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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CONT.CAS(C) 1149/2022 & CM APPL. 7979/2024, CM APPL. 7980/2024, CM APPL. 29795/2024, CM APPL. 29796/2024, CM APPL. 37645/2024, CM APPL. 44143/2024, CM APPL. 47590/2024, CM APPL. 53949/2024, CM APPL. 57162/2024, CM APPL. 67188/2024, CM APPL. 67527/2024, CM APPL. 69803/2024, CM APPL. 69804/2024
BHAVREEN KANDHARI

.....Petitioner

Through:

Mr. Aditya N Prasad, Mr. Pratyush Jain, Ms. Poorvi Rewalia, Advs.

Mr. Gautam Narayan, Ms. Prabhsahay Kaur, Ms. Asmita Singh, Mr. Satyakam, *Amicus Curiae*

Mr. Tushar Nair, Mr. Punishk Handa,

Mr. Anirudh Anand, Advs

Mr. Ankit Jain, Sr. Adv (*Amicus Curiae*) with Ms. Divyanshu Rathi, Mr. Aditya Chauhan, Advs.

Versus

SHRI C. D. SINGH AND ORS.

.....Respondent

Through: Mr. Sanjeev Sabharwal, SC

Ms. Mehak Nakra, ASC

Mr. Tarun Johri, Mr. Vishwajeet Tyagi, Mr. Ankur Gupta, Advs.

Ms. Avshreya Pratap Singh, Ms. Harshita Chaturvedi, Ms. Usha, Advs.

Mr. Rajesh Katyal, Adv.

Mr. Chetan Sharma, ASG with Mr. Amit Gupta,

Mr. Balendu Shekhar, CGSC with Mr. Shubham Sharma, Mr. Krishna Chaitanya, Advs.

Ms. Hetu Arora Sethi, ASC with Mr. Arjun Basra, Advs.

Mr. Apurv Kurup, Sr. Adv. for CPCB



CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
% **13.12.2024**

CONT.CAS(C) 1149/2022

1. Mr. Prasad, learned counsel for the petitioner has handed over a permission dated 21.11.2024, wherein permission has been granted for '*light pruning*' of trees (maximum of 3 or 4 branches, girth up to 40 cm) at Jungpura Extension by the Tree Officer & Deputy Conservator of Forest, South Forest Division.
2. Another permission dated 10.10.2024 has been shown wherein permission has been granted for '*heavy pruning*' of trees (maximum of 3 or 4 branches, girth up to 40-60 cm) at Hauz Khas Enclave by the Tree Officer & Deputy Conservator of Forest, South Forest Division.
3. The photographs, in pursuance of the above permissions, have been shown by the learned counsel for the petitioner depicting a pitiable state of affairs. The same are reproduced as under:-



Jungpura Extension



This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 17/12/2024 at 20:21:54



Hauz Khas



4. On my query as to how compliance of permission for pruning are being ensured, Mr. Pandey, DCF (South), appears through video conferencing mode and states, in response to the abovesaid permissions, that it is the concerned land owning agency which is to ensure compliance of the orders passed by the DCF.
5. I am unable to appreciate the stand of the DCF.
6. This court in *Prof. Dr. Sanjeev Bagai v. State (NCT of Delhi)*, 2023



SCC OnLine Del 3627 while sticking down the Guidelines for Pruning of Trees held the following:-

*“12. Section 33 of the DPT Act, gives powers to the Government to give directions, general or special, to the Tree Officers and other officers, regarding the discharge of their functions and for effectively carrying out actions in support of the objectives of the Act. **The Guidelines for Pruning of Trees are essentially an informal administrative handbook to assist the Officers of Department of Forests and Wildlife. They are not a part of any statute. They do not carry a statutory flavour or character. The sole objective of the DPT Act, is preservation of trees. The granting of permission for cutting, girdling, lopping, pollarding, etc. of trees is to be strictly regulated and such permission is not to be granted for the asking. Yet the Guidelines permit cutting/pruning of branches of trees having a girth/circumference upto 15.7 cms. How did this figure come about? What is the scientific basis for reaching that figure? What is the justification for applying the same thickness of branches to all species of trees in Delhi? Some trees may have slim trunk girth. For such specific species and otherwise too, the entire tree could well be wantonly pruned to reduce to a mere pole-like structure, as has been done to some trees in this case. Photographs of some instances of ex facie unjustified pruning were reproduced in the previous order dated 11.04.2023, they are reproduced hereunder too:—***

