

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

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**ORIGINAL APPLICATION NO. 732 OF 2017**

**IN THE MATTER OF:**

1. Shobhit Chauhan  
Plot No. 94, 1<sup>st</sup> Floor,  
Pochanpur, Sector 23 Dwarka,  
New Delhi-110077

.....Applicant

Versus

1. Union of India,  
Through the Secretary,  
Ministry of Environment, Forests and  
Climate Change,  
Indira Paryavaran Bhawan,  
Jor Bagh Road,  
New Delhi- 110003
2. Government of NCT Delhi,  
Department of Environment-GNCTD  
Through the Secretary,  
Level 6, C- Wing,  
Delhi Secretariat I.P. Estate,  
New Delhi- 110002
3. Delhi Mumbai Industrial Corridor,  
Development Corporation,  
Through Its Managing Director,  
Room No. 341-B, 3<sup>rd</sup> Floor, Hotel Ashok,  
50, Diplomatic Enclave, Chanakyapuri,  
New Delhi- 110021
4. State Level Environment Impact Assessment,  
Authority, Delhi- (SEIAA),  
Through its Member Secretary,  
Office of the Delhi Pollution Control Committee,  
5<sup>th</sup> Floor, ISBT Building, Kashmere Gate,  
New Delhi- 110006

.....Respondents

**COUNSEL FOR APPLICANT:**

Mr. Sandeep Gupta, Adv., Mr. Ramakrishna Srinivasan and Mr. Shivam Bajaj, Adv.

**COUNSEL FOR RESPONDENTS:**

Mr. Ravinder Kumar Gupta, Adv.  
Mr. Balendu Shekhar, Adv., Mr. Raj Kumar Maurya, Mr. Sriansh Prakash Adv. with Mr. Dinesh Jindal LO for DPCC, Adv.  
Ms. Deep Shikha Bharati, Adv., Mr. Pinaki Mishra, Sr. Adv., Mr. Sarojanana Jha and Mr. Abhilasha Singh, Adv. for DMICDC.  
Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeep Mishra, Adv., Mr. Abhimanyu Gupta, Adv.

**JUDGEMENT**

**PRESENT:**

**Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)**

**Hon'ble Dr. Satyawan Singh Garbyal (Expert Member)**

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**Reserved on: 22<sup>nd</sup> March, 2018**  
**Pronounced on: 04<sup>th</sup> April, 2018**

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1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

**Dr. S.S. GARBYAL, (EXPERT MEMBER)**

In this Original Application No. 732/2017 filed by the Applicant it has been alleged that the Environmental Clearance was granted by Respondent No. 1 Ministry of Environment and Forest for construction of International Exhibition cum Conventions Centre in the sub city of Dwarka, New Delhi on 29.08.2017 without considering operating merits and demerits of the felling of 1961 trees which shall disturb the ecological balance leading to a negative impact upon the environment as well increased pollution levels for the residents of the

peripheral colonies defeating the objective clause of the Environment (Protection) Act, 1986 and the purpose of the EIA Notification 2006.

2. It has been submitted that the International Exhibition cum convention centre is going to be constructed by Respondent No. 3 over an area of 89.72 ha. For this purpose 1961 trees of 19 species will be cut for which necessary permission of the Competent Authority has already been obtained and the compensatory plantations is going to be undertaken at Yamuna Flood Plains between ITO barrage and Yamuna Bank Metro Station which is said to be 35 Km from Dwarka Sub City. It has been submitted that the Secretary Department of Environment and Forests Government of NCT of Delhi vide an Extraordinary Gazette Notification dated 16.08.2017 has exempted the above area of 89.72 ha. from the provisions of Section 9(3) of the Delhi Preservation of Trees Act, 1994 while permitting grant of felling of 1961 trees.

3. The Applicant has alleged that 1961 mature trees are to be felled and the timber obtained from the felled trees is to be auctioned in order to generate revenue to Government and compensatory plantation is to take place 35 Km away at an area which has no relation to the area whose deforestation has been planned which, it is alleged, is against the overall objective of the Environment (Protection) Act, 1986, The Forest (Conservative) Act 1980 and the Biological Diversity Act, 2002.

