

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS.

Respondent(s)

(INTERLOCUTORY APPLICATIONS FOR 17.04.2023"ONLY"
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]
IN RE : DELHI METRO RAIL CORPORATION (DMRC)[2] INTERLOCUTORY APPLICATION NOS. 90000/2022 AND
35712/2023[APPLICATIONS FOR DIRECTIONS AND IMPLEADMENT]
IN RE : STATE OF UTTARAKHAND AND[3] I. A. Nos. 31204 AND 31206/2023
[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]
IN RE : M/S. MEGA INFRATECH PVT. LTD.

WITH

W.P.(C) No. 149/2023 (X)
(IA No. 13029/2023 - EX-PARTE STAY
IA No. 13030/2023 - EXEMPTION FROM FILING O.T.)

Date : 17-04-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH

Counsel for parties

Mr. Harish N. Salve, Sr. Adv. [A.C.] (Not Present)
Mr. A.D.N. Rao, Sr. Advocate [A.C.] (Not Present)
Ms. Aparajita Singh, Sr. Advocate [A.C.], (Not Present)
Mr. Siddhartha Chowdhury, Advocate [A.C.] (Not Present)Mr. K. Parameshwar, Advocate [A.C.]
Mr. M.V. Mukunda, Adv.
Ms. Arti Gupta, Adv.
Ms. Kanti, Adv.

Mr. Balbir Singh, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Archana Pathak Dave, Adv.
Ms. Suhashini Sen, Adv.
Mr. S. S. Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramanyam, Adv.
Dr. Arun Kumar Yadav, Adv.
Mr. Piyush Beriwal, Adv.
Mr. Naman Tandon, Adv.
Mr. Navanjay Mohapatra, Adv.
Mr. Samarvir Singh, Adv.
Mr. Amrish Kumar, Adv.

Mr. Rajiv Dutta, Sr. Adv.
Mr. Manan Verma, AOR
Mr. Pranav Gupta, Adv.

Mr. Tarun Johri, AOR
Mr. Ankur Gupta, Adv.
Mr. Vishwajeet Tyagi, Adv.

Mr. Chirag M. Shroff, Adv.
Mr. Shailendra P. Singh, Adv.
Mr. Rishabh Shivhare, Adv.

Mr. Ravindra S Garia, Adv.
Mr. Shashank Singh, Adv.
Mr. Madan, Adv.

Ms. Surbhi Mehta, Adv.

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

1. Mr. K. Parameshwar, learned Amicus Curiae has submitted a note dated 17.04.2023 on Sariska Tiger Reserve on the basis of the Report of the State Empowered Committee on the Management of the Sariska Tiger Reserve and temple situated therein.
2. The note pertains to an important issue with regard to a temple situated amidst the Tiger Reserve and the number of devotees visiting the said temple.
3. The perusal of the note would reveal that the number of

devotees visiting the temple every day is in the thousands, and on mela days it crosses lakhs. It is therefore, submitted that on account of unregulated entry of devotees, the management of Tiger Reserve gets adversely affected.

4. Learned Amicus Curiae has submitted that in order to overcome this situation, the entry to the forest for going to the temple should be permitted only through electric buses. He submitted that the said electric buses will carry the devotees from the entry gate of the Tiger Reserve to the temple, and in the same manner, back to the gate.

5. It is submitted that this will in turn have the effect of controlling the devotees from wandering anywhere in the forest.

6. It is further submitted that the Jaipur-Alwar State Highway between the Thankyou Board and Natni Ka Bara, having a length of around 22 kms., passes through the said Tiger Reserve.

7. Learned Amicus Curiae submitted that the Sariska Administration and the Ministry of Road Transport and Highways have proposed to construct a 22 kms. elevated road so that the wildlife can freely travel from one side of the road to the other side.

8. It is further submitted that though the park is closed during monsoon season, the devotees visit the temple even during that period, which further causes difficulties in the forest management.

9. The issue as raised is also an issue of concern in some

other National Parks and Sanctuaries. In many of the forests in such Protected Areas, certain places of worship are situated where the devotees come in thousands and lakhs. On one hand, it is not possible for the administration to restrain such devotees from visiting the places of worship. On the other hand, such uncontrolled visits of the devotees results in problems with the management of such Protected Areas.

10. We find that the note prepared by the learned Amicus Curiae is an attempt to solve this critical issue.

11. We therefore, find that at least on a pilot basis, the suggestions should be considered for implementation. However, before doing so, we find that it will be necessary to hear the State of Rajasthan as well as the Ministry of Environment, Forests and Climate Change and Ministry of Road Transport and Highways of the Union of India before any orders are passed.

12. The note submitted by the learned Amicus Curiae is therefore, treated as *suo-moto* proceedings and numbered as a separate writ petition.

13. The Registry shall issue notice to the Union of India, through the Principal Secretary, Ministry of Environment, Forests and Climate Change, and Ministry of Road Transport and Highways, and the State of Rajasthan through its Chief Secretary, returnable on 12.07.2023.

14. In addition, learned Amicus Curiae is requested to inform about this order to Ms. Aishwarya Bhati, learned ASG as well as Dr. Manish Singhvi, learned AAG for the State of Rajasthan.

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]
IN RE : DELHI METRO RAIL CORPORATION (DMRC)

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.

**[2] INTERLOCUTORY APPLICATION NOS. 90000/2022 AND 35712/2023
[APPLICATIONS FOR DIRECTIONS AND IMPLEADMENT]
IN RE : STATE OF UTTARAKHAND**

1. I.A. No.35712/2023 is allowed.

2. In I.A. No. 90000/2022, issue notice returnable in two weeks, to the Ministry of Environment, Forest and Climate Change, Government of India.

**[3] I. A. Nos. 31204 AND 31206/2023 [APPLICATIONS FOR IMPLEADMENT
AND DIRECTIONS]
IN RE : M/S. MEGA INFRATECH PVT. LTD.**

List after two weeks.

(NARENDRA PRASAD)
A.R. -cum-P.S.

(GEETA AHUJA)
A.R. -cum-P.S.

(ANJU KAPOOR)
COURT MASTER (NSH)