

ITEM NO.9

COURT NO.4

SECTION PIL-W

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

Writ Petition (Civil) No.13381/1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[TO BE TAKEN UP AT 12.00 NOON]
IN RE: TAJ TRAPEZIUM ZONE(1) IA NOS.
171142/2019 AND 74770, 74771/2024 (APPLNS. FOR DIRECTIONS,
PERMISSION TO FILE REJOINDER AND EXEMPTION FOR O.T. ON B/O
AGRA DEVELOPMENT FOUNDATION) (2) IA NO. 176773/2024 (APPLN.
FOR INTERVENTION ON B/O UTTAR PRADESH JAL NIGAM) WITH IA
NO. 60618 OF 2025 (APPLN. FOR DIRECTION ON BEHALF OF U.P.
JAL NIGAM) (3) IA NOS. 104091, 104097/2018 AND 112177/2019
(APPLNS. FOR INTERVENTION, DIRECTIONS AND PERMISSION TO
FILE ADDL. DOCUMENTS ON BEHALF OF AGRA DEVELOPMENT
FOUNDATION) (4) IA NO. 168401/2021 (APPLN. FOR CLARIFICATION
OF THE ORDER DT. 08.05.2015 ON BEHALF OF STATE OF U.P.) (5)
CEC REPORT NO. 17 OF 2024 AND CEC REPORT NO. 34 OF 2024 IN
CEC REPORT NO. 17 (6) CEC REPORT NO. 3 OF 2025 "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. ANKIT GOEL, KAMLENDRA MISHRA,
ADVOCATES (1) MR. E. C. AGRAWALA, MR. N. VISAKAMURTHY, MR.
PUSHKAR SHARMA]

Date : 01-05-2025 This petition was called on for hearing
today.

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HON'BLE MR. JUSTICE UJJAL BHUYAN

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

IA Nos.171142/2019, 74770, 74771/2024, 176773/2024 and 60618/2025

We have perused the affidavits filed on behalf of the Municipal Corporation, Agra and U.P. Jal Nigam (Urban). Affidavit dated 11th April, 2025 filed by the Municipal Corporation, Agra indicates that the issue is about 61 untapped drains and 6 partially tapped drains. By way of interim measures, bio-remediation and phyto-remediation techniques are being used.

We are dealing with 61 untapped drains and 6 partially tapped drains. There is an affidavit filed by the Municipal Corporation, Agra dated 11th April, 2025 and an affidavit filed by the U.P. Jal Nigam dated 21st April, 2025. The work of tapping of 23 untapped drains was to be completed

by the end of April, 2025. However, compliance has not yet been reported. We direct that the work of tapping of 23 untapped drains shall be completed by 15th May, 2025 and compliance report shall be filed in this Court within one week thereafter. As regards rest of the 38 untapped drains, a proposal has been submitted by the National Mission for Clean Ganga (for short, 'NMG').

A report has been submitted by the learned ASG on behalf of the NMG. It is stated that now there is a revised Detailed Project Report (for short, 'the DPR') submitted by the U.P. Jal Nigam (Urban). We direct NMG to grant approval to the DPR in the immediate next Executive Committee meeting and ensure that the work of tapping of drains commences immediately.

We direct the UP Jal Nigam (Urban) to file an affidavit indicating timelines for completion of work of 38 untapped drains. The outer limit in any case cannot be more than three months from the date of approval of the DPR. An affidavit shall be filed within a period of one month from today laying down the timelines for completion of work. As regards interim measures, affidavit of Municipal Corporation, Agra indicates that bio-remediation and phyto-remediation technique is being used. However, affidavits of U.P. Jal Nigam (Rural) and the Municipal Corporation, Agra

are silent about the remaining 6 untapped drains. We are told across the Bar that the work will probably have to be done by U.P. Jal Nigam (Rural). However, such a stand has not been taken in the affidavit by U.P. Jal Nigam (Urban). In this scenario, we direct the State of U.P. to ensure that the work of tapping of these 6 partially tapped drains is completed within a period of four months from today.

It is for the State of U.P. to decide which agency completes the work. The applications shall remain pending until all compliances are reported.

