



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**PUBLIC INTEREST LITIGATION No.15 OF 2021**

(Swacch Association, through its Secretary, Sharad Biharilal Paliwal Vs. Ministry of Environment and Forest, through its Secretary, New Delhi and others)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Mr. Parvez W. Mirza along with Mr. Krishna S. Agrawal, Advocate for petitioner.

Mr. N.S. Deshpande, DSGI for respondent No.1.

Mr. P.R. Patil, AGP for respondent Nos.4 and 5.

Mr. S.S. Sanyan, Advocate for respondent No.6.

Mr. J.B. Kasat, Advocate for respondent No.7.

Mr. Nachiket G. Moharir, Advocate for respondent No.9.

**CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.**

**DATE : 24<sup>th</sup> OCTOBER, 2024.**

1. In this Public Interest Litigation, the issue sought to be canvassed pertains to the illegal act on the part of the respondent no.3-Rail Land Development Authority, New Delhi in the matter of execution of development project of Railway Station, Ajni at Nagpur.

The allegation pertains to the illegal felling of the trees including heritage trees.

2. The respondent no.3 through the National Highways Authority of India had an intention to develop 'Inter Model Transport Station' on the railway land. Since the execution of the development project involves the felling of trees including heritage trees which results into depletion of green cover, the statutory permission is contemplated for felling of trees before the same is effected. It appears that initially felling of more than two hundred trees was sought and as such, the competent authority to

deal with such permission was the State Tree Authority and the application was to be processed through the Tree Officer, Nagpur Municipal Corporation. It appears that the trees were substantially felled and that being so this Court *vide* order dated September 02, 2021 put an embargo on the felling of the trees.

3. It appears that since the alleged illegal felling of the trees was continued, Civil Application (O) No. 638 of 2023 was moved for grant of injunction. On April 25, 2023, this Court directed not to fell any of the trees at the project site as reflected in the said order. It appears that the said project was subsequently abandoned by the respondent-Railway Authorities which was brought to the notice of this Court *vide* letter dated July 12, 2023. With regard to the illegal felling of the trees, an offence came to be registered *vide* Crime No. 149 of 2023 at Police Station Imamwada, Nagpur City and similarly, other crimes being Crime No. 118 of 2022 and 121 of 2022 were registered with Police Station Ajni.

4. We had called for the report pertaining to the investigation of the aforesaid three crimes wherein the allegations were not only of illegal felling of the heritage trees but also number of other trees without there being any permission from the competent authority.

5. During the course of hearing, it is brought to our notice that in Crime No.149 of 2023, the Senior Police Inspector of Police Station Imamwada has submitted the 'A' summary, whereas in relation to Crime Nos.118 of 2022 and 121 of 2022 registered at Police Station, Ajni, the progress is not brought to our notice. This matter was heard yesterday i.e. on October 23,

2024, which prompted this Court to summon the investigation papers relating to the aforesaid crimes registered at Police Station, Ajni. The Deputy Commissioner of Police, Zone 4, Nagpur within whose jurisdiction these crimes are being investigated is physically present in the Court.

6. We have perused the 'A' summary submitted in Crime No. 149 of 2023 by the Senior Police Inspector, Police Station Imamwada, Nagpur City. The investigation papers depicts that the Officer of the rank of Senior Police Inspector has carried out the investigation of the aforesaid crime in the most casual manner and as such, we were required to put the same to the Deputy Commissioner of Police, Zone 4, Nagpur City, who assured this Court that she shall study the investigation carried out in all the aforesaid three crimes and apprise the Commissioner of Police, Nagpur about the same and shall also place all the papers before the Commissioner of Police, Nagpur.

7. We appreciate the approach of the Deputy Commissioner of Police, Zone 4, Nagpur City and permit the said Officer to file her own affidavit dealing with the issue as to whether the Deputy Commissioner of Police, Zone 4, Nagpur City and the Commissioner of Police, Nagpur agrees that the investigation in all the aforesaid three crimes is carried out properly and in accordance with law and if not, what remedial measures are taken recourse to. The action which is to be proposed against the Investigation Officers who have carried out the investigation in the most casual manner would be dealt with on the next date of hearing by which date, the affidavits as aforesaid shall be filed on record. We expect the affidavits to be filed by November 21, 2024.

8. As regards the issue of grant of permission of felling of trees is concerned, it appears that the issue about processing of the permission is dealt with by the respondent No.3 in a casual manner.

9. During the course of hearing the Chief Project Manager, Mr. Patil and Joint General Manager Mr. Negi are physically present in the Court.

10. Yesterday, we had expressed that we intend to frame charge under the Contempt of Court's Act against the Joint General Manager Mr. Negi for showing disrespect and non-compliance of the earlier order wherein inspection was required to be carried out by the Seniormost Officer, however, today it is demonstrated before us that the Office of Chief Project Manager is over and above in rank of that of Joint General Manager and it was Chief Project Manager under whose physical supervision the inspection was carried out before applying for permission to fell the trees.

11. Be that as it may, on the subsequent stage it was expected of the respondent No.3 to submit an alternate plan as is required for the purpose of processing the permission for felling of trees.

12. There appears to be a bone of contention on this issue between the Tree Authority and the respondent No.3 Railway Land Development Authority as the respondent No.3 is claiming that an alternate plan was submitted. However, this fact is disputed by the Tree Authority.

13. We grant time of two weeks to the respondent No.3 to attend the Office of Tree Authority with effect from 28 October, 2024 and report all the compliance by preparing a check-list which is necessary for the purpose of processing the request for felling of trees in the matter of execution of the Project in relation to improvement/upgradation of Ajni Railway Station.

14. Once such compliance is reported, we expect the response of Tree Authority on the same.

15. Apart from above, by earlier orders of this Court the representative of the petitioner are also permitted to participate in the process of processing the request for grant of felling of trees.

16. Let the aforesaid check-list be also made available to the representative of the petitioners within the aforesaid period of two weeks along with the documents.

17. This takes us to the next issue, as to the survival rate of the trees of which plantation is carried out by the respondent No.3.

18. We are informed by the Deputy Solicitor General of India Mr. N.S. Deshpande that it is the contractor, who is taking care of compensatory plantation carried out in the matter of grant of earlier permission for felling of trees.

19. The Court is required to be sensitive to the fact that the permission for felling of trees was conditional, as it was obligatory for the respondent No.3 to ensure not only plantation of the trees as was directed in such permission but also to ensure that the plantation is survived.

20. We are informed across the bar that there is a casualty of more than 1000 saplings which were planted by the respondent No.3 and for the same, the respondent No.3 is passing on the blame to its contractor. It is a settled principle of law that the respondent No.3 being principal of the contractor must own the responsibility for not complying with the condition of plantation of trees and making them survive.

21. The remedial measures in such an eventuality taken by the respondent No.3 should also be brought to the notice of this Court by filing an affidavit on or before the next date.

22. As regards the action to be initiated against the officers of the respondent No.3 for their failure to honour the condition which was incorporated in the matter of grant of permission for felling of trees shall be looked into on the next date of hearing.

23. Stand over to 25<sup>th</sup> November, 2024.

24. As requested by Mr. P.R. Patil, Assistant Government Pleader, the documents along with 'A' summary report are returned to be taken into custody by the DCP, Zone-4. We record an assurance from the DCP, Zone-4 that the entire photostat set of documents along with 'A' summary report shall be placed before this Court within a period of four days from today in a sealed envelope.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)