

(2016) 03 SC CK 0066

In the Supreme Court Of India

Case No : W.P.(C) NO.13381 of 1984 With I.As. No.460, 517-518, 532 in I.As.No.460, 548-549, 558 in I.As. No.548-549 and 559-561 of 2016 with S.L.P.(C)..... of 2016 (CC No. 12071 of 2005)

M.C. Mehta

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 30-03-2016

Acts Referred:

Constitution of India, 1950 — Article 32
Forest (Conservation) Act, 1980 — Section 2

Citation : (2016) 3 Scale 659 : (2016) 15 SCC 362

Hon'ble Judges : T.S. Thakur, CJI;C. Nagappan, J.

Bench : Division Bench

Advocate : Shilpa Chohan, Jitender Chaudhary and Rajesh Singh, Advocates, for the Appellant; (A.S.I.) A.D.N. Rao, Annam Venkatesh, Sudipto Sircar, Ankita Chadha and Rahul Mishra, Advocates, S. Wasim A. Qadri, Zaid Ali, Tamim Qadri, Saurabh Chopra, D.S. Mahra, S.N. Terdal, N.K. Karhail, B.V. Balram Dass and Ajit Sharma, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. Heard.

2. By our order dated 8th May, 2015, we had while issuing several directions also directed filing of periodic reports about the steps taken for compensatory afforestation in the State of Uttar Pradesh pursuant to directions issued by this Court permitting felling of trees in connection with several developmental projects. We had indicated that the authorities concerned would do well to associate governmental and non-governmental organisations operating in the areas where such afforestation work is undertaken not only for encouraging afforestation but also to keep an eye on the progress made in that direction. The authorities had been permitted to associate State Legal Service Authority of the State of Uttar Pradesh with the process of afforestation.

3. Second periodic report has been filed on behalf of the State of Uttar Pradesh today pursuant to the said direction which is taken on record and the delay in the submission of the report condoned. There is however nothing in the report to suggest that the State Legal Services Authority or the District Services Authority for that matter has been associated with the process of plantation. Learned counsel for the State of Uttar Pradesh submits that given an opportunity the Authorities will have the plantation work verified and a report submitted to this Court from the concerned State Legal Services Authority. He is permitted to do so on or before the next date of hearing.

4. By our order dated 14th December, 2015, we had, taking note of a letter dated 1st October, 2015 received from Hon'ble Mr. Justice Kurian Joseph issued certain directions regarding development in and around the electric crematorium and the traditional cremation ground in the neighbourhood of Taj Mahal. We had in that regard directed the Agra Development Authority and the Nagar Nigam to examine whether it is possible to reduce the emission of carbon by use of modern technology. In compliance with the said direction, the Commissioner, Agra Division,/Chairman, Agra Development Authority, has filed an affidavit dated 17th March, 2016 proposing several steps to not only beautify the crematorium/cremation ground (Mokshadham) located near the Taj Mahal, Taj Ganj, Agra, but also for improvement and development of the electric crematorium situate next to it. Ms. Rachana Joshi Isaar, learned counsel for the Authority, has taken us through the contents of the affidavit and the proposed plans accompanying the same to submit that for maintaining the traditional method of cremation of dead bodies, the Authority proposes to not only develop the area to make the same cleaner, more presentable and convenient for those visiting the crematorium but also take steps to reduce carbon emission by use of modern technology. It was submitted that in addition to use of better technology for reducing the requirement of wood and emission of carbon the proposed development of the crematorium would involve addition of two electric kilns with better technological features and replacement of an old electrical one, by a new one with better features. The details of the proposed works, in particular, the area used for cremation of dead bodies have been set out in the affidavit and the building plans annexed therewith.

5. Having heard learned counsel for the parties, we see no reason to prevent the Authorities concerned from verifying the proposed developmental work in terms of the plans annexed with the affidavit. Cremation grounds are visited by large number of people everyday. Experience, however, shows that such places are generally neglected both in terms of facilities as also cleanliness. The authorities would therefore do well to pay some attention to improve these areas especially when the same is located close to a tourist place like the Taj Mahal. We would have in the ordinary course referred the matter to an expert group for a possible assessment of what is sought to be done by the authorities in terms of improvement but any such exercise is likely to delay the process and continue the eye sore that the cremation ground happens to be. We, therefore, leave it to

the wisdom of the authorities and the administrators concerned to take all such steps as are feasible to upgrade the said place not only in terms of its appearance and the extent of facilities available therein but also in terms of use of modern technology for reduced emissions and resultant reduced potential for pollution. We hope and trust that the authorities shall while undertaking any exercise keep the sensitivities of the situation in view by providing a smooth switch-over from the old to the new system, so that those using the cremation ground for cremation of the dead bodies get used to the improved methods of cremation, even while the traditional methods remain in operation and available to them. We hope and trust that the authorities would start working on the project in the right earnest and submit an Action Taken Report within three months from today.

6. Delay in filing of affidavit of compliance report by the Uttar Pradesh Expressways Industrial Development Authority (UPIEDA) is condoned and the same is taken on record. I.A. No.558 in I.As. NO.548-549 is accordingly disposed off.

7. I.As. NO.559-561 filed by Urja Gasifiers Pvt. Ltd. are disposed off in the above terms, reserving liberty to the applicant to approach the authorities concerned for consideration of their technology for purpose of adoption in the upgraded cremation area.

8. Post after needful is done. S.L.P.(C)..... of 2016 (CC No. 12071/2005):

9. Heard.

10. Delay condoned.

11. Issue notice.

12. Post along with interlocutory applications in W.P. (C)No.13381 of 1984.