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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CONT.CAS(C) 1149/2022, CM APPL. 26421/2023, CM APPL. 44853/2023, CM APPL. 6403/2024, CM APPL. 6406/2024, CM APPL.7979/2024, CM APPL 7980/2024, CM APPL. 22099/2024, CM APPL. 26203/2024,CM APPL. 29795/2024, CM APPL. 29796/2024, CM APPL. 32242/2024, CM APPL. 32897/2024, CM APPL.32898/2024, CM APPL. 44009/2024, CM APPL. 44143/2024, CM APPL. 46221/2024, CM APPL. 47590/2024, CM APPL.51019/2024, CM APPL. 51020/2024, CM APPL. 53808/2024, CM APPL. 53844/2024, CM APPL. 57042/2024, CM APPL. 63373/2024, CM APPL. 65260/2024, CM APPL. 67527/2024, CM APPL. 68217/2024, CM APPL. 69803/2024, CM APPL. 69804/2024, CM APPL. 2763/2025 & CM APPL. APPL. 2939/2025, CM APPL.5956/2025, CM APPL.6101/2025, CM APPL.6618/2025, CM APPL.8103/2025, CM APPL. 10839/2025 & CM APPL. 21944/2025.

BHAVREEN KANDHARI

.....Petitioner

Through: Mr. Gautam Narayan, Sr. Adv.with
Mr. Satyakam & Ms. Asmita Singh,
Amicis.
Mr. Piyush Sharma & Mr. Pratyush
Jain, Advs.

versus

SHRI C.D. SINGH AND ORS.

.....Respondents

Through: Mr. Chetan Sharma, ASG with Mr.
Apoorv Kurup, Sr. Adv, Mr. Balendu
Shekhar, Mr. Krishna Chaitanya, Mr.
Rahul Rajput, Advs. with Mr. P.



Jagan, Scientist “E”.
Mr. Rajeev J. Agarwal, Adv.
Mr. Sameer Vashisht, SC (Civil)
GNCTD, Ms. Vaishali Gupta, Panel
Counsel (Civil) GNCTD, Mr. Amit
Gupta & Mr. Anubhav Gupta & Ms.
Manashwy Jha, Advs.
Mr. Manu Chaturvedi, Standing
Counsel for MCD

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
20.05.2025

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1. The present contempt petition has been filed for initiating of contempt proceedings against the contemnors namely Principal Chief Conservator of Forest (PCCF) and 3 different Tree Officers of various divisions for violation of the order dated 28.04.2022 in Contempt Case No. 851/2021.
2. The genesis of the contempt petition was that this Court observed that a tree was being cut down every hour in Delhi under official sanction.
3. The Court observed that while granting permission under the Delhi Tree Preservation Act, “preservation of trees is the primary objective”.
4. The Tree Officer is repository of the public faith and trust. The operative portion of the order dated 28.04.2022 is reproduced herein below:-

“7. The previous order shows that the Tree Officer has permitted a fullygrown tree to be cut down. It was possibly about 25-30 years age having a girth of roughly 200 cms. It was abutting the road and a private land as seen in the photographs. For some reason, the Tree Officer chose not to see reason in retaining the fully-grown tree, which had been a part of the



neighbourhood for decades and added to the ambience and the environment. He has permitted the cutting down of the tree. The Tree Officer will explain whether he inspected the site and assessed the tree before granting permission to cut it. It has to be borne in mind that permission is sought under the Delhi Tree Preservation Act, in which “preservation” of trees is the primary objective. The Tree Officer is repository of public faith and trust, that trees which form an essential part of people’s lives are not allowed to be cut needlessly or wantonly. The statutory duty cast upon the Tree Officer necessarily requires assessment of the necessity to cut a tree for the project for which the permission is sought. A site visit would be prudent. The shortage of Tree-Officers, necessary support staff, cannot be an excuse for granting permission for cutting down trees in the city. The adverse environmental impact of such denudation is all too well-known. Compensatory afforestation if at all carried out, on the fringes of the city, far-removed from the congested areas of human habitation, where the sole decades-old-tree once stood as a carbon-sump-cum-fresh oxygen generator-cum-shade provider-cumvisual respite from the ever increasing concretization; the geographically distant and nascent compensatory plantation can hardly be of any respite or actual compensation. In any case, it will take decades for the compensatory forests to be of any reckonable benefit. In this capital city with its ever-bourgeoning populating, the cacophony of voices and rampant commercialization of every other street – robbing the residents of the familiar ambience of their residential neighbourhood, the ever-increasing motor-vehicular traffic, the choking air-pollution and the ever-creeping concretization, trees hold out as welcome and assuring living entities of hope, sanity, environmental redemption and even companionship. The more solitary the tree, the greater its significance. Therefore, the responsibility of



