

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

CONTEMPT PETITION (CIVIL) DIARY NO(S). 21171/2024 IN W.P.(C) NO. 4677/1985

BINDU KAPUREA

PETITIONER(S)

VERSUS

SUBHASISH PANDA

ALLEGED CONTEMNOR(S)/
RESPONDENT(S)

(IA NO. 117930/2024 - APPROPRIATE ORDERS/DIRECTIONS AND IA NO. 111340/2024 - EX-PARTE AD-INTERIM RELIEF)

Date : 16-05-2024 This matter was called on for hearing today.

CORAM :

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

Mr. Guru Krishna Kumar, Sr. Adv. (A.C.)
Mr. A.D.N. Rao, Sr. Adv. (A.C.)
Ms. Anitha Shenoy, Sr. Adv. (A.C.)
Mr. Siddharth Chawdhary, AOR (A.C.)

For Petitioner(s)

Mr. Huzefa Ahmadi, Sr. Adv.
Mrs. Madhavi Divan, Sr. Adv.
Mrs. Ranjeeta Rohatgi, Adv.
Mrs. Madhur Panjwani, Adv.
Mr. Ankit Shah, Adv.
Mr. Manan Verma, AOR

For Alleged Contemnor(s)/
Respondent(s)

Mr. R.Venkataramani, Attorney General for India
Mr. Mahesh Jethmalani, Sr. Adv.
Mr. Sanjay Jain, Sr. Adv.
Ms. Manika Tripathy, AOR
Mr. Ashutosh Kaushik, Adv.

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

1. This Court noted a very shocking state of affairs while passing the order dated 14th May, 2024. We have noted the conduct of the Delhi Development Authority (for short, "the DDA") of felling a large number of trees without any authority of law and in breach of the orders of this Court. After perusing the affidavit filed by the Vice-Chairman of the DDA pursuant to our order dated 14th May 2024, we have realized that the situation is far more serious than what we understood on 14th May 2024. The conduct of DDA of the felling of more than 1100 trees without the permission of the Court shocks the conscience of the Court.

2. An application was made by the DDA being, IA No.40494/2024 in Writ Petition (C) No.4677/1985. The prayer in the said application was for the grant of permission for felling trees for the construction of Gaushala Road from Chhatarpur Road to SAARC University and CAPFIMS Road from SAARC University to CAPFIMS. The application was supported by a recommendation of the Central Empowered Committee (for short, "the CEC"). The recommendation was to permit felling of a large number of trees. On 4th March 2024, when the application came up before this Court for hearing, we passed the following order:

"IA No.40494/2024 in W.P.(C) No.4677/1985

10. Heard the learned senior counsel appearing for the applicant.

11. Apart from the fact that the application is very vague which seeks permission to fell/translocate 1051 trees, we must note that the Delhi Development Authority (DDA) is an agency and

instrumentality of the State. Therefore, it is the duty of the DDA to first make an attempt to protect the environment by praying for felling of only those trees which are absolutely mandatory. They must apply their mind whether alternatives can be examined to save the trees. Moreover, they want to construct the road through a forest. There is no permission obtained under the Forest Act.

12. We direct the DDA to re-examine the proposal by employing the experts in the field. The exercise to be undertaken by the DDA is necessary for ensuring that while public work is carried out, minimum number of trees are required to be felled. The said approach is not reflected from the application made by the DDA. After the DDA re-examines the proposal with the help of eminent experts in the field, we permit the DDA to file a fresh application for the same relief hopefully containing a prayer for felling of much less number of trees.

13. With liberty as above, the application is dismissed."

3. Therefore, when the application was heard, in support of the prayer of the DDA seeking permission to fell/translocate 1051 trees, the learned counsel representing the DDA proceeded on the footing that not a single tree has been felled. A shocking disclosure has been made in paragraph 7.1 of the DDA's affidavit filed by the Vice-Chairman. Paragraphs 7.1 and 7.2 of the said affidavit read thus:

"7.1 I respectfully submit that I have enquired from the officials and employees of the DDA and have found that trees telling apparently started on 16.02.2024. as per their verbal submissions, and continued for about 10 days. The Interlocutory Application in the writ petition No. 4677/1985 had been filed before this Hon'ble Court on 15.02.2024. It is also humbly submitted that even when the application was disposed of vide order dated 04.03.2024 the felling of trees was not in the knowledge.

