

New Delhi Nature Society vs Shri Vinay Sheel Saxena & Ors on 13 October, 2022

Author: Najmi Waziri

Bench: Najmi Waziri

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 660/2020, CM APPL. 26651/2020 & CM APPL. 5145/2021

NEW DELHI NATURE SOCIETY

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Through: Mr. Aditya N. Prasad

versus

SHRI VINAY SHEEL SAXENA & ORS.

Through: Mr. N. Hariharan, Am

Advocate with Ms. Pu

Angara, Mr. Sharian

Mr. Rahul Sambher, A

Mr. M. A. N

Commissioner.

Mr. Gautam Narayan,

Unmukt Gera, Advocat

Mr. Satyakam, ASC fo

with SI Satyam Pande

Colony.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 13.10.2022 The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. Periodic training is being imparted to Government Officers for their sensitization and duties to be discharged towards preservation and augmentation of the environment under the Delhi Preservation of Trees Act, 1994 and Indian Forest Act, 1927. Orders, in this regard, were passed on 10.02.2021, 18.02.2021, 04.03.2021, 12.04.2021, 08.03.2022, 23.03.2022 and 01.09.2022.

2. The training imparted inside the four walls of the conference room is far different from what the officers would gain when they are sensitized in forest areas. In the circumstances, the Forest Department shall ensure that sensitization and training of Forest Officers is conducted at the forest sites or in the biodiversity parks. Due assistance shall be provided to the agency engaged by the Government, which presently is the Mahatma Gandhi Institute of Climate Change, Bakoli, New Delhi.

3. The next training/sensitization programme will be scheduled in the second week of November in the South Forest Division. Officers from various departments will be sent to the Forest Department. Status report, in this regard, shall be filed before the next date.

4. The Principal Chief Conservator of Forests ('PCCF'), the Chief Conservator of Forests ('CCF') and other officers of the Forest Department are also present in the court. To expedite the process and to obviate the necessity of the Senior Officers' personal presence, reference is made to a similar matter being heard by this court in CONT.CAS(C) 47/2020, Aparna Bhat vs. Sakshi Singh & Ors, Mr. N. Hariharan, the learned Amicus Curiae, Mr. Aditya N. Prasad, the learned counsel as well as Mr. Gautam Narayan, the learned ASC for the Forest Department, GNCTD, have shown to the court a typical organizational setup of the Forest Department i.e. the hierarchy that would be observed by the Forest Department, GNCTD and the existing strength of the said Department.

5. It is noted that against a total requirement of 276 Forest Guards, only 64 are presently available. However, 211 more are likely to join by the end of this month i.e. by 01.11.2022 and are to be sent for training to some agency/institute outside Delhi. They are likely to join duty in Delhi by April, 2023. Against the sanctioned strength of 66 Foresters, there is a complete vacancy. This needs to be filled up through feeder cadre which is Wildlife and Forest Guards. Presently, Delhi has 11 Wildlife Guards and 64 Forest Guards, as discussed hereinabove. Therefore, at the moment there is no likelihood of Foresters being appointed. This matter, therefore, needs urgent attention as the lack of requisite officers/personnel in the Department of Forests is affecting robust implementation of the Delhi Preservation of Trees Act, 1994.

6. The court would note that the preservation of the environment and the city's ecology is an absolute necessity for the residents of the city, as it affects their right to life under Article 21 of the Constitution of India.

7. The court would note that out of the posts of 26 DCFs, there is only sanctioned strength of 6 DCFs, some of whom also function as Tree Officers. The geographical area under the jurisdiction of each of these Tree Officers is rather large. The Government may consider augmentation of number of Tree Officers/DCFs in Delhi for a robust and effective implementation of the Act.

8. On 05.05.2022, this court passed the following order in CONT.CAS(C) 47/2020:

"...1. Mr Gautam Narayan, the learned ASC informs the court that in its endeavour to create a reckonable team of officers at various levels to protect the forests and green-cover in Delhi, the GNCTD has undertaken an initiative last year under which eleven Wildlife Guards have been deployed and they are working in the field; four Forest Rangers have been selected and they are undergoing training at Orissa Forest Ranger College, Angul, Orissa.

2. There is no disagreement of the fact that this exercise ought to have been completed by almost a decade and a half ago; the delay has possibly led to wanton tree-falling in the city, which loss could, have been avoided had there been sufficient

number of officers in the Forest Department and/or under its deployment and/or were available for providing assistance to the Tree Officers under the Delhi Preservation of Trees Act, 1994.

3. The recruitment status of personnel and officers into the Forest Department is reflected in the chart handed over by Mr. Narayan in the court. It is reproduced hereunder:

"...Recruitment Process of various positions in the Department

- Recruitment Notice dated 27.12.2019 was issued for the following positions:

Wildlife Guard - 11 vacancies Forest Ranger - 4 vacancies Forest Guard - 211 vacancies Wildlife Guard

- An online test was conducted for the post of Wildlife Guard and thereafter the result notice was issued on 04.09.2022.

