

M.C. MEHTA ETC. ETC.

v.

UNION OF INDIA AND OTHERS ETC. ETC.

MAY 15, 1992

[KULDIP SINGH AND K. RAMASWAMY, JJ.]

Constitution of India, 1950:

Article 32—Environmental and air pollution—Control of—Operation of mechanical crushers—Stoppage of—Allotment of sites in the newly set-up crushing zone—Directions issued.

Writ Petitions were filed before this Court, challenging the action of the owners/proprietors of the stone-crushers whereby stone-dust and smoke was allowed to pass into the air, and due to pollution, lives of the people living in some parts of South Delhi, especially rural, and workers, their families living at the site as well as people living in the villages bordering Haryana were suffering from different diseases and their lives were in danger, and praying for issue of writ of mandamus and directions to the respondents and authorities concerned to take steps to stop pollution, and provide necessary medical facilities to the affected persons.

Giving directions, reasons for which to be followed later, this Court,

HELD : 1. Environmental changes are the inevitable consequence of industrial development in our country, but, at the same time the quality of environment cannot be permitted to be damaged by polluting the Air, Water and Land to such an extent that it becomes a health-hazard for the residents of the area. The authorities concerned in the Union Territories of Delhi have been wholly re-miss in the performance of their statutory duties and have failed to protect the environment and control air-pollution in the Union Territory of Delhi. Utter disregard to environment has placed Delhi in an unenviable position of being the world's third grubbier, most polluted and unhealthy city as per a study conducted by the World Health Organisation. Needless to say that every citizen has a right to fresh air and to live in pollution-free environment. [359 F-H, 360 A]

2. It is, therefore, directed that (a) the mechanical stone crushers

- A** established/operating in Lal Kuan, Anand Parbat, Rajokri, Tughlakabad and in any other area of Union territory of Delhi and also in Suraj Kund, Lakhanpur, Lakkarpur, Kattan, Gurukul, Badkhal, Pallinangla, Saraikhaja, Anangpur and Ballabgarh areas of Haryana should stop operating/functioning with effect from August 15, 1992 and no stone crusher will operate in the above said areas from August 15, 1992 onward; (b) the stone
- B** crushers in the Union territory of Delhi/Faridabad- Ballabgarh Complex which do not have valid licences from the Authorities under the Delhi Municipal Corporation Act, 1957/Faridabad Complex Administration (Regulations and Development) Act, 1971 or from any other authority which the law requires, and the stone crushers, in respect of which closure-
- C** orders/directions have been issued by the Central Pollution Control Board under Section 31A of Air (Prevention and Control of Pollution) Act, 1981 or by the Central Government under Section 5 of the Environment (Protection Act, 1956, should stop functioning/operating with immediate effect; (c) the authorities concerned should ensure compliance of these orders; and (d) the
- D** authorities concerned of the State of Haryana should demarcate, and allot the sites to the aforesaid stone crushers in the newly approved 'crushing zone' at village Pali - set up with the object of rehabilitating the existing stone-crushers who are being stopped from functioning as a result of the orders of this Court - by draw of lots or by any other fair and equitable method, and also to provide additional land in or around the "crushing zone" if there is not sufficient land in the said zone to accommodate all the stone
- E** crushers affected by this Court's orders within a period of six months. A progress report in this respect should be sent to the Registry of this Court before July 31, 1992. [360 B-C, E-H, 361 A-G]

- F** 3. Some Writ Petitions, which were filed by the owners/proprietors of stone-crushers in the Delhi High Court and which have been directed to be transferred to this Court are dismissed. [360 E]

ORIGINAL JURISDICTION : Writ Petition (C) No. 4677 of 1985.

(Under Article 32 of the Constitution of India).

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WITH

T.C.(C) No. 75-89/91 W.P.(C) No.521/87 T.P.(C) No. 245-50/91.

H

M.C. Mehta Petitioner-in-person.

Satish Chander, Hardev Singh, P.N. Duda, B.R.L. Iyengar, P.P. Rao, V.C. Mahajan, S.S. Chadha, R. Mohan, Ms. Rekha Pandey, K.B. Rohtagi, S.K. Dhingra, Shashank Shekhar, Vishnu Mathur, Vijay Pandita, Randhir Jain, N.S. Bisht, Ms. Seema Midha, K.R.R. Pillai, R.S. Suri, R.B. Misra, C.V. Subba Rao, Kailash Vasdev, V.B. Saharya, Ranjit Kumar, R.Sridharan, Ms. Indu Malhotra, P.K. Jain, I.S. Goyal, Dr. A.M. Singhvi, R. Sasiprabhu, Ms. Anil Katiyar and B.Y. Kulkarni for the appearing parties.

