

ITEM NO.2

COURT NO.4

SECTION PIL-W

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

MINISTRY OF ENVIRONMENT AND FORESTS &amp; ORS.

Respondent(s)

I.A. NOS. (1) 569-570/2016 AND 57183/2017  
(APPLNS. FOR DIRECTIONS AND EXEMPTION FROM FILING O.T. AND  
DIRECTIONS/PERMISSION ON BEHALF OF STATE OF U.P.

(2) 578/2017 FOR PERMISSION TO CUT TREES ON B/O YAMUNA POLLUTION  
CONTROL UNIT

(3) 55642/2017 FOR PERMISSION ON BEHALF OF STATE OF RAJASTHAN

(4) 575-576/2017 FOR IMPLEADMENT AND PERMISSION REGARDING FELLING  
OF TREES ON BEHALF OF NORTH CENTRAL RAILWAY

(5) 577/2017 FOR PERMISSION REGARDING CUTTING OF TREES ON BEHALF OF  
PUBLIC WORKS DEPTT, STATE OF U.P.

(6) 46594-46595/2017 FOR IMPLEADMENT AND DIRECTIONS TO CUT/FELL  
TREES ON B/O POWER GRID CORPN. INDIA LTD.

(7) 51269/2017 FOR PERMISSION REGARDING FELLING OF TREES ON B/O  
PUBLIC WORKS DEPTT., STATE OF U.P.

(8) 565/16 FOR MODIFICATION/DIRECTION ON B/O C.O.D., AGRA

(9) 531/2014 FOR DIRECTIONS ON B/O NORTH EASTERN RAILWAY

(10) 540-541/14 FOR PERMISSION FOR FELLING TREES AND EXEMPTION FROM  
FILING O.T. ON B/O ROOP CATERERS

(11) 573-574/2017 FOR DIRECTIONS AND EXEMPTION FROM FILING O.T. ON  
B/O REGIONAL SPORTS OFFICER, AGRA

(12) 52372 AND 52374/17 FOR DIRECTIONS AND EXEMPTION FROM FILING  
O.T. ON B/O LEELEA PALACES AND RESORTS LTD.

(13) 42620 AND 42624/2017 FOR PERMISSION TO CUT TREES AND EXEMPTION  
FROM FILING O.T. ON B/O U.P. AVAS VIKAS PARISHAD

(14) I.A. NO. 460 ON B/O STATE OF U.P. FOR PLACING STATUS REPORTS  
(RE : FELLING OF TREES IN THE AREA OF TAJ TRAPEZIUM ZONE)

Date : 23-10-2017 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s)

Petitioner-in-person

For Respondent(s)/  
applicant(s)

Mr. Maninder Singh, ASG  
Mr. Amit Sharma, Adv.  
Mr. W.A. Qadri, Adv.  
Mr. Zaid Ali, Adv.  
Mr. Raj Bahadur, Adv.  
Mr. S.N. Terdal, AOR  
Mr. M.K. Maroria, AOR

Mr. A.D.N. Rao, Adv.  
Mr. Annam Venkatesh, Adv.  
Mr. Sudipto Sircar, Adv.  
Tulika Chikker, Adv.  
Mr. Rahul Mishra, Adv.

Mr. Bharat Singh, Adv.  
Mr. Samir Ali Khan, AOR  
Mr. Raj Kumar Ruhil, Adv.  
Mr. Shaharyar Ali, Adv.

Mr. Rakesh K. Mudgal, AAG  
Mr. Kailash Mudgal, Adv.

Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Abhimanyu Mahajan, Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Anubhav Goel, Adv.  
Ms. Aastha Mehta, Adv.  
Mr. E.C. Agrawala, AOR

Dr. Sumant Bharadwaj, Adv.  
Ms. Mridula Ray Bhardwaj, AOR  
Mr. Rakesh Kailash Sharma, Adv.  
Mr. Sagar Roy, Adv.

Mr. S.S. Shamsbery, AAG  
Mr. Amit Sharma, Adv.  
Mr. Ankit Raj, Adv.  
Ms. Indira Bhakar, Adv.

Ms. Ruchi Kohli, AOR

Mr. Jubair A. Khan, Adv.

T. Qadri, Adv.

Mr. L.R. Singh, AOR

Mr. Wajeeh Shafiq, AOR

Mr. Abhishek Choudhary, AOR

Mr. Vishwajit Singh, AOR

Mr. Pankaj Singh Bisht, Adv.

Mr. Shrish Kumar Misra, Adv.

Mr. Anuvrat Sharma, Adv.

Ms. Alka Sinha, Adv.

Mr. Vijay Panjwani, AOR

Mr. T. Mahipal, Adv.

Mr. Pradeep Misra, Adv.

