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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13575/2023**

RESIDENT WELFARE ASSOCIATION REGD AND ORS

.....Petitioners

Through: Mr. Ram Niwas Buri, Mr. Rishabh
Sharma and Mr. Mukesh Kumar
Gupta, Advocates.

versus

CHIEF SECRETARY GOVT OF NCT OF DELHI AND OTHERS

.....Respondents

Through: Mr. Avishkar Singhvi, ASC with Mr.
Naved Ahmad, Mr. Vivek Kumar
Singh and Mr. Shubham Kumar,
Advocates for GNCTD.
Ms. Mrinalini Sen, SC for DDA.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

04.09.2024

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W.P.(C) 13575/2023

1. Issue notice. Mr. Naved Ahmad, counsel for GNCTD and Ms. Mrinalini Sen, SC for DDA, accept notice. Counter affidavit be filed within a period of four weeks from today. Rejoinder thereto, if any, be filed within a period of three weeks thereafter.
2. Issue notice to the remaining Respondents, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.
3. Counter affidavit(s), if any, be filed within a period of four weeks from date of service. Rejoinder(s) thereto, if any, be filed within a period of three weeks thereafter.



4. Renotify on 29th November, 2024.

CM APPL. 53611/2023 (for stay of impugned order dated 1st September, 2021)

5. Issue notice. Mr. Naved Ahmad, counsel for GNCTD and Ms. Mrinalini Sen, SC for DDA, accept notice.

6. Petitioner No. 1 is a Resident Welfare Association, of which Petitioners No. 2 to 4 are members of the Executive Committee. Their grievance arises from the impugned order dated 1st September, 2021¹, whereby the Deputy Conservator of Forests, Central Forest Division/ Tree Officer, has imposed a penalty of INR 2,80,000/- on them for an offence which is not expressly disclosed in the said order. The operative portion of the Impugned Order reads as under:

“WHEREAS a complaint has been received from Sh. V.P. Singh 369, Pocket-E, Mayur Vihar-II, Delhi-110091 & Sh. Amrik Singh 298, Pocket-E, Mayur Vihar-II, Delhi-91, on receipt of which I.O. Sh. Ravinder Kumar, inspected the offence site on 11.11.2020 & 04.03.2021 and reported that 14 trees were heavily pruned at DDA park near Pocket-E, Mayur Vihar, Delhi.

...XXX... ...XXX... ...XXX...

AND WHEREAS from the evidence/statement recorded during the hearings, it has been established circumstantially that the Smt. Devender Jutla, President, RWA, Pocket- E, Mayur Vihar-II, Delhi-91, Mr. Sunil Aswani, Vice President, RWA, Pocket-E, Mayur Vihar-II, Delhi-91, Dy. Dir. Hort., DDA, Division No. 09, Vivek Vihar, Delhi have committed the above mentioned offence.

NOW, THEREFORE, 1, Aditya Madanpotra, Tree Officer, impose a penalty of 2,80,000/- (Rs. two lakh eighty thousand only) on Smt. Devender Jutla, President, RWA, Pocket- E, Mayur Vihar-II, Delhi-91, Mr. Sunil Aswani, Vice President, RWA, Pocket-E, Mayur Vihar-II, Delhi-91, and Dy. Dir. Hort., DDA, Division No. 09, Vivek Vihar, Delhi and hereby direct the offenders to carry out plantation of 140 tree saplings at the nearest

¹ “Impugned Order”



area/park. The penalty shall be deposited through DD in favour of DDO, Deputy Conservator of Forests (Central), KNR, Delhi within 15 days of the receipt of this order failing which recovery proceeding as per law shall be initiated against them.”

7. From the above, the Court is unable to discern which provision has been invoked to penalise the Petitioners. Counsel for GNCTD points out that the penalty provision under the Delhi Preservation of Trees Act, 1994² is Section 24, which provides for penalty to be imposed on any person contravening any of the provisions of the DPTA, as well as rules or orders made thereunder. On the basis of the facts of the case, the alleged contravention can only be traced to Section 9 of the DPTA. However, the Impugned Order neither makes any reference to the same, nor provides any clarity as to how it has been concluded that the Petitioners have committed the offence.

8. The Court has also perused the order dated 5th May, 2022 passed by the Deputy Conservator of Forests (P&M), Department of Forest and Wildlife, GNCTD. The Court *prima facie* finds this order to suffer from infirmity, since the Deputy Conservator of Forests has declined to entertain the Petitioners’ appeal filed under Section 14 of the DPTA, stating that the offence does not fall under the ambit of Sections 9, 10 and 11 of the DPTA. At the same time, it has been observed that “*the present offence has been booked under DPTA, 1994 which does not have the scope of appeal under the provisions of DPTA, 1994*”. This observation, on the face of it, seems to be completely irrational.

9. Additionally, it is noted that the order dated 5th May, 2022 has been signed by the Deputy Conservator of Forests (P&M). This communication



does not *prima facie* appear to be a covering letter, but rather, a final decision on the appeal filed by the Petitioners. Counsel for GNCTD clarifies that the appellate authority under the DPTA is the Principal Secretary (Environment & Forests), GNCTD. Accordingly, he is directed to explain in his counter affidavit on what basis the Deputy Conservator of Forests (P&M) has conveyed the decision on the appeal through communication dated 5th May, 2022.

10. In light of the above, till the next date of hearing, the Impugned Order dated 1st September, 2021, shall remain stayed.

11. The application is disposed of in the above terms.

SANJEEV NARULA, J

SEPTEMBER 4, 2024

as

² 'the DPTA'