

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No.17/2023(CZ)

IN THE MATTER OF:

Dr. Subhash C. Pandey,
S/o Dr. Shrikant Pandey,
R/O- HIG 1/8 Shivani Complex,
6 No. Stop, Shivaji Nagar, Bhopal,

Applicant(s)

Versus

- | | |
|---|------------------|
| 1. Bhopal Municipal Corporation,
Through The Commissioner,
2 nd Floor, A Wing, ISBT Campus,
Dr. Ambedkar Marg, Hoshangabad
Road, Bhopal, | Respondent No.01 |
| 2. The Collector, Bhopal,
Office of Collector, Old Secretariat
Campus, Koh-e-Fiza, Bhopal, | Respondent No.02 |
| 3. The Divisional Forest Officer,
Capital Project Forest, Bhopal, CPA
Building, Bittan Market, Bhopal | Respondent No.03 |
| 4. Dr.Shashank Agarwal/
Dr. Kamlesh Verma,
Bhopal Fracture Hospital, E-3/01,
Link Road No. 3, Arera Colony,
Bhopal, | Respondent No.04 |
| 5. Dr. Sanjay Kumar,
Director, Gastrocare, Liver &
Digestive Disease Center, 120-121,
Link Road No. 3, near Personal
Branch SBI, E-3, Arera Colony,
Bhopal, | Respondent No.05 |
| 6. Mr. Adarsh Malhotra/
Mr. Vivek Malhotra,
Malhotra's, E-4/6, Arera Colony,
Bhopal | Respondent No.06 |

7. **Mr. Dilip Suryavanshi,**
Suryavanshi's, E-5/5, E-5, Arera
Colony, Bhopal, Respondent No.07
8. **Mr. P.C. SHARMA,**
F-1/7, 1100 Quarters, Bhopal, Respondent No.08
9. **Dr. Mohit Sikka/
Mr. Sanjay Saxena,**
Zindal Hospital, Ayodhya Bypass
Road, Village Damkheda, Bhopal, Respondent No.09
10. **Mr. Dolraj Gaire,**
Owner, Sagar Gaire, Restaurant,
106-107/1/4/1, Near New Jail Rd,
Elixir Garden, Karond, Bhopal, Respondent No.10
11. **Public Works Department,**
Government of Madhya Pradesh,
Through Engineer- in- Chief, 27-28,
Nirman Bhawan, Arera Hills,
Bhopal, Respondent No.11

COUNSELS FOR APPLICANT(S):

None

COUNSELS FOR RESPONDENT(S):

Mr. Prashant M. Harne, Adv. for State of M.P.
Ms. Parul Bhadoria, Adv. for MPPCB
Mr. Deepesh Joshi, Adv. for R-4
Mr. Om Shankar Shrivastava, Adv. for R-9

CORAM:

HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER

Date of completion of hearing and reserving of order : 11.08.2026

Date of uploading of order on website : 21.08.2026

JUDGMENT

1. This petition/application has been filed by the Applicant with the prayer to direct the Respondents to carry out a time bound removal of all type

of encroachments (permanent or temporary) carried out on Central verges, side verges of all roads and parks of the city and to carry out a time bound afforestation of local (indigenous) shrubs and trees on the areas designated for it to maintain minimum forestry and ecology of the city.

2. It is submitted that in the year 1986 Capital Project Forest and Capital Project Administration was established which was meant to address local administration created after Union Carbide Disaster in the year 1984 for the reasons that the trees and the green cover are not only natural supplier of the oxygen but also they clean and dilute impurity and pollution from local climate. The Bhopal Development Plan, 2005, has also given very clear guidelines to maintain roadside greenery of the city vide Clause 2.52 with specified plantation of indigenous plants on both sides of the main road of the city. The Divisional Forest Officer (CRF), Bhopal, communicated the authorities concerned/Commissioner, Bhopal, with regard to the encroachers with the list but the same has not been removed. Encroachers and mafias have been continuously destroying the forestry, green cover and ecology of the city, especially at central and side verges of roads and parks and deforestation and illegal encroachments on central and side verges of roads noise, soil and water pollution in the city have not been addressed properly which leads to a very dangerous situation with respect to health and hygiene of the people of Bhopal.
3. It is further submitted that if the situation is not immediately addressed, this will provoke and encourage the other people to encroach the Government land, central and side verges of the roads in the Capital City.

4. Notices were issued to the Respondents with direction to submit the reply. Replies have been filed.
5. The Respondent/Bhopal Municipal Corporation has filed further action taken reports at different interval of times.
6. During the course of proceedings, to verify the encroachments, we have constituted a Committee of Expert Members consisting the representatives of the Vaniki Man Mandal Bhopal/District Forest Officer, Superintending Engineer, Bhopal Municipal Corporation, Executive Engineer, UADD, and Madhya Pradesh Pollution Control Board, to verify the status and submit the report. The Members of the Committee visited the site and submitted the report as follows:-

“ACTION TAKEN REPORT

.....X.....X.....X.....X.....

i. Action taken by Paryavaran Vaniki Vanmandal, Bhopal

As per the information submitted by Paryavaran Vaniki Vanmandal, Bhopal vide letter no 625 dated 07/04/2023, the compensatory amount is received by the department against the cutting of trees within the Bhopal Municipal corporation boundary. Some of important points of the letter are given as under:-

- 1. The applications of cutting of trees are received at Bhopal Municipal Corporation and it is forwarded to Paryavaran Vaniki Vanmandal, Bhopal. After the receipt of application department confirms that the cutting of tree is extremely required in the benefit of public or development works than no objection is granted by the department.*
- 2. The costs of the tree to be cut are assessed based on the circumference of the tree and deposited in the department through demand draft.*

3. Plantation is carried out by the department in the govt open land under the Bhopal Municipal corporation boundary along with the security for the next 05 years.
4. The plantation carried out by the department with the help of the compensatory amount deposited.
5. Apart from above department is also carried out plantation in the municipal boundary in the govt open land.

ii. Action taken by Bhopal Municipal Corporation

In reference to the petition, Bhopal Municipal Corporation, Bhopal vide letter dated 12.04.2023 submitted the information of cutting of trees and amount deposited, the plantation done in the previous two years and the details of encroachments removed. Also, it is submitted by BMC that in reference to DFO, Capital Project vide letter dated 10.12.2021 the encroachment drive carried out by Atikraman Shakha of BMC is a continual process.

