

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA. 386/2024

IN THE MATTER OF:

VINAY PRAKASH

....PETITIONER

VERSUS

NCT OF DELHI &ORS.

...RESPONDENT(S)

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Through Counsel


Jyoti Mendiratta

Standing Counsel

H-34, Jangpura Extension, Lower Ground Floor,
New Delhi – 110014

Place:

Date:

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA. 386/2024

IN THE MATTER OF:

VINAY PRAKASH

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...RESPONDENT(S)

STATUS REPORT

I, Vipul Pandey s/o Gajadhar Pandey, aged about 35 years, presently posted as Dy. Conservator of Forest (South), having office at Asola Bhatti Wildlife Sanctuary, Government of National Capital of Delhi, (hereinafter referred to as the 'Answering Respondent') in official capacity and do hereby submits the following report as under:-

1. That I am presently working in the aforementioned capacity and as such authorized to submit the present status report in my official capacity on the basis of the official records pertaining to the aforementioned case and in terms of the directions issued by this Hon'ble Court. Further the answering respondent reserves a right to file a detailed reply.
2. That the present application has been preferred by the petitioner with regard to unauthorized / illegal cutting and pruning of trees in State Trading Corporation (STC) Housing Colony, Mehrauli Road, New Delhi.
3. That immediately upon receiving the complaint, the officials of Forest Department took cognizance and in the investigation it was found that tree

offence has been committed in State Trading Corporation (STC) Housing Colony. That while investigating and upon inquiring from the locals, it was verbally informed that the trees had been cut and pruned by the S.T.C Company & MCD on request of RWA member, Mrs. Himachal Savita and based upon the inspection report dated 08.02.2024, the show cause notices bearing no. 461/TO(S)/TOC/2022-23 dated 09.02.2024, 04.03.2024, 14.03.2024 were issued to Dy. Director of Horticulture, General manager of S.T.C Company, and the President of RWA. Copy of the inspection report dated 08.02.2024 along with photographs are annexed as **Annexure-R-2/A (Colly.)** and copies of show cause notices are annexed as **Annexure-R-2/B (colly)**.

4. That upon issuance of the show cause notices on 21.02.2024, 13.03.2024, 01.05.2024, the General Manager of S.T.C. namely Mr. Raj Kumar Avasti, Mr. Rajender Rawat (chief manager) and Ms. Himachal Devi from RWA appeared and in response to the show cause notice, a letter was submitted by R.K Avasthi, General Manger S.T.C. vide which they denied their role and participation in the offence. That in response to the show cause notice issued to Mrs. Himachal Devi, she submitted that she requested the MCD and they had pruned the trees, as the trees were dangerous in nature and also attached the photographs along with the response letter. That it is pertinent to mention here that the answering respondent has specifically asked to compound the offence to which they disagreed, hence the answering respondent left with no option but to commence criminal proceedings against them. Further in response to the show cause notice, the South zone MCD (Dept. of Horticulture) stated that the S.T.C Housing Colony area jurisdiction doesn't fall under their jurisdiction. Copies of the said replies are annexed as **Annexure-R-2/C (Colly)**.

5. That based on the responses received and looking the gravity of the offence the answering respondent sent a letter to local SHO for lodging an FIR in respect of offence punishable u/s 8 and 24 of DPTA, 1994 so that further investigation can be done. Further, a reminder was also sent to SHO in order to expedite the process. The investigation is now underway by the Department of police, let the police investigate, inquire and thereafter accordingly file a case in competent court under DPTA, 1994.
6. It is further submitted that Police can also submit their report and upon receiving the report, the Tree Officer as quasi-judicial authority has only option is of compounding or as an alternative, police can directly file complaint u/s 223 r/w 210 of BNSS, 2023. It is further submitted that as per section 24 of DPTA, the offence is punishable up to 1 year and the police officials have authority to arrest without a warrant (as per section 18 of DPTA). Therefore, it can easily be concluded that the instance offence u/s 24 of DPTA is cognizable offence in light in Section 2(g) of BNSS 2023. Copies of both the letters are annexed as **Annexure-R-2/D (Colly)**.
7. It is also further submitted that Hon'ble Supreme Court of India is also monitoring issues related to tree felling permissions and others. Hon'ble court recently passed an order dated 19.12.2024 in MC Mehta vs UOI & ORS (WP(C) 4677/1995) wherein issue relating to the implementation of the Delhi Preservation of Trees Act, 1994 is being dealt with. Copy of the said order is being annexed as **Annexure – R3**.
8. It is submitted that the answering respondent is a quasi-judicial authority, dutifully proceeded and take all the necessary steps in accordance with

law. Further the undersigned is ready to abide by the direction/order if any passed by this Hon'ble court in the interest of justice.

