

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

WRIT PETITION(S)(CIVIL) NO(S). 13381/1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[TO BE TAKEN UP AT 3.00 P.M.] IN RE: TAJ TRAPEZIUM ZONE (1) IA NO. 116768/2018 (APPLN. FOR DIRECTION ON B/O GANGA GLASS INDUSTRIES AND ORS.) (2) IA NO. 237739 AND 237765/2024 (APPLN. FOR IMPLEADMENT AND DIRECTIONS ON B/O RAM AUTAR) (3) IA D NO. 262456 AND 262458/2024 (APPLN. FOR INTERVENTION AND O.T. EXEMPTION ON B/O DR. SHARD GUPTA) (4) IA NO. 99054 AND 99055/2024 (APPLNS. FOR PERMISSION AND EXEMPTION FROM FILING O.T. ON B/O UPSIDA) (5) IA NO. 31946/2024 (APPLN. FOR PERMISSION ON B/O OF NORTH CENTRAL RAILWAY, AGRA) (6) IA NOS. 104091, 104097/2018 AND 112177/2019 (APPLNS. FOR INTERVENTION, DIRECTIONS AND PERMISSION TO FILE ADDL. DOCUMENTS ON BEHALF OF AGRA DEVELOPMENT FOUNDATION) (7) CEC REPORT NO. 17 AND CEC REPORT NO. 34 OF 2024 IN CEC REPORT NO. 17 "ONLY" IN W.P. (C) NO. 13381/1984 ARE LISTED. "ONLY" NAMES OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST. PETITIONER-IN-PERSON MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. LIZ MATHEW, SR. ADV. (A.C.) MR. SIDDHARTHA CHOWDHURY, ADV. (A.C.) MS. AAKSHI LODHA, AOR MR. AMRISH KUMAR, MR. M.K. MARORIA, MR. G.S. MAKKER, MR. VIJAY PANJWANI, MR. ANKIT GOEL, KAMLENDRA MISHRA, MR. E.C. AGRAWALA, MR. SHISHIR DESHPANDE, MR. AMRISH KUMAR, MS. SUPRIYA JUNEJA, MR. N. L. GANAPATHI, MR. AJIT SHARMA, ADVOCATES

Date : 25-03-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

Mr. A.D.N. Rao, Sr. Adv. (A.C.)
Mr. Liz Mathew, Sr. Adv. (A.C.)
Mr. Siddhartha Chowdhury, Adv. (A.C.)

For Applicant(s): Mr. Kishan Chand Jain, Adv.
Mr. Ashwini Kumar, Adv.
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Mr. E. C. Agrawala, AOR

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Mr. Arpit Sharma, Adv.
Mr. Naveen Soni, Adv.

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Ms. Supriya Juneja, AOR

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Mr. Arjun Nanda, AOR
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Mr. Amit Kumar, Adv.
Mr. Abhishek Verma, Adv.

Mrs. Aishwarya Bhati, A.S.G.
Mrs. Ruchi Kohli, Sr. Adv.
Mr. Shivika Mehra, Adv.
Mr. Adit Khorana, Adv.
Mr. Sarthak Karol, Adv.
Mr. T.S. Sabarish, Adv.
Mr. Sudarshan Lamba, Adv.
Mr. Amrish Kumar, AOR

Mr. Anshul Gupta, AOR
Ms. Kirti Dua, Adv.
Mr. Rishabh Darira, Adv.
Mr. Aditya Tainguriya, Adv.

For Petitioner(s): Petitioner-in-person

Applicant-in-person, AOR

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Mr. Prashant Kumar, AOR

Mr. Rajiv Tyagi, AOR

Mr. Ajay K. Agrawal, AOR

Mr. Shiv Prakash Pandey, AOR

Mr. Sudhir Kulshreshtha, AOR

Mr. P. K. Manohar, AOR

Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.
Mr. Suraj Singh, Adv.