i. For the cutting of trees in Bhopal city

S.No.	Project Name	Cutting of No. of Trees	Amount Deposit
1	Metro Rail Corp. Limited	127	7,62,000
2	Metro Rail Corp. Limited	144	16,99,000
3	Metro Rail Corp. Limited	947	56,82,000
4	Metro Rail Corp. Limited	46	5,42,000
5	Metro Rail Corp. Limited	245	14,70,000
6	B.H.E.L	164	9,84,000
7	Permission Issued for various work purposes in Urban Areas	550	23,78,400
	Total Number of Trees	2200	1,35,17,400

ii. For the plantation at new places in Bhopal city

S.No.	Venue Name	No. of Plants
1	Airport (At Three Locations)	58500
2	Barkheda Pathani B.H.E.L	1950
3	Bird Sanctuary B.H.E.L	6200
4	Adampur Chawani	10820
5	Kaliasot Dam	10630
6	Swarn Jayanti Park	2300
7	Manuabhan Tekri	325
8	Nearby T.T. Nagar (05 Parks)	1250
9	Nearby Khanugaon	750
10	Nearby Maholi Damkheda STP	2150
11	Rose Garden, Bairagarh	680
12	At various central verge, side verge and intersections	800
	Total	96355

iii. For the removal of encroachments in Bhopal city

Date	Removal of Encroachment
01.04.2022	With the cooperation of the district administration, action was taken to demolish 25 illegal shops with JCB in Priyadarshini Nagar near Link Road No. 2 Narmada Bhawan
11.04.2022	With the cooperation of the district administration, the encroachment on a house in Bagsevania Om Nagar was removed and sealed
19.04.2022	A shed was removed from Roshanpura with the cooperation of the district administration and the police administration.
02.05.2022	With the cooperation of the district administration, action was taken to demolish an illegal room built on a plot in Piplani.
05.05.2022	Action was taken to demolish part of the illegal building of Qazi Bahadur Hussain from Lalghati with the cooperation of the district administration and building permission branch.
06.05.2022	Action was taken to demolish 5 illegal shops from Gandhinagar Jhulelal market with the cooperation of the district administration

12.05.2022	Action was taken to break the walls of 10 houses in Azad Nagar behind the Bogdapur Fire Brigade office with the cooperation of the district administration.
13.05.2022	With the cooperation of the district administration, 24 small pipes were seized by removing the auto stand of Bhopal Main Railway Station platform number 6 and an illegal toilet.
14.05.2022	With the cooperation of the district administration and the police administration, 15 slums were demolished in Barai Katara
17.05.2022	With the help of police administration and Patwari, a wall was broken by JCB in Nizamuddin Colony.
17.05.2022	With the help of police administration and Patwari, an illegal wall built on the plot in front of Ayodhya Bypass Atal Bihari Sabzi Mandi was demolished.
23.05.2022	By taking joint action by the District Administration, Police Administration and corporation 03 shops shed, wall and platform was demolished and 06 chadar, 18 pipes, 01 stand, 01 tub, 01 small ladder, 01 pipe board was seized.
01.06.2022	By stopping the work of the house under construction With the cooperation of the District Administration and Patwari 02 shovel, 01 song, 02 carts are seized.
10.06.2022	Action was taken to break an illegal wall from Jat Khedi Road with the help of the building permission branch
15.06.2022	In front of Avadhpuri police station, shutters of four shops were removed and three shutters were seized with the help of building permission branch
24.06.2022	Electric pole wire fencing and road were dug with the help of JCB near Kokta Bypass Trinity College with the help of district administration
12.07.2022	With the cooperation of the District Administration Building Permission Branch, a shop of Lotus Showroom was sealed in number seven market
15.07.2022	Action was taken to break the balcony and boundary wall of a dilapidated house in Old Subhash Nagar with the help of the building permission branch
22.07.2022	Action was taken to demolish an illegal Pakka Bharat Veg showroom from 11 Mile Bypass with the help of the building permission branch
30.07.2022	With the help of the district administration, 10 shanties were demolished at Chetak Bridge, Gautam Nagar.
17.08.2022	The shutter of a house in Shahpura was removed with

	the help of the building permission branch.
03.09.2022	With the cooperation of the district administration, action was taken to demolish the science style Brashan marriage garden behind Gandhinagar Kazi House.
17.09.2022	District Administration, Housing for All, Police Administration and Corporation took action to vacate and demolish 9 houses near Slaughter House
20.09.2022	The construction of a religious shed was removed near the Smart Road Gemon showroom with the cooperation of the district administration and the police administration
26.09.2022	Action has been taken to demolish the main accused of ITI College MMS case, Rahul Yadav, late Bhagwan Singh Yadav's house located in Bhim Nagar.
13.10.2022	Action was taken to break the illegal balcony of a house in Kolar Sarvadharm with the help of the building permission branch
17.10.2022	With the cooperation of the district administration, 35 iron pipes, three handcarts and a pipe tank were seized by breaking the illegal shed of a temple near Link Road No. 1 Major Dhyanchand Stadium
17.10.2022	With the cooperation of the district administration, the encroachment of tapre fencing was removed by breaking an illegal shed of MP Nagar Gayatri Mandir
28.10.2022	With the cooperation of the TI of Police Station TT Nagar, a warning was given to vacate the illegally constructed house of 3 goons miscreants in Vallabh Bhavan Bhim Nagar.
11.11.2022	Action was taken to demolish an illegal house at Kolar Kajali Kheda Kala Pani with the cooperation of the district administration
22.11.2022	With the cooperation of the district administration, action was taken to demolish a big house near Jinsi Slaughter House
24.11.2022	New Market Jahangirabad Railway Station Platform No. 1 Ashoka Garden Parihar Chauraha by running mobile court. Rs. 189500 was collected as fine from 194 shopkeepers from different places
25.11.2022	With the cooperation of the district administration, the way was cleared by breaking an illegal wall from Misrod Ashima Mall to the marriage garden.
25.11.2022	Action was taken to break an illegal wall in Shahpura Indus Town with the help of the building permission branch police force

25.11.2022	With the help of Smart City, an illegal iron shed was demolished by breaking an illegal house by JCB from Mata Mandir
26.11.2022	Action was taken by JCB to demolish 20 houses obstructing the road widening in Bairagarh with the cooperation of the district administration
02.12.2022	Ashima Mall Sagar Royal Colony 01 shed and 1 shed room were demolished along with building permission branch and police administration.
12.12.2022	Action was taken to break a pucca wall and a big iron gate in Rohit Nagar Bawdia Kalan with the cooperation of the building permission branch and police administration.
14.12.2022	By taking joint action by the district administration, the police administration and the corporation, 25 wheelbarrows and 10 boundary walls were broken by the JCB, which were obstructing the widening of the road from Kolar intersection to Chuna Bhatti intersection
16.12.2022	With the joint action of District Administration, Police Administration and Municipal Corporation, 1000 setting plates were removed from the land of Waqf Board in Arif Nagar. With the joint action of District Administration, Police Administration and Municipal Corporation, 1000 setting plates were removed from the land of Waqf Board in Arif Nagar.
16.02.2023	Encroachment of a Sanchi parlour was removed by demolishing 8 pucca shops from Kolar d-mart with the help of building permission branch
17.02.2023	With the cooperation of the district administration, action was taken to demolish two pucca houses in front of 1250 hospitals
22.02.2023	With the cooperation of the administration, action was taken to demolish a 30 x 40 pucca house in Gandhinagar
24.02.2023	With the cooperation of the district administration, fencing was removed near the drain in Ahuja Enclave on Hoshangabad Road.
06.04.2022	Action was taken to break 01 Illegal construction in Vihari Molla Subhash Nagar adjacent to the wall of cremation ground, Shahid Zone No- 12, Ward no- 44. District administration, Police administration and corporation staff were present during the proceeding.
07.04.2022	Zaheer and Israel 218 Inayatpur Kolar, Khasra No. 40,

