
(2000) 05 SC CK 0050

In the Supreme Court Of India

Case No : Ias Nos. 66, 67, 69, 71 And 73 In Wp (C) No. 13381 Of 1984 With
Suo Motu Contempt Petition (C) No. 176 Of 1999 In Wp (C) No.
13381 Of 1984 With Rp (C) No. 291 Of 1998??JUDGES

M.C. Mehta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 02-05-2000

Acts Referred:

Environment Protection Act, 1986 — Section 19

Citation : (2000) 8 JT 13 : (2000) 3 MLJ 199 : (2000) 9 SCC 214

Hon'ble Judges : M. Jagannadha Rao, J;M. B. Shah, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Ias Nos. 66 and 67 On 7-12-1998, this Court passed an order. The last paragraph of the order reads as follows:

"In order to develop an alternative site at Amrud ka Tilla, if any building is required to be constructed, building plan as also the number of shops which are proposed to be constructed shall be filed in this Court and any construction will be made only after the plan is approved by this Court."

2. Pursuant to the said direction, the Agra Development Authority, Agra has placed before us. Plan III showing the location of the proposed site for construction of 71 kiosks. Copies of the plan have been shown to Mr Krishan Mahajan, Mr M.C. Mehta, Advocates as also to learned counsel for the shopkeepers, who are residing in the area. From the plan, it is obvious that the proposed area is located a little away from Amrud ka Tilla, the proposed parking space and beyond the road adjacent to the proposed parking space. The plan is signed by the Landscape Architect, Chief Town Planner and the Vice-Chairman of the Agra Development Authority. It also shows the place where some trees are already in existence. We are told that the construction will not involve cutting down of any trees, but at the most some shrubs will have to be removed. The

site is now in the possession of the Department of Horticulture, State of U.P. State Government would hand over possession of the said site to the Agra Development Authority, Agra, within one week from today and thereafter, the Agra Development Authority will proceed with the development of this area and the construction of the 71 kiosks, as mentioned in this plan. In other words, the plan has the approval of this Court.

3. Learned counsel appearing on behalf of the Association of Shopkeepers submits that the shopkeepers may be permitted to construct the kiosks at their own expenses. Learned counsel further submits that the shopkeepers will appoint a contractor who would construct these shops in accordance with the plan abovementioned. The Agra Development Authority will grant necessary permission to the said contractor for the construction and shall supervise the manner in which the construction is being done.

4. Once the shops are constructed, the 70 persons who are members of the Association will be licensees of the premises giving up other rights, as stated in para 18 of the report dated 19-3-1998 of the Agra Development Authority. They shall pay licence fees as determined by the Agra Development Authority which shall be as per market rate.

5. New licence will be issued only to the persons who are members of the Association, and not to any other persons.

6. No new licence will be issued by the Agra Development Authority and the existing licences of the shopkeepers will enure the benefit at the new location.

7. It is made clear that the licences shall not be transferred or assigned nor possession be transferred to any third party.

8. It is also made clear that the identity of the kiosks will be maintained and it will not be permissible for them to convert kiosks into larger rooms along with adjacent kiosks.

9. Every licensed shopkeeper will be issued a certificate for displaying it prominently inside the shop, with his photograph, as stated in para 12 of the report. Certificates shall be issued for displaying the same prominently inside the shop with his photographs.

10. The shopkeepers will also make separate and independent arrangements for water supply and toilet and to the shops where eatables are sold.

11. All the shops selling food and beverages shall be put together in one group and the licence should mention the particular trade for which the shops are allotted. The Local Health Department will take care to see that proper sanitation and cleanliness is maintained in the location of the shops and shall file periodical reports before the Agra Development Authority. The said report shall be kept open for public inspection. It would be the duty of the Association to get this location cleaned. If there is any violation of these conditions by the shopkeepers,

it will be open to the Agra Development Authority to take appropriate action against the Managing Committee of the Association as well as the individual licensees of the shops. No shopkeeper will be permitted to encroach on the open area around the shop. In case there is any such encroachment, it will be open to the Agra Development Authority to remove the encroachment immediately and also to take action against the said shopowners in accordance with law.

12. The Electricity Department functioning at Agra will provide separate electric meters for each of these shops.

13. The Municipal Corporation of Agra and the Agra Nagar Nigam will provide adequate water facility to the shopping complex.

14. The shops will maintain the area around the shop green as per the directions of the Horticulture Department, Government of U.P. The Horticulture Department may give its suggestion in consultation with the Agra Development Authority and convey the same to the Association.

15. The Agra Development Authority will file a compliance report in this Court at the end of August 2000. These matters may be listed in the 1st week of September 2000. IAs Nos. 69 and 71

16. In IA No. 69 issue notice to the Department of Civil Aviation, Union of India, to submit its response to this application.

