

M.C. MEHTA
V.
UNION OF INDIA AND ORS .

A

MAY 10 , 2001

[B.N. KIRPAL , DORAISWANY RAJU AND BRIJESH KUMAR , JJ .]

B

Contempt of Courts Act , 1971 :

Contempt of Court - Non compliance with orders of Supreme Court Industries operating in residential areas in Delhi and non - conforming with Master Plan - Direction given by Supreme Court to stop their operation and relocate them within a time frame - Not implemented by authorities - Contempt proceedings initiated - Unqualified apology tendered by authorities concerned and also indicating the steps taken in the matter -- Held , the authorities have not put in sufficient effort to comply with orders of relocation - With a hope D that orders will be earnestly complied with , the contempt proceedings closed Constitution of India , Article 129 - Environmental law .

CIVIL ORIGINAL JURISDICTION : Suo Motu Contempt Petition No. 300 of 2000 .

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IN

I.A. Nos . 22 and 1206 .

In Writ Petition (C) No. 4677 of 1985 .

(Under Article 32 of the Constitution of India)

F

K.N. Raval , Additional Solicitor General , Ranjit Kumar (AC) , K.K. Venugopal , V.A. Mohta , Shanti Bhushan , Dr. Rajeev Dhavan , J.D. Jain , M.C. Mehta , K.C. Kaushik , Krishan Mahajan , S.N. Terdol , Ms. Anil Katiyar , C.V. Subba Rao , R.N. Verma , C. Radhakrishna , Ajay Sharma , B.V. BalramDas , D. Goburdhun , Ms. Pinky Anand , Ms. Geeta Luthra , Ms. Indra Sawhney , D.K. Singh , R.C. Verma , Ms. Sheil Sethi , Vijay Panjwani , V.B. Saharya , Ramji Srinivasan , (Ms. Ruby Singh Ahuja) for Manik Karanjawala , R.S. Suri , D.N. Goburdhun , Sushil Kumar Jain , M.A. Chinnaswamy , L.L. Lahoty , Paban K. Sharma . Himanshu Shekhar , Mukesh K. Giri , Balbir Singh Gupta , Pradeep

H

A Gupta , D.B. Vohra , Rajesh Mittra , Ms. Kamlesh Jain , Vijay Kumar , Mohd . Arif , Rakesh K. Sharma , N.K. Sahoo , Suresh Tripathy , D.N. Goburdhun , Ms. Pratibha Jain , A.P. Dhamija and Pradeep Agarwal for the appearing parties .

The following Order of the Court was delivered :

B 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 31st of December , 1996. As a result thereof at least those industries which was operating in residential areas , whose operation did not conform with the provisions of the Master Plan , were required to stop their operation by 31st December , 1996 .

c Subsequent thereto orders were passed from time to time with regard to relocation of the non - conforming industries . Ultimately on 8th September , 1999 a Division Bench of this Court directed that the entire process of relocation of the industries should be completed by 31st December , 1999 and if the industries in the residential area could not be shifted and relocated for any reason whatsoever by 31st December , 1999 then those industries shall be closed down .

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

F By reason of the non - compliance of the orders of this Court on 14th November , 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 the NCT , Delhi and for non - compliance of the various order passed by this Court starting from 1996 and including the orders dated 8th September , 1999 , 30th August , 2000 and 12th September , 2000 regarding the closing of G the polluting units situated in the residential areas .

In the affidavit filed by Shri P.S. Bhatnagar , Chief Secretary , Government of NCT . Delhi it has been stated that he assumed charge on 23rd March , 2000 as the Chief Secretary and has been diligently working towards ensuring compliance of the orders of this Court . While indicating steps which has been H 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 A this Court . Nonetheless he tendered an unqualified apology to this Court .

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 on an effort B to comply with the directions issued by this Court for relocation of the non conforming industries from time to time .

We heard the learned counsel for the Contemners and are of the opinion that the NCT , Delhi , the Municipal Corporation of Delhi and the other local authorities have not put in sufficient effort to comply with the orders of C relocation and there is clearly 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 .

Orders were passed by this Court requiring the Executive to implement D 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 that Executive functioned . Even if there had been no deliberate or wilful disregard for the orders passed , there has clearly been a lackadaisical attitude and E approach towards them . The welfare of the silent majority of the citizens of Delhi has been put on hold .

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 F closure of these contempt proceedings and discharge the Rule .

R.P.

Petition is Still Pending .