	Rakba No. 0.6 Hectare, total 600 square meters, whose market was Rs. District Administration, Police Administration, Corporation Administration were present during the action. Illegal plotting was being done by Awadh Narayan on Khasra No. 101/1/2 area of 1.486 hectare in Ratibad village. Action was taken to remove the cost of which is Rs 3 crore. District Administration, Police Administration, Municipal Corporation Administration were present during the action. Shed shops were being built on government land measuring 300 square meters in Shahid Khan village, Secunderabad Khasra No. 250, Middle Charagah. Action was taken to remove the one whose cost is ₹ 15 lakh. District Administration, Male Administration and Corporation Administration were present during the proceedings Chhote Ram Atmaj Govind Ram was selling village Sarwar Khasra No. 505 rakba 0.430 hectare by illegal plotting on government land. Action was taken to remove the one whose cost is 1 crore 50 lakh. District administration, police administration and corporation administration were present during the action Mrs. Iram Ahmed w/o Amy Patel village Barkheda Nathu Khasra No. 56/2/2/1 rakba 0.790 hectare was going for illegal plotting on private land. Action was taken to remove (the land was brought back to its original form). District administration, police administration and corporation administration were present during the proceedings
18.04.2022	Smt. Asha Jain had given illegal encroachment on government land of Khasra No. 66/2.66/3.66/4 in Chuna Bhatti to about 5 acres of land on rent for commercial use. Due to which Rs 500000 was being collected per month. Whose market value was Rs 350 crore, the district administration, police administration, corporation staff was present during the action taken to break it.
21.05.2022	By taking joint action of district administration, police administration and corporation administration, action

	was taken to break Bhura Yadav's room built from an illegal tin shed in Barela village Lalghati.
12.06.2022	The district administration, police administration and corporation staff were present during the action taken to break the encroachment on 15x30 government land in Roshanpura slum by Badshah S/o Bashir.
12.06.2022	The district administration, police administration and corporation staff were present during the action taken to break the encroachment on 10x12 government land in Roshanpura slum by Ajay S/o Ikram.
28.07.2022	Action was taken to remove the encroachment done by Latif by building a house on the government land in Rajiv Nagar, Kotra, Sultanabad. District Administration, Police Administration and corporation staff were present during the proceedings
06.08.2022	The cost of 52 acres of government land in Kolar Nayapura area has been estimated at 16 crore 20 lakhs, for which action was taken to free 37 people including Hariram Ahirwar, Shanti Bai, Mohan Ahirwar. District administration, police administration and corporation staff were present during the action.
26.08.2022	District Administration, Police Administration and corporation administration were present during the action taken to remove the encroachment done by the Altaf Baig in Banganga.
13.09.2022	District Administration, Police Administration and corporation administration were present during the proceedings of removal of illegal encroachment done in illegal pucca construction of Hanumant Jatav s/o late Suraj Jatav resident of Ajay Nagar, Shahpura, Bhopal.
26.09.2022	Action has been taken to demolish the Rahul Yadav, late Bhagwan Singh Yadav's house located in Bhim Nagar.
22.01.2023	District Administration, Police Administration and corporation administration were present during the process of demolishing of 01 dairy, 02 pucca rooms by illegal occupation of government land by main accused of drugs case Hameed Khan aka Sheru Khan, Anantpura Gram, Hataikheda.
29.01.2023	Arshad Babba, who created terror for 13 hours in Old Bhopal. District administration, police administration and corporation administration were present during the proceedings of demolishing the house in Atmaj Kazi Camp.

Recommendations:

- 1. The plantation program on the government land should be jointly taken up by Bhopal Municipal Corporation in consultation with Paryavaran Vaniki Vanmandal, Bhopal.*
- 2. Proper fencing should be provided around the plantation area to avoid encroachment.”*

7. The issues raised in this application are protection of green trees, green belt and removal of encroachment from the green belt area from the city of Bhopal. It is submitted by the applicant Dr. Subhash C. Pandey (a senior environmentalist) that people of Bhopal have been fortunate enough to have Capital Project Forest (CPF for short) which was established in year 1986 under Capital Project Administration (CPA for short). CPF Bhopal was a unique establishment meant to address local air pollution created after Union Carbide Disaster in year 1984 and issue of encroachments on government lands. CPF has done wonderful job in its early years which emerges Bhopal as a green city of the country. According to CPF official records, total 42,13,365 plants were planted during period of 1986 to 2021 in the city in various heads. Moreover, total 9,667 plants were planted at central verges of 11 sides and 1,70,437 plants at road side verges of 15 sides. That in year 1986, metro area population of Bhopal was estimated as 8,58,000 whereas it is approximately 25,05,000 in the year 2022. Therefore, almost three times increase in the city population is recorded. Consequently, it gives potential negative impact on environment and local ecology of the capital city. Applicant of this Petition, being a senior environmentalist has concluded in his research study that approximately 66% greenery of the metro city Bhopal in the year 1990 has tremendously reduced to

6% in the year 2022 is the actual cause of concern which may be shrink to 3% only in year 2025 if the same trend continues.

8. That main cause behind destruction of green cover of the city is deforestation. Whereas unplanned urbanization, continuously decreasing FAR, continuously increasing population load (approximately 5 lakh people per decade), vehicular pollution and municipal solid waste, biomass and stubble burning are other prominent causes behind air, water and soil pollution of the city that is why carcinogenic and cardiovascular diseases have increased up to 40 percent (approx.) in last 10 years in the city. In the light of pandemic corona, importance of oxygen and demand of clean air has highlighted among people. Still thousands of people of the city are suffering from post-pandemic problems. Tree and green cover are not only natural suppliers of the oxygen but also they clean and dilute impurity and pollution from local climate. They also help in combating sound pollution and reducing local temperature which is an urgent need of the day. Trees and forests reduce storm water runoff by capturing and storing rainfall in the canopy and releasing water into the atmosphere through evapotranspiration. In addition, tree roots and leaf litter create soil conditions that promote the infiltration of rainwater into the soil. Thus, trees and green cover help to improve groundwater table and groundwater contamination. Therefore, there is a direct impact of forest and biodiversity on ecology of the city.
9. India State of Forest Report, 2021 released by Government of India, Ministry of Environment, Forest and Climate Change, has recently discloses this fact that forestry of Bhopal in year 2021 is reduced by 0.11 square km with respect to year 2019. Moreover, there is no VDF

(Very Dense Forest) remains in the Bhopal district. As compare to the assessment year 2019, total forest cover and tree cover of the country have increased in year 2021 and is estimated as 2261 square km but contrary to it, total forest and tree cover of Madhya Pradesh is reduced by 143 square km.

