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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 682/2016, CM APPL. 2799/2016, CM APPL. 7817/2017,
CM APPL. 9578/2018, CM APPL. 14521/2018 & CM APPL.
5752/2019

N.C. BAKSHI

..... Petitioner

Through: Mr. Harish Malhotra, Sr. Advocate
with Mr. Tanuj Khurana, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Kaushal Jeet Kait and Mr. Jatin
Yadav, Advocates for R-1 & 4.

Mr. Robin R David and Mr. Samuel
David, Advocates for R-3.

Mr. Ajjay Aroraa, Standing Counsel
with Mr. Kapil Dutta and Mr. Anuj
Bhargava, Advocates for MCD.

Mr. Rajeev Nayyar, Sr. Advocate,
Mr. Sandeep Sethi, Sr. Advocate and
Mr. Rajshekhar Rao, Sr. Advocate
with Mr. Manik Dogra, Mr. T.
Singhdev, Mr. Saurabh Chadha, Mr.
Rohit, Mr. Abhijit Chakravarty, Mr.
Aabhas Sukhramani, Ms. Anum
Hussain, Mr. Tanishq Srivastava, Mr.
Bhanu Gulati, Ms. Shreya Sethi, Mr.
Vikram Singh Dalal and Ms. Tanvi
Tewari, Advocates for R-5/DDCA.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

15.02.2023

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[The proceeding has been conducted through Hybrid mode]

1. This matter will require consideration and substantial time.
2. In the meanwhile, respondent no.5/DDCA seeks urgent directions in view of the Cricket Test Match between India and Australia stated to be played from 17.02.2023 to 21.02.2023. It is in this regard that the interim order is being passed.
3. This Court has perused the affidavit filed on behalf of respondent no.5 as well as the response thereto filed on behalf of the petitioner.
4. Mr. Rajiv Nayyar, learned senior counsel appearing on behalf of respondent no.5/DDCA has drawn attention of this Court to the letter dated 30.06.2021 which is annexed as Annexure 5/B to the additional affidavit filed on behalf of respondent no.5, to page 13 and in particular to the conclusion drawn by the expert of IIT, Delhi, which are extracted hereunder:-

“With the above modifications having being completed, the building can be safely used as below:

1. The stand accessible from the first floor of the building can be used for the seating of 'spectators using fixed seating, with a capacity of around 1,700 spectators. The access to this area should also be opened from the external staircases.

2. The VIP fixed seating area accessible from the first floor can also be used for the purpose of seating.

3. The stands accessible from the second and third floor can be used as per the existing seating in these areas.

On the basis of the structural analysis that was reported by the undersigned in his report number

HTD/BCVL/SHBIS/CW14547/003 dated 31.01.2019, with the completion of the modifications, the building was found to meet the requirements of the relevant standards that existed at the time of its construction for the usage for which it is intended. In its current condition, the building is structurally safe for its intended usage as discussed above.”

5. From the above, it is clear that the IIT has conducted structural analysis of the RP Mehra Block and came to the aforesaid conclusion. Mr. Rajiv Nayyar and Mr. Sandeep Sethi, learned senior counsel jointly submit that on the basis of such report, the Municipal Corporation of Delhi in subsequent letters placed on record, has given its consent and permission to use RP Mehra Block in the terms which are stated in the letter dated 30.06.2021.

6. Learned senior counsel on the basis of above submitted that the same condition will be complied strictly by the DDCA and there will be no infraction of the conditions as imposed by SDMC as well as observations made by IIT in the letter dated 30.06.2021.

7. Mr. Harish Malhotra, learned senior counsel appearing on behalf of the petitioner seriously disputes the submissions made by learned senior counsel for respondent no.5/DDCA and submits that the mere report of IIT, Delhi examining the structural stability of the building does not *ipso facto* lend credence to the legality of the building so constructed. Learned senior counsel further submits that by way of this report or any other report, the illegally constructed building will not automatically become sanctioned. The MCD has admitted that the structure is not sanctioned in accordance with law.

8. Be that as it may, since the International Test Match between India and Australia is to commence from 17.02.2023 through till 21.02.2023, as an interim measure, the following directions are passed:-

- a) The stand accessible from the first floor of the building can be used for the seating of 'spectators using fixed seating, with a capacity of around 1,700 spectators.

This direction is modified to the extent that the first floor can be used for the seating of 'spectators using fixed seating, limited to 1,500 spectators instead of 1,700 spectators as granted earlier.

The access to this area should also be opened from the external staircases.

- b) The VIP fixed seating area accessible from the first floor can also be used for the purpose of seating.
- c) The stands accessible from the second and third floor can be used as per the existing seating in these areas.

9. The aforesaid directions are interim in nature and shall not form precedence for future.

10. Pleadings are complete so far as the writ petition is concerned.

11. List for consideration on 22.03.2023 at 2:30 p.m.

TUSHAR RAO GEDELA, J

FEBRUARY 15, 2023

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