Place: New Delhi

Date: 0....05.2024


Answering Respondent

Dy. Conservator of Forest (South)

सेवा में,

श्रीमान थाना प्रभारी महोदय,
मालवीय नगर,
नई दिल्ली



विषय:- एसटीसी हाउसिंग कालोनी, श्री अरविन्दो मार्ग, नई दिल्ली पर हुए वृक्ष अपराध के संबंध में।

महोदय,

आज दिनांक 08.02.2024 को कार्यालय से मिली सूचना के अनुसार एसटीसी हाउसिंग कालोनी, श्री अरविन्दो मार्ग, नई दिल्ली पर हुए वृक्ष अपराध का निरीक्षण निरीक्षण किया, निरीक्षण के दौरान पाया की बिना विभागीय अनुमति के लगभग 17 वृक्षों को जड़ से काटा गया था तथा 10 वृक्षों की भारी छटाई की गई थी। पूछ-ताछ करने पर पता चला कि यह वृक्ष अपराध एस.टी.सी. कम्पनी, एमसीडी व आर.डब्लू.ए. के मिलीभगत से काटा गया है।

अतः महोदय आपसे अनुरोध है कि इस संबंध में जांच कर वृक्ष अपराधकर्ता के खिलाफ एफ.आई.आर. दर्ज कर उपवन संरक्षक (दक्षिणी) तुगलकाबाद, नई दिल्ली-44 को सूचित किया जाये।

संलग्न:

1. वृक्ष अपराध का फोटो।

भवदीय

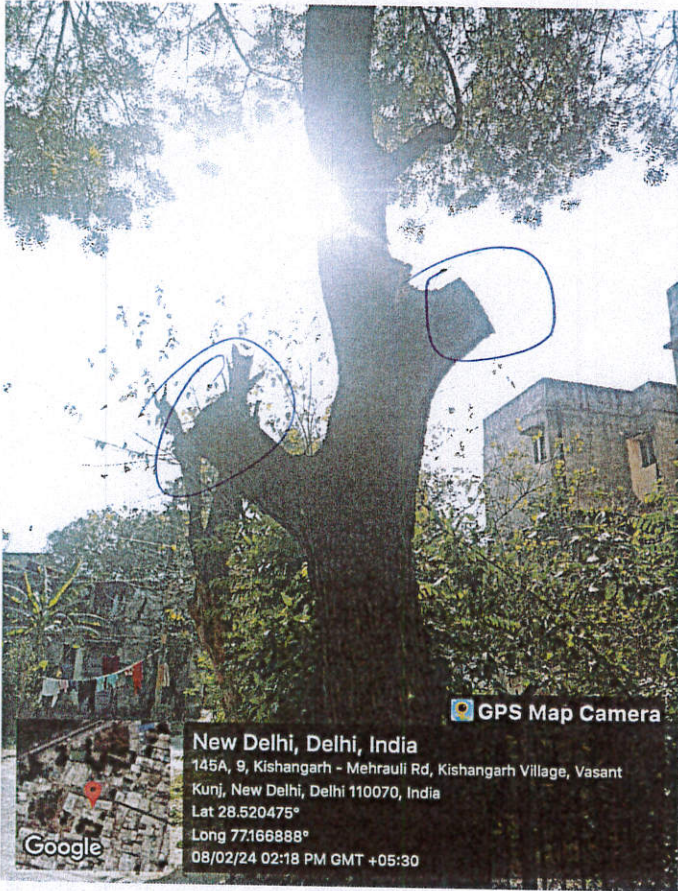
Dinesh

08.02.2024

दिनेश

(I.O./F.G.)

बीट इंचार्ज- हौजखास



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2 - cutting



Day 1 - cutting



GOVERNMENT OF NCT OF DELHI
OFFICE OF THE DY. CONSERVATOR OF FORESTS (SOUTH)
NEAR DR. KARNI SINGH SHOOTING RANGE
TUGHLAKABAD NEW DELHI -110044
Email Id- dcfsouth.delhi@gov.in

F - 461/TO(S)/TOC/2022-23/ 14544-46

Dated 9/9/24

NOTICE UNDER DPTA, 1994

Whereas, it has been alleged that a tree offence has been committed by illegal cutting/pruning of trees located at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi without permission, which is violation of Delhi Preservation of Trees Act, 1994.

And Whereas, the statement/presence of the person (s) addressed in this notice is required to find out the factual position and to determine the extent of offence according to its merit.

