

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDCITION

I.A. NOS. 58, 59, 60 OF 2008,  
I.A. NO.48 OF 2007  
I.A. NO.61 OF 2009  
I.A. NO.62 OF 2009  
I.A. NO.49 OF 2007

IN

W.P.(C) NO. 653 OF 1994

WASIM AHMED SAEED ...PETITIONER

VERSUS

UNION OF INDIA AND OTHERS ...RESPONDNETS

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I.A. Nos.58 to 60 of 2008

These applications have been moved by the National Highways Authority of India for grant of permission to the applicant for cutting total number of 1040 trees in the State of Uttar Pradesh for construction of new Four Lane Agra Bypass Project connecting km. 176.80 of NH-2 to km. 13.00 of NH-3 in State of U.P. (Package NS-I/UP-I). These trees would include trees from forest land, non-forest land in the District of Mathura and private land.

Notice of these applications was given to the non-applicants.

2

In the applications it is mentioned that the applicant is a statutory body constituted under the National Highways Authority of India Act, 1988 and has been entrusted with the responsibility of Development, Maintenance and Management of National Highways vested in or entrusted to it by the Central Government.

With a view to give a major thrust to the economic development of the country, the Central Government took a policy decision to bring the infrastructural facility of the nation at par with the other developed countries. The Respondent

Authority was entrusted with the work of 4/6 laning of the national highways linking the four major metros as the Golden Quadrilateral Project (GQ), North-South Corridor from Kashmir to Kanyakumari, East-West Corridor from Silchar to Porbandar sections and development of some other stretches of roads including roads to connect some major ports in the country.

The applicant has been entrusted with the task of construction of new four lane Agra Bypass Project connecting km. 176.80 of NH-2 to km. 13.03 of NH-3 in State of U.P. The project which has been undertaken by the applicant is primarily for public utility as it shall provide for free flow of traffic on this segment as major cities shall be avoided. The other main features of the Project are as follows:

3

(a) The most positive impact of the construction of Agra by pass road is that it shall result in diversion of huge traffic from Agra city which shall significantly reduce the vehicular emissions load in Agra city.

(b) No displacement of person is anticipated because of construction of proposed bypass road as alignment is passing through the agricultural fields avoiding residential structures.

(c) That there will be significant improvement of flora (green cover) in the region due to thick plantation along the proposed bypass road.

(d) That improvement of the road shall result in less travel time requirement for people and goods which will benefit the public in general and shall lower the cost of commodities.

(e) That the problem of traffic jams in Agra city will be reduced.

(f) That with the construction of this bypass there shall be reduction in fuel consumption which, in turn shall result in saving valuable foreign exchange.

(g) That there shall be general economic improvement of the area and the living standard of people will improve."

Learned Additional Solicitor General appearing for the applicant submitted that from time to time this Court has granted permission of cutting trees on certain conditions. He has referred to the order passed by this Court on 22.2.2007 in

I.A. Nos.41-43 of 2007 in Writ Petition No.653/1994.

In that application The National Highway Authority of India has filed an undertaking in this Court and the undertaking reads as under:-

4

"This is to undertake that National Highway Authority of India is acquiring 51.91 Hectare of protected Forest land and 2.081 Hectare of Horticulture land for widening and strengthening of NH-11 in Uttar Pradesh portion of the road from km. 18 to km 42.525. A total of 4688 trees of different species (Annexure-A) in the protected Forest Land and 1675 trees of different species (Annexure-B) in the horticulture land will be cut National Highways Authority of India will acquire a 10 Mtr. width strip of land towards the widening side of the road, will do a compensatory forestation to the extent twice the number of trees being cut in the strip. Action, in this line, is under process as per U.P. Government GO No.943 dated 14th February, 2003. The details of species of trees to be planted will be finalized by the Forest Department."

The learned Additional Solicitor General submits that they are prepared to act on the same terms and conditions as detailed above and in case if Amicus Curiae, forest officials and other counsel are of the view that more trees are to be planted then even more than twice the number of trees would be planted by the applicant.

The counsel for the National Highway Authority of India and other officials may visit the place and indicate to the National Highway Authority about the actual number of trees which have to be planted in the area.

The learned Amicus Curiae and other learned counsel would further make an endeavour to save existing old trees and cut only those trees which are absolutely imperative to accomplish the object. We are hopeful that the parties would take care of environment while carrying out development. A

5

report in this respect may be placed on record. Learned Additional Solicitor General states that apart from planting new trees, the newly planted trees will be nurtured at the expense of the National Highway Authority of India for a period of 3 years and the additional amount would also be paid by the authority after proper estimate is received from the concerned authorities.

In view of the aforementioned directions, the I.A.

Nos.58 to 60 stand disposed of.

Learned counsel for the applicant also want us to record that the demand drafts for the total sum of Rs.2,27,89,600.00/- drawn in favour of "Compensatory Afforestation Fund (CAF) Uttar Pradesh A/C No.1574 Corporation Bank, New Delhi have already been deposited.

