

PUCL STATEMENT ON SUPREME COURT ORDER CONCERNING SLUM DEMOLITION

People Union for Civil Liberties (PUCL) expresses its disappointment at the decision of the Supreme Court of India dated 31.08.2020 in '*M.C. Mehta v Union Of India & Ors*' (Writ Petition No. 13029/1985), and condemns the direction to demolish within the next three months over 48,000 homes of the urban poor in Delhi as being in complete violation of the principles of natural justice. The order of the Court is a summary decision on the fate of tens of thousands of families - without any consideration of their right to live a life with basic human dignity and a roof over their head. While the Supreme Court has ordered that within the first three months those structures in "safe zones" should be first demolished, there is no clarity as to how many are in these safe zones and thus are under immediate threat. In any case the Supreme Court's order is clear- all 48,000 structures have to be demolished very soon.

In a petition filed originally to rein in pollutants from vehicular emissions, the Supreme Court has directed that slums located around train stations in Delhi should be demolished within 3 months. There is no mention about rehabilitation of those whose houses are to be demolished; so much so, the issue of whether and if rehabilitation will at all take place, and if so, by when, where, how and who will be responsible for the rehabilitation is totally unclear. This is notwithstanding the fact that it is settled law, that forced eviction of slum dwellers, unannounced, without securing alternate rehabilitation for them, would be contrary to the law. It is by now well recognised that the urban poor have a "right to the city", as the NCT of Delhi survives on their blood, sweat and tears.

Just recently in April-May 2020, Delhi, as also other cities, witnessed the tragedy of mass forced exodus of lakhs of migrant workers due to the COVID induced economic crisis. The sight of lakhs of workers walking thousands of kms home exposed not just the apathy of the elites and the governing classes, but also highlighted how much cities and economies are dependent on these workers. The enhanced sensitivity to the plight of urban migrant poor has however been chimeral and transient; even as COVID pandemic still rages, nothing seems to have changed with the right to housing and basic dignity of urban poor once again sought to be summarily denied to those who actually build and run the city daily and therefore have an equal stake in it.

In its order, the Supreme Court makes reference to an order of the NGT dated 01.10.2018, passed in an application praying for the prohibition of use, sale, carrying or dumping of any plastic product on the Indian railways stations, but failed to note that even in October 2018, the NGT had recorded that the Delhi Urban Shelter Improvement Board had been allocated a budget of only Rs. 11.25 crores for rehabilitation of slum dwellers residing besides railway track and only 257 families were rehabilitated. However, the Supreme Court passed further orders to demolish 48,000 slums, without any information about the present status of the rehabilitation of these slum-dwellers. In fact, the Delhi Urban Shelter Improvement Board was not even a party to the Writ Petition and could not clarify the extent out the scale of the rehabilitation challenge of 48,000 families who houses the SC has ordered to be demolished. Evidently, the Supreme Court only relied upon the affidavit of the Railways, which is not even formally a party to the Writ Petition, to pass such sweeping orders condemning tens of thousands of poor families to homelessness.

Another aspect of the SC ruling which causes greater anguish and is to be deprecated is the further direction that no Court can stay these demolitions for any reason whatsoever. By putting an embargo on grant of stay by other courts of the demolitions and by rendering the interim orders of protection granted by courts ineffective, the Supreme Court has effectively taken away the right of access to remedy of the affected people without even granting them a chance of hearing. This is completely against the principles of natural justice and a violation of Articles 14 and 21 of the Indian Constitution.

What is most peculiar is that order itself does not provide any judicial reasoning as to why it is necessary to demolish 48,000 homes in a case addressing the issue of managing disposal of plastic and other waste in stations. While the report of the Environment Pollution (Prevention and Control) Authority held that the Indian Railways is not in compliance with the Municipal Solid Waste Management Rules 2016, the Supreme Court has not passed any directions against the Railways, or the Transportation Corporation of Delhi or the Ministry of Transport, who are parties to the Writ Petition, to ensure that the Indian Railways comply with the Solid Waste Management Rules. Alternative measures ensuring better waste disposal through alternative means avoiding demolition of homes was not even considered while passing the ruling.

It should be pointed out that Writ Petition 13029/1985 is a case kept in cold storage for thirty-five years. In all these years, no real and effective solutions to the ecological problems raised in the PIL has been taken up. By order dated 04.11.2019, without hearing from a single farmer, the Supreme Court held all farmers in Punjab and Haryana to be the culprits behind the air pollution in the city due to their alleged practice of stubble burning. In effect the order denied the right to livelihood of farmers; the order now directing demolition of 48,000 dwellers, without hearing them or bothering to ensure that they would be rehabilitated first is a complete violation of

the slum-dwellers right to earn a livelihood and live with basic human dignity under Article 21 of the Constitution.

The present order of the Supreme Court appears to be a continuation of the narrative that hutment-dwellers and the urban poor are illegal encroachers, who are not entitled to basic dignities. This is despite the fact courts have, in the '*Sudama Singh*' judgment (2010) held that persons aggrieved by forced evictions should not be considered to be encroachers' and illegal occupants of land and *instead the agencies should first determine if the dwellers are eligible for rehabilitation in terms of the extant law and policy*. The Delhi HC Bench (of Justices S. Muralidhar and Vibhu Bhakru) in '*Ajay Maken vs Union of India*' (2019), relating to evictions of 5,000 slum dwellers on railway land, held that proper enumeration was not undertaken of the dwellers whose houses were demolished, and that 'Right to Adequate Housing and Rehabilitation' cannot be denied to jhuggi jhompri dwellers in Delhi's railway lands.

The principles laid out in the SC judgment in '*Olga Tellis v Bombay Municipal Corporation*', (1985) pertaining to natural justice, the protection of the right to livelihood and the protections against arbitrariness should not only extend against the State, but should be applicable to slum-dwellers who will be aggrieved by the present order of the SC. Coercive orders requiring the eviction of slum dwellers should not have been passed without giving the slum-dwellers in question an opportunity to be heard. In order to redress the situation, it is imperative that the rights of the slum-dwellers be protected, and the Delhi Urban Shelter Improvement Board should intervene in WP No. 13029/1985 and seek suitable modification of the order dated 31.08.2020, such that the interests of the slum-dwellers are considered by the court, and no demolitions are undertaken without the effective rehabilitation of the slum-dwellers being completed first.

The demolition order has been passed when there is massive spread of COVID in Delhi. The evictions of 48,000 dwellers when the monsoons have not yet ended and with harsh Delhi winters just a few months away will unleash a worse and more horrifying scenario of mass spread of COVID with devastating consequences.

PUCL urges the Supreme Court to reconsider and review its order and protect the rights of the slum-dwellers instead of pushing them towards poverty and homelessness. The Delhi Urban Shelter Improvement Board and the Delhi Government must take immediate steps to protect the rights of the slum-dwellers and to come up with a rehabilitation plan for the slum-dwellers in consultation with them, before any demolitions are initiated. PUCL reiterates that no decision concerning the fate of the slum-dwellers and regarding the impending demolition or implementation of the Supreme Court order should be taken without giving an opportunity of fair hearing to the slum-dwellers and ensuring protection of their rights.