

SC orders closure of all polluting units in Delhi

The Hindu 8/12/2000
By Our Legal Correspondent

NEW DELHI, DEC. 7. The Supreme Court, while reserving orders on the issue of contempt against the Chief Secretary, Delhi Government and the Commissioner, Municipal Corporation of Delhi, ordered the closure of all polluting industrial units operating in the residential and non-conforming areas of Delhi within four weeks.

A three-judge Bench comprising Mr. Justice B.N. Kirpal, Mr. Justice Doraiswamy Raju and Mr. Justice Brijesh Kumar asked the Ministry of Urban Development, which has been appointed as the nodal agency, to implement the order.

The Bench directed the Delhi Government, MCD and the Delhi Development Authority (DDA) to cooperate with the nodal agency in implementing the order. The Commissioner of Police, Delhi, was asked to render all assistance in this regard.

The Bench made it clear that while doing so, the nodal agency would not be affected by any stay or injunction granted by any court. The Bench said "no orders passed by any court for stay or injunction, which is in conflict with the action of any authority taken pursuant to today's orders and previous orders will operate."

In respect of other industries in operation with or without a licence, the Bench said "though for the present it is not making any orders on other industries functioning in the non-conforming and resi-

dential areas, it does not mean that the authorities will sit back and relax."

To facilitate the closure, the Bench directed the MCD to identify the polluting units within 10 days and furnish to the nodal agency a list of those functioning in the non-conforming and residential areas and the list "shall indicate their nature of activity, and if possible whether polluting or not."

The Bench which said that all polluting units had to be closed, notwithstanding the installation of effluent treatment plants for treating the effluents, directed the nodal agency to file a compliance report within five weeks and posted the case for further hearing on January 24, 2001.

Earlier, the senior counsel for the Delhi Government reiterated that no specific orders of the court were violated by the Chief Secretary. He brought to the notice of the court that the order to close the polluting industries was passed only in September, when the Centre was appointed as the nodal agency. However, the nodal agency failed to take any action in implementing the order, he said.

The Chief Secretary, who took over only in March this year, was tendering unconditional apology and requested the court not to punish him as that would be a black mark in his career and would have far-reaching consequences. He said the matter should be treated as a lesson for future plans and not for the purpose of punishing somebody for contempt.

Jagmohan eyes hidden lavish structures

CBI told to probe construction of commercial structures in villages

HT Correspondent

New Delhi, December 7

UNION URBAN Development Minister Jagmohan today said that he had asked the Central Bureau of Investigation (CBI) to investigate into the construction of commercial and residential structures in villages in the Capital.

He said that the three areas which he had identified included Hauz Khas village and Tughlakabad. Lal Dora land, which is land earmarked for use by villages, has been misused by outsiders to construct lavish structures, five star restaurants and boutiques, said the Minister. Among other things, this misuse had led to abuse of historical landmarks in the Capital and was therefore needed to be stopped.

Mr Jagmohan also commented on the order passed by the Supreme Court today. The court has asked the Urban Development Ministry to

act as a nodal agency and ensure that all polluting units in non-conforming areas are closed within four weeks from today. The ministry is also to come up with a time bound plan to relocate non-polluting units operating in non-conforming areas.

The minister said that on November 27 this year, Addition Solicitor General Kirit Rawal had read from an affidavit filed by the Urban Development Ministry which stated, "Keeping in view the fact that the implementation machinery vests with the Government of National Capital Territory of Delhi and local agencies, and also taking into account the experience of the last two months, it is believed that non effective role can be played by the Nodal Agency and its continuance would cause diffusion of responsibility and would hardly serve the purpose which the Honourable Court had in view when it passed its order."

Mr Jagmohan said that the ministry had through its affidavit requested the court to absolve it of the role of the nodal agency. But today's order showed that the Supreme Court had faith in the ministry and wanted it to continue supervising the functioning of the various agencies involved in relocating units from non-conforming areas.

The ministry is also at liberty to approach the court in case it encounters some difficulty in securing implementation of the Supreme Court's orders.

Mr Jagmohan said that if time permitted he would be calling officials of all the agencies involved in the relocation of the units in non-conforming areas. He said that only when the situation had been carefully studied, would he be able to even hazard a guess as to how much time the relocation of non-polluting units would take.

Polluters given one month

HT Correspondent
New Delhi December 7

THE SUPREME Court today ordered closure of all polluting industries operating out of the capital's non-conforming and residential areas within a month.

A Bench headed by Justice B.N. Kirpal directed the Delhi Govt, the MCD and the DDA to shut the polluting units under the supervision of the Urban Development Ministry, which the Court had designated as the nodal agency for shifting out the industries. "The nodal agency will be at liberty to direct closure of all polluting units under its supervision," the Bench said.