7.2. The Hon'ble Court vide its order dated 04.03.2024 had given the following directions:

"We direct DDA to re-examine the proposal by employing the experts in the field. This exercise is to be undertaken by the DDA is necessary for ensuring that while public work is carried out, minimum number of trees are required to be felled. The said approach is not reflected from the application made by the DDA. After the DDA re-examines the proposal with the help of eminent experts in the field, we permit the DDA to file a fresh application for the same relief hopefully containing a prayer for felling of much less number of trees."

It is submitted that, in compliance of the said directions, DDA had initiated action and proposed constitution of a committee of eminent experts in the field so as to minimize the number of trees required to be felled. The proposal had been duly approved by the Hon'ble Lt. Governor of Delhi on 12.04.2024 which shows the bonafide efforts of DDA."

(underlines supplied)

4. The shocking admission by the DDA is that the application we referred to earlier was filed on 15th February 2024 by the DDA, and brazenly, the DDA started felling trees on 16th February 2024. The affidavit also notes that the felling of trees continued for ten days, which means that by 26th February 2024, whatever number of trees required to be felled by the DDA were already felled and destructed. When this Court heard the application on 4th March, 2024, the DDA suppressed this material fact. The DDA was fully aware that without permission from this Court, not a single tree could be touched, and, therefore, the application for permission to fell 1051 trees was made. By completely violating the law and orders of this Court, pending the application, the work of felling trees was started and was completed. This shows that the DDA has

committed a willful breach of the directions issued by this Court of not undertaking the felling of trees without seeking permission from this Court. Moreover, the DDA was aware of the requirement to obtain permission from this Court, and therefore, the application was made. The dishonesty does not end here. In paragraph 7.2, it is stated that based on the observations of this Court in the order dated 4th March 2024, an action of constitution of a committee of eminent experts was initiated to minimise the number of trees required to be felled. It is stated that this proposal was duly approved on 12th April 2024 by the Hon'ble Lt. Governor of Delhi in his capacity as the Chairman of the DDA. Therefore, the highest authority of Delhi, the Hon'ble Lt. Governor, was also misled by taking his approval on the proposal based on the observations made by this Court while disposing of the application. Though approval of the proposal by the Hon'ble Lt. Governor is relied upon, the Vice-Chairman of the DDA has chosen to withhold the said document from this Court. We direct the DDA's Vice-Chairman to produce the document on record. We also direct the Vice-Chairman of the DDA to personally address a letter to the Hon'ble Lt. Governor of Delhi pointing out that while forwarding the proposal to him, which is referred to in paragraph 7.2 of the affidavit, the material fact that felling of trees was already complete was suppressed. We hope and trust that the Hon'ble Lt. Governor will take this issue very seriously, not only in his capacity as the Lt. Governor of Delhi but also in his capacity as the Chairman of the DDA.

5. As narrated earlier, felling trees without seeking permission from this Court is a willful breach of the orders passed by this Court. Not only that, the conduct of starting the work of felling the trees and completing the same even before the application could come up before this Court and the conduct of suppressing this material fact from the Court when the application was heard on 4th March, 2024, amounts to interference with the due course of judicial proceedings. It amounts to interference and obstruction of the administration of justice.

6. We have already issued a show cause notice for civil contempt on this Contempt Petition. We issue a *suo motu* notice of criminal contempt to the Vice-Chairman of the DDA. In the reply filed to the civil contempt, the Vice-Chairman of the DDA stated that he was on leave from 16th February 2024 to 2nd March 2024, and he resumed work from home with effect from 2nd March 2024. At this stage, the said defence cannot be considered. It will have to be considered at a later stage. Therefore, assuming that the Vice-Chairman has some defence available, we expect him to disclose the names of all the officers responsible for violating the order of this Court and the suppression of facts so that we can issue notices to all those officers.