10. It is further submitted that the Respondents violated the law laid down by the Hon'ble Supreme Court in *Hinchlal Tiwari vs. Kamala Devi and others*, (2001) 6 SCC 496, where it was held that “ forests, tanks, ponds, hillock, mountain etc. being the material resources of the community, are nature's bounty and thus, they need to be protected for a proper and healthy environment to enjoy a quality life which is the essence of the rights guaranteed under Article 21 of the Constitution of India and, therefore, their Lordships directed the concerned authorities, that if the encroachers do not vacate the land within the specified period the authorities shall demolish the construction and get the possession of the said land in accordance with law and further they shall restore, develop and maintain the area in the larger interest of the citizen which would also help in maintaining ecological balance and protecting the environment.” The aforesaid judgment was again followed and relied upon by the apex Court in *M.K. Balakrishnan (1) and others vs. Union of India* and others, (2009) 5 SCC 507 and directions issued by Hon'ble the Supreme Court in *Indian Council for Enviro Legal Action etc. vs. Union of India & Ors. etc.* 1996 AIR 1446 and *Vellore Citizen Welfare Forum vs. Union of India* 1996 SC.
11. The DFO of Capital Project Forest Rajdhani Pariyojna Vanmandal Bhopal vide letter dated 10.12.2021 has communicated the Bhopal Municipal Corporation indicating encroachments of more than 692

places and a request was made to remove the encroachment from the public land and to prevent the cutting of the trees but no action was taken by the authorities and thus, this petition.

12. Later on, a controversy was raised by the Municipal Corporation that Addl. Chief Secretary, State of Madhya Pradesh, Department of Forest vide letter dated 10.04.2023 communicated the land holding department (PWD) to secure plantation areas with complete maintenance and later on PWD was also impleaded as a Respondent.
13. The Collector has constituted six members committee to take necessary actions and to remove the encroachments from the public land and green belt area. After hearing the parties the Tribunal vide order dated 20.02.2024 directed as follows:-

1. The protection of the state land is within the domain of the Collector of the District and department is working under the authority of the Collector. In spite of the order issued to the PWD department none responded for the PWD department before the Tribunal. Being the custodian of the property of the State the PWD department is not authorised to permit any outsider to use the land of the State or to encroach the land. If PWD department failed to do its duty sincerely, fairly and honestly, it is for the Collector to take necessary disciplinary action against the person/officer responsible for not doing the duties as per law.

2. Accordingly, the District Collector is directed to call the explanation from the PWD Department and the Municipal Corporation as to why the action should not be initiated against them for not complying the order of the Tribunal or not protecting the State land, which is in their custody. Further action taken report by Collector and PWD department be filed within three weeks.”

14. The Applicant submits that violation of environmental laws and procedures, particularly the Madhya Pradesh Vrikshon Ka Parirakshan

(Nagariya Kshetra) Adhiniyam, 2001, and failure to undertake compensatory afforestation or deposit monetary contributions for the felled trees as required by law should not take place as a result of the road construction projects. Because the law under Section 6(3) of the Adhiniyam of 2001 mandates that conditions are imposed for felling of trees which may include either compensatory afforestation or where the same is not possible, then the contribution may be made within thirty days from the felling of trees.

15. Further submissions of the Learned Counsel for the applicant are that felling of such number of cutting down the trees without following due procedure and relevant provisions of Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001 causes significant environment damage. Relevant part of 3 to 6 are as follows:-

“Section 3 : Restriction on felling of trees

Notwithstanding any custom, usage, contract or local-law for the time being in force, no person shall without permission under the provision of this Act fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within the urban area.

Section 4 : Appointment of Tree Officer

The State Government may appoint one or more forest officers of the rank not below that of a Gazetted Forest Officer, Commissioner, Municipal Corporation or Chief Municipal Officer as "Tree Officer" for the purposes of this Act, for each Urban Area.

Section 5 : Appointment of other officers

The State Government may, from time to time, appoint such other officers and employees of Forest Department or Local Authority as may be considered necessary who shall be subordinate to the Tree Officer.

Section 6 : Procedure for obtaining permission to fell, cut, remove or dispose of a tree

1. Any person desiring to fell or remove or otherwise dispose of, by any means, a tree, shall make an application to the concerned Tree Officer for permission in such form and containing such particulars and accompanied by such documents as may be prescribed.

2. On receipt of the application, the Tree Officer shall acknowledge the application and may by order after inspecting the tree and holding such enquiry, as he may deem necessary, either grant permission in whole or in part or refuse permission for reasons to be recorded in writing, within 30 days from the date of receipt of the application :

Provided that no permission shall be granted to any person from the same area on more than two occasions during the same year :

Provided further that no permission shall be refused if the tree-

- i. is dead, diseased or wind fallen; or*
- ii. constitutes a danger to life and property; or*
- iii. is substantially damaged or destroyed by fire, lighting, rain or other natural causes; or*
- iv. constitutes an obstruction to traffic or if necessary for maintenance of power/telephone lines etc.*

3. The law under Section 6(3) of the Adhiniyam of 2001 mandates that if any conditions are imposed for felling of trees which may include either compensatory afforestation or where the same is not possible, then the contribution may be made within thirty days from the felling of trees.

4. Right to life and liberty under Article 21 of the Indian Constitution includes right to have a clean environment. Further the **Constitutional (forty-second Amendment) Act, 1976** incorporated two significant articles viz. **Article 48-A and 51A (g)** thereby making the Indian Constitution the first in the world conferring constitutional status to the environment protection. **Article 48-A:** The State shall

endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. Article 51A(g): It is a duty of every citizen to protect and preserve the environment.