Mr. P. Parmeswaran, AOR

Mr. P. Narasimhan, AOR

M/S. Manoj Swarup And Co., AOR

Dr. Sumant Bharadwaj, Adv.
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Mr. Vedant Bharadwaj, Adv.
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Mr. Shrimay Mishra, Adv.
Mr. Nirbhay Shankar Tiwari, Adv.

Mr. Ashutosh Dubey, AOR
Mrs. Rajshri Dubey, Adv.
Mr. Abhishek Chauhan, Adv.
Mr. H.B. Dubey, Adv.
Mr. Amit P. Shahi, Adv.
Mr. Amit Kumar, Adv.
Mr. Rahul Sethi, Adv.
Mr. Shashi Bhushan Nagar, Adv.
Mr. Manish Dhingra, Adv.
Mrs. Sona Khan, Adv.
Mr. Sumant Akram Khan, Adv.
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Ms. Saroj Tripathi, AOR

Mr. Pradeep Rai, Sr. Adv.
Mr. Manoj K. Mishra, AOR
Ms. Rajshree Rai, Adv.
Mr. Vinay Rai, Adv.
Mr. Bheem Pratap Singh, Adv.
Mr. Umesh Dubey, Adv.
Ms. Madhulika, Adv.
Mr. Anand Kumar Rai, Adv.

Ms. Shweta Sharma, AOR

Mr. Abhishek Chaudhary, AOR

Mr. Syed Abdul Haseeb, AOR

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Ms. Garima Kumar, Adv.
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Mr. Nipun Saxena, Adv.
Ms. Anju Thomas, AOR
Ms. Muskan Surana, Adv.
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Ms. Mehreen Garg, Adv.
Ms. Aadya Pandey, Adv.
Mr. Dharmesh Basedia, Adv.

Mr. Anurag Kishore, AOR

Mr. Rachit Mittal, AOR
Mr. Anup Kumar, Adv.
Mr. Parish Mishra, Adv.
Mr. Kanishk Raj, Adv.
Mr. Adarsh Srivastava, Adv.
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Mrs. Rajeshwari Shankar, Adv.
Mr. Sarthak Karol, Adv.
Mr. Jagdish Chandra Solanki, Adv.

Mr. Zoheb Hossain, AOR

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

IA NOS. 104091, 104097/2018 AND 112177/2019 (APPLNS. FOR INTERVENTION, DIRECTIONS AND PERMISSION TO FILE ADDL. DOCUMENTS ON BEHALF OF AGRA DEVELOPMENT FOUNDATION)

1. We have perused the order dated 5th March, 2025 by which we had issued notice to the applicant in IA Nos. 104091/2018, 104097/2018

and 112177/2019 calling upon the applicant to show cause as to why the order dated 11th December, 2019 passed in the aforementioned IAs should not be recalled. The order dated 11th December, 2019 passed on IA Nos. 104091/2018, 104097/2018 and 112177/2019 reads thus:

"IA NOS. 104091, 104097/2018 AND 112177/2019 (APPLNS. FOR INTERVENTION, DIRECTIONS AND PERMISSION TO FILE ADDL. DOCUMENTS ON BEHALF OF AGRA DEVELOPMENT FOUNDATION)"

"Application for intervention is allowed only for the purpose of the instant application for directions.

For the reasons stated, prayers (a), (b) and (c) made in the instant application are allowed.

The applications stand disposed of accordingly."

2. Prayer clauses (a) to (c) of the Application being IA No.104097/2018 read thus:

"a) Pass appropriate orders and directions etc. for promoting Agroforestry on the non-forest/private land situated in the Taj Trapezium Zone (TTZ) area to increase its green-cover to curb air pollution and improve ambient air quality;

b) Modify the order dated 8.5.2015, passed by this Hon'ble Court in IA No.527 (and also similar order dated 9.5.2018 in IA No.109556 of 2017) by doing away with the condition of first obtaining permission of this Hon'ble Court to fell trees on the non-forest/private lands within the TTZ area.

c) Issue necessary directions to the respondents to take effective steps for promoting Agro-farming in the TTZ area including providing technical guidance/assistance to the land owners."

