

ITEM NO.44

Court No.7

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. NO. 508 IN W.P.(C) NO. 13381 of 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For permission to fell out/cut the trees in Taz Trapezium Zone (TTZ) and office report)

Date: 26/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s)

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

For Respondent:

Mr. S.W.A.Qadri, Adv.

Mr. Zaid Ali, Adv.

Mr. Tamim Qadri, Adv.

Mr. L.R.Singh, Adv.

Mr. M.R.Shamshad, adv.

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

MS. Vimla Sinha, Adv.

Mr. Abhishek Choudhary, Adv.

Mr.Vijay Panjwani, Adv.

UPON hearing counsel the Court made the following

O R D E R

The applicant U.P. State Bridge Corporation Ltd. is engaged in the work of erection and construction of Bridges, Flyovers and Over-bridges on the railway intersections and congested road junctions. These over bridges/under-bridges on the railway crossings are sanctioned on the basis of census of Rail Road Traffic Units (TVU) and in consultation with the respective State Governments on the basis of a formula evolved for that purpose. The Corporation it appears was selected for the construction of over-bridges in the Agra District at two places i.e. at Railway Crossing Number 78 village Etmadpur and Railway Crossing Number 81 near village Bhains on Tundla Ghaziabad Rail Section on the basis of a report of Chief Engineer (Rural Roads) and the report of the General Manager of the applicant-Corporation. Sanction for construction was intimated to the Chief Engineer PWD as early as in October, 2011.

In the course of the execution of the works aforementioned, it was found that some trees that were obstructing the construction works were required to be removed. The Deputy Project Manager of the applicant accordingly addressed a letter dated 20.06.2012 requesting the Forest Department to remove the trees by taking resort to the procedure prescribed by law. The Regional

Director, Social Forestry Division, Agra was also approached who examined the matter and in terms of letters dated 20.07.2012 and 25.07.2012 asked the Ranger Etmadpur for preparation of an Inspection report so that the work of cutting of trees could be carried out. The Corporation's request in the present application now is to permit it to fell/cut 5 trees for construction of Railway Crossing No. 81 and 22 trees for Railway Crossing No. 78 which fall

within Taj Trapezium Zone so that the construction of the over bridges in question may be completed.

Mr. S.W.A.Qadri, learned counsel for the applicant Corporation submits that the Corporation has already completed a substantial part of the construction work assigned to it but the entire project is held up on account of non removal of the trees which need to be removed for any further work on the said projects. He has drawn our attention to a letter dated 23.11.2012 addressed by the Director, Social Forestry Division Agra stating that felling of the trees can be done in the TTZ zone only with the permission of this Court. He submits that keeping in view the importance of the project and the fact that crores of rupees have already been spent on the construction, the permission prayed for may be granted in public interest.

Mr. P.S.Narasimha, Learned Amicus Curiae fairly stated that the project in question is of national importance and keeping in view the alignment of the bridges, there is no option but to remove the trees that are obstructing the construction work. He urged that the Corporation could in lieu of the trees that are being removed be asked to associate itself with the U.P. State Forestry Department for compulsory afforestation and if technically possible for relocation of such of the trees as may be amenable to such relocation.

In the circumstances, therefore, we permit removal of 27 trees referred to in the application filed by the

applicant-Corporation. We make it clear that the question whether relocation of any of the trees is possible shall rest with Chief of State Social Forestry Department. The decision so taken shall be final and conclusive. We further direct that the applicant Corporation shall plant such number of trees being not less than 270 (Ten times the number being removed) as a part of the compulsory afforestation in consultation with the Social Forestry Department and at places identified by the latter. We make it clear that the entire cost involved in the cutting of trees in question and plantation of new trees shall be borne by the applicant Corporation.

The application is with the above observation and direction allowed and disposed of.

|(Shashi Sareen)
|Court Master

| |(Veena Khara)
| |Court Master

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