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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 18th January, 2022

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W.P.(C) 14483/2021

RAHUL BHARDWAJ & ANR.

..... Petitioners

Through: Petitioner No.1 in person.

versus

THE STATE & ORS.

..... Respondents

Through: Ms. Manisha Chauhan for
Mr. Naushad Ahmed Khan,
Additional Standing Counsel for R-1,
4 and 5.Mr. Anurag Ahluwalia, Central
Government Standing Counsel with
Mr. Danish Faraz Khan, Advocate
for R-2 and 3.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGMENT****D.N. PATEL, CHIEF JUSTICE (ORAL)**

Proceedings have been conducted through video conferencing.

1. Present Public Interest Litigation has been preferred seeking the following reliefs:-

“(i) Issue a writ, order or a direction in the nature of mandamus thereby directing the respondents to constitute a special commission on environment for bringing the policy on sustainable development for further directing concerned special commission to hear the matter expeditiously on day to day basis and further fix a timeframe within which the said matter may be decided and further direct the concerned special court to file a status report every week regarding the status of the said case so that 'one person one tree' policy can be executed.



- (ii) Issue a writ order or a direction in the nature of mandamus thereby directing the respondents to plan for enforceability of fundamental duty under article 48-A and there should be penalty of not abiding the rules related to protection of environment.*
- (iii) Issue a writ, order, direction, instructions in the nature of mandamus thereby directing the Respondents to decrease the expenditures on temporary measures and to plan for sustainable developments so that country can grow on higher speed.*
- (iv) Issue a writ, order, direction, instructions in the nature of mandamus thereby directing Respondents to subsidize the tree plantation nurseries and encourage for new nurseries to be established where trees discussed above which can be grown in dark and can provide 24 hour oxygen.*
- (v) Issue a writ, order, direction, instructions in the nature of mandamus thereby directing the Respondents to fix higher liability on forest departments of union and all states so that penalty can be enforced on citizen who does not maintain a tree in his whole life.*
- (vi) Issue a writ, order, direction, instructions in the nature of mandamus thereby directing the Respondents to plan to protect metropolitan cities which are facing high pollution on preference bases and simultaneously for whole Country.*
- (vii) Issue such other appropriate Writ or an Order or Direction as this Hon'ble Court deems fit in the light of the facts and circumstances of the present petition to enforce the fundamental rights of citizens including 21,21-A,48-A and*
- (viii) Award costs of the writ in favour of the Petitioners and against the Respondents as this Hon'ble Court deems fit, just and proper; according to the fact and circumstances of the present case. ”*

2. Petitioner No.1, who appears in person, submits that directions be issued to the Respondents to constitute a Special Commission on Environment and frame a policy for protection of the environment on the principle of ‘one person one tree’. He submits that framing a policy is the



need of the hour when the pollution is increasing and there is deterioration in the environmental conditions.

3. We have heard Petitioner No.1, who has canvassed the above argument.

4. It is a settled law that framing policies is the domain of the Government and it is not for this Court to direct framing of any policy. We are fortified by the decisions of the Supreme Court in *State of Himachal Pradesh and Ors. v. Satpal Saini*, (2017) 11 SCC 42 and *Ashwini Kumar v. UOI and Ors.*, (2020) 13 SCC 585.

5. From the aforesaid judgements, it is explicitly clear that making a policy with respect to environmental protection and/or issuing Guidelines thereunder is purely a matter of policy decision of the Government and a very complex phenomenon. It is no longer *res integra* that a Court will not interfere in policy making as the policies are framed based on expert knowledge of the persons concerned in the respective fields. Courts are not equipped with the necessary expertise to substitute their own views and direct formulation of policies tailor-made to suit the requirements of the Petitioner in a given case. While exercising the power of judicial review, it must be kept in mind that Court cannot direct, advise or sermonise the executive in matters of policy framing, which is purely the domain of the executive under the doctrine of separation of powers.

6. Courts can certainly examine a policy or an action of the Executive, if it is unreasonable, unfair, arbitrary or unlawful or if it is unconstitutional, but cannot issue directions to frame a policy in a particular manner. There is a clear separation of power in the scheme of the Constitution of India and the duty to formulate policy is entrusted to the



Executive. Predominant role of the Court is to expound and interpret the law and not to legislate.

7. This should, however, not be understood to mean that a Court would abdicate its responsibility to scrutinize and test, whether the policy in question is unreasonable, unfair or violative of the mandate of Article 14 of the Constitution of India and in case it is so found, it can certainly be struck down.

8. In this view, prayers relating to formulation of the policy relating to environmental protection and directing that it be made on the principle of 'one person one tree', as suggested by the Petitioners, cannot be allowed. We, therefore, see no reason to entertain the present petition and direct the Government to frame a policy.

9. However, it will be open to the Petitioners to make a comprehensive representation to the concerned Respondents, ventilating their grievances and also giving suggestions, if any, towards protection of the environment. As and when such a representation is preferred by the Petitioner(s), the same shall be considered by the concerned Respondents, in accordance with law.

10. Accordingly, writ petition is disposed of with the aforementioned liberty.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 18, 2022/sn