protecting and nurturing the solitary tree is far greater upon the Tree Officer and the authorities concerned. Photographs of remnants of the cut tree are reproduced hereunder:





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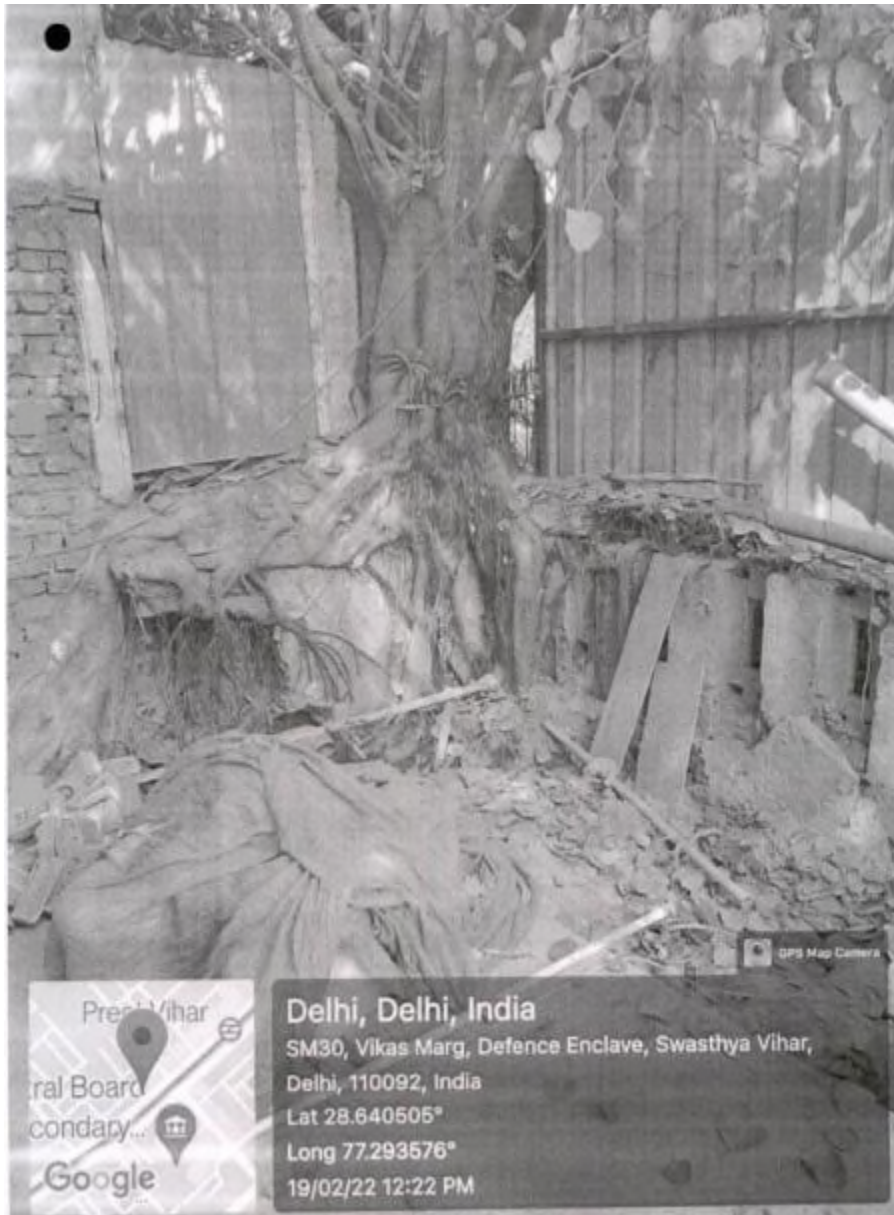
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8. In the circumstances, it would be appropriate that the Tree Officer(s) give due consideration to transplantation of each tree which is sought to be cut, before granting any further permission for cutting of trees. This would entail inspection of the trees which are sought. The reason for grant or denial of permission would have to be spelt out in the order of the Tree Officer along with photographs of each tree.”