Now, therefore, I, **DY. CONSERVATOR OF FORESTS (SOUTH)/ Tree Officer**, as empowered u/s 31 of Delhi Preservation of Trees Act, 1994 call upon you to appear before me on 21.02.2024 at 10:00 A.M. in the office of Dy. Conservator of Forests cum Tree Officer, South Forest Division, Near Shooting Range, Tughalkabad, New Delhi-110044. In event of failure to appear, legal action will be initiated against concerned and the matter would be proceeded ex-parte. *As per section 136, CrPC, non-compliance of this notice will attract penal provisions u/s 188 of IPC.*


Tree Officer/ Dy. Conservator of Forest (South)
Tughlakabad, New Delhi

To,

1. The Dy. Dir(Hort.),
MCD, South Zone, Green park,
New Delhi
2. Dy. General Manager/Sh. R.K. Avasthi,
M & E Division, Building Cell, House Keeping, STC Housing Colony,
CCTV and Computer Cell, Jawahar Vyapar Bhawan,
Tolstoy Marg, New Delhi
3. The President,
RWA. S.T.C. Housing Colony,
Shri Aurbindo Marg, New Delhi

o/c

Please Note:- 1. Carry a copy of valid ID proof while coming for the hearing.
2. Authorization letter is mandatory if the addressee of this notice is not attending the hearing himself/herself.



GOVERNMENT OF NCT OF DELHI
OFFICE OF THE DY. CONSERVATOR OF FORESTS (SOUTH)
NEAR DR. KARNI SINGH SHOOTING RANGE
TUGHLAKABAD NEW DELHI -110044
Email Id- dcfsouth.delhi@gov.in

F - 461/TO(S)/TOC/2022-23/15411-13

Dated 4/3/20

NOTICE UNDER DPTA, 1994

Whereas, it has been alleged that a tree offence has been committed by illegal cutting/pruning of trees located at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi without permission, which is violation of Delhi Preservation of Trees Act, 1994.

And Whereas, the statement/presence of the person (s) addressed in this notice is required to find out the factual position and to determine the extent of offence according to its merit.

Now, therefore, **I, DY. CONSERVATOR OF FORESTS (SOUTH)/ Tree Officer**, as empowered u/s 31 of Delhi Preservation of Trees Act, 1994 call upon you to appear before me on 13.03.2024 at 10:00 A.M. in the office of Dy. Conservator of Forests cum Tree Officer, South Forest Division, Near Shooting Range, Tughalkabad, New Delhi-110044. In event of failure to appear, legal action will be initiated against concerned and the matter would be proceeded ex-parte. *As per section 136, CrPC, non-compliance of this notice will attract penal provisions u/s 188 of IPC.*


Tree Officer/ Dy. Conservator of Forest (South)
Tughlakabad, New Delhi

To,

1. The Dy. Dir(Hort.),
MCD, South Zone, Green park,
New Delhi
2. Dy. General Manager/Sh. R.K. Avasthi,
M & E Division, Building Cell, House Keeping, STC Housing Colony,
CCTV and Computer Cell, Jawahar Vyapar Bhawan,
Tolstoy Marg, New Delhi
3. The President,
RWA. S.T.C. Housing Colony,
Shri Aurbindo Marg, New Delhi

Please Note:- 1. Carry a copy of valid ID poof while coming for the hearing.
 2. Authorization letter is mandatory if the addressee of this notice is not attending the hearing himself/herself.



GOVERNMENT OF NCT OF DELHI
OFFICE OF THE DY. CONSERVATOR OF FORESTS (SOUTH)
NEAR DR. KARNI SINGH SHOOTING RANGE
TUGHLAKABAD NEW DELHI -110044
Email Id- dcfsouth.delhi@gov.in

F - 461/TO(S)/TOC/2022-23/ 15787

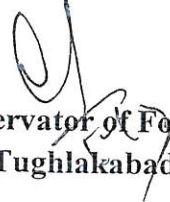
Dated 14/3/24

NOTICE UNDER DPTA, 1994

Whereas, it has been alleged that a tree offence has been committed by illegal cutting/pruning of trees located at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi without permission, which is violation of Delhi Preservation of Trees Act, 1994.

And Whereas, the statement/presence of the person (s) addressed in this notice is required to find out the factual position and to determine the extent of offence according to its merit.

