

(2001) 05 SC CK 0031

In the Supreme Court Of India

Case No : W.P.(C) No.-004677-004677 / 1985

M.C. Mehta

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 10-05-2001

Acts Referred:

Citation : (2002) 5 SCALE 420 : (2001) 1 SCALE 628 : (2001) 4 SCALE 223 : (2001) 5 SCC 309 : (2001) 3 SCR 709

Hon'ble Judges : Doraiswamy Raju, J;Brijesh Kumar, J;B. N. Kirpal, J

Bench : Full Bench

Advocate : K.N. Raval, Additional Solicitor General, Ranjit Kumar, Amicus Curiae, K.K. Venugopal, V.A. Mohta, Shanti Bhushan, Rajiv Dhavan and J.D. Jain, Party in person, K.C. Kaushik, Krishan Mahajan, S.N. Terdal, Anil Katiyar, C.V. Subba Rao, R.N. Verma, C. Radhakrishna, Ajay Sharma, B.V. Balaram Das, D.N. Goburdhun, Pinky Anand, Geeta Luthra, Indra Sawhney, D.K. Singh, R.C. Verma, Sheil Sethi, Vijay Panjwani, V.B. Saharya, Ramji Srinivasan, Ruby Singh Ahuja, Manik Karanjawala, R.S. Suri, Sushil Kr. Jain, M.A. Chinnaswamy, M.L. Lahoty, Paban Kr. Sharma, Himanshu Shekhar, Mukesh K. Giri, Balbir Singh Gupta, Pradeep Gupta, D.B. Vohra, Rajesh Mittra, Kamlesh Jain, Vijay Kumar, Mohd. Arif, Rakesh Kr. Sharma, N.K. Sahoo, Suresh Tripathy, Pratibha Jain, A.P. Dhamija and Pradeep Agarwal, for the Appellant;

Judgement

1. By an order passed in April 1996, this Court had directed that no non-conforming industry shall be permitted to carry on its activity after 31-12-1996. As a result thereof at least those industries which were operating in residential areas, whose operation did not conform to the provisions of the master plan, were required to stop their operation by 31-12-1996.

2. Subsequent thereto, orders were passed from time to time with regard to relocation of the non-conforming industries. Ultimately on 8-9-1999, a Division Bench of this Court directed that the entire process of relocation of the industries should be completed by 31-12-1999 and if the industries in the residential area could not be shifted and relocated for any reason whatsoever by 31-12-1999,

then those industries shall be closed down.

3. Thereafter various affidavits were filed on behalf of the Union of India, Municipal Corporation of Delhi and NCT, Delhi which show that there was a continuous breach of orders of this Court. Neither had industrial estates been established nor were plots allotted to enable relocation nor were units working in non-conforming areas including residential areas shut down.

4. By reason of non-compliance with the orders of this Court on 14-11-2000, notices were issued to the Chief Secretary, NCT, Delhi and also to the Commissioner, Municipal Corporation of Delhi to show cause why they should not be punished for contempt for the continued inaction on the part of NCT, Delhi and for non-compliance with the various orders passed by this Court starting from 1996 and including the orders dated 8-9-1999, 30-8-2000 and 12-9-2000 regarding the closing of the polluting units situated in the residential areas.

5. In the affidavit filed by Shri P.S. Bhatnagar, Chief Secretary, Government of NCT, Delhi it has been stated that he assumed charge on 23-3-2000 as the Chief Secretary and has been diligently working towards ensuring compliance with the orders of this Court. While indicating steps which have been taken with regard to the implementation of the said orders, it has been stated by him that he neither deliberately nor intentionally disobeyed any orders of this Court. Nonetheless he tendered an unqualified apology to this Court.

6. A somewhat similar affidavit has been filed by Shri S.P. Aggarwal, Commissioner, Municipal Corporation of Delhi. While tendering unqualified apology, he submitted that he did not disobey the orders of this Court and has indicated in the said affidavit the steps which had been taken in an effort to comply with the directions issued by this Court for relocation of the non-conforming industries from time to time.

7. We heard the learned counsel for the contemners and are of the opinion that NCT, Delhi, Municipal Corporation of Delhi and the other local authorities have not put in sufficient effort to comply with the orders of relocation and there is clearly a serious lapse on their part. There has been a lack of effort and will on the part of the authorities giving us the impression that wealth rather than, or at the expense of, health seems to be a greater concern for them.

8. Orders were passed by this Court requiring the executive to implement the law within a time-frame. This had become necessary as tolerance of illegality in the non-conforming use of land had increased the pollution to a hazardous level. It was the duty of the chief executive functionaries (sic to see) that the executive functioned. Even if there had been no deliberate or wilful disregard for the orders passed, there has clearly been a lackadaisical attitude and approach towards them. The welfare of the silent majority of the citizens of Delhi has been put on hold.

9. While we do not propose to take any further action in this matter but such

lethargic attitude, if it continues, may soon become contumacious. With a hope that the orders will be earnestly complied with, we direct the closure of these contempt proceedings and discharge the rule.