

Item no. 5

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.335/2023

Pramod Tyagi & Anr.

...Applicant

Versus

State of NCT of Delhi & Ors.

...Respondents

Date of order: 09.04.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None for the applicant.

Respondents: Ms. Jyoti Mendiratta, And Ms. Ananya Basudha, Advocate
for Respondent No. 1.(through VC)
Mr. Aditya Chopra, Proxy Counsel for respondent no. 5
(through VC)
Ms. Anamika, DCF (Central) Delhi (through VC)

**Application under Sections 14, 15(1)(a), (c) and (4), 17(1) and (2) read
with Section 18 of the National Green Tribunal Act, 2010.**

ORDER

1. The applicant has filed the present application complaining about cutting of trees by the respondents without compensatory afforestation and sought directions to the respondents to stop un-authorized cutting of trees, to carry out requisite plantation, initiate awareness campaign and to file response with regard to steps taken towards implementation of the Air (Prevention and Control of Pollution) Act, 1981.

2. Vide order dated 03.07.2023 the DCF (Central), Delhi was directed to verify the factual position regarding all relevant aspects including cutting of

trees un-authorizedly/without requisite permissions from the Tree Officer under the Delhi Preservation of Trees Act, 1994, number of trees felled, action taken regarding unauthorized felling of trees, permission, if any, granted for felling of trees, compensatory afforestation carried out in compliance with orders passed by the Tree Officer granting permission for cutting of the trees. Deputy Conservator of Forests-Cum Tree Officer, Central Forest Division, Delhi was also directed to ensure that in case of any illegal felling of trees action is taken against the persons responsible for the same in accordance with the provisions of Delhi Preservation of Trees Act, 1994 and to file his action taken report within one month.

3. In compliance thereof report was submitted by the Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi vide email dated 11.08.2023. The relevant part of the report is reproduced below:-

"FACTUAL REPORT ON BEHALF OF DY. CONSERVATOR OF FORESTS (CENTRAL) APROPOS TO HON'BLE NGT ORDER DATED 03.07.2023 IN O.A: 335/2023 TITLED AS "PRAMOD TYAGI & ANR VS. STATE OF NCT OF DELHI & ORS"

X

X

X

It is hereby submitted that an e-forest (Online) application for tree felling permission of 238 nos of trees at Driving Training Institute (Transport Department), Burari, Delhi: 110084 for construction of Cluster Bus Depot No. 02 was applied by the Executive Engineer, Flyover Project Division, F-14, PWD (GNCTD) vide Application ID: 5180. A copy of the application details uploaded vide Application ID: 5180 is annexed herewith as Annexure - 'A'

Subsequently on approval given by the competent higher authority and on submission of all required documents for compensatory plantation, transplantation and payment of valid security deposit apropos to the same was made vide DD No. "440810", permission for felling/ transplantation of 238 (04 Felling + 234 Transplantation) Nos of Trees was granted by Dy. Conservator of Forests (Central) on 07.09.2022. A copy of the tree felling/transplantation permission dated 07.09.2022 along with Terms & Conditions of the same application is annexed herewith as Annexure - 'B'.

It is submitted that on 04.07.2023 a letter was issued to the Executive Engineer, PWD, F-14, GNCTD apropos to non-compliance of Compensatory Plantation as mentioned in Terms & Conditions for Tree Felling/ Transplantation permission.

Thereby the letter issued directed the concerned official of PWD, F-14, GNCTD to submit a status report of the compensatory plantation along with photographs and geo-coordinates of the same within a period of 30 days. A copy of the letter issued to the Executive Engineer, PWD, F-14, GNCTD dated 04.07.2023 is annexed herewith as Annexure - 'C'.