Now, therefore, **I, DY. CONSERVATOR OF FORESTS (SOUTH)/ Tree Officer**, as empowered u/s 31 of Delhi Preservation of Trees Act, 1994 call upon you to appear before me on 10.04.2024 at 10:00 A.M. in the office of Dy. Conservator of Forests cum Tree Officer, South Forest Division, Near Shooting Range, Tughalkabad, New Delhi-110044. In event of failure to appear, legal action will be initiated against concerned and the matter would be proceeded ex-parte. *As per section 136, CrPC, non-compliance of this notice will attract penal provisions u/s 188 of IPC.*


Tree Officer/ Dy. Conservator of Forest (South)
Tughlakabad, New Delhi

To,

1. ✓ The Dy. Dir(Hort.),
MCD, South Zone, Green park,
New Delhi
2. Dy. General Manager/Sh. R.K. Avasthi,
M & E Division, Building Cell, House Keeping, STC Housing Colony,
CCTV and Computer Cell, Jawahar Vyapar Bhawan,
Tolstoy Marg, New Delhi
3. The President,
RWA. S.T.C. Housing Colony,
Shri Aurbindo Marg, New Delhi
Mob. 8130373722

Please Note:- 1. Carry a copy of valid ID poof while coming for the hearing.
 2. Authorization letter is mandatory if the addressee of this notice is not attending the hearing himself/herself.





GOVERNMENT OF NCT OF DELHI
OFFICE OF THE DY. CONSERVATOR OF FORESTS (SOUTH)
NEAR DR. KARNI SINGH SHOOTING RANGE
TUGHLAKABAD NEW DELHI -110044
Email Id- dcfsouth.delhi@gov.in

F - 461/TO(S)/TOC/2022-23/ 332-334

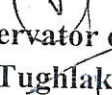
Dated 16/04/24

NOTICE UNDER DPTA, 1994

Whereas, it has been alleged that a tree offence has been committed by illegal cutting/pruning of trees located at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi without permission, which is violation of Delhi Preservation of Trees Act, 1994.

And Whereas, the statement/presence of the person (s) addressed in this notice is required to find out the factual position and to determine the extent of offence according to its merit.

Now, therefore, **I, DY. CONSERVATOR OF FORESTS (SOUTH)/ Tree Officer**, as empowered u/s 31 of Delhi Preservation of Trees Act, 1994 call upon you to appear before me on 01.05.2024 at 10:00 A.M. in the office of Dy. Conservator of Forests cum Tree Officer, South Forest Division, Near Shooting Range, Tughalkabad, New Delhi-110044. In event of failure to appear, legal action will be initiated against concerned and the matter would be proceeded ex-parte. *As per section 136, CrPC, non-compliance of this notice will attract penal provisions u/s 188 of IPC.*


Tree Officer/ Dy. Conservator of Forest (South)
Tughlakabad, New Delhi

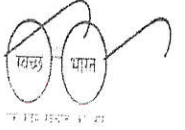
To,

1. The Dy. Dir(Hort.),
MCD, South Zone, Green park,
New Delhi
2. Dy. General Manager/Sh. R.K. Avasthi,
M & E Division, Building Cell, House Keeping, STC Housing Colony,
CCTV and Computer Cell, Jawahar Vyapar Bhawan,
Tolstoy Marg, New Delhi
3. The President,
RWA. S.T.C. Housing Colony,
Shri Aurbindo Marg, New Delhi
Mob. 8130373722

Please Note:- 1. Carry a copy of valid ID poof while coming for the hearing.
 2. Authorization letter is mandatory if the addressee of this notice is not attending the hearing himself/herself.



MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE DEPUTY DIRECTOR (HORT.)
HORTICULTURE DEPARTMENT: SOUTH ZONE
ROOM NO. 39, MCD OFFICE, SRI AURBINDO MARG,
GREEN PARK, NEW DELHI-110017
Email ID :- adhsouthzone.mcd@gmail.com



No.DDH/ADH/SZ/MCD/2023-24/57

Dated 04.04.2024

To,

✓ The Deputy Conservator of Forest (South)
Near Dr. Karni Singh Marg,
Shooting Rang, Tuglakabad,
New Delhi-440044

Sub:- Illegal cutting/pruning of trees located at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi:- reg.

Sir,

This correspondence pertains to the recent issue of illegal cutting/pruning of trees at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi, as referenced in letter No. F.461/TOC/2022-23/15411-13 dated 04.03.2024

In this regard, it is submitted that S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi is not falls under the jurisdiction of Horticulture Department, South Zone, MCD. It is also submitted that the Horticulture Department, South Zone, MCD has not conducted any pruning activities within the aforementioned colony.

Submitted please.

