

ITEM NO.8

COURT NO.7

SECTION PIL-W

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(s). 13381/1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: TAJ TRAPEZIUM ZONE

(1) IA NO. 108684/2023 (APPLN. FOR DIRECTIONS ON BEHALF OF GOVT. OF U.P.)

(2) IA NO. 43637/2023 (APPLN. FOR DIRECTIONS ON BEHALF OF BACHCHOO SINGH)

(3) IA NOS. 54891 AND 54892/2022 (APPLNS. FOR PERMISSION AND EXEMPTION FROM FILING O.T. ON B/O INDIAN OIL CORPN. LTD.)

(4) IA NO. 160205/2023 (APPLN. FOR DIRECTION ON BEHALF OF TAJ WESTERN GATE MARKET ASSN.)

"ONLY" IN W.P. (C) NO. 13381/1984 ARE LISTED.

"ONLY" NAMES OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST.

PETITIONER-IN-PERSON

MR. A.D.N. RAO, SR. ADVOCATE (A.C.)

MR. AMRISH KUMAR,

MR. M.K. MARORIA,

MR. G.S. MAKKER,

MR. VIJAY PANJWANI,

MR. SUDEEP KUMAR,

MS. SAROJ TRIPATHI,

MR. ANURAG KISHORE

MR. M.C. DHINGRA, ADVOCATES

(IA No.108684/2023 - FOR DIRECTIONS, IA NO.43637/2023 - FOR DIRECTIONS, IA NOS.54891 AND 54892/2022 - FOR PERMISSION AND EXEMPTION FROM FILING O.T., IA NO.160205/2023 - FOR DIRECTIONS, IA NO.53703/2023 - FOR PERMISSION AND IA NOS.158707 AND 158709/2023 - FOR DIRECTIONS AND EXEMPTION FROM FILING O.T.)

Date : 30-01-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN**

Mr. A.D.N. Rao, Sr. Adv. (A.C.)

For parties:

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Applicant-in-person, AOR

Mr. Atishi Dipankar, AOR

**Mr. Ankur Prakash, AOR
Ms. Priyanka Singh, Adv.**

Mr. Vijay Panjwani, AOR

Mr. M.C. Dhingra, AOR

**Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. S.S. Rebello, Adv.
Ms. Kannu Agarwal, Adv.
Ms. Archana Pathak Dave, Adv.
Ms. Suhashini Sen, Adv.
Mr. Satvik Mishra, Adv.**

**Ms. Garima Prasad, Sr. A.A.G.
Mr. Sudeep Kumar, AOR**

**Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.
Mr. Manoj Kumar Sharma, Adv.
Mr. Suraj Singh, Adv.**

**Mr. P. Parmeswaran, AOR
Mr. P. Narasimhan, AOR
M/S. Manoj Swarup And Co., AOR**

**Dr. Sumant Bharadwaj, Adv.
Ms. Mridula Ray Bharadwaj, AOR
Mr. Vedant Bharadwaj, Adv.
Dr. Manoj Kumar, Adv.**

Mr. Badri Prasad Singh, AOR

M/S. Lawyer S Knit & Co, AOR

Mr. M. R. Shamsad, AOR

Mr. Abhimanyu Mahajan, Adv.

Mr. Mayank Joshi, Adv.
Mr. E.C. Agrawala, AOR

Mr. Lakshmi Raman Singh, AOR

Mr. Nikhil Goel, AOR

Mr. Ajit Sharma, AOR

Mr. V.K. Singh, Sr. Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Mr. Sandeep Singh Dhingra, Adv.
Mr. Amit Kumar Chawla, Adv.
Ms. Niharika Diwedi, Adv.
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Mr. P.K. Manohar, AOR
Mrs. Rachna Gupta, AOR
Mr. Abhishek Chaudhary, AOR

Mr. Anurag Kishore, AOR
Ms. Ritika Srivastava, Adv.
Ms. Somna Dhowan, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Nischal Kumar Neeraj, AOR

Mr. Jogya Scaria, AOR

Mr. Amrish Kumar, AOR

Mr. R. Bala, Sr. Adv.
Mrs. Ruchi Kohli, Adv.
Mr. Adit Khorana, Adv.

Mr. T.S. Sabarish, Adv.
Mr. Shivika Mehra, Adv.
Mr. Sarthak Karol, Adv.

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Mr. Gaurav Agarwal, Sr. Adv.

Mr. Saksham Maheshwari, AOR

Mr. Arvind Kumar Sharma, AOR

Mr. Sanjeev Kumar Choudhary, Adv.

Mr. Shradha Choudhary, Adv.

Mr. Seshatalpa Sai Bandaru, AOR

Mr. Shantanu Krishna, AOR

Mr. Abhijit Banerjee, AOR

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Mr. N.L. Ganapathi, AOR

Mr. Rakesh Mudgal, AAG

Mr. Dinesh Mudgal, Adv.

Dr. Monika Gusain, AOR

Mr. Shaik Sohil Akthar, Adv.

Ms. Bina Madhavan, AOR

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

IA NO. 108684/2023

This is an application for directions filed by the State of Uttar Pradesh.

Heard the learned counsel appearing for the applicant/State of Uttar Pradesh and Mr. A.D.N. Rao, learned senior counsel, who is the *Amicus Curiae*.

A prayer is made for allowing felling of 3874 trees which are allegedly affected by the proposed construction of Agra-Jalesar-Etah Road.

We have perused the application very carefully. Even as of

today, it is not the case of the applicant/State that any land has been made available for compensatory afforestation. Unless the applicant comes out with a material that a land has been allotted in the close proximity of the existing trees, we cannot go into to the question, at this stage, whether compensatory afforestation will be sufficient and whether translocation is also required to be done in respect of some of the trees. In fact, in the Report No.2/2024 submitted by the Central Empowered Committee (CEC), a direction has been issued to the Divisional Forest Officer of Agra to examine whether it is possible to translocate some of the trees. In any case, compensatory afforestation has to be in the close proximity of the place where the existing trees are situated.

There is one more important aspect of the matter. Someone will have to do the exercise for ascertaining whether felling of so many trees is really required. We, therefore, direct the applicant/State to provide a sketch of the proposed alignment of the road by demarcating 3874 trees, subject matter of this application, on the sketch. We request the CEC to do the exercise of ascertaining whether without compromising on the alignment of the proposed road, it is possible to save few trees. For this purpose, site visit will be necessary. In the meanwhile, the applicant/State will also ensure that the Divisional Forest Officer gives a report regarding feasibility of translocation of some of the trees.

We grant time of one month to the CEC to do the exercise of ascertaining whether certain trees can be saved. In the meanwhile, we expect the Forest Department to come out with a response on the

issue of translocation of some of the trees.

The CEC will also examine whether alignment of the road has been approved by the National Highways Authority of India (NHAI).

The applicant/State will also place material on record to show where and how it proposes to do compensatory afforestation.

As Article 51A(g) of the Constitution of India mandates that it is the duty of every citizen to save trees, we reiterate that it is also the responsibility of the State to ensure that maximum number of trees are protected.

List the application on 12th March, 2024 on the top of the Board.

IA NO. 54891/2022

This is an application filed by the M/s. Indian Oil Corporation Ltd. seeking permission for felling of 70 trees as listed in Annexure P/6.

We direct the M/s. Indian Oil Corporation Ltd. to provide a sketch of the alignment of the proposed Railway line as set out in paragraph 26 of the application. The location of the trees proposed to be felled shall be demarcated on the sketch.

We request the CEC to examine all the aspects of the prayer made by the M/s. Indian Oil Corporation Ltd. in its application, including the necessity of felling 70 trees considering the alignment of the proposed Railway line. We grant time of one month to the CEC to complete the exercise and submit a report in that behalf.

List on 12th March, 2024.

IA NO. 160205/2023

This is an application for directions filed by the Taj Western Gate Market Association.

The grievance in this application is about the non-compliance with the order dated 17th January, 2023 passed by this Court in IA No.487/2009. Under the said order, the State Government along with the Agra Development Authority was directed to work out how rehabilitation can take place. The grievance is that the said order has not been complied with for a period of one year. We, therefore, direct both, the State of Uttar Pradesh and the Agra Development Authority, to file a counter affidavit within a period of four weeks from today. Rejoinder affidavit, if any, shall be filed within two weeks thereafter.

List on 12th March, 2024.

IA No. 53703/2023

This is an application for directions filed by M/s. Jawaharpur Vidyut Utpadan Nigam Limited.

The applicant is setting up two units of 660 MW coal based thermal power plant project. The effect of the project on Taj Mahal will have to be also considered either by the CEC or by any other expert agency as may be suggested by the CEC.

The learned counsel appearing for the applicant states that the applicant will submit a detailed plan about the manner in which the compensatory afforestation will be done. We permit the applicant to place the said plan on record along with an application and also provide copies thereof to the CEC. The CEC

will examine all the aspects, including the aspect of the effect of such power plant being constructed in the close vicinity of Taj Mahal.

If the CEC is of the view that assistance of an expert agency like NEERI is required for examining all the aspects of the project, it will be open for the CEC to appoint such agency. We grant time of two months to the CEC to complete the exercise.

List on 9th April, 2024 on the top of the Board.

IA No. 158707/2023

We direct the State of Uttar Pradesh to file a counter affidavit within a period of four weeks from today. Rejoinder affidavit, if any, shall be filed within two weeks thereafter.

List on 12th March, 2024.

IA Nos.22085/2024, 22089/2024 and 22091/2024*

Taken on Board.

List on 6th February, 2024 on the top of the Board.

IA No.116768/2018

Taken on Board.

List on 12th March, 2024.

IA No.171142/2019

Taken on Board.

List on 12th March, 2024.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWrit Petition(s)(Civil) No(s). 13381/1984

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Date : 30-01-2024 These matters were called on for hearing today.

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UPON hearing the counsel the Court made the following
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A prayer is made for allowing felling of 3874 trees which are allegedly affected by the proposed construction of Agra-Jalesar-Etah Road.

We have perused the application very carefully. Even as of today, it is not the case of the applicant/State that any land has been made available for compensatory afforestation. Unless the

applicant comes out with a material that a land has been allotted in the close proximity of the existing trees, we cannot go into to the question, at this stage, whether compensatory afforestation will be sufficient and whether translocation is also required to be done in respect of some of the trees. In fact, in the Report No.2/2024 submitted by the Central Empowered Committee (CEC), a direction has been issued to the Divisional Forest Officer of Agra to examine whether it is possible to translocate some of the trees. In any case, compensatory afforestation has to be in the close proximity of the place where the existing trees are situated.

There is one more important aspect of the matter. Someone will have to do the exercise for ascertaining whether felling of so many trees is really required. We, therefore, direct the applicant/State to provide a sketch of the proposed alignment of the road by demarcating 3874 trees, subject matter of this application, on the sketch. We request the CEC to do the exercise of ascertaining whether without compromising on the alignment of the proposed road, it is possible to save few trees. For this purpose, site visit will be necessary. In the meanwhile, the applicant/State will also ensure that the Divisional Forest Officer gives a report regarding feasibility of translocation of some of the trees.

We grant time of one month to the CEC to do the exercise of ascertaining whether certain trees can be saved. In the meanwhile, we expect the Forest Department to come out with a response on the issue of translocation of some of the trees.

The CEC will also examine whether alignment of the road has

been approved by the National Highways Authority of India (NHAI).

The applicant/State will also place material on record to show where and how it proposes to do compensatory afforestation.

As Article 51A(g) of the Constitution of India mandates that it is the duty of every citizen to save trees, we reiterate that it is also the responsibility of the State to ensure that maximum number of trees are protected.

List the application on 12th March, 2024 on the top of the Board.

IA NO. 54891/2022

This is an application filed by the M/s. Indian Oil Corporation Ltd. seeking permission for felling of 70 trees as listed in Annexure P/6.

We direct the M/s. Indian Oil Corporation Ltd. to provide a sketch of the alignment of the proposed Railway line as set out in paragraph 26 of the application. The location of the trees proposed to be felled shall be demarcated on the sketch.

We request the CEC to examine all the aspects of the prayer made by the M/s. Indian Oil Corporation Ltd. in its application, including the necessity of felling 70 trees considering the alignment of the proposed Railway line. We grant time of one month to the CEC to complete the exercise and submit a report in that behalf.

List on 12th March, 2024.

IA NO. 160205/2023

This is an application for directions filed by the Taj Western Gate Market Association.

The grievance in this application is about the non-compliance with the order dated 17th January, 2023 passed by this Court in IA No.487/2009. Under the said order, the State Government along with the Agra Development Authority was directed to work out how rehabilitation can take place. The grievance is that the said order has not been complied with for a period of one year. We, therefore, direct both, the State of Uttar Pradesh and the Agra Development Authority, to file a counter affidavit within a period of four weeks from today. Rejoinder affidavit, if any, shall be filed within two weeks thereafter.

List on 12th March, 2024.

IA No. 53703/2023

This is an application for directions filed by M/s. Jawaharpur Vidyut Utpadan Nigam Limited.

The applicant is setting up two units of 660 MW coal based thermal power plant project. The effect of the project on Taj Mahal will have to be also considered either by the CEC or by any other expert agency as may be suggested by the CEC.

The learned counsel appearing for the applicant states that the applicant will submit a detailed plan about the manner in which the compensatory afforestation will be done. We permit the applicant to place the said plan on record along with an application and also provide copies thereof to the CEC. The CEC

will examine all the aspects, including the aspect of the effect of such power plant being constructed in the close vicinity of Taj Mahal.

If the CEC is of the view that assistance of an expert agency like NEERI is required for examining all the aspects of the project, it will be open for the CEC to appoint such agency. We grant time of two months to the CEC to complete the exercise.

List on 9th April, 2024 on the top of the Board.

IA No. 158707/2023

We direct the State of Uttar Pradesh to file a counter affidavit within a period of four weeks from today. Rejoinder affidavit, if any, shall be filed within two weeks thereafter.

List on 12th March, 2024.

IA No.22085/2024

Taken on Board.

List on 6th February, 2024 on the top of the Board.

IA No.116768/2018

Taken on Board.

List on 12th March, 2024.

IA No.171142/2019

Taken on Board.

List on 12th March, 2024.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)