

ITEM NO.11 Court 5 (Video Conferencing) SECTION X

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). 1072/2020

V.K. MITTAL & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(WITH IA No. 93649/2020 - EXEMPTION FROM FILING AFFIDAVIT)

Date : 24-03-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Gaurav Goel, AOR

For Respondent(s) Mr. N. Venkataraman, ASG
Mr. B V Balaram Das, AOR
Ms. Aarchana Pathak Dave, Adv.
Mr. Bhuvan Mishra, Adv.
Mr. G.S. Makker, Adv.

Mr. V. Shekhar, Sr. Adv.
Mr. Rajeev Kumar Dubey, Adv.
Ms. Sheetal Rajpoot, Adv.
Mr. Ashiwan Mishra, Adv.
Mr. Kamlendra Mishra, AOR

Mr. Gaurav Agarwal, Adv.
Ms. Shristi Gupta, Adv.

Mr. Raj Singh Rana, AOR

Mr. Vishwajit Singh, AOR
Ms. Vijaya Singh, Adv.
Ms. Akansha Singh, Adv.
Mr. Sushmit Chauhan, Adv.

Ms. Garima Prashad, Sr. Adv.
Mr. Nishit Agrawal, Adv.

Mr. D. N. Goburdhan, AOR
Ms. Gauri Goburdhun, Adv.

Mr. Saurabh Mishra, AOR

Mr. Onkar Singh, Adv.
Ms. Neha Tripathi, Adv.

Mr. Pradeep Misra, AOR
Mr Suraj Singh Adv.

Mr. Praveen Swarup, AOR
Mr. Ameet Singh, Adv.
Ms. Pareena Swarup, Adv.
Ms. Archana Sharma, Adv.
Ms. Sadiya Shakeel, Adv

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

- 1 These proceedings, invoking Article 32 of the Constitution, have been instituted by the President of the Kaushambi Apartments Resident Welfare Association and Ashapushp Vihar Awas Vikas Samiti Ltd. This Court has been impelled to intervene in the exercise of this jurisdiction, which is in aid of the protection of fundamental rights of citizens, confronted with the magnitude of the problems, faced by the residents of Kaushambi, Ghaziabad.
- 2 The petition has highlighted several issues, ranging from haphazard traffic management to environmental pollution and unrestricted dumping of municipal solid waste. As a result, it has been submitted that the residents of the area are suffering from serious respiratory issues. There is an added concern over contaminated ground water. The problems which have been brought to the fore before this Court are of a complex nature. Essentially, the issues which have been highlighted bring focus upon improper planning and the poor implementation of development plans and statutory provisions. In order to obviate an unmanageably large canvass being opened before the Court at once, we have decided to take up the problem of traffic management in the first instance.

- 3 Mr Gaurav Goel, learned counsel appearing on behalf of the petitioners, who is a resident of the area, submits that the residents are suffering as a result of:
- (i) Haphazard parking of three wheelers and other vehicles on public roads, including service roads;
 - (ii) The absence of adequate spaces for the parking of public service vehicles;
 - (iii) The pollution which is generated by buses plied by the Uttar Pradesh State Road Transport Corporation¹;
 - (iv) Use of pressure horns by vehicles; and
 - (v) The total absence of implementation by the law enforcement machinery which causes a serious hardship to pedestrians and residents of the area.
- 4 In pursuance of the notice issued by this Court on 15 October 2020, counter affidavits have been filed in these proceedings on behalf of the Uttar Pradesh Pollution Control Board², UPSRTC, Ghaziabad Nagar Nigam, Delhi Police, East Delhi Municipal Corporation, Central Pollution Control Board³ and on behalf of the State of Uttar Pradesh, Divisional Commissioner, Meerut Division and District Magistrate Ghaziabad.
- 5 We have heard Mr V Shekhar, learned Senior Counsel appearing on behalf of the agencies of the Government of Uttar Pradesh, Ms Garima Prashad, learned Counsel appearing on behalf of UPSRTC and Mr Vishwajit Singh, learned counsel appearing on behalf of Ghaziabad Nagar Nigam.

1 “UPSRTC”

2 “UPPCB”

3 “CPCB”

6 At this stage, it would be necessary to note that the National Green Tribunal⁴ had been moved in proceedings under the National Green Tribunal Act 2010 to deal specifically with the pollution caused by vehicular emissions, illegal parking, encroachment of roads and pavements and use of diesel generators in violation of CPCB standards in Original Application 375 of 2016. By its order dated 20 August 2018, the NGT, after having sought a report from a team comprising the representatives of CPCB, UPPCB and Delhi Pollution Control Committee⁵, noted that a compliance report had been filed on 22 March 2017 which identified the shortcomings and made certain recommendations. The recommendations which are extracted in paragraph 6 of the order of the NGT were in the following terms:

- "(i) Long term and short term measures to be taken to control/ minimize the pollution generated during the different activities in and around of the affected area. The committee felt that there is some improvement made by the concerned authority for betterment of the Environment. It is recommended to modernize both Kaushambi bus depot and Anand Vihar, ISBT along with the proper design of intersection & roads for smooth free flow of traffic in this area in time bound manner.
- (ii) Shifting of the exit gate of buses from Kaushambi bus depot from the existing location to left side of passenger entry gate i.e. near to Pacific mall. This will reduce the traffic congestion at the roundabout.
- (iii) Compliance of the immediate measure, short term measure and long term measure suggested should be complied with by all concerned agencies in time bound manner.
- (iv) Roads adjacent to wave cinema where sewerage system laid needs to be paved.
- (v) Two bin system for solid waste management needs to be practiced.
- (vi) Police authorities may be directed that static buses, autos and hawkers/unauthorized shops on the roads near Kaushambi bus depot should not be allowed."