Asstt. Director (Hort.)
South Zone: MCD

28/03/2024

Tu
Taly
04/04/24

Section Officer (Hort.)
South Zone: MCD



on file P/1
cuel



MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE DEPUTY DIRECTOR (HORT.)
HORTICULTURE DEPARTMENT: SOUTH ZONE
ROOM NO. 39, MCD OFFICE, SRI AURBINDO MARG,
GREEN PARK, NEW DELHI-110017
Email ID :- adhsouthzone.mcd@gmail.com



No.DDH/ADH/SZ/MCD/2024-25/313

Dated 06/05/2024

To,

✓ The Deputy Conservator of Forest (South)
Near Dr. Karni Singh Marg,
Shooting Rang, Tuglakabad,
New Delhi-440044

Sub:- Illegal cutting/pruning of trees located at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi:- req.

Sir,

This letter concerns the recent issue of illegal cutting/pruning of trees at S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi, as highlighted in the notice received by the Tree Officer/Dy. Conservator of Forest (South), Tuglakabad, New Delhi, vide letter NO. F.461/TO(S)/TOC/2022-23/332-334 dated 16.04.2024.

It is submitted that S.T.C. Housing Colony, Shri Aurbindo Marg, New Delhi, does not fall under the jurisdiction of the Horticulture Department, South Zone, MCD. Additionally, it is affirmed that the Horticulture Department, South Zone, MCD, has not conducted any pruning activities within the aforementioned colony.

Submitted please.



Asstt. Director (Hort.)
South Zone: MCD

Handwritten signature and initials.

Handwritten note: 'Two copy to Dept.'

GOVERNMENT OF NCT OF DELHI
OFFICE OF THE DY. CONSERVATOR OF FORESTS (SOUTH)
NEAR DR. KARNI SINGH SHOOTING RANGE
TUGHLAKABAD NEW DELHI -110044

F.No.- 461/TO(S)/TOC/2022-23/ 15810-12

Dated 7/3/24

To,

The Station House Officer,
Police Station, Malviya Nagar,
New Delhi

Sub:- Investigated the tree offence and lodging of FIR/Complaint under Section 154 of the Code of Criminal Procedure, 1973 in respect of offence punishable u/s 8/24 of the Delhi Preservation of Trees Act, 1994.

Sir,

It is inform you that a complaint received in e-mail dated 08.02.2024 against illegal cutting/pruning of trees at STC Housing Colony, Sri Aurbindo Marg, New Delhi.

Upon receiving of the above mentioned complaint, inspection has been carried out by the officials of South Forest Division on 08.02.2024 regarding tree offence at STC Housing Colony, Sri Aurbindo Marg, New Delhi where tree offence was committed. Upon inspection, it was found that illegal cutting of 17 nos. of trees & heavy pruning of 10 nos. trees without obtaining permission of the Competent Authority.

Thus, the case is hereby referred to the Section House Officer, Malviya Nagar, New Delhi for investigated the tree offence against offender and filing of FIR/Complaint under Section 154 of the Code of Criminal Procedure, 1973 in respect of offence punishable u/s 8/24 of the Delhi Preservation of Trees Act, 1994.

Encl.:-Inspection report & Photographs.

CLM
07/3/2024
Chhedi Lal Sharma
(I.O Tree Offence Cell)

9c

Copy to:-

1. The DCP (South) for kind information and necessary action please.
2. Sh. Vinay Prakash, Senior Officer Manager/ General Secretary STC SC/ST Association, STC, Jawahar Vyapar Bhawan, New Delhi.

ITEM NO.46

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(S)(CIVIL) NO(S). 4677/1985

M.C.MEHTA

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

([TO BE TAKEN UP AT 2:00 P.M.] 1) IN RE: TREES ACT AND 2) I.A. NO. 135709/2024 (APPLN. FOR DIRECTION ON BEHALF OF BHAVREEN KANDHARI) 3) IA NOS. 267661 AND 267966/2024 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O INDERPURI RESIDENTS ASSN.) AND 4) IN RE: COMPLIANCE OF ORDER DT. 26.06.2024 AND 30.09.2024 NAMES OF FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST : MR. S GURU KRISHNA KUMAR, SR. ADVOCATE (A.C.) MS. ANITHA SHENOY, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) PETITIONER-IN-PERSON MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA, MR. PRAVEEN SWARUP, MS. MANIKA TRIPATHY, MR. CHIRAG M. SHROFF, MS. MALVIKA KAPILA, MR. ANAND VERMA MR. MAYANK AGGARWAL MR. KARUNAKAR MAHALIK, MR. ZEESHAN DIWAN, MR. MANAN VERMA, ADVOCATES)

WITH Diary No(s). 57901/2024

Date : 19-12-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Mr. A.D.N.Rao, Sr.Adv. (Amicus Curiae)
Mr. S Guru Krishna Kumar, Sr.Adv.(Amicus Curiae)
Ms. Srishti Agnihotri, AOR
Mr. Ashwin K, Adv.
Mr. Vishesh Goel, Adv.
Ms. Sanjana Grace Thomas, Adv.
Mr. D.P.singh, Adv.
Ms. Tara Elizabeth Kurien, Adv.

