

\$~19

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 23rd October, 2019

+ W.P.(C) 13315/2018

CORRUPTION AGAINST SOCIETY (REGD.)..... Petitioner

Through: Mr. Arun Kaushal, Adv.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Anil Soni, CGSC with Mr. Devesh Dubey, Adv. for respondent no. 1

Mr. Gautam Narayan, ASC with Ms. Shivani Vij, Adv. for GNCTD

Ms. Shobhana Takiar and Ms. Shweta Anand, Advs. for DDA

Ms. P. Mehta, Adv. for Mr. Gaurang Kanta, CGSC for respondent no. 5

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

23.10.2019

%

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 13315/2018

1. This Public Interest Litigation (PIL) has been preferred with the following prayers:-

“a) Issue a writ in the nature of mandamus directing thereby the respondents either to remove all religious structures which are built up either over government land, park or footpath and in case it is not possible to take over the charge of all

religious structures which are built up either over government land or footpath and

b) Issue a writ in the nature of mandamus directing thereby the respondents to appoint the area SDM as administrator of all the religious structures which are built up either over government land, park or footpath which comes in their jurisdiction and

c) Issue a writ in the nature of mandamus directing thereby the respondents to appoint the area SDM as administrator of all the religious structures which are built up either over government land, park or either over government land, park or footpath for development of such religious structures and persons so appointed for maintenance of such religious structures be appointed in accordance with law.

e) Issue any other writ / order(s) or directions as this Hon'ble court may kindly be fit and proper in the given facts and circumstances in favour of the petitioner and against the respondent in the interest of justice.”

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that the petitioner is in search of demolition of religious structures on footpath, Government land, park etc. As submitted by the counsel for petitioner, these demolitions required to be done by the respondent nos. 4 and 5 with the help of respondent no. 6.

3. The demolition of any construction depends upon the nature of illegality in construction, the place of construction and such other factors.

No general lump sum order can be passed for all types of religious structures. Suffice it to say for the disposal of this writ petition that the respondents will act in accordance with law, as and when a particular case of illegal construction is brought to their notice. In the facts of the present case, at pages 30 and 31, few photographs have been referred to by the counsel for petitioner. It ought to be kept in mind that whether the structures shown in the photographs are on footpath or on the Government land or park, concerned Authority is required to hear the affected parties. Facts are to be established and thereafter only the respondents can take action, in accordance with law, rules, regulations and Government policy as applicable to the facts of the present case. We, therefore, direct the respondents to initiate actions in accordance with law as and when such type of illegal construction is brought to their notice.

4. With these observations, this writ petition is hereby disposed of.

CM Appl. No. 51779/2018 (stay)

In view of the order passed in the writ petition, this civil miscellaneous application is disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

OCTOBER 23, 2019

r.bararia