XXX

*13. How can there be justification for such pruning? These are glaring examples of misuse of the generous permission granted under the Guidelines to prune trees/tree branches having a girth upto 15.7 cms. Had the Tree Officer been accorded an occasion to inspect these trees before they were pruned, perhaps the hapless trees would not have suffered their current fate. **Was it examined or ascertained by the Tree Officer or for that matter***



by any authority, whether the branches of the many trees which were pruned, were dead, diseased, dying, split, broken or constituted a threat to life or property or obstructed traffic? Was it ascertained whether the extensive and possibly indiscriminate, cutting of branches with 'live foliage' would not adversely affect the health of the trees? Was it examined, ascertained or estimated that the trees had been or could be over-pruned? If the answer to the last question is in the affirmative, then the sequiter dangers that would afflict the health and life of the fully-grown trees should have been minimized. Was it inspected if there was concretization around the tree-trunk, which could be affecting or had compromised their health and stability, therefore, the pruning of such trees would neither be advisable nor prudent? The answer to all these fundamental and relevant questions is in the negative. The Guidelines ride roughshod over all these concerns and grant a general permission for pruning of tree branches having a girth of upto 15.7 cms. The occasion to the Tree Officer to inspect or assess the health of the trees, the necessity or justification for pruning has been sought to be scuttled and taken away by the Guidelines. What is the scientific methodology employed to measure that the pruning was done only upto a girth 15.7 cms and not beyond, is not known or specified. Evidently, it is a mere guesswork. An estimation. The Guidelines are not a statutory enactment or an amendment of the statute. They cannot abridge the mandate of the statute. Even a Regulation or Rule, which are creatures of a statute cannot limit, undo or transgress the powers, objective and mandate of the statute itself.

14. Under the Act there is no sanction for the 15.7 cms girth of a tree branch to be cut. Therefore, this figure is incongruous with the statutory requirements as mandated under sections 8 and 9 of the DPT Act. The so-called permission granted under



*the Guidelines seek to over-reach the statute. **The Guidelines, are in conflict with the DPT Act, they are arbitrary and illegal. Consequently, the permission for pruning, presumed to be or granted under the Guidelines would be of no consequence and shall always be non-est.** Therefore, the Guidelines permitting regular pruning of branches of trees with girth upto 15.7 cm without specific prior permission of the Tree Officer are hereby set aside. The only permission that can be granted for pruning, etc. is under section 9 of the Act.*

*15. In view of the above, **no pruning of trees will be permitted in Delhi except in accordance with the DPT Act. It will be open to the respondents to frame guidelines and/or rules as may be requisite.***

(Emphasis Supplied)

7. In the above set of facts, the Department of Forest and Wildlife had permitted pruning of branches of trees of girth upto 15.6 cms. The court was of the view that there is no statutory flavour/character behind the Guidelines for Pruning of Trees and that there is no scientific reasoning behind allowing pruning for trees of girth upto 15.6 cms. The court set aside the Guidelines for Pruning of Trees and left it open to the Department of Forest to draft fresh guidelines/rules. It further noted that no pruning of trees will be permitted in Delhi except in accordance with the Delhi Preservation of Trees Act, 1994 ('DPTA').
8. In the present case, in complete contravention of the abovesaid judgment, the DCF has continued to issue permissions for pruning of trees both for alleged '*light pruning*' of trees (maximum of 3 or 4 branches, girth up to 40 cm) and '*heavy pruning*' of trees (maximum of 3 or 4 branches, girth up to 40-60 cm). The said figures once again have no scientific backdrop and no statutory backing.



9. It seems that the Deputy Conservator of Forest, South Forest Division is not aware of the statutory duty and responsibility cast upon the Department of Forest and Wildlife. This court has time and time again reminded the DCF of their role of preservation of trees, which is the primary objective behind the statute and that permission for felling, cutting, removing or disposing of a tree under section 9 of the DPTA cannot be passed in a causal and cavalier manner. Rather, Section 9 of the DPTA in itself restricts such permission to be given only in exceptional circumstances and only after due inspection of the trees concerned. Section 9(2) of the DPTA reads as under:-

“9. Procedure for obtaining permission to fell, cut, remove or dispose of, a tree.-

.....

(2) On receipt of the application, the Tree Officer may, after inspecting the tree and holding such enquiry as he may deem necessary, either grant permission in whole or in part or for reasons to be recorded in writing, refuse permission:

Provided that such permission may not be refused if the tree-

- (i) is dead, diseased or wind fallen; or*
- (ii) is silviculturally mature, provided it does not occur on a steep slop; or*
- (iii) constitutes a danger to life or property; or*
- (iv) constitutes obstruction to traffic; or*
- (v) is substantially damaged or destroyed by fire, lightening, rain or other natural causes; or*
- (vi) is required in rural areas to be cut with a view to appropriating the wood or leaves thereof, or any part thereof for bone fide use for fuel, fodder, agricultural implements or other domestic use.*

... ”