For the parties:

Ms. Aishwarya Bhati, A.S.G.
Ms. Ruchi Kohli, Sr.Adv.
Ms. Swarupama Chaturvedi, Sr. Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Mukesh Verma, Adv.
Ms. Chitrangda Rashtravara, Adv.

Signature Not Verified
Digitally signed by
ASHISH KONDLE
Date: 2024.12.21
16:49:28 IST
Reason: []

Mr. Rahul Khurana, Adv.
 Ms. Himanshi Shakya, Adv.
 Mr. Nikunj Gupta, Adv.
 Ms. Drishti Saraf, Adv.
 Ms. Pragya Upadhyay, Adv.
 Ms. Swati Mishra, Adv.
 Ms. Aakanksha, Adv.

Mr. Lokesh Sinhal, Sr. A.A.G.
 Mr. B.K. Satija, A.A.G.
 Mr. Rahul Khurana, Adv.
 Mr. Samar Vijay Singh, AOR
 Mr. Nikunj Gupta, Adv.
 Ms. Himanshi Sakhya, Adv.
 Ms. Aakanksha, Adv.
 Ms. Sabarni Som, Adv.
 Mr. Fateh Singh, Adv.
 Mr. Abhishek Kumar Suman, Adv.
 Ms. Shalini Satyanarayan, Adv.
 Dr. Ratipal Singh Tanwar, Adv.
 Mr. Venkatesh Rajput, Adv.
 Mr. Keshav Mittal, Adv.

Mr. Rajiv Dutta, Sr. Adv.
 Ms. Neha Singh, Adv.

Petitioner-in-person

Dr. Surender Singh Hooda, AOR

M/S. Parekh & Co., AOR

Ms. Manju Jetley, AOR

Ms. Sharmila Upadhyay, AOR

Mr. Satish Aggarwal, AOR

Mr. Shivam Birt, Adv.
 Mr. Roshan Singh Thakur, Adv.
 Mr. Vishal Rathee, Adv.
 Mr. Satyendra Kumar, AOR

Mr. Ajit Sharma, AOR

Mr. Suresh Chandra Tripathy, AOR

Mr. Md. Farman, AOR

Ms. Ruby Singh Ahuja, AOR

Mr. Devendra Singh, AOR
Mr. A. Venayagam Balan, AOR
Ms. Binu Tamta, AOR
Mr. Shekhar Kumar, AOR
Mrs. Anil Katiyar, AOR
Ms. Anu Gupta, AOR
Mr. Harsh V. Surana, AOR
Mr. Raj Kamal, AOR
Mr. Himinder Lal, AOR
Ms. Rukhsana Choudhury, AOR
Mr. Krishna Pal Singh, AOR
M/S. Karanjawala & Co., AOR
Mr. Ashok Anand, AOR
Ms. K. V. Bharathi Upadhyaya, AOR
Ms. Rooh-e-hina Dua, AOR
Mr. Haresh Raichura, AOR
Mrs. Saroj Raichura, Adv.
Ms. Shagun Matta, AOR
Mr. Samir Malik, AOR
Mrs. Priya Puri, AOR
Mr. Zeeshan Diwan, AOR
Mr. M. M. Kashyap, AOR
Mr. Shiv Mangal Sharma, A.A.G.
Mr. Milind Kumar, AOR
Ms. Udit Singh, AOR
Ms. Anuradha Mutatkar, AOR
Mr. Chirag M. Shroff, AOR

Mr. Ashutosh Kaushik, Adv.
Mr. Mayank Aggarwal, AOR
Mr. Ajay Kumar Singh, AOR
Mr. Rahul Narayan, AOR
Mr. Dhananjay Garg, AOR
Ms. B. Vijayalakshmi Menon, AOR
Mr. Nishit Agrawal, AOR
Ms. Rakhi Ray, AOR
Mr. Anando Mukherjee, AOR
Mr. Jasmeet Singh, AOR
Mr. Rajat Joseph, AOR
Mr. Gaurav Goel, AOR
Mr. Umesh Kumar Khaitan, AOR
Ms. Vanita Bhargava, AOR
Mr. Amit Kumar Singh, AOR
Mr. Kailas Bajirao Autade, AOR
Mr. Anand Varma, AOR
Mr. T. Mahipal, AOR
Mr. S. S. Shroff, AOR
Ms. Firdouse Qutb Wani, AOR
Mr. Kamal Mohan Gupta, AOR
Mr. Sunny Choudhary, AOR
Mr. D. K. Devesh, AOR
Mr. Abhinav Agrawal, AOR
Mr. Avadh Bihari Kaushik, AOR
Mr. Arvind Kumar Sharma, AOR

