

(2013) 10 RAJ CK 0093
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6355 of 2012

Suo Moto

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 03-10-2013

Acts Referred:

Citation : (2013) 10 RAJ CK 0093

Hon'ble Judges : Vishnu Kumar Mathur, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : Ashok Chhangani, Pankaj Sharma, Pritam Solanki, L.K. Purohit, Amicus Curiae, Mr. Anand Purohit and AAG, Mr. Pradhyumn Singh, Assistant to AAG., Mr. M.R. Singhvi, Mr. Mohit Singhvi, for the Municipal Corporation, Jodhpur and Mr. Gaurav Goyal, District Collector, Jodhpur, for the Respondent

Judgement

1. For the submissions as made by the Amicus Curiae that some part of work has been done but a lot is yet to be done, the Collector, Jodhpur, who is Chairing the Monitoring Committee, which has hitherto held as many as 25 meetings, was required to be called during the course of hearing. From the submissions made by the Collector, it prima facie appears that some of the departments/officers/authorities have not properly and punctually attended on the instructions issued by him pursuant to the decisions taken in the Monitoring Committee. From the reports of the Monitoring Committee placed before us, want of total attention on all the requirements of work to be done appears to be on the part of the Transport Department as also Traffic Police on one hand and on the part of the Municipal Corporation on the other hand.

2. As regards, the want of attentiveness on the part of the Traffic Police, it is informed that the incumbent presently posted as DCP (Traffic) has unfortunately gone on medical leave. It goes without saying that even if one incumbent is on medical leave that does not absolve the department of its responsibility to attend on all the requirements and for that matter, it is definitely expected of the Commissioner, Police to immediately ensure compliance of all the directions of

the Monitoring Committee as also adherence to the observations made by this Court. Similarly, the delay on the part of the Transport Department in effectively curbing the polluting vehicles cannot be appreciated.

3. As regards the Municipal Corporation, one of the major issues raised in the meetings had been about the action to be taken against the buildings which have been constructed or are being constructed without providing for adequate parking space. The Collector has placed before us for perusal a communication said to have been sent by him on 23.08.2013 to the Addl. Chief Secretary, Urban Development, Housing and Local Self Department stating therein, inter alia, that violation of parking specifications was found at about 87 buildings inspected on 15 BRTS routes in the city; and in that regard, the Chief Executive Officer, Municipal Corporation, Jodhpur was issued directions but no effective action was taken; and that some of the buildings were, of course, seized in past, but were again released.

4. The Collector had, in the said letter, requested the Addl. Chief Secretary concerned to ensure appropriate action. He had also endorsed the copy of the said letter to the Chief Secretary. In this regard, the learned senior counsel Mr. M.R. Singhvi, appearing for the Municipal Corporation submits that to his instructions, steps have been taken by issuance of notices to the persons concerned and action is being taken; and as on this date, at least 6 buildings are under seizure. However, on being asked to furnish the particulars, the learned counsel submits that the officers concerned would be able to supply such particulars only by tomorrow.

5. During the course of these submissions, it has also been pointed out that the Director of Local Bodies is visiting this city tomorrow, i.e., 04.10.2013 pursuant to the request made by the Collector and his visit is for the purpose of Municipal Corporation's attending on all its requirements. It would be expected of the Director, Local Bodies and at any rate of the Collector, Jodhpur to ensure specific compliance of the requirements of the decisions taken in the Monitoring Committee as regards the offending buildings, particularly, who have not provided for adequate parking space and are said to be the one of the major causes of obstructions in the smooth flow of traffic.

6. The Collector has, of course, informed us that one of the methods adopted for the purpose of curbing against the tendency of the builders not to provide adequate parking space is that now, the Public Health & Engineering Department, as also, the Jodhpur Vidyut Vitaran Nigam Ltd., have been directed not to issue permanent water/electricity connections in such buildings unless specific occupancy certificate is issued by the Municipal Corporation. According to the learned Collector, after taking of this decision, as per the report of the concerned departments, no occupancy certificate has been issued by the Municipal Corporation; and consequently, the PHED and JVVNL have not issued any new connection to newly constructed high-rise building. A copy of communication said to have been sent to the concerned department shall be placed on record of this

petition.

7. Added to the requirements put by the Collector concerned, we consider it appropriate and hence direct that henceforth, no permanent electric connection/ water supply connection would be issued by the concerned department in the multi-storied or commercial or group-housing buildings except upon receiving such specific occupancy certificate, which shall invariably be supported by a specific affidavit of the Commissioner of the zone concerned in case of Municipal Corporation and Dy. Commissioner of the zone concerned in case of Jodhpur Development Authority. Such occupancy certificate and the affidavit shall also be endorsed to the Collector, Jodhpur who shall be authorized to issue any further direction, if deemed fit and necessary for the purpose of ensuring proper use of the building, more particularly with regard to the parking space.

8. So far offending buildings particularly on the BRTS routes are concerned, specific action is required to be not only initiated but to be taken to the logical conclusion; and it shall be required of the Director visiting the city to ensure this.

9. We have noticed several aspects of the requirements having been taken up in the Monitoring Committee but for laxity in one office or another or at one stage or another, several relevant tasks have not been accomplished. At the same time, we are unable to find if the Chief Secretary concerned who constituted the Monitoring Committee after visit to this city on 14.12.2012 has taken all the requisite action/s particularly, as against the defaulting persons/departments as noticed in the several of the minutes of the committee and has otherwise ensured that all the concerned punctually and unfailingly carry out the directions issued by the Collector, Jodhpur pursuant to the meeting of the Monitoring Committee.

10. Having regard to the circumstances of the case that the Chief Secretary made a visit of the City of Jodhpur way back on 14.12.2012, we consider it appropriate now at this juncture, to require the Chief Secretary of the Government of Rajasthan to file a specific affidavit as regards the actions taken as per the Monitoring Committee meetings and directions issued therein. It would be expected of the Chief Secretary to specifically state about the action taken against the persons/officers who are found at default in carrying out compliance of the directions issued by the Collector, Jodhpur. Put up on 28.10.2013, as prayed.