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

I.A. NO. 460

ON B/O STATE OF U.P. FOR PLACING STATUS REPORTS (RE :  
FELLING OF TREES IN THE AREA OF TAJ TRAPEZIUM ZONE)

This is an application filed by the Public Works Department seeking permission to fell 2332 trees. The CEC has recommended felling of 919 trees and this was allowed by an order passed by this Court on 22.08.2016. It was stated, *inter alia*, that due to saturation, the applicant will plant 7000 saplings in an alternative area. Progress reports were required to be filed showing implementation of orders passed by this Court.

Pursuant to orders passed by this Court, the Ministry of Environment, Forest and Climate Change has been filing quarterly Monitoring Reports. Report Nos. 1 to 4 have not been placed before us, but a very brief summary of

these Reports has been mentioned in the 5<sup>th</sup> Monitoring Report.

#### 5<sup>th</sup> Monitoring Report

This was filed on 20<sup>th</sup> March, 2017 and pertains to the period covering October, 2016 to December, 2016.

The U.P. Forest Department has reported that there are 142 compensatory afforestation sites. Of these, only 67 sites have been inspected which is only 47%. Out of a total plantation area of 1102.221 ha only 522.25 ha has been inspected which is about 47.4%. The progress for the period October, 2016 to December, 2016 is patently unsatisfactory.

#### 6<sup>th</sup> Monitoring Report

This was filed on or about 10<sup>th</sup> July, 2017 and pertains to the period from January, 2017 to March, 2017.

Out of 142 compensatory afforestation sites, 74 sites had been inspected as per the 6<sup>th</sup> Monitoring Report. Out of a total plantation area of 1102.221 ha only 591.42 ha has been inspected which is about 53.66%. This is again unsatisfactory but there is a marginal improvement that has been made from the 5<sup>th</sup> Monitoring Report.

#### 7<sup>th</sup> Monitoring Report

This was filed on 18<sup>th</sup> September, 2017 and pertains to the period covering April, 2017 to June, 2017.

The number of sites that have been inspected has increased to 82 which is about 57.7% and the coverage inspected has increased to 673.83 ha which is about

61.13%.

We find from these reports, viz., 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Monitoring Reports, that the overall progress has been extremely slow and the reports do not indicate the mortality rate of the saplings and wherever it is mentioned it is not very clear whether it can be relied on fully. We say in view of the progress reports that have been filed which are considered hereinbelow. The progress reports have been filed by the Conservator of Forests, Agra Circle taking into account information received from the Uttar Pradesh State Legal Services Authority (UPSLSA) and the District Legal Services Authority (DLSA).

Progress Report for the quarter October to December, 2016

This was filed on or about 26<sup>th</sup> July, 2017 and has been verified by the DLSA.

According to the UPSLSA, the mortality rate of saplings is 0% to 37% but according to the DLSA the mortality rate is as high as 70%. This is taken from reading of pages 40 to 44 of the progress report. The correct mortality rate is obviously not available.

Progress Report for the quarter January to March, 2017

This report was filed on 10<sup>th</sup> October, 2017. According to the UPSLSA, the mortality rate is very low but the DLSA did not send the mortality figures in this regard.

It appears to us that the entire exercise of compensatory afforestation is being taken very casually

both by the Ministry of Environment, Forest and Climate Change and by the Conservator of Forests, Agra Circle. It appears that compensatory afforestation is carried out in an *ad hoc* manner, without any scheme and it also appears that afforestation has reached its saturation point. That apart, the mortality rate of saplings that are planted is not available.

Unless there is some seriousness attached to the compensatory afforestation, the entire purpose will be a lost cause.

The 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> Monitoring Reports and the Progress Reports for the quarter October, 2016 to December, 2016 and January, 2017 to March, 2017 stand disposed of. Follow up Reports should be filed well in time.

We direct the Ministry of Environment, Forest and Climate Change and the Conservator of Forests, Agra Circle to file meaningful Monitoring Reports and Progress Reports giving full details of the saplings that are planted, where they are planted and the mortality rate of the saplings.

We also direct that henceforth the Monitoring Reports and the Progress Reports will be accompanied by relevant photographs and, if possible, with video recording so that it is made clear that compensatory afforestation is monitored with some degree of seriousness.

We also expect the Ministry of Environment, Forest and Climate Change and those associated with the Ministry

to inspect the plants of the 142 compensatory afforestation sites at the earliest and also conduct a review of the sites for assessing the mortality rate of the saplings. The scheme for compensatory afforestation, if any, should also be placed on record.

I.A. No.531

On the request of learned Additional Solicitor General, list this application tomorrow (24.10.2017).

I.A. No.540

This is an application by Roop Caterers for felling two trees.

There is no appearance on behalf of the applicant. Application is dismissed for non-prosecution.

I.A. No.541

Application for exemption from filing Official Translation is allowed.

I.A. No.569 (Application for directions) & I.A. No.57183

This application has been filed by Department of Tourism, State of U.P. for permission to cut 15 trees for construction of Taj Orientation Centre. The CEC has given a report that only 11 trees should be felled. In view of the report of the CEC, the Department of Tourism has filed I.A. No.57183 to the effect that only 11 trees will be felled.

