

M.C. Mehta

Vs

Union of India and Others

Interlocutory Application 22 in Writ Petn. (C) No. 4677 of 1985

(Kuldip Singh, Faizanuddin JJ)

08.07.1996

ORDER

1. The Master Plan for Delhi 1962 (MPD-62) was prepared and enforced under the Delhi Development Act, 1957 (the Act). At that point of time it was realised that the solution of the impending problems of the National Capital could only be found in regional context and as such the MPD-62 recommended that a statutory National Capital Region Planning Board should be set up for ensuring balanced and harmonised development of the region. The National Capital Region Planning Board Act, 1985 (Capital Region Act) came into force on February 11, 1985. The National Capital Region Plan - 2001 (the Regional Plan) was published as a statutory document. In the words of the then chairperson, National Capital Region Planning Board, the purpose sought to be achieved by the Regional Plan was as under :

"The two important goals to be achieved by the Regional Plan are a balanced and harmoniously developed region, leading to dispersal of economic activities and immigrants to Delhi, thereby leading to a manageable Delhi. This is to be achieved by the progressive deconcentration of population and economic activities in the Region and their judicious dispersal to various priority towns as identified in the plan. The plan, is a frame work of policies relating to population distribution, settlement system, transport and communications, physical and social infrastructure, regional land use, environment and eco-development, management structure for plan implementation and counter magnet areas for development. The focus of the plan is Delhi whose extraordinary growth has put great pressure on its essential services and civic facilities. It is expected that a vigorous implementation of the policies contained in the plan would help maintain the quality of life of our National Capital".

The National Capital Region constituted under the Capital Region Act includes the union territory of Delhi and parts of the States of Haryana, Rajasthan and Uttar Pradesh. Under the Regional Plan, three policy zones have been identified. Apart from union territory Delhi (Delhi) the "ring towns" namely, Faridabad, Ballabgarh, Gurgaon, Bahadurgarh

and Ghaziabad came to be known as Delhi Metropolitan Area (DMA) with Delhi as the core. The Delhi and the DMA are identified as two distinct zones. The area beyond the DMA upto the National Capital Region (NCR) boundary which is predominantly rural stands out as the third zone distinctly different from the other two. It would be useful to quote the relevant part of para 2.1 of the Regional Plan :-

"The prime objective of the Regional Plan is to contain Delhi's population size within manageable limits at least by the turn of the Century. As a strategy, after evaluating various alternative scenarios for development, it has been realised and recognised that, in order to save Delhi population explosion, it is necessary to moderate the growth in the areas around it.....The preliminary studies clearly concluded that economic activities with potential for large scale employment should necessarily be located outside the DMA, preferably at a distance which discourages daily interaction with Delhi. Thus, on the basis of these criteria, the zones which came out distinctly are Delhi UT, the DMA excluding Delhi UT and, the area beyond DMA within NCR, for effective application of the policies and implementation of proposals with a view to achieve a manageable Delhi and an harmoniously developed Region".

Delhi is recording heavy population growth since 1951. As the city grows, its problems of land, housing, transportation and management of essential infrastructure like water supply and sewage have become more acute. Delhi is one of the most populated cities in the world. The quality of ambient air is so hazardous that lung and respiratory diseases are on the increase. The city has become a vast and unmanageable conglomeration of commercial, industrial, unauthorised, resettlement colonies and unplanned housing. There is total lack of open spaces and green areas. Once beautiful city, Delhi now presents a chaotic picture. The only way to relieve the capital city from the huge additional burden and pressure, is to deconcentrate the population, industries and economic activities in the city and relocate the same in various priority towns in the NCR.

2. The Master Plan for Delhi perspective 2001 (the Master Plan) as approved by the Central Government under S.11A(21) of the Act was published in the Gazette of India on August 1, 1990. The question for consideration, before us, is whether the hazardous/noxious/heavy/large industries operating in Delhi are liable to be shifted/relocated to other towns in the NCR ?

3. The relevant part of the Master Plan is as under :-

"Hazardous and Noxious Industries.

Refer Annexure III H(a).

(a) The hazardous and noxious industrial units are not permitted in Delhi.

(b) The existing industrial units of this type shall be shifted on priority within a maximum time period of three years. Project report to effectuate shifting shall be prepared by the concerned units and submitted to the authority within a maximum period of one year.

(c)

(d) Action shall be taken by Delhi Administration to prepare a list of individual noxious and hazardous industrial units to be shifted and depending on the pollution/hazard, administration may force these industrial units to shift within a maximum prescribed period of three years.

Heavy and Large Industries.

Refer Annexure III H(b)

(a) No new heavy and large industrial units shall be permitted in Delhi.

(b) The existing heavy and large scale industrial units shall shift to Delhi Metropolitan Area and the National Capital Region keeping in view the National Capital Region Plan and National Industrial Policy of the Govt. of India.....

(c).....

(d) Modernisation of heavy and large scale industrial units shall be permitted subject to the following conditions :

(i) It will reduce pollution and traffic congestion.

(ii) Whenever the unit is asked to shift according to the policies of the plan, no compensation shall be paid for assets attained because of modernisation".

4. It is thus obvious that under the mandatory provisions of the Master Plan the hazardous and noxious industrial units (H(a) industries) are not permitted to operate in Delhi. So far as the existing H(a) industries are concerned, they were required to be shifted within a maximum prescribed period of three years. The Master Plan came into force in August, 1990, H(a) industries should have been shifted by the end of 1993. It is unfortunate that no action in this respect was taken by the authorities concerned. The industries were required to prepare and submit the project reports to effectuate shifting. This was to be done within one year of the coming into force of the Master Plan. None of the H(a) industries submitted the required project reports within the statutory period of one year. We have no hesitation in holding that the H(a) industries are operating in Delhi illegally and in utter violation of the mandatory provisions of the Master Plan. Delhi Administration was under a statutory obligation to prepare a list of H(a) industries. No

such list was prepared within the statutory period of three years. It was only under the directions of this Court that the necessary lists were prepared.

5. There is no doubt that the H(a) industries have been operating in Delhi illegally during the last about three years. They must stop operating in Delhi and relocated themselves to some other industrial estate in the NCR. We are further of the view that the concerned officers of the Delhi Administration are equally responsible for continuous illegal operation of the H(a) industries in the city of Delhi. The Chief Secretary, Delhi Administration shall hold an inquiry and fix the responsibility of the officers/officials who have been wholly re-miss and negligent in the performance of the statutory duties entrusted to them under the Master Plan.