7. We are not prepared to believe that the contractor entrusted with the work of widening the road has indulged in cutting trees of his own volition. Obviously, it has to be on the basis of the instructions from the officers of the DDA. Paragraph 9 of the affidavit of the Vice-Chairman of the DDA is material which reads

thus:

"9. The work of the widening of the subject road was awarded to M/s Satya Prakash & Bros Private Limited vide letter dated 29.12.2023. Selection of the contractor was done on the basis of open tender called through online bidding. The time allowed for completion of this work was 60 days from the 10th day of issue of letter dated 29.12.2023. The work of cutting of trees was included in the scope of work apart from the other items required for widening of the existing road."

8. Thus, the admission is that way back in the year 2023, the work of cutting trees was entrusted to the contractor without even seeking permission from this Court. We must note here that the trees which have been felled are in the ridge area, which is a forest, and also in the forest area. Therefore, an inquiry needs to be made into the conduct of the officers who entrusted the job of felling trees to the contractor. The DDA should have come clean by stating whether there is a clause incorporated in the contract that the cutting of trees will be permitted only after a permission is granted by this Court. Though we had orally conveyed to the learned senior counsel appearing for the DDA on the last date that there has to be a specific statement made in the affidavit disclosing the names of the officers who permitted the contractor to carry out the work of felling of trees, no such statement has been incorporated in the affidavit.

9. After what transpired in the Court on the last date, we expected the DDA to devise a time-bound schedule for restoring the wrong done. Considering the extent of destruction, it is evident that, in the true sense, there cannot be restoration of the damage

caused to the environment as newly planted trees will take years to fully grow. Instead of coming out with a time-bound schedule, in paragraph 5 of the affidavit, the Vice-Chairman of the DDA has come out with very vague statements. Though orally we are informed across the Bar that the road has not been constructed on the sites on which the trees were felled, paragraph 5(i) of the affidavit shows that the work has been carried out and, therefore, the Vice-Chairman is talking about the restoration of a stretch of land. Even the correct information about the construction of a road on the site is not provided to this Court, though the Vice-Chairman has filed a very long affidavit.

10. Now, we come to the number of trees which have been felled. In paragraph 7.5 of the affidavit of the Vice-Chairman of the DDA, it is stated thus:

"7.5. That Chief Engineer (South Zone), along with his staff visited the site and found that out of 422 trees identified for felling, 174 trees had been cut on DDA/private land. Similarly, out of 629 trees on forest land, 458 trees had been cut. 248 trees on DDA/private land and 161 trees on forest land were still standing. Report to this effect was submitted by the Chief Engineer (South Zone) to the EM."

11. However, our attention was invited to an order of the Delhi High Court in which it is recorded that the DDA itself stated that about 1,100 trees have been felled for the same project. The figures given in paragraph 7.5 are inconsistent with those in the table incorporated in paragraph 16 of the affidavit.

12. The long and short of this discussion is that even while responding to the contempt notice, the DDA has not come clean with

all the factual aspects. Though an unconditional apology has been tendered in the first paragraph of the affidavit, we find that, looking at the other paragraphs in the affidavit, the apology is only by way of rendering lip service. Otherwise, a positive statement would have been made that the restoration work would be undertaken immediately. However, that has not been done.

13. At this stage, Shri A.D.N. Rao, learned senior counsel appointed as learned *Amicus Curiae*, has shown a picture on his mobile phone which indicates that except for asphaltting or concreting, the work of construction of the road has been completed. We, therefore, direct the DDA to stop all further activities on the stretches of the two roads. We direct the Vice-Chairman of the DDA to depute appropriate officers to visit the stretches of both roads to ensure that the work has been stopped.

14. Now, we must appoint an independent agency to assess how many trees were felled and the extent of damage done to the environment by grossly illegal and contemptuous acts. Moreover, the expert agency will have to suggest which species of trees should be replanted and in what manner. They will also recommend other restoration measures. We are of the view that apart from the statutory requirement of compulsory afforestation, 100 new trees per every tree felled must be planted by the DDA.

