

**211 CWP-PIL-27436-2015 (O&M)
CWP-2102-2017 and CWP-25937-2018**

MOHALI INDUSTRIES ASSOCIATION
VS
UNION OF INDIA AND ORS.

Present: Mr. M.L. Sarin, Sr. Advocate, and Amicus Curiae, with
Mr. Nitin Sarin, & Mr. Ritesh Aggarwal, Advocates.
Mr. Paramveer Singh, Advocate, for the petitioner(s).

Mr. Chetan Mittal, Sr. Advocate,
Asstt. Solicitor General of India, with
Mr. Udit Garg, Mr. Vikas Thakur, Advocate,
and Mr. Vivek Singla, Advocates, for UOI/AAI/CHIAL.

Mr. Arun Gosain, Senior Panel Counsel, Union of India.

Mr. Atul Nanda, Advocate General, Punjab, with
Mr. Avinit Avasthi, AAG, Punjab.

Mr. Sandeep Moudgil, Additional, Addl. AG, Haryana.

Mr. Jaivir Chandail, Addl. Govt. Pleader, for U.T. Chandigarh.

Ms. Ramandeep Kaur, Advocate, for
Mr. Sumeet Goel, Advocate, for CBI.

Mr. Sunil K. Sahore, Advocate, for Air India.

Mr. Rohit Khanna, Advocate, for Jet Airways.

Mr. Munish Kumar Garg, Advocate, for Spicejet.

Ms. Heena Verma, Advocate, for
Mr. Ashish Kapoor, Advocate,
for respondent No. 11-Indian Oil Corp. Ltd.

Mr. G.S. Attariwala, Advocate,
for Municipal Council, Zirakpur.

Mr. Aman Bahri, Advocate,
for respondent No.13-TATA SED (in CWP-27436-2015)

Mr. Gaurav Chopra, Advocate, for TATA SIA Airliner Pvt. Ltd.

Mr. Gurpreet, Advocate, for
Mr. Jagdish Manchanda, Advocate, for Airport Authority.

Mr. R.S. Khosla, Sr. Advocate, with

-2-

Mr. Sarvesh Malik, Advocate, for GMADA.

In compliance to our order dated May 29, 2019, a Committee, as directed, has been constituted to address the issue of identification and removal of illegal constructions raised in and around 100 meters area of the Airport. A status report by way of an affidavit of the Deputy Commissioner, SAS Nagar (Mohali) & Civil Aviation, Government of Punjab, has been filed. The Committee, after carrying out detailed survey, has found that in village Bhabat, which falls under the Municipal Council, Zirakpur, there are total 314 structures falling within 100 meter zone. The Committee has also identified 196 structures which were raised till 20.8.2008 and 20 structures which were raised between the period from 28.8.2008 to 9.3.2011. There is no dispute in respect of demolition of 98 structures which were raised post 9.3.2011, and the same can be demolished immediately in accordance with law, after following due procedure. None of the learned counsel for the parties appearing before us have disputed this proposition. We have no reason to believe that immediate steps with regard to demolition of these 98 structures would not be taken by the concerned authorities.

The issue remains with regard to 196 constructions alleged to have been raised till 28.8.2008 and 20 structures raised between 28.8.2008 and 9.3.2011. It has been brought to our notice that under Section 3(1) of the Works of Defence Act, 1903 ('the Act' for short), a notification in respect of the area where these structures are situated was initially issued on 14.2.2007. Subsequently, a notification under Section 3(2) of the Act was issued on 28.8.2008. Thus, notification under Section 3(2) of the Act was 14 days beyond the time prescribed by Section 9 of the Act for issuance of such notification. Subsequently, another notification under Section 3(1) of the

-3-

Act was issued on 13.7.2010 and notification under Section 3(2) was issued on 9.3.2011. It goes without saying that any structure within 100 meters area of the airport constructed before the publication of the notification or subsequent thereto is to be demolished since it poses serious threats to the smooth functioning of the airport, as it causes interference in the taking off and landing of the planes. It is not to be forgotten that this airport is used by the Air force, as well. The only difference would be with respect to the procedure to be followed for carrying out demolition and for compensation, if any, to be paid under the provisions of the Act. In so far as this issue is concerned, learned counsel for the parties seek a short accommodation.