6. The Master Plan provides that "no new heavy and large industrial units shall be permitted in Delhi". Heavy and large industries have been categorised as H(b) under the Master Plan. It is further provided that the existing H(b) industries shall shift to DMA and the NCR keeping in view the Regional Plan and the National Industrial Policy of the Government of India. Although no period has been prescribed for the shifting of these industries but in the absence of any such provision the shifting has to be done within a reasonable time, period of six years from August 1990 when the Master Plan came into force, is more than reasonable period for these industries to shift from Delhi. Some of these industries have, during the course of arguments, offered for modernisation and also for conversion from polluting to non polluting industries. The offers are simple ipse-dixit with no material. We are not impressed by the offers made by these industries at this late stage. They should have modernised or changed the process of manufacture during the six years they have been operating in violation of the Master Plan. We, therefore, reject these offers.

7. It may be mentioned that H(a) and H(b) type of industries have been indicated in Annexure III to the Master Plan.

8. This Court has been monitoring this matter since January, 1995. On March 24, 1995 this Court took notice of the growing pollution in Delhi in the following words :-

"A very grim picture emerges regarding increase of pollution in the city of Delhi from the two affidavits filed by Mr. D. S. Negi, Secretary (Environment), Govt. of Delhi. He has pointed out that the population of Delhi which was about 17 lakhs in 1951 has gone up to more than 95 lakhs as per the 1991 census. In fact, more than 4 lakh people are being added to the population of Delhi every year out of which about 3 lakh are migrants. Delhi has been categorised as the fourth most polluted city in the world with respect to concentration of Suspended Particulate Matter (SPM) in the ambient atmosphere as per World Health Organisation Report, 1989. From Neeri's annual report (1991) it is obvious that the major contribution, so far as air pollution is concerned, is of the vehicular traffic but the industries in the city are also contributing about 30% of the air pollution. So far as the discharge of effluent in Yamuna is concerned,

the industries are the prime contributors apart from the MCD and NDMC which are also discharging sewage directly into river Yamuna".

On the same day this Court directed the Central Pollution Control Board to issue notices to the industries in the following words :-

"We direct the Central Pollution Control Board (hereinafter referred to as 'the Board') through its Member Secretary to issue individual notices to all these 8378 industries indicating therein the fact that they are polluting industries and are operating in non-conforming areas in violation of the Delhi Master Plan formulated under the Delhi Development Authority Act, 1957, Delhi Municipal Corporation Act, 1957 and the Factories Act, 1948. The first Master Plan for Delhi was formulated in 1962 and the second Master Plan called the MPD 2001 came into force on August 1, 1990. Needless to say that Master Plan provides setting up of industries only in conforming areas i.e. the industrial areas earmarked for that purpose. The individual notices shall also indicate that these industries have to stop functioning in the city of Delhi and be relocated elsewhere. It may also be stated in the notices that if for the purposes of relocation the industries require any help from any Government Department/Agency, they may file their objections in that respect before the Secretary, Environment, Delhi Administration.

The Individual notices shall be issued by the Board to all these industries before April 30, 1995. Apart from individual notices a public notice in this respect in two English dailies and two vernacular dailies shall also be published in the third week of April, 1995. We further direct the Doordarshan and All India Radio to make announcement in this respect on three consecutive days in the last week of April, 1995. Mr. Altaf Ahmad, learned Additional Solicitor General has agreed to give the language of the notice which is to be announced by the Doordarshan and All India Radio.

Annexure R-2 to the additional affidavit contains a list of 256 hazardous and noxious units which are operating in conforming areas. Similarly, the industries listed in Annexure R-3 and R-4 are also air polluting and water polluting industries. According to the Master Plan and the provisions of law mentioned above these industries have also to be re-located. We direct the Member Secretary, Central Pollution Control Board and other authorities to treat these units similarly as the 8378 units which are to be dealt with and similarly notices to these units shall also be issued.

The industries concerned, within 15 days, from the receipt of the notices shall file their objections, if any, before the Secretary Environment, Delhi Administration. We further give liberty to the industries concerned to approach this Court, if they deem it necessary for any assistance for the purposes of relocation".

9. It is thus obvious that as back as March/April, 1995 the polluting industries in Delhi were approached through individual notices, public notices in the newspapers, through Doordarshan and All India Radio and were asked to relocate themselves. This Court offered all assistance to the industries in the process of re-location. There was no response at all from the industries.

10. This Court on May 8, 1995 gave further time to those industries who had not filed objections till that date. On May 10, 1995 this Court directed the Secretary, Urban Development Department, Government of India to indicate by way of an affidavit as to which of the industrial estates in NCR are available for relocation. This Court passed the following order :-

"Mr. M. C. Mehta, the petitioner states that under the National Capital Region Act, 1985, a Board called National Capital Region Planning Board has been constituted. The Union Minister for Urban Development is the Chairman of the Board. It is further stated that under the Regional Master Plan 2001 prepared under the National Capital Region Planning Board Act, 1985, the industrial areas have been earmarked in various regions. We are in the process of dealing with 9000 odd industries operating in the non-conforming areas of Delhi. May be that some of the industries have to be re-located. We request Smt. Sheela Kaul, the Union Minister for Urban Development to file an affidavit in this Court through the Secretary of the Department indicating as to which are the industrial areas available for re-locating the industries from Delhi. This may be done within six weeks from the receipts of the order. The registry is directed to send a copy of this order to the Urban Development Ministry as well as to the Secretary of the Ministry".

