

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.182 in W.P.(C) No.13029/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For impleadment on behalf of State of Haryana)

W I T H

I.A.No.183 in I.A.No.151 in W.P.(C) No.13029/1985

(For direction on behalf of State of Haryana)

I.A.Nos.188-189 in W.P.(C) No.13029/1985

(For directions/impleadment on behalf of Delhi Traffic Police)

I.A.No.197 in W.P.(C) No.13029/1985

(For impleadment on behalf of M.S.Yamaha Motors (India))

I.A.No.213 & 238 in W.P.(C) No.13029/1985

(For directions and revocation of order dated 15.7.2002 filed by
Govt. of N.C.T. of Delhi)

IN THE MATTER OF : P.W.D., GOVT. OF N.C.T. OF DELHI REGARDING
PERIPHERAL EXPRESS WAY FOR DELHI.

I.A.No.240 in W.P.(C) No.13029/1985

(For impleadment)

I.A.No.241 in W.P.(C) No.13029/1985

(For directions)

AND I.A.No.243 in W.P.(C) No.13029/1985

(For directions)

Date: 17/12//2004 These Applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE Mr. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

Mr. Harish N. Salve, Sr.Adv. (A.C.)

Ms. Aparajita Sinha, Adv.

Mr. U.U. Lalit, Sr.Adv. (A.C.) (NP)

Mr. M.C. Mehta, Adv.-in-person (NP)

For Applicant in

IA 240-241:Mr. Manish Singhvi, Adv.

for Mr.P.V. Yogeswaran, Adv.

IA 197:Mr. P. Narasimhan, Adv.

For Respondent (s)

-NHAI:Mr. Gulam E. Vahnavati, S.G.

Mr. V.B. Joshi, Adv.
Mr. Ravi Kini, Adv.
Mr. Krishan Kumar, Adv.
Mr. Sumit Gupta, Adv.
Mr. Pradeep Dhingra, Adv.

I.G.L.:Mr. Dushyant Dave, Sr.Adv.
Mr. Sidharth Yadav, Adv.
Mr. Vikrant Yadav, Adv.

M/o Surface Trans.:Mr. S.W.A. Qadri, Adv.
Mr. B.K. Prasad, Adv.

M/o Environment:Mr. S.W.A. Qadri, Adv.
Mr. Amitava Poddar, Adv.
Mrs. Anil Katiyar, Adv.

D/o Transport & PWD,
NCT of Delhi:Mr. S.W.A. Qadri, Adv.
Mrs. Anil Katiyar, Adv.

Delhi Police:Mr. S.W.A. Qadri, Adv.
Mrs. Anil Katiyar, Adv.

D.T.C. & St.of Goa:Ms. A. Subhashini, Adv.

St.of Manipur:Mr. KH. Nobin Singh, Adv.
Mr. S. Biswajit Meitei, Adv.

CPCB:Mr. Vijay Panjwani, Adv.

St. of Harayana:Mr. Neeraj Kumar Jain, Adv.
Ms. Kavita Wadia, Adv.
Mr. J.P. Dhanda, Adv. (NP)

TELCO:Mr. Percy Gandy, Adv.
Ms. Nandini Gore, Adv.
Ms. Meghna Mishra, Adv.
Ms. Manik Karanjawala, Adv.

St. of U.P.:Mr. Ashok H. Desai, Sr.Adv.
Mr. R.G. Padia, Sr.Adv.
Mr. Kamlendra Mishra, Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Kavin Gulati, Adv.

M.C.D.:Mr. Sanjiv Sen, Adv.
Mr. Rajan Narain, Adv.

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

NCRPB:Mrs. Sheil Sethi, Adv.

St. of Kerala:Mr. K.R.Sasiprabhu, Adv.
Mr. John Mathew, Adv.

St.of Maharashtra:Mr. Mukesh K. Giri, Av.

For Respondent(s)Mr. Shri Narain, Adv.
Mr. Sandeep Narain, Adv.
Ms. Anjali Jha, Adv.

Mr. B.V.B.Das, Adv.

Mrs. Indra Sawhney, Adv.

Mr. Praveen Swarup, Adv.