5. Despite the said order, permissions were accorded by the contemnors which necessitated filing of the present petition.
6. Thereafter various orders have been passed by the Benches from time to time. It will be relevant to mention the order dated 07.07.2022 passed in W.P. (C) 10217/2022, titled *Bhavreen Kandhari v. The Tree Officer And DCF (South)* which reads as under:-

“.....

4. *For the purposes of considering the prayer for interim directions as addressed by learned counsel for the petitioner, the Court takes into consideration the order of 14 October 2021 issued by the Deputy Conservator of Forest which had taken note of large scale an indiscriminate felling of trees being undertaken in Delhi without taking into consideration the deleterious impact that such activity would have on the environment and the green cover required. The Court takes note of the various restrictions which were noticed by the Deputy Conservator of Forest in that communication which also extends to trees which may be standing in the set-back area or on roadsides and pavements. From the pictorial evidence which has been placed on the record, the Court notes that quite apart from there being a prima facie violation of the instructions issued by the Deputy Conservator of Forest, no adequate protective steps also appears to have been taken in respect of the trees situate in and around the construction site. On more fundamental plane, the Court notes that the Tree Officer has abjectly failed to record any reasons which may*



have evidenced an application of mind by him on the issues which had been flagged by the Deputy Conservator of Forest in his communication referred to above. Matter requires consideration.

5. Till the next date of listing, the respondent shall ensure that the trees at the two locations which form the subject matter of the present writ petition are not felled or harmed in any manner. Insofar as the trees at the Defence Colony location are concerned, this injunction shall apply provided the order of 23 March 2022 has not already been given effect.

7. On 06.03.2024, this Court directed as under:-

“3. With consent of the parties, it is directed that Mr Prasad along with the Amicus Curiae, along with the responsible officers including counsel for the respondent will draft an SOP with regard to:

a) prior permission for construction in Delhi which will involve the cutting of trees before sanctioning of plans;

b) for every infrastructure project, which involves cutting of trees, the Department of Forest will be involved at the planning stage so the every possible effort is made for saving the tree and only if it is inevitable/unavoidable, the permission for felling of trees would be given as a last resort.”

8. The importance of the SOP was reiterated in different orders and more particularly on 01.07.2024, 19.07.2024, 02.08.2024 and 20.12.2024.

9. A gazette notification dated 24.04.2025 has been placed on record gazetting the SOP.



10. The learned ASG and learned *amicis* have gone through the same.
11. The learned *amicis* have recommended some suggestion in the SOP as per the provisions of the DPTA.
12. Learned ASG has relied on the judgment of Hon'ble Supreme Court in "*Narmada Bachao Andolan v. Union of India*" (2000) 10 SCC 664 and more particularly 229 which reads as under:-

"229. It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution. Even then any challenge to such a policy decision must be before the execution of the project is undertaken. Any delay in the execution of the project means overrun in costs and the decision to undertake a project, if challenged after its execution has commenced, should be thrown out at the very threshold on the ground of laches if the petitioner had the knowledge of such a decision and could have approached the court at that time. Just because a petition is termed as a PIL does not mean that ordinary principles applicable to litigation will not apply. Laches is one of them."