Pursuant to the order dated May 10, 1995 (quoted above) Secretary, Department of Urban Development, Government of India filed in this Court details of the vacant industrial areas in the industrial estates at Ghaziabad, Noida, New Noida, Bullandshahr, Meerut, Rajasthan and sub-divisional and Haryana. This Court by the order dated August 3, 1995 directed the Delhi Administration and the Central Pollution Control Board to display the details of the industrial, estates where industrial plots were available for relocation in their respective offices. The Central Pollution Control Board was directed to publish a notice in two daily newspapers bringing it to the notice of the industries that industrial plots in various industrial estates were available for relocation. It was also directed that necessary assistance shall be rendered to all those industries who wish to relocate themselves. It is unfortunate that despite several notices by this Court only three industries offered to relocate themselves. This Court on August 25, 1995 directed that the H category industries be dealt with immediately for the purpose of relocation. This Court passed a detailed order in the following terms :

"Pursuant to this Court's order dated March 24, 1995, May 8, 1995, May 10, 1995 and 3rd August, 1995, affidavits have been filed, as directed by us in these orders, Mr. D. S. Negi, Development Commissioner-cum-Secretary (Env't), Government of India, has filed an affidavit dated August 23, 1995. It is stated in the affidavit that out of 9164 industries, 2224 have filed objections. 1557 industries are operating in non-conforming use zones. It is further stated that out of these, 170 industries falling under 'H' category (Highly Polluting) need to be re-located out of the National Capital Territory of Delhi, as per the provisions of Master Plan 2001. It is further stated that 1387 industries which belong to Groups F, G, D, C, E and B also require re-location within the National Capital Territory of Delhi in conforming use zones in a phased manner as stipulated in the Master Plan 2001.

Mr. Negi has also invited our attention to the fact that some of the Federations representing the industries which did not file objections, have approached the Chief Minister of Delhi, requesting him to request this Court to give one more opportunity to these industries of file their objections to the notices which were issued and served on these industries pursuant to this Court's order. As suggested by Mr. Altaf Ahmed, Additional Solicitor General, we direct that the industries which have not filed objections till date may do so within 3 weeks from today....Mr. Negi has also stated in the affidavit that during the last two decades the city of Delhi has witnessed tremendous changes in the industrial profile, and as a result, as at present, it is estimated that there are 93,000 industries which are operating in Delhi and majority of these industries are in non-conforming use zones. The copies of the volumes containing objections of various industries have been given to Mr. Mehta and Mr. Ranjit Kumar, learned counsel appearing in these matters.

Dr. S. P. Chakrabarti, Member Secretary of the Central Pollution Control Board has also filed affidavit dated August 25, 1995. It is stated that the Board has published a public notice inviting all industries operating in non-conforming use zones in the territory of Delhi, to give their options to shift to the available industrial plots in the industrial estates of Ghaziabad, Bulandshahar, Meerut, Rajasthan Sub Division and Haryana. Copies of public notice have been annexed along with the affidavit. It may be mentioned that prior to the notice, individual notices were issued and served upon all the industries. Mr. Panjwani, learned counsel appearing for the Central Pollution Control Board has informed us that there is very poor response to the public notice in the sense that only three industrialists out of the 9164 have come forward to seek assistance for the purpose of re-location.

Mr. Altaf Ahmed, Additional Solicitor General, Mr. M. C. Mehta & Mr. Ranjit Kumar, learned counsel state that they will examine the material

placed on the record by the Delhi Administration today and thereafter come with positive suggestion as to how this problem is to be tackled. This may be done within two weeks. To be listed on September 14, 1995, at 2-00 p.m.

We are, however, of the view that the industries which come in 'H' category are to be dealt with immediately. According to Mr. Negi, the details of such industries is shown in the report consisting of four volumes, submitted by the Delhi Pollution Control Committee. We direct the Delhi Pollution Control Committee to serve notices to industries ('H' category industries), within two weeks from today, indicating that these industries shall have to be relocated. "They be told in the notice to give their requirements regarding plot-area etc. to the Committee. The industries may further indicate any other assistance they require from any of the authorities for the purpose of re-location. The industries shall give their response to the notice within two weeks of the receipt of the notice. The Committee shall thereafter examine the requirement of each of the industries and submit a report to this Court four weeks thereafter. We make it clear that so far 'H' category industries are concerned, there is no alternative but to re-locate them outside Delhi. We reiterate that all these industries shall be provided with proper assistance by the Delhi Administration and all other Governments/Governmental Authorities, in the process of relocation. So far as 'H' category industries are concerned, the matter to come up on 3rd November, 1995. The said industries shall be heard and final order passed".

11. By various orders passed and notices issued by this Court from time to time, the 'H' category and polluting industries in Delhi were told in clear terms that they cannot operate in the city and they must relocate to other industrial estates in the NCR. These industries were repeatedly offered all assistance and incentives in the process of relocation. Again on September 22, 1995 this Court passed the following order :-

"We are of the view that to control pollution in the town of Delhi is the sole responsibility of the Delhi Pollution Control Committee. It is high time that the Committee should realise its responsibility. We are all assisting the Committee to perform the job which has been entrusted to it under the law. The Committee may adopt any method to complete the necessary survey and place before this Court a complete list of hazardous industries within six weeks from today. Meanwhile, the Delhi Pollution Control Committee has placed before this Court additional list of 341 industries, which according to the Committee can be categorised as 'H' industries. We direct the Committee to issue individual notices to all these industries in similar terms as directed by this Court in the order dated August 25, 1995. This shall be done within 10 days from today.

The matter to come up on 3rd November, 1995 for further directions. We make it clear that all the 'H' category industries to whom notices have been issued will have liberty to address this Court on November 3, 1995".

12. On November 15, 1995 the Delhi Pollution Control Committee (Committee) filed a list of the industries which are categories as H(a) and H(b). Far from agreeing to relocate, the industries even challenged the categorisation done by the Committee. They wanted further opportunity in the matter. This Court passed the following order :-

"Mr. Altaf Ahmad, learned Additional Solicitor General has invited our attention to the three compilations filed by him in this matter. He has filed a compilation dated November 3, 1995 consisting of 708 hazardous/noxious/heavy and large industries in the city of Delhi. Apart from that there are 341 industries of similar category listed in the compilation dated September 22, 1995. In the third compilation (green colour) dated August 23, 1995, 171 industries of the same category are listed. There are, thus, 1220 hazardous/noxious/heavy and large industries as listed in this compilations. Mr. P. N. Lekhi, Mr. H. H. Salve and various other learned counsel have raised an objection that the industries they represent do not come within the category of hazardous/noxious/heavy and large industries. We, therefore, give liberty to the industries who wish to represent against their tentative categorisation to file objections before the Central Pollution Control Board (Board) within one week from today. The Board shall further indicate as to which of the industries are 'H'(a) and 'H'(b) categories as defined in the Master Plan 2001. Mr. Lekhi has suggested that since the expertise to find out whether an industry is in conforming or non-conforming area is with the DDA it would be better that an officer of the DDA should be associated with the Board for this purpose. We agree with the suggestion and request Mr. P. C. Jain, Additional Commissioner of Planning, DDA to associate with the Central Pollution Control Board as a specialist to indicate whether an industry, is in the conforming or non-conforming area. He shall associate with the Central Pollution Control Board from November 17, 1995. We further make it clear that if necessary the Board may hear the industry and in case it is further necessary an officer or official of the Board may visit the industry for on the spot verification. We make it clear that the categorisation made by the Board shall be final subject to modification by this Court.

