

\$~22 to 26

- * **IN THE HIGH COURT OF DELHI AT NEW DELHI**
- + **CONT.CAS(C) 984/2016, C.M. APPL.11839/2017 & 24128/2017**
M/S OUTDOOR ASSOCIATES Petitioner
versus
MOHANJEET SINGH & ORS Respondents
- + **CONT.CAS(C) 1059/2016, C.M. APPL.34655-34657/2016 & 2165/2017**
COL SHIVRAJ KUMAR Petitioner
versus
PUNEET KUMAR GOYAL & ORS Respondents
- + **CONT.CAS(C) 472/2017, C.M. APPL.24071/2017 & 38175/2017**
NYAYA PATH NGO Petitioner
versus
SATISH KUMAR BHARDWAJ & ORS Respondents
- + **W.P.(C) 3367/2015, C.M. APPL.6040/2015, 29214/2015, 5661/2016, 9712/2016, 9733-9734/2016, 13987/2016, 19042/2016, 30892/2016, 2163/2017, 7369/2017 & 31526/2017**
COLONEL SHIVRAJ KUMAR Petitioner
versus
SOUTH DELHI MUNICIPAL CORPORATION AND ORS.
..... Respondents
- + **W.P.(C) 4238/2015, C.M. APPL.7673/2015**
INDIAN OUTDOOR ADVERTISING ASSOCIATION... Petitioner
versus
SOUTH DELHI MUNICIPAL CORPORATION AND ORS.
..... Respondents

Through : Sh. Sanjay Poddar, Sr. Advocate with Sh. Mukesh Gupta, Standing Counsel with Ms. Shashi Gupta, Advocate, for SDMC, in Item Nos. 22 to 26.

Sh. Dhanesh Relan, Sh. Akshita Manocha and Ms. Kajri Gupta, advocates, for DDA, in Item No.22.

Ms. Biji Rajesh and Sh. Diwankar Sethi, for Sh. Gaurang Kanth, Advocate, for SDMC, in Item Nos. 22, 23, 25 and 26.

Ms. Priyanka Das, Advocate, for petitioner, in Item No.22.
Sh. Siddhant Buxy and Sh. Talha Abdul Rahman, Advocates, in Item NOs. 23 and 25.
Sh. Anuj Aggarwal and Sh. Kanishk Rana, Advocates, for Delhi Police, in Item No.25.
Sh. Jai Sahai Endlaw, Advocate, for appellant, in Item No.25.
Sh. Sumit Sarna and Ms. Mamta Sarna, Advocates, for petitioner, in Item No.24.
Ms. Prabhsahay Kaur, Advocate.
Ms. Manmeet Arora and Ms. Chand Chopra, Advocates, for Blind Relief Assn, in Item No.25.
Sh. Anchit Sharma, Sh. T.S. Nanda and Sh. Rahul Singhal, Advocates, for respondent, in Item No.25.
Sh. Anil Grover, sTanding Cousnel with Sh. Jitender Kumar Tripathi, ASC and Ms. Noopur Singhal, Advocates, for NDMC, in Item No.25.
Sh. Pravesh Thakur, Advocate, for EDMC, in Item No.26.
Sh. Anand Mishra with Sh. Utkarsh Tripathi, Advocates, in Item No.25.
Ms. Pavitra Kaur, Advocate, for petitioner, in Item No.26.
Sh. Abhijat Bal and Ms. Pavitra Kaur, Advocates, for petitioner, in Item No.26.
Ms. Mini Pushkarna, Standing Counsel with Ms. Anushruti, Advocate, for NDMC, in Item Nos. 22 to 26.
SI Raj Kumar, PS Kotla Mubarakpur

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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28.02.2018

Cont.Cas (C) 984/2016

1. Learned counsel states that she has instructions to withdraw the matter. Cont. Cas (C) 984/2016 is accordingly dismissed as withdrawn.

Cont.Cas (C) 472/2017

2. Learned counsel for the respondents shall ensure that the affidavits are filed before the next date of hearing. List on 23.05.2018.

