

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

Original Application No. 69/2014

Abdul Sattar Vs. St. Paul's School & Ors.

**CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. (DR.) P.C. MISHRA, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present: Applicant / Appellant : Mr. Ajay Sipahiya and Mr. Rahul Shukla, Advs.

Date and Remarks	Orders of the Tribunal
Item No. 1 March 31, 2014	<p>This application has been filed praying for a direction against respondent no. 3 & 4 to take appropriate action against the respondent no. 1 under Section 11, 15 and 18 of the Delhi Preservation of Trees Act, 1994 and also for granting exemplary damages against respondent no. 1 for cutting one tree which is situated in the premises of the first respondent's school.</p> <p>The allegation made by the applicant, who is an environmentalist, is that by cutting of one tree which has admittedly been felled by the school authorities, the Oxygen production rate is being reduced which results in detriment to the health of children who are studying in the school.</p> <p>That apart, the value of the tree has to be fixed as per the study made by the Prof. T. M. Das, University of Kolkata as published in "Indian Biologist", wherein it has been stated that in respect of fruit bearing trees the value is to be assessed at 0.3% of the real value of a tree. He has also mentioned that the value of a 50 year old tree has now come to Rs. 35,51,300/-.</p> <p>That apart, it is the contention of the learned Counsel appearing for the applicant that the children who are expected to be sensitised about the environmental issues as decided by</p>

the Hon'ble Apex Court are going to be affected in the sense that if the school authorities who are expected to impart children all subjects including environmental awareness, themselves are cutting the trees in their premises, itself it will give a wrong signal to the children who may not develop the concept of preserving nature.

Mr. Ajay Sipahiya, learned Counsel appearing for the applicant has effectively made the above said contention. The said contentions are really attractive, in our considered opinion, without substance. The reasons are that, it is the only tree situated in the school premises of the respondent no. 1 which has been cut and it doesn't raise a larger environmental issue. In such view of the matter, we are of the view that the Environmental (Protection) Act, 1986 in its letter and spirit may not be made applicable to the peculiar facts and circumstances of the case.

Moreover, under the Delhi Preservation of Tree Act, 1994 under which the applicant has filed the present application, is not listed under Schedule-1 of the National Green Tribunal Act, 2010.

Be that as it may, there is an authority constituted as "Tree Authority", who is competent to give permission for the purpose of cutting of tree. It is seen that under Section 7 of the Act the Tree Authority has got duty to preserve trees and also issue permission in cases where tree can be permitted to be felled. In cases where any persons are affected by such decision of the Tree Authority, there is an appeal provided under Section 14 of the Act.

In such view of the matter, when the applicant has got an effective remedy available under State legislation, we are of the

view that instead of approaching this Tribunal, the applicant should have approached the Tree Authority under the Delhi Preservation of Tree Act, 1994.

Accordingly, we dismiss the application with liberty to the applicant to file necessary application to the Tree Authority under the Delhi Preservation of Tree Act, 1994 complaining about the conduct of respondent no. 1. We make it clear that if the applicant makes such application within four weeks from today, the Tree Authority under the said Act shall take up the application and decide the issue after giving opportunity to the applicant without dismissing the application on the ground of limitation or any other technical issue.

Accordingly, the application stands closed with no order as to costs.

....., JM
(Dr. P. Jyothimani)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. (Dr.) P.C. Mishra)

....., EM
(Ranjan Chatterjee)