Mr. F. S. Nariman, learned senior counsel appearing for M/s. Birla Textiles & M/s. Shriram Industrial Enterprises Ltd. along with Mr. Ramji Srinivasan, learned counsel appearing for M/s. DCM Silk Mills and M/s. Swatantra Bharat Mills state that the industries are willing to relocate themselves. So far as M/s. Birla Textiles are concerned, it is stated that the alternate land has already been identified in the State of Himachal Pradesh and the industry is willing to shift within a reasonable time. These

industries may file their relocation schemes by placing a short note before this Court by next Tuesday. The scheme filed by these industries shall indicate the manner in which they are going to deal with the workmen and their consequent problems. Mr. Altaf Ahmad states that he would give his response to the relocation schemes within three days thereafter. We request Mr. Altaf Ahmad to further seek instructions from the Delhi Administration regarding possibility of extending various concessions to those industries which are to be relocated".

On November 30, 1995 Mr. Omesh Saigal, Member Secretary, National Capital Regional Planning Board was present in Court. He placed on record a note regarding the relocation of industries. He stated that the Board has at its disposal 5000 acres of land in various parts of the NCR. The Board is in the process of acquiring three hundred thousands acres of land in addition. According to him the Board has enough industrial plots to offer to the industries which are to be relocated from Delhi. He offered plots even up to 100 acres or more for heavy and large industries.

13. The note dated December 1, 1995 placed on record by Mr. Saigal indicates the NCR policy measures regarding dispersal of industries and further implementation of the said policy. The salient features of the note are as under :-

"Implementation of NCR Policy measures regarding dispersal of industries :

This involves a number of steps :

I Making alternate sites available to the industries for relocation.

The board recommendations of the Planning Committee were as under:

(a) For locating the industries at new sites :

(i) If the industries were non-polluting, they could be accommodated in the regular planned industrial areas/Estates/Zones already developed or being developed in the NCR by the concerned authorities of the respective States.

(ii) In case of industries currently listed as polluting/hazardous.

When these industries set up at their new location and they improve their technology and if they no longer remain polluting and hazardous, they can be located in regular planned industrial areas.

If such industries continue to remain polluting special industries zones could be created so that they do not adversely affect the living environment in the vicinity and such industrial zones to have special infra-

structure facilities to take care of the pollutants and provide protective belts around them to mitigate the effect of polluting effluents, smoke, gases, noise etc., and any accidental release thereof.

(b) The land will be allocated to the shifting units on priority and at pre-determined rates, taking into consideration their future needs for expansion and modernisation.

c) For heavy industries requiring large sites, additional land may be acquired where necessary.

(d) Upon their relocation, the units will be treated as new units and provided all facilities as per industrial policy of the State.

(e) Additional back up facilities such as employer housing etc., may be provided wherever necessary.

(f) The NCR Planning Board can provide loan assistance to the State Government/their agencies for creation and development of such industrial areas.

III. The restrictions which may be imposed by Delhi Finance Corporation on the units who have taken loan from them.

The State Finance Corporation where the units are going to be relocated to take the loan responsibility of the shifting units financed by DFC, for which an agreement/MOU to be reached between Delhi and the State Financing Corporations with the concurrence of the appropriate re-financing apex bodies. For financing the creation of new assets for the shifted units, the State Finance Corporation to take responsibility as per the existing practice in vogue.

IV Permission required under the Industrial Disputes Act from the State Government, Department of Labour and Employment.

The Department of Labour and Employment GNCT-Delhi to sort out the problems with regard to the existing labour in these industries.

V. Problems relating to shifting of labour to the new relocated sites outside Delhi in the NCR.

The above proposals are to be made applicable to those units which locate themselves in the NCR itself, so that in their relocated position, they generate economic activities in the priority towns and NCR to provide employment opportunities for the deflected population. To ensure this we must be dovetail them with the plan of shifting. Since the NCR towns are

within the Commuting range of Delhi and each other, the labour can either shift to the new sites or at least can keep commuting till they finally shift to the new place. If the industries are taken too far away outside the region, they will neither help in the development of the region nor be able to help in the shifting of the labour force to the new site.

VI. Setting up of a single window to facilitate relocation of industries.

The matter was discussed in the Parliamentary Consultative Committee attached to the Ministry of U.S. & E. held on 22-8-95 and the following decision was taken :

In order to facilitate shifting of industries from Delhi, it is necessary that a unified single agency be formed consisting of all the participating States to act as a nodal agency to sort out all the problems of such industries ranging from the use of their vacated land to their establishment at new sites".

It would be useful at this stage to quote the provisions of the Master Plan under which the shifting industries are entitled to suitable incentives.

"GENERAL CONDITIONS

- i) In allocating new industrial plots, which have been recommended for shifting will be given priority by the Authority by offering plots to the industrial units prior to shifting.
- ii) Suitable incentives would be provided to the shifting of industries.
- iii) Ad hoc licencing to industrial units shall be discontinued".

14. There is on record an affidavit filed by Mr. C. D. Tripathi on behalf of Department of Urban Development, Ministry of Urban Affairs and Employment, Government of India giving following details of vacant industrial areas in the NCR:-

15. The material placed before this Court clearly shows that large number of plots are available in various industrial estates in the NCR. Some of the industrial estates are in the MPA. H(a) and H(b) industries can have no difficulty in selecting a suitable plot for relocation. The allotment of the plots shall be made on priority basis. We have no doubt that reasonable incentives, which are normally provided to new industries in new industrial estates, shall be extended to the shifting industries. This Court by the order dated May 10, 1996 in I.A. 22 (W.P. (Civil) 4677 of 1985) has already directed and laid down the manner in which the land which would become available on account of shifting of H(a) and H(b) industries is to be used. In view of the huge increase of prices of land in Delhi, the re-use of the vacant land is bound to bring lot of money which can meet the cost of relocation.