- Thereafter the selected Wildlife Guards were given offer letters on 27.10.2020.

- The 11 selected Wildlife Guards were deployed to various Divisions and HQ of the Department as follows: 4 - North Division 2- West Division 3- South Division 2 - Wildlife HQ Forest Ranger

- An online test was conducted for the post of Forest Ranger on 16.03.2020 and result of the same was announced on 04.09.2020.

- Thereafter a Physical Standard Test was conducted for the shortlisted candidates on 12.10.2020.

- Based on the performance in online test and the Physical Standard Test, 4 candidates were selected on 11.01.2021.

- Owing to the second wave of COVID-19, the selected candidates could be sent to Orrisa Forest Ranger College, Angul, Orrisa for mandatory induction training of 18 months only from 04.10.2021 onwards.

- Upon conclusion of the training, the Forest Rangers will join the Department from April 2023 onwards. Forest Guard

- An online test was conducted for the post of Forest Guard and result of the same announce on 25.03.2022.

- 253 candidates have been shortlisted based on their performance in the online test.

- The shortlisted candidates have to undergo a Physical Standard Test which is scheduled on 9-13th May 2022.

- After the Physical Standard Test, medical tests would be conducted and documents would be verified. Thereafter the selected candidates will have to undergo training for a period of 9 months.

- It will therefore take approximately 1 year for the selected Forest Guards to join the Department..."

4. Albeit delayed, the exercise now initiated, is a welcome step.

5. However, as can be seen from the training timelines, by the time the force of Forest Officers is actually deployed in the field, it would take another year or so, by which time much more damage would have been done to the trees and environment of Delhi. Residents of Delhi cannot wait the deployment of the requisite forest department personnel, at the cost of losing their valuable tree cover.

6. In the circumstances, as noted in this court's order dated 19.09.2019 in CONT.CAS (C) No.846/2018, requisite protective force should be made available to the Forest Department as well as to the Tree Officers.

The Tree Officer needs to be assured of his safety and security. The order dated 19.09.2019, inter alia, reads as under:-

"....Mr. Rahul Mehra, the learned Standing Counsel for GNCTD, submits that the delay in compliance of the orders as noticed hereinabove and in earlier orders is stated to be because of the shortage of the requisite staff. Nevertheless, he assures the Court that efforts are underway to fill the Departmental vacancies on an urgent basis. Be that as it may, the Principal Secretary concerned, GNCTD, shall ensure that there is no impediment of any sort, on account of shortage of staff in the implementation of this Court's orders..."

7. In the circumstances, the Government of NCT of Delhi is directed to place before the court the measures taken by it for securing its Tree Officers in the discharge of their duties.

8. Furthermore, the Government of NCT of Delhi will, for the interim, appoint other officers, subordinate-staff and personnel under s.6 of the Delhi Preservation of Trees Act, 1994, on an urgent basis, to support the Tree Officers, lest the Delhi's environment, which is almost always on the precipice suffer irreparably and resultantly causes much prejudice to the health of its residents.

9. Within three weeks, the GNCTD shall also put at the disposal of the Tree Officers sufficient number of all motor vehicles for a Quick Reaction Team. The learned counsel say that all-terrain vehicles would be best-suited for forest areas..."

9. Let an affidavit of compliance in terms of the above directions be filed by the Principal Secretary, Environment, GNCTD with prior approval of the Chief Secretary, GNCTD apropos making available a reckonable and requisite number of personnel in the Forest Department.

10. We have the assistance of the PCCF, the CCF and other officers of the Forest Department. They agree that for the sake of regular monitoring of the forest area and growth and preservation of trees, it will be necessary and worthwhile to document the existing tree cover in the city. The PCCF and CCF agree that it would, therefore, as a first measure be prudent that the status of the tree cover and the forest cover in the Central Ridge and the Southern Ridge shall be ascertained. This would logically facilitate the Forest Department's further planning apropos greening and preservation of the other larger parts of the Central and the Southern Ridge. Let the comprehensive figures of all the trees planted since July, 2018 be furnished before the court and to the extent possible drone mounted camera mapping, comparative satellite photographs/videography of the various plantations in a phased manner over a time lapse be also furnished before the next date, to ascertain the progress made by the Forest Department under the various orders of this court. The making of appropriate videography in this regard be also explored.

11. The Forest Department will also keep identified areas where a further tree/shrub plantation could be carried out.

12. Apropos the purchase of vehicles for DCFs, the court is informed that about six suitable vehicles will be made available to them by the third week of November. A status report, in this regard, shall be filed.

13. Looking at the number of officers who have to be in the field of operations, the Department may consider making provision for more vehicles in the next phase of purchase.

14. In the interim, the Government will ensure that requisite motor vehicles are made available to the Tree Officers/DCFs so that their field-work is not constrained.

15. Paragraphs 4 to 14 of this order are to be considered a part of CONT.CAS(C) 47/2020.

16. List on 18.10.2022.

NAJMI WAZIRI, J OCTOBER 13, 2022 SS/rd