13. The observations of the Hon'ble Supreme Court in 'Vanashakti v Union of India; 2025 INSC 718 and more particularly para Nos.32, 33, 34 are important and read as under:

“32. Under Article 21 of the Constitution of India, the right to live in a pollution free environment is guaranteed. In fact, the 1986 Act has been enacted to give effect to this fundamental right. In 1977, fundamental duties of all citizens were incorporated in the Constitution which enjoined every citizen of India to protect and improve the environment as provided in clause (g) of Article 51A. Therefore, even the Central Government has a duty to protect and improve the natural environment.

33. Today, in the year 2025, we have been experiencing the drastic consequences of large-scale destruction of environment on human lives in the capital city of our country and in many other cities. At least for a span of two months every year, the residents of Delhi suffocate due to air pollution. The AQI level is either dangerous or very dangerous. They suffer in their health. The other leading cities are not far behind. The air and water pollution in the cities is ever increasing. Therefore, coming out with measures such as the 2021 OM is violative of fundamental rights of all persons guaranteed under Article 21 to live in a pollution free environment. It also infringes health guaranteed Article 21 of the Constitution.

34. The 2021 OM talks about the concept of development. Can there be development at the cost of environment? Conservation of environment and its improvement is an essential part of the concept of development. Therefore, going out of the way by issuing such OMs to protect those who have caused harm to the environment has to be deprecated by the Courts which are under a constitutional



and statutory mandate to uphold the fundamental right under Article 21 and to protect the environment. In fact, the Courts should come down heavily such attempts. As stated earlier, the 2021 OM deals with project proponents who were fully aware of the EIA notification and who have taken conscious risk to flout the EIA notification and go ahead with the construction/continuation/expansion of projects. They have shown scant respect to the law and their duty to protect environment. Apart from violation of Article 21, such action is completely arbitrary which is violative of Article 14 of the Constitution of India besides being violative of the 1986 Act and the EIA notification.”

14. This Court is dealing with the rights of the citizens of Delhi and the rights protected under Article 21 of the Constitution of India to live in a clean and pollution free environment. Hence, this Court is not considering a policy decision of the respondent, but only an SOP made pursuant to the directions passed by this Court.
15. Before any further directions can be passed, it is important to consider whether in a contempt jurisdiction, this Court has the power to impose conditions to ensure effective implementation of the orders passed by this Court.
16. In “**Pritam Pal v. High Court of M.P.**”, [1993 Supp (1) SCC 529], the Hon’ble Supreme Court held in paragraph 41 as under:-

“41. The position of law that emerges from the above decisions is that the power conferred upon the Supreme Court and the High Court, being Courts of Record under Articles 129 and 215 of the Constitution respectively is an inherent power and that the jurisdiction vested is a special one not derived from any other statute but derived only from Articles 129 and 215 of the Constitution of India (See *D.N. Taneja v. Bhajan Lal*



[(1988) 3 SCC 26 : 1988 SCC (Cri) 546]) and therefore the constitutionally vested right cannot be either abridged by any legislation or abrogated or cut down. Nor can they be controlled or limited by any statute or by any provision of the Code of Criminal Procedure or any Rules. The caution that has to be observed in exercising this inherent power by summary procedure is that the power should be used sparingly, that the procedure to be followed should be fair and that the contemnor should be made aware of the charge against him and given a reasonable opportunity to defend himself.”

17. In “**T. Sudhakar Prasad v. Govt. of A.P.**”, [(2001) 1 SCC 516], the Hon’ble Supreme Court held in paragraphs 9 and 10 as under:-

“9. Articles 129 and 215 of the Constitution of India declare the Supreme Court and every High Court to be a court of record having all the powers of such a court including the power to punish for contempt of itself. These articles do not confer any new jurisdiction or status on the Supreme Court and the High Courts. They merely recognise a pre-existing situation that the Supreme Court and the High Courts are courts of record and by virtue of being courts of record have inherent jurisdiction to punish for contempt of themselves. Such inherent power to punish for contempt is summary. It is not governed or limited by any rules of procedure excepting the principles of natural justice. The jurisdiction contemplated by Articles 129 and 215 is inalienable. It cannot be taken away or whittled down by any legislative enactment subordinate to the Constitution. The provisions of the Contempt of Courts Act, 1971 are in addition to and not in derogation of Articles 129 and 215 of the Constitution. The provisions of the Contempt of Courts Act, 1971 cannot be used for limiting or regulating the exercise of jurisdiction contemplated by the said two articles.