3. Firstly, we find that there is no clarity on the meaning of agroforestry. Secondly, the Application is purported to be made for the purposes of promoting agroforestry. However, prayer clause (b) is for modification of the orders dated 8th May, 2015 and 9th May, 2018 passed by this Court which directed that no felling of

trees can be made in the TTZ Area without prior permission of this Court. The prayer is specifically for doing away with the requirement of obtaining permission of this Court before tree felling. It is pertinent to note that prayer clause (b) is not made limited to agroforestry. Thus, the applicant, who claims to represent the cause only of those who do agroforestry, mislead the Court by making a blanket prayer. Fortunately, for us, all the parties appearing before this Court stated on the last date that the orders dated 8th May, 2015 and 9th May, 2018 are being implemented consistently, notwithstanding the order dated 11th December, 2019. Every one proceeded on the footing that prayer (b) was limited to agroforestry.

4. In absence of any material on record to show what is the meaning and concept of agroforestry, we recall the order dated 11th December, 2019 passed in IA Nos. 104091/2018, 104097/2018 and 112177/2019. The said Applications are restored to their original numbers and the same shall be listed on 1st May, 2025 at 12:00 noon.

5. To enable us to decide the restored Applications, it will be appropriate if the Central Empowered Committee (CEC) submits a report clarifying the meaning and concept of agroforestry. In light of prayer clause (a) of IA No.104097/2018, the CEC may also make its recommendations. We grant time of one month from today to the CEC to submit its report.

6. The applicant and all other parties are free to forward necessary material in support of prayer clause (a) of IA No.104097/2018 to the CEC.

7. IA No.168401/2021 (Application for clarification/direction) shall be also heard along with IA No.104097/2018 on 1st May, 2025 at 12:00 noon.

IN RE: CEC REPORT NOS.17/2024

8. We have perused the recommendations in paragraph 8 of the Report No.17/2024 submitted by the CEC. As regards recommendation contained in clause (i) of paragraph 28, the same has already been implemented. As regards recommendation contained in clause (ii) of paragraph 28, out of 16 entities, only 3 entities have submitted compliance reports to the CEC. Shri A.D.N. Rao, learned Senior Advocate appointed as Amicus Curiae, submits that the CEC has received 5 further compliance reports which are being examined. The CEC will issue notice to the entities in remaining cases calling upon them to file the compliance reports. The CEC will submit a report on this aspect within a period of six weeks from today which will be considered on 13th May, 2025 at 12:00 noon.

9. As far as the recommendation clause (iii) of paragraph 28 is concerned, the same will have to be considered when IA No. 104097/2018 is considered. While we are dealing with recommendation clause (iii) of paragraph 28, Ms. Aishwarya Bhati, learned ASG, submitted that if an application is made for felling of trees up to total 49, the direction issued by this Court in order dated 19th December, 2024 in Writ Petition (C) No.4677/1985 can be made applicable so that for felling of trees up to 49, the applicants will not be required to approach this Court. While we consider this suggestion, we are of the view that the earlier order putting

a complete embargo on felling of trees without prior permission of this Court must continue as regards the lands abutting the Taj Mahal. We will hear the learned counsel for the parties on this aspect on 22nd April, 2025 at 12:00 noon. In the meanwhile, even the CEC is free to give its suggestions on this aspect.

10. Recommendation clause (iv) of paragraph 28 of the Report No.17/2024 of the CEC reads thus:

“iv. The demand of power corporations to prune, lop, or size the overgrown trees encroaching the electric poles, high tension lines and other electric installations is genuine and a corrective course of action as suggested in para 20 above may be considered.”