17. We have heard Mr R.B. Misra, learned counsel for the State of U.P., Mr Krishan Mahajan and Mr M.C. Mehta, Advocates, in connection with the request of the State of U.P., for opening the Taj Mahal for five nights in a month (full moon night, two nights before and two nights after full moon night). Having regard to the report of Mr Krishan Mahajan, of the events which took place during 22-12-1999 to 24-12-1999, we are of the view that the Government of U.P. should come forward with a specific scheme to see that adequate security and pollution measures could be taken and properly implemented and that earlier orders of this Court are not violated.

18. We find from the photographs produced before us that several vehicles have been permitted to go within 500 metres including vehicles of VIPs. Photography is permitted within 500 metres of the Taj Mahal which is contrary to the orders passed by this Court.

19. No vehicle belonging to any person including that of VIPs will be permitted within 500 metres of the perimeter of the Taj Mahal.

20. Mr Krishnan Mahajan, learned counsel has invited our attention to a notification dated 17-5-1999, issued by the Ministry of Environment & Forests, SO No. 350(E), published in the Gazette of India, dated 18-5-1999 constituting Taj Trapezium Zone Pollution (Prevention & Control) Authority, consisting of the following persons for a period of two years:

1.

Commissioner, Agra Division

Chairman

2.

Chairman, Uttar Pradesh State Pollution

Control Board

Member

3.

Deputy Inspector General of Police, Agra

Range

Member

4.

Member-Secretary, Central Pollution Control

Board

Member

5.

A representative of the Ministry of

Petroleum and Natural Gas

Member

6.

A representative of the Ministry of

Environment and Forests

Member

7.

A representative of the Archaeological

Survey of India

Member

8.

Vice-Chairman, Agra Development

Member/

Convenor

The authority is to have the following powers:

(i) monitor progress of the implementation of various schemes for protection of the Taj Mahal and programmes for protection and improvement of the environment in the abovesaid; (ii) exercise powers under Section 5 of the said Act; (iii) take all necessary steps to ensure compliance with specified emission standards by motor vehicles and ensuring compliance with fuel quality standards; (iv) deal with any environmental issue which may be referred to it by the Central Government or the State Government of Uttar Pradesh relating to the abovesaid area;

21. The other clauses (clauses 3, 4 and 6 to 8) of the notification state that the functions of the authority shall be subject to the overall supervision and control of the Central Government and the said authority shall exercise the powers under Section 19 of the Environment (Protection) Act, 1986 and that the authority shall furnish a report about its activities at least once in two months to the Central Government in the Ministry of Environment and Forests. The authority shall have its headquarters at Agra in the State of Uttar Pradesh.

22. We direct that notice be issued to the Chairman of the abovesaid authority, namely the Commissioner, Agra Division, who shall file a report before this Court as to what had been done under the said notification. If any reports had been submitted to the Government of India, copies thereof shall be filed in this Court on or before 15-7-2000. The copy of the report shall also be furnished to Mr Krishan Mahajan, Mr M.C. Mehta and Mr Vijay Panjwani, Advocates.

23. List in the last week of July 2000. IA No. 73

24. After hearing counsel in this contempt case the presence of the contractor dealing with the civil works of the new slaughterhouse is dispensed with.

25. The Agra Nagar Nigam will file a report within one month from today regarding progress of the work and all other works in connection with the establishment of the new slaughterhouse. If there are any problems faced by the Agra Nagar Nigam whether in relation to the establishment of the new slaughterhouse or in regard to the funds, the Agra Nagar Nigam will file an affidavit before this Court seeking appropriate directions to the authorities concerned. The officers of the Agra Nagar Nigam and the officer of the U.P. Pollution Control Board who have filed the earlier report in this case would file a separate report as to the progress of the works. This will also be done within one month from today.

26. So far as the request for reopening of the old slaughterhouse is concerned, the same is rejected. 12th Report Central Pollution Control Board

27. There is an earlier direction of this Court that the income tax refund permitted by the Income Tax Department should be deposited in Agra Heritage Fund. The State of U.P. is hereby directed to file an affidavit as to whether any such fund has been instituted and the Ministry of Finance, Union of India is

directed to file an affidavit mentioning whether the said amount of refund has been transferred to any such Agra Heritage Fund. This affidavit will be filed within one month from today. Matter will be listed in the third week of July 2000.
Mission Management Board

28. Pursuant to the order of this Court in Civil Writ Petition No. 13381 of 1984 M.C. Mehta v. Union of India the Uttar Pradesh Government, Environment Section has issued a notification on 9.5.1997 constituting the Mission Management Board consisting of the following persons:

1.

Chief Secretary, Government of Uttar

Pradesh

Chairman

2.

Secretary, Department of Finance,

Government of U.P.

Member

3.

Secretary, Department of Energy,

Government of U.P.

Member

4.

Secretary, Department of Forest,

Government of U.P.

Member

5.

Commissioner, Agra Mandal, Agra

Member

6.

Principal Secretary, Department of

Environment, Government of Uttar

Pradesh

Convenor

29. Notice will issue to the Mission Management Board to inform this Court as to what work has been done by the Board after its constitution. The report will be filed within one month from today.

30. List the matter in the third week of July 2000.