

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: TAJ TRAPEZIUM ZONE

(1) IA NO. 108684/2023 (APPLN. FOR DIRECTIONS ON BEHALF OF GOVT. OF U.P.); (2) IA NO. 116768/2018 (APPLN. FOR DIRECTION ON B/O GANGA GLASS INDUSTRIES AND ORS.); (3) IA NOS. 20616, 20617/2020 AND 64225/2022 (APPLNS. FOR INTERVENTION, DIRECTIONS AND CLARIFICATION ON BEHALF OF ARUN KR. GUPTA); (4) IA NOS. 130769 AND 130771/2024 (APPLNS. FOR DIRECTIONS AND EXEMPTION FROM FILING O.T. ON B/O GOVT. OF U.P); (5) IA NO. 376/2003 AND 389/2001 (APPLNS. FOR DIRECTIONS FILED BY AMICUS CURIAE); (6) IA NOS. 387/2000 (APPLN. FOR DIRECTIONS FILED BY AMICUS CURIAE); AND (7) IA NOS. 478 AND 479/2008 (APPLNS. FOR DIRECTIONS FILED BY PETITIONER-IN-PERSON)

("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. AMRISH KUMAR, MR. M.K. MARORIA, MR. G.S. MAKKER, MR. VIJAY PANJWANI, MR. ANKIT GOEL, MR. N.L. GANAPATHI, MS. SUPRIYA JUNEJA, MS. APARNA BHAT, MS. MAYURI RAGHUVANSHI, MR. E.C. AGRAWALA, MR. ARVIND KUMAR SHARMA, MS. APARNA BHAT, MS. SAROJ TRIPATHI, MR. GAURAV GOEL, MR. M.C. DHINGRA, MR. SHISHIR DESHPANDE, MR. RAVI PRAKASH MEHROTRA, MR. KAMLENDRA MISHRA, MR. PRADEEP MISRA, MR. ASHOK KUMAR SRIVASTAVA AND MS. MRIDULA RAY BHARDWAJ, ADVOCATES)

Date : 06-09-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

IA No.108684 of 2023

1. Pursuant to the order dated 5th August, 2024, the applicant-State of Uttar Pradesh has filed an affidavit dated 5th September, 2024 in which it is stated that for the reasons set out therein, the work of compensatory afforestation has not started. We cannot permit felling of trees and trans-location of trees unless substantial work of compensatory afforestation is carried out by the State.

2. To enable the State of Uttar Pradesh to file an affidavit reporting compliance, this application shall be listed on 4th October, 2024 at the end of the Cause List.

IA No.116768 of 2018

3. We have perused the affidavit dated 1st September, 2024 filed by the State of Uttar Pradesh. It is stated that the process of finalizing draft sectorial guidelines of glass industries prepared by the National Environmental Engineering Research Institute (NEERI), Nagpur, Maharashtra is in progress. Therefore, for the time being, we adjourn this application till 4th October, 2024. Further progress in the matter shall be reported to the Court.

IA No.64225 of 2022

4. The issue is about the meaning of "non-polluting industries". We need assistance of the experts for the purpose of dealing with the prayer clause (A) and for elaborating the meaning of "non-polluting industries".

5. We appoint NEERI to undertake the task of defining and clarifying the meaning of "non-polluting industries". NEERI will take the assistance of the Central Pollution Control Board. The learned counsel appearing on behalf of the applicant has suggested the names of the following experts:

1. Dr.T.V.Ramachandra,
Energy and Wetlands Research Group,
Centre for Ecological Sciences,
New Bioscience Building, 3rd Floor, E Wing
Indian Institute of Science,
Bengalooru-560012
2. Professor Virendra Sethi, Adv.
Head, Centre for Urban Science and Engineering,
Environmental Science and Engineering Department,
IIT Bombay, Powai,
Mumbai 400076
3. Dr. Ajay Deshpande,
Environment Safeguards Specialist,
(Former Expert Member, NGT)
IIT Bombay, Powai,
Mumbai 400076
4. Dr. Ravindra Khaiwal,
Professor of Environmental Health,
Department of Community Medicine and School of
Public Health, Post Graduate Institute of Medical
Education and Research (PGIMER),
Chandigarh 160012

6. NEERI will consult the aforesaid experts as well as any other appropriate experts in the field. As the task entrusted to NEERI is very crucial which will have wide

repercussions, NEERI will call a meeting of all stakeholders including the learned Amicus Curiae before undertaking the work. In the first meeting, the presence of the learned Amicus Curiae will be necessary, as they will be able to explain to all concerned what is expected of them by the Court. The first meeting can be always held through the medium of video conference.

7. A copy of this order shall be forwarded to NEERI by the Registry.

8. We direct NEERI to submit a preliminary report defining outer limit for completion of the task. NEERI will submit that report before 3rd October, 2024.

9. List on 4th October, 2024 so that outer limit can be fixed to enable NEERI to complete the exercise.

IA Nos.20616 and 20617 of 2020

10. List these applications on 14th October, 2024 at the end of the Cause List.

IA Nos.130769 and 130771 of 2024

11. Additional affidavit has been filed by the applicant, pursuant to this Court's order dated 5th August, 2024. Now, the prayer in the application has been modified in terms of paragraph 9 of the said affidavit which provides for saving at least 96 trees.

