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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 5150/2021 & C.M.APPLs.15790/2021 & 16261/2021

Reserved on: 17th May, 2021

Pronounced on: 31st May, 2021

ANYA MALHOTRA & ANR.

..... Petitioners

Through: Mr.Siddharth Luthra, Sr.Adv. with
Mr.Gautam Khazanchi, Mr.Nitin Saluja,
Mr.Pradyuman Kaistha, Ms.Shubhangani Jain,
Mr.Pankaj Singhal, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Tushar Mehta, SGI, Mr.Chetan
Sharma, ASG, Mr. Anurag Ahulwalia, CGSC,
with Mr. Abhigyan Siddhant, Mr. Nitnem
SinghGhuman, Mr. Vinay Yadav, Mr.Akshay
Gadeock, Mr. Amit Gupta & Mr.Sahaj Garg,
Advocates for R-1.

Mr.Gautam Narayan, Ms. Dacchita Shahi &
Ms.Ritika Vohra, Advocate for R-3-Delhi
Police/GNCTD.

Mr.Maninder Singh, Sr. Adv, and Mr. Darpan
Wadhwa, Sr. Adv. with Ms. Sonali Jaitley
Bakhshi, Mr. Jaiyesh Bakhshi, Mr. Ravi Tyagi,
Mr. Shubhanshu Gupta, Ms. Sanjana Bakshi,
Mr.Chirag Sharma & Mr. Mayank Mishra,
Advocates for R-4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **Per Mr. D.N.PATEL, Chief Justice**

1. This writ petition has been preferred as a public interest litigation with

the following prayers:-

- i. Issue a Writ/Order/Direction in the nature of mandamus and command Respondent No. 1 & 2 to forthwith halt/suspend all construction activity of the Central Vista Avenue Redevelopment Project awarded to Respondent No. 4 in compliance with Orders issued by the Delhi Disaster Management Authority during the subsistence of the peak phase of the pandemic; and
- ii. Issue a Writ/Order/Direction in the nature of mandamus commanding and directing Respondent No.3 to forthwith withdraw and rescind the Movement Pass dated 19.04.2021; and
- iii. In the event that this Hon'ble Court is pleased to grant the relief prayed for in Prayer (i) above, issue directions to Respondent No. 1, 2 and 4 to ensure that all workers are paid their full wages, notwithstanding suspension work, and to pay and release arrears of wages to the workers/laborers engaged in the Central Vista Avenue Redevelopment Project; and
- iv. Pass any other order(s) and/or direction(s) that this Hon'ble Court deems fit in the circumstances of the present case.”

2. At the outset, Mr. Siddharth Luthra, learned Senior Counsel appearing for the petitioners submitted that the petitioners were not pressing the reliefs claimed in prayer clause (iii) of the instant writ petition. Mr. Luthra submitted that the jurisdiction of this Court has been invoked to enforce the Orders issued by Delhi Disaster Management Authority (hereinafter referred to as ‘DDMA’) and in the light of the said Orders directions are sought to Respondents No. 1 and 2 to forthwith halt/suspend all construction activities of the Central Vista Avenue Redevelopment Project awarded to Respondent no.4 as also a writ in the nature of mandamus commanding Respondent no.3

to forthwith withdraw and rescind the movement pass **dated 19th April, 2021 (Annexure P-7** to the memo of this petition), during the present peak phase of the Pandemic Covid-19.

3. Learned Senior Counsel submitted that in view of the sharp increase in Covid-19 cases in Delhi, DDMA vide Order dated **19th April, 2021 (Annexure P-6** to the memo of this writ petition) imposed restrictions on movement in the territory of NCT of Delhi w.e.f. 10 P.M. on 19th April, 2021 to 5 A.M. on 26th April, 2021. Certain categories of individuals were exempted from the said restrictions such as Government officials, Judicial Officers, medical personnel, etc. and persons related to commercial and private establishments, providing essential services enumerated therein, were allowed movement subject to possession of e-pass. It was clearly spelt out in the Order that except the aforementioned exempted/allowed movements and activities, all other private offices/establishments, shops, shopping centres, malls, weekly markets, manufacturing units, educational and coaching institutes, cinema and theatres etc. shall remain closed during the curfew.

