



Judiciary and Housing Rights of Urban Poor

Context:

- Supreme Court of India on 31 August 2020 ordered the removal of about 48,000 slum dwellings situated along the railway tracks in Delhi within three months.
- The hearing was based on a report filed by the Environment Pollution (Prevention and Control) Authority (EPCA), which said Railways is not following the Solid Waste Management Rules.



What are the other directives of SC order?

- The court declared no interference, political or otherwise, should be there against their removal.
- It said any order of interim stay passed by any court against the removal of these encroachment shall be deemed ineffective.
- The court further directed the Railways and local authorities in Delhi to remove plastic waste, garbage, etc, piled up alongside the tracks within three months.

What is the criticisms of the SC order?

- **Court ignores the specific issues of Pollution raised in PIL & proceeds on a tangential topic:** The order was passed in the long-running case, M.C. Mehta vs. Union of India & Ors., regarding pollution in Delhi and related report filed by EPCA
- However, neither this case nor the report concerns itself with the legality of informal settlements
- Still, the Court made an unconvincing connection between the piling of garbage and the presence of slums and gave an eviction order

14.09.2020

Monday



<http://www.sriramsias.com>

- **Court has ignored principles of natural justice:** The order violates principles of natural justice and due process since it decided on the removal of jhuggi jhopris without hearing the affected party, the jhuggi dwellers.
- **Court ignores judicial precedents on the right to shelter:** In *Olga Tellis & Ors vs. Bombay Municipal Corporation & Ors.* (1985), five-judge bench SC held that the right to life also includes the “right to livelihood” and that no eviction shall take place without notice and hearing those affected
- In *Chameli Singh vs. State Of U.P.* (1995), the Supreme Court recognised the “right to shelter” as a component of the right to life under Article 21 and freedom of movement under Article 19(1)(e).
- In *Ajay Maken & Ors. vs Union Of India & Ors.* (2019), a case concerning the demolition of Shakur Basti on railway land, the Delhi High Court invoked the idea of the “**Right to the City**” to uphold the housing rights of slum dwellers.
- **Court has also ignored state policies governing evictions:** In *Sudama Singh & Others vs Government Of Delhi & Anr.* (2010), the High Court of Delhi held that prior to any eviction, a survey must be conducted and those evicted should have a right to “**meaningful engagement**” with the relocation plans.
- The procedure laid down in this judgment formed the basis for the Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015, which has not been referred by the court
- **Order considered insensitive in the time of Pandemic:** The pandemic makes urban informal livelihoods more vulnerable and Supreme Court order threatens to leave lakhs of people homeless amid a health and economic emergency.

Way ahead:

- The affected residents would now need to employ a combination of political and legal strategies to protect their housing rights and ensure that no eviction or rehabilitation is conducted without their prior informed consent.