

Court No. - 29

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 926 of 2021

Petitioner :- Jitendra Singh Vishen And Another

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Prabhash Pandey

Counsel for Respondent :- C.S.C., Anand Prakash Paul, Arun Kumar, Brij Bhushan Paul, Manoj Kumar Singh, Mohd. Aslam Khan, Mohd. Mateen Khan, Pawan Kumar Singh, Punit Kumar Gupta, Sunil Dutt Kautilya, Suresh C. Dwivedi

Hon'ble Munishwar Nath Bhandari, Acting Chief Justice
Hon'ble Piyush Agrawal, J.

Sri Hari Shankar Jain, learned counsel for the petitioners appears through video conferencing.

This Court passed a detailed order on 30th September, 2021 after giving reference of the judgment of the Apex Court in the case of **Allahabad Ladies Club Versus Jitendra Nath Singh and others** reported in (2007) 11 SCC 609. The directions given by the Supreme Court was referred in the previous order. The judgment of the Supreme Court was on a judgment of this Court in the case of **Arun Kumar Vs. Nagar Mahapalika, Allahabad and others** reported in 1987 SCC OnLine All 379. When the compliance of the judgment in the case of **Arun Kumar (supra)** was not made, an Execution Case No. 1 of 1991 was filed arising out of Civil Misc. Writ Petition No. 19296 of 1986 before the High Court which was also decided on 2nd June, 1999 after seeking two reports by the Committee indicating area of encroachments in the park. Despite the report indicating the encroachments, actions were not taken to remove it in strict compliance of the judgment of this Court in the case of **Arun Kumar (supra)** and modified by the Apex Court in the case of **Allahabad Ladies Club (supra)**. The petition was filed accordingly to save the park in consonance to the provisions of Sections 6 and 7 of the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975. The

officers who were called finding no reasons of default. A report has been submitted to indicate action taken after the order of this Court dated 30th September, 2021.

We do not find action against all the encroachers indicated by the Committee and otherwise should have been determined by the respondents pursuant to the judgment of the Supreme Court in the case of **Allahabad Ladies Club (supra)**. We accordingly find a failure of the Authorities to carry out the directions of this Court so as the Apex Court and therefore, the present writ petition.

Sri Manish Goyal, learned Additional Advocate General on the instructions of the officers prays for time to enable the Authorities to remove all the encroachments from Chandra Shekhar Azad Park with a report to this Court. This Court was not inclined to adjourn the matter because inaction is not only in defiance of the order passed by this Court but of the Apex Court also. However, on a request for immediate action in the matter, let this matter be listed on 8th October, 2021 as fresh for further arguments enabling the respondents to produce the report after removing all the encroachments after taking note of the judgment and directions of the Apex Court in the case of **Allahabad Ladies Club (supra)** and also the judgment in Execution Case No. 1 of 1991 arising out of Civil Misc. Writ Petition No. 19296 of 1986, decided on 2nd June, 1999.

Order Date :- 5.10.2021

VMA

(Piyush Agrawal, J.) (Munishwar Nath Bhandari, A.C.J.)