

ITEM NO.1

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: REPORT NOS. 87,93 and 94 SUBMITTED BY EPCA
IA NO.183738/2018- APPLN. FOR RELEASE OF FUNDS ON BEHALF OF GOVT.
OF NCT OF DELHI

IN RE: ALLOCATION OF NATURAL GAS TO M/S INDRAPRASTHA GAS LTD.

IA NO.250-251/2005-APPLN. FOR STAY ON B/O INDRAPRASTHA GAS LTD.
IA NO.266/2005- APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS
DISTRIBUTION LTD.

IA NO.346/2013-APPLN. FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.
IA NO.73432/2017-APPLN. FOR INTERIM STAY AND DIRECTIONS ON B/O
HARYANA CITY GAS DISTRIBUTION LTD.

IA NO.104664/2017-APPLN. FOR DIRECTIONS ON B/O INDRAPRASTHA LTD.
IA NO.131093/2017- APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS
DISTRIBUTION LTD.

IA NO.23814/2018-APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS
DISTRIBUTION LTD.

IA NO.72559/2018- APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS
DISTRIBUTION LTD.

IA NO.131352/2018- APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS
DISTRIBUTION LTD.

IA NO.26454/2019-APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS
DISTRIBUTION LTD.

Date : 06-03-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Adv (A.C.)
Ms. Aparajita singh, Adv (A.C.)
Mr. A.D.N. Rao, Adv (A.C.)
Mr. Siddhartha Chowdhury, Adv (A.C.)

COUNSEL FOR THE PARTIES:-

Mr. A.N.S. Nadkarni, ASG
Mr. Rajesh K. Singh, Adv.
Mr. D.L. Chidananda, Adv.

Ms. Suhasini Sen, Adv.
Mr. Raj Bahadur, Adv.
Mrs. Anil Katiyar, Adv.

Ms. Pinky Anand, ASG
Ms. Snidha Mehra, Adv.
Ms. Suhasini Sen, Adv.
Mr. Hemant Arya, Adv.

Mr. Amarendra Sharan, Sr. Adv.
Mr. Sanjeet Singh, Adv.
Ms. Divya Roy, Adv.
Mr. Surjeet Singh, Adv.
Ms. Divya Roy, Adv.

Mr. Dhruv Mehta, Sr. Adv.
Mr. Chirag M. Shroff, Adv.
Ms. Neha Sangwan, Adv.

Mr. Gopal Jain, Sr. Adv.
Mr. Saurav Agarwal, Adv.
Mr. Bimal Roy Jad, Adv.

Mr. Gopal Jain, Sr. Adv.
Mr. Saurav Agrawal, Adv.
Mr. Anshuman Choudhary, Adv.
Ms. Prashanti P., Adv.
Mr. Bimal Kumar Jad, Adv.
Mr. Rajat Kapoor, Adv.

Petitioner-in-person

Mr. Anil Grover, Adv.
Dr. Monika Gusain, Adv.

Ms. Veenta Singh, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. Mritunjay Kumar Singh, Adv.
Mr. A.K. Singh, Adv.

Mr. Ranjan Mukherjee, Adv.
Mr. S. Bhowmick, Adv.
Mr. Deniel Stone Lyngdoh, Adv.

Ms. Aishwarya Bhati, AAG
Mr. Kamalendra Mishra, Adv.
Mr. Rajeev Dubey, Adv.

Ms. Garima Prashad, Adv.
Mr. G.S. Oberoi, Adv.
Mr. Mohit Kumar Bansal, Adv.

Dr. Manish Singhvi, AAG
Mr. Satyendra Kumar, Adv.
Mr. Shailendra Mishra, Adv.
Ms. Ruchi Kohli, Adv.

Mr. Prashant Bezbaruah, Adv.
Mr. Munawwar Naseem, Adv.

Mr. G. Prakash, Adv.
Mr. Jishnu M.L., Adv.
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.

Mr. Girdhar Upadhyay, Adv.
Ms. Asha Upadhyay, Adv.
Mr. Ashwini Kumar Upadhyay, Adv.
Mr. J.P. Tripathi, Adv.
Mr. Krishna Kant Shukla, Adv.

Mr. Ajay Bansal, AAG
Mr. Satish Kumar, Adv.
Mr. Gaurav Yadav, Adv.
Mr. Sanjay Kr. Visen, Adv.

