

SUPREME COURT OF INDIA

M.C.Mehta

Vs.

Union of India

WP(Civil)No.4677 of 1985

(Madan B.Lokur and Navin Sinha,JJ.,)

24.05.2018

ORDER

Madan B.Lokur,J.,

1. On 18th May, 2018 the learned Attorney General made an oral request for modification of the order passed on 15th May, 2018 particularly the following paragraph:-

“As far as the amendment of the Master Plan is concerned, we partially modify our order dated 6th March, 2018. It is submitted, on an interpretation of Section 11A of the Delhi Development Act, 1957, which has been read over to us by the learned Attorney General, that objections to the proposed amendments to the Master Plan for Delhi will be meaningfully considered and amendments notified by the Central Government only after giving a notice period of 15 days for submitting objections. In other words, the Central Government will first invite objections from the people which can be submitted within 15 days of the notification inviting objections. After that period of 15 days is over, the Central Government will meaningfully consider and address the objections and make necessary modification, as deemed appropriate. The amendments may then be notified. The final decision of the Central Government should be taken keeping the interest of the people of Delhi and future generations in mind as well as the statutory requirements. The final decision should be placed on record.”

2. Even though the request was rather unusual, in the sense that no application had been moved, we nevertheless heard the learned Attorney General and reserved orders.

3. The Delhi Development Authority (DDA) proposes to amend the Master Plan for Delhi. Section 11A of the Delhi Development Act, 1957 provides for such an eventuality.

4. One of the procedural requirements for modification of the Master Plan is provided for in the Delhi Development (Master Plan and Zonal Development Plan) Rules 1959 (for short ‘the Rules’).

Rule 5 provides as follows:

“5. Public notice regarding preparation of Master Plan:

(1) As soon as may be after the draft master plan has been prepared, the Authority shall publish a public notice stating that:

(a) The draft master plan has been prepared and may be inspected by any person at such time and place as may be specified in the notice;

(b) Suggestions and objections in writing, if any, in respect of the draft master plan may be filed by any person with the Secretary of the Authority within 90 days from the date of first publication of the notice.

(2) This notice may be in Form ‘A’ appended to these Rules without modifications or with such modification as may be necessary.”

Rule 7 of the Rules is also of some importance and this provides as follows:

“7. Notice to and representation from local authorities:

The Authority shall cause the said notice referred to in Rule 6 to be sent to every local authority within whose limits any land touched by the plan is situate, and such local authority may, within a period of 45 days from the date of the notice, make any representation with respect to the plan to the Authority.”

5. For reasons that are not very clear, the Ministry of Housing and Urban Affairs issued a notification on 31st January, 2018 reducing the period for inviting suggestions and objections by any person from a period of 90 days to a period of 3 days. This was achieved by inserting a proviso in Clause (b) of Rule 5 of the Rules which reads as follows:

“Provided that where the Central Government considers it expedient so to do for the purpose of maintenance of public order or in case of any exigency likely to effect the interest of the public, it may require such suggestions and objections to be filed within a period of 3 days from the date of the notice.”

6. Similarly, the period of 45 days for local authorities to raise objections was curtailed to a period of 3 days under the circumstances mentioned in the proviso to Clause (b) of Rule 5 of the Rules.

7. On the above basis, public notices were issued on 3rd February, 2018 inviting objections and suggestions from the public. It appears that 3 days were not enough for inviting objections and suggestions. From the list of the dates and events submitted by the learned

Attorney General, the time for filing objections/suggestions was extended for another 2 days that is 6th and 7th February, 2018 pursuant to public demand.

8. It appears that the response given by the public was overwhelming and as many as 741 objections/suggestions were received.

9. It is submitted by the learned Attorney General that these objections were considered and a hearing given to the objectors on 9th, 10th and 12th February, 2018 when the objections and suggestions were considered. A hearing given to as many as 210 persons by the Board of Enquiry. Thereafter, the Board of Enquiry made a recommendation on or about 26th/27th February, 2018 for specific modifications in the proposals. These were approved by the Authority on 27th February, 2018 and the proposals as approved were forwarded by the Authority to the Ministry of Housing and Urban Affairs of the Government of India for approval and final notification under Section 11A of the Delhi Development Act, 1957.

10. On 6th March, 2018 this Court passed an interim order staying further progress in the amendments to the Master Plan.

11. Thereafter, the Delhi Development Authority moved an application for vacating the interim order and it was in that context that the order on 15th May, 2018 was passed, of which the learned Attorney General seeks a modification.

12. It was put to the learned Attorney General to point out the public order situation which necessitated the amendment to the Rules and curtailing the period of 90 days for filing objections by the public to 3 days. Apart from submitting that there were riots in Delhi, nothing further was stated and not a single instance of any riot in any part of Delhi was pointed out to us nor any FIR placed before us. We were also not told of any exigency that could affect the interest of the public which necessitated curtailing the period of 90 days for filing objections by the public to only 3 days.

13. On the other hand, the overwhelming number of objections and suggestions given over a limited period indicates the concern of the public in Delhi which is vitally interested in the proposed amendments. Therefore, realising the importance of giving an adequate opportunity to the public to raise objections which would have a vital impact on the Master Plan for Delhi, the future of Delhi and the future generations in Delhi, the order dated 6th March, 2018 was modified, thereby requiring the Central Government to provide 15 days time to the public for giving its objections and suggestions as against 90 days earlier provided. No objection was rightly raised to this by the learned Attorney General on 15th May, 2018 considering the concern and interest of the public in Delhi and the future generations. It is under these circumstances, that the order dated 15th May, 2018 was passed.

14. We may mention that it has been recorded that Delhi is being ravaged by unauthorised encroachments and illegal constructions with impunity and none of the civic authorities including the Delhi Development Authority was sincerely carrying out its statutory duties. It is painful to require the issuance of directions to statutory authorities to carry out their

mandatory functions in accordance with the law enacted by Parliament. Unfortunately, the situation in Delhi warranted such a direction due to the apathy of the civic authorities.

15. Again unfortunately, instead of taking the people of Delhi into confidence with regard to amendments to the Master Plan, a bogey of public order and rioting has been sought to be communicated to us as if the law and order situation in Delhi was getting out of control. We are at a loss to understand the hyper-reaction and how changes in the Master Plan are sought to be brought about without any meaningful public participation with perhaps an intent to satisfy some lobbies and curtailing a period of 90 days to just 3 days on some unfounded basis. It must be appreciated that the people of Delhi come first.

16. It is for the purpose of taking the public in Delhi into confidence and working for their benefit that an opportunity was granted to make suggestions and raise objections to the proposed amendments to the Master Plan and which were not objected to by the learned Attorney General on 15th May, 2018 keeping in view the spirit behind the invitation to object and make suggestions and curtailment of the normal statutory period.

17. In view of the above, the oral request of the learned Attorney General to modify the order dated 15th May, 2018 is rejected. The Central Government should expeditiously implement the order dated 15th May, 2018 in letter and spirit keeping the interest of the public of Delhi in mind.