4. In this context, learned Senior Counsel drew the attention of the Court to the order dated **19th April, 2021 (Annexure P-6)** and highlighted paragraphs 8 and 9 thereof, which are extracted hereunder for ready reference :

“8. Except aforementioned exempted/allowed movements and activities, all other private offices / establishments, shops, shopping centers, malls, weekly markets, manufacturing units, 'educational & coaching institutes, cinema & theatres, restaurant & bars, auditoriums / assembly halls, entertainment /amusement / water parks, public parks & gardens, sports complexes, gyms, spas, barber shops, saloons, beauty parlors,

swimming pools (except being used for training of sports persons for participation in national and international events), construction activities (except where labourer are residing onsite) etc. shall remain closed during curfew.

9. All social/ political / sports / entertainment / academic / cultural / religious / festival related and other gathering and congregations shall be prohibited."

5. It was further submitted that on 25th April, 2021, since positivity rate was still high in Delhi, DDMA extended the curfew till 5 A.M. on 03rd May, 2021 and the restrictions continued, except for the essential services stipulated in Order dated 19th April, 2021. The curfew was further extended till 10th May, 2021 vide Order dated 01st May, 2021, there being no decrease in the positivity rate of Covid-19 cases.

6. The contention of the petitioner was that despite the issue of several orders by the DDMA restricting movements during the curfew to a certain category of individuals and for essential services, Respondent No.3 issued the movement pass dated **19th, April 2021**, permitting vehicles engaged in development and redevelopment of Central Vista Avenue to operate during the curfew and lockdown on the ground of exigency of Government work. The movement pass was issued in gross breach and violation of the aforesaid orders issued by the DDMA and under an erroneous presumption that the construction of the Project is an essential activity, whereas the Project does not fall under the category of 'essential' services.

7. Mr. Luthra relied upon paragraph-6 of the rejoinder affidavit filed by the petitioners in response to the counter affidavit filed by Respondent No.1/Union of India, wherein it is averred that the news reports show that

workers have been commuting to and from the Project sites, daily by buses from Kirti Nagar, Nizamuddin and Karol Bagh in addition to Sarai Kale Khan camp, in violation of order dated 19th, April 2021(Annexure P-6). Mr. Luthra further submitted that though the movement pass was issued for buses for the purpose of commuting workers, there is no disclosure by Respondent No.4/Shapoorji Pallonji and Company Private Limited (hereinafter referred to as 'SPCPL') in its affidavit as to the number of workers, drivers and conductors/helpers manning the buses as also if any RT-PCR tests were carried out for the said staff and if so, details of the results thereof. News reports indicate that there was transportation of nearly 30% workers till 30th April, 2021 from different places to the Project site thereby increasing the risk of infection and in clear violation of the right to health and life of the workers, besides posing threat of infection to the other citizens of Delhi at a time when there was a huge surge in the number of Covid-19 cases. In this background, it was urged that there is an imminent necessity of restraining the construction activities carried out by Respondent No.4/SPCPL and suspending the movement pass issued by the Respondent No. 3, forthwith.

8. Learned Senior Counsel urged that no explanation is forthcoming from Union of India as to why permission was granted for movement of as many as 180 vehicles, if their stand that 250 workers were staying at the project site itself, is to be believed. Moreover, neither Union of India nor Respondent No.4 have furnished the details of the workers staying on site, the dates when the alleged accommodations were made available for them at the Project site, the number of tents with number of people residing in each tent. The photographs taken onsite over the last many days reflect that there

were no tents or any other kind of accommodation for the workers on the project site. Even the photographs relied upon by Union of India are not enough to substantiate the claim that 250 workers are residing on site and depict a contrary state of affairs that the tents are lying vacant with no inhabitants and even basic facilities or amenities such as washrooms, food, etc. for the day-to-day living of the workers have not been provided.