Ms. Uttara Babbar, Adv.
Ms. Bhavana Duhoon, Adv.

Mr. S. Wasim A. Qadri, Adv.
Mr. Pravin Swaroop, Adv.
Mr. Zaid Ali Subzposh, Adv.
Mr. Saeed Qadri, Adv.

Mr. G.S. Makker, Adv
Mr. Sanjay Kr. Visen, Adv
Mr. Abhishek, Adv
Ms. Ruchi Kohli, Adv
Mr. B.V. Balramdas, Adv
Mr. Ritwik Dutta, Adv
Mr. Arvind Kumar Sharma, Adv
Mr. E.C. Agrawala, Adv
Mr. Talha Abdul Rahman, Adv
Ms. Nishtha Kumar, Adv
Ms. Sakya Singh chaudhuri, Adv
Ms. Suruchi Aggarwal, Adv
Mr. Preshit Surshe, Adv
Mr. Rajiv Yadav, Adv
Mr. B. Vinodh Khanna, Adv
Mr. Guntur Prabhakar, Adv
Mr. Pradeep Misra, Adv
Mr. Manish K. Bishnoi, AOR
Mrs. Anil Katiyar, AOR
Applicant-in-person, AOR

M/S. Khaitan & Co., AOR
Mr. Sanjay Kumar Visen, AOR
Mr. B. Krishna Prasad, AOR
Mr. Anil Kumar Jha, AOR
Mr. Ajit Pudussery, AOR
Mr. Radha Shyam Jena, AOR
Mr. E. C. Agrawala, AOR
Mr. Ejaz Maqbool, AOR
Mr. Pavan Kumar, AOR
Mr. Rakesh Kumar-i, AOR
Mr. Pramod Dayal, AOR
Mr. Sarvam Ritam Khare, AOR
Mr. Ravindra Bana, AOR
M/S. Khaitan & Co., AOR
Ms. Manjula Gupta, AOR
Mr. Tara Chandra Sharma, AOR
Dr. Monika Gusain, AOR
Mr. Vijay Panjwani, AOR
Mr. K. R. Sasiprabhu, AOR
Ms. Nandini Gidwaney, AOR
Mr. Sushil Kumar Singh, AOR
Mr. Annam D. N. Rao, AOR
Mrs. Anil Katiyar, AOR
Mr. Mukesh K. Giri, AOR
Mrs. Bina Gupta, AOR
Mr. Pradeep Kumar Bakshi, AOR
Ms. Hemantika Wahi, AOR
Mr. Praveen Swarup, AOR
M/S. S. Narain & Co., AOR
Mr. Parijat Sinha, AOR
Mr. Satya Mitra, AOR
Mr. R. P. Gupta, AOR
Mr. Abhijat P. Medh, AOR
Mr. Surya Kant, AOR
Mr. S. S. Shroff, AOR
Mr. T. V. Ratnam, AOR
Mrs. K. Sarada Devi, AOR
Mr. Shri Narain, AOR
Mrs. Rani Chhabra, AOR
Mr. Hardeep Singh Anand, AOR
Mr. Ravindra Kumar, AOR
M/S. Parekh & Co., AOR
Mr. Rakesh K. Sharma, AOR
Mr. Ashok Mathur, AOR
Ms. Binu Tamta, AOR
Mr. Prashant Kumar, AOR
Mr. Chirag M. Shroff, AOR
M/S. Saharya & Co., AOR
M/S. M. V. Kini & Associates, AOR
Mr. P. Parmeswaran, AOR
Mrs. B. Sunita Rao, AOR
Mr. Sushil Kumar Jain, AOR
Mr. Balaji Srinivasan, AOR

Mr. S. K. Bhattacharya, AOR
Mr. Umesh Kumar Khaitan, AOR
Mr. G. Prakash, AOR
Mr. Sandeep Narain, AOR
Mr. Sudhir Mendiratta, AOR
Mr. K. V. Mohan, AOR
Ms. Sujeeta Srivastava, AOR
Mr. V. K. Verma, AOR
Mr. Mukesh Kumar Maroria, AOR
Mr. Gurmeet Singh Makker, AOR
Mr. Munawwar Naseem, AOR
Mr. Rajesh Kumar Chaurasia, AOR
Mr. Ramesh Babu M. R., AOR
Mr. P. K. Jain, AOR
Mr. Mohit D. Ram, AOR
Mr. Abhishek, AOR
Mr. Aniruddha Deshmukh, AOR
Ms. Ruchi Kohli, AOR
Mr. Rajiv Ranjan Dwivedi, AOR
Mrs. Priya Puri, AOR
Ms. Shalini Kaul, AOR
Ms. Pritha Srikumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

