

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION (C) No.53 OF 2017

IN

WRIT PETITION (C) No.4677 of 1985

K.J. RAO, MEMBER, MONITORING COMMITTEE

.....PETITIONER

VERSUS

DINESH KHOSLA

.....RESPONDENT

O R D E R

1. On 09.11.2006, premises bearing No.24-A, Lajpat Nagar-IV, Ring Road, New Delhi, were sealed. The sealing was consequent upon the finding of the Monitoring Committee, constituted by this Court, that the respondent was running Modi Apollo International Institute for Management Education, at the aforesaid premises. The regular user, as authorised by law, was for residential purposes. The premises were admittedly being used for commercial purposes.

2. Consequent upon various other orders passed by this Court, the premises in question were ordered to be sealed. The respondent - Dinesh Khosla filed an undertaking before the Deputy Commissioner, Central Zone, Municipal Corporation of Delhi, dated 20.02.2007, also in continuation of orders of this Court. Paragraph 9 of the aforestated undertaking is relevant for the present matter, and is being extracted hereunder:

"In view of the provisions of MPD-2021, we request you to desearl the premises of MAII till May 2008 by which we shall shift to conforming location."

3. A perusal of paragraph 9 leaves no room for any doubt,

that the respondent undertook "to shift to conforming location", and on that undertaking, he sought de-sealing. In compliance of the aforestated undertaking, the commercial user had to be shifted to a "conforming location" by the end of May, 2008.

4. The Delhi Development Authority (Master Plan Section), issued a public notice dated 30.04.2008, proposing to modify the existing sub-para 15.7.3(vii), with the following clause:

6.	Sub para 15.7.3(vii)	<p>This clause may be amended to read as under:</p> <p>Coaching centres and tuition centres referred to in para 15.7.1(f) including computer coaching and language coaching centres shall be permissible in up to 2/3rd of the maximum permissible FAR of the plot size subject to a maximum of 500 sqm built area and basement. There shall be no restriction on the size of the plot. Use of basement shall be subject to clearance from the fire authorities and other statutory bodies as per the relevant provisions of MPD 2021 and Unified Building Bye Laws, 1983, amended from time to time. In case the use of basement for coaching centres and tuition centres including computer coaching activity leads to exceeding the permissible FAR on the plot, such FAR in excess shall be used subject to payment of appropriate charges prescribed with the approval of Government. Other existing coaching/tuition centres may be allowed to continue till end of May, 2008 and shift to conforming locations by then, The tuition centres for school children only, shall also be permissible in the ground floor dwelling of any group housing on a maximum floor area of 100 sqm or 50% of the floor area of the flat, whichever is less.</p>
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5. Under the belief, that the premises wherefrom the Modi

Apollo International Institute for Management Education were being utilised, could be used for running the said Institute (after the above public notice was issued), the respondent approached this Court by moving an intervention application No.2289/2008 in Writ Petition(C)No.4677/1985 - M.C.Mehta vs. Union of India and others. Through the instant application, the respondent sought permission to continue to use the premises as hitherto before. Despite the fact, that no order was passed in I.A.No.2289/2008, even after the undertaking became effective namely, by 31.05.2008, the respondent continued to run the aforestated Modi Apollo International Institute for Management Education from the same premises.

6. The question that arises for consideration is whether the respondent was in breach of the affidavit filed by him in furtherance of the directions issued by this Court, with effect from 01.06.2008. And also, whether the breach was deliberate and intentional. The question of proceeding against the respondent would arise only if all the aforestated issues would have an answer in affirmative.

7. We have no doubt whatsoever, that the respondent was aware not only about the directions issued by this Court, but also the fact, that he had to stop running the Institute in question from 24-A, Lajpat Nagar IV, Ring Road, New Delhi after 31.05.2008. We say so because of the clear affirmation contained in the affidavit filed by the respondent dated 20.02.2007. The aforestated affidavit also reveals that the respondent was conscious of the orders passed by this Court. In paragraph 2 of the aforestated affidavit, it was acknowledged, that the premises in question were

sealed on 09.11.2006, pursuant to the sealing drive carried out by the Municipal Corporation of Delhi, under supervision of the Monitoring Committee appointed by this Court. It is therefore apparent, that the respondent was well-aware, that the entire process of sealing and de-sealing, was consequent upon the orders passed by this Court, and was being monitored by this Court.

8. We are also of the view, that the respondent was conscious, that it is this Court's order, which would have been violated, if he did not shift from the premises, in terms of the aforesaid undertaking by 31.05.2008. It is the instant non-compliance, which actually prompted the respondent to file I.A.No.2289/2008. It is apparent that there was a clear understanding in the mind of the respondent. If his premises stood regularised, and was in conformity with either the then existing Master Plan or the alteration therefor, there would be no occasion for the respondent to file I.A.No.2289/2008.

