

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

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

Counsel for Respondent :- C.S.C., A.N. Tewari, Ajay Kumar Singh, Ajit Kumar Singh, C.K. Parekh, Q.H. Siddiqui, Raunak Parekh, S.M.A. Kazmi, Vivek Varma

Hon'ble Ashok Bhushan, J.

Hon'ble Arun Tandon, J.

An application has been filed by Sri Rakesh Pandey, Advocate on behalf of Project Manager, Construction and Design Services Unit-24, U.P. Jal Nigam, Varanasi praying for modifying the order dated 27th July, 2012 permitting the applicant to execute/implement the project 'Development of area around Assi Ghat at Varanasi Uttar Pradesh' under National Ganga River Basin Authority.

It has been submitted by Sri Rakesh Pandey appearing for the applicant that sanction has been granted by order dated 29th August, 2011 by Ministry of Environment and Forests, Government of India, New Delhi for the project 'Development of area around Assi Ghat at Varanasi Uttar Pradesh'. He has submitted that applicant being implementing agency is required to carry out various constructions. Along with the affidavit filed in support of the application plan for proposed riverfront development, Assi Ghat, Varanasi has been enclosed as Annexure-1 allocating various development works. A perusal of the sanction order indicates that apart from civil work pertaining to bathing platform, promenade, jetty and solar panel shed, there are other permanent constructions. Under the orders issued by the State Government as well as this Court, permanent constructions are prohibited within 200 meters from the bank of river Ganga in the city of Varanasi.

Sri Ranjit Saxena, Advocate who has filed an application praying for prohibiting the respondents from constructing multi story toilets at various ghats in Varanasi, has submitted that permitting construction will be violative of the orders issued by this Court as well as by the State Government. It has further submitted that while sanctioning the restrictions for making permanent constructions within 200 meters of the river has not been taken into consideration.

We are of the view that providing facility for public in general on the ghats and development is a laudable project but in the name of development of the areas around Assi Ghat, no permanent construction can be permitted. We have also inquired as to whether there are appropriate measures for conveying the sewage from toilets for treating into STP and whether STP which is to be at Dinapur has capacity to treat the sewage, there are no satisfactory answer to the aforesaid queries. We are of the view that Union of India through Ministry of Environment and Forest be also impleaded as one of the parties in the writ petition so that the Court may have their stand regarding sanction of various works in the ghats.

Let Union of India through Ministry of Environment and Forest be impleaded as respondent No.9 and notice be served on the learned Additional Solicitor General of India within a week. Let Additional Solicitor General of India may apprise the Court regarding sanction of various works and as to whether the said sanction will not violate the restriction on construction within 200 meters from river Ganga.

Learned counsel appearing for the Nagar Nigam, Varanasi may also apprise the Court as to whether sewerage to be generated from the proposed toilets shall be treated by STP and STP at Dinapur has sufficient capacity to treat the said sewerage. An affidavit be filed by the Nagar Nigam, Varanasi in that regard by the next date.

The application submitted by Project Manager, Construction and Design Services Unit-24, U.P. Jal Nigam, Varanasi shall be considered on the next date.

An application has been filed on behalf of Amalendu Narayan Munsu praying for permission to the applicant to carrying on repairing in House No.B-6/122, Pitamber Pura, Kedarghat, District Varanasi.

Sri Vivek Verma, learned counsel appearing for the Varanasi Development Authority may obtain instructions and filed an affidavit by the next date regarding the steps taken for permission.

Sri C.K. Parekh, Advocate referring to the application filed on behalf of Sri Chitrapur Math Charitable Trust and Gangal Mahal, has stated that the building is in a very dilapidated condition and unless restoration is permitted huge loss shall be suffered. In this regard, the

Varanasi Development Authority has already been directed to consider the application and take appropriate decision.

Sri Vivek Verma, learned counsel for the Varanasi Development Authority submits that appropriate decision in that regard shall be taken by the next date.

A counter affidavit has been filed sworn by Vrinda Dar, the petitioner. In the counter affidavit, status update with regards to various buildings against which orders of demolition have been passed and appeal and revisions are pending has been mentioned. Further the details of buildings which have been partially demolished has been mentioned. Sri Vivek Verma learned counsel for the Varanasi Development Authority has submitted that only one appeal is pending and in several revisions hearing has been completed. Let a rejoinder affidavit to the counter affidavit filed today be filed within three weeks by the Varanasi Development Authority giving progress of the pending appeals, revisions and other matters in which demolition is in issue. The Varanasi Development Authority shall also take steps for carrying out demolition with regard to the buildings which have been partially demolished and also ensure that no unauthorised construction is coming up within 200 meters from river Ganga as has been directed earlier.

Sri Verma further submits that there are several buildings which have already been sealed but due to some difficulty, the demolition is not being carried out. Let an affidavit regarding each such sealing may be brought on the record so that Court may further consider the matter.

Sri Vivek Verma further submits that the Varanasi Development Authority has already prepared guidelines for permitting repair works in buildings at ghats of Varanasi and it has also been forwarded to the State Government by letter dated 11th July, 2013 copy of which has been filed as Annexure SCA-2 to the to the compliance affidavit dated 15th July, 2013.

List on 2nd of September, 2013 at 2.00 P.M.

Order Date :- 29.7.2013
Rakesh