

O R D E R

This application filed by Superintendent Engineer, Public Works Department, Agra Circle prays for permission to fell and remove 2332 trees growing in Taj Trapezium Zone (TTZ) for construction of four different roads referred to in the prayer part of the application. By an order dated 25.11.2013 the matter was referred to the Central Empowered Committee for its report and recommendation. In its report dated 01.05.2014 the CEC has recommended felling of 919 trees only out of a total of 2332 for which removal permission was sought subject to certain conditions specified in the said report. One of the conditions specified is that the forest department plants 7000 trees at its cost to compensate for the removal of the trees felled in connection with the projects.

When the matter came up today for hearing before us Mr. Mehta, the petitioner who appears in person submitted that several orders have been passed by this Court in the past in several separate applications filed before the Court seeking permission to fell and remove

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a very large number of trees in connection with the construction of different projects underway in the TTZ. One of the conditions which is invariably imposed by this Court relates to compensatory afforestation at the expense of the project proponent. The orders passed by this Court specify the number of trees to be planted in lieu of those sought to be removed. Mr. Mehta argued that although under the orders passed by this Court such plantation work is compulsory, the State has neither filed any report nor is there anything on record to suggest that directions regarding plantation of trees have been complied with by it. Our attention was drawn to a Statement presented before us in which directions

regarding plantation of nearly 50000 trees appear to have been issued by us under different orders passed in different I.As filed in relation to the works project in the TTZ. It includes an order dated 07.05.2014 passed in I.A.No. 499-500 of 2012 where by a direction for plantation of 23960 trees was issued by this Court while permitting removal of 3847 trees in the TTZ. So also by an order dated 19.11.2012 passed in I.A. No. 496-498 of 2012 the direction issued required plantation of 25,000 trees in lieu of 4314 trees allowed to be felled in the TTZ. Similar orders passed in similar other applications moved from time to time have required

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the State Government to undertake compensatory afforestation at the cost of the project proponent. In

all, therefore, the directions so far issued by this Court may have required the State Government to plant over 1,00,000 trees in the TTZ. The plantation work was ordered by this Court is not however evidenced by any report or verification at the ground level. It was

submitted by Mr. Mehta that before any further permissions are granted to the State Government or any other project proponent in relation to TTZ the State Government should be directed to submit a comprehensive report as to the extent of compensatory afforestation undertaken by it pursuant to the orders passed by this Court with details as to the the areas in which such work has been undertaken. Once the report is submitted,

the plantation work undertaken could be got verified by appointing a Local Commissioner for that purpose. It

was submitted that unless the previous directions of this Court relating to compensatory afforestation are complied with by all concerned, no further permission should be granted as the same are not only in breach of the orders passed by the this Court but non-compliance

of such directions would justify denial of any further permission to the State Government especially when such non-compliance defeats the very purpose underlying

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these proceedings.

On behalf of the State of U.P. Mr. Gaurav Bhatia, learned AAG submitted that according to his instructions and the Officers who are present in person, afforestation work has been undertaken pursuant to the directions of this Court and that the State Government is ready to file a status report as to the expenditure incurred on such work, the extent of the work done and the current status of the plantation identifying at the same time the areas in which such plantation has been undertaken. He urged that while the verification part could go on, this Court may consider granting permission to the applicant for felling the required number of trees in the present case as the projects, where such felling is required were getting delayed causing prejudice to the public at large.

There is no manner of doubt that permissions wherever granted by this Court have required the State authorities to undertake compensatory afforestation. As a matter of fact the orders passed by this Court even specify the number of trees to be planted. There is also no dispute that apart from the cases to which we have made reference hereinabove there are a number of other similar orders passed by this Court from time to time in relation to TTZ permitting felling of trees

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subject to plantation of specified number of trees in areas to be identified for the purpose. There is also no doubt that the purpose of compulsory afforestation is to keep the TTZ environmentally healthy and green to avoid any adverse effect on the Taj Mahal itself which is recognised as one of the wonders of the World.

We

are also conscious of the fact that the plantation work is to be undertaken by different agencies in different areas that requires considerable ground work and attention.

In the totality of these circumstances we are inclined to defer orders on the present application seeking permission to fell trees in connection with the projects referred to in the same till such time the State Government file a proper status report indicating the following:

1. total number of orders which have been passed since 1996 permitting felling of trees in the TTZ with particulars of the same.
2. the total number of trees which are required to be planted by the State Government State Government agencies towards compulsory afforestation effort in terms of the said orders.
3. 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

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done so that the same can be verified by appointing a Local Commissioner for the purpose, if considered necessary.

4. In case plantation work has not be carried out in terms of the directions of this Court issued in any particular case the reasons for non compliance shall be indicated and the persons responsible for no-compliance identified.

5. The State Government shall 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.

Needful shall be done by Mr. Gaurav Bhatia within four weeks.

The Registrar (Judicial) shall in the meantime put up a comprehensive note indicating the particulars of I.As that have been filed seeking permission to fell the trees, number of trees allowed to be felled and number of trees directed to be planted by way of compulsory or compensatory afforestation effort.

List along with I.As 470,478,479,480,481 after four weeks.

(Shashi Sareen)
Court Master

(Veena Khera)
Court Master