However, what is extremely disturbing in this matter is that the CEC has noted that penal compensatory afforestation should also take place. This is an

indication that the construction of the multi-level parking for the Taj Orientation Centre had already begun. If that is so, it is an indication that the Department of Tourism has tried to either bypass the CEC or this Court, otherwise the remarks of penal compensatory afforestation would not have come into the picture.

It is unfortunate that the construction had started in the Taj Trapezium Zone without even informing the CEC or without informing this Court.

We would like to have a clear affidavit from the Department of Tourism as to when the construction actually started.

List these applications tomorrow (24.10.2017).

I.A. No.570

Application for exemption from filing Official Translation is allowed.

I.A. No.571

This is a Progress Report pertaining to IA No.460. It is disposed of.

I.A. No.572

Application for exemption from filing Official Translation is allowed.

I.A. Nos.573

This is an application filed by Regional Sports Officer, Agra. The application is vague and is dismissed.

Liberty to file fresh application with full details.

I.A. No.574

Application for exemption from filing Official Translation is allowed.

I.A. No.575

This is an application for impleadment filed by North Central Railway.

North Central Railway is permitted to intervene in the matter instead of impleadment.

Application is disposed of.

I.A. No.576

This is an application filed by North Central Railway.

Learned Additional Solicitor General will file a detailed affidavit indicating whether any alternative route was thought of for the railway line between Bhuteshwar (near Mathura) and Palwal in place of the proposed fourth line and, if so, why was that proposal given up. The affidavit be filed within four weeks.

List this application after four weeks.

I.A. No.577

This is an application filed by the Public Works Department.

The prayer in this application is for permission to fell 2940 trees for road widening (4 lane highway) between Mathura and Deeng (Goverdhan).

The detailed project report should be placed on record and also the applicant should consider the

feasibility of using electric or battery operated vehicles on this stretch.

The necessary affidavit be filed within four weeks.

List the application after four weeks.

I.A. No.578

This application has been filed by U.P. Jal Nigam for permission to fell 2342 trees. These trees were planted in 2001 when the 1<sup>st</sup> STP was set up. Now, these very same trees are required to be felled for setting up of 2<sup>nd</sup> and 3<sup>rd</sup> STPs.

We are surprised that the situation has changed so drastically in the last about 10 years or so and without any proper planning.

Learned counsel for the applicant would like to consider whether STPs can be set up at any other place for which there is no requirement of felling of trees and whether the capacity of the 1<sup>st</sup> STP that was set up in 2001 can be enhanced.

We may mention that Mr. M.C. Mehta says that the 1<sup>st</sup> STP is not even working. This may also be ascertained by learned counsel for the applicant on affidavit.

List the application after four weeks.

I.A. No.42620

This application has been filed by U.P. Avas Evam Vikas Parishad.

We have heard learned counsel for the applicant and find no merit in the application.

Application is dismissed.

I.A. No.42624

Application for exemption from filing Official Translation is allowed.

I.A. No.46594

This is an application for impleadment filed by Power Grid Corporation of India.

Power Grid Corporation of India is permitted to intervene in the matter instead of impleadment.

Application is disposed of.

I.A. No.46595

This is an application filed by Power Grid Corporation of India.

The CEC should give its reports within six weeks.

List thereafter.

I.A. No.51269

This is an application filed by the State of U.P. The applicant prays for permission to fell 11085 trees and 1897 Poll Crop for constructing a 4-lane highway from Kosi Kalan via Goverdhan and Mathura to Raya cut. This is to facilitate the movement of pilgrims who come to Goverdhan. The applicant is willing to undertake compensatory afforestation.

The complete afforestation scheme should be placed on record and before the CEC.

The CEC should give its reports within six weeks.

List thereafter.

I.A. No.52372

This is an application filed by Leela Palaces and Resorts.

The prayer in this application is for permission to fell 19 trees for its hotel project.

We would like to know when the plot was allotted to the applicant and whether any environmental clearance had been granted and, if so, under what terms and conditions.

We would also like the Ministry of Environment, Forest and Climate Change to explain to us how environmental clearance, if any, was granted, particularly when this Court is already seized of the matter pertaining to the Taj Trapezium Zone. Necessary affidavits be filed by the applicant as well as by the Ministry of Environment, Forest and Climate Change within a period of six weeks from today.

List the application thereafter.

I.A. No.52374

Application for exemption from filing Official Translation is allowed.

I.A. No.55642 and 104114

These applications have been filed by the State of Rajasthan.

The prayer in I.A. No.55642 is for permission to fell 144 trees for completing the laying of water pipeline. The project is for supply of drinking water from Chambal River - Dholpur - Bharatpur. The work up to Mallah

headwork in Bharatput is complete and it is stated that the balance work from Bharatput to Nagar via Deeg is still to be completed. This will necessitate cutting down of 144 trees and compensatory afforestation will be carried out. The CEC will submit its report within six weeks.

List thereafter.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
COURT MASTER