Thereafter in compliance of Hon'ble NGT order dated 03.07.2023 an inspection of the site i.e Driving Training Institute (Transport Department), Burari, Delhi: 110084 was carried out by the officials of Central Forest Division on 27.07.2023. During the course of inspection it was observed that transplantation carried out at the boundary wall of the project site was in bad condition and dried up state. A copy of the Inspection Report along with Photographs of the and satellite photographs of the site are annexed herewith as Annexure - 'D' COLLY

Consequently to seek clarity for non-compliance of Terms & Conditions as per c-forest online permission No: 5180, a Notice dated 07.08.2023 for Tree offence hearing was issued to the Executive Engineer, PWD F-14, GNCTD. A copy of notice dated 07.08.2023 is annexed herewith as Annexure - 'E'”

4. In view of submissions made therein notices were ordered to be issued to respondents no. 5 and 6.

5. Reply has been filed by respondent no. 5 vide email dated 25.01.2024.

6. Vide order dated 10.10.2023 Deputy Conservator of Forest-cum-Tree Officer, Central Forest Division, Delhi was also directed to file further Action Taken Report within two months.

7. In compliance thereof report has been filed by the Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi vide email dated 30.01.2024. The relevant part of the report filed by Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi is reproduced below:-

“FACTUAL REPORT ON BEHALF OF DY. CONSERVATOR OF FORESTS (CENTRAL) APROPOS TO HON'BLE NGT ORDER DATED 10.10.2023 IN O.A: 335/2023 TITLED AS " PRAMOD TYAGI & ANR VS. STATE OF NCT OF DELHI & ORS" ”

X

X

X

It is hereby submitted that an Offline application dated 13.06.2019 for tree felling/transplantation permission of 495 nos of trees at IDTR/Burari, District North, Delhi: 110084 for construction of Cluster Bus Depot No. 01 was applied by the Spl. Commissioner (Transport) Transport Department, GNCTD 5/9 Under Hill Road, Delhi — 54 vide

FORM — B dated 12.06.2019. A copy of the tree felling/transplantation application along with FORM — B of the applicant is annexed herewith as Annexure — 'A' COLLY.

On approval given by the competent higher authority and on submission of all required documents for compensatory plantation, transplantation and payment of valid security deposit apropos to the same was made vide cheque bearing no. "548343", permission for felling/transplantation of 495 (327 Felling + 168 Transplantation) Nos of Trees was granted by Dy. Conservator of Forests (Central) on 18.12.2019. A copy of the tree felling/transplantation permission dated 18.12.2019 along with Terms & Conditions of the same application is annexed herewith as Annexure 'B'

Consequently with reference to terms and conditions of tree felling/transplantation permission issued for 495 nos of trees, a letter dated 02.05.2022 was issued to the Spl. Commissioner (Transport) Transport Department, GNCTD 5/9 Under Hill Road, Delhi — 54 for providing compliance/status report along with photographs of the compensatory plantation and transplantation carried out apropos to the present tree felling /transplantation permission. Thereafter letter dated 04.07.2023, 21.07.2023, 06.10.2023, 08.12.2023 and 03.01.2024 have been issued to the Spl. Commissioner (Transport) Transport Department, GNCTD 5/9 Under Hill Road, Delhi — 54 for providing compliance report of tree felling transplantation permission issued for 495 nos of trees at IDTR/Burari, District North, Delhi: 110084. A copy of all the compliance letters issued to the Spl. Commissioner (Transport) Transport Department, GNCTD 5/9 Under Hill Road, Delhi — 54 are annexed herewith as Annexure — 'C' COLLY.

Thereafter, a letter dated 29.01.2024 was forwarded to the office of the Dy. Conservator of Forests (Central) by the Deputy Commissioner (DTC Secretariat) in reference of the aforementioned compliance letters apropos to compensatory plantation of 4,950 nos of trees, providing that Transport Department has invited bids for compensatory plantation of 4000 nos of trees/saplings at village Dera Mandi in lieu tree felling/transplantation permission of 495 nos of trees (327 Felling + 168 Transplantation) at Burari Cluster Bus Depot — I. However, it is pertinent to mention that as per the terms and conditions of tree felling/transplantation permission of 495 trees a compensatory plantation of 4,950 nos of trees is to be carried out. Furthermore, Transport Department has decided to engage Delhi Integrated Multi-Model Transit System (DIMTS — a joint venture of the Govt of NCT of Delhi) as Project Management Consultant (PMC) to execute the said Compensatory Plantation on behalf of Transport Department. A copy of letter dated 29.01.2024 forwarded to the office of the Dy. Conservator of Forests (Central) by the by the Deputy Commissioner (DTC Secretariat) along with tender details as uploaded on e — procurement portal of GNCTD is annexed herewith as Annexure — 'D' COLLY.

It is pertinent to mention that an e-forest (Online) application for tree felling permission of 238 nos of trees at Driving Training Institute (Transport Department), Burari, Delhi: 110084 for construction of Cluster Bus Depot No. 02 was applied by the Executive Engineer, Flyover Project Division, F-14, PWD (GNCTD) vide Application ID:

5180. A copy of the application details uploaded vide Application ID: 5180 is annexed herewith as Annexure — 'E'.

On approval given by the competent higher authority and on submission of all required documents for compensatory plantation, transplantation and payment of valid security deposit apropos to the same was made vide DD No. "440810", permission for felling/transplantation of 238 (04 Felling + 234 Transplantation) Nos of Trees was granted by Dy. Conservator of Forests (Central) on 07.09.2022. A copy of the tree felling/transplantation permission dated 07.09.2022 along with Terms & Conditions of the same application is annexed herewith as Annexure — 'F'.

Thereafter a letter dated 15.09.2023 was forwarded to the office of the Dy. Conservator of Forests (Central) by the Executive Engineer, Flyover Project Division, F-14, PWD (GNCTD) seeking extension of permission of tree felling / transplantation of 238 Nos of Trees issued vide (Online) Application ID: 5180 as the said permission had expired on 25.06.2023 and no tree felling/transplantation work had been carried out with reference to this permission. A copy of letter dated 15.09.2023 forwarded to the office of the Dy. Conservator of Forests (Central) by the Executive Engineer, Flyover Project Division, F-14, PWD (GNCTD) is annexed herewith as Annexure — 'G'.

On inspection of site of tree felling/transplantation of 238 nos of trees (Issued vide Online Application ID: 5180) by officials of Central Forest Division it was observed that all 238 trees out of 238 trees were present at the site of permission. A copy of Inspection Report dated 28.11.2023 along with photographs is annexed herewith as Annexure — 'H'."

8. Status report has been filed by respondent no. 1- Transport Department vide email dated 13.03.2024. The relevant part of the status report filed by respondent no. 1-Transport Department is reproduced below:-

"Status Report on behalf of the Transport Department, GNCT of Delhi

X X X X

2. That there are two Cluster Bus Depots at Burari, namely Burari Depot-1 and Burari Depot-II. The Respondent Transport Department has already constructed Burari Depot-1 for which permission for felling of 495 number of trees was obtained as explained hereunder:

A. In a meeting held on 06.02.2018 & 07.02.2018, the Expenditure Finance Committee of Government of NCT of Delhi, under the chairmanship of Hon'ble Deputy Chief Minister/Finance Minister, GNCTD had accorded approval of the project of Transport Department for "construction of cluster bus depot at Burari" at an estimated cost of Rs.24.20 crores through DIMTS as PMC.

B. Thereafter, tenders were called by the Transport Department and with the approval of the then Secretary-cum-Commissioner (Transport) on 09.04.2019, the project was awarded to M/s Shree Construction Company on 17.09.2018.

C. Accordingly, the land parcel was handed over to the aforesaid contractor by DIMTS/PMC on 05.11.2018 for construction of cluster bus depot at Burari as per the tender conditions.

D. An application was made to the Tree Officer by the Transport Department on 13.06.2019 for the felling of 495 trees from the site. It was submitted to the Tree Officer that transplantation of 4950 trees shall be carried out in the Burari complex itself and at another land parcel of Transport Department located at Village Dera Mandi which was allotted by Director (Panchayat).

E. The permission of felling/ transplantation of 495 trees (327 felling+ 168 Transplantation) were accorded by the Forest Department on 18.12.2019. Copy of the said Permission dated 18.12.2019 by the Forest Department is annexed as Annexure-I.

F. That the Respondent Department carried out transplantation as also plantation of 1000 numbers of saplings in the Burari Complex during February, 2020 and between June & August, 2022 in 2 instalments through the Contractors to whom the work of Construction of Bus Depot was allotted. Out of these 1000 saplings, 830 numbers survived and payments were made to the contractor through running accounts bills of M/s Shree Construction Company and M/s Bansal Associates. The requisite number of trees were also transplanted in the periphery of Burari Cluster Bus Depot-I.

