

(2013) 11 RAJ CK 0139
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 : 21-11-2013

Acts Referred:

Citation : (2013) 11 RAJ CK 0139

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

Bench : Division Bench

Advocate : Ashok Chhangani, Mr. Pankaj Sharma and Mr. Pritam Solanki, Amicus Curiae, for the Appellant; Anand Purohit and AAG with Mr. Pradhuman Singh, Assistant to AAG, Mr. M.R. Singhvi with Mr. Mohit Singhvi for the Municipal Corporation, Jodhpur and Mr. Girish Joshi, for the Respondent

Judgement

1. It is submitted that pursuant to the order passed in this matter on the last occasion, the Director, Local Bodies did make a visit of the city of Jodhpur and had drawn a report. This report shall be placed on the record of this petition by the Municipal Corporation. It is submitted that the proceedings as regards the offending buildings have been taken up by the Municipal Corporation and, while issuing notices to the concerned owners, 29 buildings have been seized and constructions activities thereat have been prohibited.
2. The Municipal Corporation, Jodhpur has pointed out in Annexure-B to its report dated 28.10.2013 that as many as 29 buildings located on 15 BRTS Routes in the city of Jodhpur have been seized on the basis of the reports made by the Senior Town Planner. It is also pointed out that in several such cases, disciplinary proceedings have also been adopted against the erring officers, including the Junior Engineers, Encroachment Inspectors etc.
3. The learned counsel appearing for the Municipal Corporation submits that in relation to these buildings, specific notices have been issued to the person concerned and the proceedings are under way. On the query of the Court, it is also pointed out that the matter of release from seizure, if to be allowed, is

finally considered by the respective Building Committees and by the Chief Executive Officer.

4. It is clear that the Municipal Corporation and the other authorities have themselves realized the requirement of serious proceedings/steps, particularly in relation to the offending constructions and more particularly, in relation to such offending constructions where the requirement of proper parking is said to have been compromised. It needs hardly any emphasis that the matters are required to be examined by the concerned authorities with all seriousness. Of course, a bona fide construction activity, which is carried out while adhering to the requirements of law, may be allowed but, at the same time, the offending constructions where proper parking places have not been provided and which ultimately result in traffic hazard and congestion, are required to be seriously and sternly dealt with.

5. Looking to the orders earlier passed in this matter and the facts that the Chief Secretary and the Secretary, Urban Development and Housing Department had earlier visited the city, had issued several directions, and are supposed to be monitoring all the relevant aspects, we consider it appropriate and hence, order that as regards the buildings referred by the Municipal Corporation in Annexure-B to the report dated 28.10.2013, if ultimately any proposal for release from seizure is made, the same shall only be given effect to after due approval of the Secretary to the Government of Rajasthan in its Urban Development and Housing Department. Such decisions shall invariably be placed before the Court; and the Monitoring Committee shall also be informed about the same.

6. On the last occasion, we had observed that several aspects of the requirements of traffic management had 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 yet. We had also indicated that from the record it was not forthcoming if the Chief Secretary has taken all the requisite action/s, particularly as regards the defaulting persons/departments as noticed in the several of the minutes of the Monitoring Committee and has ensured that all the concerned punctually and unfailingly carry out the directions issued by the Collector, Jodhpur pursuant to the meetings of the Monitoring Committee. Accordingly, the Chief Secretary was required to file specific affidavit, as regards the action taken as per the Monitoring Committee meetings and directions issued therein. It was expected of the Chief Secretary to specifically state about the action taken against the persons/officers found at default in carrying out compliance of the directions issued by the Collector, Jodhpur.

7. However, it is submitted that the incumbent of the office of the Chief Secretary has proceeded on long leave and in the given circumstances, the affidavit of the Chief Secretary, who made the visit of the city on 14.12.2012 and is otherwise monitoring all the related aspects, could not be filed.

8. Having regard to the circumstances of the case, we relax the requirement of

filing of the affidavit by the Chief Secretary concerned as at present but he shall be expected to immediately file the requisite affidavit after availing the leave.

9. In regard to the medical leave of the DCP (Traffic), it is submitted that he has joined the duties and has seriously taken up the requisite tasks. However, it appears that several aspects on the part of the Traffic Police are yet to be taken care of.

10. Equally, the report made on behalf of the Regional Transport Officer does not lead to reasonable satisfaction. We are constrained to observe that the Transport Department appears to be wanting in punctual attendance on the requirements on its part; and cannot help expressing dissatisfaction over the working of Transport Department. However, the learned AAG submits that the remaining tasks shall immediately be taken up for execution.

11. On the submissions so made, we extend one more opportunity to the concerned authorities to complete the tasks indicated in the Monitoring Committee Meetings.

12. With the foregoing observations, directions and requirements, further consideration of this matter is deferred today. Put up on 16.12.2013, as prayed.