12. We direct the Central Empowered Committee (CEC) to look into the prayer made by the applicant. As pointed out in our earlier orders, the CEC will examine the proposal with a view to ascertain whether requirement of

felling the number of trees can be reduced. The CEC to submit a report by 14th October, 2024.

13. List on 14th October, 2024 at the end of the Cause List.

IA Nos.376/2003, 387/2000, 389/2001,478/2008 and 479/2008

14. List these applications on 4th October, 2024 at the end of the Cause List.

15. In the meanwhile, the State of Uttar Pradesh and the Archaeological Survey of India shall file a status report concerning the controversy in these applications.

IA No.31946 of 2024

16. List on 13th September, 2024 at the end of the Cause List.

IN RE: REPORT NO.17 OF 2024

17. We have perused the CEC Report No.17 of 2024. To begin with, the CEC has flagged 16 cases wherein this Court had granted permissions for felling of trees subject to compliance with various conditions, but the applicants have as yet not fully complied with the conditions. The details of the applicants are as under:

S. No.	Project Proponent	IA No.	SC order dated	Project Name	Conditions Not Complied With so far
1.	J.P. Infotech Lintied	490 -492 of 2011	14.03.2011	Construction of Taj Expressway	Appropriate plantation was to be done by the user agency in the vacant spaces on both sides of the proposed road. However, no compliance report has been received so far.
2.	Uttar Pradesh Expressway	548-549 of 2015	14.12.2015	Construction of Agra Lucknow Expressway	The plantation of 2810 trees in lieu of 281 trees required to be felled was to be

S. No.	Project Proponent	IA No.	SC order dated	Project Name	Conditions Not Complied With so far
3.	Industrial Development Authority COD, Agra	527 & 543 of	08.05.2015 & 14.09.2015	Obstacle trees under COD Agra	undertaken at the project cost. Compliance report from user agency is still awaited. Plantations of 28274 saplings was to be done upto Dec. 2017 and balance number of trees 16265 plus 4440 trees after modernization. No information on compliance has been received.
4.	NHAI	553-554 of 2015	14.12.2015	Construction of Bharatpur of Dholpur road (NH 123)	Plantation of 37988 trees in lieu of 3673 trees required to be felled will be undertaken at project cost. No such plantation has been done in spite of repeated reminders.
5	NHAI	44266 of 2022	31.10.2022	Construction of entry and exit road of Yogiraj Sarkar Goddi Trust complex.	Compensatory planting of minimum of 660 trees of indigenous species in lieu of 66 trees is not yet complete. It is likely to be completed in 2024.
6.	North Central Railways	576 of 2017 & 184391 of 2018	11.12.2019	Extension of Mathura Junction to Palwal Railway Line	The 4 Ha of land in village Chatikara near Vrindavan Station identified for taking up of Compensatory Plantation has not yet been handed over by the user agency.
7.	Uttar Pradesh Jal Nigam	578 of 2017 & 11157 of 2019	13.05.2022	Construction of STP at Dhadupura	6.4 hectare of land allotted for the purpose in Dhandhupura village, Agra for compensatory plantation of 7500 trees of indigenous species has not yet been handed over and no plantation has been raised till now.
8.	Rail Vikas Nigam Limited	91486 of 2021	13.05.2022	Second project of third rail line Mathura– Jhansi	Due to delay in handing over land for planting of 50940 saplings, planation is not yet complete. It will be completed in 2024 rainy season
9.	PWD, Mathura	577 of 2017 & 8180 of 2022	08.12.2021	Work of widening of Mathura-Govardhan-Ding road (in protected forest area)	User agency has not completed the chain link fencing of the plantation site for planting of 30000 trees of indigenous species hence compensatory plantation is yet to be done.
10.	PWD, Mathura	70309 of 2021	13.05.2022	Felling of 318 trees Work of widening of	User agency has not completed the chain link fencing of the plantation site

S. No.	Project Proponent	IA No.	SC order dated	Project Name	Conditions Not Complied With so far
				Mathura-Vrindavan road	for planting of 3200 trees of indigenous species hence compensatory plantation is yet to be done.
11.	PWD, Mathura	51269 of 2017	23.09.20225	Construction of road up to Kosi-Nandgaon-Barsana-Govardhan-Saukh-Mathura and Mathura-Raya Express-way	Plantation is not yet complete. It will be completed in 2024 rainy season.
12.	PWD, Mathura	1441 of 2020	13.05.2022	Construction of proposed 10 m wide service road around Govardhan Parikrama Marg in district Mathura	Plantation is not yet complete. It will be completed in 2024 rainy season.
13.	North Central Railways	132820 of 2022	23.09.2022	Establishment of Mathura-Bhuteshwar railway line track in Mathura district and construction work of Mathura yard modeling	Plantation is not yet complete. It will be completed in 2024 rainy season.
14.	NHAI, Agra	87395 of 2022	09.02.2023	Four lane widening of Mathura-Hathras-Badau-Bareilly road (NH-530B),	Plantation not completed is in progress
15.	NHAI, Agra	3290-3291 of 2012	21.02.2012	Widening of Agra - Aligarh Road	A Project of disposal of waste with details of waste and detail of managing it and money required was to be submitted. It has not been complied with.
16.	Uttar Pradesh Metro Rail Corporation	163898 & 163904 of 2019	14.07.2020	Agra Metro Project	the Applicant undertook to utilise the harvested rainwater in the depots and the metro stations and provide sufficient vehicle parking area in metro station complexes specifically to accommodate tourist uses and cars arriving from outstations by suitably modifying the Detailed project Report. This is yet to be completed