G. That however, due to delay in obtaining permission for felling/ transplantation of trees, the site where trees exists, was handed over to M/s Shree Construction on 13.01.2020. Considering the facts that Transport Department handed over the entire area to the contractor very late due to delay in getting permission of felling of trees, COVID-19 pandemic and delay in payment to the contractor against their running accounts bills due to restriction imposed by Finance Department, GNCTD, the contractor requested to compensate him for the delay. Subsequently, on the request of the contractor M/s Shree Construction Company, the contract was foreclosed by the Transport Department on 31.07.2021.

H. The Respondent Department then invited bids for carrying out the balance work. On 08.10.2021, a contract was executed with the new contractor, M/s Barisal Associates.

I. That in the scope of both the contractors, there was a provision of planting saplings in the Burari Complex and to fence the Dera Mandi land parcel where remaining saplings were to be planted.

J. The work of fencing was completed by the contractor and handed over to Transport Department on 06.05.2022. The work of fencing was delayed inordinately by the contractor due to objections by the nearby land owners, which was later resolved by the intervention of the Revenue Department, GNCTD.

K. On 25.05.2022, the Transport Department wrote to the Dy. Director (Horticulture), PWD to carry out the compensatory plantation of 4000 numbers of saplings and their maintenance at Dera Mandi for a period of 7 years from the funds of Transport Department. Copy of the said letter dated 25.05.2022 to Dy. Director, Horticulture, PWD is annexed as Annexure-II. In reply, PWD (Hort.) vide communication dated 17.06.2022, annexed hereto as Annexure III, required boundary wall/fencing to be done and arrangement of water for irrigation for the purpose of plantation. Another letter was sent on 23.06.2022, annexed as Annexure IV, informing that fencing had already been done and that watering/ irrigation of the saplings was part of the maintenance contract.

L. However, no proposal was received from Horticulture wing of PWD for carrying out the said work. On 14.07.2022, the Respondent again wrote to them to submit their proposal. Copy of the said letter dated 14.07.2022 is annexed as Annexure V. Subsequently, the PWD (Horticulture) vide its letter dated 21.07.2022 informed that the plantation work could be started only after water facilities were provided. It was stated that laying of water pipeline was related to Civil Work and as such, required the Transport Department to contact the Civil wing of PWD. Copy of the said letter dated 21.07.2022 is annexed as Annexure-VI.

M. The Engineers of DIMTS were constantly, in touch with the Horticulture wing of PWD but could not find any solution.

N. In the meantime, DIMTS and Transport Department also consulted with the Forest Department, GNCTD and wrote to Dy. Conservator of Forest on 24.08.2022 to carry out the plantation work of 4000 saplings for the Transport Department from the funds of the Respondent Department. Still no response was received from Forest Department either, despite regular follows up by the Engineers of DIMTS. Copy of the letter to DCF dated 24.08.2022 is annexed as Annexure-VII.

O. On 22.11.2022, the Horticulture wing of PWD inter-alia informed that the plantation was not possible without water and again requested to make the arrangement of water for plantation of trees. Copy of the said letter dated 22.11.2022 is annexed as Annexure- VIII. Thereafter, Transport Department decided to implement the project at its own through DIMTS as PMC and necessary approvals were obtained.

P. The concerned Executive Engineer, PWD informed that as it was difficult to get the plantation through the Horticulture wing of PWD, the flyover wing of PWD, which is constructing 9 bus depots, would execute the plantation work on its own through open tender instead of Horticulture wing of PWD. As

such, on 19.11.2023 the then Pr. Secretary cum Commissioner (Transport), accorded administrative approval and expenditure sanction to execute the work of compensatory plantation of 4000 saplings/ plants & Maintenance for period of 7 years in Dera Mandi Village, New Delhi through DIMTS as PMC.

Q. Subsequently, the then Pr. Secretary cum Commissioner (Transport) also approved the schedule of bidding and accordingly bids were invited on 01.02.2024.

