

ITEM NO.1

COURT NO.5

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(Civil) No.13381/1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

((1) IA NO. 42482/2020 (APPLN. FOR MODIFICATION OF ORDER DT. 06.12.2019 ON BEHALF OF STATE OF U.P.)(2) IA NO. 577/2017 AND 20441 AND 20444/2021 (APPLNS. FOR PERMISSION REGARDING CUTTING OF TREES, PERMISSION TO FILE ADDL. AFFIDAVIT AND EXEMPTION FROM FILING O.T. ON BEHALF OF PUBLIC WORKS DEPTT, STATE OF U.P.)(3) IA NOS. 70309 AND 70312/2021 (APPLNS. FOR PERMISSION FOR FELLING OF TREES AND EXEMPTION FROM FILING O.T. ON BEHALF OF STATE OF U.P.)"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-PERSONMR. A.D.N. RAO,MR. AMRISH KUMAR,MR. M.K. MARORIA,MR. G.S. MAKKER, MR. VIJAY PANJWANI, MR. KAMLENDRA MISHRA, MR.ANKUR PRAKASH, MR. L.R. SINGH, ADVOCATES)

Date : 08-12-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

Mr. Annam D. N. Rao, AOR (Amicus Curiae)

For Petitioner(s) Petitioner-in-person

Applicant-in-person, AOR

Mr. Atishi Dipankar, AOR

For Respondent(s) Mr. Tushar Mehta, Ld. SG  
Ms. Aishwarya Bhati, Ld. ASG  
Mr. Saurabh Mishra, Adv.  
Mr. Aditya Mishra, Adv.  
Mr. D.L.Chidananda Adv.  
Ms. Suhasini Sen Adv.  
Ms. S.S.Rebello, Adv.  
Ms. Kanu Aggarwal,Adv.  
Ms. Archana Pathak Dave,Adv.  
Mr. Gurmeet Singh Makker, AOR

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Mr. Adit Khorana, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Amrish Kumar, AOR

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Mr. Rajeev Kumar Dubey, Adv.  
Mr. Siddhart Krishan Dwivedi, Adv.  
Mr. Ashivan Mishra, Adv.  
Mr. Anurag Tiwari, Adv.  
Mr. Kamalendra Mishra, AOR

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

Dr. Manish Singhvi, Sr. Adv.  
Mr. Arpit Parkash, Adv.  
Mr. Sandeep Kumar Jha, AOR

Mr. Ankur Prakash, AOR  
Mr. Ankur Bansal, AOR  
Mr. Davesh Bhatia, Adv.

Mr. Siddhesh Kotval, Adv.  
Ms. Anu Upadhyay, Adv.  
Ms. Manya Hasija, Adv.  
Ms. Pragya Bansaiyan, Adv.  
Mr. Akash Singh, Adv.  
Mr. Nirnimesh Dubey, AOR

Mrs. Suchitra Atul Chitale, AOR

Mr. Badri Prasad Singh, AOR

Mr. Ravi Prakash Mehrotra, AOR

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Mr. M. R. Shamsad, AOR

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Mr. Sudhir Kulshreshtha, AOR

Mr. Vishwajit Singh, AOR

Mr. P. K. Manohar, AOR

Mr. Ajit Sharma, AOR

Mr. Nikhil Goel, AOR

Mr. Pradeep Misra, AOR

Mr. Daleep Dhyani, Adv.

Mr. Suraj Singh, Adv.

Mr. Bhuwan Chandra, Adv.

Mr. Manoj Kr Sharma, Adv.

Sh. Rakesh Mudgal, Ld. AAG

Mr. Kailash C. Mudgal, Adv.

Dr. Monika Gusain, AOR

Mr. Ajay Bansal, Ld. AAG Haryana

Mr. Gaurav Yadav, Adv.

Ms. Neena Bansal, Adv.

Ms. S. K. Visen, AOR

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Dr. (Mrs.) Vipin Gupta, AOR

Mr. P. Parmeswaran, AOR

Mr. Prashant Kumar, AOR

Mr. P. Narasimhan, AOR

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Mr. Gaurav Agrawal, AOR

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Mr. Shantanu Krishna, AOR

Mr. Abhinav Agrawal, AOR

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Mr. Dhiraj Kumar, Adv.

Mr. Sanveer Mehlwal, Adv.

Mr. Abdul Gaffar, Adv.