Mr. Guntur Pramod Kumar, AOR
Mr. Arunabha Ganguli, Adv.
Mr. Dhruv Yadav, Adv.
Mr. Keshav Singh, Adv.

Mr. Abinash Kumar Mishra, AOR

Ms. Nidhi Mohan Parashar, AOR

Mr. Shrey Kapoor, AOR

Mr. Ramesh Kumar Mishra, AOR

Mr. Arvind Gupta, AOR

Dr. Arvind S. Avhad, AOR

Ms. Madhu Sikri, AOR

Mr. K. V. Mohan, AOR

Mr. Arjun Garg, AOR

Mr. V. N. Raghupathy, AOR

Mr. Karunakar Mahalik, AOR

Mr. Sarbendra Kumar, Adv.

Mr. Yoginder Handoo, AOR

Mr. Tejaswi Kumar Pradhan, AOR

Mr. Manoranjan Paikaray, Adv.

Mr. Pradeep Kar, Adv.

Mr. Ambhoj Kumar Sinha, AOR

Ms. Binu Tamta, AOR

Mrs. Rani Chhabra, AOR

Mr. Vishnu Kant, AOR

Mr. Praveen, Adv.

Mr. Abhinav Shrivastava, AOR

Mr. A. Raghunath, AOR

Mr. Prakash Ranjan Nayak, AOR

Ms. Sharmila Upadhyay, AOR

Mr. Siddharth Sengar, Adv.
Mr. Shantanu Krishna, AOR
Mr. Alok Kumar, Adv.

Mr. Ekansh Mishra, AOR

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

WRIT PETITION(CIVIL)NO.4677/1985

1. The first issue we are dealing with is about the implementation of the Delhi Preservation of Trees Act, 1994 (for short, "the 1994 Act"). At the outset, we must say that much can be said about the failure of all the concerned Authorities to implement the 1994 Act effectively. We have already flagged the issue of providing proper infrastructure to the Tree Officers and the Tree Authority.

2. After having perused the provisions of the 1994 Act, we must state here that the object of the 1994 Act is to preserve the trees and not to permit cutting or felling of the trees. Considering the object of the 1994 Act, it is evident that permission for felling or cutting of the trees can be granted only by way of an exception and not in a routine manner. The provisions of the 1994 Act reiterate the public trust doctrine, which enjoins the State to protect the natural resources, including the trees. On a conjoint reading of Articles 21, 48A and 51A(g) of the Constitution of India, it is apparent that the State is mandated to protect and improve the natural environment and safeguard the environment. Trees are a vital part of our environment. The precautionary principle requires the governments to anticipate, prevent, and remedy or eradicate the causes of environmental

upon the concerned Tree Officer to furnish additional information and additional documents.

5. The CEC will carefully consider the applications and all relevant aspects and will decide whether the permission deserves to be granted or whether any modification is required to the permission or the terms and conditions imposed under the permission. We make it clear that while granting permission to fell 50 or more trees, unless the case is exceptional, a condition should be imposed that unless compliance is made with the requirement of planting trees by way of compensatory afforestation, actual tree-cutting work shall not be undertaken. After receiving orders of the CEC, the Tree officers shall amend the orders passed by them to give effect to the order of the CEC. What will prevail will be the order of the CEC.

6. The CEC, after examining the entire case, shall be empowered either to allow or reject the application, to allow the application partly or to modify the terms and conditions on which permission is granted by the Tree Officer. After the Tree Officer passes an order granting permission, copies thereof shall not be provided to the applicant. Only after the CEC passes an appropriate order, the Tree Officer will supply the copy of his order as amended by the CEC to the concerned applicant.