R. That six bids were received on due date. The Tender Committee in its evaluation submitted that only one bid was responsive and the other five bids were deficient on various grounds and therefore, recommended cancellation of the tender and inviting fresh bids.

S. The matter is now sent to Finance Department, GNCTD for opinion.

T. That it has been further decided that in case, the area in Dera Mandi is inadequate, additional plantation of 150 trees in the periphery of Kirari Cluster Bus Depot will be considered.

3. That after the construction of the Burari Cluster Bus Depot-I, the Transport Department decided to construct another Burari cluster bus Depot-II, for the housing of 12-meter electric buses.

4. In the planned site, Motor Driving Training School was earlier in operation and 238 trees needed to be felled/ transplanted in the area to enable the PWD to construct the Burari Depot-II. The Director (Panchayat) also allotted Gram Sabha land of Village Ghumanhera and Dhansa.

5. Subsequently, the Forest Department vide its letter dated 05.09.2022 accorded approval for the felling of 238 trees subject to deposit of Rs. 1,35,66,000/- wherefore, sanction orders to release the said amount was issued on 16.10.2022.

6. That PWD had to seek extension of permission of felling of trees/ transplantation from the Forest Department upto 28.06.2023 as transplantation and felling of trees could not be completed, as closing of the Motor Driving Training School got delayed.

7. That further extension was applied for by PWD on 15.09.2023 is still under consideration of the Forest Department, GNCTD.

8. The Competent Authority in Transport Department accorded approval to close the activities of the Motor Driving Training School w.e.f 16.10.2023 to enable felling/ transplantation of trees by the PWD in accordance with the approval of the Forest Department and to construct the bus depot.

9. That the Forest Department vide their letter dated 13.10.2023 inter-alia informed PWD that permission is held up due to the pendency of the present proceedings and on account of the direction of the Hon'ble Delhi High Court vide Order dated 31.08.2023 in "Bhavreen Kandhari Vs. Shri C.D. Singh & Ors." Cont. Case (C) No. 1149 of 2022, directing that "no permission for felling of trees for any individuals will be granted and any permission required for important projects will be intimated to the Court". Copy of the letter dated 13.10.2023 and order of the High Court dated 31.08.2023 is annexed as Annexure-IX & X respectively."

9. Vide order dated 14.03.2024 Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi was directed to take action for violation of conditions of the permission orders in accordance with law and file his action taken report within one month.

10. In compliance thereof action taken report has been filed by Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi vide email dated 08.04.2024. The relevant part of the report is reproduced below:-

"ACTION TAKEN REPORT ON BEHALF OF DY. CONSERVATOR OF FORESTS (CENTRAL) APROPOS TO HON'BLE NGT ORDER DATED 14.03.2024 IN O.A: 335/2023 TITLED AS "PRAMOD TYAGI & ANR VS. STATE OF NCT OF DELHI & ORS"

The present action taken report is being filed in compliance of Hon'ble NGT (Principal Bench) order dated 14.03.2024 in O.A: 335/2023 titled as "Pramod Tyagi & Anr Vs. State of NCT of Delhi & Ors" apropos to violation of tree felling/transplantation permission of 495 (327 Felling + 168 Transplantation) Nos of Trees granted to the Spl. Commissioner (Transport) Transport Department, GNCTD 5/9 Under Hill Road, Delhi — 54 vide pennission dated 18.12.2019 for construction of Cluster Bus Depot No. 01. A copy of the tree felling/transplantation permission dated 18.12.2019 along with Teiiiis & Conditions of the same application is annexed herewith as Annexure — 'A'.

It is submitted that a letter dated 22.03.2024 was issued to the Deputy Commissioner, DTC Secretariat, 5/9 Under Hill Road, Delhi — 110054 scheduling a joint inspection apropos to tree felling/transplantation permission accorded vide permission dated 18.12.2019 for construction of Cluster Bus Depot No. 01. A copy of letter dated 22.03.2024 issued to the Deputy

Commissioner, DTC Secretariat, 5/9 Under Hill Road, Delhi — 110054 is annexed herewith as Annexure — 'B'.