10. In view of the above, a perusal of the present permissions show *prima-facie* contravention of provisions of DPTA, contravention of the orders passed by this court and an overall unsatisfactory state of affairs, including:
- (a) That there is no inspection of trees sought to be pruned and blanket order granting permission has been passed;
 - (b) That the details of the trees (including but not limited to identification of the trees and/or girth of the trees) sought to be pruned have not been mentioned;
 - (c) That the reason for granting permission for pruning in terms of section 9 of the DPTA (including but not limited to dead, diseased or constituting a danger to life or property) has not been mentioned;
 - (d) That the forest department has not deputed any person to supervise the extent of pruning and ensuring that the trees are not over-pruned.
11. Hence, in the said circumstances, the DCF(South) palming off its responsibility to land owning agencies (by way of issuance of show-cause notices) to ensure compliance of the order passed by the DCF cannot be accepted. The Department of Forest expects land owning agencies to adhere to its pruning permissions without verifying whether the landowning agencies have the wherewithal to comply with its permission granted. More often than not, the permissions are violated and the Department of Forest issues show-cause notices to the said agencies, which in no way reverses the irreparable damage caused to



- the trees and to the environment at large. It is pertinent to note that the role of the DCF is not only punitive but is more importantly preventive.
12. Let a show cause notice be issued to the Deputy Conservator of Forest, South Forest Division as to how the blanket permissions for pruning of trees have been given without due inspection or reasons in contravention to the provisions of DPTA. Let the response be filed within 2 weeks from today.
 13. In the meanwhile, it is directed that all the DCFs shall ensure that no pruning is undertaken till the Department of Forest and Wildlife has a mechanism/guidelines/SOP in place to ensure that the pruning is done and monitored in accordance with the provisions of DPTA. In case pruning is to be undertaken for reasons, as envisaged under the provisions of the DPTA, the Department of Forest shall ensure an eligible and responsible person is present to supervise the same.
 14. On 11.11.2024, it was brought to notice of this Court that there are trees being felled in the forest area near Sambhav Bapu Colony, Jaunapur, Delhi. The officers of the Forest Department were directed to ensure no trees are felled in that area and a response was sought from the concerned DCF.
 15. A response has been handed over by Ms. Nakra, learned ASC on behalf of Mr. Vipul Pandey, DCF (South), wherein he has indicated that though this land was notified as a part of the Southern Ridge in 1994 but despite the same, the physical possession of the forest land is with Department of Training and Technical Education (DTTE) and the Education Department by way of subsequent allotments made by the NCT of Delhi.



16. In addition, annexed with the response is an undated order issued by the Public Works Department, Government of Delhi (PWD), wherein 1,20,000 sq.mtr. of the forest area, being part of the Southern Ridge, is permitted to be cleared by the Executive Engineer for C/O World Class Skill Centre.
17. *Prima-facie*, the Executive Engineer, PWD cannot issue orders for clearing of forest area. The same is within the domain of the Department of Forest. It is unacceptable how felling on such largescale has been permitted (with or without knowledge of the DCF).
18. Even though the DCF has issued a notice on 07.11.2024 against the Swayam Sewa Co-operative, Group Housing Society, Jhilmil and the Executive Engineer, PWD, however, the outcome of the notice has not been set out.
19. It seems that the DCF is under an impression that trees are a dispensable commodity and that the Ridge is the only area which can be utilized for additional space requirements.
20. Even the notice issued by the DCF is completely lacking details regarding the number of trees which have been felled, the variety of the trees lost and/or the age of the trees lost to felling.
21. This court has repeatedly passed directions to prevent incessant and mindless felling of trees in Delhi, however the Department has continued to display a lack of sensitivity towards the same.
22. On 31.08.2023, this court directed permission for any felling of trees required, to be first intimated to the court by way an application and subject to the application being allowed, the permission will be granted. Subsequently, the above position was repeatedly clarified by this Court.



23. Irrespective of the above position, the Department has failed to keep a check on the rampant felling of trees continuing in Delhi. The approach of the DCF is extremely lackadaisical and the affidavit in response is a clear indication of the same.
24. Further, on 11.11.2024 when the court sought information from Ms. Nakra, learned ASC regarding the unauthorized clearing of forest in Jaunapur, Delhi, the court was informed that though some felling has occurred but it cannot be ascertained under whose authority. However, from the record before me it appears that the Department of Forest had taken action against the concerned persons on 07.11.2024 itself.
25. This sequence of events do not inspire my confidence.
26. Issue show cause notice to Public Works Department and on that date, the Executive Engineer, PWD shall join through VC and shall file his affidavit as well as the DCF (South) shall remain present in Court along with his affidavit as to why contempt action be not initiated for violation of the orders dated 31.08.2024, 09.08.2024 and 11.11.2024 passed by this court. Let the response be filed within 2 weeks from today.
27. In the meanwhile, the DCF as well as the DCP of the area shall ensure that no felling of trees is done in the said area.
28. On 02.08.2024, in paragraph 16, it was directed as under:-

“16. Additionally, the Department of Forest will place on record the latest figure in respect of the area which is under forest in the ridge, the area which is under possession of other authorities and the usage of that area in the ridge before the next date of hearing.”