9. Learned Senior Counsel also argued that the affidavits of the Respondents are silent on the number of positive cases detected amongst the workers on-site and the methodology adopted for isolation/quarantine, details of on-site/on call doctors and/or the hospitals or labs with which tie-ups have been made in case the need arises in a given case. Respondents have not disclosed the protocols and procedures being followed for collection of samples for testing and while one of the documents placed along with the affidavit shows that samples were collected from a location at JJ Colony, Sarita Vihar, the averment in the affidavit, to the contrary, is that the RT-PCR facility was provided at the Project site. The argument is that there is no testing facility at the site and the document placed on record is only to cover-up the inaction. It was strenuously argued that the affidavit is also bereft of details of the insurance cover of the workers prior to 05th May, 2021 and the insurance policy placed on record only covers hospitalization and not the quarantine allowance and is thus wholly inadequate.

10. Learned Senior Counsel submitted that petitioners are fully cognizant of the judgment dated 05th January, 2021 passed by Hon'ble the Supreme Court in *Transferred Case (Civil) No. 229/2020*, reported as **2021 SC Online SC 7**, whereby the Supreme Court has, amongst other issues, upheld the approvals and sanctions for the Central Vista Project and are in no

manner seeking to overreach the said judgment. Petitioners are also not challenging such part of the Project which involves construction of new Parliament building, where according to the information received by the Petitioners, provision has been made for on-site accommodation of workers. The concern of the Petitioners is only with respect to the on-going construction activity in part of the Project as mentioned in the writ petition where the Project is being carried out in a manner that poses threat not only to the lives of the workers on site but also the citizens of Delhi. At a time when the city of Delhi is grappling with the virus outbreak, the impugned acts of the Respondents will nullify and negate the efforts being put to control the spread of the viral infection. Compared to the larger interest of protecting lives of people, sanctity of a date of completion of the Project for construction can have no meaning, relevance or importance. The time-lines within which the Project is to be completed, can always be extended keeping in view the on-ground situation and circumstances arising out of the Pandemic.

11. Learned Senior Counsel appearing for the Petitioners placed reliance upon the decisions rendered by Hon'ble the Supreme Court in *Pt. Parmanand Katara v. Union of India*, (1989) 4 SCC 286, *Occupational Health and Safety Association V. Union of India and Ors.*, (2014) 3 SCC 547, *Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwala and Others*, (2009) 1 SCC 168 and *E. Sivakumar v. Union of India*, (2018) 7 SCC 365. He also placed reliance upon the order dated 30th April, 2021 passed by Hon'ble the Supreme Court in *Suo Motu Writ Petition (Civil) No.3/2021*, in support of the plea that the construction activity at Central Vista Avenue Redevelopment Project be suspended

forthwith and the movement pass dated 19th April, 2021 be withdrawn.

12. Mr. Tushar Mehta, Learned Solicitor General of India addressed arguments on behalf of Respondents No.1 and 2. He submitted that the scope of work for the Project in question is not what is colloquially referred to as 'Central Vista Project', which includes the Parliament, refurbishment of North Block, South Block, construction of new offices for Central Government, i.e., common Central Secretariat, central conference facilities etc. The scope of the work which is the subject-matter of the present petition is limited to the redevelopment of Central Vista Avenue (i.e., both sides of Rajpath) where the Republic Day Celebrations are held on 26th January every year. It is a matter of common knowledge that it is a very important public place and most widely visited by common public and tourists. Scope of work, as per the Learned Solicitor General is as follows :

- “(i.) Providing public amenities like toilet blocks, paths, parking space, vendor zone;
- (ii.) Making four pedestrian underpasses below Janpath and C-Hexagon Road.
- (iii.) Improvement of canals, bridges, lawns, lights etc.”

13. Mr. Tushar Mehta submitted that the work is to be completed by November, 2021. Approximately 400 workers were engaged at the site of the aforementioned Project before imposition of the curfew on 19th April, 2021. Out of the said workmen, 250 workers expressed their willingness to continue working at the Project site and accordingly all necessary facilities were provided for their accommodation, on-site. Measures have been taken to ensure strict implementation of Covid-19 protocols and adherence to Covid-19 appropriate behaviour such as sanitization, thermal screening,

physical and social distancing and masking etc. Respondent No.4 has provided health insurance to all the concerned workers against Covid-19 and a separate facility for conducting RT-PCR test, isolation and medical-aid has also been provided at the site. In fact on account of a dedicated medical facility at the concerned work site, workers will have access to immediate medical care and attention which would be otherwise difficult considering the burden on the existing medical infrastructure.