5. *The permission granted under sub-section (2) may be subject to the condition that the applicant shall plant another tree or trees of the same or other suitable species on the same site or premises, and where this is not possible make such contribution as may be prescribed, within thirty days from the date the tree is felled or within such extended period as the Tree Officer may allow.*

6. *If the Tree Officer fails to communicate the decision within the period specified under sub-section (2) the permission applied for shall be deemed to have been granted.*

16. In *M.C. Mehta v. Kamal Nath*, (2000) 6 SCC 213, the Hon'ble Supreme Court in paragraph 8 held that Articles 48A and 51A(g) must be interpreted in light of Article 21:

*"8. These two articles have to be considered in the light of Article 21 of the Constitution which provides that no person shall be deprived of his life and liberty except in accordance with the procedure established by law. **Any disturbance of the basic environment elements, namely air, water and soil, which are necessary for "life", would be hazardous to "life" within the meaning of Article 21 of the Constitution.**"*

*In the recent decision of the Hon'ble Supreme Court in **MK Ranjitsinh & Ors. v. Union of India, 2024 INSC 280**, it has been observed that the right to clean environment and right to be free from adverse effects of climate change are part of Article 21 of the Indian Constitution and are two sides of the same coin. In this regard, the Hon'ble Court observed as follows:*

*"24. Despite a plethora of decisions on the right to a clean environment, **some decisions which recognise climate change as a serious threat, and national policies which seek to combat climate change, it is yet to be articulated that the people have a right against the adverse effects of climate change. This is perhaps because this right and the right to a clean environment***

are two sides of the same coin. As the havoc caused by climate change increases year by year, it becomes necessary to articulate this as a distinct right. It is recognised by Articles 14 and 21.”

“35....It is imperative for states like India, to uphold their obligations under international law, including their responsibilities to mitigate greenhouse gas emissions, adapt to climate impacts, and protect the fundamental rights of all Individuals to live in a healthy and sustainable environment.”

17. Hon’ble the Supreme Court of India in the order dated 30.01.2024 in the case *M.C. Mehta v. Union of India & Ors. (In Re: Taj Trapezium Zone)*, WP(C) No. 13381/1984, is observed as follows :-

*“We have perused the application very carefully. Even as of today, it is not the case of the applicant/State that any land has been made available for compensatory afforestation. **Unless the applicant comes out with a material that a land has been allotted in the close proximity of the existing trees, we cannot go into to the question, at this stage, whether compensatory afforestation will be sufficient and whether translocation is also required to be done in respect of some of the trees.** In fact, in the Report No.2/2024 submitted by the Central Empowered Committee (CEC), a direction has been issued to the Divisional Forest Officer of Agra to examine whether it is possible to translocate some of the trees. **In any case, compensatory afforestation has to be in the close proximity of the place where the existing trees are situated. There is one more important aspect of the matter. Someone will have to do the exercise for ascertaining whether felling of so many trees is really required”***

18. Another Writ Petition (Civil) No. 182/1996: *M.C. Mehta v. Kamal Nath & Ors.* MANU/SC/0416/2000, Hon’ble the Supreme Court of India held as follows :-

“i. The planet Earth which is inhabited by human beings and other living creatures, including animals and birds, has been so created as to cater to the basic needs of all the living creatures. Living creatures do not necessarily mean the human beings, the animals, the birds, the fish, the worms, the serpents, the hydras, but also the plants of different varieties, the creepers, the grass and the vast forests. They survive on fresh air, fresh water and the sacred soil. They constitute the essential elements for survival of "life" on this planet. The living creatures, including human beings, lived peacefully all along. But when the human beings started acting inhumanly, the era of distress began which in its wake brought new problems for survival.

ii. The industrial revolution brought an awakening among the men inhabiting this Earth, that the Nature, with all its resources was not unlimited and forever renewable. The uncontrolled industrial development generating tonnes of industrial waste disturbed the ecological balance by polluting the air and water which in turn, had a devastating effect on the wildlife and, therefore, the early efforts to protect the environment related to the protection of wildlife. But then the two world wars, the first world war (1914-1918) and the second world war (1939 to 1945) during which atomic bombs were exploded resulting in the loss of thousands of lives and burning down of vast expanses of forests, made the man realise that if the environmental disturbances were not controlled, his own survival on this planet would become impossible. The United Nations, therefore, held a Conference on human environment at Stockholm in 1972. In the wake of the resolutions adopted at that Conference, different countries at different stages enacted laws to protect the deteriorating conditions of environment. Here in India, the Legislature enacted three Acts, namely, The Water (Prevention & Control of Pollution) Act, 1974; the Air (Prevention & Control of Pollution) Act, 1981 and The Environment (Protection) Act, 1986. It also enacted the Water (Prevention & Control of Pollution) Cess Act, 1977. Under these Acts, Rules have been framed to give effect to the provisions thereof. They are : The Water (Prevention and Control of Pollution) Rules, 1975; The Water (Prevention & Control of Pollution) Cess Rules, 1978; The Air (Prevention and Control of Pollution) Rules, 1982; The Air (Prevention & Control of Pollution) (Union Territories) Rules, 1983; The Environment (Protection) Rules, 1986; The Hazardous Wastes

(Management and Handling) Rules, 1989; The Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989, The Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 and hosts of other Rules and Notifications.

iii In the matter of enforcement of rights under Article 21 of the Constitution, this Court, besides enforcing the provisions of the Acts referred to above, has also given effect to Fundamental Rights under Articles 14 and 21 of the Constitution and has held that if those rights are violated by disturbing the environment, it can award damages not only for the restoration of the ecological balance, but also for the victims who have suffered due to that disturbance. In order to protect the "life", in order to protect "environment" and in order to protect "air, water and soil" from pollution, this Court, through its various judgments has given effect to the rights available, to the citizens and persons alike, under Article 21 of the Constitution. The judgment for removal of hazardous and obnoxious industries from the residential areas, the directions for closure of certain hazardous industries, the directions for closure of slaughterhouse and its relocation, the various directions issued for the protection of the Ridge area in Delhi, the directions for setting up effluent treatment plants to the Industries located in Delhi, the directions to Tanneries etc., are all judgments which seek to protect environment.

iv. The recognition of the vice of pollution and its impact on future resources was realised during the early part of 1970. The United Nations Economic Commission for Europe, during a panel discussion in 1971, concluded that the total environmental expenditure required for improvement of the environment was overestimated but could be reduced by increased environmental awareness and control. In 1972, the Organisation for Economic Cooperation and Development adopted the "POLLUTER PAYS PRINCIPLE" as a recommendable method for pollution cost allocation. This principle was also discussed during the 1972 Paris Summit. In 1974, the European Community recommended the application of the principle by its member States so that the costs associated with environmental protection against pollution may be allocated according to uniform principles throughout the Community. In 1989, the Organisation for Economic Cooperation and Development reaffirmed its use and extended its application to include costs of accidental pollution. In 1987, the principle was acknowledged as a

binding principle of law as it was incorporated in European Community Law through the enactment of the Single European Act, 1987. Article 130 Rule 2 of the 1992 Maastricht Treaty provides that Community Environment Policy "shall be based on the principle that the polluter should pay.

