

SUPREME COURT OF INDIA

Almitra H. Patel

Vs.

Union of India (UOI)

Writ Petition (C) No. 888 of 1996

(B.N.Kirpal and S.S.M.Quadri JJ.)

24.08.2000

ORDER

B.N. KIRPAL AND SYED SHAH MOHAMMED QUADRI, JJ.

1. There are two aspects which came up for consideration at this stage. One is dealing with the solid waste and the second is clearance of slums. The two are inter-related inasmuch as, as have been pointed by the Additional Solicitor General at an earlier point of time, and that is also borne out from the report of the C.P.C.B., the slums are generating lot of untreated solid waste and adding to the pollution.

2. As far as the treatment of solid waste is concerned, the affidavit on behalf of Bangalore City Corporation has been filed indicating therein the various recommendations contained in the Barman Committee Report and the response of the Commissioner, Bangalore City in respect thereof. With regard to the recommendation concerning the separation of the re-cycle able waste/non-biodegradable waste as well as domestic hazardous waste at source, the affidavit states that the Corporation has launched a scheme known as "Swachha Bangalore-Phase I". We are informed by the learned Counsel that about 60 health wards in the city have come under this scheme. The scheme envisages door to door collection of domestic waste by municipal workmen who are known here as Safai Karamcharis. We are further informed that in respect of another area, because there are no sufficient number of such workers available, the scheme of "Swachha Bangalore" is being worked by hiring private hands. Mr. Javali states that at the end of the day the cost of collection of one tonne of garbage through municipal employees comes to about Rs. 995/- per tonne per annum whereas through private hands comes to about Rs. 668/-. It, therefore, means that 50 per cent more expense is being incurred in collection of garbage through municipal employees. Mr. Javali submits that in view of this the Corporation is taking steps to see that there is no legal impediment in their way in entrusting the task of cleaning, scavenging and collection of waste through private contractors. A decision in this respect is for the Government to take and it is not for the Court to direct.

3. It appears to us that if a scheme like "Swachha Bangalore" can be successfully launched with satisfactory results in the metropolitan town of Bangalore, that can be and should be a role-model for other cities, especially Delhi. There is unfortunately no positive response or suggestion or innovative step taken in Delhi except to a large extent by the N.D.M.C. The response of the M.C.D. leaves much to be desired and the M.C.D. should consider and take benefit from the successful experiment of Bangalore and Calcutta. There is no reason why the large army of safai karamcharis

of Delhi cannot be deputed to do door-to-door collection of garbage at least in the D.D.A. and other Government colonies to begin with. Mr. Maheshwari has submitted that this effort was tried in 1996 but it was unsuccessful. As to why it was not successful is not indicated and why it cannot be successful is not known. A similar effort of door-to-door collection should also start in the slum areas of Delhi as soon as possible in an effort to clean the same. An affidavit should be filed by the Delhi Municipal Corporation dealing with each one of the recommendations of the Barman Committee Report.

4. As we understand it, the door-to-door collection is not only mechanical but is also the responsibility of the Collectors to educate the people how to segregate the waste and to put it in different containers.

5. The N.D.M.C. in its affidavit has stated that efforts are being made to improve the sanitation and solid waste management in Delhi. The N.D.M.C. is stated to be over staffed spending 35 per cent of its revenue on pay, allowances etc. as against the world city standards of only 15 to 20 per cent. The high rate of absenteeism is stated to have been reduced amongst safai karamcharis from 30 percent to 15 per cent and it intends to reduce the same to a minimum of 10 per cent. The N.D.M.C. has stated that they should be permitted to challan the community like Residents' Welfare Association and Market Association as a group when it is not known as to from where waste has originated. How the waste is to be cleaned and who is to be identified and challaned, is for the N.D.M.C. to consider. It may do so in accordance with law.

6. As far as slum clearance is concerned, Mr. Raval, the learned Additional Solicitor General, has drawn our attention to Sections 3, 4 and 10 of the Slum Areas (Improvement and Clearance) Act, 1956 which shows that it is one of the functions of the Authority under the Act to take measures for slum improvement. He has stated that he will file an affidavit explaining as to how 700 J.J. clusters are on D.D.A. land. Prima facie it appears that vacant land lying in Delhi is an open invitation to encroachers notwithstanding the land having been acquired by Government Authorities, Delhi Administration and D.D.A. a number of years ago. The land has not been put to use as per the development plans of the D.D.A. Affidavit be filed by the D.D.A. giving explanation in respect thereto and where the land is available with the D.D.A. and the other authorities which is lying vacant it should be put to use in accordance with the provisions of the Master plan and the Development Plan within six months from today. If it is not possible to do so, the D.D.A. will give reason in respect thereto also indicating as to when the land, which is not being utilised so far, had been acquired. The M.C.D. which has filed Annexure-I to its affidavit at page 227, should indicate as to which are the agencies under the head "others" where 153 JJ clusters are stated to be stationed. Affidavits be filed within four weeks.

I.A. No.../2000 (Filed in Court on behalf of Government of N.C.T. of Delhi)

7. Taken on Board. This is an application for clarification with regard to order reported as: [2000]1SCR841 where in paragraph 9 at page 351, we have directed Government of National Capital Territory of Delhi to appoint Executive Magistrates under Section 20 and/or 21 of the CrPC. The learned Counsel states that it would be more effective if appointment of Municipal Magistrates under Section 18 is made. We clarify that our order does not preclude the appointment of Municipal Magistrates under Section 18 of the CrPC, if the Government feels that they will suffice the appointment of such Magistrates under Sections 20 and 21 of the CrPC need not then be made. The application stands disposed of.

8. Mr. Gopal Jain states that the petitioner will file a detailed Action Plan dealing with the future prevention of establishment of slums and unauthorised colonies.

9. Intervention application is dismissed.

10. To come up, with regard to the solid waste disposal in respect of Calcutta, Chennai and Mumbai, after two weeks.