

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

Respondent(s)/
Alleged contemnor

(IA No. 117930/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 111340/2024 - EX-PARTE AD-INTERIM RELIEF
IA No. 124040/2024 - INTERVENTION/IMPLEADMENT)

WITH SMC(Cr1) No. 2/2024

Date: 24-06-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN
(VACATION BENCH)

By Courts Motion

For Petitioner(s)

Mr. Manan Verma, AOR
Mrs. Madhur Panjwani, Adv.
Mr. Ankit Shah, Adv.

For Respondent(s)

Mr. R.Venkatramani, Attorney General for India

Mr. Maninder Singh, Sr. Adv.
Mr. Mahesh Jethmalani, Sr. Adv.
Ms. Manika Tripathy, AOR
Mr. Ashutosh Kaushik, Adv.
Mr. Dishant Bhati, Adv.
Mr. Naveen K. Saraswat, Adv.
Mr. Rony John, Adv.

Ms. Bani Dikshit, Adv.
Mr. M.K. Maroria, AOR

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

1. We have perused our earlier orders and the affidavit filed by the Vice Chairman of the Delhi Development Authority (DDA) on 19th June 2024 for reporting compliance with our orders. The Vice Chairman has relied upon a report of the Inquiry Committee constituted to inquire into the entire episode of felling of a large number of trees in violation of the orders of this Court. In the Inquiry Report, an e-mail dated 7th February 2024 and two e-mails of the same date, i.e., dated 14th February 2024, purporting to direct the contractor to start the work of felling trees, have been referred. The Executive Engineer, who is supposed to be the author of the e-mails, has denied having sent the e-mails. The three e-mails contain a specific statement that the Hon'ble Lieutenant Governor (LG) of Delhi, who is the Chairperson of the DDA, visited the site on 3rd February 2024 and directed to clear the trees coming in the ROW. When we repeatedly made a query to the learned senior counsel representing the Vice Chairman of the DDA whether there was such a visit of the Hon'ble LG, on instructions of the Vice Chairman who is present in the Court, the learned senior counsel stated that the Hon'ble LG indeed visited CAPFIMS on that day and not the site where trees were felled. It is pertinent to note that

all the three e-mails refer to a visit by the Hon'ble LG to the site of CAPFIMS Road on 3rd February 2024.

2. We direct the Vice Chairman to state before the Court on the next date, after perusing the record, whether any official record is available about the site visit made by the Hon'ble LG on 3rd February 2024 and whether anything is recorded about what transpired during the visit of the Hon'ble LG. He will state the names of the officers present at the time of the visit. We need a clear statement of fact from the Vice Chairman on these aspects. If what is mentioned in the e-mails is correct, it will show that the felling of trees was done under the directions issued by the Hon'ble LG on 3rd February, 2024. Therefore, we expect the DDA to come clean on this aspect.

3. The Executive Engineer took a stand before the Inquiry Committee that the e-mails were manipulated. However, the Inquiry Committee has not made any inquiry about whether what is stated in the e-mails about the visit of the Hon'ble LG was correct. The crucial aspect of whether the Hon'ble LG directed the felling of trees was not discussed during the inquiry. Therefore, we need the assistance of the DDA on this aspect.

4. From the affidavit of the Vice Chairman and, in particular, from paragraph 14, *prima facie*, it appears to us that the entire blame has been shifted on the subordinate officers mentioned therein by stating that

they are the ones who are responsible for directing the contractor to start cutting/felling the trees without the permission of the Court.

5. In view of the stand taken in the affidavit, issue notice of the Contempt Petitions to (i) Mr Manoj Kumar Yadav, Executive Engineer, SMD 5, DDA, (ii) Mr Pawan Kumar, Assistant Engineer-I, SMD 5, South Zone, Engineering Division, DDA, (iii) Mr Ayush Saraswat, Assistant Engineer-II, SMD 5, South Zone, Engineering Division, DDA and (iv) Mr Pankaj Verma, Superintending Engineer, SE/SCC-2, South Zone, DDA. It is stated that Mr Pankaj Verma and Mr Manoj Kumar Yadav were responsible for the suppression of fact of cutting of trees from the Court on 4th March 2024.