Learned ASG further submits that the demand draft for an amount of Rs.1,46,116/- has been separately deposited.

Learned ASG further submits that the demand draft for an amount of Rs.9,89,200.00 drawn in favour of "Compensatory Afforestation Fund (CAF) Uttar Pradesh A/C No.1574 Corporation Bank, New Delhi has been separately deposited.

The applicant would get credit of the amount already deposited and remaining amount, if any, would be deposited within 6 weeks from getting the estimate from the concerned authorities.

6

I.A.No.48/2007

This I.A. is totally devoid of any merit and is, accordingly, dismissed.

I.A.No.61/2009, 62/2009

Issue notice.

Reply, if any, be filed within four weeks.

I.A. No.49/2007

This is an application for direction/ modification of the order dated 2.9.2004 passed by this Court. We allow this application in terms of its prayer. The State would be at liberty to transfer Shri Vinay Kumar Yadav, Additional Superintendent of Police, Rural (West), after April 30, 2009.

I.A. No.49/2007 is allowed and disposed of.

.....J.  
[ DALVEER BHANDARI ]

.....J.  
[HARJIT SINGH BEDI ]

NEW DELHI  
MARCH 03, 2009.

7

ITEM NO.2                      COURT No.9                      SECTION PIL

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A. Nos.21, 24, 26, 30, 33, 37-39, 40, 44, 45, 47-55, 58-61 & 62  
in WRIT PETITION (CIVIL) NO(s). 653 OF 1994

WASIM AHMED SAEED    Petitioner(s)

VERSUS

UNION OF INDIA & ORS    Respondent(s)

(For directions, intervention, to take on record the joint report in compliance of  
order dated 5.8.2004, modification of order dated 5.8.2004 & 2.9.2004,  
permission and directions, impleadment and exemption from filing O.T. and early  
hearing and office report)

with

I.A. Nos.14, 15, 17 & 18 in Contempt Petition(c) No.162/2000 in  
W.P.(C) No.653/1994  
(For recalling Court's order dated 12.5.2000, restoration of order dated  
16.3.1998 and 20.7.1998)

with

I.A. no.13 in W.P.(C) No.239/1997  
(For directions)

Date: 03/03/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI  
HON'BLE MR. JUSTICE HARJIT SINGH BEDI

For Petitioner(s) Mr. Salman Khurshid, Sr. Adv. (A.C.)

Mr. Anis Suhrawardy, Adv.

Mr. Imtiaz Ahmed, Adv.

8

Mrs. Naghma Imtiaz, Adv. for  
M/s Equity Lex Associates

For Respondent(s) Mr. B. Krishna Prasad, Adv.

Ms. Sushma Suri, Adv.

Mr. Ratnakar Das, Sr. Adv.

Ms. Sunita Gautam, Adv.  
Ms. Alka Sinha, Adv.  
Mr. Anuvrat Sharma, Adv.  
  
Mr. Shakil Ahmed Syed, Adv.  
  
Mr. V.K. Verma, Adv.  
  
Mr. Ashok Bhan, Adv.  
Mr. T.A. Khan, Adv.  
Mr. Rajkumar Tanwar, Adv.  
Mr. D.S. Mahra, Adv.  
Mrs. Anil Katiyar, Adv.  
  
Mr. Yunus Malik, Adv.  
Mr. Prashant Chaudhary, Adv.  
  
Mr. B.V. Balram Das, Adv.  
  
Mr. Annam D.N. Rao, Adv.  
  
Mr. Sudhir Kulshreshtha, Adv.  
  
Mr. Ashok Kumar Singh, Adv.  
Mr. Naresh Kumar Gaur, Adv.  
Mr. Surinder Dutt Sharma, Adv.  
Ms. Yogmaya Agnihotri, Adv.  
  
Mr. Yogesh Kumar Jain, Sr. Adv.  
Dr. Monika Gusain, Adv.  
Mr. Hariom Yaduvanshi, Adv.  
  
Mr. Prashant Chaudhary, Adv.  
  
Mr. Imtiaz Ahmed, Adv.  
Mrs. Naghma Imtiaz, Adv. for

9

M/s Equity Lex Associates

Mr. Prag P. Tripathi, ASG  
Mr. Krishan Kumar, Adv.  
Mr. Mukesh Kumar, Adv.  
Ms. Vismay Rao, Adv. for  
M/s M.V. Kini & Associates

UPON hearing counsel the Court made the following  
ORDER

I.A. No.58 to 60/2008

I.A. Nos.58 to 60 stand disposed of in terms of the signed  
order.

I.A.No.48/2007

This I.A. is totally devoid of any merit and is,  
accordingly, dismissed.

I.A.No.61/2009, 62/2009

Issue notice.

Reply, if any, be filed within four weeks.

I.A. No.49/2007

I.A. No.49/2007 is allowed and disposed of in terms of  
the signed order.

(K.K. Chawla)  
AR-Cum-PS

(Neeru Bala Vij)  
Court Master

[Common signed order is placed on the file]