REPORT No.20 of 2025 OF THE CEC

This Court by its order dated 8th May, 2015 restrained felling of trees in Taj Trapezium Zone (for short, 'TTZ') area without permission of this Court. An order was passed on 11th December, 2019 on IA Nos. 104091/2018, 104097/2018 and 112177/2019 which suggested that the earlier order dated 8th May, 2015 passed by this Court was recalled. Fortunately, none of the authorities proceeded on the footing that order dated 8th May, 2015 does not exist. By order dated 25th March, 2025, we recalled the said order dated 11th December, 2019 and kept the applications for hearing today.

In the meanwhile, we had called upon the CEC to submit

a report. The CEC has submitted a detailed report, i.e., Report No. 20 of 2025 dated 21st April, 2025. For the sake of convenience, we are reproducing the recommendations of the CEC as under:

“1. For areas that are located beyond an aerial distance of 5 km from the Taj Mahal, the following recommendations are made:

A: For Rural Areas in TTZ where the agroforestry crop is of Eucalyptus, Poplar, or Melia dubia

i. The concerned Divisional Forest Officer can be vested with the power to allow felling of 49 trees standing on an agricultural land under private ownership located in rural areas.

ii. For trees numbering 50 and above standing on agricultural land under private ownership, located in rural areas, the permission for felling will be granted by the Divisional Forest Officer only after approval of the CEC.

iii. Before granting permission for tree felling, the applicant shall be required to submit a duly notarised affidavit affirming that the felling is not intended to facilitate any change in land use from agricultural to non-agricultural purposes. If, at any stage, a change in land use is found either in official records or on the ground, the permission granted shall be deemed null and void, and the landholder shall be liable for action under provisions related to illegal tree felling.

iv. These provisions will not apply to lands classified under agricultural land use but being used for horticultural practices. This can be ascertained from the Khasra of that particular land.

v. If, after the Divisional Forest Officer has approved felling of trees in a particular area, a subsequent application for felling additional trees in the same area is received within one year, the Divisional Forest Officer

shall grant permission only if the combined total of trees approved earlier and those now applied for does not exceed 49. In case the cumulative number exceeds 49 trees, the Divisional Forest Officer shall be required to seek approval from the CEC before granting any further permissions.

B: For felling of trees in all other cases

The concerned Divisional Forest Officer may allow felling of 49 trees standing on a private land holding, after prior approval of the CEC. In cases where the number of trees is more than 50, the current practice of prior permission of this Hon'ble Court shall continue.

2. For lopping/pruning of trees/ removal of trees in emergencies:

The concerned Divisional Forest Officer may allow lopping/pruning of trees in exceptional cases where such actions are necessary to prevent property damage or mitigate threats to human life. Additionally, the officer may authorize the removal of fallen trees to ensure smooth traffic flow. In all cases, the concerned Divisional Forest Officer shall record the reasons and maintain such records duly countersigned by the concerned Conservator of Forests, and upload all the information on the MIS portal for TTZ maintained by the CEC.

3. In all other cases:

The current practice of prior permission of this Hon'ble Court shall continue.

4. All provisions of the Uttar Pradesh Protection of Trees Act, 1976 shall apply, in addition to any conditions that may be imposed by this Hon'ble Court or the Central Empowered Committee (CEC) in any given case."

The recommendations indicate that as far as areas located within an aerial distance of 5 kilometers from the Taj Mahal are concerned, the original order dated 8th May,

2015 will continue to operate. Ordered accordingly. In such cases, applications will have to be made to this Court seeking permission to fell trees irrespective of the number of trees to be felled, i.e., even if trees to be felled are less than 50, permission of this Court will be required. On such application being made, this Court will seek the recommendation of the CEC on such application and will thereafter consider the prayer for felling of trees. Therefore, order dated 8th May, 2015 will continue to operate subject to what is observed above in case of areas located within an aerial distance of 5 kilometers from the Taj Mahal. Therefore, as far as this area is concerned, no tree felling shall be permitted without prior permission of this Court.

The recommendations of the CEC in relation to the areas that are located beyond an aerial distance of 5 kilometers from the Taj Mahal deserve acceptance, except clause (iv) of the recommendation. We want to add the following riders in the accepted recommendations:

(a) While granting permission, the Divisional Forest Officer (for short, 'DFO') and CEC shall be bound by the provisions of Uttar Pradesh Protection of Trees Act, 1976.

(b) Unless there is a grave and immediate urgency for

felling the trees, while granting permission, the DFO and CEC shall impose a condition that unless compliance with all other conditions, including the condition of compulsorily afforestation is made, actual tree felling will not be permitted. DFO or CEC, as the case may be, will first verify whether the conditions imposed have been complied with. Only thereafter, actual permission for felling/lopping of trees shall be granted. We make it clear that an exception can be made only when there is a grave and immediate urgency to fell trees, in the sense that if felling of trees is not immediately undertaken, there will be real possibility of loss of human lives.

- (c) We also approve clause 2 of the recommendations regarding lopping/pruning of trees. However as far as felling of trees in an emergency is concerned, the direction issued above will apply.
- (d) We clarify that clause (v) of recommendation will also apply if multiple applications are made for felling of 50 or more trees in a particular area within a span of one year.
- (e) Whenever permissions are granted by the DFO and CEC, as the case may be, they shall submit a

detailed report before this Court within a period of 15 days from the date of grant of permission. We also make it clear that a fresh report shall be filed after compliance is made with the conditions imposed.

- (f) We also clarify that the direction contained in clause (iii) of paragraph 12 of order dated 25th March, 2025 regarding uploading of photos before and after lopping/pruning will apply to lopping/pruning/removal of trees in terms of clause 2 of Report No. 20 of 2025.

We direct the CEC to file a fresh report indicating what restrictions on tree felling should be imposed for protecting the other two world heritage structures within the TTZ Area, namely Agra Fort and Fatehpur Sikri. CEC to file a report before this Court within a period of two months.

IA Nos.104091, 104097 OF 2018 and 112177 OF 2019

Heard Mr. Kishan Chand Jain, learned counsel appearing for the applicant. The applicant claims to be a charitable trust which has an object of helping to develop Agra as a modern city with sensitivity to its historical, religious, cultural, and social heritage. The prayer made in the

application is that the order of this Court dated 8th May, 2015 should be modified and that the condition of obtaining permission for felling of trees on non-forest private lands should be relaxed. The contention of Shri Jain is that if this is done, it will help in agro-farming in the TTZ area. His submission is that trees can be registered and felling of trees can also be registered.

Therefore, in substance, what the applicant wants is a blanket order permitting felling of trees on non-forest private land as a part of so called agro-farming. If we grant this relief, the orders which this Court has been passing from the year 1984 will be completely frustrated. This will give a license to people to fell fully grown trees without any permission. That will adversely affect the environment in the TTZ area. Therefore, the prayers sought in the applications are completely contrary to the object of development of Agra as a modern city. We do not think that by filing such applications, the applicant is helping the cause of development of Agra as a modern city. Therefore, the applications are rejected.

IA No.168401/2021

In view of the above order, I.A. No.168401/2021 filed by State of U.P. also stands disposed of.

IN RE: Central Empowered Committee REPORT NOS.17/2024

Report No.17 of 2024 shall be kept pending.

CEC REPORT NO.3 OF 2025

Learned counsel appearing for M/s Ganapati Infrastructure Development Company Limited states that as of today the company is only a bidder.

He seeks time to file a reply to Report No.3 of 2025.

We direct M/s Ganapati Infrastructure Development Company Limited and the Railway Land Development Authority to file a reply to the report. Reply to be filed by 10th May, 2025.

List on 13th May, 2025 at the end of the Board to consider the reply.

We make it clear that no construction activity shall be carried out on the land subject matter of tree felling and its status shall be maintained as of today.

IA Nos. 32568 and 33549 OF 2025

List these I.As. on 13th May, 2025 at the end of the Board.

I.A. Nos.64235 and 64237 of 2025

On mentioning by the learned ASG, IA Nos. 64235 and 64237 of 2025 are taken on board. We refer the same to the

CEC. We direct the CEC to submit the report before this Court within six weeks from today.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)