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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 12271/2022

RAJIV DUTTA

..... Petitioner

Through: Mr. Aditya N. Prasad, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Avishkar Singhvi, ASC with Mr. Naved Ahmed, Mr. Vivek Kumar and Ms. Nikita Mishra, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

% **23.03.2023**

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

1. This petition seeks the following reliefs:

“ ...

*B. Issue a Writ of Mandamus or any other appropriate Writ, Order or direction to Respondent no.1 to give appropriate directions to the Tree Officers under Section 33 of the Delhi Preservation of Trees Act, 1994 and lay down Standard Operating Procedures/Guidelines/directions etc. regarding the procedure for conducting hearings/proceedings/investigation by the concerned officers for the offences/violations under the Delhi Preservation of Trees Act, 1994;*

*C. Direct the Respondent No. 2 to initiate a training mechanism on the provisions of the Delhi Preservation of Trees Act, 1994 and basic principles of administrative law for all Tree Officers and their*

*subordinates in a regular and systematic manner,  
...”*

2. Admittedly, apart from a policy issued under section 33 of the Delhi Preservation of Trees Act, 1994 (‘DPT’) apropos transplantation of the trees, there are no directions or guidelines regarding how a Tree Officer would deal to the complaints apropos conduct of hearing relating to the damage of trees or violation of any other provision of the Act. The aforesaid section reads as under:

*“33. Power of the Government to give directions.-The Government may, from time to time, give to the Tree Officers, other officers of the Tree Authority and officers subordinate to them general or special directions regarding the discharge of their functions and for carrying out effectively the purposes of this Act, and such Tree Officers and other officers shall comply with the directions issued.”*

3. All proceedings relating to statutory rights, liabilities and obligations would be expected to be conducted in a procedure that is *ex-facie* fair and transparent. However, as is noticed in the present case and the learned counsel for the petitioner refers to other cases as well, that ordinarily when a complaint is made about damage to or felling of a tree, the complainant is hardly ever notified or intimated apropos the progress/result of the proceedings, if any initiated in relation thereto. There can be no dispute that a complainant would be required to be heard apropos complaint made or otherwise be kept informed throughout the proceedings. The Counter-affidavit dated 20.02.2023 of the GNCTD reads as under:

“....

4) *It is submitted that in connection to Prayer Clause (b) of the Writ Petition (C) 12271/2022, only the Government of NCT of Delhi is empowered to issue the guidelines/directions which are to be issued under the provisions of section 33 of the Delhi Preservation of Trees Act, 1994.*

5) *It is submitted that in compliance of the directions passed by the Hon'ble Court, the Department is formulating a standard operating procedure for the approval of the Govt. of NCT of Delhi for effective adjudication of registered tree offence in accordance with mandate laid down under the Delhi Preservation Tree Act, 1994.*

6) *It is submitted that the SOP shall include (a) the 'Cognizance Phase' for elucidating the manner in which offences are to be received for effective adjudication of complaints (b) the 'Trial Phase' for conducting examination/cross-examination of evidences, reports, submissions of the parties and (c) the 'Judgement Phase' for pronouncement of orders and appeals thereto u/s 14 of the DPTA, 1994.*

7) *It is submitted that the SOP shall be issued within one month after seeking approval of Govt. of NCT of Delhi.”*

4. The said one month period is over. Let an affidavit be filed apropos the progress having been made in this regard before the next date.
5. Furthermore, according to the learned counsel for the petitioner, a fully grown tree was fatally damaged and felled by a Tata 407 vehicle. There is nothing on record to show that the offender was ever put to notice or that he made any application for compounding of the offence under the DPT. An order apropos compounding of the offence has been passed. There is no record to show that the penalty amount

of Rs.60,000/- has been deposited. The vehicle remains to be impounded by the Tree Officer. This according to the petitioner, is a serious dereliction of duty by the Tree Officer. The petitioner refers to photographs to show that the tree planted, as compensation in lieu of the felled tree at the site, is hardly alive. He submits that the present planted tree will take years to get close to what has been lost. It was a solitary tree on that stretch of the residential colony road.

6. Mr. Avishkar Singhvi, the learned ASC for the Tree Officer submits that an affidavit, in this regard, will be filed in two weeks and remedial measures shall be taken in consultation with the land owning agency, Municipal Corporation of Delhi. Let it be so done with prior approval of Principal Secretary (Environment and Forests), GNCTD.
7. To bring back some tree-life to the street, it is suggested by the learned counsel for the parties that an *Amaltas* tree of at least 15 ft. in height and having a nursery age of 4 years, may be planted at the site so that when it blooms, the tree would lend some cheer to the residents of the neighbourhood. Assistance of the Director (Horticulture) MCD, be taken in this regard.
8. List on 11.04.2023.

**NAJMI WAZIRI, J**

**MARCH 23, 2023**

SS/RW