

SUPREME COURT OF INDIA

Rajendra Kumar

Vs.

M.C.D.

(M.J. Rao and R.C. Lahoti JJ.)

01.12.2000

ORDER

1. this Court will not entertain any SLPs, writ petitions, IAs or contempt petitions pertaining to the hawkers' cases unless the same are first served upon Mr. Shiv Kumar, learned Counsel for M.C.D. Mr. Shiv Kumar will present the same in open court and it is only after hearing, the same shall be registered by the Registry.

IAs Nos. 336, 284, 340-48 in WP (C) No. 1699 of 1987 and Contempt Petition (C) No. 398 of 1998 in IAs Nos. 245-46 in WP (C) No. 1699 of 1987

2. On 4.8.2000 this Court directed the Government of NCT of Delhi to look into the question whether it is still necessary to prohibit tehbazari in Blocks 'D' and 'J' near the bomb site, shown in the plan filed along with IAs Nos. 340-48 etc. Unfortunately, no decision was taken after 4.8.2000, therefore we passed a further order on 28.11.2000 that the Government of NCT of Delhi should look into the matter and inform the Court whether Blocks 'D' and 'J' could be declared as squatting areas in view of the fact that certain other areas close to the place where bomb blast had taken place are being used for squatting purposes.

3. An affidavit has now been filed by Dr. B.S. Banerjee, working as Additional Secretary in the Department of Urban Development, Government of NCT of Delhi wherein after referring to the earlier decision of the Lt. Governor of Delhi dated 13.11.1996 it is stated in para 5 as follows:

5. That the action of M.C.D. in permitting tehbazari in sites closer to the bomb blast site even while excluding Blocks 'D' and 'J' is not sustainable and the Lieutenant Governor is of the view that it would be appropriate to permit tehbazari only on sites or squatting zones properly selected in accordance with the directions of the Hon'ble Supreme Court in its order dated 1.5.1997 in the matter of Gainda Ram v. M.C.D. 1998 (1) SCC 98 and not permitting this in any non-squatting zones.

4. If it is the policy decision of the Government of NCT of Delhi to maintain the earlier prohibitory orders dated 13.11.1996 of the Lt. Governor to clear all roads, lanes and by lanes of all encroachments in that area and now a further decision has also been taken that ought not to have permitted tehbazari in some pockets closer to the bomb blast site, then there is no question of excluding Blocks 'D' and 'J' from the purview of prohibition contained in the earlier orders of the Lt. Governor. Not only will Blocks 'D' and 'J' be treated as non-squatting areas but the areas which are

shown in the same plan closer to the bomb blast site, where M.C.D. has permitted tehbazari will now be treated as non-squatting areas and all those who are occupying those areas will be removed from that area and provided tehbazari sites for squatting in accordance with their seniority, elsewhere. Before the aforesaid persons who are in occupation of the other areas near the bomb blast site are asked to vacate, M.C.D. is directed to give them reasonable time to vacate. The reasonable time shall be a period of 3 months from today. No objection will be entertained from those persons for squatting in view of the earlier order passed by the Lt. Governor and the policy of the Government of NCT of Delhi which has been reiterated and now accepted by this Court. It is expected that M.C.D. will be able to allocate other particular places for these persons in squatting areas as per their seniority i.e. non-prohibited areas, within the aforesaid period of 3 months.

5. The applicants also will be allowed to continue for three months till an alternative temporary or final arrangement is made. While asking these eligible squatters from vacating the prohibited areas near the bomb blast site, the eviction will start with the juniormost.

6. All these IAs stand disposed of.

7. Contempt Petition (C) No. 398 of 1998 in IAs Nos. 245-46 is also disposed of. IAs Nos. 349-50

8. Pursuant to the orders passed on 28.11.2000 the officer concerned of M.C.D. has examined the reconstructed files of these applicants on the basis of the documents produced by them and the file has now been submitted to the Committee which is competent to fix up the seniority on examination of these documents. The Committee in the Central Zone is hereby directed to give hearing to the petitioner- applicants and decide the question relating to their seniority. Till the final allotment is made, these applicants may continue to squat at the places where they are presently squatting, provided that the same are not non-squatting areas. The IAs stand disposed of. IA No. 351

9. This application is adjourned to await the report of M.C.D. as directed in the order of this Court dated 28.11.2000. However, we are making it clear that if M.C.D. has fixed up the seniority, no further arguments will be allowed.