Mr. Abhinav Shrivastava, AOR

Mr. Abhishek Chaudhary, AOR

Mr. Saurabh Mishra, AOR

Mr. Gaurav Goel, AOR

Mr. Nischal Kumar Neeraj, AOR

M/S. Gsl Chambers, AOR

Ms. Aparna Bhat, AOR

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

Mr. A.D.N. Rao, learned counsel is appointed as Amicus Curiae to assist this Court in this writ petition and connected matters.

IA NO.42482/2020

On 22.03.2018, an order of status quo was passed in the Taj Trapezium Zone (TTZ). This Court was informed by the State of Uttar Pradesh that a vision document is being prepared in consultation with the School of Planning and Architecture. The first draft of the vision document was filed before

this Court. Mr. A.D.N. Rao, learned Amicus Curiae submits that a decision has to be taken on the vision document by this Court.

I.A. No.103908 of 2019 was filed by the State of Uttar Pradesh for clarification of the status quo order passed on 22.03.2018. The said I.A. was disposed of on 06.12.2019. In the order dated 06.12.2019, the State Government and other statutory authorities were permitted to grant environmental clearances necessary for providing essential public facilities including drinking water supply, sewerage treatment plant, drainage system, solid waste disposal, Common Effluent Treatment Plant, Bio Medical Waste Treatment Facility, and Waste to Energy Plants etc. The authorities were at liberty to consider requests for relocating eco-friendly non-polluting industrial units, subject to meticulously compliance of environmental laws and all norms/conditions laid down by this Court. This Court made it clear that the embargo on granting clearances for shifting of any heavy industry shall continue till a final decision is taken on the vision document.

This Interlocutory Application is filed for certain clarifications/modification of the Order dated 06.12.2019. By an Order dated 29.01.2021,

clarification sought in prayer clauses (a),(b) and (c) were made by this Court. In respect of the clarification of the Order dated 06.12.2019 pertaining to the concurrence with the Central Empowered Committee (CEC) and opinion of NEERI as mentioned in paras 8 and 9 of the Order, learned Amicus Curiae in consultation with Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the State of Uttar Pradesh submitted a note. It has been agreed that a representative of NEERI shall be included as a Member in the Environmental Appraisal Committee (EAC) and State Environmental Appraisal Committee (SEAC) constituted by the Ministry of Environment, Forest and Climate Change for dealing with industrial units falling in TTZ Area.

In respect of industrial units where the Air Pollution Score as per CPCB and UPPCB is between 11 to 20, sectorial guidelines shall be obtained from NEERI. No industrial units shall be cleared by the State till sectorial guidelines are obtained from NEERI. For those industrial units having Air Pollution more than 20, the concurrence/opinion of NEERI will have to be obtained.

In case of the need for felling trees to set up industrial units/projects, the matter shall be

referred to the CEC for its opinion/concurrence. Where there is no need for felling of trees, a declaration shall be obtained from the industrial units/projects to that effect. The declaration shall be accompanied by an affidavit and photograph of the site along with the Key Plan of the site. The said declaration along with the other documents shall be forwarded to the concerned District Forest Officer. In case, incorrect information has been given by the declarant, suitable legal action shall be taken.

After hearing learned Amicus Curiae and Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the State of Uttar Pradesh, we modify the order passed by this Court on 06.12.2019 in respect of the prayer (d) and (e) in IA No.42482/2020 in terms of the note referred to above.

Learned Additional Solicitor General appearing for the State of Uttar Pradesh shall confer with learned Amicus Curiae and the petitioner-in-person and discuss the proposals that are made in the vision document.

I.A. stands disposed of.

IA NO.577/2017

This application is filed by the State of Uttar Pradesh for permission to fell 2940 trees for

the purpose of widening of the Mathura-Deeng (Gobardhan) Road [Four lanes Road], which falls in the TTZ Area. CEC has filed a report making certain observations/recommendations in respect of the permission sought for felling of the trees. By an Order dated 02.12.2020, Ms. Aishwarya Bhati, learned ASG was directed to obtain instructions on the method of evaluation for the loss of trees. This Court was informed by the learned Amicus Curiae that a system of Net Present Value (NPV) is followed. Mr. Rao has placed an Order dated 25.03.2021 passed in SLP (Civil) No.25047 of 2018. By the said order, a committee was appointed to recommend on the various aspects which are as follows :

(a) Develop a set of scientific and policy guidelines that shall govern decision making with respect to cutting of trees for developmental projects.