14. It was submitted that photographs have been placed on record by the answering respondent showing adherence to all Covid-19 protocols on site of work, along with the counter affidavit filed by the Respondent No.1/Union of India. Perusal of the photographs would show that the Petitioners have made false averments and suppressed material facts. The true picture is that workers who are employed as of now are residing at the work site and following all Covid-19 protocols including social distancing norms and to substantiate the stand, Learned Solicitor General has taken the Court through Annexures R-1, R-2 and R-3 of the counter affidavit. It was also submitted that the contention of the petitioners that there is a breach of the DDMA Order dated 19th April, 2020 is misplaced and misconceived. Plain reading of para 8 of the said Order indicates that construction activities where workers are residing on site were permitted during the curfew period and in the present case as the workers are residing on site, the action is in consonance with the directions in the DDMA Order, in letter and spirit.

15. It was further argued that the petitioners are misreading and misinterpreting the movement pass. As a matter of fact, while the arrangements for stay of the workers were being made at the site, permission was sought only for transportation of material and labour from Sarai Kale Khan to the

work site including permission for movement of supervisory staff and this permission was granted on 19th April, 2021 which was valid upto 30th April, 2021.

16. Learned Solicitor General also pointed out that the project in question is not the sole construction project which is under construction in the city of Delhi. There are several other agencies carrying out construction activities across the city of Delhi, strictly in compliance with the lockdown norms and Covid-19 protocols, such as :

- a) Central Public Works Department (CPWD),
- b) National Buildings Construction Corporation Ltd. (NBCC),
- c) Delhi Metro Rail Corporation (DMRC),
- d) Public Works Department (PWD),
- e) India International Convention & Expo Centre (IICC),
- f) Delhi Development Authority (DDA).

17. There are 16 such locations at which the construction activities are underway in Delhi where the aforesaid agencies are involved in different projects. It was vehemently argued that the fact that the petitioners have chosen to be 'public spirited citizens' only with regard to one project, speaks volumes of their ill-intent behind filing the present petition as well as lack of bonafides, which is the foremost issue that the Court has to consider while entertaining a public interest litigation. The 'public spirit' and 'public interest' of the petitioners is evidently selective and the present petition being completely motivated must be dismissed on this ground alone.

18. Mr. Tushar Mehta argued that the present petition is a sheer abuse of process of law and yet another attempt to stall the Project. Right from the inception of the Project, attempts have been made, for one reason or the

other to hinder its completion. Even prior hereto, a challenge was laid to the said Project on several grounds and the Hon'ble Supreme Court vide judgment dated 5th January, 2021 passed in *Transferred Case(Civil) No. 229/2020*, reported as **2021 SC Online SC 7** upheld the validity of the Central Vista Project.

19. We have also heard Mr. Maninder Singh, learned Senior Counsel appearing for Respondent No.4/SPCPL. Mr. Singh at the outset questioned the bonafides of the petitioners and submitted that there is no public interest involved in the matter and the petition is motivated with the sole purpose of stalling the Project. It was submitted by learned Senior Counsel that the work of the Project in question was awarded to Respondent No.4 after a tender process in January, 2021 and as per the terms of the contract, it is to be completed within 10 months, i.e. by November, 2021. Time is of the essence of the contract as the work includes redevelopment of Central Vista Avenue, where Republic Day Celebrations are held and slightest delay in meeting the time-lines can cause hindrance in celebration of a National Event. The work of the Project had started much before the imposition of the curfew by DDMA and post the imposition of curfew, necessary permissions were sought by Respondent No.4 for a movement pass, which was granted on 19th April, 2021, keeping in view the exigency and urgency of the Project in question.

