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M.C. MEHTA ETC.

v.

UNION OF INDIA AND ORS.

JANUARY 7, 1998

B

[J. S. VERMA, CJI. B. N. KIRPAL AND V. N. KHARE, JJ.]

Environment Protection Act, 1986 :

C

S.3(1) and S.3(3)—National Capital Region—Environmental Pollution—Constitution of Environment Pollution (Prevention and Control) Authority (headed by Shri Bhure Lal) by Government of India—Approval by this Court—Government of India permitted to supersede the earlier Notification constituting the ad hoc Authority headed by Mr. Justice R. K. Shukla pursuant to Order dated 13.9.1996 passed by this Court—Work pending with the said ad hoc Authority shall automatically stand transferred to Authority headed by Shri Bhure Lal.

D

ORIGINAL JURISDICTION : Writ Petition (C) No. 13029 of 1985 Etc.

(Under Article 32 of the Constitution of India).

E

Ashok H. Desai, Attorney General, M.S. Usgaonkar, Additional Solicitor General, H.N. Salve, G.L. Sanghi, Mukul Mudgal, A.D.N. Rao, Wasim A. Qadri, Ms. Niranjana Singh, P. Parameshwaran, Arvind Kumar Sharma, Ms. Indra Sawhney, Ms. Anubha Jain, Shri Narain, Sandeep Narain, Anis Ahmed Khan, Hardeep Singh Anand, S.N. Sikka, (Vijay Panwani) for CPCB., Ranjit Kumar,

F

Kailash Vasdev, Salman Khurshid, R.K. Khanna, Vineet Kumar, Ejaz Maqbool, R. Sasiprabhu, Manish Garg, Anees Ahmed, R.K. Gupta, K.K. Gupta, R.K. Maheshwari, Ashok Mathur, V.B. Saharya, Ejaz Maqbool, Satish Aggarwal, A.A. Khan, L.K. Pandey, S.B. Upadhyay, S.R. Setia, Sanjay Parikh, D.K. Garg and D.S. Mehra, for the appearing parties.

G

M.C. Mehta, in-person for the Petitioner.

The following Order of the Court was delivered :

H

Learned Attorney General has shown to us the draft of the order proposed to be made by the Government of India, Ministry of Environment and Forests in exercise of the powers conferred by sub-sections 1 and 3 of

Section 3 of the Environment Protection Act, 1986 constituting an Authority A
to be known as the Environment Pollution (Prevention and Control) Authority
for the National Capital Region consisting of the persons, namely, (1) Shri
Bhure Lal; (2) Shri D.K. Biswas, Chairman- Central Pollution Control Board;
(3) Shri Anil Aggarwal; (4) Shri Jagdish Khattar: and; (5) Smt. Kiran Dhingra
and to invest the Authority with the powers and functions specified therein. B
We are satisfied that this step being taken by the Government is appropriate
and timely. We would, however, like to add that except for the Chairman.
Central Pollution Control Board being an ex-officio Member of the Authority,
the remaining four persons named above are to be in the Committee not
merely by virtue of their office but because of the personal qualifications on
account of which they are included in the Committee. The learned Attorney C
General states that the order had not been formerly been made so far
constituting the Authority because it was considered appropriate that the
draft be placed before the Court before the order was finally made. He
informed us that in view of the approval of the same by the Court, the order
would now be made promptly and the said Authority constituted soon. D

In view of the constitution of the Authority as above, to deal with the
entire matter relating to environmental pollution, the question for our
consideration now is whether the direction given earlier by this Court for
constitution of an Authority under Section 3(3) of the Act by the order dated
13th September, 1996 in IA No. 18 in Writ Petition (C) No. 4677 of 1985 E
required to continue. It is clear that the said order dated 13th September, 1996
had been made because of the absence of any such Authority as is now
being constituted in the manner aforesaid. For this reason, the direction to
constitute an Authority which was complied by constitution of a Committee
headed by Mr. Justice R.K. Shukla, a former judge of the Allahabad High F
Court, was merely an ad-hoc arrangement to continue till the constitution of
a regular committee as is now being done. It is also necessary to take note
of the fact that the constitution of a Committee as above with the
comprehensive authority to deal with the entire matter relating to environmental
pollution in the National Capital Region the continuance of any other Authority
with concurrent jurisdiction in any area within the entire sphere of G
environmental pollution in the National Capital Region is bound to create an
embarrassing situation because of conflict of jurisdiction of the two Authorities
within the common sphere. Such a result would not be conducive to proper
administration and implementation of the programme of preventing and
controlling environmental pollution in the National Capital Region. It is,
therefore, necessary to make an appropriate order which would avoid any H

A conflict of jurisdiction between the two Authorities. In our opinion, the only appropriate course to adopt is to permit the Government of India to supersede the earlier Notification constituting the Authority headed by Mr. Justice R.K. Shukla pursuant to the order dated 13th September, 1996 passed in IA No. 18 in writ Petition (C) No. 4677 of 1985, to be effective from the date of constitution of the above Authority headed by Sh. Bhure Lal. We direct accordingly and the earlier order dated 13th September, 1996 shall stand modified to this extent.

In view of this order, we also direct that with the constitution of the above Authority headed by Sh. Bhure Lal, the work pending with the Authority headed by Mr. Justice R K Shukla shall stand automatically transferred to the Committee headed by Sh. Bhure Lal on its constitution. We also place on record our appreciation of the work done by Mr. Justice R K Shukla pursuant to the orders of this Court so that during the intervening period, the work required to be done urgently did not suffer on account of the efforts put in by Mr. Justice R.K. Shukla.

Order dated 16th December, 1997 requiring the appointment of private persons to enforce traffic safety laws and confer upon such people suitable powers under the Cr. P.C. as well as under the Motor Vehicles Act shall apply not merely to the Union of India but also to the Government of National Capital Territory.

List on 13th January, 1998.

WP(C) 9300 OF 1982

In view of the scope of Writ Petition (C) 13029 of 1985 [*M.C. Mehta v. UOI*], it is not necessary to keep this Writ Petition pending. It is dismissed accordingly.

R.P.

Petition Still Pending.