It also directed the Delhi Chief Secretary, MCD Commissioner,

ORDER, ORDER

SUPREME COURT'S DIRECTIONS

- Shut all polluting industries in the Capital within four weeks
- Nodal agency should ensure their closure
- Police should help in the task
- Submit compliance report within five weeks
- No order of any lower court can stop closures
- MCD will prepare, within ten days, the list of industries in non-conforming areas

Graphic by SANJAY

DDA Vice-Chairman and Police Commissioner to assist the nodal agency in carrying out the task. The nodal agency has been given

five weeks to file its compliance report before the Court.

The Bench stayed the operation of any order of the lower court which was in conflict with the authorities' directions to shut such industries.

The Court granted MCD ten days' time to prepare a list of industries which are to be sealed.

Winding up his argument, counsel Ranjit Kumar, assisting the Court, said that non polluting industries refusing to be relocated should also be closed down.

The Bench reserved its judgement on the contempt proceedings against Delhi Chief Secy P.S. Bhatnagar & MCD Commissioner S.P. Aggarwal for non-compliance of its orders for relocation of over one lakh industries.

Delhi Govt to start sealing polluting units

Staff Reporter

New Delhi

THE DELHI Government will resume sealing of polluting industries in the residential areas in Delhi as a constituent of a nodal agency under the supervision of Union Urban Development Minister Mr Jagmohan.

According to Supreme Court order, Delhi Government is supposed to extend all possible help to the nodal agency in executing the closure of polluting units.

The drive initiated by the Delhi Government came to a halt last month as the owners of industrial units began an agitation in protest against the closure.

On the other hand, Lt Governor Vijai Kapoor had ordered the Municipal Corporation of Delhi (MCD) not to execute the closure independently after agitations broke out in the Capital.

Now, the nodal agency has been entrusted to ensure the closure within four weeks. Any lapse on the part of Delhi Government could be reported to the apex court, by the nodal agency.

Thus, the official machinery of the city Government will be on its toes to implement the court order.

Minister for Industry Narender Nath said he would chalk out the line of action after going through the court order.

Meanwhile, Sagar committee report will provide exemption to

nearly 10,000 household industries including tailors, mechanics, dry cleaners from the imminent closure.

Jagdish Sagar committee was appointed by the Delhi Government in 1996 to recommend suggestions for the Master Plan 2001 regarding household industries.

The committee had suggested that maximum number of workers in household industries should not exceed five and the power consumption in such units should not exceed five kilowatt.

The Sagar committee recommendations clarified that no household industry should be permitted if it violated any statutory norm regarding pollution and if it was involved in the storage of any inflammable or hazardous material without specific licence.

The panel also clarified that the polluting industries are those which do not fall into the category of hazardous and noxious industries but which violate the provisions of laws pertaining to pollution.

Now, even if the Sagar committee recommendations are brought into effect, barely 10,000 household units would get exemption and the remaining would be closed by the nodal agency which has been authorised to take the help of police force to execute the order.

The Supreme Court is sore at the failure of the Delhi Government to close down the polluting industries in the residential areas.

4 WEEKS TO CLOSE ERRANT UNITS: SC

Legal Correspondent
New Delhi

THE SUPREME court on Thursday ordered the closure of all polluting industrial units in the national Capital within four weeks. A three-judge bench headed by Justice B N Kirpal said this order would be implemented under the supervision of the nodal agency created in the Union urban development ministry— with the cooperation of the Delhi Government, the Municipal Corporation of Delhi (MCD) and the Delhi Development Authority (DDA). The bench, comprising Justice Kirpal, Justice Doraiswamy Raju and Justice Brijesh Kumar added that the implementation of the order by the nodal agency would not be affected by any stay or injunction granted by any court.

The SC also reserved its verdict on the contempt notices it had issued to Delhi Chief Secretary P S Bhatnagar and MCD Commissioner S P Aggarwal for non-compliance of the repeated court orders from 1996 to close and relocate the industries. The bench said, it was "not making any orders on other (non-polluting) industries functioning in the non-conforming and residential areas, but that does not mean the authorities will sit back and relax."

The Court directed the MCD to file within 10 days a list of industries functioning in the non-conforming and residential areas, which "shall indicate their nature of activity and, if possible, whether (they are) polluting or not."

Seeking a compliance report from the nodal agency within five weeks, it said, "The chief secretary of the Delhi Government, the MCD commissioner, the DDA vice-chairman and the commissioner of Delhi Police shall render all assistance and comply with the directions issued by the nodal agency in compliance of the court's orders regarding closure and relocation."

When the MCD counsel pointed out that industries frequently obtain a stay against closure orders issued by the authorities, the bench said, "No orders passed by any court for stay or injunction, which is in conflict with action of any authority taken in pursuant to today's orders and previous orders (of the apex court), will operate."

