

---

**(1998) 03 SC CK 0002**

**In the Supreme Court Of India**

**Case No :** IA No"s. 38, 44-47 and 49-51 in Writ Petition (C) No. 13381 of 1984

M.C. Mehta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

---

**Date of Decision :** 24-03-1998

**Acts Referred:**

**Citation :** (2000) 6 SCALE 517 : (1998) 5 SCC 720

**Hon'ble Judges :** S. Saghir Ahmad, J;S. C. Agrawal, J;M. Srinivasan, J

**Bench :** Full Bench

**Final Decision :** Disposed Of

---

## **Judgement**

IA No. 38

1. We have perused the report of the Committee constituted to monitor directions given by this Court in the matter of environmental impact on Taj Mahal due to the "Concert Yanni". The said report of the Committee contains the following conclusions and recommendations:

"1. The Taj Mahal is one of the three receptor points in the Taj Trapezium which is declared as environmentally fragile (sensitive) area. The Yanni's Concert involved movement of a large number of visitors and vehicles, construction activities for roads and bridges besides use of heavy DG sets for generating electricity at the site. These activities had the ingredients and potential of causing pollution and environmental disruption. However, with the compliance of precautionary measures as per the directions of this Hon'ble Court and prevailing wind directions as well as temperature and humidity, the impacts were less pronounced. In future, for abundant caution as needed for protection of the Taj and its environs, such activities in the close neighbourhood (at least 500 metres around the periphery) should be permitted only after proper impact assessment. Even for locating such activities at a distance beyond 500 m, the likely environmental impacts should be examined in advance and prior clearance from competent authority should be taken.

2. Necessary steps should be taken to regulate the vehicular movement in the 500 m zone around the Taj. For long-term traffic planning of the area, it is desirable that all the tourist buses/cars/taxis are parked at the Agra Bus-Stand, from where shuttle service for mass transport using non-polluting vehicles may be introduced. Movement of polluting vehicles (private, commercial and official) should be prohibited in the 500 m zone. Only non-polluting vehicles should be allowed.

3. The funds from the Concert and constituted as the 'Agra Heritage Fund' should be used strictly for the conservation of the environment and the receptors in Agra. Suitable directions may be given to the State Government in this regard."

2. We accept the said recommendation of the Committee. An affidavit of Shri Anand Prakash Upadhyay, Under-Secretary, Department of Tourism, Government of U.P. dated 23-2-1998 has been filed. According to the said affidavit the State Government has received a sum of Rs 3,60,00,000 by way of total sale of tickets and Rs 2,25,00,000 by way of sponsorship in that Concert. As against the said income, the expenditure was of Rs 2,00,00,150 by way of entertainment tax, Rs 1,45,47,127 towards the income tax and Rs 11,43,751 towards other expenses. We are of the view that the State Government should have granted exemption from entertainment tax keeping in view the object of the Concert. The learned counsel for the State of U.P. states that the State Government would consider the matter relating to grant of exemption from entertainment tax. The matter of exemption from income tax also needs to be considered by the Government of India. The State Government shall submit an application before the authority concerned for exemption from income tax and if such application is made, the authority concerned shall give due consideration to the said application for grant of exemption from income tax keeping in view the object and purpose of the Concert because the funds which are collected are for protection and benefit of the monument. As per the affidavit of Shri Anand Prakash Upadhyay, at present a sum of Rs 2,28,08,972 is lying with the State and there is a proposal to create a fund known as "Agra Heritage Fund" for beautification/maintenance of Taj Mahal and for developmental activities to promote tourism in Agra and for this purpose the State Government has framed draft rules known as "Agra Heritage Fund Rules" which make provisions for the purpose of ascertaining the need for spending the amount from this Fund. We are of the view that the Committee which has been constituted should be more broadbased. The learned counsel for the State as well as the petitioner shall suggest the names of persons who could be associated in the Committee. The learned counsel pray for four weeks' time to suggest the names as well as to report about the action taken with regard to the exemption from entertainment tax and income tax. Time prayed for is allowed.

