

ITEM NOS.302+304

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.275-277 in WP(C) No.13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS

Respondent(s)

(Appln. for directions, stay and raising objections on behalf of  
M/s. Pioneer Publicity Corpn. Pvt. Ltd.)

AND

I.A.Nos.280-282 &amp; 305 in WP(C) No.13029/1985

(For intervention, direction, stay and for raising objections, for  
raising further objections on behalf of Deppak Sethi & M/s. Shalimar  
Advertiser)

WITH

I.A.No.267 in WP(C) No.13029/1985

(For intervention on behalf of Indian Outdoor Advertisers Society)

WITH

I.A.No.283 in WP(C) No.13029/1985

(For directions on behalf of Indian Outdoor Advertising Agency)

WITH

I.A.No.229 in WP(C) No.13029/1985

(For direction arising out of C.P.No.01/2002)

WITH

I.A.No.227 in WP(C) No.13029/1985

(For directions arising out of C.P.No.259/2000)

WITH

I.A.No.230 in WP(C) No.13029/1985

(For directions arising out of C.P.No.413/2003)

WITH

I.A.Nos.253-254 &amp; 315 in WP(C) No.13029/1985

(For impleadment & directions on behalf of Commissioner(Retd.) K.V.  
Singh)

WITH I.A.No.255 in WP(C) No.13029/1985

(For direction on behalf of M.C.D.)

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WITH

I.A.No.268 in WP(C) No.13029/1985

(On behalf of M/s. Adwel Advertising Services)

WITH

I.A.No.269 in WP(C) No.13029/1985

(For directions on B/O M.C.D.)

WITH

I.A.No.273 in WP(C) No.13029/1985

(For intervention/directions on B/O Ms. Taranjeet Kaur Sapra)

WITH

I.A.No.277A, 278 & 279 in WP(C) No.13029/1985  
(For directions, impleadment & interim stay on B/O D.M.R.C.)

WITH  
I.A.Nos.284 TO 286 in WP(C) No.13029/1985  
(For impleadment/directions and raising objections on behalf of Sai Associates)

WITH  
I.A.Nos.287 TO 289 in WP(C) No.13029/1985  
(For impleadment/directions and raising objections on behalf of Anant Arts)

WITH  
I.A.No.298 in WP(C) No.13029/1985  
(For directions on B/O Delhi Advertisers Asson.(Regd.)

WITH  
I.A.Nos.299-301 in WP(C) No.13029/1985  
(Appln. on behalf of M/s. Delhi Waste Management, Impleadment, Stay and Raising objections)

WITH  
I.A.Nos.302-304 in WP(C) No.13029/1985  
(For impleadment, stay and raising objections on behalf of Raminder Singh)

WITH  
I.A.No.310 in WP(C) No.13029/1985  
(For impleadment on behalf of M/s. Matoo & Waste Holding Pvt. Ltd.)

WITH

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WP(C) No.51/2009  
(With office report)

WITH  
I.A.No.317 in WP(C) No.13029/1985  
(For modification of Court's Order dated 25.4.2009 on behalf of D.M.R.C.)

WITH  
I.A.No.258 in WP(C) No.13029/1985  
(For intervention on behalf of Peasants Welfare Association and Sudhir Aggarwal)

I.A.No.316 in W.P.(C)NO.13029/1985  
(For impleadment and modification of court's order dt.16.12.99 & 20.12.02)

Date: 28/08/2009      These applications/petition were called on  
for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S.H. KAPADIA  
HON'BLE MR. JUSTICE AFTAB ALAM

Mr. Harish N. Salve, Sr. Adv. (A.C.)  
Mr. U.U. Lalit, Sr. Adv. (A.C.) (N.P.)  
Mr.Siddhartha Chowdhury, Adv.(A.C.)  
Mr. A.D.N. Rao, Adv. (A.C.)

For the petitioner(s)      Mr. M.C. Mehta, Petitioner-in-person (N.P.)  
Applicant-in-person (N.P.)

