

ITEM NO.301

COURT NO.1

SECTION PIL

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 13381 of 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

with

I.A. Nos. 544-546 of 2015, I.A. No. 547 of 2015, 548-549 of 2015
and 553-554 of 2015

Date : 14/12/2015 These petitions 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 Respondent(s) Mr. S.Wasim A.Qadri, Adv.
 Mr. R.Balasubramanian, Adv.
 Mr. Ajay Singh, Adv.
 Ms. Kiran Bhardwaj, Adv.
 Mr. Santosh Kumar, Adv.
 Mr. Nalin Kohli, Adv.
 Mr. B.V. Balramdas, Adv.
 Mr. L.R. Singh, Adv.

Mr. Vijay Bahadur Singh, AG, U.P.
 Ms. Suvira Lal, Adv.
 Mr. Shashank Singh, Adv.
 Mr. Aditya Samaddar, Adv.
 Mr. M.R. Shamshad, Adv.

Mr. A.K.Panda, Sr. Adv.
 Mr. Praveen Jain, Adv.
 Mr. T.S.Sidhu, Adv.
 Mr. Vivek Oriel, Adv.
 M/s. M.V. Kini & Associates, Adv.

Mr. A.D.N. Rao, Adv.

Mr. Gaurav Bhatia, AAG, UP.
Mr. Gaurav Srivastava, Adv.
Mr. Abhishek Chaudhary, Adv.

Dr. Sumant Bhardwaj, Adv.
Mr. Rakesh Kailash Sharma, Adv.
Mr. Vikas Negi, adv.
MS. Renuka Jumrani, Adv.
Mr. Avijit Bhushan, Adv.
Ms. Mridula Ray Bharadwaj, Adv.

Mr. Pradeep Misra, Adv.
Mr. Suraj Singh, Adv.

Agra Nagar Nigam Mr. Jitendra Mohan Sharma, Sr. Adv.
 Mr. Ajit Sharma, Adv.

Mr. Vijay Panjwani, Adv.

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

I.A. Nos. 544-546 of 2015:

In terms of our Order dated 16.11.2015, the Empowered Committee has examined the prayer for permission to fell 950 trees in connection with the proposed development work to be undertaken by the Station Headquarters, Mathura. While the Committee has recorded a finding that there is no alternative to the felling of trees and that the proposed project is of national interest, it has also required the applicant to prepare a detailed scheme for compensatory plantation of 9500 trees to be undertaken by the applicant.

Mr. S.W.A.Qadri, learned counsel for the applicant submits that given two weeks' time, the applicant shall file a detailed scheme for compensatory plantation in compliance with the conditions stipulated by the Empowered Committee. He is free to do so. List these applications along with the identification of land

where plantation work will be carried out.

Post after the needful is done.

I.A. Nos. 547 of 2015:

Mr. A.D.N.Rao, Adv. seeks two weeks' time to respond to I.A. No. 547 of 2015. The applicant shall in the meantime supply a copy of the detailed project report to Mr. Rao, if not already served.

Post 29.01.2016.

I.A. Nos. 548-549 of 2015:

The Empowered Committee was requested to examine and to make its recommendations regarding the proposed felling of 281 trees in connection with the construction of Agra Lucknow Access Controlled Expressway and Inner Ring Road Agra. It has upon examination of the matter submitted a report in which it has stated as under:

"UPEIDA has submitted a plan for tree plantation in lieu of 281 trees required to be felled. As per this Plan the total number of trees to be planted is 2810 i.e. ten times the number of trees required to be felled. The UPEIDA has for this purpose identified and earmarked 6.20 hectares of land at the junction of Agra-Lucknow Express and Inner ring Road Agra and where they propose to plant 2810 trees on 4.50 hectares of land at the rate of 625 trees per hectare. The proposed indigneous species of trees to be planted include pilkhan, neem, semal, sheesham. Mahua, safed sirus, kariji, amaltas, bauhinia, kachnar, jarul and ashok.

The contractor executing the project is as per the agreement required to maintain these plantations for the next five years.

Since out of 281 trees which are required to be felled 215 trees are on private land and 66 trees are on Government non-forest land the felling of 281 trees will require permission of this Hon'ble Court and approval of the competent authority under the Uttar Pradesh Protection of Trees (Amendment) Act, 2001."

The Committee has on the above basis recommended felling of 281 trees from the private lands (215 trees) and 66 trees on non-forest government lands subject to the grant of permission under the U.P. Protection of Trees (Amendment) Act, 2001 and also the plantation of 2810 trees in lieu of 281 trees required to be felled.

Mr. Vijay Bahadur Singh, learned Advocate General appearing for the State of U.P. submits that compensatory plantation work can be carried out in two areas measuring 62000 sq. meter fully described in the map enclosed with the report submitted by the Committee. He submits that the applicant would take all steps necessary to ensure that the requisite number of trees are planted and properly taken care of so that the mortality rate is low.

In the circumstances, therefore, we permit the applicant to fell 281 trees subject to the conditions stipulated in the recommendations made by the empowered Committee and referred hereinabove. We direct that the compensatory plantation work shall be taken in the right earnest and compliance report submitted to this Court expeditiously but not later than three months from

today.

Letter dated 01.10.2015 from Hon'ble Kurian Joseph, J.

We had by our Order dated 16.11.2015 granted time to the learned Advocate General for the State of U.P. to take instructions from Agra Nagar Nigam and Agra Development Authority as regards the shifting of cremation ground located in the neighbourhood of Taj Mahal at Agra. We had by the same order permitted the CPCB to examine the proposal for shifting of the cremation ground and, if necessary, inspect the site conditions and to submit their suggestions and proposals to this Court.

Mr. Vijay Panjwani, learned counsel appearing for the CPCB has filed a report containing certain recommendations. Learned Advocate General has also in the course of the hearing passed on to us an unsigned note prepared by Mr. Pradip Bhatnagar Commissioner, Agra Division. Mr. Bhatnagar, Commissioner is personally present in the court also.

From a reading of the report submitted by Mr. Panjwani, we find that the recommendations have not been examined by the experts of the CPCB nor has any one from the Board signed the report. Mr. Panjwani fairly conceded that the report filed by him is based on his own opinion and the Board has not made any scientific study or any meaningful contribution to the recommendations contained in the same. We expected the Board to examine the matter from the point of view of what alternatives are available having regard to the modern technology and scientific advances in terms of the different alternations for cremation of dead bodies. We would, therefore,

direct the CPCB to examine the matter afresh and submit its proposals to this Court as already directed preferably within four weeks from today.

In the course of his submissions, learned Advocate General pointed out that while an electric crematorium in the neighbourhood of the cremation ground is also being used and a large number of bodies are being cremated in the same, the majority of such cremations are being undertaken in the conventional way with the help of fire wood. It is submitted that the Agra Development Authority and the Nagar Nigam are willing to provide a more effective and less polluting method for cremation by switching over to what is called "Green Cremation System". He filed before us a pamphlet which records the advantages of such a system over the conventional method of cremation. He however fairly conceded that apart from the chimney which disperses the fumes and smoke from the pyre over a larger area and the use of trays to reduce the requirement of wood used for cremation, there is nothing much that would reduce the emission of carbon from the process of cremation. He was however agreeable to the authorities examining whether it is possible by use of modern technology to reduce the emission of carbon even while using the Green Cremation System proposed by him. He submitted that the authorities would explore the possibility of using any advance technology for reducing if not totally eliminating the carbon emission.

It was also submitted by the Advocate General that the electric crematorium is available for use on payments, though it was not clear what is the extent of charge for each body cremated

using that method. In fairness to the learned Advocate General, we must mention that he was agreeable to the respondents waiving the cremation charges, if any, from those using the electric crematorium in the interest of reducing the threat to the monuments from on account of emissions from the traditional method of cremation. We are also of the view that such a step would induce the people to go for electric cremation rather than traditional method where fire wood is used which is both expensive and polluting. We accordingly direct that charges, if any, collected for use of crematorium shall be withdrawn w.e.f. 01.01.2016 and a proper notice put up at a prominent place near the cremation ground and electric crematorium apart from making the waiver public by use of whatever method of publicity is available to the Government.

We are also of the view that while shifting the cremation ground may be an option that can be deferred for the present, the development of the cremation ground and its beautification including a provision for disposal of solid waste provision for clean drinking water, shelter for the mourners accompany the dead and such other facilities as are necessary can be provided. The Advocate General is agreeable to the issue being examined at an appropriate level by the Authorities with the help of an architect who would draw a suitable plan for development of the area taking care of all the aspects mentioned above. The proposed development would also necessarily include the addition to the capacity of the electric crematorium and improvement of the technology in use. All told we expect the Authorities to present a comprehensive plan for improvement in crematorium/cremation area including the use of

proposed Green Cremation System and use of technology to reduce the emission of carbon. Needful shall be done by the authorities within six weeks. An affidavit setting out the steps taken along with the proposed larger plan for development of the area shall be filed before this Court within six weeks.

Post on 28.03.2016.

I.A. Nos. 553-554 of 2015:

The Empowered Committee was asked to examine the prayer for felling of 3673 trees and make its recommendations. It has accordingly examined the matter and submitted a report in which it is inter alia stated that the National High Way Development Project in question is in public interest and there does not appear to be any viable alternative except to use 47.10 km of the NH 123 falling within the Taj Trapezium Zone (TTZ) which also fall within 10 kilometers from the Keoladeo National Park, Bharatpur for purpose of widening of the project. In that view, the Committee has recommended grant of permission for felling of 3673 trees subject to conditions mentioned as i), (ii) and (iii) at page 5 of the report.

Having heard learned counsel for the parties, we see no reason to decline the prayer for felling of the trees in question subject to the conditions mentioned above. We accordingly allow this application and permit the felling of trees subject to the conditions stipulated by the Committee. The applicant shall however file an affidavit regarding compliance with the conditions including plantation of 3673 trees by way of compensatory

afforestation. The compensatory afforestation shall be carried out along either side of the road. Learned counsel for the applicant submits that they will have no difficulty and are actually agreeable to such plantation work being carried out as indicated by the Committee. I.As. No. 553-554 of 2015 with the above observations are disposed off.

(Shashi Sareen)
AR-cum-PS

(Veena Khera)
Court Master