10. *In Supreme Court Bar Assn. v. Union of India [(1998) 4 SCC 409] the plenary power and contempt jurisdiction of the Supreme Court came up for the consideration of this Court and in that context Articles 129, 142, 144 and 215 of the Constitution were noticed. This Court held that courts of record enjoy power to punish for contempt as a part of their inherent jurisdiction; the existence and availability of such power being essential to enable the courts to administer justice according to law in a regular, orderly and effective manner and to uphold the majesty of law and prevent interference in the due administration of justice (para 12). No act of Parliament can take away that inherent jurisdiction of the court of record to punish for contempt and Parliament's power of legislation on the subject cannot be so exercised as to stultify the status and dignity of the Supreme Court and/or the High Courts, though such a legislation may serve as a guide for their determination of the nature of punishment which a court of record may impose in the case of established contempt. The power to investigate and punish for contempt of itself vesting in the Supreme Court flows from Articles 129 and 142(2) of the Constitution independent of Section 15 of the Contempt of Courts Act, 1971 (para 21). Section 12 of the Contempt of Courts Act, 1971 provides for the punishment which shall ordinarily be imposed by the High Court in the case of an established contempt. This section does not deal with the powers of the Supreme Court to try or punish a contemner in committing contempt of the Supreme Court or the courts subordinate to it (paras 28, 29 and 37). Though the inherent power of the High Court under Article 215 has not been impinged upon by the provisions of the Contempt of Courts Act, the Act does provide for the nature and types of punishments which the High Court may award. The High Court cannot create or assume power to inflict a new type*



of punishment other than the one recognised and accepted by Section 12 of the Contempt of Courts Act, 1971.”

18. A perusal of the above judgments shows that the powers of the Constitutional Courts under Article 215 as Courts of record are not limited or regulated by the Contempt of Courts Act to punish the contemnors.
19. The powers under Article 215 are to ensure faithful and complete implementation of the directions passed by the Courts.
20. The endeavour of this Court from the facts narrated above is only to ensure that the SOP which aims to ensure felling / transplantation of trees must be implemented in an effective manner to achieve the desired objective.
21. Hence, in addition to the SOP already gazetted, it is directed that;-
 - i. Since the DCF/ Tree Officer is the statutory authority under the DPTA and the DCF/ Tree Officer shall be involved at the very stage of planning of a project which involves felling/transplantation of trees.
 - ii. Additionally, the compensatory plantation shall ensure that the trees which are to be planted are not less than 6 feet in height, have a nursery life of 5 years and a collar girth of not less than 10 cms.
 - iii. Additionally, the applicant who moves the application for felling of trees, will file an affidavit in this Court with a copy to the learned Amicus appointed under these proceedings as well as with the DCF, undertaking to take care of the compensatory planted trees for a period of 05 years, including watering,



maintenance and general upkeep and shall file quarterly report with latest photographs.

- iv. The trees sought to be transplanted should not be heavily pruned.
- v. The authorities/ Tree Officer will also take into consideration the following:

- a) Number of applications made by the proponent for a particular project and total footfall of the project on the environment and not just for the site in question;
- b) Availability of alternative site(s);
- c) Overall impact on green cover of the neighborhood;
- d) Age of trees and ecosystem supported by them; and
- e) Possibility of tree(s) surviving transplantation.

- 22. Needless to say that the SOP will function in terms of the DPT Act, including Section 7(d).
- 23. The post-approval monitoring will be done by the DCF.
- 24. The respondents are duty bound to ensure the compliance of the SOP in its true spirit, letter and intent.
- 25. *Dasti.*

JASMEET SINGH, J

MAY 20, 2025/*pk*

[Click here to check corrigendum, if any](#)