W.P.C() No.51/09

Mrs. Amrita Parkash, Adv.  
Mr. Atul Sharma, Adv.  
For Ms. Rekha Palli, Adv.

For Applicant(s)/  
Respondent(s)

Mr. L.Nageswara Rao, Sr. Adv.  
Mrs. Manmeet Arora, Adv.  
Ms. Kavita Wadia, Adv.

Mr. Ranjit Kumar, Sr. Adv.  
Mr. Tarun Johri, Adv.

Ms.Arati Singh, Adv.  
Mr.S.N.Terdal,Adv.  
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Mr. S.W.A. Qadri, Adv.  
Mr. Gunwant Dara, Adv.  
For Ms. Anil Katiyar, Adv.

Mr. D.N. Goburdhan, Adv.

IA 275-277

Mr. Ravi Shankar Parshad, Sr. Adv.  
Mr. Sanjiv Sen, Adv.  
Mr. Praveen Swarup, Adv.  
Mr. Rajeev Kumar Pathak, Adv.

Dr. Monika Gusain, Adv.

Mr. Surya Kant, Adv.

Mr. V.B. Joshi, Adv.

Ms. Sheil Sethi, Adv.

Mr. Parijat Sinha, Adv.

Ms. Sushma Suri, Adv.

Mr. Aswani Kumar, Adv.

Mr. S.W.A. Qadri, Adv.  
Ms. Kiran Bhardwaj, Adv.  
Mr. S.N. Terdal, Adv.  
For Mr. D.S. Mahra, Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Subramoniam Prasad, Adv.

Ms. Vijay Lakshmi Menon, Adv.

IA 275-277  
For Railways

Mr. Parag P. Tripathi, ASG  
Mr. K. Radha Krishnan, Sr. Adv.  
Mr. Ashok K. Srivastava, Adv.  
Mr. A.K. Sharma, Adv.

Mr. Anurag Sharma. Adv.  
Mr. Prashant Kumar, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. Rauf Rahim, Adv.

Dr. Kailash Chand, Adv.

Ms. Jyoti Mendiratta, Adv.

Mr. Goodwill Indeevar, Adv.

Mr.Kailash Vasdev, Sr.Adv.

Ms.Bindu Saxena, Adv.

Mr.Shivendra Swarup,Adv.

Mr.Vyom Bansal, Adv.

Mr.D.Bhadra, Adv.

Mr. Shailendra Swarup, Adv.

Mr. Vijay Panjwani, Adv.

IA 275-277

Mr. Mukesh Kumar, Adv.

For M/s. K.V. Kini Asso., Advs.

State of U.P.

Ms.Shobha Dixit, Sr.Adv.

Mr.S.A.A.Abidi, Adv.

Mr.Kamlendra Mishra, Adv.

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

I.A.Nos.275-277:

Learned Additional Solicitor General, appearing for the Union of India (Ministry of Railways) submitted that the Advertisement Policy suggested by the E.P.C.A. is not wholly fair and reasonable in regard to the advertisements put up on the Railway lands, especially, the Unipoll advertisement bill-boards. After hearing both sides, we feel that the grievances raised on behalf of the Railways needs to be considered by the E.P.C.A. The respondents are, therefore, given the liberty to file detailed representations/ suggestions before the EPCA within three weeks. The same may be

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considered by the EPCA and it may file its report to this Court within three weeks from the date of receipt of the representations.

List on 30.10.2009.

Interim stay, if any, is extended till then.

I.A.No.317:

Mr. Ranjit Kumar, learned Senior Counsel appearing for the Delhi Metro Rail Corporation (DMRC) states that the technical parameters and specifications set out in the Advertisement Policy framed by the EPCA is fully acceptable to the DMRC but it had strong reservations in so far as the Policy obliged it to seek prior

permission of the MCD/NDMC for putting up advertisements on its own land and further in so far as it made the DMRC liable to share its revenue arising from advertisements with the MCD/NDMC on expiry of the period of five years.