V. "POLLUTER PAYS PRINCIPLE has also been applied by this Court in various decisions. In Indian Council for Enviro Legal Action v. Union of India MANU/SC/1112/1996 : [1996]2SCR503 , it was held that once the activity carried on was hazardous or inherently dangerous, the person carrying on that activity was liable to make good the loss caused to any other person by that activity. This principle was also followed in Vellore Citizens Welfare Forum.

vi. Union of India and Ors. MANU/SC/0686/1996 : AIR1996SC2715 which has also been discussed in the present case in the main judgment. It was for this reason that the Motel was directed to pay compensation by way of cost for the restitution of the environment ecology of the area. But it is the further direction why pollution fine, in addition, be not imposed which is the subject matter of the present discussion.

vii. Chapter VII of the Water (Prevention and Control of Pollution) Act, 1974 contains the provisions dealing with penalties and procedure. This Chapter consists of Sections 41 to 50. Sub-section (2) and (3) of Section 41 provide for the punishment and imposition of fine. They are quoted below:-

41.(2) Whoever fails to comply with any order issued under Clause (e) of Sub- section (1) of Section 32 or any direction issued by a Court under Sub-section (2) of Section 33 or any direction issued under Section 33A, shall in respect of each failure and on conviction, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(3) If the failure referred to in Sub-section (2) continues beyond a period of one year after the date of conviction, the offender shall, on conviction, be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

viii. Similarly, Section 42 provides that a person shall be liable to be punished with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both. Sub-section (2) of Section 42 also contemplates imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both. Section 43 contemplates penalty for contravention of the provisions of Section 24. Section 44 contemplates penalty for contravention of Section 25 or Section 26. They also contemplate imposition of fine. Section 45 provides that if a person who has been convicted of any offence under Section 24 or Section 25 or Section 26 is again found guilty of an offence involving a contravention of the same provision, he shall, on the second and on every subsequent conviction, be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine. Section 45A provides that whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both and in the case of continuing contravention or failure, he may be punished with an additional fine. Section 47 contemplates offences by Companies while Section 48 contemplates offences by Government Departments.

ix. Section 15 of the Environment (Protection) Act, 1986 provides for penalty for contravention of the provisions of the Act and the Rules, Orders and directions made thereunder. Sub-section (1) of Section 15 speaks of imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. Section 16 of the Act contemplates offences

by the Companies while Section 17 contemplates offences by Government Departments.

x. Chapter VI of the Air (Prevention and Control of Pollution) Act, 1981 contains the provisions for penalties and procedure. This Chapter consists of Sections 37 to 46. Section 37 provides penalties for failure to comply with the provisions of Section 21 or Section 22 or with the directions issued under Section 31A. It provides that the person shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day. Sub-section (2) of this Section provides that if the failure continues beyond the period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine. Section 38 also provides penalties for certain acts and it provides that for such acts as are referred to in that Section, a person shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both. Section 39 contemplates penalty for contravention of certain provisions of the Act and it provides for imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after conviction for the first such contravention. Section 40 speaks of offences by companies while Section 41 speaks of offences by Government Departments.

xi. Pollution is a civil wrong. By its very nature, it is a Tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender. The powers of this Court under Article 32 are not restricted and it can award damages in a PIL or a Writ Petition as has been held in a series of decisions. In addition to damages aforesaid, the person guilty of causing pollution can also be held liable to pay

exemplary damages so that it may act as a deterrent for others not to cause pollution in any manner.”

19. The right to healthy environment and right to be free from adverse climate change has been discussed by Hon’ble Supreme Court of India in W.P. No. 838/2019 titled *M.K Ranjitsinh & Ors. Vs. Union of India & Ors.*: 2024 INSC 280 as follows :-

“i. India’s efforts to combat climate change are manifold. Parliament has enacted the Wild Life (Protection) Act 1972, the Water (Prevention and Control of Pollution) Act 1974, the Air (Prevention and Control of Pollution) Act 1981, the Environment (Protection) Act 1986, the National Green Tribunal Act 2010, amongst others. In 2022, the Energy Conservation Act 2001 was amended to empower the Central Government to provide for a carbon credit trading scheme. The Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules 2022 were made in exercise of the powers under the Electricity Act 2003 to ensure access to and incentivise green energy. The executive wing of the government has implemented a host of projects over the years including the National Solar Mission (discussed in greater detail in the subsequent segment), the National Mission for Enhanced Energy Efficiency, the National Mission for a Green India, and the National Mission on Strategic Knowledge for Climate Change, amongst others. Despite governmental policy and rules and regulations recognising the adverse effects of climate change and seeking to combat it, there is no single or umbrella legislation in India which relates to climate change and the attendant concerns. However, this does not mean that the people of India do not have a right against the adverse effects of climate change.

ii. Article 48A of the Constitution provides that the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. Clause (g) of Article 51A stipulates that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures. Although these are not justiciable provisions of the Constitution, they are indications that the Constitution recognises the importance of the

natural world. The importance of the environment, as indicated by these provisions, becomes a right in other parts of the Constitution. Article 21 recognises the right to life and personal liberty while Article 14 indicates that all persons shall have equality before law and the equal protection of laws. These articles are important sources of the right to a clean environment and the right against the adverse effects of climate change.

iii. *In M.C. Mehta v. Kamal Nath, this Court held that Articles 48A and 51A(g) must be interpreted in light of Article 21:*

“8. These two articles have to be considered in the light of Article 21 of the constitution which provides that no person shall be deprived of his life and liberty except in accordance with the procedure established by law. Any disturbance of the basic environment elements, namely air, water and soil, which are necessary for “life”, would be hazardous to “life” within the meaning of Article 21 of the Constitution.”

iv. *In Virender Gaur v. State of Haryana, this Court recognised the right to a clean environment in the following terms:*

“7. ... The State, in particular has duty in that behalf and to shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including their right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Environmental, ecological, air, water, pollution, etc. should be regarded as amounting to violation of Article 21. Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment. Environmental protection, therefore, has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole

comprising the man-made and the natural environment. Therefore, there is a constitutional imperative on the State Government and the municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the man-made and the natural environment.”

v. In **Karnataka Industrial Areas Development Board v. C. Kenchappa**, this Court took note of the adverse effects of rising sea levels and rising global temperatures. In **Bombay Dyeing & Mfg. Co. Ltd. (3)** v. **Bombay Environmental Action Group** this Court recognised that climate change posed a “major threat” to the environment.

vi. Despite a plethora of decisions on the right to a clean environment, some decisions which recognise climate change as a serious threat, and national policies which seek to combat climate change, it is yet to be articulated that the people have a right against the adverse effects of climate change. This is perhaps because this right and the right to a clean environment are two sides of the same coin. As the havoc caused by climate change increases year by year, it becomes necessary to articulate this as a distinct right. It is recognised by Articles 14 and 21.

vii. Without a clean environment which is stable and unimpacted by the vagaries of climate change, the right to life is not fully realised. The right to health (which is a part of the right to life under Article 21) is impacted due to factors such as air pollution, shifts in vector-borne diseases, rising temperatures, droughts, shortages in food supplies due to crop failure, storms, and flooding. The inability of underserved communities to adapt to climate change or cope with its effects violates the right to life as well as the right to equality. This is better understood with the help of an example. If climate change and environmental degradation lead to acute food and water shortages in a particular area, poorer communities will suffer more than richer ones. The right to equality would undoubtedly be impacted in each of these instances.

“Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate

change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”

viii. This acknowledgement of human rights in the context of climate change is underscored in the preamble of the Paris Agreement, which recognizes the interconnection between climate change and various human rights, including the right to health, indigenous rights, gender equality, and the right to development:

ix. India faces a number of pressing near-term challenges that directly impact the right to a healthy environment, particularly for vulnerable and indigenous communities including forest dwellers. The lack of reliable electricity supply for many citizens not only hinders economic development but also disproportionately affects communities, including women and low-income households, further perpetuating inequalities. Therefore, the right to a healthy environment encapsulates the principle that every individual has the entitlement to live in an environment that is clean, safe, and conducive to their well-being. By recognizing the right to a healthy environment and the right to be free from the adverse effects of climate change, states are compelled to prioritize environmental protection and sustainable development, thereby addressing the root causes of climate change and safeguarding the well-being of present and future generations. It is imperative for states like India, to uphold their obligations under international law, including their responsibilities to mitigate greenhouse gas emissions, adapt to climate impacts, and protect the fundamental rights of all individuals to live in a healthy and sustainable environment.”

20. The *Land Surface Temperature Variations: Case Study Bhopal, Madhya Pradesh* by School of Planning and Architecture, New Delhi (Ms. Pallavi Tiwari) conference proceeding of 5th International Conference of Countermeasures to Urban Heat Island concluded the findings as follows :-

“Conclusion -

The results of the study indicate that greens along the road and at local level are very crucial in reducing the land surface temperatures. The dense built-up areas in the old Bhopal lack green spaces both as parks as well as roadside plantation and thus experience higher land surface temperatures. The crop lands within the boundary also show higher temperatures, thus tree plantation in the boundaries of crop lands is suggested to lower the temperatures in the peri urban areas of the city. The difference in the temperatures in last five years are maximum in the hinterlands because of the extensive construction in the sprawling city and the increasing distance of the development from the water bodies. Water bodies can be planned in specific locations to maintain the microclimate of the city. Local level strategies specific to the land cover and land use of the local areas (wards) should be made to bring down the land surface temperatures and the subsequent urban heat island intensities in wards.”

21. Another Case Study from Bhopal City on Carbon Sequestration Potential of Trees Planted Along Roadsides narrated that “India is the seventh-largest country in the world. The country is one of the 17 mega bio-diverse countries (Mittermeier and Mittermeier, 2005) occupying just 2.5% of the world's geographical area but supporting 16% of the world's human population and 17% of the livestock population (Mukerji, 2003). Per capita availability of forest and productivity are among the lowest when compared to the world’s average, and the immense biotic pressure on the country's forests, making biodiversity conservation a very challenging task (Maan and Chaudhry, 2019). Forest and tree cover in the country is less than one-fourth of the geographical area of the country, which is far behind the national target that strives to have one-third of the total geographical area under forest and tree cover.” Due to urbanization, the condition in the cities as per

the environment point of view is at the risk and alarming. However, the roadside plantations/tree avenues in the urban cities play a role not only for improving climatic conditions but significantly contributing to increase area under vegetation in the country. Trees growing along the roadside, either planted or grown naturally, are performing the ecological function not only to reduce the pollution load but also sequester carbon and help mitigate climate change (Da Silva et al., 2010; Singh and Singh, 2015). Additionally, the trees in the urban environment are contributing toward many benefits, e.g. social benefits (recreational opportunities, improving physical/mental health); aesthetic benefits (landscape variations through different colors/textures/forms and densities of plants); climatic benefits (cooling, wind control, air pollution reduction, atmospheric carbon storage, impact on climate) and economic benefits (increased property values, tourism, providing fruits and small timber). In accordance with the 74th amendment of the Indian Constitution in 1992, the municipal and urban development authorities are responsible for creating and maintaining parks and other recreational spaces in city areas (Granville, 2009). But, the Urban Local Bodies (ULB) in India have little mandate to combat climate change (Sami, 2017; 2018; Khosla and Bhardwaj, 2018), the climate change rarely features in the development plans of these bodies as per study undertaken by Khosla and Bhardwaj (2018). An effort has been made in the present article to quantify one of the benefits from the trees for mitigating climate change consequences, i.e. the amount of carbon and atmospheric carbon dioxide equivalent stored in the trees planted on roadside in the campus of Indian Institute of Forest Management (IIFM) Bhopal, Madhya Pradesh, India.

Nationwide implementation of Green India Mission (GIM) of Government of India as a part of National action plan tackling climate change since last one decade, is supposed to increase above and belowground biomass in 10 million ha of forests (including urban forest ecosystems) resulting in increased carbon sequestration of 43 million tons of CO₂ equivalent annually by the end of the year 2020 (Ravindranath and Murthy, 2010). The present study is an attempt to analyze carbon sequestration potential of the trees planted along roadsides and suggest the potential species for high biomass and high efficiency of carbon fixation in urban areas.

.....X.....X.....X.....

22. On the Above Ground Biomass (AGB), Carbon Stock and CO₂ per ha. study reveals as follows :-

“It is observed that Leucaena leucocephala, Schleichera oleosa, Dalbergia paniculata, Acacia catechu and Ficus religiosa are the top five plant species which are responsible for maximum carbon storage along the roadsides (Table - 3). Dendrocalmus strictus is also a very useful species (a solid bamboo) as it is found to sequester CO₂ equivalent as 26.92 Mg C ha. – 1, which is higher than other tree species. Due to its fast growth, it has the potential to store carbon more efficiently which makes it a viable option for mitigating climate change (Kaushik et al., 2015). D. strictus is also a better option, compared to a few other tropical and temperate plantation species as far as the magnitude of carbon storage in a given time was concerned (Singh et al., 2006). Therefore, institute management has laid more emphasis on a bamboo plantation along roadsides of the campus during the last five years. Leucaena leucocephala (Subabul) is a very fast - growing tree species coming naturally in the institute. The species produces large number of pods and seeds in the months of January/February, which requires minimum amount of moisture and quality soil for the regeneration and survival. The major disadvantage of this species includes its suppressing nature of

seedlings of other species to thrive. Hence, due precautions have to be taken for further proliferation of this species along roadsides in the campus. However, the health of Samanea saman trees are a matter of concern as dead, dying, and diseased trees are visible on roadsides. A detailed examination by a team of foresters, pathologists and entomologists are required for underlining the causes of its poor survival. Actually, this species requires deep loamy soil and high rainfall, whereas available soil is too shallow and rocky to support healthy trees of this particular species. This seems to be the most probable reason for the failure of this particular species and future plantation of this species should be avoided on the campus.
.....X.....X.....X.....X.....X.....”

