

ITEM NO.301, 302 & 303

COURT NO.1

REVISED
SECTION PILS 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

301

I.A. Nos.460, 517-518, 532 & 563 in I.A. NO.460, 531, 555-557, 562, 564, 565 in I.A.No.527, 567-568 in W.P.(C) No(s).13381 of 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Directions and permission to file Additional documents and exemption from filing O.T. and impleadment and permission regarding felling/cut of trees and modification/direction and office report)

AND

302

I.A.Nos.426, 427, 428 and I.A.No.539 in I.A.No.426 in I.A.No.69 in W.P.(C)No.13381 of 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Directions and modification of court's order and office report)

AND

303

W.P.(C)No.13381 of 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Letter dated 1.10.2015 from Hon'ble Mr. Justice Kurian Joseph)

Date : 22/08/2016 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)	Petitioner-in-person
For Applicant(s) (I.A.No.460, 517, 518,532,563)	Mr. M.R. Shamsad,Adv. Mr. Rajat Singh,Adv. Mr. Vaibhav Yadav,Adv. Mr. Aditya Samaddar,Adv. Mr. Abhishek Choudhary,Adv.
(I.A.No.531, I.A.No.565,	Ms. V. Mohana,Sr.Adv. Ms. Shikha Kumar,Adv. Mr. M.K. Maroria,Adv. Mr. K. Karhail,Adv. Mr. Raj Bahadur Singh,Adv. Mr. S.N. Terdal,Adv.
(I.A. 555-557,562, 567-568)	Mr. S. Wasim A. Qadri,Adv. Mr. Jubair Ahmad Khan,Adv. Mr. Zaid Ali,Adv. Mr. Tamim Qadri,Adv. Mr. Saurabh Chopra,Adv. Mr. L.R. Singh,Adv.
(I.A.No.564)	Ms. Savitri Pandey,Adv. Dr.(Mrs.) Vipin Gupta,Adv.
(I.A.No.426)	Mr. Kamendra Mishra,Adv.
(I.A.No.427)	Mr. Ajay K. Agrawal,Adv.
(I.A.No.428)	Mr. Ajay K. Agrawal,Adv.
(I.A.No.539)	Mr. A.D.N. Rao,Adv. Mr. Annam Venkatesh,Adv. Mr. Sudipto Sircar,Adv. Mr. Abhinav Goyal,Adv. Mr. Rahul Mishra,Adv.
For Respondent(s)	Mr. Maninder Singh,ASG Mr. R. Balasubramanian,Adv. Mr. Nalin Kohli,Adv. Ms. Kiran Bhardwaj,Adv. Mr. Amarjeet Singh,Adv. Mr. Prabhas Bajaj,Adv. Mr. Ankit Roy,Adv.

Mr. Akshay Amritanshu, Adv.
Ms. Ananya Mishra, Adv.
Mr. M.K. Maroria, Adv.
Mr. G.S. Makker, Adv.

Mr. A.K. Panda, Sr. Adv.
Mr. Wasim A. Quadri, Adv.
Ms. Reena Pandey, Adv.

(CPCB)

Mr. Vijay Panjwani, Adv.

Mr. A.D. N. Rao, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Sudipto Sircar, Adv.
Mr. Abhinav Goyal, Adv.
Mr. Rahul Mishra, Adv.

Ms. Rachna Joshi Issar, Adv.
Ms. Vandana Mishra, Adv.

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

301

I.A.No.460 of 2006 :

Heard.

Additional affidavits and quarterly status reports on behalf of the State of Uttar Pradesh have been filed indicating the progress made in regard to the plantation work undertaken pursuant to the orders of this Court passed from time to time. Along with the affidavits are placed copies of the reports submitted by the officials of the State Legal Services Authority who appear to have verified the plantation work and reported the mortality rate in each district where such plantation has been undertaken.

Mr. M.R. Shamshad, learned counsel for the State of Uttar Pradesh, submits that the mortality has ranged between "0" and "37" per cent and that the State has already taken steps for

re-plantation in areas where the earlier plantation has dried up. This part is also, according to learned counsel, being verified by the State Legal Services Authority. In that view, therefore, we accept the reports and direct that a further quarterly status report shall be filed by November 2016.

Coming to the prayer made in this application (I.A.No.460 of 2006), the Public Works Department of the State of Uttar Pradesh has sought felling of a total 2332 trees growing over four different stretches of road between Kheria Airport Road and Eastern Gate of Taj Mahal. CEC has examined the said prayer and recommended felling of only 919 trees out of the total of 2332 trees. The trees which CEC has recommended for felling have been set out at para "22" of its report. CEC has reported that the cutting of the aforementioned number of trees is in public interest as no viable alternative is feasible. It is also reported that the State Level Environment Impact Assessment Authority has accorded the environmental clearance to the project and that even the Taj Trapezium Zone Pollution (Prevention and Control) Authority has accorded "N.O.C." for the proposed road widening project. In principle, approval under the Forest Conservation Act, 1980 for the diversion of the forest land involved in the project has also been issued by the Ministry of Environment and Forest. The CEC has recommended the cutting of trees subject to the following conditions:

- "(i) For non-forest use of the forest land formal approval under the Forest (Conservation) Act, 1980 will be obtained;
- (ii) the Net Present Value (NPV) for the forest land diverted will be deposited in the Compensatory Afforestation Fund;
- (iii) for felling of trees on non-forest land the requisite permission under the U.P. Protection of Trees Act, 1976 will be obtained;
- (iv) plantation of 7000 trees will be undertaken at the project cost;
- (v) wherever technically feasible the trees, instead of felling, will be translocated; and
- (vi) the remedial and preventive measures recommended by the Forest Advisory Committee, except regarding felling of trees of girth above 90 cm., will be strictly followed."

Having heard learned counsel for the parties, we see no reason to decline the prayer for felling of 919 trees, referred to in the report submitted by CEC, on the conditions mentioned above.

I.A.No.460 of 2006 is accordingly allowed and disposed of.

Learned counsel for the State of Uttar Pradesh submits that although an area had been earlier earmarked for compensatory afforestation work in compliance with the conditions recommended by CEC yet on account of saturation of the said area, by plantation already carried out therein, the said area is no longer available. He submits that the State

Government shall identify, under intimation to CEC and the State Legal Services Authority, a suitable alternative area for compensatory plantation of 7000 trees in terms of the recommendations made by CEC. We permit the applicant-State of Uttar Pradesh to do the needful expeditiously but not later than three months from today.

I.As.No.517-518 :

Additional documents, if any, be filed within four weeks from today.

I.As.No.517-518, 532, and 563 are allowed and disposed of.

I.As, No.531, 567-568, 564, 565 :

Central Empowered Committee is requested to examine the prayers made in the applications and submit its recommendation to this Court within four weeks from today.

I.As.No.555-557 :

Mr. S. Wasim S. Qadri, learned counsel for the applicant-U.P. State Bridge Corporation Ltd., submits that he will file a scheme regarding compensatory afforestation in lieu of 46 trees that the applicant needs to fell for completion of its project. Post after needful is done.

I.A No.562 :

Mr. S. Wasim S. Qadri, learned counsel for the applicant-Dedicated Freight Corridor Corporation of India Ltd.,

submits that he will file a scheme regarding compensatory afforestation in lieu of 493 trees that the applicant needs to fell for completion of its project. Post after needful is done.

302

Heard.

I.As.No.426, 427, 428 and I.A.No.539:

Mr. M.C. Mehta, learned counsel who appears in-person, prays for and is granted two weeks' time to file his objections to these applications.

303

Heard.

Compliance affidavit filed on behalf of Agra Development Authority inter alia points out that tenders were invited for the second time on 5th June, 2016 in response to which four tenders were received but only two, out of those who responded, were found to be qualified. The affidavit states that the price bid of the tender is at present being evaluated for approval by the competent authority and that the work of establishment of additional electric klins (Bhatti) in the Electric Crematorium is likely to be completed within a period of four months. The affidavit further states that the development and beautification work has also been planned at a

cost of Rs.3.88 crores for which also tenders are being invited.

Ms. Rachna Joshi Issar, learned counsel for the Agra Development Authority, prays for and is granted eight weeks' time to file a status report as to the progress made. The status report so filed shall place documentary evidence in roof of the progress made on the subject.

Affidavit of Dr. Dipankar Saha :

Mr. Vijay Panjwani, learned counsel for CPCB, seeks leave to withdraw the affidavit filed by Dr. Dipankar Saha, who is permitted to withdraw the same.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

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