

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Misc. Application No. 43/2014

Misc. Application No. 43/2014

In

Original Application No.19/2013 (CZ)

Kishore Kodwani & Ors. V/s District Collector, Indore & Ors

**CORUM :** HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. P.S.RAO, EXPERT MEMBER

**PRESENT :**

**Applicant** : Shri Dinesh Rawat, Advocate  
**Respondent No. 1, 2 & 5** : Shri Sachin K.Verma, Advocate  
Shri Ayush Dev Bajpai, Advocate  
**Respondent No. 3** : Shri S.K. Verma, Advocate  
**Respondent No.4** : Shri Shivendu Joshi, Advocate &  
for Shri Purushaindra Kaurav, Advocate  
**Respondent No. 7** : Shri Rajendra Giri, Advocate

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No.7</b>  <b>24<sup>th</sup> January, 2014</b>	<p><b><u>Misc. Application No. 43/2014 and 44/2014</u></b></p> <p>Shri Sachin K. Verma, Learned Counsel for Respondent no. 6 alongwith the Respondents no. 1,2 &amp; 5 has filed Misc. Applications No. 43/2014 &amp; 44/2014 for taking on record the documents at Annexure C-1 and C-2 filed along with said applications. The documents contain the Minutes of the Meeting held by the District Collector on 24.12.2013 as well as a list enclosed at Annexure C-2 giving the details of the places and the number of trees planted for which census was conducted in 15 zones in the city of Indore. Both the Misc. Application No. 43/2014 and Misc. Application No. 44/2014 are allowed. The aforesaid Applications along with documents have been supplied to the Learned Counsel for the Applicant. Documents filed today with the aforesaid Applications are ordered to be taken on record.</p> <p>The Learned Counsel for the Applicant submitted that more than 25% of the trees planted in the year 2013, have not survived, whereas</p>

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100% survival is expected from such compensatory afforestation undertaken within the Urban areas, where all the care is required to be taken for protecting the trees and providing regular watering.

On the other hand, Shri Sachin K. Verma, Learned Counsel appearing for Respondent No. 9, Indore Development Authority (IDA) submitted that the IDA alongwith the other concerned agencies is taking full care for ensuring survival of the trees and wherever casualties are noticed, they are being replaced immediately.

Since the question is disputed one, Shri Sachin K. Verma, Learned Counsel is directed to file a submission indicating the areas / zones where replacement of casualties has been carried out duly indicating the no. of casualties replaced & the present survival rate. Apart from the above, the Respondents No. 1, 2, 5 & 6 and more particularly the IDA, shall submit an affidavit indicating therein the name and designation of the officers, who have been entrusted with the responsibility of supervising the tree plantation work being carried out in the city of Indore. As submitted before us, the city of Indore has been divided into various zones and wherever such plantation has been carried out in such zone or sector the name and designation of the officer responsible for maintaining the plantation shall also be indicated. It shall also include the number of supporting staff and resources placed at the disposal of such Sectoral or Zonal officers so that the target of 100% survival of the trees can be achieved. If some additional measures are required to be taken, the IDA and the Collector, Indore in consultation with the officers of the Forest Department, shall take necessary measures for ensuring 100% survival of the trees.

It was further submitted by the Learned Counsel for the

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Applicant that in the BRTS corridor space is available for carrying out the planting. So far as the aforesaid submission is concerned it would be open for the Applicant to give the details of the suggested places to the officers of the Municipal Corporation, Indore / IDA who shall be responsible for visiting the sites along with the Applicant and take necessary steps in this regard where ever feasible.

It has further been submitted that apart from the BRTS corridor roughly about 5,000 trees have been identified for removal in the locations where various developmental projects have been proposed. In our earlier order dtd. 07.10.2013 this submission was recorded and directions were issued to find a suitable mechanism for saving the aforesaid trees, as many as possible, including their translocation. Shri Sachin K. Verma, Learned Counsel submitted that translocation of all the 5,000 trees may not be possible, however the IDA in consultation with the officials of the Forest Department shall take all possible steps to save the aforesaid trees as was discussed in the meeting held on 24.12.2013 and presided over by the Collector, Indore.

We may further add that for translocation of the trees necessary equipment and know how including age and species of the trees and suitable season for such activity, shall be taken into account. Alternate sites where such translocated trees can be planted should be identified and site preparation is done in advance in accordance with the guidelines already in force. At the same time where ever new projects are being contemplated including development of new layouts / colonies steps should be taken to save the existing trees in accordance with the guidelines for greening of urban areas and landscaping issued by the MoEF/ Ministry of Urban Development, Govt. of India in this

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regard. No fully grown tree shall be scarified unless there is no alternative and it is inevitable in the interest of developmental works undertaken in the city of Indore which is declared as a Critically Polluted Area. The schemes and projects be planned in accordance with the same keeping in view the basic idea of saving the existing trees. The development plans so prepared for such projects shall be placed for our perusal by the Respondents by instructing the concerned including the Town Planning Officers/ Engineers of IDA before the next date of hearing. Such plans shall also indicate the existing standing trees with information regarding the species and whether it is feasible to translocate how many of the existing trees. Where ever the existing tree is creating a major obstacle in the development work being carried out, the same be identified and marked separately. Total number of such trees shall be enumerated species wise and due procedure to be followed in getting permission from the competent authority for felling them and disposing the produce as per the rules in force preceded by preparation of compensatory afforestation scheme and release of required funds for such purpose under that particular project. The estimated cost and also the source from which the same is proposed to be met shall also be highlighted. In such event it would be the responsibility of the Project Proponent (PP) undertaking the development work or the civic authorities concerned, as the case may be, to carry out the compensatory afforestation work and also the translocation of trees in consultation with the officers of the Municipal Corporation / IDA and the Forest Department.

Today, Shri Rajendra Giri, Learned Counsel appeared and stated that he had received instructions from the Ministry of Petroleum &

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Natural Gas, Govt. of India, to appear before us in place of Shri Deepesh Joshi, Learned Counsel who was earlier appearing before us. We take a serious note of the above, as this Tribunal has already directed Shri Deepesh Joshi, to submit reply on the specific issues raised by us in our earlier orders. On 20.11.2013 we had categorically stated that reply must be filed before the 10.12.2013. However no reply was filed and further time was granted and the case was ordered to be listed today. Instead of filing the reply we find that the Counsel itself has been changed. In case there was any difficulty in filing the reply the request could have been made pointing out the grounds to that effect but the tactics of changing the Counsel for seeking an adjournment is not appreciated.

We give last opportunity to the Ministry of Petroleum & Natural Gas, Govt. of India, to submit their reply on the issues raised.

The matter be listed on 18.02.2014 as prayed by Shri Sachin K. Verma, Learned Counsel. In the meanwhile, the Respondents may submit their reply and affidavit with regard to the points of concerns that have been raised in our earlier orders.

We find that the notices issued to the Ministry of Urban Development, Govt. of India, have also been served but none appeared on its behalf. In case, the Ministry of Urban Development, Govt. of India wishes to file a reply they may do so before the next date of hearing, failing which the matter will be heard *ex parte*.

Put up on **18.02.2014**.

.....,JM  
(DALIP SINGH)

.....,EM  
(P.S.RAO)