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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 16.02.2016

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Pronounced on: 24.02.2016

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W.P.(C) 1146/2016 & CM. No.5060/2016

THE INDIAN INSTITUTE OF ARCHITECTS
AND ORS.

..... Petitioners

Through Mr. Joy Basu, Sr.Advocate with Mr.Anish
Dayal, Mr.Ishwar Mohanty and Mr.Abhinav
Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mr.P.S. Patwalia, ASG with Mr.Saket Sikri
and Ms.Neha Bhatnagar, Advocates for
Union of India/R-1 and R-2.
Mr.Robin R.David, Mr.Febin and
Mr.M.Varghese, Advocates for R-3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JAYANT NATH

JUDGMENT

JAYANT NATH, J.

1. The present Public Interest Litigation is filed seeking a writ of mandamus directing respondents No.1 and 2, namely, Union of India and Indian Trade Promotion Organisation to revoke its decision of demolition of two buildings, viz. 'Hall of Nations & Industries' and 'The Nehru Pavilion' (hereinafter referred to as 'the Buildings') as part of proposed restructuring of Pragati Maidan Complex, New Delhi. Other connected reliefs are also sought.

2. As per averments in the petition the Hall of Nations and The Hall of Industries as per petition are said to have been constructed as a part of a permanent exhibition complex in the year 1972. It is further stated that ‘the buildings’ have been designed by the celebrated architect Mr.Raj Rewal and constructed by the celebrated structural engineer Mr. Mahendra Raj. ‘The buildings’ were constructed in the 25th year of Indian Independence to showcase the nation’s prowess in structural engineering and architecture. ‘The buildings’ are said to have the unique distinction of being the first “Large Span Concrete Structure” in the world. They are said to be Iconic buildings and are said to symbolize the self sufficiency of the country for the use of concrete as against the more expensive alternative of using steel and iron to construct such structures.

3. To support the above submission regarding the Iconic stature of ‘the buildings’, reliance is placed on various documents, including the book ‘Modern Architecture since 1900’ by William Curtis, article by Prof. A.G. Krishna Menon ‘Architecture in India: The Tryst with Modernism’. Reliance is also placed on a lecture of Mr.Ram Rahman a celebrated photographer and curator on ‘Nehru and the Indian Modern’ held at New Delhi on 14.11.2015, where he dubbed the Hall of Nations as ‘tour de force’. It is stated that the buildings were celebrated by a commemorative stamp issued in 1992 by respondent No.1. Various other publications etc. have also been relied upon.

4. Reliance is placed on the efforts of various organizations to have ‘the buildings’ declared and conferred the ‘Heritage Status’. Reliance is placed on clauses 23.1 and 23.5 of the Delhi Building Bye-Laws, 1983. Reliance is also placed on communication dated 14.05.2013 sent by Indian National

Trust for Art and Cultural Heritage (in short 'INTACH') addressed to the Chairman, Heritage Conservation Committee (HCC) where a tentative list of post Independence buildings were suggested to be conferred by notification as 'Heritage Buildings' in terms of the Delhi Building Bye-Laws, 1983. 'The buildings' in question were part of that list. Reliance is also placed on another communication sent by INTACH addressed to the Minister of Commerce and Industry, Government of India which is not dated, where it is pointed out that the proposal for declaring the building as a 'Heritage Buildings' is pending before the HCC but in the meantime, it is proposed to demolish the structure.

5. Reliance is also placed on a communication of the Delhi Urban Art Commission seeking to stall the demolition/reconstruction of the area dated 16.12.2013 and 29.01.2014. The Delhi Urban Art Commission pointed out that the proposed construction of the Pragati Maidan after demolition of the said building would be inappropriate for various reasons, including its proximity to the old fort and on account of the limited road space on Mathura Road. A number of other representations, including representations from the Indian Institute of Architects, Consulting Engineers Association of India etc. have also been placed on record.

6. We have heard the learned counsel for the parties.

7. The learned Senior Counsel for the petitioners has taken us through various representations and documents to stress that the buildings are 'Iconic buildings' and acknowledged as 'Heritage' worldwide. It is also pointed out that the proposal to declare them as 'Heritage Building' in accordance with

Delhi Building Bye-Laws is pending. Any attempt to demolish ‘the buildings’ would be a tragic loss of modern heritage.