IN RE: REGIONAL RAPID TRANSPORT SYSTEM

The Delhi-Meerut Corridor which is 82.15 kms. long corridor with 24 stations will cover the distance from Sarai Kale Khan, Delhi to Modipuram, Meerut in 60 minutes. The total cost of the project is estimated to be Rs.31,632 crores which debt is in 60:40 equity ratio. The Central Government and the Uttar Pradesh Government have credited their share and the Asian Development Bank has agreed to provide debt part.

The contribution of the Government of India for the project is Rs.5,687 crores, State of Uttar Pradesh is Rs.5,828 crores and by the National Capital Region of Delhi is Rs.1,138 crores.

The Government of Delhi has not made budgetary provision for this year i.e., 2018-19. It was submitted on its behalf that entire

expenditure should be borne by the Central Government. Learned Amicus suggested that for this year utilisation of the money may be ordered from Environment Compensation Charge (ECC), in which a sum of Rs.1,106 crores is stated to be lying. It is permissible to utilise the amount for aforesaid purpose. However, the Delhi Government is not agreeable for utilising the amount of Rs.265 crores from ECC Fund which is to be contributed for this year on the ground that ECC Fund is to be utilised for the procurement of electric buses. It was submitted that they have to abide by the direction of this Court and utilize the said amount for purchase of buses.

In the facts of the case, as there is no technical objection raised with respect to the feasibility of the aforesaid corridor, the corridor is absolutely necessary for rapid transport to ease out growing congestion and for reducing pollution. Government of NCT of Delhi is duty bound to contribute its share in the aforesaid corridor. In our opinion, the Government of NCT of Delhi is legally and constitutionally bound to make available the money and to make budgetary allocation for the aforesaid corridor as observed by this Court in *Municipal Council, Ratlam v. Vardhichand* - AIR 1980 SC 1622:

"12. The statutory setting being thus plain, the municipality cannot extricate itself from its responsibility. Its plea is not that the facts are wrong but that the law is not right because the municipal funds being insufficient it cannot carry out the duties under Section 123 of the Act. This 'alibi' made us issue notice to the State which is now represented by counsel, Shri Gambhir, before us. The plea of the municipality that notwithstanding the public nuisance financial inability validly exonerates it from statutory liability has no

juridical basis. The Criminal Procedure Code operates against statutory bodies and others regardless of the cash in their coffers, even as human rights under Part III of the Constitution have to be respected by the State regardless of budgetary provision. Likewise, Section 123 of the Act has no saving clause when the municipal council is penniless. Otherwise, a profligate statutory body or pachydermic governmental agency may legally defy duties under the law by urging in self-defence a self-created bankruptcy or perverted expenditure budget. That cannot be.

15. Public nuisance, because of pollutants being discharged by big factories to the detriment of the poorer sections, is a challenge to the social justice component of the rule of law. Likewise, the grievous failure of local authorities to provide the basic amenity of public conveniences drives the miserable slum-dwellers to ease in the streets, on the sly for a time, and openly thereafter, because under Nature's pressure, bashfulness becomes a luxury and dignity a difficult art. A responsible municipal council constituted for the precise purpose of preserving public health and providing better finances cannot run away from its principal duty by pleading financial inability. Decency and dignity are non-negotiable facets of human rights and are a first charge on local self-governing bodies. Similarly, providing drainage systems-not pompous and attractive, but in working condition and sufficient to meet the needs of the people-cannot be evaded if the municipality is to justify its existence. A bare study of the statutory provisions makes this position clear."

For the current year, budgetary provision has not been made by the Government of NCT of Delhi. Thus, out of the sum available in Environment Compensation Charge (ECC) is Rs.1,106 crores. The required sum of Rs.265 crores can be paid, which includes income tax liability and out of the same, a sum of Rs. 90 crores has to be refunded by the Income Tax Department. The Government of NCT of Delhi cannot utilize the ECC Fund at one go as buses are to be purchased in the year 2019-20. The amount which is to be collected in future can be utilized by the Government of NCT of Delhi out of

the aforesaid ECC Fund for purchase of buses. Thus, we find that objection with respect to the payment of first installment out of the ECC Fund is not justifiable.