(b) These guidelines may specify the species of trees in categories based upon their environmental values considering the age and girth of the trees etc.

(c) The guidelines may provide special treatment for geographical area or eco-sensitive area, they may identify areas which need to be regulated and even identify a minimum threshold beyond which the guidelines will apply.

(d) The guidelines shall prescribe a mechanism for assessment of both intrinsic and instrumental value of the trees, based not only on the value of timber, but also the ecosystem services rendered by the trees and its special relevance, if any, to the habitat of other living organisms, soil, flowing and underground water.

(e) The guidelines shall also mandate rules regarding alternate routes/sites for roads/projects, and possibilities for using alternate modes of transport like railways or water-ways.

(f) The guidelines shall also prescribe the mode of compensation financial and otherwise, the stage of depositing such compensation and the process that governs the computation and recovery. In this regard, the committee may consider the existing regulatory framework regarding calculation of Net Present Value (NPV) and may suggest necessary modification.

(g) In addition, the guidelines shall also specify the manner and mechanism of compensatory afforestation to be carried out using the deposited compensation, consistent with the native ecosystem, habitat and species.

(h) The Committee may consider the need for any permanent expert body and its proposed structural form.

(i) Any other issue incidental to the aforesaid objectives.

We are informed that the report of the Committee on these recommendations is awaited.

In the meanwhile, the State of Uttar Pradesh has reduced the number of trees that are required to be felled for widening of Mathura-Deeng(Gobardhan) Road[Four lanes Road] from 2940 to 1803. CEC has recommended acceptance of the proposal made by the State of Uttar Pradesh subject to the following conditions :

i) Clearance under the Forest (Conservation) Act, 1980 will be obtained for the diversion of 22.8406 Ha of protected forest and felling of 2940 trees standing on that land;

ii) The felling of trees along the Mathura - Deeng Road to the Rajasthan border shall be restricted to the bare minimum and which is absolutely unavoidable;

(iii) Compensatory plantation of minimum 30000 trees of indigenous species in lieu of 2940 trees being felled would be undertaken by the Regional Director, Social Forestry, Agra at the cost of the Applicant on the 30.067 Ha of non-forest land allotted and earmarked for this purpose in Village Madaur, Tehsil Mahavan District Mathura falling within TTZ area;

iv) The 30.067 Ha of Compensatory afforestation land shall be chain link fenced on a two feet high footwall and shall be handed over to the Forest Department of Uttar Pradesh for raising compensatory plantation;

v) The cost of the compensatory afforestation as assessed by the Uttar Pradesh Forest Department at present day cost will be deposited in a saving bank account in a nationalized bank for implementation of the compensatory afforestation scheme;

vi) Permission for felling of trees will be granted by the State Forest Department only after taking clearance under FC, Act 1980 and the funds required for compensatory afforestation are deposited with the Forest Department;

vii) The Chairman, Taj Trapezium Zone (Divisional Commissioner, Agra) will take all necessary measure to ensure that no felling of trees takes place within the area falling in TTZ without first obtaining permission of this Hon'ble Court; and

viii) The Regional Office of the Ministry of Environment, Forest and Climate Change will monitor the implementation of compensatory planting activity.

On a careful consideration of the matter and after hearing Ms. Aishwarya Bhati, learned ASG, Mr. S. Wasim A. Qadri, learned senior counsel appearing

for the State of Uttar Pradesh (applicant) and Mr. A.D.N. Rao, learned Amicus Curiae, we are of the considered view that permission be granted for felling of 1803 trees for the purpose of widening of Mathura-Deeng (Gobardhan) Road [Four lanes Road] in strict compliance of the conditions that are recommended by the CEC.

In addition, payment for the trees felled shall be determined after a report is submitted by the committee appointed by this Court on 25.03.2021, subject to the final acceptance by this Court. The Committee shall submit its report within a period of four weeks from today.

**IA NO.70309 OF 2021**

Issue notice to the CEC.

List these Interlocutory Applications along with IA No.91486/2021, IA Nos.46595, 51269 of 2017, 19749 of 2018 and CEC Report No.14,15 & 16 of 2021, on 02.02.2022.

(Geeta Ahuja)  
Court Master

(Anand Prakash)  
Court Master