

PETITIONER:
BUFFALO TRADERS WELFARE ASSN. & ANR.

Vs.

RESPONDENT:
MANEKA GANDHI & ORS.

DATE OF JUDGMENT: 30/11/1996

BENCH:
KULDIP SINGH, B.L. HANSARIA

ACT:

HEADNOTE:

JUDGMENT:
THE 30TH DAY OF NOVEMBER, 1996

Present:

Hon'ble Mr. Justice Kuldip Singh
Hon'ble Mr. Justice B.L. Hansaria

S.K. Dhokakia, R.F. Nariman, Dr. A.M. Singhvi, Arun Jetly, Sr. Advs., Amit Dhingra, Shakil Ahmad Syed, P.H. Parekh, K.C. Dua, M.M. Isreily, M.C. Uddin, T.Qureshi, A.R. Khan, S.P. Jha, Ms. Sheil Sethi, (M.C. Mehta), Adv. (NP), Hardeep Singh, B.S. Banthia, R.C. Asthana, R.K. Maheshwari Ashok K. Srivastava, Sushil Kumar Jain, Advs. with them for the appearing parties.

O R D E R

The following Order of the Court was delivered:

O R D E R

These two applications relate to Idgah Slaughter House, Delhi. The common prayer in both of them is to hold that the order dated July 8, 1996 passed in IA No.22 connected with Wp (C) No.4677 of 1985 does not have the effect of modifying and/or setting aside the order dated 19.2.1996 passed in the connected Civil Appeals, by which interim order of status quo was passed, while granting special leave. As the order of status quo is in conflict with the order passed in the writ petition, a clarification has also been sought that notwithstanding the later order, the order of status quo would continue to remain in operation.

2. The order in the writ petition relates not only to Idgah Slaughter House, but to 168 industries, of which the Slaughter House is one. By that order it was held that all the 168 named industries are "hazardous/noxious" and, therefore, a direction was given that these industries shall stop functioning and operating in the city of Delhi with effect from November 30, 1996. Direction No. (8) stated that the closure order shall be unconditional by adding that "(e) ven if the re-location of industries is not complete they shall stop functioning in Delhi with effect from November 30, 1996.

3. As the aforesaid order is relatable to 168 industries, it has to be seen whether any exception can be made insofar as the Slaughter House is concerned to permit it to operate and function beyond November 30, 1996. It is worth pointing

out that when the Inter Locutory Application in the Writ Petition was being heard, nobody had appeared on behalf of the Slaughter House, despite ample opportunities having been given. This apart, perusal of the order dated July 8, 1996 shows that that had come to be passed after this court was satisfied beyond doubt regarding the bazardous nature of the Slaughter House, because of what was found by Central Pollution Control Board, Delhi Pollution Control Committee and a Special Committee Constituted by this Court.

4. Further, insofar as the Slaughter House is concerned, a Division Bench of Delhi High Court had, as early as 1.10.1992 by its judgment in CW Nos. 2267/90, 158/91 and 130/92, directed, inter alia, that the Slaughter House shall be closed with effect from December 31, 1993 or from any earlier date which may be fixed by the Court keeping in view the facts and circumstances which may arise before that date. The Delhi High Court came to be seized with another petition on the same subject filed by Maneka Gandhi, who had initially approached this Court by making a grievance regarding the "unhygienic, inhuman and horrible conditions prevalent at Idgah Slaughter House of Delhi." This Court directed the High Court to dispose of the petition. By judgment dated 27th January, 1995 in Civil Writ No.2961/92 another Division Bench, inter alia, ordered for closure of Slaughter House on or before 31.12.1995. The aforesaid two appeals have challenged the later judgment of Delhi High Court in which, while granting special leave, status quo order reading as below was passed:-

"Our attention is drawn to the minutes of the meeting dated 14.2.1996 which state that the consensus between the authorities and parties concerned was that there was no place available in or around Delhi to which the slaughter house could be shifted. Having regard to this unambiguous statement the matters shall have to be fully heard.

Special leave granted. The appeals be expedited. Liberty is given to the parties to move the Hon'ble the Chief Justice for the purposes of early hearing. In the meantime, status-quo shall be maintained."

5. A perusal of the status quo order leaves nothing to doubt that it is founded on the consensus regarding no place being available in or around Delhi to which Slaughter House could be shifted. This consensus is reflected in minutes of the meeting dated 14.2.1996. We have perused the same. It shows that in the meeting 35 persons were present and the participants showed their concern about "illegal slaughtering in different localities" but because of non-availability of alternative place, modernisation of the Slaughter House was agreed to. Now, insofar as availability of some other place in and around Delhi is concerned, because of the sustained efforts made by this Court from 16th September onwards, an area of about 55 acres has been made available and possession of the same has also since been reportedly delivered. Thus, the basis of passing the status-quo order no longer exists.