20. It was further submitted that initially 400 workers were engaged by SPCPL for the Project and they were mostly residing at Sarai Kale Khan Camp. After the rise in cases and imposition of curfew, substantial number of workers left, while remaining expressed their willingness to continue with the work. Arrangements were immediately made for accommodation of the

workers at site itself and meanwhile permissions were sought for transportation of materials and workers from Sarai Kale Khan Camp to the work site. Permission was granted by the competent authority on 19th April, 2021 valid upto 30th April, 2021.

21. It was further pointed out by Mr. Singh that initially accommodation was created for 250 workers at the project site, which was subsequently enhanced and at present approximately 280 workers are working at the site who have been accommodated at the site itself. No workers are being ferried or brought from Sarai Kale Khan Camp or any other place. It was also submitted that Order dated 19th April, 2021 of DDMA does not impose any restriction on construction activities where the labourers are residing on site and therefore there is no breach or violation of the order by the answering respondent, contrary to the allegations of the petitioners. On the construction site, all Covid-19 protocols such as sanitization, thermal screening, physical and social distancing, masking etc. are adhered to. It was also submitted by learned Senior Counsel for Respondent No.4 that all safety measures have been provided at the site to avoid any kind of spread or mis-happening due to coronavirus, such as :-

- “A. Availability of Oxygen facility at site,
- B. Availability of Ambulance with Oxygen and other medical facility’
- C. Facility for conducting testing (RT-PCR),
- D. Isolation facility and medical aid facility in case of any worker tests positive for Covid-19
- E. Regular Sanitisation of the workplace is done, there is an average one sanitisation station per 20 workers at the site.
- F. Further, health insurance of all workers against COVID has been provided by the contractor.”

22. Mr. Maninder Singh, learned Senior Counsel had taken this Court to various documents and the photographs annexed with the counter affidavit filed by Respondent No.4 and submitted that the workers who are working at the site have been provided with facilities of stay apart from facilities of testing and medical care and the apprehensions of the petitioners are without any basis. Any stoppage or suspension of the work at site will have an adverse effect on the Project as well as the workers.

ANALYSIS AND REASONS:

23. We have heard Learned Senior Counsel for the parties and Learned Solicitor General of India and examined their respective contentions as well as the pleadings and documents on record. Petitioners have laid a challenge to the ongoing construction activity in connection with the work of '**Central Vista Avenue Redevelopment Project**' and seek a direction from this Court to Respondents No.1 and 2 to forthwith stop the construction activity and a direction to Respondent No.3 to rescind the movement pass dated 19th April, 2021 in the wake of Pandemic Covid-19, which is in its peak phase.

24. The case of the petitioners is primarily predicated on the directions issued by DDMA vide its Order dated 19th April, 2021 (Annexure P-6 to the memo of this petition), exercising power under **Section 22 of the Disaster Management Act, 2005**, whereby restriction on movements and activities was imposed and all private offices/establishments, etc. were directed to remain close, except for those exempted/allowed by the said Order.

25. We have perused all the orders issued by the DDMA being Orders dated 06th April, 2021, 8th April, 2021, 10th April, 2021 and 15th April, 2021 filed as Annexures P-1 to P-4 along with the writ petition and have been unable to discern any direction by the DDMA which prohibits construction

activity, where labourers reside on site. **Para 8 of Order dated 19th April, 2021** clearly permits construction activity, where the labourers are residing on site, during the curfew period. Subsequent DDMA Order dated 25th April, 2021 also contains no prohibition for a construction activity where labourers reside on site. For ready reference, **paragraph-8** of the order passed by the DDMA dated 19th April, 2021 is reproduced hereunder:-

“8. Except aforementioned exempted/allowed movements and activities, all other **private offices / establishments**, shops, shopping centers, malls, weekly markets, manufacturing units, 'educational & coaching institutes, cinema & theatres, restaurant & bars, auditoriums/ assembly halls, entertainment / amusement / water parks, public parks & gardens, sports complexes, gyms, spas, barber shops, saloons, beauty parlors, swimming pools (except being used for training of sports persons for participation in national and international events), **construction activities (except where labourer are residing onsite)** etc. shall remain closed during curfew.”