11. Our attention is invited to Section 68(5) of the Electricity Act, 2003 (for short, “the Electricity Act”) which confers power on an Executive Magistrate or authority specified by the Appropriate Government who may, on an application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit. As far as the felling of trees in the TTZ Area is concerned, it will be governed by the order dated 8th May, 2015 read with order dated 9th May, 2018. However, the question is whether for lopping or pruning of trees for the purposes of preventing encroachment on the electric poles, high tension lines and other electric installations, the applicant should approach this Court seeking permission for felling of trees. In paragraph 20 of the Report No.17/2024, the CEC has proposed as under:

“20. Presently such pruning is being done by the contractors without any permission of this Hon'ble Court. In this regard, it is therefore recommended that the permission for lopping/pruning of trees may be granted by the local Divisional Forest Officer subject to the following conditions

- a) Permission will be granted only after receipt of the application from the concerned.
- b) All the terms and conditions as are prevalent in the rest of the respective state.
- c) For every tree pruned, the cost of planting one tree as mandated in the U.P. Protection of Trees Act will be recovered in advance and shall be used for increasing green cover in the TTZ.
- d) The Respective Divisional Forest Officer will enter the details of permissions given, funds received, and plantation done in the proposed MIS module to be launched by the CEC.
- e) The details will be entered into the Management Information System (MIS) module as explained in para 15(e) above."

12. We, therefore, accept the recommendations made in paragraph 20 by the CEC, subject to the following riders:

- (i) An applicant shall apply to the local Divisional Forest Officer for lopping/pruning of overgrown trees encroaching upon the electric poles, high tension lines and other electric installations. Needless to add that permission for lopping/pruning of trees shall be granted in such a manner that the same should not lead to felling or destruction of any tree or permanent damage to any tree;
- (ii) The CEC shall monitor the implementation of the permission granted by the local Divisional Forest Officer with a view to ensure that the work done remains confined to lopping/pruning of the trees and that there is no permanent damage caused to the trees; and

(iii) We may also add here that the applicant who applies for permission for lopping/pruning of the tree, shall provide photographs of the trees to the Divisional Forest Officer and the CEC before lopping/pruning and after lopping/pruning is done in terms of the permission granted by the local Divisional Forest Officer. Both set of photographs shall be uploaded on the Management Information System module by the CEC.

IA NO. 116768/2018 (APPLN. FOR DIRECTION ON B/O GANGA GLASS INDUSTRIES AND ORS.)

13. The issue regarding giving effect to the Sectoral Guidelines for glass industries produced along with IA No.26755/2025 in IA No.116768/2018 will be considered on 3rd April at 3:00 p.m. One of the issues which we have flagged today is about the inclusion of expert members in the Industrial Area Technical Evaluation Committee (IATEC). Shri A.D.N. Rao, learned Amicus Curiae, seeks time to address the Court on the issue of inclusion of experts in the IATEC.

IA NO. 237739 AND 237765/2024 (APPLN. FOR IMPLEADMENT AND DIRECTIONS ON B/O RAM AUTAR)

REPORT NO.35/2024

14. Heard Shri Mukul Rohatgi, learned senior counsel appearing for the applicant - Shri Shiv Shankar Agarwal.

15. It is true that Shri Shiv Shankar Agarwal has filed an affidavit where he has accepted that he felled 454 trees without prior permission of this Court. We have perused three reports of the CEC. It will take a minimum of 100 years to again re-generate

or recreate the green cover created by 454 trees which were brazenly cut without permission of this Court. Notwithstanding the embargo put by this Court which is in force right from the year 2015, he has indulged in this illegality. Destruction of so many trees adversely affects the environment and lives of several human beings.

16. Ms. Aishwarya Bhati, learned ASG, submitted that before making any construction on the property on which the trees were in existence, the permission of the TTZ Authority is required. There is an order dated 23rd October, 2024 passed by the Vice Chairman of the Mathura Vrindavan Development Authority directing that no map of the site in question shall be approved till the case is resolved by the National Green Tribunal.

17. An appeal is made by the learned senior counsel appearing for Shri Shiv Shankar Agarwal that the minimum penalty of Rs.1,00,000/- (Rupees One Lakh) be reduced. His second contention is that the requirement of compensatory plantation should be modified by permitting compensatory plantation at some other property. There is no reason to show any leniency to a person who has caused huge damage to the environment.