4. The Applicant in his application has suggested that Respondent No. 1 to 4 should consider transplantation of trees to the open lands available in Dwarka Sub City. The Applicant in his Original Application has prayed as below:-

- “ a) *Direct the Respondent Authorities to conduct detailed study on possibility and feasibility of transplantation and translocation of full grown trees and to consider it as an alternative to felling of trees.*
- b) *Direct the Respondents to undertake the compensatory plantation within Dwarka Sub City.*
- c) *Direct the Respondent authorities to consider the suggestions of the Applicant in the best interest of the Environment.*
- d) *Issue appropriate guidelines in order to lay down a procedure for compensatory plantation in urban areas, and to consider 'green' and environmental friendly alternatives to afforestation.*
- e) *Direct an independent team of the Environment Ministry and Department of Environment-GNCTD to assess the number and size of tree species and other bushes/shrubs actually present on the ground on the said lands and the number of trees that can be transplanted and conduct a satellite baseline assessment.*
- f) *Set aside the Gazette Notification issued by the Department of Environment, Government of NCT of Delhi dated 16.08.2017”.*

5. In his reply the Respondent No. 3 has submitted that the impacts on Environment on account of execution of the project had been considered and measures to be taken while undertaking the project were deliberated and considered and specific conditions were enumerated while giving environmental clearance on 29.08.2017 and some of the conditions are as below :-

- “iii. *Construction site shall be adequately barricaded before the construction begins. Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site.*



- iv. All construction and demolition debris should be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed.*
- xxiv. Any hazardous waste generated during construction phase, shall be disposed off as per applicable rules and norms with necessary approvals of the State Pollution Control Board.*
- xxv. Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standards be operated only during peak hours.”*
6. Respondent No. 3 has further submitted that one of the specific condition mentioned in the Environmental Clearance is an undertaking for plantation of trees at the site of the project that is in the vicinity of Dwarka. The condition provides that minimum of 1 tree for every 80 sqm of land will have to be planted and wherever trees need to be cut, the compensatory plantation has to be done in the ratio of 1:3. Additionally, in terms of the notification issued by the Respondent No. 2, the Respondent No. 3 will have to undertake plantation for 19610 saplings of indigenous species at Yamuna Bank plains in the area demarcated by the DDA.
7. Respondent No. 1 Ministry of Environment and Forest in their reply have submitted that a specific condition has been stipulated that the project proponent shall maintain the green area as per prevalent rules and regulations. Respondent No. 1 further submits that the projects proponent is obligated to comply with the specific condition which reads as under:-

*“A minimum of 1 tree for every 80 sq.m. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species. Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done, and maintained. As proposed 42.5 % area shall be provided for green belt.”*

8. In the Counter Affidavit filed by the Department of Forest of NCT of Delhi has submitted that out of 1961 trees that are to be cut there are 1324 eucalyptus trees which cannot be transplanted and only Ficus species can be transplanted. They further submit that only 26 trees that is 24 trees of *Ficus Religiosa*, one tree of *Ficus racemosa* and one tree of *Ficus rumphii* could have been considered for transplantation in case their girth has less than 70 cm. They therefore contend that none of these 26 Ficus species can be transplanted on account of the fact that they are not straight and there are various other conditions.

9. After carefully going through the replies and responses filed by the Respondents, we are of the considered opinion that the Respondent Ministry of Environment and Forest and Department of Environment and Forest Government of NCT of Delhi have examined the proposal of the Respondent No. 2 from the point of view of the impact the proposal is likely to have on the environment and have therefore imposed necessary conditions to mitigate the adverse impact on it. Apart from requiring to raise compensatory plantation 19610 trees in Yamuna Bank plains the project proponents are also required to plant a minimum of 1 tree

for every 80 sq meter of land that is 11215 trees considering project area of 89.72 ha. and 5883 trees for 1961 trees cut (three trees for every one tree cut) in other words 17098 trees will be planted at the project site in Dwarka. Moreover, transplantation of trees to be cut has also been considered. It is a scientifically established fact that transplantation depends upon the species, age and the condition of the trees. The Department of Forest NCT of Delhi had considered and examined the trees on above criteria and had come to conclusion that none of trees marked to be cut are fit for transplantation. We are therefore, satisfied that all the concerns and suggestions which the Applicant had raised have been examined and considered. At the site situated in tree deficient Dwarka 17098 trees will be planted by the project proponent to compensate for the trees to be cut in accordance with the conditions stipulated in the Environmental Clearance dated 29.08.2017.

10. In view of the above, the Original Application No. 732 of 2017 filed by the Applicant has to be rejected. We would, however, direct the project proponent Respondent No. 3 to comply with all the general and specific conditions of the Environment Clearance dated 29.08.2017 and after the required number of 17098 trees are planted the project proponent would intimate the Forest Department who will verify the same and file their report before this Tribunal. The Project Proponent will ensure that the trees to be planted are at least 6 feet high and over three year old and sufficient care will be taken to protect and maintain them. In

the event, directions to plant trees in Dwarka site is not complied with project proponent shall be liable to pay environmental compensation.

11. Consequently, the Original Application No. 732/2017 is dismissed, with no order as to cost.

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Justice Raghuvendra S. Rathore  
(Judicial Member)

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Satyawan Singh Garbyal  
(Expert Member)

**Dated: 04 April, 2018**  
**New Delhi**

**NGT**