29. Till now, the above said information sought in paragraph 16 of the order dated 02.08.2024 has not been supplied.
30. As last and final opportunity, a period of 2 weeks is granted to the Department of Forest to provide the information. Additionally, the affidavit will also indicate the forest land in Delhi and the extent of illegal and unauthorized encroachments on the same. A detailed site-plan shall also be filed.
31. For this purpose, list on 10.01.2025.

CM APPL. 69803/2024

32. This is an application seeking impleadment of Central Pollution Control Board (CPCB).
33. For the reasons stated in the application, the application is allowed and the CPCB is impleaded.

CM APPL. 69804/2024

34. This is an application on behalf of CPCB for carrying out the transplanting/ removal of dead trees (Transplantation of 26 Nos. within the CPCB campus and removal of 03 Nos dead trees)
35. The learned ASG has very fairly submits that before the application is taken up for hearing, the learned *Amici Curiae* can visit the site and see the need as well as the progress.
36. Let the needful be done before the next date of hearing.
37. List on 10.01.2025.

CM APPL. 29796/2024

38. This is an application seeking impleadment of NCRTC.
39. For the reasons stated in the application, the application is allowed and NCRTC is impleaded.



CM APPL. 29795/2024

40. Mr. Katyal, the learned counsel for the NCRTC seeks and is granted opportunity to file a response to the affidavit filed by the learned *Amici Curiae*.
41. In the meanwhile, learned *Amici Curiae* may also see the status of the transplanted trees and compensatory trees, wherein the assistance will be provided by the representatives of the department.
42. List on 10.01.2025.

CM APPL. 7979/2024

43. This is an application seeking impleadment of Delhi Metro Rail Corporation Ltd (DMRC).
44. For the reasons stated in the application, the application is allowed. DMRC is impleaded as a party.

CM APPL. 7980/2024

45. Mr. Johri, learned counsel for the applicant/DMRC states that they will take the assistance of an architect, who is a conservationist, and show him the proposed plan in order to obtain a report on whether the proposed plan can be altered to integrate the trees in respect of proposed building at the DTC Bus Depot at Nangloi, Mundka and Najafgarh.
46. In the meantime, if the learned *Amici Curiae* have any inputs, the same shall be shared.
47. Mr. Aditya N. Prasad, learned counsel for the petitioner has pointed out the affidavit of DMRC dated 25.10.2024, wherein in para 3, it has been stated that in terms of permissions on 17.03.2022, 05.09.2022 and 09.11.2022 issued for felling/transplanting of trees by the Tree Officer



and DCF (South), 1288 trees were transplanted, out of which only 521 trees have survived, i.e. 40.45% survival rate.

48. The DMRC shall ensure compensatory plantations for the 59.55% trees, which have been lost.
49. Ms. Tripathi, learned SC for DDA shall identify and indicate the land, where this compensatory plantation of 59.55% of 1288 trees x 10 times, can be done before the next date.
50. List on 17.01.2025.

CM APPL. 53949/2024

51. Mr. Ali, learned counsel for the respondent seeks a short accommodation to obtain instructions.
52. At request, list on 10.01.2025.
53. In the meanwhile, the applicant shall place on affidavit the area of the ridge under their occupation and the notifications pursuant to which the areas have been put under their possession.

CM APPL. 62212/2024

54. Ms. Nakra, learned ASC seeks accommodation to file a response. The same shall be taken up as first item in the batch.
55. Paragraphs 1 and 2 of the order dated 22.10.2024 will be complied with before the next date of hearing.
56. List on 10.01.2025

CM APPL. 57162/2024, CM APPL. 47590/2024 and CM. APPL. 57215/2024

57. List on 17.01.2025.

CM APPL. 37645/2024, CM APPL. 62487/2024, CM APPL. 67572/2024, CM APPL. 67188/2024, CM APPL. 44143/2024, CM APPL. 65260/2024,



CM APPL. 68217/2024, CM APPL. 51020/2024, CM APPL. 63373/2024

58. List on 10.01.2025

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59. Documents handed over in court are taken on record.

60. Let an amended memo of parties of the newly impleaded parties be filed before the next date of hearing.

61. *Dasti*

JASMEET SINGH, J

DECEMBER 13, 2024/sp/ms/akc/dm