Mr. J.P. Dhanda, Adv. (NP)

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

I.A.Nos.182, 183, 188-189, 197, 213, 238 & 243:

This Court on 8th October, 2004, on perusal of the report of August, 2004 of EPCA regarding building a by-pass and express way for transit traffic for Delhi as also on perusal of the affidavit of Col.Punit Sethi, General Manager (Technical), in National Highway Authority of India and that of Mr.T.B.Banerjee, Chief Engineer in the Ministry of Road Transport & Highways, observed that the problems regarding land and finance etc. for building of bypass and expressway for transit traffic for Delhi could be sorted out in a joint meeting to be attended by the Chief Secretaries of States of U.P., Haryana and Delhi and officers of National Highways Authority of India and Ministry of Road Transport & Highways with the assistance of learned Solicitor General who was requested to call the meeting of all the officers and thrash out the problem and come out with a proposal which can result in the project designing and commencement without any further delay.

At the outset, we place on record our appreciation for the efforts made in the aforesaid regard by learned Solicitor General, which have resulted in considerable progress being made. We have perused the report in respect of compliance of the order dated 8th October, 2004 submitted by learned Solicitor General, heard Mr.Salve, learned amicus curiae and Mr.Desai, learned senior counsel appearing for State of U.P.

In regard to Western Peripheral Expressway, the main question to be sorted out is about financial assistance, insofar as the viability gap of Rs.460 Crores is concerned, as noticed in paragraph 3G of the Report. With regard to Eastern Peripheral Expressway, the U.P. government had taken the position that it was not prepared to meet any part of the costs of the expressway as, according to the perception of the said State, the project was not viable. It also states that the State Government is not prepared to incur any cost with regard to land acquisition and the said cost should be part of the project cost since the proposed expressway was of no direct benefit to the State of U.P. The State of U.P. has also filed an application (I.A.No.243), inter alia, praying that either the total estimated cost of the project including the cost of land shall be given on BOT basis or the cost of acquisition should be borne by UOI. We are happy to note that despite what was stated before the learned Solicitor General in the meeting convened pursuant to the aforesaid order and despite what is stated in the application by the State of U.P., Mr.Desai, appearing for U.P. government, states that full cooperation would be extended by the U.P. government in the matter of Eastern Peripheral Expressway. Though some figures have been indicated in the application, but the same are at the prices of year 2001. Further the viability gap has not been stated in the application and a vague assertion has been made that if there is viability gap in the project, it should be met either by Government of India or NCRPB or both of them.

Mr.Desai has assured this Court that as per the directions of this Court, the Chief Secretary and other officers of U.P. government would attend the meeting which we are directing to be convened with the Cabinet Secretary and before the meeting a latest project report with the present prices along with the amounts of viability gap shall be sent to the Cabinet Secretary so that meaningful discussions are possible in that meeting. We have no doubt that the Cabinet Secretary would be able to sort out with the cooperation of all concerned the aspects still to be resolved regarding construction of the expressway.

Under the aforesaid circumstances, we request the Cabinet Secretary of Central Government to convene a meeting of all the concerned officers from Ministries of Finance, Urban Development, Road Transport or any other Ministry or Department which he may deem just, fit and proper, and Chief Secretaries of Delhi, Haryana and U.P. and thrash out the aspects stated in the report filed by learned Solicitor General. We would also request learned Solicitor General and learned amicus curiae to attend the meeting convened by the Cabinet Secretary and to assist in the solution of the problem. We have no doubt that all concerned would fully cooperate in the meeting with the Cabinet Secretary. We suggest that if necessary, the proposal, insofar as the financial assistance is concerned, can be sent by the Cabinet Secretary to the Deputy Chairman of the Planning Commission.

The report shall be submitted to this Court by 31st January, 2005.

List the matter on 4th February, 2005.

On Report No.11 of EPCA:

Having perused the report No.11 submitted by EPCA, we direct I.G.L. and States of U.P. and Haryana to file their responses within three weeks.

On Report No.12 of EPCA:

We direct M.C.D. and Delhi Police to respond to the EPCA report No.12, particularly, in regard to entering of vehicles in Delhi in violation of orders dated 6th December, 2001 passed by this Court.

Meanwhile, we direct MCD and Delhi Police to ensure that no vehicle enters the city of Delhi in violation of the order dated 6.12.2001 and, in this regard, MCD shall fully cooperate with the Delhi Police. If necessary, MCD shall issue necessary directions to its contractors.

The responses shall be filed within three weeks.

I.A.No.240-241:

Let reply by the Delhi Government be filed within four weeks.

(N. Annapurna)
Court Master

(Vijay Dhawan)
Court Master