Matter regarding construction of Ambient Air Quality Monitoring Station

3, In the affidavit of Shri Anand Prakash Upadhyay it is stated that the Nagar Nigam, Agra has already deposited the amount for construction of railway level-crossing and as regards independent feeder line for supply of electricity to the

Ambient Air Quality Monitoring Station, in a meeting of the Special Cell held on 19-2-1998, the representative of U.P. State Electricity Board has informed the members of the Committee that in compliance of the orders dated 10-1-1998 and 20-1-1998, U.P. State Electricity Board has already started work of independent feeder line and as per the directions of this Court in order dated 10-1-1998 the expenses for this feeder line will be shared in the ratio of 50% by the State Government and 50% by the Union of India and that the State Government is agreeable to spend 50% of the cost of this independent feeder line and has decided to pay the cost of independent feeder line. The Central Government is directed to pay its share of 50% of the cost of feeder line within two months. As regards the construction of Ambient Air Monitoring Station, in the affidavit of Shri Upadhyay it is submitted that the Archaeological Survey of India is a wing of Government of India and being a part of Government of India, the Archaeological Survey of India can move for realisation of funds to Government of India out of the separate fund created by Government of India in pursuance of the order passed by this Court for development and maintenance of the Taj Mahal and adjoining areas. We are of the view that the cost of setting up of the Ambient Air Monitoring Station be shared equally by the Government of India and the Government of U.P. It is further directed that both the Governments shall constitute a Joint Committee, which would also include a member of the Central Pollution Control Board for ascertaining the cost of construction of the Ambient Air Monitoring Station at the Taj Mahal and shall supervise the setting up and the maintenance of the said station. The process for construction of the station shall start within the period of three months.

4. A notice was issued in pursuance of the order dated 4-2-1998 requiring the State of U.P. to show cause as to why the cost of Ambient Air Monitoring Station should not be borne from the collection made from the Yanni Concert. The said notice is discharged in view of the directions above-mentioned.

5. Put up after four weeks.

Note'. A copy of this order may be sent to the Secretary, Government of India, Ministry of Environment, the Secretary, Government of India, Ministry of Finance and the Chief Secretary to the Government of U.P. IA No. 44

6. IA No. 44 is dismissed. IA No. 45

7. A copy of this application is furnished to Shri Vijay Panjawani, the learned counsel for the Central Pollution Control Board. It is directed that the Central Pollution Control Board and NEERI will after inspecting the site submit a joint report as to whether the place where the pumping station is proposed to be set up which is at a distance of about 240 metres away from the Taj and within the 500-metre zone, would adversely affect the environment of the monument. In case the report is in the affirmative, the said report would indicate the place where such pumping station can be set up. The said report shall be submitted within four weeks. Put up after four weeks.

Note: The copy of this order may be sent to NEERI. IAs Nos. 46 and 47

8. These IAs may be treated as deleted and may be tagged with IA No. 43.

IAs Nos. 49, 50 and 51

9. The order dated 4-2-1998 passed by this Court regarding stoppage of vehicles at a distance of 500 metres from the eastern gate of the Taj is clarified and it is directed that the said order is intended to be in respect of vehicles to be used for transport of tourists, foreign as well as Indian, and the local people who wish to visit the Taj. The IAs are disposed of accordingly.

Letter dated 2-3-1998 of Mr B.K. Sharma, Advocate

10. It is directed that this letter be registered as IA. Issue notice returnable on 21-4-1998. The copy of this IA may be sent to the Director General, Archaeological Survey of India, New Delhi and the Superintendent (Agra Circle) Archaeological Survey of India, Agra. A copy may also be sent to the Registrar, Allahabad High Court, who may bring it to the notice of the Inspecting Judge for the District of Agra.

Court Masters