

A Discussion

Law vs Justice

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“On the one hand, tax-payers monies spent on widening the road and on other hand illegal encroachment is allowed for commercial benefits. The same has to stop forthwith.”
(Delhi High Court in CWP 3419/1999)

A Supreme Court Bench said on 9th May 2006, *“Tomorrow you can come to the Supreme Court and settle here claiming a right. Your (the counsel’s) home could also be occupied by them. There has to be an end to this”*. Within 2 months there are more than dozens orders passed by Courts making the poor, underprivileged, workers, vulnerable women, men and children haunt around the city in search of shelter. 70% of the Delhi’s population is under the threat of these court orders. There are no plans or provision for them nor they have any democratic right to demand.

In Navniti CGHS Vs Lt. Governor, one could see the order of demolition of one slum cluster was given in August 2004 by the Delhi High Court, which gave

enough time for the DDA to do a planned relocation of the evictees. In absence of DDA plans Court ordered contempt against the Vice Chairman DDA, who then ordered demolition of the site immediately in order to save himself from the contempt and complied the court order. Houses were demolished without notices on 23rd Feb.2006 and no resettlement is given till date.

In many places demolitions have been carried out at the behest of RWAs, Corporate builders for hotels, without giving the poor their right to be heard. The orders have been clearly favouring the rich and influential. All pleas to save shelters and livelihood of lakhs of people living in the city have been turned down by both SC and Delhi HC. The counsel pleaded to grant the stay on eviction as it is unreasonable to oust slum dwellers in scorching heat, have been told that *“In India we have three weather conditions—heat, rain and winter. If we accept your argument, there will never be an appropriate time to demolish illegal structures standing on public land”*.

The same bench also added which became headlines of the National Dailies that, *“Nobody forced you to come to Delhi. Is there a right to live in Delhi only? Stay where you can. If encroachments on public land are to be allowed, there will be anarchy..... If you are occupying public land, you have no legal right, what to talk of any fundamental right, to stay there for a minute longer..... Tomorrow you can come to the Supreme Court and settle here claiming a right. Your (the counsel’s) home could also be occupied by them. There has to be an end to this”*.

On 12th May 2006, the Hon’ble Chief Justice of India dismissed writ by Sajha Manch Vs Union of India (CWP 241/2006), without hearing the arguments. The writ have enumerated a number of judgments given by the Hon’ble Supreme

Court previously which have given meaningful interpretation of the Right to life under Article 21 of the Constitution of India. The new judgments seem to have rejected the earlier interpretation and have come against the precedents of the Apex Court.

Now since the basic tenet of the Constitution of India has been defied. Be it article 21, 14, nothing have come in close proximity of the judges while delivering orders, leave alone Article 19(1)(e) which was upheld in Ahmedabad Municipal Corporation, Appellant vs Nawab Khan Gulab Khan And Others.

But today poor have been called 'illegal occupants' and not citizens of India, 'encroachers' but not people who have no purchasing power to rent an accommodation, 'trespassers' but not the fundamental right to live freely in any part of Indian territory; filth, dirt, thieves, breeding grounds of all ills, etc. etc. and not to mention pickpocketers who have been given free of cost prime land all over Delhi.

The phenomenon has a long history when feudal lords use to give the poor spaces of the village that were abandoned, unused, barren, out side the main village areas. One can see the origin of the bias of the judges, riches and the administrators from those days.

The outcome of all this is in Delhi in past 5 years more than 1 lakh families have been evicted and less than 20 % of them have been resettled on the outskirts of the city so that the dirt doesn't enter the bungalows of the so – called LEGAL citizens.

With a pressure from the middle class traders organizations, the government have come up with a Bill on 12th May 2006 called Delhi Laws (special provisions) Bill 2006. This bill gives a moratorium on all sorts of sealing and demolitions for one year and in the meantime the government will workout a plan. All court orders stands suspended for all structures or commercial establishments came up before 1st January 2006. Interestingly the Bill is giving all kinds of immunity to the traders but according to section 4 no relief will be available for those slums, hawkers and street vendors, where the land is required by the Central Government for clearance for specific public projects.

After repetitive intervention in courts, we need to see how to combat Law Vs Justice, to begin with:

- ? Why is that the 'Principle of Natural Justice' both to have a fair hearing and not have a bias, is not followed by the judges?
- ? What is deemed to be 'Public purpose' – how shall it be interpreted under Section 4 of the Delhi Laws Bill?
- ? Why is the Right to Environment supersedes the Right to Housing?
- ? What do we mean by 'evidence'? On one hand the photos shown in the courts about appalling situation of the relocation sites by the affected people and on the other government submitting a report saying that everything is perfect; whose evidence is admissible?