

SUPREME COURT OF INDIA

M.C. Mehta

Vs.

Union of India (Re Shifting Of Industries From Residential Area Of Delhi, New Delhi)

(B.N. Kirpal and Ruma Pal JJ.)

30.08.2000

ORDER

1. Nobody is present on behalf of M.C.D.
2. By an order dated April, 1996, this Court had directed an exercise to be carried out in order to ascertain which of the industries which were operating in residential areas were entitled to continue therein as per the terms of the Master Plan. A Committee was required to investigate in the matter and was to give its consent as to which of the said industries could continue to operate on the M.C.D. and the D.P.C.C. issuing necessary licences and consent in accordance with law. The said order further directed that no non-conforming industry shall be permitted to carry on its activity after 31st of December, 1996. The order clearly stipulated that all those industries which have not obtained necessary permission from the Committee shall stop operating in the residential area with effect from 1st January, 1997.
3. The Committee did undertake this exercise. As per the order dated 24th October, 1996, 43,045 applications were scrutinised by the Committee and 39,166 applicants were found not to qualify for grant of necessary permission to operate in the residential areas of Delhi. These industries, therefore, had to be re-located. The Court took notice of the fact that despite its earlier order of April, 1996, no steps had been taken by the N.C.T. of Delhi towards re-location of such industries. The Court was informed that steps were being taken for acquisition of land for re-location of industries. This exercise is stated to have continued and as per the order dated 3rd December, 1996 the Court at that time appeared to be satisfied with the progress made by the Government of N.C.T. of Delhi. This was apparently on the basis that the Court was informed that large tracts (102 acres and 1300 acres) of land were being acquired and in fact Rupees One hundred Crore had been released for this purpose. In order dated 18th December, 1996 the Court was informed that possession of 1300 acres of the land notified under the Land Acquisition Act shall be taken over by the Delhi Administration. Applications for allotment of plots/flats were being issued. Being of the opinion that the Government was now taking the matter seriously, this Court left the implementation of the orders to the N.C.T. of Delhi with the requirement that progress report would be filed every three months in this Court.
4. Progress reports were filed and on 21st September, 1998 an order was passed by this Court wherein it was noticed that out of 51,851 applications for allotment for relocating industries 32,679 had been found to be eligible. The matter then came up before the Court after nearly one year and on 8th September, 1999 this Court took note of the fact that despite orders having been passed by

this Court since 1996, the progress reports which had been filed indicated that the industries were continuing to operate in the residential zones even though they had been found to be hazardous for human health. The Court then directed that the entire process of re-location of these industries situated in the residential areas should be completed by 31st December, 1999 failing which the Court will be compelled to issue directions for closing down all these industries which were now operating in the residential areas. The Court further directed that if the industries in the residential areas could not be re-shifted and re-located for any reason, whatsoever, by 31st December, 1999 then those industries shall be closed down.

5. Rather than complying with the various orders which have been passed by this Court till now, the Government of N.C.T. of Delhi has filed I.A. No. 1206 inter-alia requiring this Court to modify the order dated 8th September, 1999 and wanting time up to March 2004 for shifting of the industries. It is also prayed in the application that the industrial units functioning in the residential areas where the concentration of industry is 70 percent they should be permitted to continue to operate.

6. We are distressed to note the inaction of the Governmental authorities in implementing the orders passed by this Court. When in 1996, there was constant monitoring by this Court some progress was being made for the re-location of the non-conforming industries. When in December, 1996, thinking that the Government was responsible enough to implement the directions of this Court, the matter was left with the Government, the authorities became lax again. It appears that as of today, not a single direction issued by this Court has been implemented since the first order dated April, 1996. To those industries which were permitted to work in the residential areas as per the Master Plan and were required to be issued licences thereby regularising their industries, no licence has been issued so far though more than four years have elapsed. According to the application of the Government over one lakh industrial units are carrying on their activities in the residential areas without they being permitted to do so by the Master Plan. Notwithstanding earlier orders which were passed and order dated 8th September, 1999, in particular, none of these industries have been shifted nor closed down. Not a single directions issued by this Court has been complied with.

7. The Master Plan is formulated by the Government. It provides the manner in which the land is to be used. The Government is entitled to stop the mis-user if it so desires. By order dated 8th September, 1999 specific direction in this regard was issued. What appears to be happening is that a law is promulgated in the form of a Master Plan, the authorities concerned know about the infringement of the law and yet it chooses not to take any action in respect thereof. The effect of this is that the infringement of the law continues. If the law which has been promulgated is such that it cannot be implemented then the logical solution would be to amend the same. It appears to us that the authorities concerned do not appear to be serious in seeing that anything is regularised or carried out in a regular manner or in accordance with law. Neither is the law implemented nor enforced nor changed. The continued infraction of the law appears to be encouraged and this has given rise to vested interests who appear to be so powerful as to see that even the orders of this Court are not implemented.

8. Mr. Rohtagi, appearing for the N.C.T. of Delhi submits that it is the DDA which is the authority concerned with regard to implementation and enforcement of the Master Plan. He submits that the Delhi Administration had written to the DDA for changes being brought about in the Master Plan so as to permit some more innocuous industries to be allowed to work in the residential areas. Despite a letter having been written more than a year ago in this regard, the Master Plan has not so far been amended. It is evident that this is case of "passing the buck" with no one assuming responsibility for

implementation of the orders or for enforcement of law. The state of lawlessness continues with impunity with complete disregard to the interest of overwhelming majority of residents who have to tolerate such illegal industries in their midst.

9. We direct a notice to issue to the Ministry of Urban Development through its Secretary; Vice Chairman, DDA; Commissioner, M.C.D. and Chief Secretary, N.C.T. of Delhi to show cause why appropriate orders be not passed by this Court in directing compliance of the earlier orders including the order dated 8th September, 1999 and they should also show cause why action should not be taken for non-compliance of the order so far. Notice to issue also to the Attorney General to assist the Court in this matter. Notice returnable after one week. Notice to be served through the Registry by Special Messenger on the offices concerned.