9. Needless to mention, that the user of the premises as for running the Modi Apollo International Institute for Management Education continued even after 31.05.2008. It is in these circumstances, that we are of the view, that the action of the respondent was deliberate as he was conscious of the fact of his undertaking given to the Deputy Commissioner, Central Zone, Municipal Corporation of Delhi, on 20.02.2007. We are therefore of the firm conclusion that his action was also intentional.

10. Despite our aforesaid conclusion, it was the contention of the learned senior counsel representing the respondent, that the action of the respondent, in breach of the orders passed by this

Court, should not be treated as a serious matter requiring him to be dealt, as having committed contempt of this Court, for the reason, that the notice for the amendment of the provisions of the MPD 2021 was eventually accepted, and the earlier provisions stood modified on 12.08.2008. It was submitted, that it was in expectation of approval of the amendment notified on 30.04.2008, that the respondent felt, that it would be inevitable, that the proposal contained in the notice would be accepted, and as such, under the obvious belief, that the premises would be rendered to be in conformity with the amended provisions, that he continued to allow the premises to be used for running the Modi Apollo International Institute for Management Education even after 31.05.2008.

11. Having given our thoughtful consideration to the entirety of the matter even though we are satisfied, that the violation of the undertaking, at the hands of the respondent, was deliberate and intentional yet there were some mitigating circumstances which may have weighed with the respondent to have continued the user of the premises in violation of the undertaking. But a mitigating circumstance can only have a bearing on the severity of the order. There can be no doubt, that the actions of the respondent are in clear contempt of the orders passed by this Court, and the undertaking given by the respondent in compliance therewith, and therefore the respondent necessarily has to be dealt with. In fact, it is our bounden duty to pass an appropriate order, failing which individuals would be encouraged to disobey orders passed by Courts, on one or the other excuse. Every deliberate and intentional

disobedience of a Court order, in our considered view, has to have consequences.

12. Though, in similar circumstances, we have passed harsher orders, we are satisfied, that in the facts and circumstances of the present case, it may not be appropriate to sentence the respondent to imprisonment, and that it would suffice if an appropriate fine is ordered to be paid by the respondent. We therefore impose a fine upon the respondent, which is quantified at Rs.5,00,000/- (Rupees five lakhs only). The respondent is directed to deposit the aforesaid fine, in the Registry of this Court, within four weeks from today, which shall be forwarded by the Registry, to the Supreme Court Bar Association, for its utilisation for upgradation of its library. In case the aforesaid fine is not deposited by the respondent within the time stipulated hereinabove, the Registry is directed to re-list this case for enforcement of the instant order which, it is necessary to caution the respondent, could entail further consequences.

13. The contempt petition stands disposed of, in the above terms.

.....CJI.  
(JAGDISH SINGH KHEHAR)

.....J.  
(Dr.D.Y.CHANDRACHUD)

NEW DELHI;  
JULY 28, 2017.

ITEM NO.7

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CONMT.PET.(C) No.53/2017 In W.P.(C) No.4677/1985

K.J. RAO, MEMBER, MONITORING COMMITTEE

Petitioner(s)

VERSUS

DINESH KHOSLA

Respondent(s)

Date : 28-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Ms.Anitha Shenoy, Adv.(Amicus Curiae)  
Ms.Rashmi Nanda Kumar, Adv.  
Mr.Sudipto Sircar, Adv.  
Ms.Srishti Agnihotri, Adv.

For Respondent(s) Mr.Pallav Shisodia, Sr.Adv.  
Mr.Shanmuga Patro, Adv.  
Mr.Pravin Bahadur, Adv.  
Mr.Kishan Rawat, Adv.  
Mr.Sanjay Kumar Singh, AOR

For Ministry of Environment & Forest Mr.Amit Sharma, Adv.  
Mr.W.A.Qadri, Adv.  
Mr.Ajay Sharma, Adv.  
Mr.Saeed Qadri, Adv.  
Mr.G.S.Makker, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We impose a fine upon the respondent, which is quantified at Rs.5,00,000/- (Rupees five lakhs only). The respondent is directed to deposit the aforesaid fine, in the Registry of this Court, within four weeks from today, which shall be forwarded by the Registry, to the Supreme Court Bar Association, for its utilisation for upgradation of its library. In case the aforesaid

fine is not deposited by the respondent within the time stipulated hereinabove, the Registry is directed to re-list this case for enforcement of the instant order which, it is necessary to caution the respondent, could entail further consequences.

The contempt petition stands disposed of, in the above terms.

(SATISH KUMAR YADAV)  
AR-CUM-PS

(Signed order is placed on the file)

(RENUKA SADANA)  
ASST.REGISTRAR