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SC clears Centre's plan to build a three times bigger Parliament

Majority judgment brushes aside charge of foul play in Central Vista project

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The Supreme Court, in a majority judgment, on Tuesday, gave its go-ahead to the multi-crore Central Vista redevelopment project, which proposes to build a new Parliament three times bigger than the existing 93-year-old heritage building and modify the use of 86.1 acres of land, home to India's power corridor in the national capital.

In their majority opinion, Justices A.M. Khanwilkar and Dinesh Maheshwari said the court cannot order the government to desist from spending money on one project and use it for something else. They said the government did not act against public trust.

They brushed aside allegations that the government committed foul play and illegally carved out the Parliament project from the Central Vista project.

The majority opinion said the project did not involve any "radical" change in land use. The proposed change in landscape would not limit "recreational spaces" for the public.

It dismissed notions that the project was "sui generis" (unique) and deserved a "heightened judicial review".

Path cleared

Sept. 2019: Govt. announces Central Vista revamp plan; it envisages a new triangular Parliament House with a seating capacity for 900 to 1,200 MPs and several govt. buildings

Feb. 11, 2020: Delhi HC asks Delhi Development Authority to approach the court before notifying any change in the Master Plan before going ahead with the project

A chronology of the Central Vista project

Feb. 28: Division bench stays order on an appeal by DDA, Centre

July 17: Supreme Court starts hearing a batch of pleas raising various issues, including environmental clearance and land use, related to the project

Nov. 5: SC reserves verdict

Dec. 7: SC allows Centre to proceed with foundation stone-laying ceremony for the Central Vista project but restrains it from starting construction

Dec. 10: Prime Minister Narendra Modi lays the foundation stone for the project

Jan. 5, 2021: SC clears the decks for construction of the ambitious project

"The right to development is a basic human right and no organ of the state is expected to become an impediment in the process of development as long as the government proceeds in accordance with law," Justice Khanwilkar wrote.

Justice Sanjeev Khanna, in a separate dissent, upheld the project bid notice, award of consultancy and the order of the Delhi Urban Arts Commission, but concluded that the Centre did not take the public into confidence about the changes proposed for Central Vista, an area, which in post-Independent India, "inspires and connects common people to the citadels of our democracy".

'Objections to project not considered by govt.'

Public ignored, says Justice Khanna

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Justice Sanjeev Khanna, in his separate dissent, on Tuesday said the Centre had failed to produce even a single document to show that the objections and suggestions made in the Central Vista project were considered by it.

"Deliberative democracy accentuates the right of participation in deliberation, in decision-making, and in contestation of public decision-making... Central Go-

vernment has not placed on record even a single document or minutes to show that the objections and suggestions were considered by it," Justice Khanna wrote in his dissent.

Public participation

Adequate public participation and hearing out of the objections avoid a sense of injustice and is "reflective of democratic principle at the heart of our society".

'Objections to project not considered by govt.'

Justice Khanna said a reading of the notice inviting tenders, published by the Central Public Works Department inviting design and planning firms for the "Development / Redevelopment of Parliament Building, Common Central Secretariat and Central Vista at New Delhi", indicates that the proposed project did envisage extensive change to the landscape.

"The impact of the changes envisaged are not minor and what is envisaged is complete redevelopment of the entire Central Vista, with site development in infrastructure, landscape design, engineering design and services, mobility plan, etc. The expenditure to be incurred and demolition and constructions as proposed indicate the expansive and sweeping modifications/changes purposed," Justice Khanna highlighted.

In his dissent of 179 pages, Justice Khanna said the "indirect participation of the citizens is critical to democracy".

Unlike the majority opinion by Justices A.M. Khanwilkar and Dinesh Mahesh-

wari, which berated the petitioners' enthusiasm to question policy matters through public interest petitions, Justice Khanna said contesting a government decision in a constitutional court is also one form of "public participation".

But litigation post the decision is not as efficacious as a full-fledged public participation before the decision-making stage. "Citizens approach elected representatives and through them express their views both in favour and against proposed legislations and policy measures... Vested interests can be checked. Difficult, yet beneficial, decisions can be implemented," Justice Khanna wrote.

Justice Khanna said it is just not right to ignore government's failure to provide "intelligible and adequate disclosure to fulfil the requirement of public participation" in the decision-making process for the Central Vista project.

"The historic and iconic nature of the Central Vista is too apparent to even consider any counter argument," Justice Khanna observed.

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SC clears Centre's plan for a bigger Parliament

Justice Khanna said public consultation was neither sensible or meaningful. He quashed the land change notification and referred the project back to the Heritage Conservation Committee to ensure better public participation.

He said the "access of the common people to the green and other areas in the Central Vista would be curtailed/restricted".

Green clearance

Justice Khanna also disagreed with the majority view and set aside the environmental clearance given by the Ministry to the Parliament building project.

"The public should be

provided not only with information about the draft scheme but also an outline of realistic alternatives and indication of main reasons for the authority's adoption of the draft scheme," Justice Khanna noted.

Justice Khanwilkar, however, maintained there was nothing "clandestine" about the project. He said a personal communication was sent to all the 1,292 objectors.

But Justice Khanna pointed out that the SMS and emails of the public notice of hearing was sent out at the "last moment". Objectors did not get reasonable time to orally state their point of view.