4 "NGT"

5 "DPCC"

- 7 In order to implement the above recommendations, the NGT directed the constitution of a committee comprising of the Divisional Commissioner of the area with representatives of CPCB and Municipal Corporation. The issue was thereafter considered by the NGT in execution proceedings on 5 December 2019. The attention of the NGT was drawn to the fact that the “situation remains grim”. Photographs were produced before it showing undisposed garbage, vehicles parked in no parking zones and encroachments. The Commissioner, Meerut Division, was directed to look into the matter personally. Thereafter, by an order dated 27 July 2020, the NGT noted that the Divisional Commissioner, Meerut had filed reports on 5 December 2019 and 25 July 2020 stating that an encroachment drive had been undertaken and steps were taken for regulating solid waste management, against illegal parking, for regulating traffic and for preparing an environment management plan. The NGT directed that the initiatives be continued and a compliance report be filed as on 31 December 2020.
- 8 The efforts which have been undertaken by the NGT in the exercise of its statutory jurisdiction need to be appreciated and must continue. However, it is evident that the situation on the ground has not changed substantially, as a result of the problems which we have noticed in the earlier part of the order. Merely treating the matter as a law enforcement issue, particularly in the area of traffic management, will not solve the problem. Experience shows that a direction by the Court to the law enforcement machinery may result in some action, even high-handed action for a few days, until the position is restored to the original status which becomes the new “normal”. Hence, a comprehensive traffic management plan has to be drawn up to deal with the situation. This will be in addition to the directions issued by the NGT and will not detract from them or from the supervision by the NGT.

- 9 Both Ms Garima Prashad, learned Senior Counsel appearing on behalf of UPSRTC and Mr Vishwajit Singh, learned counsel appearing on behalf of the Ghaziabad Nagar Nigam have indicated to the Court the steps which have been taken by the respective authorities. At this stage, we may note that the learned counsel appearing on behalf of UPSRTC submitted that UPSRTC had acquired about nine acres of land for the setting up of a bus station. However, it appears that the front portion of the land was allotted in the recent past for the development of a mall. In the counter affidavit, it is stated that there is sufficient space for parking of buses and the existing available space within the area of nine acres is used for the purpose of parking and a workshop has also been set up for the purpose of maintenance. It has been stated in the counter affidavit and reiterated in the submissions that UPSRTC has 134 CNG buses which ply in Delhi-NCR and Ghaziabad region and as a matter of policy, an effort is being made to increase the number of CNG vehicles.
- 10 Before we address the issues which are raised, we are categorically of the view that the problems which have confronted Kaushambi and Ghaziabad, in general, cannot be treated in a manner isolated from the wider context of the National Capital Region. This is not merely a matter which pertains to the Ghaziabad Development Authority or, for that matter, other authorities within the State of Uttar Pradesh alone. There has to be a coordinated effort on the part of the authorities within the Government of NCT of Delhi, East Delhi Municipal Corporation as well as the statutory authorities in the State of Uttar Pradesh having jurisdiction in the area. To start with, it is imperative that a comprehensive traffic management plan is drawn up and presented before this Court. Unless all the authorities put their heads together and jointly agree on a concerted effort to manage the traffic problems, a resolution would not be

possible. Some of these problems do not necessarily originate in Ghaziabad, such as the problem which is caused by the back-up of vehicles at toll booths. The Anand Vihar Terminal, the Court has been apprised, takes care of the need of the buses of the Delhi Transport Corporation and inter-state buses which originate and terminate at the Terminal. However, we do find that there is a total absence of adequate space for the parking of other public service vehicles including intra-state buses within Ghaziabad, as a result of which the vehicles are parked in a haphazard manner on public roads, including service roads. In fact, we find from the photographs, which have been produced by the petitioners, that there is even a public board stipulating that the parking in the area is prohibited under the order of the NGT. Despite this, the photographs indicate that vehicles are still being parked around the same area. This problem has to be addressed by proper management of traffic and creating adequate space for parking of public service vehicles. Merely treating it as a matter of law enforcement will not provide a long lasting solution. Ad hoc reactions to a deeper malaise will bring no relief to the residents, users of public transport and those providing public transport.

11. In the circumstances, we are of the view that, within three weeks, a comprehensive traffic management plan should be presented before this Court. We propose to constitute a Committee consisting of representatives of statutory authorities in the State of Uttar Pradesh as well as from the Government of NCT of Delhi so that a coordinated and concerted effort can be made by the authorities in both the jurisdictions to resolve the issue through a unified approach. We accordingly constitute a Committee consisting of the following persons:

- (i) Divisional Commissioner, Meerut;
- (ii) Chairperson, Ghaziabad Development Authority;
- (iii) Municipal Commissioner, Ghaziabad Nagar Nigam;
- (iv) District Magistrate, Ghaziabad;
- (v) The Chairperson of UPSRTC;
- (vi) Senior Superintendent of Police, Ghaziabad;
- (vii) Municipal Commissioner, East Delhi Municipal Corporation;
- (viii) A senior officer to be nominated by the Commissioner of Police; and
- (ix) The Transport Secretary of the Government of NCT of Delhi.

The District Magistrate, Ghaziabad shall be the nodal officer of the Committee.

- 12 While we have indicated in the earlier part of this order that the remit of the Committee is to prepare a traffic management plan, we clarify that this would also cover all incidental aspects including arrangements for regulating traffic and earmarking adequate land for parking of public service vehicles. The report shall be presented before this Court on or before the next date of listing.
- 13 The proceedings shall now be listed for further hearing on 14 April 2021.

(SANJAY KUMAR-I)
AR-CUM-PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR