

The Hindu 1/12/2000

Planners against Master Plan change

By Our Staff Reporter

NEW DELHI, NOV. 30. Strongly opposing any ad hoc modifications in the Master Plan-2001, the Delhi Regional Chapter of the Institute of Town Planners has said regularisation of the existing non-confirming and polluting industries in residential areas would not be in the interest of planned development or in the larger interest of the people.

At a special meeting here on Wednesday to discuss various issues with regard to household industries, amendment of the Master Plan and closure of non-conforming industries operating in the residential areas, the Plan-

ners said: "Law-abiding citizens should not be made to suffer at the cost of violators and law breakers".

Regularisation of such unauthorised industries would be the same like regularisation of unauthorised colonies. "It would result in the growth of an industrial slum that would be more hazardous and dangerous for the citizens of the entire Capital," they said.

Participants pointed out that the current situation had arisen due to non-implementation and non-enforcement of the Master Plan. Any review in the existing policy on household industries should take into consideration providing a safe and healthy living environment

to all inhabitants in Delhi, they felt. The review should also consider the prevailing constraints and scarcity of water, power, circulation, and parking spaces which would get further aggravated if the present situation was allowed to prevail.

"If the present criteria of 1 KW power and five workers is changed to 5 KW and 10 workers, industries may consume more power and even switch over to generators which would require the storage of diesel thus endangering the life of people due to fire hazard," said the participants at the meeting, moderated by Mr. D.S. Meshram, president of the Institute of Town Planners.

Turmoil in Delhi

By Rajeev Dhavan

The Supreme Court is not the repository of expertise on town planning or pollution. A task force should be created which can resolve the chaos of Delhi.

DELHI IS in turmoil. The Supreme Court of India has ordered immediate closure and relocation of polluting units in Delhi. Delhi has some 1,29,363 manufacturing units including 35,000 single person enterprises. All these units do not have to be closed. Only those units have to be shut which were either totally prohibited in the city (category H) or, though permitted, in a non-conforming area (category F). Some 97,411 units are in non-conforming areas. Since 1995, when the ubiquitous Mr. M. C. Mehta filed a case seeking the somewhat narrower relief that the municipal authorities should not grant further licenses in non-conforming areas, the court has passed a plethora of orders in both this case as well as the Jamuna water effluents case. The responsibility that the Supreme Court has taken on is more daunting than that of the legendary Hercules trying to clean the Augean Stables. The administration had done little. It granted licenses when it should not have, and looked the other way when it should have acted. Someone had to clear the mess. Successive 'green' benches of the court passed innumerable orders — often modifying earlier orders when it had made a mistake earlier. A high-powered committee in 1996 attempted to identify and close industries operating without permission by January 1, 1997. This did not work. In 1999, the Supreme Court fixed a deadline of December 31, 1999, to complete the relocation process. This did not work. The Delhi Government wanted more time till March 2004. This did not work. The court said no. In September 2000, the court asked the Ministry of Urban Development to implement the court's orders. This has not worked. Contempt notice has been issued to Delhi's Chief Secretary. The task is Herculean. Neither the Delhi Government nor the Chief Secretary claims to be Hercules. The Court's interest is two fold. It wants this polluting menace to be dealt with. It also wants to uphold the rule of law of its own orders.

The response from the street to the Supreme Court's order is no less insistent. The owners of the illegal units want to

continue until a proper relocation is truly possible. Lakhs of workers will be deprived of jobs. They have taken to the streets. Bandhs have been called which have brought Delhi to a halt. There is civic and industrial chaos. Winter has set in. This did not deter the Supreme Court in the Forest case (1996) from passing orders which may have mal-effected tribal communities in the Northeast from getting firewood for cooking and warmth. The question is: is all this simply a question of upholding the law? Or, can a practical solution be evolved?

Lutyens' New Delhi, with its plush houses and magnificent buildings, is only a small part of Delhi. One of the more

complex cities in the world, Delhi took the brunt of Partition and the

continuing influx of people seeking jobs, work, excitement and fortune. The Master Plan for Delhi visualised it as an industrial city. Some 17 areas were developed as industrial. The Master Plan of 2001 went further by declaring: "... In the next two decades, to meet the expanding need of industrial units, 16 new industrial areas (in about 1533 hectares) need to be developed... with 5 units Industrial Estates of about 20 hectares each". The attempt to ban industries or contain them in industrial areas has failed. Mushroom enterprises have grown all over the city. Many emit industrial toxicity. Many are hazardous. The health and safety of workers is not just a formal statutory concern. The conditions in many enterprises are appalling.

There are two answers to this. The first is to close down and re-locate. The second is to amend the Master Plan to legitimise the *de facto* situation within the broad environment, health, safety, congestion and other municipal parameters. But, the second solution cannot be a complete answer. No Master Plan is sac-

rosanct. But, amendments cannot respond to brinkmanship by adhocism to swallow up the planning process itself. Adjustments can, and must, be made. But that will not solve the problem. The problem is not simply one of enforcing the law, but of finding a solution of daunting proportions.

One lakh industries and 20 lakh workers are affected. They cannot be moved. The industrial areas earmarked for relocation are not ready. They do not have infrastructure. Two million people cannot be left in limbo. Illiterate workers looking for jobs are innocent victims rather than transgressors of law. Is the Supreme Court willing to be practical and

evolve a solution? Or, must the administration provide a Muhammad

bin Tughlaq solution. This takes us to the heart of public interest law. It is pointless getting into arid controversies on whether the Court has taken over governance or whether judges are simply nudging the Government to do its job. They are doing both. What the judges have been doing is more than oversight. But, it may well be the case that in this — and other cases — the court has over-reached itself to undermine the very broad principles of PIL which is the Court's own innovative creation.

The essence of PIL (also known as cause lawyering) consists of two features. The first is widening of access to courts to examine public problems. But, this has never meant that PIL litigants should indulge in kite flying every cause without application of mind. The bane of Mr. Mehta's petitions has always been to identify a problem without giving any systematic thought to the solution. All the solutions have to be devised by judges, faced with recalcitrant administration and inadequate data, knowledge or experience. The second signal feature of PIL is expert

schematic investigation and oversight. In this, PIL differs from ordinary lawyering which essentially grants damages by way of money or simple injunctive relief to do or not to do something. Schematic relief evolves realistic relief for complex situations. This is not an easy task — still less for the Court to take on single-handed.

The problem with the Delhi pollution case has been the lack of systematic thinking. Many of initial orders of the Supreme Court were simply wrong. One lawyer was declared a polluting industry. Many including brick kilns and others, were wrongly classified. Faced with flaws, the court made emendations. But, it was over-committed to a policy of shutdown and relocation. In doing so, the court seem to have ignored its own wise policy of evolving practical, comprehensive, realistic and equitable schemes — even when faced with gross illegalities. It had done this in the Mussoorie hill case (1984-1989). Once the Court was committed to its shut down policy on which it sounded both fierce and firm, the administration, too, was intimidated. In this situation, the quest for schematic solutions was displaced by an uncompromising insistence on the rule of law. *Fiat justitia ruat caelum*: let the law prevail even though the heavens fall. It is still not too late for the Court to appoint a balanced task force of experts now to come up with a schematic relief within a realistic time-bound framework.

This leaves us with the question of the bandh. Democracy cannot be divorced from protest — still less the protest of the poor. The Supreme Court disapproved of bandhs in a short declaratory judgment which should be reviewed. Equally, bandhs can precipitate inconvenience but not be physically intimidation.

In the end, the problem remains. The Supreme Court cannot be ad hoc in its solutions or approach. It is not the repository of expertise on town planning or pollution. A task force should be created which can resolve the trials, tribulations and chaos of Delhi.

LAW AND SOCIETY

Master Plan of 'masters'

The H.T. 1/12/2000

THE PROBLEM of closure of more than one lakh industrial units located in residential areas of Delhi has been grossly bungled by bureaucrats and politicians alike. These units are to be closed, as they do not conform to the definition of 'household industry' allowed in the Master Plan 2001, which is purely a legal matter. The case was filed by M.C. Mehta in 1984. It is pity that over the last 16 years, the concerned authorities did not make any attempt to identify the polluting units in the Capital. To hide their own incompetence, the authorities has tagged the word 'polluting' with industry so cleverly that it appears impossible to separate the two and so a reign of terror of industries has been let loose without this information about these units.



The first master plan of Delhi was prepared for the period 1960 to 1980. Not even 10 per cent of the targets laid down to develop industrial and residential areas were achieved. There was no Master Plan for the next 10 years. Nothing has been done in this regard in the present one. Will the authorities differentiate between a technical violation of the Master Plan and a polluting industry? The present Master Plan has been amended as many as 58 times. Why should it not be amended once more to save 15 lakh workers from being thrown out of work?

M.C. GARG Delhi

11/12/2001
The Indian Express

Don't 'relocate' pollution

A student of environmental management comes up with a blueprint for urban planning

IN the light of the recent controversy over relocating Delhi's industrial units and the editorial, 'Capital frenzy' (November 22), it is worth recalling a little bit of history.

When Partition took place, thousands of rootless people came down to Delhi with nothing except what, in today's parlance, is called 'human resource'. Helped by the then rehabilitation minister, Mehar Chand Khanna, they created small-scale units all over Delhi with their hard labour, honesty and tenacity. This helped the city's progress in many ways. There is no reason for the authorities to deal a death blow to these people who have already suffered so much, ever since they were forced to leave Pakistan in 1947. In any case, there has been no integrated policy to guide urban development and land in the Capital is being hacked into smaller and smaller plots and peddled off in what has come to be termed as "burfi planning".

The Master Plan of Delhi (MPD) has been amended 220 times, indicating the hard fact that the city is a major casualty of the so-called "50 years of planned development". Public good was not the main propelling factor behind the several amendments that have been made to the Master Plan in the past. Governments, it seems, used the amendments as a soft-option to cover up what was, otherwise, their failure to control the situation.

The controversy first began when, in response to a PIL filed by lawyer M.C. Mehta, the Supreme Court (SC) in its order dated December 30, 1995, directed Municipal Corporation of Delhi not to grant/renew licences for industrial units in non-conforming, or residential areas. The court on April 19, 1996, ordered that those industries that had not obtained the necessary permission from the Delhi government, should stop operating in residential areas from January 1, 1997. The SC in its order dated September 8, 1999, gave a deadline of December 31 the same year for the entire process of the relocation of industries to be completed.

Faced with continued flak from the Supreme Court and scarcity of land, a

panic-stricken Delhi government has got in touch with the Haryana and Rajasthan governments to explore the possibility of relocating thousands of industrial units from the city to townships in the National Capital Region (NCR). Similarly, to project before the court that it has been taking steps to check Yamuna's pollution, the Delhi government is veering round to the idea that all water-polluting units in Delhi have to close down and shift to neighbouring states. Industrial associations have categorically said that they will not shift out of Delhi, given the prevailing situation in the NCR townships.

Although presently there are 24,000 industries in non-confirming areas, the government has decided to accord priority and allot plots to the 711 water-polluting units, which are operating in residential areas. Once the plots are allotted, industrialists would be expected to show 50 to 75 per cent progress by March 31, 2001. If this were done, an extension would be given upto June 30, 2001. About 6,000 industries, which are not primarily water polluting, would be shifted to sector one of the Bawana industrial estate, on the outskirts of the city. Additional plots would also be made available in the Badli, Jhilmil and Patparganj industrial estates.

This is all very well, but the Delhi government has to make a choice: Does it care more for industrial workers or for farmers who will lose their land in the process. Indeed, do the people of Bawana, for instance, want the polluting industrial units in their backyard?

Now, the answer to the existing problem is not to relocate these industries and allow them to continue polluting the environment, but rather to provide incentives for technological improvements, so that these units do not pose any environmental hazards. By relocating them to other areas we are simply pushing out the problem from our midst. Clean areas must remain clean. We must not 'shift' our environmental problems elsewhere. This 'passing on' of environmental problems shows our short-sightedness. Clean areas are crucial: They need a vision for a clean and sound economy for the future.



WRITE BACK

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VENKATESH DUTTA