



2024:DHC:5089-DB



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

+ W.P.(C) 8035/2024 & CM APPL. 33044/2024 (Exemption)

SHABNAM BURNEYPetitioner

Through: Mr. Sumit Kumar, Advocate

versus

UNION OF INDIA AND ORSRespondent

Through: Mr. Apoorv Kurup, CGSC with Mr Hussain Taqvi (GP), Ms. Nidhi Mittal and Mr. Gurjas Narula, Advocates for R-1/UOI.

Mr. Arun Birbal and Mr. Sanjay Singh, Advocates for R-2/DDA.

Mr. Avishkar Singhvi, ASC with Mr. Vivek Kr Singh, Mr. Naved Ahmed and Mr. Shubham Kumar, Advocates for R-5 to 7.

SI Akshay Dagar, P.S. Shaheenbag.

Ms. Prabhsahay Kaur, Standing Counsel with Mr. Bir Inder Singh Gur, Advocate for STF.

Mr. Ajay Arora and Mr. Kapil Dutta, Advocates for MCD.

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Date of Decision: 08th July, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA



JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present writ petition has been filed by the petitioner seeking directions to demolish the unauthorized construction carried out by respondent nos.7 & 8 on Yamuna River Bank. Petitioner further seeks a direction to the respondents to take steps to prevent illegal construction on Yamuna river bank and floodplains in the near future.
2. Learned counsel for petitioner states that the illegal construction in question has been going on without any permission or regard for the environmental concern. He further states that the impugned illegal construction will endanger the ecologically fragile Yamuna floodplains. He also states that the illegal and unauthorized construction carried out by respondent nos.7 & 8 is causing air pollution in the area and is further leading to respiratory problems due to presence of huge dust particles. He states that building / dwelling house or any other construction in the floodplains endangers the lives of people living in or using the same during the monsoon season.
3. Learned counsel for the respondents admit that the floodplain area is a prohibited activity zone and an important component of a river ecosystem. They further admit that encroachment in this area leads to diversion of water leading to floods in adjacent areas. They point out that many experts believe that floods in Delhi are manmade as they have been caused primarily due to encroachment of drains, river banks and river beds, thereby restricting the flow of water to Yamuna and in Yamuna.



4. Learned counsel for the respondent no.5/GNCTD and respondent No.6/Delhi Police further states that a number of representations with regard to illegal and unauthorized construction on the Yamuna River Bank have been forwarded to DDA and MCD for necessary and appropriate action. He further states that though the present writ petition is confined to Shaheen Bagh area, this Court should pass directions for removal of illegal constructions and encroachments in the entire Yamuna river bank, river bed, drains and floodplains area. He also states that all necessary assistance shall be provided by the Delhi Police for removal of encroachment and unauthorized construction on river bank, river bed and drains.

5. Learned counsel for the MCD states that urgent action is required in this matter. He states that as the Vice Chairman is the senior-most officer amongst the heads of the MCD, PWD, Irrigation and Flood Control Department and DMRC, it would be appropriate if the Vice Chairman, DDA is appointed as the Nodal Officer and directed to remove all the illegal, unauthorized construction as well as encroachment on the Yamuna river bank, river bed and floodplains. He assures and undertakes to this Court that the MCD would cooperate with DDA and DMRC in removing the encroachment and illegal construction.

6. Keeping in view the aforesaid, this Court directs the Vice Chairman, DDA, to remove all encroachments and illegal construction on the Yamuna river bank, river bed and drains flowing into river Yamuna. He is also appointed as the Nodal Officer and shall coordinate with officials of MCD, Delhi Police, DMRC, Irrigation and Flood Control Department, PWD, Delhi Pollution Control Board and Forest Department. The Vice Chairman, DDA shall convene a meeting of all the concerned officials within a week.



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7. With the aforesaid directions, the present writ petition is disposed of. However, the Vice Chairman, DDA is directed to file an Action Taken Report within six weeks. List on 09th September, 2024 for compliance.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 8, 2024

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