In this regard, Mr. Kumar invited the Court's attention to paragraph 3 of the Delhi Outdoor Advertising Policy, 2008 where it is stated as follows:-

"3.Role of Municipal Bodies (MCD/NDMC): In the areas controlled by MCD outdoor advertisement devises visible to the public, are governed by provisions of section 142 to 146 of the Delhi Municipal Act. As per the provisions of the DMC Act, prior permission of the Commissioner is needed to display any advertisement to public view".

He next invited the Court's attention to paragraph 9.1 of the Policy where it is stated as follows:

"9.1 Revenue sharing - The Outdoor Advertisement Policy 2008 will apply to all advertisements irrespective of the jurisdiction of land. However, the revenue sharing model will differ in different

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cases.

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1.     \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*
2. DMRC will be exempt from sharing revenue of advertisements for the next five years.
3.     \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*

Mr. Kumar contended that the rights and liabilities of the DMRC were governed by the provisions of The Delhi Metro Railway (Operation and Maintenance) Act, 2002 and the recommendations of the EPCA for seeking prior permission of the MCD/NDMC and on the issue of revenue sharing were contrary to those provisions and amounted to infringement of the DMRC's legal rights.

Mr. Ravi Shankar Prasad, learned senior counsel appearing on behalf of the MCD, on the other hand, submitted that in case the DMRC was not agreeable to revenue sharing on expiry of the five years period, then the MCD would claim its share in the revenue arising to the MRDC from advertisements on its land from the very beginning and even without waiting for the five years period. He further submitted that in case any advertisement put up on the DMRC

land violated the specifications set out in the Advertisement Policy or it offended morality or was bad for any other reason, it would be always open to the MCD to have such advertisements removed.

Since the DMRC accepts the technical parameters and specifications set out in the Advertisement Policy of the EPCA

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without any qualifications, this Court need not pass any further order in this connection. The acceptance of the technical parameters and specifications of the Advertisement Policy by the DMRC is taken note of.

In case the MCD or the NDMC raises any demand against the DMRC for revenue sharing or gives it any notice for removal of any advertisement(s) put up on the DMRC land on grounds that no prior permission was accorded by the municipal bodies or it was not in conformity with the Policy specifications or for any other reason, it will always be open to the DMRC to seek its remedies before an appropriate forum and in accordance with law.

On 25 April, 2008, this Court had directed that the DMRC would not enter into any new contracts and would not renew old contracts or erect fresh hoardings. The restraint order is lifted and the DMRC is now free to erect fresh hoardings or to enter into new contracts in that regard subject to the provisions of the Advertisement Policy, accepted by it, and approved by this Court. The MCD/the NDMC would also be at liberty to take any action in case the advertisements put up on the DMRC lands are not in conformity with the technical parameters of the Policy or it violates any other provisions.

I.A.Nos.299-301:

Adjourned.

I.A.NO.316:

Application for impleadment is allowed.

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This Court had passed some orders on 16.12.1997 and 20.12.2002, regarding TSRs. The main grievance of learned senior counsel for the applicants is against Paragraph 9 of the Order of

16.12.1997, which reads as follows :

"One of the major pollutants identified in the various affidavits as well as in the latest Status Report filed by the Government is the TSR (two-seater rickshaw using a two-stroke engine). We are further informed that although the existing figure of registered TSRs, as per the records, is approximately 83,000; the actual number in use is far lesser since some of these permits have not been cancelled although the vehicles have been scrapped. It would be in the interest of the environment, to freeze the number of TSRs for the present at the level at which they are actually in use in the city. We, therefore, direct that there would be no grant of fresh permits in respect of the TSR, save and except by way of replacement of an existing working TSR with a new one."

Learned senior counsel states that in view of the increase in population and increase in the number of vehicles during the past several years, this matter needs to be examined afresh by the EPCA. We request the EPCA to give a report as regards the needfulness for fresh permissions for three wheelers (TSRs). The report should be submitted within a period of three months. The applicants representing the Three Wheelers Association would be at liberty to represent before EPCA.

List immediately on receipt of the report from the EPCA.

Rest of the I.A.s are adjourned to 30.10.2009.

(G.V.Ramana)  
Court Master

(Madhu Saxena)  
Court Master