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## Case Comment: Can the Preservation of Nature and the Development of the Country be achieved together: Central Vista Case - Rajiv Suri v Delhi Development Authority

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### INTRODUCTION

The battle between nature and necessary development arose in this case. The pollution-free and open environment has always been of concern in the capital, the said case Rajiv Suri v Delhi Development Authority<sup>1</sup> which is popularly known as the “Central Vista” case was filed by Rajiv Suri in the apex court of the country after many pre-filed petitions against the development of the area surrounding the Rashtrapati Bhawan and Vijay Chowk in Delhi and the sudden change of the land use of an open green zone for the same in the Delhi High Court were rejected. As per the case filed by the petitioner, this sudden change for 86 acres of land by the notification from the Central Government violated many pre-issued plans for the Capital made in the Master Plan of Delhi by the Delhi Development Authority (DDA), which was notified in 2007<sup>2</sup>,

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<sup>1</sup> *Rajiv Suri v Delhi Development Authority* (2021) SCC 7

<sup>2</sup> ‘Punjab State Power Corporation Limited suffers heavy losses due to dust storm’ (*Hindustan Times*, 18 May 2023) <<https://www.hindustantimes.com/cities/chandigarh-news/dust-and-windstorms-cause-heavy-losses-to-punjab-state-power-corporation-limited-disrupt-power-supply-in-many-areas-101684422913807.html>> accessed 26 April 2023

overriding an earlier notice by DDA and how the permissions were taken to get clearance for the project was questionable. The petitioner also argued that the Centre denied the necessary participation of the public in the decision and violated Article 21 of the Indian Constitution<sup>3</sup>. The Central Government proclaimed that it was within the rights of the government to make changes in the redevelopment and the new Parliament is now of utmost necessity. The final hearing underwent in the month of October and November 2020. The court reserved its judgment on November 5, 2020. The apex court favored its decision with a 2:1 majority towards the side of the government along with some guidelines.

## **HISTORICAL BACKGROUND**

The case regarding the redevelopment project and the addition of the new Parliament building was first filed in the High Court of Delhi in which the Division Bench granted relief to the government and gave a green flag to the project. Later, the petitioner approached the Supreme Court in February 2020. In the petition filed by Rajiv Suri in the Supreme Court, the petitioner proclaimed that the rights of the public were violated by the government denying them their fundamental right to participate in the quasi-legislative exercise under Article 21<sup>4</sup> of the Indian Constitution. In the case of *S.P. Gupta v President of India*<sup>5</sup>, the court observed that citizens should know what the government is doing and by what rules will be administered. The petitioner was seeking the right of public participation<sup>6</sup> and the right to a free, open, and healthy environment and complaining about how the process of redevelopment of the area had proceeded, stating that the government violated many previously formed policies and notifications issued regarding the Master Plan of Delhi.

## **ISSUES INVOLVED**

The issues in the said case were:

1. Whether the authorizations granted for the project which included the change of land use valid or not?

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<sup>3</sup> *Hanuman Laxman Aroskar v Union of India* (2019) SCC 441

<sup>4</sup> *Research Foundation for Science v Union of India* (2005) 10 SCC 510

<sup>5</sup> *S P Gupta v President of India and Ors* (1982) SCC 149

<sup>6</sup> *Hanuman Laxman Aroskar v Union of India* (2019) SCC 441

2. Whether the NOCs was taken by the Central Vista Committee and the clearance regarding Environmental Protection to construct a new structure in the capital valid or not? Was the right to a healthy environment violated?
3. Was the approval from the Heritage Conservation Committee regarding the developments in the Capital taken or not?
4. Are the public's opinions taken into consideration regarding the changes in the redevelopment plan?
5. Why DDA did not inform the public before making changes in the master plan for allowing the project?

## JUDGEMENT

The 3-judge bench of the Supreme Court in its judgement regarding the Central Vista case observed with a split decision of 2:1 majority that the first and foremost issue regarding the authorizations taken by the Central Vista Committee were legitimate and the government had all the rights required to make changes in the land use as provided under Section 11A (2) of the DDA<sup>7</sup> which gives the power to the Central Government to make changes in the Master plan for Redevelopment as long as they are taken in Public Interest. The questions regarding the Rule of Law and judicial review were settled as the court stated that the executive can take actions consisting of administrative functions as long as there is no effect on the liberty of an individual which the petitioner has failed to prove in the current matter that an individual has been deprived of the right to life and liberty under Article 21<sup>8</sup>. On the matter regarding the non-objections taken by the Central Vista Committee, the court observed that they are legitimate and the environmental protection clearance from the committee was just and legal.