However, it is pertinent to mention that no response was received on behalf of Transport Department to join the exercise of joint inspection with reference to status of trees transplanted (168 Nos of Trees) and compensatory plantation carried out by Transport Department as per tree felling/transplantation permission for construction of Cluster Bus Depot No. 01 accorded vide permission letter dated 18.12.2019.

Thereafter, in pursuance of aforementioned letter dated 22.03.2024 issued to the Deputy Commissioner, DTC Secretariat, 5/9 Under Hill Road, Delhi — 110054 for scheduling Joint Inspection a final reminder vide e-mail dated 03.04.2024 was issued to the Special Commissioners, Transport Department (GNCTD) and the Dy. Commissioner, Transport Department (GNCTD). A true copy of e-mail dated 03.04.2024 issued to the Special Commissioners, Transport Department (GNCTD) and the Dy. Commissioner, Transport Department (GNCTD) is annexed herewith as Annexure — 'C' COLLY.

Consequently, a joint inspection in reference of Tree Transplantation permission of 168 trees granted vide permission letter dated 18.12.2019 was carried out by officials on behalf of Central Forest Division, Department of Forests and Wild Life (GNCTD) along with Section Officer, DTC Secretariat, Transport Department (GNCTD) on 04.04.2024. During the course of joint inspection the following observations were identified and content regarding the same is provided hereunder:

"2). 168 (One hundred and sixty eight) nos. of trees were transplanted (as per permission letter dated 18.12.2019) out of which 89 (Eighty Nine) nos. of trees were identified at the transplantation site.

3). Out of 89 (Eighty Nine) nos. of transplanted trees which were found/identified during joint inspection:-

(a). 27 (Twenty Seven) Nos. of transplanted trees were observed to be in good condition.

(b). 62 (Sixty Two) Nos. of trees were observed to be in dried condition. (c). No Tree Numbering has been observed on the transplanted trees.

(4). Official on behalf of Transport Department is unable to provide identification of remaining 79 (Seventy Nine) Nos. of Trees at the site of Tree Transplantation."

A true copy of Joint Inspection Report dated 04.04.2024 is annexed herewith as Annexure — 'D'.

In view of the above facts and observations made vide the aforementioned Joint Inspection Report dated 04.04.2024 an order dated 08.04.2024 has been passed by the undersigned directing Transport Department to carry out Compensatory Plantation of Seven Hundred and Five (705) Nos of trees (i.e. 141 Nos of trees x 5 times) in lieu of failure to carry out transplantation of 141 trees apropos to tree felling/transplantation permission dated 18.12.2019 for construction of Cluster Bus Stand — I. A true copy of Order dated 08.04.2024 passed by the Dy. Conservator of Forests (Central), Department of Forests and Wild Life (GNCTD) is annexed herewith as Annexure — 'E'."

11. In the present case there are two Cluster Bus Depots at Burari, namely Burari Depot-I and Burari Depot-II and matter in respect thereof needs to be considered accordingly in the context of the permission granted.

12. On application dated 13.06.20219 permission for cutting of trees for construction of Cluster Bus Depot No. I permission dated 18.12.2019 was granted for felling of 327 trees (on condition of carrying out compensatory afforestation) and transplantation of 168 trees. On inspection, 89 trees were identified out of 168 trees required to be transplanted as per permission letter dated 18.12.2019 but the officials of transport department were unable to provide identification of remaining 79 trees. Out of 89 trees 27 were in good condition while 62 were in dried condition. Order dated 08.04.2024 was passed by the Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi to carry out compensatory plantation of 705 trees in lieu of failure to carry out transplantation of 141 trees apropos to tree felling/transplantation permission dated 18.12.2019 for construction of Burari Depot-I.

13. Section 12 of the Delhi Preservation of Trees Act, 1994, which provides for implementation of order made or direction given under sections 9 and 10

and recovery of expenditure on failure to comply with them, is reproduced below:-

“12. Implementation of order made or direction given under sections 9 and 10 and recovery of expenditure on failure to comply with them.-(1) Every person who is under an obligation to plant trees under an order made under section 9 or a direction given under section 10 shall start preparatory work within thirty days of the date of receipt of the order or directions, as the case may be, and shall plant trees in accordance with such order or direction in the ensuing or following rainy season or within such extended time as the Tree Officer may allow and shall provide adequate and effective protection to the trees that exist or are planted in the land or the area from any damage. (2) In case of default by such person, the Tree Officer may cause trees to be planted and may recover the cost of plantation from such person in the prescribed manner”.

