

Chief Justice's Court

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, Sanjay Kumar Om, Shambhu

Chopra, Vivek Varma

Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice

Hon'ble Dilip Gupta, J.

An application has been filed on behalf of the State Government for modification of an order dated 27 July 2012 passed by the Division Bench and to permit the State Government to construct four new ghats at Varanasi namely; (i) Pandit Madan Mohan Malviya Ghat; (ii) Ram Manohar Lohia Ghat; (iii) Raj Narayan Ghat; and (iv) Ram Nagar Ghat. The application which has been filed on behalf of the State Government states that the project has been formulated after consulting an "expert body" and envisages an amount of Rs.54.88 crores. The order of the Division Bench restraining construction and building activities within a radius of 200 meters from the bank of the Ganga is thus sought to be modified.

Before we can consider the prayer which has been made on behalf of the State Government, it is necessary for the Court to be apprised of the nature of the process which was

undertaken before the project was formulated. The work of restoring the heritage character of the city of Varanasi and more particularly the banks of the Ganga cannot be looked at from the perspective of isolated proposals for carrying out development and construction in earmarked pockets but must be perceived from a holistic point of view. The work essentially involves the following aspects which have been highlighted before the Court by the learned Amicus Curiae :

- (i) identification of the historic ghats, assessment of their heritage value, determining the present condition as well as the need and extent of restoration;
- (ii) repair of old constructions along side the banks of the river and the need to monitor the nature of the work that would be permitted and implemented;
- (iii) monitoring any new construction;
- (iv) pollution of the river caused due to new constructions along side the ghats;
- (v) public utilities and services on the ghats;
- (vi) sanitation and hygiene along side the ghats;
- (vii) addressing the issue of ecological imbalance.

These issues which have been highlighted by the Amicus Curiae would also require consideration in a holistic manner without dealing with any one issue isolated from the need for overall planning.

At this stage, it appears that the Union of India is also in the process of formulating a perspective plan for the preservation

of the intrinsic character and heritage importance of Varanasi. Any proposal in that regard must also factor in the needs of millions of devotees who gather on the ghats and for whom even basic amenities are not available at present.

In our view, it would be appropriate if the Union Government also were to apprise the Court of the nature of the process which has been undertaken at present. This is not an adversarial litigation and both the State Government and the Union Government must cooperate with each other. It would be appropriate if a comprehensive analysis and plan is entrusted to a team of experts consisting of the most eminent persons drawn from diverse branches including conservation architecture, ecology, hydro-geology, civil engineering and urban planning.

At this stage we are not issuing any specific directions on the permission sought by the State Government since the material before the Court is not adequate to enable the Court to deal with the application which has been submitted on behalf of the State Government.

We, accordingly, direct both the State Government and the Jal Nigam which has filed another application to apprise the Court of the full details in regard to the nature of the work which was undertaken before the project was formulated; the likely environmental impact of the proposed work and the steps which have been conceived in order to protect the conservation both of the ghats and the flow of the river.

We request the Amicus Curiae to make available a copy of

this order to the Assistant Solicitor General of India in order to enable him to take appropriate instructions from the Union Government and to file an affidavit before the Court. The State Government shall also file an affidavit before the next date of hearing furnishing full particulars along the lines indicated above by the Court and any such further relevant information as would be of the assistance to the Court for passing a suitable order which would balance the need for protecting the environment and heritage character of the ghats with the need for providing proper amenities and infrastructure to devotees who use the ghats. These affidavits shall be filed before the Court by 17 October 2014.

We list these proceedings on 17 October 2014 with P.I.L No.59698 of 2013.

Order Date :- 11.9.2014
GS

(Dr. D.Y. Chandrachud, C.J.)

(Dilip Gupta, J.)