W.P.(C) No.4677 of 1985, I.A. No.1815 in I.A.

No .1785 in W.P.(C) No.4677 of 1985, I.A.

Nos.1817-1818 in I.A. No.1785

in

W.P.(C) No.4677 of 1985, I.A. No.1819 in I.A. No.1785 in W.P.(C) No.4677 of 1985, I.A. No.1822 in I.A. No.1785 in W.P.(C) No.4677 of 1985, I.A. No.1823 in

W.P.(C) No.4677 of 1985, I.A. No.1824 in I.A. No.1785 in I.A. No.22 in W.P.(C)
No.4677 of 1985, I.A. No.1825 in I.A. No.1785 in W.P.(C) No.4677 of 1985, I.A.
No.1794 in I.A. No.1785 in W.P.(C) No.4677 of 1985, I.A. No.1796 in I.
A.
No.1785 in W.P.(C) No.4677 of 1985, I.A. No.1832 in I.A. No.1785 in I.A. No.22
in W.P.(C) No.4677 of 1985, I.A. Nos.1835-1836 in I.A. No.1785 in I.A. No.22 in
W.P.(C) No.4677/1985, I.A. No.1838 in I.A. No.1785 in I.A. No.22 in W.P.(C)
No.4677 of 1985 and I.A. Nos.1839-1840 in I.A. No.1785 in I.A. No.22 in W.P.
(C) No.4677/1985.

The interlocutory applications stand disposed of in terms of
judgement passed by this Court on 18th March, 2004.

[T.I. Rajput]

[Phoolan Wati Arora]

Court Master

Court Master