18. We accept the recommendations in paragraph 14 of the Report No.35/2024 which read thus:

"14. After examination of all documents and the information gathered during the site visit it is recommended that:

a) A penalty of a minimum of Rs. 1,00,000/- (Rs. One lakh only) per tree felled and removed without the prior permission of this Hon'ble Court shall be imposed on the land owner. Hence for 454 trees felled and removed without the prior permission of

this Hon'ble Court a minimum penalty of Rs.4,54,00,000/- (Rs Four Crores Fifty-four lakh only) shall be imposed on the land owners. The amount shall be deposited with the Forest Department for taking up new plantations at suitable places in TTZ.

b) The Forest Department shall also recover the requisite penalty due under the provisions of the UP Protection of Trees Act, 1976 for this illegal felling.

c) The Forest Department should take punitive action against the land owners for felling 32 trees that were standing in the Protected Forest as per the provisions under the Indian Forest Act 1972.

d) An entry path to the extant private land has been constructed through the protected forest. Hence Forest Department shall initiate action under the Forest Conservation Act 1980 for illegal breaking of land without prior permission of the Central Government.

e) The area be restored by planting 422 trees on the private land and 32 trees in the protected forest area at the cost of the land owner.

f) The Forest Department shall plant and maintain 4540 saplings of Indigenous species (ten times the number of trees felled as per norms applicable for compensatory plantation in TTZ) and another 4540 as penal compensatory plantation (ten times the number of trees felled without the prior permission of this Hon'ble Court) i.e. a total of 9080 saplings at the cost of the land owners, at any nearby place to be provided by land owner which is suitable for plantation. This land shall also be declared as the Protected Forest by the State Government.

g) The entire timber illegally felled shall be confiscated by the Forest Department and disposed of as per the norms of the UP Forest Department.

h) The Mathura Vrindavan Development Authority should ensure that no construction of any sort takes place at that part of the extent site where the Forest Department will do the Plantation.

i) The Chairman, TTZ authority shall ensure compliance of all the conditions/penalties that may be imposed by this Hon'ble Court. The Chairman, TTZ authority shall intimate such compliance to the CEC

on a quarterly basis till all conditions imposed by this Hon'ble Court are complied with.

j) This Hon'ble Court may consider imposing any other penalty for the contempt of this Hon'ble Court committed by the land owners by felling the trees without seeking prior permission of this Hon'ble Court."

19. We also direct that even if permissions are granted to Shri Shiv Shankar Agarwal to make any construction on the land in question or any change in relation to the land in question, the permission shall not be acted upon without the leave of this Court, as this Court will have to be fully satisfied regarding the compliances made by Shri Shiv Shankar Agarwal with the directions of this Court in terms of the recommendations which are quoted above.

20. The Report Nos. 29/2024, 35/2024 and 4/2025 are disposed of on the above terms.

21. The contempt notice issued to Shri Shiv Shankar Agarwal will remain pending till a compliance affidavit is filed by him before this Court and till the CEC certifies that all the conditions which are mentioned above are fulfilled by him.

IA NO. 99054 AND 99055/2024 (APPLNS. FOR PERMISSION AND EXEMPTION FROM FILING O.T. ON B/O UPSIDA) AND IA NO. 31946/2024 (APPLN. FOR PERMISSION ON B/O OF NORTH CENTRAL RAILWAY, AGRA)

22. Time of six weeks is granted to the CEC to submit its report.
List on 13th May, 2025 at 12:00 noon.

IA D NO. 262456 AND 262458/2024 (APPLN. FOR INTERVENTION AND O.T. EXEMPTION ON B/O DR. SHARD GUPTA)

23. To be listed on 3rd April, 2025 at 3:00 p.m.

REPORT NO.3/2025

24. To be listed on 3rd April, 2025 at 3:00 p.m.

**(ASHISH KONDLE)
ASTT. REGISTRAR-cum-PS**

**(AVGV RAMU)
COURT MASTER (NSH)**