(emphasis supplied)

26. In view of the aforesaid order passed by the DDMA on 19th April, 2021, the movement pass was issued by Respondent No.3, which is at **Annexure P-7** to the memo of this writ petition and reads as under:-

“The vehicles (as per list attached) engaged in development and redevelopment of Central Vista Avenue at New Delhi are hereby allowed to operate during Curfew and lockdown in view of exigencies of Govt. work.”

(emphasis supplied)

27. From the submissions of the learned Solicitor General and learned

Senior Counsel for Respondent No.4 and the affidavits filed in response to the writ petition, it emerges that initially 400 workers were engaged at the site of the aforementioned project, well before imposition of curfew on 19th April, 2021. Initially, arrangements were made to accommodate approximately 250 workers at the site but subsequently the capacity was enhanced so that 280 workers could stay while working on the Project. Conjoint reading of the affidavits also reveals that there is no further movement of workers from Sarai Kale Khan or any other place to the Project site. For ready reference, paragraphs-7, 8 and 9 of the affidavit filed by **Respondent No.1/Union of India** are reproduced hereunder:-

- “7. Further, it is important to note that about 400 workers were engaged at site of the aforementioned project well before the imposition of curfew on 19.04.2021. The workers are staying on the site and therefore the notification relied upon by the petitioners is fully complied with. The petitioner is fully aware about this fact and he has deliberately suppressed it in the petition as stated hereunder.
8. It is submitted that while the arrangements for the stay of the workers was being made at the site, permission was sought for transportation of materials and labour from Sarai Kale Khan camp to the work site, including permission for the movement of supervisory staff. It is submitted that the said permission was granted on 19.04.2021, and was valid up to 30.04.2021.
9. It is submitted that in the meantime, a COVID compliant facility was installed at the worksite itself, to accommodate the 250 workers who had expressed their willingness to stay put and continue the aforesaid work. The facility provides for strict implementation of COVID protocol strictly and also adherence to COVID appropriate behaviour, such as sanitization, thermal screening, physical/social distancing and masking.

Moreover, the contractor has provided for a health insurance of all the concerned workers against COVID-19 and a separate facility for conducting the RT-PCR test, isolation and medical aid has also been provided at site. True copy of photographs showcasing the adherence of all COVID-19 protocols on-site of work have been annexed herewith and marked as **ANNEXURE R-1**. The said photographs would satisfy this Hon'ble Court that not only the petitioners has resorted to falsehood but has resorted to suppression of material facts as all on sight arrangements are in public domain and is there for everyone to see. It is impossible to even conceive that the petitioners filed this petition without physically verifying the said facts.”

(emphasis supplied)

28. Similarly, paragraphs-6,7,8 and 9 of the counter affidavit filed by **Respondent No.4/the SPCPL** read as under:-

“6. It is stated that for the construction of the project, about 400 workers were engaged by SPCPL through its sub-contractors for the Project and they were mostly residing at the Sarai Kale Khan Camp. However, after the imposition of curfew and restrictions on 19.04.2021 by DDMA owing to Covid -19. A substantial number of workers had left the work after the imposition of the curfew, but the remaining workers expressed their willingness to continue with the work.

7. Arrangements were immediately made for the accommodation of workers at the site itself. Meanwhile, permissions were sought on 19.04.2021 for the transportation of materials and workers from Sarai Kale Khan camp to the work site. The same was granted to SPCPL by DCP Delhi and the said permission was valid up to 30.04.2021. After 30.04.2021, there has been no ferrying of workers from any camp to the site. Since 01.05.2021 only the workers who are on site have been involved in the work for the project.

8. It is stated that initially SPCPL had created a capacity to accommodate approximately 250 workers at the site, has currently been enhanced to accommodate more workers as and when required. Presently, approximately 280 workers are working at site who have all been accommodated at the site itself, and as of now no worker is being ferried or brought from Sarai Kale Khan Camp or any other place. The onsite accommodation of the workers is in terms of the Order dated 19.04.2021 issued by DDMA.
9. As per Order dated 19.04.2021 of DDMA, there is no restriction on the construction activities where the labourers are residing onsite and in the present case all the labourers are residing on site and there is no transportation or ferrying of workers for the purpose of construction work. Thus, there is no reason for passing of any directions as prayed in the present Writ Petition.”

