

[2023 LiveLaw \(SC\) 363](#)

IN THE SUPREME COURT OF INDIA
B.R. GAVAI; J., VIKRAM NATH; J.
IN RE : DELHI METRO RAIL CORPORATION (DMRC)

Metro Rail - Supreme Court refused to interfere with the construction work on phase-IV of Delhi Metro, stating that any interference at this stage would also result in a huge escalation of its cost, causing a loss to the public exchequer.

Environmental Law - No doubt that the concern for the environment is an important aspect. However, at the same time, developmental works like the metro rail, which will cater to millions of people and also reduce carbon emissions, inasmuch as the number of vehicles on the road would be reduced, cannot be ignored.

WRIT PETITION (CIVIL) NO. 149/2023 AND [1] INTERLOCUTORY APPLICATION NO. 107443/2021 (CEC REPORT NO. 11) [APPLICATION FOR DIRECTIONS FILED BEFORE CEC BY DR. P.C. PRASAD AND ADITYA PRASAD, APPLICANTS] WITH INTERLOCUTORY APPLICATION D. NO. 161311 AND INTERLOCUTORY APPLICATION NO. 161312/2021 [APPLICATIONS FOR INTERVENTION AND DIRECTIONS ON BEHALF OF BY DR. P.C. PRASAD AND ADITYA PRASAD, APPLICANTS IN I.A. NO. 107443/2021]

1. The petitioners/applicants, who are concerned for the environment, have filed the present writ petition/applications expressing concern over the Metro Phase IV expansion project of the Delhi Metro Rail Corporation (for short, 'DMRC').
2. We have heard Shri Rajiv Dutta, learned senior counsel appearing for the petitioner(s), Shri Tarun Johri, learned counsel appearing for the DMRC and Shri Chirag M. Shroff, learned counsel appearing for the NCT of Delhi.
3. Shri Dutta, learned senior counsel, submitted that the DMRC, in planning Phase IV, have totally acted negligently. It is submitted that while planning Phase IV there was no policy as to whether Phase IV should be underground or above ground. He submitted that the lack of an appropriate policy has also been highlighted by the Comptroller and Auditor General (CAG) in his report.
4. It is further submitted that in view of the notification issued by the NCT of Delhi under Section 29 of The Delhi Preservation of Trees Act, 1994 (for short, 'the Act'), all other provisions of the Act have become redundant.
5. Shri Dutta, learned senior counsel, further submitted that the construction of the Metro line is in such a way that it would encourage encroachment of public space, inasmuch as this line would cater to the persons who have already settled their structures on the encroached land belonging to the Government.
6. Shri Dutta, learned senior counsel, vehemently criticized the report of the CEC. He submits that on account of the CEC report, the various areas of land in the Morphological Ridge have been diverted for non-forest purposes.
7. Shri Tarun Johri, learned counsel, on the contrary, submitted that the planning of various phases cannot be static but it has to be dynamic. He further submits that the question as to whether the line has to go underground or above ground has to be taken into consideration after looking at various relevant factors.
8. He submits that the entire area of the Ridge, admeasuring 22 km., is protected, as the Metro line extending to 18 km. is underground. It is submitted that the overhead rail line is constructed at the median of the roads which are already existing. He, therefore, submits that this enables the traffic under the railway lines to pass and also saves the cost of acquisition, destruction of buildings etc.

9. The project is in an advanced stage. It is informed that more than 30% of the work has already been completed. It is further submitted that the project is scheduled to be commissioned in the year 2025.

10. We are of the considered view that any interference at this stage, apart from stalling the project, would also result in huge escalation of the cost thereof, causing a loss to the public exchequer.

11. Insofar as the grievance with regard to the felling of trees is concerned, we find that even in the notification issued under Section 29 of the Act, a provision has been made for compensatory afforestation.

12. As against the number of trees to be felled and number of trees to be transplanted, the trees in multiple of ten are required to be planted. Not only that, the Compensatory Afforestation Fund is also required to be deposited while issuing such a notification.

13. No doubt that the concern for the environment is an important aspect. However, at the same time, developmental works like the metro rail, which will cater to millions of people and also reduce carbon emissions, inasmuch as the number of vehicles on the road would be reduced, cannot be ignored.

14. In that view of the matter, we are not inclined to entertain this petition as well as the Interlocutory Applications at this stage.

15. Needless to state that the DMRC would be careful in the future, and take note of the concern expressed by the CAG, while planning the further phases.

16. At this stage, Shri Dutta, learned senior counsel for the petitioners, submits that since the issue with regard to validity of Section 29 of the Act is not under challenge in the present petition, the petitioners/applicants right to challenge the validity thereof should not be taken away. Since, we are not considering the validity of Section 29 of the Act, we do not find it necessary to make any observations with regard to that.

17. The writ petition and the Interlocutory Applications, including application for intervention are, accordingly, disposed of.