Cont.Cas (C) 1059/2016 & W.P.(C) 3367/2015

3. In these proceedings, the respondent Corporations submit that pursuant to the order of the Supreme Court dated 03.08.2017 in *M.C. Mehta v. Union of India and Ors.* [W.P.(Civil) No. 13029/1985], the Court accepted the Delhi Outdoor Advertising Policy of 2017 [hereafter “the 2017 Policy”]. It is submitted that in the light of this fresh development, the Municipal Corporations would conduct a review about the placement of hoardings/bill boards etc. It is also stated that the Corporations have advertised for fresh bids/tenders in certain localities/clusters. The Environment Pollution (Prevention and Control) Authority (EPCA) had filed a report pursuant to the orders of the Supreme Court. That order was accepted by the order dated 03.08.2017. The Supreme Court’s order reads as follows:

“EPCA has filed Report No.74 dated 26th July, 2017.

There is no objection to the Report as well as the Outdoor Advertising Policy, 2017 annexed to the Report.

The only objection to the Policy is on behalf of the Indian Railways with regard to revenue sharing. Since there is no objection to the stand taken by the Indian Railways, we accept the stand taken by the Indian Railways with regard to revenue sharing.

Learned amicus curiae has pointed out that with regard to the hoardings that may be put on railway bridges, flyovers and foot-over-bridges, the stability of the billboards should be handled with utmost care and all efforts must be made to avoid visual clutter and ensure safety of persons as well as aesthetics.

The Policy specifically mentions that the exemption granted to the Northern Railways and Delhi Metro Railway Corporation in this regard is conditional, being subject to clearance of the site/bill board plan by the Commissioners of the Municipal Corporations of Delhi. We have no reason to believe that the Commissioners will not take a reasoned decision taking into consideration all the relevant facts and circumstances before according permission for putting up the bill boards/hoardings over railway bridges, flyovers and foot-over-bridges.”

4. In the wake of this new development, it is apparent that an overall review is to be undertaken by all the Municipal Corporations – South Delhi Municipal Corporation, East Delhi Municipal Corporation, North Delhi Municipal Corporation, New Delhi Municipal Council and the Delhi Cantonment Board. A direction is accordingly issued to all the said authorities to undertake and complete the survey and frame reports within three months. The said report shall annex lists containing the authorised sites and also indicate in separate charts which of the existing sites comply with the new policy and which do not. Further information with respect to the advertisements issued till the date of the report shall also be disclosed. These reports shall be uploaded on the website of each Corporation for information to all. Learned counsel for the petitioner highlights

that the other grievance is with respect to the non-implementation of the *Delhi Prevention of Defacement of Property Act, 2007*. The petitioner complains that Lieutenant Governor under Section 6 of the said enactment has the power to take appropriate steps necessary to erase writings or steps to free any defacement or removing any mark from the public property. It is stated that till date no procedure or plan has been indicated in this regard.

5. Having regard to the fact that the enactment was made and brought into force with effect from 17.01.2009, the object of ensuring cleanliness of public places and especially to maintain public property, the Court is of the opinion that the Lieutenant Governor, in consultation with the relevant authorities/officials should, in the larger public interest, formulate a policy in the earliest expedient time, preferably within four months. The Court notices that the enactment has been given overriding effect and depends entirely upon the mechanics that is to be evolved for the purpose of its implementation without which it is a dead letter.

6. It is open to the petitioner to approach this Court through fresh proceedings if there is any fresh grievance.

7. Order *dasti* to all parties, including GNCTD with a copy to be forwarded to the Lieutenant Governor, for appropriate action.

C.M. APPL.18366 /2016 IN W.P.(C) 3367/2015

8. Through this application, the Blind Relief Association seeks a direction that the two hoardings in its site should not be removed. It was issued with a Show Cause Notice which led it to approach this

Court. Since the new policy has been brought into force and the corporations are mandated to review the existing position and take final decision, the feasibility or permissibility of locating the hoardings, no action shall be taken by the concerned authority, i.e. New Delhi Municipal Council in regard to the Show Cause Notice issued to the applicant till the final review is conducted. In any event, no adverse orders shall be made without granting full opportunity to the applicant. The writ petition and pending applications are disposed of in the above terms.

W.P.(C) 4238/2015

9. Learned counsel for the petitioner states that she has instructions to withdraw the writ petition in the light of the fresh developments, i.e. acceptance of report of the 2017 Policy by the Supreme Court by its order dated 03.08.2017 in W.P.(Civil) No. 13029/1985. The writ petition is accordingly dismissed as withdrawn along with the pending application.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 28, 2018/AJK