(emphasis supplied)

29. In view of the aforesaid aspect of the matter, since the workers who are working at the project are staying on site, no question of issuing directions to suspend the work of Central Vista Avenue Redevelopment Project, whatsoever, arises. It bears repetition that the construction activity is not prohibited under paragraph-8 of the order of the DDMA dated 19th April, 2021 issued under Section 22 of the Disaster Management Act, 2005, where workers are residing on-site, contrary to the stand of the petitioners.

30. From the affidavits and extensive submissions on behalf of the Respondents, it is also clearly evident that several facilities have been provided by Respondent No.4 to the workers/labourers working onsite, such as residence/accommodation, medical facilities, Covid-19 care centres, etc.

Respondent No.4 has ensured that Covid-19 protocols and Covid-19 appropriate behaviour like social/physical distancing, thermal screening, masking, sanitization etc. are scrupulously adhered to and implemented at the Project site.

31. Additionally, facilities for isolation and conducting RT-PCR test have been provided and following safety measures have been put in place, to avoid any kind of spread or mis-happening due to coronavirus:-

- A. Availability of Oxygen facility at site,
- B. Availability of Ambulance with Oxygen and other medical facility'
- C. Facility for conducting testing (RT-PCR),
- D. Isolation facility and medical aid facility in case of any worker tests positive for Covid-19
- E. Regular Sanitisation of the workplace is done, there is an average one sanitisation station per 20 workers at the site.
- F. Further, health insurance of all workers against COVID has been provided by the contractor.”

32. Looking to the respective stands of the Respondents and the measures taken on ground as well as the provisions of the various DDMA Orders, we find that the petitioners have not been able to substantiate the allegations made in the writ petition and/or the alleged breach or violation of the DDMA orders. On the contrary, challenge to the on-going construction activity with regard to one particular Project, is a pointer to the **ill-intent and lack of bonafides of the petitioners in filing the present petition.**

33. Central Vista Project includes the Parliament, refurbishment of North Block, South Block, construction of new offices for Central Government, i.e., Common Central Secretariat, Central Conference facilities etc. which includes Central Vista Avenue Redevelopment Project (i.e., both sides of

Rajpath where Republic Day celebrations are held every year, on 26th January. Thus, this project is a vital public project. The scope of the work for the aforesaid project is as under:-

- “(i.) Providing public amenities like toilet blocks, paths, parking space, vendor zone;
- (ii.) Making four pedestrian underpasses below Janpath and C-Hexagon Road.
- (iii.) Improvement of canals, bridges, lawns, lights etc.”

34. We may also take note that several other agencies like CPWD, NBCC, DMRC, PWD, IICC and DDA are undertaking construction projects in the territory of National Capital Region of Delhi. It is obvious that petitioners have selectively chosen only one project which is of National importance, at a vital place where Republic Day Celebrations are held in Delhi and is a part and parcel of the larger project, namely, Central Vista Project, legality whereof has already been upheld by Hon’ble the Supreme Court in the judgment dated 5th, January 2021 passed in *Transferred Case(Civil) No. 229/2020*, reported as **2021 SC Online SC 7** and which is to be completed within a time bound schedule, i.e. on or before November, 2021. This project cannot be stopped by the Court in view of the aforesaid facts, especially when the requirements of paragraph-8 of the order of the DDMA dated 19th April, 2021 issued under Section 22 of the Disaster Management Act, 2005 have been complied with by the Respondents. Necessary steps have been taken by Respondent No.4 to comply with Covid-19 related protocols and the construction activity does not fall foul of the rigours of the DDMA Orders and is rather in consonance thereof.

35. As the conditions imposed by the DDMA vide their order dated 19th

April, 2021 have been fulfilled by Respondent No.4, the facts of the present case are entirely different from the facts of the judgments upon which reliance was placed by learned Senior Counsel appearing for the Petitioners and hence, the said judgments do not help the petitioners. We also find that the permission granted for movement of the vehicles by issuing the movement pass dated 19th April, 2021 (Annexure P-7 to the memo of this petition) is absolutely just, legal and proper. The workers who are working at the site have been given the facility to reside onsite, however, there is a need to transport material for construction. The permission is certainly regulated and only those vehicles which have been permitted, would be allowed to move, in accordance with the movement pass dated 19th April, 2021 and after due scrutiny of their registration numbers.

36. Much has been argued by the learned Senior Counsel for the Petitioners that the project in question is not an ‘essential activity’ and could be deferred. We do not agree with the learned Senior Counsel for the Petitioners on this aspect either. As highlighted by the Respondents, the Central Vista Avenue Redevelopment Project is part and parcel of the larger project, namely, Central Vista Project. The Central Vista Project includes parliament, refurbishment of North Block, South Block, construction of new offices of Central Government, i.e., common Central Secretariat, Central Conference facilities etc. The scope and importance of redevelopment of Central Vista Avenue Project have been explained in paragraphs-3 and 4 of the counter affidavit filed by Respondent No.4, which are reproduced hereunder for ready reference:-

“3. In January 2021, the Work of the Redevelopment of Central Vista Avenue was awarded to SPCPL by Central

Public Works Department (herein after referred to as “CPWD”). The brief scope of work included the Redevelopment of Central Vista Avenue, improvement of canals, bridges, lawns lights etc., providing public amenities like toilet blocks, parking, vendor zone, construction of four pedestrian underpasses below Janpath and C-Hexagon road.

4. The said work is to be completed within 10 months i.e., by November 2021. It is pertinent to mention that the work included Redevelopment of Central Vista Avenue where Republic Day Celebrations are held and therefore the timeline of the project is of strict importance as even slightest delay in the project can cause a great hindrance to the Celebrations of Republic day, 2022.”

(emphasis supplied)

37. The present petition has been filed to stop with immediate effect the work of the redevelopment of Central Vista Avenue. This work is part and parcel of Central Vista Project and of vital public importance. The construction of Central Vista Avenue Redevelopment Project cannot be seen in isolation. In fact, the whole Central Vista Project is an essential project of National importance, where the sovereign functions of Parliament are also to be conducted. Public is vitally interested in this project. The legality of the project has been upheld by Hon’ble Supreme Court vide judgment dated 5th, January 2021 passed in ***Transferred Case (Civil) No. 229/2020***, reported as ***2021 SC Online SC 7***. The whole project has been given after notice inviting tender process. As stated in the counter affidavit of Respondent No.4, they have to complete the work on or before November, 2021 which was assigned to them in January, 2021. Time is of the essence of the contract.

38. The work has to be completed within time-bound schedule.

Petitioners have casually argued that the time limit be extended. Such kind of arguments cannot be accepted by this Court, keeping in view that the construction activity of this essential project or of a project of national importance cannot be stopped especially when the conditions imposed by the order of the DDMA dated 19th April, 2021 as mentioned in paragraph-8 thereof are not flouted or violated. We completely disagree with the learned Senior Counsel appearing for the Petitioners that the project is not an essential activity. The Project in question is of vital importance and essential and has a direct nexus with the main project, namely, Central Vista Project. By no stretch of imagination, it can be said that Central Vista Project (which is the main project) or Central Vista Avenue Redevelopment Project is not an essential project. The Central Vista Avenue Redevelopment Project which is a sub-set of the main project is equally important and essential as the main project. If this type of project is stopped by the Court, the main project cannot be completed within the stipulated time. Once the workers are staying at the site and all facilities have been provided by Respondent No.4, Covid-19 protocols are adhered to and COVID-19 appropriate behaviour is being followed, there is no reason for this Court while exercising powers under Article 226 of the Constitution of India to stop the project.

39. We are of the view that this is a motivated petition preferred by the petitioners and not a genuine public interest litigation. In view of the aforesaid, present petition is hereby dismissed with costs of Rs.1,00,000/- (Rupees One Lakh only) to be deposited by the petitioners with the Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized for the programme 'Access to Justice'.

40. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

41. The pending applications shall also stand disposed of.

CHIEF JUSTICE

JYOTI SINGH, J

MAY 31, 2021

'anb'

HIGH COURT OF DELHI



भारतमेव जयते