

ITEM NO.301

COURT NO.2

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. No. 460,470,478-481,486,487,517-518,527,528-530,532,533-534

in

Writ Petition(s) (Civil) No(s). 13381/1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(for directions, permission to file rejoinder affidavit and exemption from filing O.T. and seeking permission for cutting/felling of trees and office report)

Date: 08/05/2015 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. M.C.Mehta, petitioner-in-person

For Respondent(s)

(C.E.C.)

Mr. Annam D. N. Rao,Adv.

Mr. Sudipto Sircar,Adv.

Ms. Vaishali R.,Adv.

Mr. Annam Venkatesh,Adv.

Ms. Neelam Jain,Adv.

(C.P.C.B)

Mr. Vijay Panjwani,Adv.

Ms. Madhur Panjwani,Adv.

Ms. Madhvi Diwan,Adv.

Ms. Sunita Sharma,Adv.

Mr. W.A. Qadri,Adv.

Mr. D.S. Mahara,Adv.

(MOEF)

Mr. Maninder Singh,ASG

Ms. Kiran Bhardwaj,Adv.

Mr. R. Balasubramanian,Adv.

Mr. S.A. Haseeb,Adv.

Mrs. Vimla Sinha,Adv.

Mr. S.N. Terdal,Adv.

(CBI) Mr. Rajiv Nanda, Adv.
 Mr. Sanjiv Das, Adv.
 Mr. Wasim Qadri, Adv.
 Mr. Shailnder Saini, Adv.
 Mr. B.V. Balaramdas, Adv.
 Mr. Pranav Kumar, Adv.

St. of U.P. Mr. Vijay Bahadur Singh, A.G., U.P.
 Mr. Gaurav Bhatia, AAG, U.P.
 Mr. Ravi Prakash Mehrotra, Adv.
 Mr. Abhishek Chaudhary, Adv.
 Mr. Gaurav Srivastava, Adv.

(U.P.P.C.B) Mr. Pradeep Misra, Adv.
 Mr. T. Mahipal, Adv.
 Mr. Surat Singh, Adv.

Mr. M.C. Dhingra, Adv.
 Mr. Piyush Kant Roy, Adv.

Mr. S. Wasim A. Qadri, Adv.
 Mr. Zaid Ali, Adv.
 Mr. Saurabh Chopra, Adv.

Mr. L.R. Singh, Adv.

Mr. S. Guru Krishna Kumar, Sr. Adv.
 Mr. M.P. Shorawala, Adv.
 Ms. Shruti Sen, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. No. 460:

An additional affidavit has been filed by the Conservator of Forests, Agra, State of U.P. pursuant to our order dated 9.03.2015. The affidavit explains the position in regard to the three queries that we had formulated in the said order. We have been taken through the contents of the affidavit by the learned Advocate General for the State of U.P. who submits that the State has no matter belatedly, taken effective steps for

identifying a total extent of 860.82 hectares of land for purposes of compensatory afforestation. This land has been according to the learned Advocate General identified in six districts namely Agra, Mathura, Firozabad, Hathrath, Kasganj and Aligarh in the State of U.P.. He has by reference to Annexure A 4 of the affidavit submitted that not only does the State plan to use the land identified in the said districts for compensatory afforestation but even to provide for its fencing and watering of the area to prevent plant mortality. It is submitted that the State Government has for the present set part a sum of Rs. 20,00,00,000/- (Rupees Twenty Crores only) for the purpose of compensatory afforestation plan which will spread over a period of two years i.e. 2015-2016 and 2016-2017. He urged that by the end of 31.08.2015 the State Government is committed to plant a minimum of 6 lakhs saplings in the area identified in Annexure 4 of the affidavit.

On behalf of the respondents it was submitted by Mr. A.D.N.Rao, learned counsel appearing for the CEC that further progress on the proposed afforestation projects set out in the affidavit in the documents enclosed therewith should be properly monitored and that a direction could be issued to the Chief Secretary, State of U.P. to submit quarterly progress reports. It was further submitted that the Regional Office, MOEF Lucknow could also be directed to associate with and monitor the progress made in the implementation of the proposed project.

Mr. Mehta, petitioner in person submitted that the identification of the land set out in Annexure A-4 itself is a matter that needs to be verified as there is nothing apart from the particulars given in the said Annexure to suggest that the land mentioned therein is actually available with the State Government for purposes of plantation.

