



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

Date of decision: 18th JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 8811/2023 & CM APPL. 33327/2023**

DEEPANSHU YADAV

..... Petitioner

Through: Mr. Anand, Mr. Akshay Kumar,
Advocates

versus

STATE OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Rishikesh Kumar,
ASC for GNCTD with Ms. Sheenu
Priya, Ms. Roshini Haldar Das,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present Writ Petition has been filed by the Petitioner seeking quashing of the demolition order dated 06.06.2023, passed by the Respondent No.2 herein, for demolition of the Hanuman and Shani Dev Mandir at Chhawla drain, Village Chhawla (*hereinafter referred to as 'the temple in question'*).
2. On 04.07.2023 this Court directed the Respondents to file a Status Report. The Status Report has been filed.
3. Admittedly, the temple in question is located on a public land. In the Status Report it is stated that the question regarding relocation of the temple in question was considered by the Religious Committee in its meeting dated 13.09.2022. The said meeting was held under the Chairmanship of Secretary (Home) and was attended by the following officials:



S.No	Name of Officer	Designation
1.	Sh. Sudhir Kumar	Secretary (Home), Chairman
2.	Ms. Asha Chaudhary Malhotra	Additional Secretary (Home)
3.	Sh. Shakti Banger	Deputy Secretary (Home)
4.	Sh. Brahamjeet Singh	ACP Command, Special Branch of Delhi
5.	Sh. Nirav Patel	ACP
6.	Shri Vikram Singh,	Addl. DCP-1, Dwarka, New Delhi
7.	Sh. Rajbir Malik	ACO/DIU/CD
8.	Sh. Harsh Indora	Addl. DCP/SHD
9.	Sh. Vinod Narang	ACP Mehrauli
10.	Sh. P C Yadav	SHO/Mehrauli
11.	Sh. Sachin Sharma	ADCP ED
12.	Sh. V K Singh	EE PWD
13.	Sh R D Meena	EE/PWD
14.	Sh P.S. Chauhan	Executive Engineer, SR-1, PWD
15.	Sh. Ashish Gupta	EE, SWR-11-
16.	Sh. Jitendra Kumar	SE/I&FC
17.	Sh. Narender Kumar	AE(I&FC Deptt.)
18.	Sh. Ashok K. Rajdev	Pr. CE, PWD
19.	Sh. Amit Kumar Singh	EE/ER, PWD
20.	Sh. Surender Singh	SE, MCD
21.	Sh. Pravin Dhaware.	AE (MCD)
22.	Sh Surender Singh	ADH (MCD)
23.	Sh. N K Jain	EE(Pr)NG2



24.	Sh. A K Yadav	AE/M-III SR(North) MCD
25.	Mohd. Raoof	(LA) DWB
26.	Sh. Nisab Ahmad Khan	Delhi Wakf Board
27.	Sh. Bijender Singh	Patwari
28.	Sh. Mukesh Meena	SE/East (PWD)
29.	Sh. Bilas Khan	Delhi Wakf Board
30.	Sh. Abhimanyu Kumar	SE (PWD) Shahdara

4. The Minutes of Meeting records that the proposal of shifting the temple in question was received from Public Works Department (PWD), GNCTD. It is stated that the DCP (Special Branch) was requested by the PWD to submit its report in this regard and the DCP (Special Branch) vide a letter dated 20.12.2021 has informed the Department that the temple in question admeasuring about 50/60 Sq. Yards exists at Najafgarh drain, nearby B.S.F. Chhwala Camp, Village Chhwala, New Delhi for some years and is constructed with cement and tin shed. The Minutes of Meeting also reveals that in the previous meetings of Religious Committee regarding relocation of the temple in question it was decided that Irrigation and Flood Control Department, which is the land owning agency, shall organize meetings with all the stakeholders including the area MLA/Councillor and the caretaker of the temple in question in the presence of a representative of local police to explore the possibility of shifting/removal of the temple. It is stated that no decision was arrived at in the said meetings. The Religious Committee after going through all the photographs and facts on record and after taking into account that the temple in question was built in an unauthorized manner on a public land and is causing traffic jams and in view



of increasing chances of accidents and on the basis of land owning agency's recommendation that the land on which the temple in question has been constructed is required for de-silting and development works, recommended for removal of the temple in question.

5. Consequently, Executive Engineer, Civil Division-I, Flood Control Department, intimated the District Magistrate (S/W) regarding the decision taken by the Religious Committee in its meeting dated 13.09.2022 and a request was made to the District Magistrate to inform the Special Task Force for immediate action and removal of the temple in question and also to maintain the law and order situation. Pursuant to the said communication, the demolition order dated 06.06.2023 was issued by the Office of the Sub-Divisional Magistrate (Kapashera) indicating that the demolition drive for demolition of the temple in question has been fixed for 12.06.2023 at 11:00 AM. A notice dated 08.06.2023 was also issued informing the Petitioner herein that 15 days is being given to him to remove the structure failing which necessary action will be taken by the Department.

6. It is this demolition order which has been challenged in the present petition.

7. It is contended by the learned Counsel for the Petitioner that the Sub-Divisional Magistrate could not have passed the order of demolition as Village Chhwala has been declared as an urban area by the Department of Urban Development *vide* its Notification dated 16.05.2017 issued under section 507(a) of the Delhi Municipal Corporation Act, 1957. He further draws the attention of this Court to the circular dated 05.05.2014 issued by the Government of NCT of Delhi stating that the Order of demolition is contrary to the said circular.



8. Heard the Counsel for the parties and perused the material on record.
9. The material on record indicates that in view of traffic congestion several routes were identified by the Delhi Police for removal of obstructions for smooth flow of traffic. This decision was taken pursuant to the Orders of the Apex Court in WPC No.13029/1985 titled as *M.C.Mehta v. UOI* which is monitoring the decongestion of 77 corridors. The Minutes of Meeting dated 13.09.2022 indicates that temple in question comes in one such route whose decongestion is being monitored by the Apex Court. The Minutes of Meeting further discloses that the same has been attended by officers of MCD; Irrigation and Flood Control Department, which is the land owning agency; and the PWD. In view of the fact that the temple in question stands on a public land and has been constructed in an unauthorized manner and is causing traffic congestion thereby increasing the chances of accidents, the Religious Committee took the decision of removal of the temple in question.
10. The contention of the learned Counsel for the Petitioner that by virtue of Notification dated 16.05.2017 issued under section 507(a) of the Delhi Municipal Corporation Act, 1957, a Sub-Divisional Magistrate cannot pass orders for demolition as the land stands urbanized is unsustainable. As is evident from the list of attendees of the Meeting dated 13.09.2022 that the meeting was attended by the officers of Irrigation and Flood Control Department, which is the land owning agency and the Sub-Divisional Magistrate has passed the Orders of demolition on the request made by the Executive Engineer, Civil Division-I, Flood Control Department, on the basis of the decision of the Committee, no interference is required by this Court. The Sub-Divisional Magistrate is only carrying out the decision taken



by the Religious Committee for removal of religious structures which have been constructed on public land and which are traffic hazards in the city. The Sub-Divisional Magistrate is not taking any action as an administrative authority in an area which stands urbanized, and therefore, Section 507 of the Delhi Municipal Corporation Act, 1957 is not applicable in this case.

11. Accordingly, the Writ Petition is dismissed. Pending applications, if any, also stand disposed of.

JULY 18, 2023

Rahul

SUBRAMONIUM PRASAD, J