15. We, therefore, direct the Forest Survey of India (for short, "the FSI") at Dehradun, Uttarakhand, to depute its team to visit the stretches of the roads which we have mentioned earlier and find out how many trees possibly may have been cut and to assess the

damage done to the environment. Shri Ishwar Singh, a retired IFS Officer, Shri Sunil Limaye, a member of the CEC, and Shri Pradip Kishen, an ecological gardener, shall be associated with the work assigned to the FSI. The officers of the FSI and Shri Ishwar Singh, Shri Sunil Limaye and Shri Pradip Kishen shall be allowed to inspect the entire record of the DDA concerning the felling of the trees in this area. The DDA is responsible for making available the whole record of the contractor appointed by the Committee.

16. The DDA has relied upon in-principle Stage I approval granted by the Ministry of Environment, Forest and Climate Change (for short, "the MoEF"), Government of India, on 1st March 2024. The DDA will make available the documents submitted to the concerned department to obtain Stage I approval. Even the MoEF will make available the file of the application made by the DDA for the grant of Stage I approval to the FSI, Shri Ishwar Singh, Shri Sunil Limaye and Shri Pradip Kishen, which will assist them in arriving at a figure of a number of trees felled. Needless to add, the FSI will submit an invoice for the required fees for carrying out the work as provided above, and the DDA will promptly pay the amount demanded by the FSI. The DDA will also bear the expenditure of the three experts appointed under this order. We request the FSI and the other three officers whom we have nominated to submit a preliminary report to this Court by 20th June 2024.

17. The Vice-Chairman of the DDA will inquire into the default committed by his legal department of not instructing the learned counsel who appeared before us on 4th March 2024 to tell the Court

the correct facts regarding the felling of trees. If any course correction is required regarding the way in which the legal department functions, the Vice-Chairman will take necessary steps in accordance with the law.

18. The FSI, Shri Ishwar Singh, Shri Sunil Limaye, and Shri Pradip Kishen will also submit their suggestions on the issue of restoration and damage control to the environment while submitting the final report so that we may appoint an appropriate agency to undertake the plantation of trees and development of compulsory afforestation.

19. Before 20th June 2024, the Vice-Chairman of the DDA will place on record the approval granted by the Hon'ble Lt. Governor on 12th April 2024 and a copy of the applications/proposals submitted before the Hon'ble Lt. Governor.

20. As is apparent from the affidavit of the Vice-Chairman of the DDA, only on the basis of the Stage I approval that the felling of trees has been done. We may note here that the felling of trees started on 16th February 2024, and the Stage I approval was granted on 1st March 2024. We, therefore, direct the MoEF to initiate appropriate action in accordance with the law for violation of the provisions of the Forest (Conservation) Act, 1980.

21. We are happy to note that the learned Attorney General for India has appeared on his own and is assisting the Court. This is very important as the issue is of saving Delhi's green cover and ensuring that the laws relating to the environment and trees are scrupulously implemented in the capital city.

22. Considering the seriousness of the issue, we propose to take up the further hearing of this Contempt Petition and allied matters during the summer vacation. We, therefore, direct the Registrar (Judicial Listing) to seek directions from the Hon'ble Chief Justice of India for listing the cases before this Bench in the week commencing from 24th June 2024.

IA No.117930/2024 IN CONTEMPT PETITION (CIVIL) DIARY NO(S). 21171/2024 IN W.P.(C) NO. 4677/1985

1. We direct the applicant to implead Ridge Management Board and the Forest Department of the Government of NCT of Delhi as the party respondents. The amended application shall be filed within one week from today.

2. Issue notice on the amended application, returnable on 24th June, 2024.

3. This application shall be listed before this Bench, if permitted by the Hon'ble Chief Justice of India, in the week of 24th June, 2024.

4. Looking at the averments made in the application and documents annexed to the application, the interim relief in terms of prayer clause (b) deserves to be granted, which reads thus:

“(b) Restrain the Ridge Management Board from entertaining project proposals for diversion of the Ridge Forests.”

5. We, therefore, restrain the Ridge Management Board from clearing the project proposals for the diversion of the ridge forests without seeking permission from this Court.

W.P.(C) NO.4677/1985

1. Taken on Board.

2. The Registry is directed to provide soft copies of the compilation of the orders passed by this Court from time to time to all the learned counsel representing the parties, including the intervenors, etc.

**(ASHISH KONDLE)
COURT MASTER (SH)**

**(AVGV RAMU)
COURT MASTER (NSH)**