

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.

We have duly perused the affidavit of compliance filed by the Vice Chairperson of the Varanasi Development Authority¹, a position which was then held by the District Magistrate when the affidavit dated 9 September 2014 was filed. The second petitioner who appears in person has filed a detailed affidavit dated 31 October 2014.

Having perused the affidavit which has been filed by the District Magistrate as Vice Chairperson of the VDA, it is clear to the Court that no serious effort has been made to demolish the illegal constructions which have come up around the Ghats at Varanasi. One thing which is evident is that in most of the cases the nature of demolition action involves only puncturing of the walls. A difficulty has been expressed on behalf of VDA in carrying out the actual demolition. If the unauthorized constructions could be carried out despite the narrow access lanes of Varanasi, there is no reason or

1 VDA

justification why the Authorities of the State cannot seriously take up the issue of demolition of those structures which are unauthorized. The manner in which most of the work of demolition has been carried out appears to only allow the matter to linger. It would not be surprising if at a subsequent stage, the structures are reconstructed unlawfully by restoring the position. A strong message has to be sent across of the need to abide by the rule of law and this can only be done if the work of demolition is carried out effectively and completely.

We feel that no action is being seriously undertaken by the State on the ground as a result of which unauthorized constructions continue to proliferate. In fact, the petitioner Society, which is represented by its Secretary who has appeared in person, has filed an affidavit dated 31 October 2014 indicating the manner in which several constructions have come up brazenly in violation of law. Photographs have been annexed to the affidavit to indicate that whereas there was no construction in existence earlier, a fresh construction has been put up as recently as in 2013-14. Obviously, it is evident that this has been possible because of the complicity or indifference of the District Administration.

Since there is an abject failure on the part of the District Administration to comply with the orders of the Court, we express our serious displeasure of the manner in which enforcement action has been taken. The learned Advocate General for the State has stated that

within a period of two weeks from today, he shall convene a meeting of the Vice Chairperson of the VDA and of the District Magistrate (there being an appointment of a full time Vice Chairperson now). In the meantime, we direct that the Vice Chairperson of the VDA shall within a period of two weeks from today personally carry out a survey together with a competent team, especially of all the unauthorized constructions around the Ghats and shall submit a report to the learned Advocate General. The Vice Chairperson of the VDA shall work in close co-operation with the District Magistrate who shall be associated with the work of survey. Citizens, it appears, have eyes which see unauthorized constructions which the District Administration is blind to. In these circumstances, we also direct that the second petitioner shall be given liberty to accompany the Vice Chairperson of the VDA and the District Magistrate during the course of survey so that she can explain to the two officials the actual situation on the ground. Sri Manish Goyal, amicus curiae appointed by the Court, shall also accompany the officials during the course of survey for which the District Administration shall make adequate arrangements.

As agreed before the Court, the Vice Chairperson of the VDA and the District Magistrate shall remain present before the Court on the next date of listing to explain what action has been taken to enforce compliance of law.

The learned counsel appearing for the respondent Union of India has, however, informed that it would be necessary to implead

the Ministry of Water Resources and River Development of the Union Government as respondent no.10. We order accordingly.

The learned counsel for the Union of India has accepted notice on behalf of the newly added respondent and undertakes to file a counter affidavit by the next date of listing.

List on 8 January 2015 at 2:00 pm before this Bench.

Date:27.11.2014

SK

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

(Dilip Gupta, J.)