8. Mr.P.S.Patwalia, the learned ASG, has submitted that the present litigation is a motivated litigation. It is pointed out that some of the communications relied upon by the petitioner have been written by the architect of ‘the buildings’ himself in his capacity as office bearer of the organization, namely, letter written to the Minister of Commerce & Industry by Sh.Raj Rewal in his capacity as Chairman of the Delhi Urban Art Commission. Communication dated 29.01.2014 is also written in the same capacity. Reliance is also placed on a communication dated 20.10.2015 written to the Chairman and Managing Director, India Trade Promotion Organisation by Sh.Raj Rewal, (the architect of ‘the buildings’) wherein Mr.Raj Rewal has requested that the job be assigned to him of redesigning of Pragati Maidan. It is urged that the entire campaign relied upon in the petition is at his behest. It is also urged that “the buildings” are in a bad shape, plaster is peeling off and iron rods are visible. With the help of some foreign funding a state of art integrated exhibition-cum-convention centre is being built. A list has also been placed on record indicating the exhibitions that previously were held in Pragati Maidan but now have moved away to another place causing loss to respondent No.2. Hence, it is urged that the present petition may be dismissed accordingly.

9. We may first look at the statutory position in this regard. Bye-Law 23.5 provides that the list of Heritage Sites, including Heritage Buildings is to be prepared by the Commissioner, MCD/Vice-Chairman DDA/Chairman

NDMC on the advice of the HCC. Relevant portion of the Bye-Law reads as follows:-

“23.5 Preparation of List of Heritage sites including Heritage Buildings, Heritage Precincts and Listed Natural Feature Areas: The list of heritage sites including Heritage Buildings, Heritage Precincts and listed Natural Features Areas is to be prepared and supplemented by the Commissioner, MCD/Vice-Chairman DDA/Chairman NDMC on the advice of the Heritage Conservation Committee. Before being finalized, objections and suggestions of the public are to be invited and considered....”

10. Clause 23.16 provides for the composition of the HCC as under:-

23.16 Composition of Heritage Conservation Committee: The Heritage Conservation Committee shall be appointed by Government comprising of:

- (i) [Special Secretary/Additional Secretary, Ministry of Urban Development] Chairman
- (ii) Additional Director General (Architecture), CPWD Member
- (iii) Structural Engineer having experience of ten years in the field and membership of the Institution of Engineers, India
Architect having 10 years experience Member
- (A) Urban Designer Member
- (B) Conservation Architect
- (iv) Environmentalist having in-depth knowledge and experience of 10 years of the subject Member
- (v) Historian having knowledge of the region having 10 years experience in the field Member
- (vi) Natural historian having 10 years experience in the field Member
- (vii) Chief Planner, Town & Country Planning Organisation Member
- (viii) Chief Town Planner, MCD Member
- (ix) Commissioner (Plg.), DDA Member
- (x) Chief Architect, NDMC Member
- (xi) Representative of DG, Archeological Survey of India Member
- (xii) Secretary, DUAC Member Secretary

- (a) The Committee shall have the powers to co-opt upto three additional members who may have related experience.
- (b) The tenure of the Chairman and Members of other than Government Department/Local Bodies shall be three years.”

11. Bye-Law No.23.3 of the Delhi Building Bye-Laws, 1983 imposes restrictions on development/re-development/repairs etc. of Heritage Buildings. Relevant portion of the Bye-Law reads as follows:-

“23.3 Restrictions on Development/Re-development/Repairs etc.

- (i) No development or redevelopment or engineering operation or additions/alterations, repairs, renovations including painting of the building, replacement of special features or plastering or demolition of any part thereof of the said listed buildings or listed precincts or listed natural feature areas shall be allowed except with the prior permission of Commissioner, MCD, Vice-Chairman DDA/Chairman NDMC. Before granting such permission, the agency concerned shall consult the Heritage Conservation Committee to be appointed by the Government and shall act in accordance with the advice of the Heritage Conservation Committee.”

12. The correspondence placed on record by the petitioner shows that representations have been sent to HCC to declare ‘the buildings’ as ‘Heritage Buildings’. No decision has been taken in this regard by HCC. Hence presently ‘the buildings’ do not enjoy ‘Heritage Status’ under the Building Bye-Laws.

13. It would be useful to refer to the judgment of the Supreme Court in ***Balco Employees Union (Regd.) v. Union of India & Ors, AIR 2002 SCC 350***. In paras 96 and 97, it is held as follows:

96. Judicial interference by way of PIL is available if there is injury to public because of dereliction of Constitutional or statutory obligations on the part of the government. Here it is not so and in the sphere of economic policy or reform the Court is not the appropriate forum. Every matter of public interest or curiosity cannot be the subject matter of PIL. Courts are not intended to and nor should they conduct the administration of the country. Courts will interfere only if there is a clear violation of Constitutional or statutory provisions or non-compliance by the State with its Constitutional or statutory duties. None of these contingencies arise in this present case.

14. Mere pendency of representations to declare 'the Buildings' as 'Heritage Buildings' cannot be the basis to stall the redevelopment of the Pragati Maidan Complex. We see no reason to pass any order as sought in the present Public Interest Litigation. The same is dismissed. All the pending applications are also dismissed.

(JAYANT NATH)
JUDGE

(CHIEF JUSTICE)

FEBRUARY 24, 2016

v/n