We do not for the present see any reason to disbelieve the affidavit filed on behalf of the State Government that it has a comprehensive plan for carrying out the afforestation work in the districts mentioned earlier. We also see no reason to disbelieve the statement made at the Bar by learned Advocate General that by the end of August, 2015 at least 6 lakhs saplings shall be planted in the districts identified for the purpose. This would include proper identification of the area for such afforestation and irrigation and watering arrangements for the trees to prevent mortality. Even so we see no reason why the Secretary to Government of U.P., Department of Forest should not be asked to submit a progress report every three months as to the progress achieved in the implementation of the afforestation program set out in the affidavit. In addition we direct the Additional/Principal Chief Conservator Forest (Central), Regional Office, MoEF, CC, Lucknow shall be free to associate himself with the process of afforestation and monitor the steps taken and to submit a report as to the progress made to this Court every quarter.

We may also at this stage mention that according to the road

map provided by the State Government in the affidavit, the Government proposes to encourage public participation in the on-going afforestation project. Learned Advocate General was not averse to associating school children from schools in the vicinity of the areas identified for afforestation and other governmental and non-governmental organisations operating in that area. He was also not averse to associating at some level the State Legal Services Authorities for the purpose of encouraging afforestation work and also to keep an eye on the progress made in that direction. We hope and trust that the State Government will take suitable steps in that direction and also submit an affidavit by the next date as to the measures adopted to encourage participation of the local residents of the area including school children with the on-going afforestation effort.

Post for further directions on 14.09.2015.

I.A. No. 528-530:

Heard.

Application for impleadment is allowed.

CEC has recommended grant of permission for cutting of 517 trees in connection with the expansion of 50-independent parachute Brigade, Government of India, Ministry of Defence. The permission could be subject to the following conditions:

I. Compensatory planting of 5320 plants will be undertaken

II. A detailed scheme for Compensatory Planting will be prepared and filed before this

Hon'ble Court within four weeks and which will inter alia include the details of the area where planting will be done, species that will be planted, the period of planting, details for maintenance works including provision for watering, watch and ward and casualty replacement and monitoring mechanism

III. The U.P.Forest Department will provide necessary technical inputs to the Applicant in preparing and implementing the scheme.

Having heard learned counsel for the parties, we are inclined to permit felling of 517 trees subject to the conditions stipulated by the CEC and extracted hereinabove. Needless to say that the applicant shall plant 10 times the number of trees within the precincts/campus area of the project in question. Needful shall be done by the next date of hearing and a report submitted to this Court by Mr. S.W.A.Qadri, Adv. on affidavit.

IA 527

Heard.

CEC has recommended grant of permission for felling of 444 trees in connection with modernisation of COD Agra. The recommendation is however subject to certain conditions which read as under:

1) for 2,194 trees earlier felled compensatory planting of ten times i.e.21,940 plants and penal compensatory planting of 20 times i.e. 43,880 plants will be undertaken by the Applicant.

II) for 444 trees sought to be felled compensatory planting of ten times i.e. 4440 plants will be

undertaken by the Applicant.

III) A detailed scheme for compensatory planting and Penal compensatory planting will be prepared and filed before this Hon'ble Court and which will inter alia include details of the area identified for plant within the TTZ, species that will be planted, period of planting, provision for maintenance including for watering, watch and ward and casualty replacement and monitoring mechanism. In case adequate area for the compensatory planting and penal compensatory planting is not found to be available within COD, Agra then in that case the Applicant may undertake plantation in other identified areas within TTZ.

iv) the felling of 444 trees will be undertaken only after the compensatory planting and penal compensatory planting for 2,194 trees felled earlier is undertaken;

(v) The Additional Principal Chief Conservator of Forests (Central) Regional Office, MEF, Lucknow will be responsible to monitor the implementation of the compensatory planting and penal compensatory planting scheme. The U.P. Forest Department will provide necessary technical input to the Applicant, COD Agra in preparing and implementing the scheme;

VI) the Chairman, TTZ Authority (Divisional Commissioner, Agra is the ex-official Chairman) will taken effective steps to ensure that no felling of trees within the areas falling in TTZ takes place without first obtaining permission of this Hon'ble Court.

We accordingly allow the application subject to the above conditions being complied with. Mr. R.Balasubramanian, Adv. submits that the afforestation campaign for planting of 60,000

tress towards compensatory afforestation shall be undertaken in right earnest. Mr. R.Balasubramanian shall ensure that a report regarding compliance with this condition is submitted by him within a period of six weeks from today.

I.A. No. 533:

CEC to examine the prayer made in this application and make its recommendations within two months.

(Shashi Sareen)
Court Master

(Veena Khera)
Court Master