16. So far as categorising is concerned, this Court has given repeated opportunities to the industries to place their case before various authorities. In the first instance the Committee prepared list of H(a) and H(b) categories after affording full opportunity to the industries. Thereafter, this Court by the order dated December 13, 1995 permitted the industries to file further objections before the Central Pollution Control Board (the Board) regarding categorisation. Even after the Board finally decided the categorisation the industries were not satisfied. This Court gave further opportunity by the following order :-

"Details of Vacant Industrial Areas"

U.P. Sub Region No. of plots Area

Vacant (In acres)

GAZIABAD

1. B.S.R. Road 33 30.78
2. Loha Mandi 83 5.39
3. S.S.G.T. Road 20 8.11
4. Loni Road Site-II 43 832.00
5. Meerut Road Site-III 25 11.27
6. Sahibabad Site-IV 64 40.74
7. Kavi Nagar, Sector-17 1 0.59
8. Udyog Kunj 56 13.82
9. Greater Noida 30 200.00
10. UPSIDC (Greater Noida) 563 155.80
11. Noida Phase-II + Extn 37 29.70
12. Noida Phase-III 18 5.00

BULANSHAR

13. Sikanderabad 325 250.36
14. Gopalpur 129 29.63

15. Khurja 4 0.79

MEERUT

16. Meerut Mahanagar 3287.97

RAJASTHAN SUB-REGION

1. Matsya Industrial Area, Alwar 33 33.10

2. Bhiwadi 2 0.44

3. Neemrana 30 268.00

4. Behror 1 0.12

In addition, land for industrial use is under acquisition in the following areas

Location Land under acquisition (acres)

1. Matsya Industrial Area, Alwar 485.00

2. Bhiwadi 958.12

3. Khushkhera 855.62

4. Neemrana 631.50

5. Behror 11.77

6. Sotanala 153.65

Total area under acquisition : 3095.66

"Learned counsel appearing for some of the industries which have been categorised hazardous have contended that the industries have been wrongly categorised as 'H'. It is also stated that similar industries have been left out of the said categorisation. Mr. Panjwani states that he along with technical team shall hear the objections personally and submit a note to this Court. Mr. P. N. Lekhi states that he would make the High Court Bar Association Committee Room available for the purpose. The lawyers may meet Mr. Panjwani at 4.30 pm on Monday, the 29th January, 1996 in the Committee room of Delhi High Court Bar Association Committee room".

16A. The above exercise was completed and a final list of H(a) and H(b) industries was placed before this Court.

17. We are of the view that despite the best efforts of the Committee and the Board, it may not have been possible to identify all the H(a) and H(b) industries in Delhi. We shall continue to identify and relocate them.

18. This Court has given several opportunities to the identified H(a) and H(b) industries to represent and file objections against their categorisation. The industries which are being finally dealt with by us have been heard more than once and after through investigation and scrutiny they have been categorised as H(a) and H(b).

19. The Board issued notices to 9164 industries in Delhi to show cause why they be not directed to shift from Delhi. In response to the notices 2225 objections were filed before the Committee. After considering the objections and affording opportunity of hearing, 171 units were categorised as 'H' industries under the Master Plan. Subsequently, under the orders of this Court 24 more industries were permitted to file their objections and out of which six were declared as 'H' industries. 341 more industries were identified by the Committee as H industries. Yet another 708 industries were identified as 'H' category by the Committee. It is thus obvious that 1226 (171+6+341+708) industries were identified as 'H' category industries. Under directions of this Court, a public notice mentioning all the 1226 industries was published in the Indian Express, Jansatta, Nav Bharat Times and Times of India dated 19th, 20th and 21st of November, 1995. Although most of the industries had earlier been given individual notices and were heard but despite that in the interest of justice fresh notice by publication was given to all the 1226 industries.

20. Out of 171 industries (Part of 1226 industries) which were identified as 'H' category industries, 59 did not file further objections in response to the public notice. They were earlier heard by the Committee and after full investigation were categorised as 'H' industries. There 59 industries, in terms, accepted their categorisation as H industries.

21. In response to the public notice 433 objections were received (10 objections were duplicate). The objections were considered and the industries were heard by the Board. Finally, the Board identified 104 units as 'H' category industries.

22. The Board considered objections of the following five industries which are operating in non-conforming areas and came to the conclusion that they were 'H' category industries :-

"(1) Pritam Singh Hari Singh 31/1A, Street No. 2, Anand Parbat Industrial Area New Delhi - 5.

(2) Bansal Plywood Industry (P) Ltd. 37, Small Scale Co-operative Industrial Estate Ltd. G.T. Karnal Road, Delhi-33.

(3) Gupta Industries 150, G-1, Opp. Police Station, Rest House, Badarpur, New Delhi - 44.

(4) Philips Rubber Industries 299, Gokulpur, Delhi-94.

(5) Philips Rubber Industries, 626-627, Loni Road, East Gokulpur, Delhi-94".

23. It may be mentioned that Vikas Rubber Oils and Chemical, Mundka, Delhi-41, C.R. Leather, Resalgarden, Nangloi, Delhi and Varun Dychem, 309, Naya Katra, Chandni Chowk, Delhi are the three industrial units which were not included in the list of 1226 industries and as such were not given public notice. These industries, however, filed objections before the Board in response to individual notices which were considered by the Board they were categorised as 'H' industries. These are included in the list of 104 finalised by the Board.

24. The picture which emerges is that 104 units identified by the Board, 59 units earlier identified by the Committee and 5 units which are operating in non-conforming areas - totaling 168 (104 + 59 + 5) - have been, as at present, categorised as H industries.

25. We, therefore, hold that 168 industries listed below are hazardous/noxious/heavy/large industries and fall in H(a) and H(b) categories under the Master Plan:-

1. Krishna Chemicals, 3481, Gali No.1, Narang Colony, Tri Nagar, Delhi - 35.
2. Delhi Stone Crushing Co. Rajokari, N.D. 38.
3. New Kalkaji Stone Crushing, K. No. 1229, Rajokari, N.D.-38.
4. T. R. Sethi & Sons, Rajokari, N.D. - 38.
5. Ahuja Stone Crushing Co. 1234/9, Rajokari, N.D.-38.
6. Raj Stone Crushing Co. K. No. 1249, Rajokari, N.D.-38.
7. Lucky Stone Enterprises, Plot No.1, Luthra Forms, Rajokari, N.D.-38.
8. Laxmi Stone Crushing Co. K.No. 1620, V.P. Rajokari N.D. 38.
9. P. S. Sachdeva & Co. K. No. 1237, Rajokari, N.D.-38.
10. Raj Grit Udyog, K.No. 1249, Rajokari, N.D.-38.
11. D. P. Sharma & Co. No. 1238, Rajokari, N.D.-38.

12. Jagdish Stone, Rajokari, N.D.-38
13. Neelam Stone Crushing Co., K.No. 1161, 1162, V & PO. Rajokari, N.D.-38.
14. Bhagirithi Stone Co. K. No. 1234/8, Rajokari, N.D.-38.
15. Asha Stone Crushing Co. K. No. 1251, Rajokari, N.D.-38.
16. Glaxi Paints, Shahabad Daulatpur, Delhi-42.
17. Amba Potteries & Refractories, P.O. Gurgaon Road, N.D.-37.
18. Daulat Ceramic Indl. P.O. Gurgaon Road, Nangal Dairy, N.Delhi-110 037.
19. Delhi Colour of Chemical Inds., 466/6, Aggarwal Gali, Pandara Road, Mahabir Block, Shahadra, Delhi-32.
20. Anup Gupta, Alipur Garh, Narela Road, N.D.-36.
21. Pawan Stone Crushing Co., Rajokari, N.D.-38.
22. Centrury Colour Inds. 29, Netram Marg, Begampur, Delhi-41.
23. Thermal Coating P. Ltd., RZ-718, Prem Ngr, Uttam Ngr, N.D.-59.
24. Gunjan Gupta, Gupta Stone, Rajokari, N.D.-38.
25. Kulbir Singh, Rattan Singh & Co., Rajokari, Delhi-38.
26. Yadav Bros., Kh.No.1234/7, Vill, Rajokari, Delhi-38.
27. Guru Nanak Stone Crushing, Kh.No.1234/6, Vill, Rajokar, Delhi-38.
28. Apex Chemi Colours, 232, Karawal Ngr, Delhi-94.
29. K.C. Dyers, 649/2, Devi Village, Delhi-62.
30. Monark Paints, 678/2, Nai Basti, Devli, N.D. -62.
31. New Metal Co., 1/22/1, Kirari Road, Nangloi, DLH-41.
32. Manoj Batteries, 1/59, 6A, Jauharipur Road, Karawal Ngr, Delhi-94.
33. Gupta Metal Works, Kh.No. 459, Alipurgarh, Alipur, Delhi-36.

34. Best Metal, Kh.No.39, GTK Rd, Budhpur, Alipur, Delhi-36.
35. Gulshan Metal, Kh. No. 38/18, Alipur, Budhpur, Delhi-36.
36. Dinesh Metal Inds. Kh.NO.1/59, Fact. No. 3, Water Works Road, P.O. Gokulpuri, Shahadra, Delhi-94.
37. Organo Dyestuffs, Gaji No.1-A, Chowk Samaipur, Delhi-42.
38. Hindustan Insecticides Ltd., Guru Gobind Singh Marg, Delhi-15.
39. Swatantra Bharat Mills, Shivaji Marg, Delhi-15.
40. DCM Silk Mills, Shivaji Marg, Delhi-15.
41. Birla Textile Mill, Birla Lane, Subji Mandi, Delhi-7.
42. Sri Ram Foods & Fertilizers, 15, Shivaji Marg, P.O.B.6219, Delhi-15.
43. Mahabir Steel Rolling Mills, 658, Kabool Nagar, G.T. Road, Shahadra, Delhi-32.
44. Lajpat Potteries, Gali No.1, Friends Colony, Indl.Area, G.T. Road, Sahadra, Delhi-95.
45. Algha Industries, Gurgaon Road, Mahipalpur, Delhi-37.
46. Daya Ram & Sons, B.325/2, Nihal Vihar, Nangloi, Delhi-41.
47. Sunchem Pvt. Ltd., F-2, DI Bldg., Indl. Complex, Rohtak Road, Nangloi, Delhi-41.
48. Narankari Crushing Co. 22/7, Kala Pahar, New Rohak Road, Delhi-5.
49. Pratap Stone Crushing Co. Gali No.12, New Rohtak Road, Delhi-5.
50. Algha Pigments, S-19/A, Badli Indl. Estate Delhi-42.
51. M/s. Ashoka Colours, 5/14/2, Karawal Nagar, Delhi-94.
52. Bholi Ram & Sons Pottery, 254, Indl. Estate, Nangli Sakrawati, Delhi-43.
53. Ambica Industries, WZ-10, Todapur, Delhi-42.
54. U. K. Paint Ltd., 365 Mallnand, Gurgaon Road, Delhi-30.

55. Guru Nanak Stone Mills. Khasra No. 1234/6, Rajouri Garden Road, New Delhi-110 038.
56. Sardar Singh Chadha, 7249, Aram Nagar, Qutab Road, New Delhi-35.
57. Sai Chem. Kh. No. 461. Sahibabad, Daulatpur, Delhi-43.
58. Gain Singh Pratap Singh, 7249, Arun Nagar, Qutab Road, New Delhi - 35.
59. Laxmi Painter & Chemicals, 490/1-2-3-N. Pipal Wala Krion, Mal-Orband Badarpur, New Delhi - 44.
60. Bharat Dyes & Pigment Pvt. Ltd. Radhepuri, Delhi-51.
61. Tarun Trading Co., Nihal Vihar, Delhi-41.
62. D. M. Leather, Nihal Vihar, Delhi-41.
63. Modern Leather, Jwalapuri, Delhi-41.
64. Northern Indian Paints, M.I.A.Ph.II.
65. Frineds Chemicals, Munka Village, Rohtak Road, Delhi-41.
66. Ramesh Oil Co., Munka Village, Rohtak Road, Delhi-41.
67. Saini Lubricants, Munka Village, Rohtak Road, Delhi-41.
68. Friends Chemicals, Mayapuri, Indl. Area. Ph-II, Delhi-64.
69. Delhi Paint Corporation, M.I.A. Ph-1, Delhi-64.
70. J.J. Foams Pvt. Ltd., Okhla Indl. Estate, Delhi.
71. Techno Plast India, Karampura, Delhi-15.
72. Bhatia Chemical Inds., G.T. Road, Shahdara, Delhi.
73. Bhatia Rasayan Udyog, G.T.Road, Shahadara.
74. Ashoka Udyog, Loni Road, Shahdara, Delhi.
75. Tex Dyes Industries, G.T. Road, Shahadara.
76. Osra Engg. Pvt. Ltd., Hastal Village, Uttam Nag.Delhi.