The corridor has recently been finalized, in the circumstances we direct the Delhi Government to contribute Rs. 265 crores, which includes tax liability, from the ECC Fund within 10 days. The tax component is refundable and shall on refund be credited to the ECC Fund. We direct that in the present year the sum of Rs. 265 crores out of amount which is lying in ECC Fund is to be utilised for the purpose of construction of the corridor.

We direct the Government of NCT of Delhi to make appropriate budgetary allocation from next year w.e.f. 1.4.2019 onwards each year for the aforesaid RRTS and to go on contributing the amount till the project is completed as per the liability fastened upon it i.e. 3.6 per cent of the total cost.

Let the Delhi Government release the amount of Rs.265 crores within 10 days from today for the aforesaid corridor.

IN RE: DELHI-ALWAR AND DELHI-PANIPAT CORRIDOR

Let a plan be submitted by the National Capital Regional Transport Corporation, (NCRTC) and Ministry of Housing and Urban Development for the implementation of the proposal with respect to the aforesaid corridor before 31.3.2019.

IN RE: PARKING POLICY

Let a joint meeting of EPCA, Municipal bodies, Secretaries of the Transport Department and Delhi Police and other incumbents/functionaries be convened to prepare a parking plan for

providing both residential and commercial parking and to find out as to what kind of parking - spiral type or other, can ease out various problems caused by haphazard parking while planning the need of today as well as future requirements of Delhi be taken into consideration. Let the meeting be convened within 15 days from today and report and plan be submitted in this Court before the next date of hearing.

List the matter for the purpose of consideration of the report/parking policy on 29.03.2019.

IN REFERENCE ACTION POINT 2.3.3 - REFORM OF DTC AND CLUSTER BUS OPERATION.

We have perused the affidavit of Mr. Anil Banka, Special Commissioner (Transport) of NCT of Delhi, in which it is stated that the tender has been issued for appointment of Vendor for fitment and operation of CCTV and GPS devices for monitoring bus movement of DTC and Cluster buses.

Let the progress report in this regard be submitted before the next date of hearing.

With regard to Common Mobility Card and Route Rationalisation of City Bus Operation, a decision be taken within a period of four weeks from today and compliance report be submitted to this Court.

List for consideration of the compliance report on 08.04.2019.

IN REFERENCE TO CONVERSION OF DIESEL BUSES/TAXIS TO CNG

For compliance of the order dated 05.04.2002 [reported in *M.C. Mehta v. U.O.I. & Ors*-(2002) 4 SCC 356], a sum of Rs. 1,52,80,375/-

(Rupees One Crore Fifty-Two Lakhs Eighty Thousand Three Hundred and Seventy-Five) is required. We direct the Registry to release the abovementioned amount to the Secretary-cum-Commissioner (Transport) GNCT of Delhi towards additional subsidy amount payable to the SC/ST bus operators in the light of the direction of this Court dated 05.04.2002.

Let the amount be strictly utilised for the said purpose and detailed certificate of utilization/statement of expenditure be placed before us, supported by an affidavit of the concerned Secretary.

Accordingly, the application is disposed of.

IN RE : ALLOCATION OF GAS TO M/S INDRAPRASTHA GAS LIMITED

It appears that Haryana City Gas Distribution Ltd. has not furnished the information as it was under the impression as stated by the learned counsel that valuation has to be made in the capacity of the ongoing concern.

The order of this Court is clear that apart from ongoing concern, valuation of the assets has to be made separately also. For that purpose, certain information has been sought from the Haryana City Gas Distribution Ltd. by Deloitte.

Let the said information be furnished within seven days from today by the Haryana City Gas Distribution Ltd. to Deloitte.

Let Deloitte submit a report, within 15 days thereafter, as ordered by this Court on both aforesaid basis. This valuation is without prejudice to the rights available to the Haryana City Gas Distribution Ltd. to claim the compensation on ongoing basis.

List for consideration on 02.04.2019.

(ASHA SUNDRIYAL)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER