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ITEM NO.4 Court No.1 (Video Conferencing) 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)

((1) IA NOS. 107645, 107646 AND 107647/2020 (APPLNS. FOR INTERVENTION, DIRECTIONS AND EXEMPTION FROM FILING O.T. ON BEHALF OF AGRA DEVELOPMENT FOUNDATION)

(2) IA NO. 42482/2020 (APPLN. FOR MODIFICATION OF ORDER DT. 06.12.2019 ON BEHALF OF STATE OF U.P.)

(3) IA NOS. 72769 AND 72770/2020 (APPLNS. FOR PERMISSION AND EXEMPTION FROM AFFIXATION OF COURT FEE ON BEHALF OF STATE OF U.P.)

(4) IA NO D. NO. 31832/2020 (APPLN. FOR DIRECTIONS/PERMISSION ON BEHALF OF STATE OF U.P.)

(5) IA NO. 577/2017 FOR PERMISSION REGARDING CUTTING OF TREES ON BEHALF OF PUBLIC WORKS DEPTT, STATE OF U.P.)

(6) IA No. 46595/2017 (APPLN. FOR DIRECTIONS TO CUT/FELL TREES ON B/O POWER GRID CORPN. INDIA LTD.)

(7)I.A. 51269/2017 FOR PERMISSION REGARDING FELLING OF TREES ON B/O PUBLIC WORKS DEPTT., STATE OF U.P.)

(8) IA NO. 19749/2018 (APPLNS. FOR PERMISSION REGARDING FELLING OF TREES ON B/O PUBLIC WORKS DEPTT., STATE OF U.P.)

(9) IA NO. 97081 AND 97085/2018 (APPLNS. FOR PERMISSION FOR FELLING TREES AND EXEMPTION FROM FILING O.T. ON BEHALF OF STATE OF U.P. PUBLIC WORKS DEPTT.)

(10) IA No. 136682 AND 136683/2018 (APPLNS. FOR PERMISSION FOR FELLING TREES AND EXEMPTION FROM FILING O.T. ON BEHALF OF RAIL VIKAS NIGAM LTD.)

(11) IA D. NO. 102976 AND 102977/2019 (APPLNS FOR PERMISSION REGARDING FELLING OF TREES ON B/O SANWARIYA GAS LTD.)"ONLY" IN W.P. (C) NO. 13381/1984 ARE LISTED."

Date : 29-01-2021 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

Counsel for the parties:

In W.P.(C)295/2012 Mr. Gaurav Agrawal, Adv.(AC)

Petitioner-in-person

Applicant-in-person, AOR

Ms. Aishwarya Bhati, Sr. Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Siddharth Krishna Dwivedi, Adv.
Mr. Nitin Chowdary, Adv.
Mr. Kamendra Mishra, AOR

Mr. Tushar Mehta, Ld. SG
Mr. Saurabh Mishra, AOR
Mr. Onkar Singh, Adv
Ms. Neha Tripathi, Adv

Mr. Tushar Mehta, Ld. SG
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Mr. SS Rebello, Adv.
Mr. Kanu Agrawal, Adv.
Ms. Archana Pathak Dave, Adv.

Mr. S. Wasim A. Qadri, Sr. Adv.
Mr. Tamim Qadri, Adv.
Ms. Udit Singh, Adv.
Mr. Lakshmi Raman Singh, AOR

Mr. Annam D. N. Rao, AOR

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Mr. Ajay K. Agrawal, AOR

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Ms. Rachna Gupta, AOR

Mr. Siddhesh Kotwal, Adv.

Mr. Divyansh Tiwari, Adv.

Ms. Ana Upadhyay, Adv.

Mr. Nirnimesh Dube, AOR

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Mr. Abhinav Shrivastava, AOR

Mr. Abhishek Chaudhary, AOR

Mr. Gaurav Goel, AOR

Mr. Nischal Kumar Neeraj, AOR

Ms. Aparna Bhat, AOR

Mr. Gaurav Agrawal, AOR

Mr. Arvind Kumar Sharma, AOR

Mr. Shantanu Krishna, AOR

Mr. Abhinav Agrawal, AOR

Mr. Jatinder Kumar Bhatia, AOR

Mr. Ashutosh Kumar Sharma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

IA NOS. 107645, 107646 AND 107647/2020

Ms. Aishwarya Bhati, learned Additional Solicitor General prays and is granted two weeks' time to file reply affidavit.

List these I.As after two weeks along with following interlocutory applications mentioned by Mr. K.C. Jain, learned counsel :

1. I.A. Nos. 94794-94795 of 2019;
2. I.A. Nos. 112182/2019 with I.A. Nos. 112185 & 3186 of 2020;
3. I.A. Nos. 134453-134454 of 2019;

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4. I.A. No. 171139 & 171142 of 2019;
 5. I.A. Nos. 3419 & 3420 of 2020 with I.A. No. 3424 of 2020;
 6. I.A. Nos. 4115 of 2020 with I.A. Nos. 4118 and 4119 of 2020;
 7. I.A. Nos. 15274 of 2020 with I.A. Nos. 15276-15277 of 2020

I.A NO D. NO. 31832/2020

The contents of this application may be scrutinized by the Central Empowered Committee who may submit its response to it within a period of four weeks.

List the I.A. after four weeks.

I.A NOS. 72769 AND 72770/2020

Heard.

There is no dispute that the trees which have fallen due to strong cyclone/storm of 11.04.2018 and 02.05.2015 numbering 702 trees need to be removed from various locations of the District of Agra, U.P. Accordingly, we allow the applications in terms of prayer Clause (a) which reads as under:

“(a) grant permission to collect and remove 702 fallen trees from various location of District Agra, U.P. which fell due to strong cyclone/storm of 11.04.2018 and 02.05.2015”.

As regards the general exemption from order dated 08.05.2015 for felling and disposal of diseased, dry, fallen and uprooted trees in the TTZ area, we are of the view that if any authority or person wishes to remove and dispose of diseased, dry and fallen or

uprooted trees in the TTZ area,⁶ they shall make an application to the Central Empowered Committee giving an exact description and location of the fallen trees that are intended to be removed.

The CEC shall thereupon visit the site and inspect the trees and grant or deny permission and report the same to this Court. The report shall be placed before the Court along with the application made by the persons who intend to remove trees.

Interlocutory applications are disposed of accordingly.

I.A NO. 42482/2020

This application is allowed in terms of its prayer clause (a), (b) and (c) of para 10 which reads as under:

(a) That in para-8 of the Order, the word "macro" has been used. It may kindly be clarified to mean "medium", as the Ministry of Micro, Small and Medium Enterprises, Government of India, used the word "medium" in place of "macro". The said Notification dated 29.09.2006 of Ministry is annexed hereto and marked as ANNEXURE A/3.

(b) That in para-8 and 9 of the Order, the phrase "non polluting" has been used, which may kindly be clarified to mean the industries which are "compliant of all environment laws and norms in force" or Hon'ble Court may pass suitable order to clarify non-polluting industries.

(c) That in para-8 and 9 of the Order, the word "eco-friendly" has been used with reference to the industrial units. It would be appropriate if this Hon'ble Court may clarify that the term "eco-

friendly” to mean “use⁷ of natural gas as an industrial fuel” as per judgment of 30th December 1996.

As regards prayers in clauses (d) and (e) of para 10 of the instant application, Ms. Aishwarya Bhati, learned Additional Solicitor General appearing on behalf of the State of U.P., seeks some time to place on record the categories into which the industries are divided according to the degree of air pollution involved.

List after one week.

I.A NO. 577/2017

List this interlocutory application after two weeks.

I.A.NO. 51269 Of 2017

Mr. Gaurav Agrawal, learned counsel appearing as amicus curiae in W.P.(Civil) No. 295 of 2012 states that the State of U.P. intends to make fresh realignment of the proposed road. We consider it appropriate to direct that the State of U.P shall ensure that the realignment of the proposed road is done in a manner which involves the felling of least number of trees as far as possible. The State shall bear in mind the observations made by this Court on the last occasion that even if the realignment results in the road not being straight, it can be accepted since straight roads entice people to go at high speeds increasing the risk of accidents. Realignment Plan may be

submitted within a period of three months.

List thereafter.

I.A No. 136682 AND 136683/2018

The Rail Vikas Nigam Limited has applied for permission to construct 3rd Rail Line between Mathura Junction to Jhansi. The proposed rail line is of about 274 km, out of which a stretch of 80 km goes to TTZ area. According to the Rail Vikas Nigam, the project will require permission to cut 4102 trees. It is submitted that laying of this line is necessary because the present track between Delhi to Mathura-Jhansi is totally choked and results in hours long delay.

We have heard learned counsel for the parties and we are of the view that it would be appropriate to permit 4102 trees to be cut and removed by the Rail Vikas for the purpose of laying the 3rd railway track. The permission is, however, being granted subject to the following conditions which are suggested by the Central Empowered Committee which reads as under:

i) the felling of trees on the Right of Way identified for the project shall be limited to the bare minimum number and which is absolutely unavoidable;

ii) that for felling of trees on non-forest Government land and non-forest private land the requisite permission of the competent authority under the Uttar Pradesh Protection of Trees Act, 1976 will be obtained;

iii) the 41 Ha of land in village Chatikara near Vrindavan Station identified for taking up of Compensatory Planting shall be chain link fenced on a 2

feet high footwall and shall be handed over to the Forest Department of Uttar Pradesh for raising compensatory plantation;

iv) the cost of planting of 41000 sapling, that is ten times in lieu of 4102 trees required to be felled, and its maintenance for a period of 7 years as estimated by the State Forest Department shall be deposited with the UP Forest Department in a separate account in a public sector bank before permission for felling of trees is granted;

v) the Regional Office of MoEF&CC will monitor the implementation of Compensatory Planting Activity; and

vi) the Chairman, TTZ Authority shall take all the necessary measures to ensure that no felling of trees take place within the TTZ without first obtaining prior permission of this Hon'ble Court.

Order accordingly.

I.A No. 46595 OF 2017

The Central Empowered Committee is directed to submit its response to this application within a period of two weeks.

List thereafter.

I.A D. NO. 102976 AND 102977/2019

Mr. S. Wasim Quadri, learned senior counsel appearing for the applicant(s) submits that the applicant(s) does not wish to press these applications since it is difficult to bear the cost of complying with the condition(s) that are being imposed by the CEC on felling of trees. This seems to be one of those rare cases where

CEC conditions have acted as a deterrent for felling of trees.

The interlocutory applications are dismissed as not pressed.

I.A NO. 97081 AND 97085/2018

Heard.

By this application, permission is sought for felling of 126 trees which appears to be coming in the way of the project of widening and strengthening of six-lane Road from Avantibai crossing of 11 km. Of Agra-Bah-Kachora Ghat Road. According to Mr. S. Wasim Qadri, learned senior counsel, it appears that permission for felling of 726 trees was already granted by this Court for the length of 10 km. However, only 1 km work remains to be completed and is pending primarily because of lack of permission to fell 126 trees which are in the remaining 1km part. It is pointed out that the CEC has already granted permission for such felling.

We, accordingly, permit the felling of 126 trees over the remaining 1 km of the project for widening and strengthening of six-lane Road from Avantibai crossing of 11 km Of Agra-Bah-Kachora Ghat Road subject to the CEC conditions which reads as under:

- a) for non-forest use of the forest land formal approval of MoEF&CC under the Forest (Conservation) Act, 1980 will be obtained;
- b) the Net Present Value (NPV) for the forest land diverted will be deposited in the Compensatory Afforestation Fund;

(c) The felling of trees identified on the Right of Way shall be limited to the bare minimum number of trees and which is absolutely essential for implementation of the proposal;

d) the Regional Director, Social Forestry, Agra will undertake compensatory afforestation by planting 1260 plants of indigenous species (ten times the number of trees to be felled) on 1.40 ha of non-forest land in GATA No. 10 of Mauja Mutaval of Tehsil Fathebad at the cost of the user agency, UP. Public Works Department and the 1.40 ha. of the compensatory afforestation land shall be notified as protected forest;

e) the boundary of compensatory afforestation planting site shall be chain-link fenced at the cost of the Applicant on a 2 feet high footwall to protect the plants from being browsed by cattle and other animals and the land shall be handed over to the State Forest Department for raising compensatory plantation;

f) provision of watering of plants during summer months specially in the first three years of planting and maintenance are included in the estimate to achieve better success rate;

g) the funds required for raising the compensatory planting including cost of fencing, as estimated by the State Forest Department, shall be deposited by the Applicant with the Regional Director, Social Forestry Agra in a separate bank account to be opened for the purpose in a

nationalized bank before permission is issued for felling of trees by the Forest Department;

h) the Regional office of the Ministry of Environment, Forest and Climate Change will monitor the implementation of the compensatory afforestation programme; and

I) the Chairman, TTZ Authority will ensure that no felling of trees takes place within the areas falling in TTZ without first obtaining the permission of this Hon'ble Court.

Interlocutory applications are disposed of accordingly.

I.A NO. 19749/2018

In this application, permission is sought to fell 317 trees which are coming in the way of the project of widening and strengthening of six-lane Road from Avantibai crossing to Rohta. We consider it appropriate to direct the State of U.P. to re-examine the need for widening and strengthening of six-lane Road and possibility of saving a greater number of trees in the process. The CEC may submit fresh suggestions within a period of four weeks from today.

List after four weeks.

(MADHU BALA)
AR-CUM-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR