



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 03rd JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 6533/2023**

MAMTA RANI

..... Petitioner

Through: Mr. Rakesh Kumar, Mr. Shailendra
Mani Tripathi, Mr. Vishal Tiwari and
Mr. Akash Awana, Advocates

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Santosh Kumar Tripathi,
Standing Counsel for GNCTD with
Mr. Arun Panwar, Mr. Pradyumn
Rao, Mr. Kartik Sharma, Ms. Mahak
Rankawat, Mr. Utkarsh Singh,
Advocates.
Inspector Padam Singh, ASI Kanwar
Singh, Traffic Police

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The instant writ petition under Article 226 of the Constitution of India has been filed by the Petitioner as a Public Interest Litigation (PIL) seeking a writ of mandamus, order or direction to be issued to the Respondents to remove the blockades which have been put on the crossings of Mathura Road preventing a right turn while coming from the additional building of the Supreme Court of India either to the main building of the Supreme Court of India or to the High Court of Delhi. The prayers made by the Petitioner, by way of the instant PIL, reads as under:



"(a) Issue a Writ of Mandamus or any other appropriate Writ, order or direction to the respondents to remove the blockades which have been put on Mathura Road intersections preventing right turn while coming from additional building of the Supreme Court of India to either the main building of the Supreme Court of India or to the Delhi High Court.

(b) Issue a Writ of Mandamus or any other appropriate Writ, order or directions to the respondents identify make appropriate arrangements and changes on the roads throughout NCT of Delhi so that no common motorist who passes through the places like Roundabout near Krishi Bhawan and Rail Bhawan does not violate traffic rules due to confusions which arises there if a motorists approach the roundabout from the side of Janpath through Raisina Road.

(c) Issue any other appropriate Writ, order/orders and/or direction/directions as this Hon'ble Court may deem fit and proper in the interest of justice."

2. It is stated by the Petitioner, who is by profession a practising Advocate, that Advocates, who commute by car from the Supreme Court of India to the High Court of Delhi, have to appear in both the Supreme Court of India and in the High Court on the same day. It is submitted by the Petitioner that due to barricades at all the crossings on Mathura Road, the distance of about 300 meters to 400 meters while travelling from the additional building of Supreme Court to the main building of the High Court has become more than 5 kilometers which is not only time consuming but also a wastage of fuel.

3. It is stated that the decision of the Delhi Traffic Police to restrict the movement of vehicles by putting barricades at the crossing/traffic signal on Mathura Road for an indefinite period of time is arbitrary and unjust and in



fact causes hurdles in the administration of justice. It is stated that this decision has not been intimated to the Apex Court or to this Court. It is stated that the Bar Associations of the Apex Court as well as of the High Court have not been taken into confidence before taking this decision.

4. Heard learned Counsel appearing for the Parties and perused the material on record.

5. This Court can take a judicial notice of the fact of the substantial increase in road traffic in the city in the last few years. This Court can also take judicial notice of the fact of a number of cars that are parked on the roads in front of the High Court and in the lanes alongside this Court, which causes a traffic hindrance. Traffic control is the sole domain of the Traffic Police. It is well settled that Courts do not run the country and it is up to the administration to take decisions for smooth functioning of the Government. The Apex Court in Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664 has held that Courts should not be called upon to or undertake governmental duties or functions. Paragraph Nos.232 and 233 of the said Judgment reads as under:

"233. At the same time, in exercise of its enormous power the court should not be called upon to or undertake governmental duties or functions. The courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under the Constitution casts on it a great obligation as the sentinel to defend the values of the Constitution and the rights of Indians. The courts must, therefore, act within their judicially permissible limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the court will not interfere. When



there is a valid law requiring the Government to act in a particular manner the court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words the court itself is not above the law.

234. In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the court to go into and investigate those areas which are the function of the executive. For any project which is approved after due deliberation the court should refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government, is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision."

(emphasis supplied)

6. Similarly, the Apex Court in State of U.P. v. Johri Mal, (2004) 4 SCC 714 has held as under:

"28. The scope and extent of power of the judicial review of the High Court contained in Article 226 of the Constitution of India would vary from case to case, the nature of the order, the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether



the power is statutory, quasi-judicial or administrative. The power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The power is not intended either to review governance under the rule of law nor do the courts step into the areas exclusively reserved by the suprema lex to the other organs of the State. Decisions and actions which do not have adjudicative disposition may not strictly fall for consideration before a judicial review court. The limited scope of judicial review, succinctly put, is:

(i) Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies.

(ii) A petition for a judicial review would lie only on certain well-defined grounds.

(iii) An order passed by an administrative authority exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal.

(iv) A mere wrong decision without anything more is not enough to attract the power of judicial review; the supervisory jurisdiction conferred on a court is limited to seeing that the Tribunal functions within the limits of its authority and that its decisions do not occasion miscarriage of justice.

(v) The courts cannot be called upon to undertake the government duties and functions. The court shall not ordinarily interfere with a policy decision of the State. Social and economic belief of a judge should not be invoked as a substitute for the judgment of the legislative bodies. (See Ira Munn v. State of Illinois [94 US 113 : 24 L Ed 77 (1876)] .)" (emphasis supplied)



7. The traffic authorities are the best judges to decide the issue of regulation of traffic in the city and this Court while exercising its jurisdiction under Article 226 of the Constitution of India is not inclined to sit over as an Appellate Authority over the decisions taken by the traffic authorities for regulating the movement of traffic in the city.

8. In view of the above, this Court is not inclined to entertain the instant PIL. Resultantly, the PIL is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 03, 2023

S. Zakir/Urvi

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