7. Our attention is invited to sub-Section (4) of Section 9 of the 1994 Act which introduces a deeming fiction. We direct the Tree

10. If the Tree Officer finds that a second application is made in the same year in respect of the same area for the felling of trees and if the total number of trees covered by the first and second applications exceeds 49, the directions issued as above will apply to the second application even if the permission sought by the second application is in respect of fewer than 50 trees and the permission granted on the second application shall not be acted upon unless the same is vetted and approved by the CEC as directed above. We also direct that the Tree Officers shall not entertain any application under Section 9 of the 1994 Act unless there is a declaration supported by documents about the number of applications made under Section 9 of the 1994 Act in that particular year regarding the same property. We also clarify that on the requisition being made by the CEC, the project proponent or the applicant who makes an application under Section 9 of the 1994 Act shall be bound to appear before the CEC.

TREE CENSUS

11. The most vital obligation of the Tree Authority under Section 7(b) of the 1994 Act is to carry out the census of the existing trees and obtain, whenever necessary, declarations from all owners or occupants about the number of trees in their lands. Though the 1994 Act is 30 years old, unfortunately, this important duty has not been performed by the Tree Authority. We must highlight the importance of carrying out the census of the existing trees. Unless the data of existing trees is available, it will be impossible for any of the Authorities to ascertain whether anyone has engaged in illegal tree

the owners and occupants shall be given effect. It will be open for the Government of India to utilise the Compensatory Afforestation Fund to meet the expenses of the trees census.

12. Coming back to the issue of granting permissions under Section 9 of the 1994 Act, we reiterate what we have stated earlier. The basic function and duty of the Tree Authority and the Tree Officers is to preserve the trees and, therefore, only in case of necessity and for good reasons that the permissions for cutting or felling of trees can be granted. It is obvious that the Tree Officer cannot grant permissions mechanically. Firstly, the Tree Officers will have to apply their mind after visiting the site whether the felling or trans-location of the trees as sought by the applicant is really necessary. The Tree Officers will make an effort to save as many trees as possible. This is the first satisfaction that the Tree Officers must record. Secondly, the Tree Officers cannot pass a mechanical order of compensatory afforestation. They will have to decide the type of trees which should be planted and also at which place. If the applicant has offered a particular land for compensatory afforestation, the Tree Officers will have to examine the site and, thereafter, apply their mind to which category of trees should be planted which are suitable for that land. While doing so, the Tree Officers shall consider whether, by pruning or by some other methods, the trees can be saved from felling. These are the broad considerations that the Tree Officers must consider while dealing with the applications for the felling of trees. However,

infrastructural machinery provided to the Tree Authority and the Tree Officers is adequate and submit a report in that behalf to this Court. The report on that behalf shall be submitted by the CEC in the first week of March 2025.

16. Our attention is invited to Section 29 of the 1994 Act. Whenever the State Government exercises the powers under Section 29, we make it clear that the order under Section 29 shall not be given effect unless it is vetted and approved by the CEC. The orders will be subject to the orders passed by the CEC.

17. We clarify that the directions issued under this order will apply to all the pending applications under Section 8, read with Section 9 of the 1994 Act.

18. At the appropriate stage, we will take up the issue of strict implementation of the other provisions of the 1994 Act.

19. At this stage, we may note that for dealing with different issues, different dates have been assigned. We modify our earlier orders and direct that the issues shall be considered on the following dates:

Sl. No.	Issue	Date Given for Hearing
1.	IA No. 267661/2024 and 267966/2024 (application for intervention/impleadment and appropriate orders/directions on behalf of Manan Verma)	17.01.2025
2.	IA No. 77503 and 82069/2024 (applications for directions and permission on behalf of Indian Oil Corp): Counsel for A seeks further time for	17.01.2025

	compliance regarding creation of percolation pond in terms of order dt. 09.08.18. CEC shall file an affidavit by 24.01.2025	
13.	In Re: Directorate of Revenue Intelligence: CEC shall look into all aspects of compliance with various terms and conditions of the order dt. 08.02.23 and submit a report by 24.01.25.	31.01.2025
14.	In Re: Ministry of Defence (Navy): CEC will examine the conditions for permitting right of way to lay 2500 meters long optical fibre cable.	31.01.2025
15.	In Re: JNU and MCD: JNU and MCD have not complied with directions contained in order dt. 06.09.24 and 25.10.24. For Compliance.	31.01.2025
16.	In Re: Report No. 192: DDA and MCD have not complied with the directions contained in para 25 of order dt. 25.10.24.	31.01.2025

20. If the CEC faces any difficulty as regards the implementation of the directions issued above, the CEC is free to submit a report to seek necessary clarification or further directions.

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21. We permit the petitioner to file an additional affidavit within a period of three weeks from today.

22. To be listed on 17th January, 2025 at the end of the cause list.

(ASHISH KONDLE)
COURT MASTER

(AVGV RAMU)
COURT MASTER