

Court No. - 37

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 31229 of 2005

Petitioner :- Kautilya Society Thru' General Secy. & Another

Respondent :- State Of U.P. Thru' Principal Secy. & Others

Petitioner Counsel :- Neeraj Tiwari, Neera Tiwari, Sandeep Chaturvedi, Suneet Kumar, Suneet Tewari, U.N.Sharma, Virendra (In Person), Vrinda Dar

Respondent Counsel :- C.S.C., A.N.Tewari, Ajay Kumar Singh, Ajit Kumar Singh, S.M.A. Kazmi

Hon'ble Ashok Bhushan, J.

Hon'ble Arun Tandon, J.

Heard Mrs. Vrinda Dar, petitioner No.2, appearing in person, Mr. Ajit Kumar Singh, learned counsel appearing for the Varanasi Development Authority and the learned Standing Counsel. Mr. B.D. Mandhyan, Senior Advocate, assisted by Mr. A.K. Singh has appeared for respondents No.5 to 8.

The petitioner No.2 has submitted that in spite of several orders passed by this Court large number of constructions, which have already been directed to be demolished, have not yet been demolished and the Varanasi Development Authority and its officials are not serious in taking action against the unauthorised constructions on the banks of river Ganga at Varanasi. It is submitted that the Ghats, which are on the bank of city side of the river, have large number of such constructions. It is pointed out that a Division Bench of this Court while hearing this petition earlier on 24th February, 2011 has noticed the details of the scheme which was proposed by the Varanasi Development Authority itself mentioning the details of cases of different wards. Subsequently, the Division Bench has also appointed a Commissioner to submit a detail report after personally inspecting the site and the Varanasi Development Authority was also directed to file an affidavit. A report dated 21st March, 2011 has been submitted by Mr. C.B.

Srivastava, Former District Judge, after visiting various sites. In the report itself the Commissioner appointed by the Court has stated that several unauthorised constructions have been demolished but some unauthorised constructions have not been demolished/fully demolished and reference has been made of some cases where stay orders have been granted either by the Civil Court or Commissioner's Court. The difficulties of certain locals regarding repairs have also been pointed out who are residing within 200 metres of banks of river Ganga.

The petitioner No.2 has further submitted that on other sides of river Ganga certain unauthorised constructions are coming up which shall affect the river adversely.

On a query put to learned counsel for the Varanasi Development Authority as to whether there is any restriction regarding construction on the banks of river Ganga, learned counsel prays for time to look into the relevant Government orders and master plan in this regard.

While hearing, Public Interest Litigation (PIL) No. - 4003 of 2006, Re: Ganga Pollution, a Division Bench of this Court has already put a restriction on making construction within 500 metres from highest flood level at Allahabad. The construction on the banks of river Ganga are rapidly increasing threatening very existence of the river and causing unabated pollution. Both banks of river Ganga are flooded with construction due to which the river is being eroded. We are of the considered opinion that there should be immediate restriction on construction at both the banks of river Ganga at varanasi. There shall be no construction within the 200 metres area from the highest flood level at both the banks of river

Ganga at Varanasi. The Varanasi Development Authority and the district administration of Varanasi shall ensure that no construction is made and appropriate notice and boards be placed at the banks of river Ganga in this regard for the notice of public in general.

The report, which has been submitted by the Commissioner appointed by this Court, is also being objected by filing written objection by petitioner No.2. Before we consider the objection on the report, we are of the view that at least the unauthorised constructions which have already been identified and are not removed should be first removed and a compliance report in this regard be filed by the Varanasi Development Authority before the Court. In those cases where appeals are pending before the Commissioner, who is Chairman of the Varanasi Development Authority, the same shall be disposed of expeditiously preferably within a period of two months from the date a copy of this order is produced. The Varanasi Development Authority shall bring into the notice of the Commissioner this order and make a request for disposal of the appeal at an early date so that appropriate action is taken by the Varanasi Development Authority. Sri Ajit Kumar Singh, learned counsel for the Varanasi Development Authority shall file a detail affidavit regarding demolition of construction with regard to whom order of demolition has already been passed and the difficulty, if any, be also brought before the Court. We make it clear that in those cases where there is no stay order by any Court, the Varanasi Development Authority shall ensure demolition of the construction and file compliance report by the next date.

List this case on 24th September, 2012 at 2.00 P.M.

As directed above, the Varanasi Development Authority shall

ensure that no further constructions within 200 metres from the highest flood level at banks of river Ganga at Varanasi is made and file a compliance report by the next date fixed.

Order Date :- 27.7.2012

Rakesh