

SUPREME COURT OF INDIA

Union of India

Vs.

State of Gujarat & Ors.

29.09.2009

(Dalveer Bhandari and Mukundakam Sharma, JJ.,)

SLP.(Civil) No(s).8519/2006

ORDER

1. On 25th March, 2008, this Court took note of a newspaper item published in Times of India, Ahmedabad Edition, and passed the following order:

"Taking note of the fact in a news item published in 'The Times of India', Ahmedabad Edition, dated May 2, 2006 to the effect that 1200 temples and 260 Islamic shrines had encroached on public space, the High Court of Gujarat at Ahmedabad, while taking suo motu action, issued notice to the fourteen persons/authorities who were arrayed as respondents. While doing so, the High Court gave the following interim direction: Meanwhile, all the respondents are directed to take immediate steps for removal of encroachment of religious structures on the public space without any discrimination and submit their reports.' Mr. Gopal Subramaniam, learned ASG appearing for the Union of India contends that this interim direction is in the nature of final direction which could be issued only after hearing the respondents and no such direction could be issued at a preliminary stage without hearing the respondents.

This Court, while issuing notice on the special leave petition on 04th May, 2006 had stayed the operation of the impugned order. Learned ASG states that the Central Government after convening a meeting of all the concerned Secretaries of the respective States would try to take a consensual decision to deal with the problems such as in the present case all over the country and seeks time for this purpose."

2. The matter again came up before this Court on 31.7.2009 when this Court passed the following order:

"Mr. Gopal Subramaniam, learned Solicitor General appearing for the Union of India submits that the entire matter is being carefully scrutinized at the highest level and a consensus is being built up among all the States.

Learned Solicitor General would also take instructions and file an affidavit that henceforth no church, mosque or gurdwara etc. shall be permitted on the public street/public space. Let this affidavit be filed by a senior officer, preferably a Secretary to the Government of India within eight weeks."

3. Learned Solicitor General has brought to our notice a letter dated 19 September, 2009/23 September, 2009 of the Home Secretary, addressed to the learned Solicitor General of India. The relevant portion of the letter reads as under:

"I had taken a meeting with the Chief Secretaries of the States on 17.09.2009 with a view to evolve consensus on the problem of encroachment of public spaces by religious structures. I am glad to report that after the meeting, the following consensus emerged:-

(i) No unauthorized construction of any religious institution namely, temple, church, mosque or gurudwara, etc. shall be permitted on public street/public space.

(ii) In respect of unauthorized constructions of any religious nature which has taken place in the past, the State Governments would review the same on a case by case basis and take appropriate steps. This will be done as expeditiously as possible."

4. We have heard the learned counsel for the parties. Looking to the far-reaching implications and consequences of the orders of this Court, on the oral request of the learned Solicitor General of India, we deem it appropriate to implead all the States and the Union Territories as respondents to this petition. The Registry is directed to issue notices to all the States and the Union Territories within three days. The Union of India is directed to supply the entire set of papers to all the Standing Counsel appearing for the State Governments and the Union Territories.

5. The States and the Union Territories may file replies within four weeks and the Union of India is granted liberty to file rejoinder within two weeks thereafter. As an interim measure, we direct that henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places etc. In respect of the unauthorized construction of religious nature which has already taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible.

6. In order to ensure compliance of our directions, we direct all the District Collectors and Magistrates/Deputy Commissioners in charge of the Districts to ensure that there is total compliance of the order passed by us. They are directed to submit a report within four weeks to the concerned Chief Secretaries or the Administrators of the Union Territories who in turn will send a report to this Court within eight weeks from today. List this matter for further directions on 7th December, 2009.