As prayed for, the abovesaid issue shall be taken up on the next date of hearing.

In so far as village Jagatpura which falls under GMADA is concerned, report of the Committee shows that there are total 10 structures standing within 100 meters, which have been raised up to 11.3.2011 and demolition thereof is to be carried out after following due procedure prescribed under the Act. Post 11.3.2011, according to the Committee's report, there is no construction in the village within 100 meters area of the airport.

In so far as 98 structures, which were raised post 9.3.2011 and standing in village Bhabat, regarding which there is no dispute that they are to be demolished immediately, we hereby direct that the procedure for the demolition may be carried out within a period of four months from today. All the authorities responsible for carrying out the demolition shall be dutiful to carry out the demolition process within the stipulated period.

There is yet another issue in respect of steps to be taken by the

-4-

concerned authorities, by keeping a vigil, that no unauthorised construction henceforth is raised within 100 meters area of the airport. In this connection, we direct that a monthly meeting of the Committee shall be held to review the steps and to take all possible measures to prevent/prohibit raising of any fresh structure within the prohibited area, so as to avoid the situation, which has cropped up in the matter in presentie.

Another issue which needs to be addressed is in respect of installation of CAT-III-B and construction of Southern Taxi Track. When the hearing of the matter took place on 21.5.2019, it was brought to our notice by the learned *Amicus Curiae* that since working permission and approval of assumptions has to be done by the different heads, though within the Ministry of Defence, which in normal course may consume considerable time, a request be made to the Defence Secretary to convene a meeting of different heads within the Ministry of Defence, and if required involving the Air-force as also Airport Authority of India and take appropriate decision at the earliest. Consequently, a request was made in the order to the Defence Secretary to convene a meeting of all such stake-holders, who would be required for granting the requisite permission/approval for Southern Taxi Track and installation of CAT-III-B, within a period of two weeks and take a decision in this regard, which may be brought on record by way of a status report by the learned counsel representing the Union of India.

Today, we are informed by Sh. Chetan Mittal, Asst. Solicitor General of India, that a complete format along with master plan, as specified by the Ministry of Defence, has been sent through Joint Secretary (Air), and the same has also been forwarded by the Air Headquarter on 21.8.2019, and the matter is pending with the Ministry of Defence. Now, the Defence

-5-

Secretary has to convene a meeting, in terms of the order dated 21.5.2019.

Keeping in view of the aforesaid facts, we once again request the Defence Secretary to convene a meeting at the earliest and take a decision within two weeks from today and the decision so taken be also brought on record by way of an affidavit.

During the course of hearing on 21.5.2019, Sh. Tejvir Singh, Secretary, Civil Aviation, Punjab, was also present, and conveyed the information that number of decisions have been taken by the State of Punjab to attract various airlines to have a flight schedule from Chandigarh Airport. The order required him to file a status report in this regard. In compliance to the said order, a status report dated 28.5.2019 has been filed, setting out details of various steps taken to attract airlines to have a flight schedule from Chandigarh Airport. Attached with the said status report are two letters, out of which, one is dated 26.2.2019, written by the Chief Minister of Punjab, addressed to Union Minister of Civil Aviation, requesting him to issue necessary directions to notify the Chandigarh International Airport under the Open Sky Policy for operation of airlines from ASEAN Countries. In response to which, is the second letter dated 11.3.2019, written by the Minister, Commerce & Industry and Civil Aviation Government of India, informing the Chief Minister of Punjab that his request made in the letter dated 26.2.2019 for notifying the Chandigarh International Airport under the Open Sky Policy is being examined. There is another reminder letter dated 17.5.2019, written by the Secretary, Civil Aviation, Punjab, to the Secretary to Government of India, Ministry of Civil Aviation.

We are informed by the learned *Amicus* that till date no final decision has been taken in the matter.

-6-

Faced with the situation, Sh. Chetan Mittal submits that he shall seek instructions in this regard and assures the Court that a final decision in the matter shall be taken as early as possible.

List on 23.9.2019.

A photocopy of this order be placed on the files of connected cases.

**(KRISHNA MURARI)
CHIEF JUSTICE**

**(ARUN PALLI)
JUDGE**

August 22, 2019
AK Sharma



सत्यमेव जयते