77. Novex Pigments, Madipur Village, Delhi-63.
78. Hindustan Petrochemicals Vill. Mithapur, Badarpur.
79. BOC Gases, Shivaji Marg, N.D.-15.
80. M/s. Hans Paints, Colour & Varnish Works, Okhla Indl. Area.Ph-11.
81. M/s. Essel Paints, Gadhaipur, Mehrauli, Delhi.
82. Metropaint Inds. M.I.A.Ph-1, N.D.-64.
83. Lala Ram & Sons. Nehal Vihar, N.D.-41.
84. Hari Mohan & Co. Motia Khan, N.D.-55.
85. Rishi Leathers, Nehal Vihar, N.D.-41
86. Swastik Enterprises, (Formerly Samir Enterprises), Samaipur, Indl. Area, Delhi-32.
87. N.K. Leather, Hasthal Road, Rehnolla, Delhi-41.
88. Mahalakshmi Chemical Inds. Bhorgarh, Narella, Delhi-40.
89. Arora International, Jwalaheri Mkt. Paschim Vihar, New Delhi - 63.
90. Uma Shankar, Khandelwar & Co., Okhla Indl. Area, Ph-II, New Delhi - 20.
91. PMC Tyres & Tubes Indl. Area, Karaval Nagar, Delhi-94.
92. Punjab Potteries, Gurgaon Road, N.D.-37.
93. Puneet International, Nangloi, N.D.-41.
94. Commercial Union Research Lab., Najafgarh Road, New Delhi-15.
95. Bindal Industries, Narella, Alipur Rd; Delhi-40.
96. Ashoka Pulp & Paper, Jawahar Nagar, Loni Road, Delhi-94.
97. Dhawan Engg. Works, Tahirpur Indl. Area, Shahdara, Delhi-95.
98. Super King, Mfg. (Tyres) Pvt. Ltd., Jhilmil Indl. Area, Shahadara.

99. Idgah Slaughter House, Idgah Sadar Bazar, Delhi.
100. Associated Paints, Libaspur, Delhi-42.
101. Prem Metal Works, A.P.I.A., Delhi-5.
102. Bajaj Tyres Badli Indl. Area, Ph-II, Delhi-42.
103. Delhi Resin & Allied Products, Prahladpur (Near Samaipur), Delhi-42.
104. Nav Bharat Glue Mfg. Co., Alipur, Narela Road, New Delhi - 36.
105. Bhagwati Oxides & Chemicals, Jhilmil I. A., Shahadara.
106. The Gulf Paint Corpn. Gurudwara Bala Sahib Road, New Delhi.
107. Bhagsons Paint Inds. (India), Badli Indl. Estate, Delhi-42.
108. Associated Dyechem, Badli, Indl. Estate, Delhi-42.
109. Vital Chemical Pvt. Ltd., Najafgarh Road, Indl. Area, New Delhi - 15.
110. Punjab Metal Works Pvt. Ltd., Nangloi, Delhi-41.
111. Janta Paint Marg, Jhilmil Indl. Area, Shahdara, Delhi-85.
112. New India Paint Inds., Jhilmil Tahirpur, Shahdara, Delhi-32.
113. German Dyes & Chemicals, Jhilmil Indl. Area, Shahdara.
114. Sawhney Rubber Inds., Indl. Estate G.T. Rd., Shahadra, Delhi-95.
115. Swiss Coating (India), Karawal Ngr. Delhi-94.
116. K. L. Rathi, Steel Ltd., Shahadra, Delhi-32.
117. Gordhan Das Rathi Steels Ltd; Loni Rd., Shahadra, Delhi-32.
118. Nova Steels (India) Ltd., Loni Rd., Shahadra, Delhi-32.
119. Delhi Steel Rolling Mills, Loni Rd., Shahadra, Delhi-32.
120. Krishchem Inds. Okhla, N.D.-20.

121. Continental Leathers, DLF Indl. Area, Delhi-15.
122. Monark Enterprises, DLF Indl. Area, Delhi-15.
123. Jindal Plasticizers Pvt. Ltd., G.T.K. Road, Delhi-33.
124. Bharat Insecticides Ltd., BSIDC Indl. Complex, Nangloi, Delhi-41.
125. Pesto Chem India Ltd., Ansal Dilkhush Indl. Complex, GTK Rd.,
126. Hindustan Pulversing Mill, GTK Road, Bakoli, Delhi-36.
127. Durga Polymers, Kirari Rd., Nangloi, Delhi-41.
128. Akay Polymers Pvt. Ltd., Samaipur Badli, Delhi-42.
129. Croda Polymers Pvt. Ltd., Samaipur, Delhi-42.
130. Super Leathers, Najafgarh Road, Nangloi, Delhi-41.
131. R. A. Leathers, Rishal Garden, Najafgarh Rd., Nangloi, N.D.
132. MDR Leathers, Jwalapuri, Phase-II, Delhi-41.
133. Dhingra Plastic & Plastiscisers Pvt. Ltd., Okhla I.A. Ph-II.
134. Sudershan Metal Co., New Rohtak Rd., N.D.-5.
135. Sunil Metal Works, 39, Alipur, Budhpur, GTK Road, Delhi-36.
136. K. K. Metal Works, Mayapuri, Ph-II, N.D. - 63.
137. Vikas Chemicals, Nangloi, Delhi-41.
138. Arun Chemicals Udyog, 126, DSIDC, Okhla Indl. Area, Delhi.
139. Shinde Kit Products, S-92, Badli Indl. Area (S.S. Kethwaria).
140. S. Paul & Co. K. No. 1231, Rajokari, N.D.
141. Dal Chand Jajoria, A-24, Keshopur, Tannery Area, New Delhi-18.
142. Dal Chand Maurya, 240, Keshopur, Tannery Area, New Delhi - 18.
143. Satish Kumar, 447, A-16, Keshopur, Tannery Area, N.D.-18.