Earlier, while tendering an unconditional apology to the court, the chief secretary through Counsel K K Venugopal said this matter should be treated as a lesson for future plans and not for the purpose of punishing somebody for contempt. "It will be very unfortunate if a chief secretary, who has taken over in March this year, is charged with disobeying the court's orders since 1996. The consequences will be far-reaching as it will be a setback to his career," he said.

JAGMOHAN GETS CRACKING

Staff Reporter
New Delhi

UNION URBAN Development Minister Jagmohan has called an urgent meeting on Friday of senior officers of the Delhi Government, Delhi Development Authority (DDA), Delhi State Industrial Development Corporation (DSIDC), Municipal Corporation of Delhi (MCD) and Delhi Police, on how to implement the Supreme Court order to close all polluting industries within four weeks.

The meeting is also expected to formulate a time-frame within which to shift non-polluting industries from non-conforming zones. Mr Jagmohan said that all polluting units in the Capital would be closed down within a month.

As the Delhi government was yet to submit the list of all polluting industrial units in the Capital, the minister said it was difficult to fix a time-frame yet. Friday's meeting will give a clearer picture on how the Supreme Court judgement can be implemented best.

The other expected to attend the meeting include senior officials of the Delhi Jal Board and the Delhi Vidyut Board, Municipal Commissioner S P Aggarwal and Delhi Chief Secretary P S Bhatnagar

are also expected to attend.

Mr Jagmohan said that he expected all concerned agencies to cooperate with his ministry in implementing the apex court's directions.

He ruled out a mass agitation like the one on November 20 once the shut-down process comes into force and assured that the allotment of alternate plots to industrial units would be a priority for the nodal agency created in the urban development ministry for closure of polluting industries. The apex court has sought a compliance report from the nodal agency within five weeks.

Mr Jagmohan added that the DDA would be toned up shortly. Referring to the Central Bureau of Investigation (CBI) case of misuse of 'lal dora' land in the Capital, he pointed out that even local MLAs and Councillors were allegedly involved in the irregularities.

The areas include Hauz Khas, Tughlaqabad and Jahanpanah. The concept of 'lal dora' was introduced by the British in the early 1900s. Villages where farming was not carried out and which were used for habitation were called 'lal dora'. Residents did not need any permission to build houses there. However, the concept is being misused by outsiders. Later, inaugurating the three-day National Convention of Real Estate Developers at Vigyan Bhawan, Mr Jagmohan urged them not to contribute to urban chaos by going in for unauthorised constructions.

VINDICATED



Jagmohan hopes to persuade industry owners to shift

The Times of India News Service

NEW DELHI: "It is a big responsibility entrusted on us," Union urban development minister Jagmohan said on Thursday about the Supreme Court order entrusting to his ministry the task of ensuring closure of all polluting industries in non-conforming areas of the Capital. As a court-named nodal agency, the ministry has to ensure the court order is effected within four weeks.

Asked if he anticipated trouble in the city as witnessed last month, the minister said he was hoping for cooperation from the industrial unit owners. He admitted that the industrial unit owners will face hardships, but said, "We will try and ensure that they are given land as quickly as possible."

As for the time-frame for shifting the non-polluting industries, Jagmohan said, "We had asked the court for some time." But he pointed out, a realistic time-frame for their relocation can only be worked out if the required information is made available by the MCD and the Delhi government.

On September 12, the apex court appointed the urban development ministry as the nodal agency to work out relocation of industries. Besides shifting the polluting units within the next four weeks, the ministry has been asked to prepare a plan indicating the time-frame needed for relocating non-polluting industries located in non-con-

forming areas.

Following the Supreme Court order of Thursday setting a four-week deadline for the closure of all polluting units, the ministry will call a meeting of all related agencies on Friday, Jagmohan said. Officials from the Delhi government, the

court's earlier orders on the offending units' closure/ relocation, which has set off contempt proceedings against the Delhi chief secretary.

The Delhi government's accusations against DDA and his ministry were "after-thought", Jagmohan said. If the Delhi government felt

Jagmohan calls for war on building mafia

The Times of India News Service

NEW DELHI: Now, Union urban development minister Jagmohan would like a war waged against dishonest builders in order to free cities from the growing hold of land and building mafias. Jagmohan was speaking at the inaugural session of the three-day national convention of real estate developers which began in the Capital on Thursday.

The minister said, "The deluge of unauthorised construction and the massive violation of civic laws which our cities are witnessing these days are not only causing the growth of unhealthy and unworkable cities but also tearing apart their moral fabric." He pointed out that "an honest builder who respects zoning regulations of coverage, floor-area-ratio, set-backs etc. cannot compete with the dishonest builder who violates all such norms and gets away with it with the direct or indirect backing of those who hold levers of power at the local or higher levels." As a result, he said, "The honest builders are thus being virtually compelled to adopt a dishonest line."