The following Order of the Court was delivered:

We reserved judgment in these matters on April 24, 1992. We heard learned counsel for the parties at considerable length for several days. We have been taken through the provisions of Delhi Development Act 1957, Master Plan for Delhi published in the Gazette of India dated August 1, 1990, Delhi Development Authority (Zoning) Regulations, 1983, Delhi Municipal Corporation Act 1957, Faridabad Complex Administration (Regulations and Development) Act, 1971, The Development Plan for the Faridabad-Ballabgarh Controlled Areas published in the Haryana Government Gazette dated December 17, 1991, Air (Prevention and Control of Pollution) Act 1981, The Environment (Protection Act) 1986, National Health Policy, 1985, Ancient Monuments Act, 1958, National Capital Region Planning Board Act, 1985 and various other documents including reports of the Experts on Air pollution and environments. The parties have submitted detailed written arguments which we have taken into consideration. We have given our thoughtful consideration to the various arguments advanced by the learned counsel for the parties.

We are conscious that environmental changes are the inevitable consequence of industrial development in our country, but at the same time the quality of environment cannot be permitted to be damaged by polluting the Air, Water and Land to such an extent that it becomes a health-hazard for the residents of the area. We are constrained to record that Delhi Development Authority, Municipal Corporation of Delhi, Central Pollution Control Board and Delhi Pollution Control Committee have been wholly re-miss in the performance of their statutory duties and have failed to protect the environments and control air-pollution in the Union Territory of Delhi. Utter disregard to environment has placed Delhi in an unenviable position of being the world's third grubbier, most polluted and unhealthy city as per a study conducted by the World Health Organisation. Needless

A to say that every citizen has a right to fresh air and to live in pollution-free environments.

For the reasons to be recorded and pronounced at a later stage we order and direct as under:-

- B (1) The mechanical stone crushers established/operating in Lal Kuan, Anand Parbat, Rajokri, Tughlakabad and in any other area of Union territory of Delhi shall stop operating/functioning with effect from August 15, 1992. No stone crusher shall operate in the Union territory of Delhi from August 15, 1992 onward.
- C (2) The mechanical stone crushers established/operating in Suraj Kund, Lakhampur, Lakkarpur, Kattan, Gurukul, Badkhal, Pallinangla, Saraikhaja, Anangpur and Ballabgarh areas of Haryana shall stop operating/functioning with effect from August 15, 1992. No stone crusher shall operate in the above said area form August 15, 1992 onward.
- D (3) The writ petitions filed by the owners/proprietors of stone crushers in Delhi High Court which have been transferred to this Court shall stand dismissed with no order as to costs.
- E (4) The stone crushers in the Union territory of Delhi/Faridabad-Ballabgarh Complex which do not have valid licences from the Authorities under the Delhi Municipal Corporation Act 1957/Faridabad Complex Administration (Regulations and Development) Act 1971 or from any other authority which the law requires, shall stop functioning and operating with immediate effect.
- F (5) The stone crushers, in respect of which closure-orders/directions have been issued by the Central Pollution Control Board under Section 31A of Air (Prevention and Control of Pollution) Act, 1981 or by the Central Government under Section 5 of the Environment (Protection) Act 1956, shall stop functioning/operation with immediate effect.
- G (6) The Delhi Development Authority through its Vice Chairman and Commissioner (Planning), the Delhi Municipal Cor-
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poration through its Commissioner, Faridabad Complex Administration through its Chief Administrator, Director Town and Country Planning Department, Haryana, Deputy Commissioner, Faridabad, Haryana Urban Development Authority through its Commissioner/Chief Executive, Central Pollution Control Board through its Member Secretary, Central Government under the Environment (Protection Act) 1986 and the Commissioner Police Delhi are directed to ensure the compliance of our above orders.

(7) The officers of the Town and Country Planning Department, Government of Haryana, who were present in Court, informed us that a new "crushing zone" has been approved at village Pali and the lay out Plan has been prepared and is in the process of demarcation by the Haryana Urban Development Authority. The said "crushing zone" has been set up with the object of rehabilitating the existing stone crushers who are being stopped from functioning as a result of our orders. We, therefore, direct the State of Haryana through the Director, Town and Country Planning Department, Haryana, Chandigarh, the Chief Administrator, Faridabad Complex Administration, the Deputy Commissioner, Faridabad and the Haryana Urban Development Authority to demarcate, and allot the sites to the stone crushers mentioned in paras 1,2,4 and 5 above by draw of lots or by any other fair and equitable method. We further direct these authorities to provide additional land in or around the "crushing zone" if there is not sufficient land in the said zone to accommodate all the stone crushers affected by our orders. This exercise shall be completed and plots offered to the stone crushers within a period of six months from today. The Director, Town and Country Planning Department, Haryana, Chandigarh is further directed to send a progress report to the Registry of this Court before July 31, 1992 in this respect.

(8) We make it clear that our orders contained in paras 1,2,4 and 5 above are in absolute terms and are not dependent or consequential to our directions in para 7 above.

A We are not finally disposing of the writ petition at this stage and we keep it pending for the purposes of monitoring the above directions. To be listed on August 5, 1992.

The copies of this order be sent to all the Authorities mentioned in paras 6 and 7 above within two days.

N.P.V.

Reasons to follow.