144. Khirmlar, Sh. Bhagwan Dass, A-31, Keshopur, Tannery Area, N.D.-18.
145. Chetram Dal Chand, A-6, Keshopur, Tannery Area, N.D.-18.
146. Khauji Lal, A-12, Keshopur, Indl. Area, Delhi-18.
147. Prabhu Dayal, A-16, Keshopur, Tannery Area, Delhi-18.
148. Raruram, S/o. Sh. Gaja Ram, A-30, Keshopur, Tannery, Area, N.D.-18.
149. Lata Devi, w/o. Dal Chand, A/33, Keshopur, Tannery Area, New Delhi.
150. Ramdhan, A-25, Keshopur, Tannery Area, N.D.-18.
151. Sanjay Bright Works, 31, DLF Indl. Area, Kirti Nagar, N.D.
152. Satpal & Sons, 1/59/7, Johripur Rd., Gokul Puri, Shahdara.
153. Om Prakash Puri & Sons, Johripur, Rd., Shahadra, Delhi.
154. Al-Ahad Leathers Pvt. Ltd., K-52/2, Nihal Vihar, Nangloi Jat.
155. Hindustan Vegetable Oils, Corpn. Ltd., Subzi Mandi Delhi-7.
156. Hindustan General Industries, Nangloi, Delhi.
157. Kumar Engg. & Allied Works, B-24, Okhla Indl. Area, Ph-I, N.D.
158. S. Paul & Co. 25/1/C Anand Parbat, New Delhi - 5.
159. Balco Paint, 16-A, DLF, Area, Delhi.
160. Balsons Paint Industry, A-93, Okhla Indl. Area, Ph-II, New Delhi.
161. Vikas Rubber Oil & Chemicals, Mundka, Delhi-41.
162. C. R. Leather, Resal Garden, Nangloi, Delhi.
163. Varun Dychem, 309, Naya Katra, Chandni Chowk, Delhi.
164. Pritam Singh Hari Singh, 31/1A, Street No.2, Anand Parbat Industrial Area, New Delhi - 5.

165. Bansal Plywood Industry (P) Ltd., 37, Small Scale Co-operative Industrial Estate Ltd., G. T. Karnal Road, Delhi-33.

166. Gupta Industries, 150, G.I, Opp. Police Station, Rest House, Badarpur, New Delhi - 44

167. Philips Rubber Industries, 299, Gokulpur, Delhi-94.

168. Philips Rubber Industries, 626-627, Loni Road, East Gokulpur, Delhi-94".

26. Having held the above mentioned 168 industries as 'H' category industries, we have no hesitation in holding that these industries cannot operate in the city of Delhi.

27. We, therefore, hold and direct as under :-

(1) The above listed 168 industries cannot be permitted to operate and function in Delhi. These industries may relocate/shift themselves to any other industrial estate in the NCR. We direct that the 168 industries listed above shall stop functioning and operating in the city of Delhi with effect from November 30, 1996. These industries shall close down and stop functioning in Delhi with effect from the said date.

(2) The concerned Deputy Commissioner of Police shall, as directed by us, effect the closure of the above industrial units with effect from November 30, 1996 and file compliance report in this Court within 15 days thereafter.

(3) The National Capital Region Planning Board shall render all assistance to the industries in the process of relocation. This direction shall go to the Board through its secretary. The National Capital Territory, Delhi Administration, through its Chief Secretary and Secretary, Industries, State of Haryana through its Chief Secretary and Secretary, Industries, State of Rajasthan through its Chief Secretary and Secretary, Industries and State of Uttar Pradesh through its Chief Secretary and Secretary, Industries shall provide all assistance, help and necessary facilities to the industries which intend to relocate themselves in the industrial estates situated in their respective territories.

(4) The allotment of plots, construction of factory buildings, etc. and issuance of any licences/permissions etc. shall be expedited and granted on priority basis.

(5) In order to facilitate shifting of industries from Delhi, all the four States constituting the NCR shall set up unified single agency consisting of all the participating States to act as a nodal agency to sort out all the

problems of such industries. The single window facility shall be set up by the four States within one month from today. This direction to the four States is through the Chief Secretaries of the concerned States. The Registry shall convey this direction separately to the Chief Secretaries along with a copy of this judgment. We make it clear that no further time shall be allowed to set up the single window facility.

(6) The use of the land which would become available on account of shifting/re-location of the industries shall be permitted in terms of the orders of this Court dated May 10, 1996 in I.A. 22 in writ petition (C) 4677/85.

(7) The shifting industries on their re-location in the new industrial estates shall be given incentives in terms of the provisions of the Master Plan and also the incentives which are normally extended to new industries in new industrial estates.

(8) The closure order with effect from November 30, 1996 shall be unconditional. Even if the relocation of industries is not complete they shall stop functioning in Delhi with effect from November 30, 1996.

(9) The workmen employed in the above mentioned 168 industries shall be entitled to the rights and benefits as indicated hereunder :-

(a) The workmen shall have continuity of employment at the new town and place where the industry is shifted. The terms and conditions of their employment shall not be altered to their detriment;

(b) The period between the closure of the industry in Delhi and its restart at the place of relocation shall be treated as active employment and the workmen shall be paid their full wages with continuity of service;

(c) All those workmen who agree to shift with the industry shall be given one years wages as "shifting bonus" to help them settle at the new location".

(d) 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 November 30, 1996 provided they have been in continuous service (as defined in Section 25B 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 wages as additional compensation;

(e) The "shifting bonus" and the compensation payable to the workmen in terms of this judgment shall be paid by the management before December 31, 1996.

(f) The gratuity amount payable to any workmen shall be paid in addition.

28. Before parting with this judgment we may briefly deal with 762 industries which did not respond to the public notice published in various newspapers. These industries are included in the list of 1226 industries which were given public notice by publication in the newspapers. These 762 industries did not file objections in response to the public notice. Ordinarily, they should have been declared as H category industries under the Master Plan but keeping in view the totality of the circumstances, we are inclined to take lenient view. A list of these 762 industries has been placed on record by the Committee. We direct the Committee (Delhi Pollution Control Committee) to issue individual notices to these industries within ten days from today asking them to show cause within ten days thereafter why they be not categorised as 'H' industries. The objections, if any, shall be decided by the Committee within further ten days and the report indicating the list of 'H' industries shall be filed in this Court before August 20, 1996.