MCD, the DDA, Delhi Vidyut Board and Delhi Jal Board are expected to attend the meeting.

Jagmohan again lashed out at the Delhi government for having tried to shift the blame on to the DDA, which falls under his ministry, for the failure to comply with the apex

things were not quite right, the issue could have been raised earlier with the Lt-Governor who heads DDA or even the ministry, he said. He noted that the chief minister is a member of the DDA's consultative committee and she could have raised the issue of relocation there.

Apex court ruling may incite more violence, fear unit owners

By Rahul Gupta

NEW DELHI: Ten lakh people are likely to be rendered jobless in the wake of the Supreme Court order on the closure of industries in non-conforming areas. And many more lakhs of people will have to struggle for their survival.

The Delhi government adopted a cautious stance over the order. Chief minister Sheila Dikshit said, "I will react to the order tomorrow. I am waiting for a copy of the order." Industries minister Narendra Nath also said the same thing. Nath said, "I haven't seen the order as yet. Wait till tomorrow." There was a sense of gloom among factory owners. Delhi Factory Owners Federation (DFOF) president JR Jindal said, "There is apprehension that people will again come out on the streets in

case there is immediate closure of units. This will affect nearly 96,000 units, of which 6,000 to 7,000 are water polluting. The rest are in non-conforming areas."

Jindal said almost all factory owners and even associations agree over the closure of polluting units with immediate effect. "These are not much anyway, just about 7,000 at the most. But those which are in conforming areas with effluent treatment plants (ETP) should be treated as non-polluting and not be closed."

Another factory owner said, "The government will have to look at the human angle to the problem. And it will have to find a way out that it does not close the industries straightaway." He added that the units should be allowed to stay for a

while till the time the government provides the land and the related infrastructure.

Jindal said, "Immediate closure will be a disaster for Delhi. The units should be given about two to three years and these should be shifted in phases." He said, "The government should ask the unit owners for an affidavit promising that they will shift as soon as the land is allotted. This affidavit will guarantee that the unit owners will shift out to Bawana, Jhilmil and Narela, wherever the government is developing an industry."

Jindal added that the land should not be a mere plot of land. "Adequate water and power should be provided and roads and drains should also be complete," Jindal said.

SC gives 4 weeks to shut all Delhi polluting units

By Our Legal Correspondent

NEW DELHI: The Supreme Court on Thursday ordered the closure of all polluting industries in the Capital's residential and non-conforming areas within four weeks.

A Bench comprising Justice B N Kirpal, Justice Doraiswamy Raju and Justice Brijesh Kumar directed that the order will be implemented under the supervision the Union urban development ministry, which it had named as the nodal agency, with the cooperation of the Delhi government, the Delhi Municipal Corporation and the Delhi Development Authority.

The court explained that this order would not be affected by any stay or injunction granted by any court, and polluting units in non-conforming and residential areas which had installed effluent treatment plants (ETPs) would also be shut.

About other industries located in these areas and operating without licences, the court said they would be dealt with later. It reserved its verdict on the contempt notices issued to Delhi chief secretary P S Bhatnagar and MCD commissioner S P Aggarwal, and said: "Since it is not making any orders on other industries functioning in the non-conforming and residential areas, it does not mean the authorities will sit back and relax."

The court had initiated contempt action against Bhatnagar and Aggarwal on the ground that despite its repeated orders since 1996 to close and relocate industries, the authorities turned a blind eye to the grave problem of pollution in the Capital.

The court asked MCD to file within 10 days a list of industries functioning in the non-conforming and residential areas indicating their nature of activity, and "if possible whether polluting or not". The nodal agency would file its response within five weeks.

All authorities, including the Delhi police commissioner and the DDA vice-chairman, have been asked to render all assistance and comply with the directions issued by the nodal agency in compliance of the court's orders.

Bhatnagar's counsel K K Venugopal said this matter should be "treated as a lesson for future plans and not for the purpose of punishing somebody for contempt".

"It will be very unfortunate, if a chief secretary who has taken over in March this year, be charged with disobeying the court's orders since

1996." The consequences will be far-reaching as it will be a setback to his career," Venugopal pleaded.

Counsel argued that there was no question of contempt of court being committed by Bhatnagar as the court had never passed any orders before directing the Delhi government to close polluting industries. "Contempt being a quasi-criminal in nature, there has to be a definite order and certainty of violation of that order, which is not present in this case," counsel added. The city government would in future abide by all the directions of the nodal agency in implementing the orders of the court, counsel assured.

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FINAL VERDICT

- All polluting industries in non-conforming areas to be closed within 4 weeks, orders SC
- The Urban development ministry has to implement the order
- No more stay orders would be allowed