14. As per material on record amount of Rs. 2,82,15,000/- was deposited as security with the PCCF, Government of NCT of Delhi. Compensatory afforestation of 1,000 trees is stated to have been carried out by respondent no. 1-Transport Department out of which 830 trees are stated to have survived. Plantation of remaining number of Trees has not been carried out by respondent no.1-Transport Department. Respondent no. 1-Transport Department has claimed to have initiated the tender process for carrying out compensatory afforestation but in view of Section 12 of the Delhi Preservation of Trees Act, 1994, DCF is legally bound to forfeit the security amount and to carry out the compensatory afforestation at the cost of respondent no. 1-Transport Department.

15. Accordingly, Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi is directed to forfeit the security amount and carry out the compensatory afforestation and recover the balance cost of plantation, if any remaining due after adjustment of the security amount, from respondent no. 1-Transport Department in the prescribed manner and submit action taken report by e-mail at judicial-ngt@gov.in preferably in the form of

searchable PDF/OCR Supported PDF and not in the form of Image PDF at least one week before the date of hearing hereby fixed.

16. So far as other Project-Cluster Bus Depot-II is concerned permission dated 07.09.2022 was granted for felling of 04 trees and transportation of 234 trees but the permission expired on 25.06.2023 and application for extension of time is pending with the Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi. Since, the above said trees have not been cut/transplanted, question of compensatory afforestation does not arise at this stage. The application for extension of time may be dealt with/disposed of by the Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi in accordance with law/directions of Hon'ble High Court of Delhi.

17. In the course of hearing Ms. Anamika, Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi has raised the question of availability of land for compensatory afforestation in Delhi.

18. This case not only raises critical question of compliance of conditions of compensatory afforestation by Project Proponents permitted to cut trees but is also illustrative of delay/inaction on the part of instrumentalities of State in discharge of specific statutory obligations for protection and improvement of environment.

19. In view of the facts and circumstances of the case and the environmental questions involved we consider it necessary to seek information from the concerned Authorities about cases in which the matter of compliance regarding compensatory afforestation in accordance with terms and conditions stipulated in permissions granted for cutting of trees in NCT of Delhi during the last 05 years is pending and also about the cases in which

the matter of such compensatory afforestation is pending due to the reason of land for such compensatory afforestation not having been made available.

20. For this purpose we consider presence of concerned Authorities-Government of NCT of Delhi through its Chief Secretary and PCCF (HoFF), Government of NCT of Delhi and land owning agencies in NCT of Delhi- DDA, MCD etc., to be essential for just and proper adjudication of the questions involved in the present case.

21. Accordingly, Government of NCT of Delhi through its Chief Secretary, PCCF (HoFF), Government of NCT of Delhi, DDA through its Vice Chairman, MCD through its Commissioner, are impleaded as respondents no. 7 to 10. The Registry is directed to amend the memo of parties and issue notice to respondents no. 7 to 10 requiring them to file their reply/response with respect to above mentioned aspects by way of email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF at least one week before the date of hearing hereby fixed.

22. Notices be also issued to respondents no. 2 to 4 requiring them to file their reply/response by way of email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF at least one week before the date of hearing hereby fixed.

23. The aspect of availability of land for compensatory afforestation in the affected locality to be done in the present case which is to be carried out by the Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi in accordance with this order passed by this Tribunal may be looked into by the Chief Secretary, Government of NCT of Delhi and PCCF (HoFF), Government of NCT of Delhi for making the requisite land available so that

such compensatory afforestation may be carried out during forth coming monsoon period suitable for plantation.

24. List on 03.09.2024 for further consideration.

25. A copy of this order be sent to Chief Secretary, Government of NCT of Delhi; Vice Chairman, DDA; Commissioner, MCD; PCCF, Government of NCT of Delhi and Deputy Conservator of Forests-cum Tree Officer, Central Forest Division, Delhi by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

April 09th 2024
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