

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

MAY 10, 2001

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

*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 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.

IN

I.A. Nos. 22 and 1206.

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

(Under Article 32 of the Constitution of India)

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. Balram Das, D.B. 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 Karanjwala, 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

A Gupta, D.B. Vohra, Rajesh Mitra, 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.

E Thereafter various affidavits were filed on behalf of the Union of India, Municipal Corporation of Delhi and NCT, Delhi which show that there was 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 the polluting units situated in the residential areas.

G 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 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 this Court. Nonetheless he tendered an unqualified apology to this Court. A

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

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 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. C

Orders were passed by this Court requiring the Executive to implement 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 approach towards them. The welfare of the silent majority of the citizens of Delhi has been put on hold. D

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 closure of these contempt proceedings and discharge the Rule. E F

R.P.

Petition is Still Pending.