18. We direct the Registry to issue notice to the applicants in the aforesaid applications, returnable on 14th October, 2024.

19. We call upon the aforesaid applicants to file the affidavits reporting compliance with the conditions on which they were permitted to fell the trees. We are putting the applicants to notice that if on the next date, we find that full compliance is not reported, an action under the Contempt of Courts Act, 1971 will be initiated against the concerned parties. Even a copy of this order shall be forwarded along with the notice.

20. Now, there are other important issues flagged in Report No.17 of 2024. We direct the State of Uttar Pradesh to file an affidavit dealing with the issues raised in the report. We grant longer time of six weeks to the State to file a response. The affidavit of the State will be considered along with the issues raised in the Report on 25th October, 2024.

IN RE: REPORT NO. 18 OF 2024

21. In this report, the CEC has come out with the following recommendations:

"9. The CEC has discussed the issue of monitoring the compliance of conditions imposed by this Hon'ble Court with the Ld. Amicus Curiae and the officers of the Forest Department of GNCTD. Pursuant to these discussions, the following is recommended:

I. For ensuring proper and timely compliance of the orders passed from time to time by this Hon'ble Court on issues related to the Delhi Ridge, the Central Empowered Committee (CEC) shall create a customized Management Information System (MIS) module on which the following data shall be uploaded by the Project Proponent on regular basis:

- (a) Details of the project
- (b) Details of the number and species of trees to be felled or translocated
- (c) Details of the relevant order of this Hon'ble Court along with conditions that need to be complied with.
- (d) Copy of the relevant permission for felling of trees
- (e) Details of the number of trees felled with details of transit permits.
- (f) Details of the area, along with its km² file, identified for transplantation of the trees.
- (g) Details of area, along with its km² file identified for compensatory plantation
- (h) Details of compensatory plantation and subsequent maintenance activities
- (i) Details of transplantation and subsequent maintenance activities
- (j) Details of the area for which approval of diversion under the Forest Conservation Act 1980 is required.
- (k) Copy of relevant order of approval under Forest Conservation Act 1980.
- (l) Details of compensatory afforestation under Forest Conservation Act 1980 and subsequent maintenance activities.

(m) Details of compliance of other specified conditions.

(n) Relevant photographs of activities performed.

(o) Details of inspection done with results of the inspection.

(p) Details of conditions imposed by any other Hon'ble Court/authority/ department.

(q) Status of compliance of conditions as on date.

II. Every project proponent shall be provided a login ID and password by the CEC for accessing the Management Information System (MIS) module and uploading the data on a regular basis, till the Compensatory Plantation is fully established and all the conditions imposed by this Hon'ble Court are complied with.

III. The MIS will also capture compliance of conditions imposed under the Forest Conservation Act 1980 or any other Hon'ble Court/authority/department as the case may be.

IV. The CEC shall, based on analysis of the data uploaded on the MIS module and physical inspections, submit consolidated status reports as on every 1st January and 1st July before this Hon'ble Court.

V. For the cases in which orders have been passed by this Hon'ble Court in the past, the CEC will collect the data of all the cases and get the information uploaded on the MIS module through the project proponent. The data shall be cross-checked on a sample basis by actual ground verification. As the number of such cases is going to be quite large, the CEC may take the

assistance of independent experts and/or any reputed government Institute/agency to do the ground verification.

VI. The creation of a customized Management Information System (MIS) module shall take around six weeks from the date of its approval. While in case of proposals, in which this Hon'ble Court has passed appropriate orders from 01.01.2023 onwards, the uploading of the data can start as soon as the module is in place. However, for the older cases, a time of around twelve weeks may be required and the first status report shall be filed before this Hon'ble Court accordingly."

22. We accept the recommendations and direct the CEC to act upon the recommendations. We permit the CEC to send the notices to all applicants/project proponents who have been earlier granted permission for felling of trees calling upon them to upload the data of compliances made by them on the customized Management Information System (MIS) within a period of three months from the date on which letters are served upon them.

23. We make it clear that if we are satisfied that notwithstanding the receipt of the letters from the CEC, the applicants/project proponents have failed to upload the data of compliance within a period of three months, action under the Contempt of Courts Act, 1971 shall be initiated against the concerned applicants/project proponents.

24. The CEC will forward a copy of this order along with the letters.

25. List on 25th October, 2024 at the end of the Cause List.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER