

ITEM NO.301

COURT NO.2

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

I.A.NOS.460, 470, 478-481,486,517-518 & 527 in Writ Petition(s)
(Civil) No(s). 13381/1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(for directions, permission to file rejoinder affidavit and exemption from filing O.T. and seeking permission for cutting/felling of trees and office report)

Date : 09/03/2015 These IAs were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)

Mr. M.C. Mehta -petitioner-in-person

Mr. P.S. Narashima, Sr. Adv. (A.C.)

For Respondent(s)

UOI

Mr. Maninder Singh, ASG
Mr. R. Balasubramaniam, Adv.
Ms. Kiran Bhardwaj, Adv.
Mr. B.V. Balramdas, Adv.

MEOF

Mr. Maninder Singh, ASG
Ms. Vimla Sinha, Adv.
Mr. S.A. Haseeb, Adv.
Mr. S.N. Terdal, Adv.

Ms. Sunita Sharma, Adv.
Mr. W.A. Wasim Qadri, Adv. for
Mr. D.S. Mahra, Adv.

U.P.

Mr. Gaurav Bhatia, AAG
Mr. Abhishek Choudhary, Adv.
Mr. Gaurav Srivastava, Adv.

CEC

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

CPCB

Mr. Vijay Panjwani, Adv.

State of Haryana

Mr. Rakesh K. Mudgal, Adv.

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

By our order dated 4.8.2014, we had directed the State Government to file a status report, inter alia, indicating:

(i) total number of orders which have been passed since 1996 permitting felling of trees in the TTZ with particulars of the same;

(ii) the total number of trees which are required to be planted by the State Government agencies towards compulsory afforestation effort in terms of the said orders;

(iii) total number of trees that have been planted so far pursuant to the orders and the areas/locations where such plantation work has been carried out. The status report would take care to properly identify the areas where plantation has been done so that the same can be verified by appointing a Local Commissioner for the purpose, if considered necessary.

We had also called upon the State Government to indicate the time frame within which the deficiencies, if any, in plantation work shall be made by the authorities concerned and the areas identified or reserved for such

plantation work.

2. An affidavit dated 28.10.2014 was filed pursuant to the said directions in which the State Government has given the particulars of orders passed by this Court from time to time, the number of saplings planted in compliance with the said order as also the number of trees felled pursuant to the directions issued by this Court. By a subsequent order dated 26.11.2014, we had requested the Principal Secretary of Central Empowerment Committee and Mr. S.K. Patnaik, I.F.S. to verify the claims made by the State Government in the compliance affidavit filed before us and also to report whether any plantation work had indeed taken place at the locations indicated in the affidavit.

3. The two Members' Committee has, accordingly, undertaken an exercise to verify the facts and submitted a report, from a reading whereof, it appears that not only have there been gross deficiencies in compliance with the orders passed by this Court from time to time but also that the claims made in the compliance affidavit have been found to be factually incorrect on

verification. The report further states that the authorities are violating the Forest (Conservation) Act, 1980 inasmuch as they have constructed a drainage near Kusth Ashram by apparently using forest land for such construction and also for widening of the pavement referred to in Annexure R-3 with the Report. A number of trees have also been exposed/damaged by the ongoing digging process according to the report.

4. When the matter came up for hearing today, Mr. Gaurav Bhatia, learned Additional Advocate General for the State of U.P. drew our attention to the additional affidavit dated 27.2.2015 in which two alleged inadvertent errors, one relating to number of trees planted and the other relating to non-felling of certain trees are sought to be corrected.

5. Mr. A.D.N. Rao, learned counsel counsel for Central Empowerment Committee and Mr. Maninder Singh, learned Additional Solicitor General submitted that the additional affidavit attempting to explain the discrepancies was only an after thought and had become necessary for the State Government only to wriggle out of

the assertions made by it wherein the verification conducted by the two Members' Committee clearly belied.

6. Mr. Gaurav Bhatia, however, sought some time to file a reply to the status report submitted by the two Members' Committee and also to place on record the following information:

(i) The total extent of area reserved/identified by the State Government for compensatory afforestation as against 790.93 hectares of land (as per the CEC version) required to be set apart for such compensatory afforestation in terms of the orders passed by the Ministry of Environment & Forests and those passed by this Court and the exact location of the said areas.

(ii) The road map for utilization of the reserved area for the purpose of compensatory afforestation.

(iii) The time frame within which the deficiencies in the plantation work will be removed by the State Government and the

extent of such discrepancies and deficiencies as at present.

7. From what has transpired over the past few hearings in this case, we are not very happy with the way the State Government has dealt with the question of compensatory afforestation and compliance of the orders passed by this Court from time to time. There is a huge gap between the number of saplings required to be planted in terms of the directions of this Court and the actual plantation work undertaken by the State Government. The only explanation offered for that discrepancy and the use of the State Government is the alleged non-release of the funds required for such afforestation. We, however, see no reason as to why the State Government could not have moved this Court for a direction if that was indeed the real reason behind its inability to comply with the directions of this Court. We are also not very happy with the manner in which the officers of the State Government have filed affidavits in a cavalier fashion

making assertions and submissions which are factually incorrect. We notice from the report submitted by the State authorities that crores of rupees have been so far spent on afforestation. How much of that money has actually been utilized for undertaking the plantation work is again an area that has bothered us? Seeing the track record of the forest department and the authorities concerned, we were inclined to direct a proper inquiry into the matter not only to identify those responsible for non-compliance with the directions of this Court but also to verify whether public funds have been mis-utilized or mis-appropriated in the garb of afforestation work. During the hearing, we had made it clear to Mr. Gaurav Bhatia that we would not hesitate in directing a CBI inquiry into the entire episode to bring the truth to light. Mr. Bhatia, however, fervently argued that the State authorities are fully committed to carrying out the orders of this Court and the afforestation work in terms thereof. He further argued

that the State authorities would identify the extent of land required for afforestation if not already identified. He further fairly conceded that the State Government has as against 790.93 hectares of land, identified just about 73.97 hectares of land which again leaves a large deficit. He submitted that not only would the remaining extent of land be identified but a road map presented to this Court for utilisation of the additional area for the purpose of compensatory afforestation.

8. In the circumstances, therefore, and before we pass any further orders on the subject, we deem it fit to give one more opportunity to the State Government to come clean on all these aspects and to file not only the requisite particulars as indicated earlier but also its future plan/road map for implementing the directions of this Court. We make it clear that we may not be inclined to give any further time for this purpose as the matter has been languishing before us for a long time and calls

for immediate remedial action.

9. Mr. Gaurav Bhatia may do the needful in terms of orders of this Court within four weeks from today with a copy to the counsel opposite who will have two weeks thereafter to file additional affidavit/response which they wish to file.

10. Mr. Gaurav Bhatia may also take instructions in regard to the alleged encroachment in the forest area as stated in the status report filed by the two Members Committee and file an affidavit in that regard.

11. Post these I.As. on 27.4.2015 at 2 P.M.

12. Since Mr. M.C. Mehta - petitioner-in-person is now regularly assisting us, we allow Mr. P.S. Narasimha, learned Amicus Curiae to retire. We express our gratitude for the assistance Mr. Narasimha has rendered to us.

I.A. No. 527:

Issue notice.

We request Central Empowerment Committee to examine

and submit a report before the next date of hearing.

I.A. Nos. 528-530 of 2015:

Taken on board.

We request Central Empowerment Committee to examine and submit a report before the next date of hearing.

(PARDEEP KUMAR)
AR-cum-PS

(SHASHI SAREEN)
COURT MASTER