6. We direct the Advocate-on-Record for the DDA to supply the residential addresses of these officers to the Registry within three days from today. The Registry will issue notice to them returnable on 12th July, 2024.

7. It is an admitted position, as can be seen from the affidavit of the Vice Chairman and what transpired during the course of the hearing that the contractor under the agreement executed by the DDA was authorized to fell the trees for the purposes of doing the work for which the contract was granted to him. However, it was not stated in the contract that the cutting/felling of trees cannot be done without the permission of this Court. The learned senior counsel appearing for the Vice Chairman of

the DDA assures the Court that in every contract, the execution of which requires cutting/felling of the trees, the relevant clause will be incorporated of obtaining permission of the Court/appropriate authority before cutting/felling the trees. Needless to add, regarding all subsisting contracts, such a direction shall be issued by the DDA to the contractors.

8. After carefully perusing the affidavit and annexures thereto, we find that all the facts leading to the contemptuous act of felling of trees have not come on record. Though it is claimed in the affidavit that the Hon'ble LG approved the constitution of the three-member committee, the order of the Hon'ble LG on page 334 does not indicate that the Hon'ble LG approved the constitution of the committee.

9. After the notice is served to the concerned officers, we propose to hold a very detailed inquiry into the gross illegality committed by the DDA, which has destroyed several valuable trees and, consequently, the environment. This Court cannot lightly brush aside such brazen acts in the capital city. If the authorities are not going to perform their statutory and constitutional duty of protecting the environment, the Court will have to give a clear and loud signal to all the concerned authorities that damage to the environment in this fashion will not be tolerated. Today, we are refraining from recording any finding on what is stated by the Vice

Chairman in his affidavit dated 18th June, 2024, as we will have to hear the concerned officers on whom the entire blame has been shifted. Perhaps during the hearing today, the Vice Chairman must have noted that the Court has serious doubts about the stand taken by the DDA about the episode. Therefore, we permit him to file an additional affidavit on all aspects touching the contempt. The additional affidavit of the Vice Chairman of the DDA shall be filed on or before 10th July, 2024.

10. The Forest Survey of India and the three experts have submitted preliminary reports. We direct the Registry to forthwith supply soft copies of both the reports to all the learned counsel appearing in the case, including the learned Attorney General for India.

11. While perusing the affidavit, we came across something shocking. The first sentence of paragraph 38 on page 17 reads thus:

"38. The DDA is having the benefit of two judicial officers of Delhi Higher Judicial Service as the Legal Advisors...."

12. *Prima facie* we are of the view that appointing serving judicial officers of Delhi Higher Judicial Services as legal advisors of the DDA completely violates the principle of independence of judiciary and the doctrine of separation of powers. The position of the Judicial Officers working as the Law Secretaries is

completely different. Apart from this, we cannot ignore that the DDA is a major litigant in the Courts in Delhi. We expect the Delhi High Court to take appropriate action on this aspect. Therefore, we direct the Registry to immediately forward a copy of this order to the Registrar General of the Delhi High Court, who shall place the order before the learned Acting Chief Justice of the Delhi High Court. We hope and trust that the DDA, on its own, will immediately discontinue this practice of appointing serving Judicial Officers as legal advisors of the DDA.

13. We need to issue appropriate interim directions based on the two preliminary reports. For that purpose, we direct the Registry to list the Contempt Petition on 26th June, 2024. We also direct the Registry to place Writ Petition (Civil) No.4677 of 1985, out of which the present Contempt Petition arises before this Court on 26th June, 2024. We have indicated to the learned Attorney General for India and all other learned counsel that we propose to issue directions in the said Writ Petition for the conduct of a massive afforestation/tree planting drive in the entire National Capital Territory of Delhi. For that purpose, we need to pass consequential orders of impleading parties etc. On the next date, the learned senior counsel appearing for the DDA shall assist the Court on the applicability of the provisions of the Delhi Preservation of Trees Act, 1994 to the DDA.

14. List on 26th June, 2024.

**(ANITA MALHOTRA)
AR-CUM-PS**

**(AVGV RAMU)
COURT MASTER**