

M. C. Mehta

Vs

Union of India

I.A. No. 36 In W.P. (C) No. 4677 of 1985

(Kuldip Singh, S. Saghir Ahmed JJ)

04.12.1996

ORDER

1. This interlocutory application for directions has been filed by the Union of India. Mr Altaf Ahmed, learned Additional Solicitor General has raised the following contentions :

(1) The directions given by this Court in the order dated 10-5-1996 in M. C. Mehta V. Union of India' regarding land-use - utilization of land available as a result of shifting/relocation/closure of hazardous/noxious/heavy/large industries from Delhi are applicable to those industries also which are not relocating and are simply closing themselves.

(2) The industries which are not relocating and intend to start new conforming industry/activity shall not be permitted to do that unless they protect the workmen and seek fresh permission to set up the industry from the Government and the Pollution Control Board/Committee. They shall have to obtain fresh electric and water connections.

(3) The package of compensation proposed for the workmen employed in the industries which are not relocating and are closing down is inadequate and needs to be enhanced.

(4) That the workmen who have not been provided residential accommodation by the employers be permitted to continue to occupy the same till accommodation is provided/made available at the relocated site. Such workmen employed with the industries which are not relocating should also be permitted to stay for a reasonable time.

2. So far as the first contention is concerned, learned Additional Solicitor General has taken us through the order of this Court in M. C. Mehta v. Union of India' regarding land-use along with the order dated 8719962 regarding relocation of 168 industries. The intention of this Court is clear that the order regarding land re-use was both for relocating industries as well as those which decide to close down and not to relocate. The learned counsel for the industries have not disputed this interpretation. We, therefore, accept the

contention of learned Additional Solicitor General. Nothing more need be said on this point.

3. We see considerable force in the contention of the learned Additional Solicitor General on the second point also. The existing hazardous industries a having been closed, what remains is the plot, superstructure and the workmen. The occupants of the plots and the owners of the industries which have been closed down shall have to undertake fresh procedure for setting up of a new industry. Needless to say that no industry can be set up which is not permitted under the Master Plan. The procedure required for setting up of a new industry shall have to be followed in every case. We make it clear that Government permission and the consent from the Pollution Control Board/Committee, if required under law, shall have to be obtained. Even fresh electric connection and water connection shall have to be applied for and obtained in the changed circumstances. We have no doubt when approached for necessary permission/licence/water/electric connections the authorities shall expedite in dealing with the applications.

4. So far as the third contention of the learned Additional Solicitor General is concerned, we may refer to Direction 9(d) of the order dated 8-7-19962 which is as under :

"The workmen employed in the industries which fail to relocate and the workmen who are not willing to shift along with the relocated industries, shall be deemed to have been retrenched with effect from 30-11-1996 provided they have been in continuous service (as defined in Section 25-B of the Industrial Disputes Act, 1947) for not less than one year in the industries concerned before the said date. They shall be paid compensation in terms of Section 25-F (b) of the Industrial Disputes Act, 1947. These workmen shall also be paid, in addition, one year's wages as additional compensation."

5. We have heard Mr Rajinder Sachar, Mr Jitender Sharma, and other learned counsel appearing for the workmen. We have also heard Mr Deepankar Gupta, Mr Shanti Bhushan and other learned counsel for the industries.

6. We are of the view that the compensation provided in the above quoted direction is on the lower side in the facts and circumstances of the situation. We may mention that during the long period of about 3 years, when this Court has been monitoring the matter pertaining to the shifting of hazardous industries from the city of Delhi, the objective in view was to relocate all the industries so that the development of the industries as well as the environment and the interest of the workmen are safeguarded. It no doubt correct that some of the industries have opted to relocate, but there are many who have not till date taken any steps towards relocation. Mr Deepankar Gupta, learned counsel appearing for M/s Birla Textiles, has stated that for various reasons including financial, the industry has decided not to relocate and as such it would have to retrench approximately 2800 workmen. Similarly, Mr Shanti Bhushan states that the industry he represents is dependent on peculiar location. According to him the industry shall have to be closed. On our suggestion, the learned counsel state that the industries shall have a fresh look into

the matter. We would appreciate if in the interest of development of the industry, these big industrialists take a decision to relocate, specially when all the facilities regarding land etc. are being offered to them. Any way, this is a matter which concerns the industries. Keeping in view all the facts and circumstances of this case, we are of the view that the interest of the workmen would be met if we substitute the words 'one year's wages' in the last line of Direction 9(d) quoted above with "six years' wages". The net result would be that the workmen referred to in Direction 9(d) shall be paid in addition, six years' wages as additional compensation in place of one year's wages as initially directed by us.

7. We, however, clarify that six years' wages as modified by us shall only be payable to workmen of those industries which are not relocating and which have closed down. The workmen of industries who refuse to be relocated along with the relocating industries shall be entitled to one year's wages as additional compensation as originally directed.

8. We further direct that the workmen who are occupying the residential quarters provided by the employer shall continue to occupy till accommodation is provided or made available at the sites the industry is relocated.

9. So far as closing the industries is concerned, the workmen shall be entitled to remain in the quarters for a period of 1 1/2 years. In case the industry wants to compensate them in lieu of occupation of quarters, they shall pay a sum of Rs 20,000 (Rs twenty thousand) to each of the workmen for asking them for immediate vacation. The enhanced compensation under the modified Direction 9(d) be paid by 30-4-1997. It would be open to the management to pay the amount in instalments. But the total amount must be paid before 30-4-1997.

10. We are informed that "one window" procedure and other directions regarding providing facilities and incentives has not been expedited by the NCT Delhi Administration. We direct all the authorities concerned to comply with our directions and monitor the same expeditiously.

11. The industries which are closed and have been sealed by the authorities shall be unsealed so that the machinery etc. can be removed. They shall not, however, be permitted to function.

12. The application is disposed of with the above directions.