

STATE OF WEST BENGAL

v.

HOWRAH GANATANTRIK NAGARIK SAMITY & ORS.  
(Civil Appeal No. 7785 of 2011)

SEPTEMBER 12, 2011

[R.V. RAVEENDRAN AND A.K. PATNAIK, JJ.]

*Environment Laws:*

*Public Interest Litigation – To protect and preserve Victoria Memorial Hall and its green surroundings – Bus terminus situated at Esplanade at the end of about 2 kms. of the green surroundings – Re-location of bus terminus – On recommendations of expert bodies including the National Environmental Engineering Research Institute (NEERI), direction by the High Court that the bus terminus at Esplanade be shifted to a distant place within six months – On appeal held: Shifting of the bus terminus at Esplanade area was suggested by NEERI as a long-term measure and not as an immediate measure – Bus terminus, where lakhs of people arrive and depart through different buses, if shifted immediately, would cause a lot of inconvenience to the traveling public – Moreover, before the bus terminus is shifted from Esplanade, another suitable place has to be found out to which the bus terminus, which can be shifted and various conveniences have to be provided for the traveling public at the new bus terminus – All this cannot be done within a period of six months – Thus, the direction passed by the High Court not justified – Recommendation of the NEERI that auto exhaust is the most important causative factor polluting the atmospheric environment around Victoria Memorial Hall is emphatic – Thus, the recommendation by NEERI that the bus terminus should be shifted from Esplanade area as a long-term measure to*

- A *protect and preserve the Victoria Memorial Hall deserves serious consideration, not only to preserve the monument but to de-congest the city – The impugned order of the High Court is modified and the State Government is directed to consider and take appropriate action on the NEERI report*  
B *recommending relocation of the bus terminus away from the Esplanade.*

*M.C. Mehta v. Union of India and Ors. (1997) 2 SCC 353: 1996 (10) Suppl. SCR 973 – referred to.*

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**Case Law Reference:**

**1996 (10) Suppl. SCR 973 Referred to Para 9**

- D **CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7785 of 2011.**

From the Judgment & Order dated 28.09.2007 of the Calcutta High Court in W.P. No. 7987 (W) of 2002.

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**WITH**

**SLP (C) No. 1135-1136 of 2009.**

- F **Avijit Bhattacharjee, Sarbani Kar, Debnjani Das Purkayastha, Bidyabrata Acharya, Pranab Kumar Mullick for the Appellants.**

**Respondent-In-Person Dharam Bir Raj Vohra for the Respondents.**

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**The Order of the Court was delivered by**

**A. K. PATNAIK, J. 1. Delay condoned. Leave granted.**

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**2. This is an appeal against the order dated 28.09.2007**

of the Division Bench of the Calcutta High Court in Writ A  
Petition No. 7987 (W) of 2002.

3. The facts very briefly are that during the British rule, Victoria Memorial Hall was built in the memory of Queen Victoria in Central Kolkata. After independence, this monument continues to be known for its beautiful architecture and green surroundings. To the north of the Victoria Memorial Hall is a huge stretch of land known as 'the Maidan' which is covered by green grass and interspersed with a large number of trees, bushes and shrubs. At the end of about 2 kms. of this greenery is the Esplanade where another monument known as the 'Sahid Minar' stands, and by the side of the Sahid Minar is a bus terminus. To protect and preserve the Victoria Memorial Hall and its green surroundings, a public interest litigation (Writ Petition No. 7987(W) of 2002) was filed in the Calcutta High Court by the respondent nos. 1 to 5. B  
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4. After hearing all concerned parties and considering the concerned affidavits and counter-affidavits as well as recommendations of expert bodies including the National Environmental Engineering Research Institute (for short 'NEERI'), the High Court inter alia directed in the impugned order that the bus terminus at Esplanade be shifted to a distant place within six months. Aggrieved by this direction in the impugned order, the State of West Bengal is in appeal before us. E  
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5. Learned counsel for the appellant submitted that the High Court could not have issued directions to the State Government to shift the bus terminus located at Esplanade, which had been in existence for more than six decades only on the recommendation of NEERI. He submitted that lakhs of people every day arrive at and depart from the bus terminus at Esplanade and this is because the bus terminus is located in a central area of Kolkata. He submitted that shifting of the G  
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A bus terminus from Esplanade will thus cause immense inconvenience to the traveling public. He further submitted that the bus terminus is situated 2 kms. to the north of Victoria Memorial Hall and does not at all damage this historic monument. The High Court, therefore, was not right in thinking that for preservation of the Victoria Memorial Hall, shifting of the bus terminus was necessary.

6. The respondent no.2, who appeared in-person on behalf of respondent no. 1, on the other hand, relied on the recommendation of NEERI that the bus terminus at Esplanade area should be shifted from the existing location. He submitted that the High Court was, therefore, right in directing the shifting of the bus terminus from Esplanade within six months. He submitted that this is not a fit case in which this Court should interfere with the impugned order of the High Court.

7. We have considered the submissions made on behalf of the appellant and the respondents and we find that NEERI has suggested some long term measures for preservation of the Victoria Memorial Hall in Para 5.2 of its report. The relevant portion of Para 5.2 of the report of NEERI is quoted hereinbelow:

#### **"5.2 LONG-TERM MEASURES**

##### **Diversion of Heavy Road Traffic on the Road Encircling the VM Monument.**

The pollution from auto exhaust is the most important causative factor when the Victoria Memorial protection from atmospheric environment is considered. Therefore, the traffic on roads around the VM should be minimum particularly complete banning of heavy traffic. Bus terminus at Esplanade Area (Commercial) should also be shifted from the existing location."

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8. It will be clear from the recommendation of NEERI, quoted above, that shifting of the bus terminus at Esplanade area has been suggested by NEERI as a long-term measure and not as an immediate measure. A bus terminus, where lakhs of people arrive and depart through different buses, if shifted immediately, will cause a lot of inconvenience to the traveling public. Moreover, before the bus terminus is shifted from Esplanade, another suitable place has to be found out to which the bus terminus can be shifted and various conveniences have to be provided for the traveling public at the new bus terminus. All this cannot be done within a period of six months. The High Court, therefore, was not justified in directing in the impugned order that the bus terminus at Esplanade be shifted within six months.

9. The recommendation of the NEERI, quoted above, however, is emphatic that auto exhaust is the most important causative factor polluting the atmospheric environment around Victoria Memorial Hall. For this reason, NEERI has recommended that the traffic on roads around the Victoria Memorial Hall should be minimum and the bus terminus at Esplanade area should be shifted from the existing location. Hence, even though the bus terminus is located 2 kms. away from Victoria Memorial Hall the auto-exhaust from a large number of buses at the bus terminus would pollute the atmospheric environment around the Victoria Memorial Hall. In *M.C. Mehta v. Union of India & Ors.* [(1997) 2 SCC 353], this Court has directed relocation industries from Taj Trapezium Zone (TTZ) for protection and preservation of the Taj Mahal in Agra. The recommendation by NEERI that the bus terminus should be shifted from Esplanade area as a long-term measure to protect and preserve the Victoria Memorial Hall, deserves serious consideration, not only to preserve the monument but to de-congest the city.

10. We accordingly modify the impugned order of the

A High Court and direct the State Government to consider and take appropriate action on the NEERI report recommending relocation of the bus terminus away from the Esplanade. The appeal is allowed to the extent indicated above. No order as to costs.

B N.J. Appeal allowed.