The court further stated that the government should take opinions from the public but there exists a balance in the Indian Constitution regarding the matter of participation of the citizens and proper working of the administration and the mere lack of sufficient participation of the citizens cannot be the ground of reason for stopping the entire project. The public trust doctrine also states that the government can use the resources kept in the public's trust if they are used

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<sup>7</sup> Delhi Development Act 1957, s 11A (2)

<sup>8</sup> *Subhas Kumar v State of Bihar* (1991) SCC 420

in the Public Interest, implying the Central Vista project was in the public's interest as the country cannot work properly without the proper functioning of the Administration. The above said judgement was given by 2 out of 3 judges. They were then Justices A.M. Khanwilkar and Dinesh Maheshwari.

Justice Sanjiv Khanna gave a dissenting judgement on the matter regarding the environmental authorizations taken for the project and stated that not enough time notice was given, and the tender notice did not suggest any such massive change in the redevelopment project. He raised questions about the flaws in the procedure followed by the Central Vista Committee and stated that the public's opinion was neglected, not enough time was provided to the public to raise & file objections and give their suggestions and the project was not taken to the Heritage Conservation Committee for approval. Justice Khanna concluded his judgement by stating that the court cannot compel the government to function in a particular way without any legal grounds.

The court gave its judgement in favour of the Central Government and approved the redevelopment of the project with some recommendations which included the approval from the Heritage Conservation Committee and the installments of the smog tower and anti-smog guns to be placed at all the sites of the construction.

## **ANALYSIS**

Upon the thorough analysis of the judgement, there are multiple observations on the given case. The case pertains to the most important issue between the Right to a Healthy Environment for the citizens and the Right to Development which is a dire need in this situation. The proper functioning of the Central Government is necessary for smooth working in the country.

The changes in the Redevelopment Project of Central Vista which would take 86 acres of green and open area for the construction of the new Parliament building have become an absolute necessity. In their statements, the defendant i.e., the Central Government stated that the old Parliament building was no longer efficient for the Union Legislature and there was an urgent need for a much larger working space for the Union administration. The old building was lacking in modern facilities and had a grave danger from fire, the electrical workload was less,

and the infrastructure was facing danger from earthquakes. There was also the security risk to the members, the offices of the Ministers were far away from each other which increased the travelling expenses and the traffic which ultimately increased the pollution. The new building will also have space for the common Central Secretariat which was absent before. In the *Vellore Citizens Welfare Forum v Union of India*<sup>9</sup> case, the court held that sustainable development can be done and the concept stating development and environment are opposites is no longer applicable. In this case, the new Parliament building was to be found not causing any harm to the environment.

There was a lack of sufficient information from the Government's side about the change in land use for the redevelopment project which aroused discontent in the eyes of the public. The citizens were worried about the effects the construction would cause on the environment which is their right as was determined in the *M.C. Mehta v Union of India*<sup>10</sup> case in which the court stated that citizens have a right to a healthy and open environment which in this case was put under jeopardy by converting a green area into the new Parliament Building.

It was also observed in the present situation that the Government has neglected the public's view regarding the matter and did not provide the necessary time to raise objections as was stated by Justice Khanna himself. It was also noted that the process of raising objections was complicated, and the person filing the objection had to be present personally to give suggestions and share their views. The entire process was rushed by the Government at the last period and there was a lack of participation from the side of the professional bodies as well.

It is also observed that the government did not get approval from the Heritage Conservation Committee for the changes in the project which was necessary to do so to make any changes in the Master Plan for the Redevelopment of Central Vista in the area surrounding the Rashtrapati Bhawan and Vijay Chowk which appears to be a very huge negligence from the side of the government.

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<sup>9</sup> *Vellore Citizens Welfare Forum v Union of India* (1996) 5 SCC 647

<sup>10</sup> *MC Mehta v Union of India* (1987) SCC 965

## THE AFTERMATH OF THE JUDGEMENT

The petition was dismissed. The court ordered the Government to get the necessary clearances for the project and from time to time give efficient information to the public regarding any further changes and progress. The Supreme Court also ordered the Government to get approval from the Heritage Conservation Committee when the work will begin at the Central Vista site and install smog towers and anti-smog guns at all the sites of construction.

## CONCLUSION

The right to public participation in quasi-legislative functions under Article 21<sup>11</sup> is a fundamental right but as stated by the Supreme Court in this current matter, it must not cause any hindrance in the working of the administration and cannot be a definitive reason for overturning the case just due to lack of necessary public participation. Also, the petitioner failed to prove any breach of an individual's right to life and liberty in this case. The right to a healthy environment does not mean any development in the area. In the current matter, the addition of the new Parliament building in the redevelopment project does not cause harm to the environment and the matter regarding the open land area turning into a construction site, it was noted that the new Parliament Building has become necessary. We can conclude that the petitioner failed to prove his case in court and the Project was given a green light and necessary recommendations to continue the work so that no harm is caused to the environment.

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<sup>11</sup> *Research Foundation for Science v Union of India* (2005) 10 SCC 510