6. S/Shri Dholakia and Nariman, learned senior counsel appearing for the applicants have nonetheless contended that to take care of the difficulty which the consumers would face if the slaughter house would be closed as directed, it

should be permitted to function at least upto the period when alternative arrangement for slaughtering is made at the new site. Shri Nariman read out to us the order passed by this Court on May 18, 1994 in SLP(C) No. 7790-91 of 1994 in which questions were raised as to what would happen when thousands of workers would be thrown on the streets jobless and how the meat requirements of a large city would be met? It was submitted by Shri Dholakia that if the Slaughter House would be closed, unhygienic meat would be supplied to the consumers which would be more hazardous.

7. Insofar as the workers are concerned, it may be pointed out that due attention has been paid, inter alia, to their continuity of service and payment with full wages till the closure and restarting of all the industries, as would appear from direction (9) as contained in the order of July 8, 1996, relevant part of which reads as below:-

"(9) The workmen employed in the abovementioned 168 industries shall be entitled to the rights and benefits as directed hereunder:-

(a) The workmen shall have continuity of employment at the new town and place where the industry is shifted. The terms and conditions of their employment shall not be altered to their detriment:

(b) The period between the closure of the industry in Delhi and its restart at the place of re-location shall be treated as active employment and the workmen shall be paid their full wages with continuity of service.

8. As regards the consumers, we are of the view that they would not face much of the problem. It has been stated in para 119 of the impugned judgment that hygienic and fresh meat in adequate quantity can be brought from the nearby slaughter houses as purely temporary measure. As the cattle which are slaughtered are brought from outside, according to us, there should be no difficulty in bringing the meat, instead of the animals themselves.

9. As to the argument that closure of the slaughter houses should see unhygienic meat in the market, we should like to observe that this apprehension does not see justified because there are licensed slaughter houses near Delhi. It is worth pointing out that when the Idgah Slaughter House had remained closed for nearly three months in 1994, because of the strike by butchers, there is nothing on record to show that the consumers had to remain satisfied by eating unhygienic meat. The availability of the meat also did not get adversely affected.

10. In the aforesaid premises, though the interlocutory applications are liable to be dismissed, but the consideration which is weighing with us in not dismissing the same altogether is the interest of large number of consumers in the territory of Delhi. This is the only industry of its type in the territory. There being no other slaughter house near at hand to cater the needs of the residents of Delhi some hardship is likely to be caused to the meat eaters. At the same time the interest of environment and ecology cannot be ignored. It cannot be disputed that the slaughter house is being run under highly polluted environment. With a view to keep balance between the need of the people of Delhi and the environment, we direct as under:

- (1) We permit the Idgah Slaughter House to function till June 30, 1997 on the following conditions:
- (i) Goats/she goats/sheep numbering 2000 per day shall be permitted to be slaughtered in the premises, no other animals shall be slaughtered.
 - (ii) Buffaloes (any sex), cows, bulls (i.e. large animals) shall not be permitted to be slaughtered as their slaughter generates more pollution. The Buffalo section is the most polluted section in the slaughter house, We reiterate that except 2000 (Two thousand only) goats/she goats/sheep no other animals to be slaughtered in the premises. The buffalo section of the slaughter house shall be closed with immediate effect.
 - (iii) The slaughter house shall be kept environmentally clean by the MCD.
- (2) The Central Pollution Control Board shall visit the slaughter house every two months till June 30, 1997 and file report in this Court indicating the environmental status of the premises.
- (3) The animal market shall not be permitted to function near the slaughter house. Holding the animals market in the crowded part of the city is environmentally hazardous and cannot be permitted.
- (4) The Deputy Commissioner of Police of the area shall stop the holding of the market in the vicinity of the slaughter house. The meat sellers/butchers may bring the animals to the slaughter house in an environmentally clear manner and take the meat back in similar way. No market should be permitted in the area.
- (5) The Municipal Corporation of Delhi shall stop all illegal slaughtering in Quasebpura area near Idgah or any other part of Delhi. The Commissioner, Municipal Corporation, Delhi shall take necessary steps to stop the illegal slaughtering in all parts of Delhi. If necessary police help be taken in this respect.
- (6) We make it clear that heavy pollution fine shall be imposed by this Court on polluters indulging in illegal slaughtering. Even the MCD shall be liable to pollution fine if the slaughter house is not kept environmentally clean. The staff in charge of the slaughter house may personally be liable to pay the fine.
- (7) Municipal Corporation of Delhi shall take steps on war-footing to construct the modern slaughter house on the alternative land already acquired by the Corporation. We make it clear that the Idgah Slaughter house would not be permitted to continue at the present site beyond June 30, 1997.

The I.A.S are disposed of accordingly.