23. The environmental damage has a very serious effect on ecology, atmosphere and human beings affecting the soil fertility, air, flora and fauna, which is reproduced in brief as follows:-

- (i) Seas are now rising at one-seventh of an inch (3.66 millimeters) a year, which is 2.5 times faster than the rate from 1900 to 1990.*
- (ii) The world's oceans have already lost 1 per cent to 3 per cent of the oxygen in their upper levels since 1970 and will lose more as warming continues.*
- (iii) From 2006 to 2015, the ice melting from Greenland, Antarctica and the world's mountain glaciers has accelerated. They are now losing 720 billion tons (653 billion metric tons) of ice a year.*
- (iv) Arctic June snow cover has shrunk more than half since 1967, down nearly 1 million square miles (2.5 million square kilometers).*
- (v) Arctic sea ice in September, the annual low point, is down almost 13 percent per decade since 1979. This year's low, reported Monday, tied for the second-lowest on record.*
- (vi) Marine animals are likely to decrease 15 per cent, and catches by fisheries in general are expected to decline 21 per cent to 24 per cent, by the end of century because of climate change.*
- (vii) The report reveals that even in United States, 40% of rivers and 46% of lakes are too polluted for fishing, swimming and aquatic life.*

- (viii) *1/3 of the top soil in the world is already degraded and with the current rate most of the world top soil could be gone within the next 60 years.*
- (ix) *The plastic is reported to start decomposition after 500 to 700 yrs and it takes about 1000 years.*
- (x) *Extreme weather events such as heat waves, droughts, floods and tropical cyclones have aggravated the need for water management, pose a threat to food security, increase health risks, damage critical infrastructure and interrupt the provision of basic civil services.*
- (xi) *Between 1880 and 2012, average global temperatures have increased by 0.85 degrees Celsius;*
- (xii) *Between 1901 and 2010, as ocean expanded, the global average sea level has risen by 19 centimeters;*
- (xiii) *Since 1990, global emissions of CO2 increased by almost 50 per cent; and*
- (xiv) *Between 2000 and 2010, emissions grew at a more rapid rate than each of the three decades preceding it.”*

24. From 1980, after the Forest (Conservation) Act, approximately 10.26 lakh hectares land use from forest to other purposes has been diverted, which is 7 times larger than the Delhi. During the last five years, there is a diversion of approximately 90,000 hectares of forest land in India and in Madhya Pradesh during the last five years, there is a diversion of approximately 19,730.36 hectares of forest land. During the last five years, the land diversion of forest land is as follows:-

<i>(a) For Road Constructions</i>	<i>=</i>	<i>19,497 Ha.</i>
<i>(b) Mining</i>	<i>=</i>	<i>18,790 Ha.</i>
<i>(c) Transmission Lines, Irrigation</i>	<i>=</i>	<i>10,000 Ha.</i>
<i>(d) Defence Planning</i>	<i>=</i>	<i>7,631 Ha.</i>
<i>(e) Hydro Projects</i>	<i>=</i>	<i>6,218 Ha.</i>
<i>(f) Railways</i>	<i>=</i>	<i>4,770 Ha.</i>

(Based on the data submitted to the MoEF&CC in December, 2023)”

25. We have adopted the agenda of Sustainable Development in the International Forum to achieve following 17 goals:-

- “(i) Eradication of poverty;*
- (ii) Eradication of hunger;*
- (iii) Good health and well-being;*
- (iv) Quality education; (v) Gender equality;*
- (vi) Clean water and sanitation;*
- (vii) Affordable and clean energy;*
- (viii) Decent work and economic growth;*
- (ix) Industry, innovation and infrastructure;*
- (x) Reduced inequalities;*
- (xi) Sustainable cities and communities;*
- (xii) Sustainable consumption and production;*
- (xiii) Climate action;*
- (xiv) Protecting life below water;*
- (xv) Life on land;*
- (xvi) Peace, justice and strong institutions; and*
- (xvii) Partnerships to achieve the goals.*

26. In this backdrop, sustainable development and growth emphasises the need to protect, restore and promote sustainable use and management of terrestrial eco systems and forests, combat desertification of river lands, prevent land degradation and halt the loss of biodiversity. Terrestrial eco systems provide a range of eco system services including the capture of carbon, maintenance of soil quality, provision of habitat for biodiversity, maintenance of water quality and regulation of water flow together with control over erosion. Maintenance of eco systems is hence crucial to efforts to combat climate change, mitigate and reduce the risks of natural disasters including floods and landslides. In this backdrop, promoting environmental justice and ensuring strong institutions is quintessential to promoting peaceful and inclusive societies for sustainable development. SDG 16 therefore construes the

promotion of the rule of law as intrinsic towards implementing multilateral environmental agreements and progressing towards internationally agreed environmental goals.

27. Under its Nationally Determined Contributions under the Paris Agreement, India made the following three commitments:-

(i) Greenhouse gas emission intensity of its Gross Domestic Product will be reduced by 33-35% below 2005 levels by 2030;

(ii) 40% of India's power capacity would be based on non-fossil fuel sources; and

(iii) An additional 'carbon sink' of 2.5 to 3 billion tonnes of CO₂ equivalent through additional forest and tree cover will be created by 2030.

28. In March 2019, UNEP released the Global Environment Outlook themed 'Healthy Planet, Healthy People'. Noting clear 'links between human health and the state of the environment', the report concludes that clean-up and efficiency improvements are not adequate to pursue the 2030 Agenda and the SDGs and achieve the internationally agreed environmental goals on pollution control. Instead, 'transformative change' which reconfigures basic social and production systems and structures is needed. This includes well-designed policies on institutional frameworks, social practices, cultural norms and values along with their implementation, compliance and enforcement. In this view, a systemic and integrated policy action would ensure that a "healthy environment is a prerequisite and foundation for economic prosperity, human health and well-being.

29. The rule of law requires a regime which has effective, accountable and transparent institutions. Responsive, inclusive, participatory and representative decision making are key ingredients to the rule of law.

Public access to information is, in similar terms, fundamental to the preservation of the rule of law. In a domestic context, environmental governance that is founded on the rule of law emerges from the values of our Constitution. The health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution. Proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution.

30. In the matter of cutting of the tree, this Tribunal vide order dated 23.05.2025 (in O.A. No. 68/2025) have directed the authorities as follows:-

- i. *“Compliance of the Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001.*
- ii. *The Principal Chief Conservator of Forest is directed to constitute a High Level Centrally Empowered Committee, (CEC) to examine the permission and justification of cutting of trees where the permission is sought for more than 25 trees within the State of Madhya Pradesh.*
- iii. *The Principal Chief Conservator of Forest and the DFO range are directed to ensure the Geo tagging of all trees to be made mandatory so that accurate records of their location, type and number can be maintained. Geo tag data should be published and be made available and reported to the O/o Chief Conservator of Forest.*
- iv. *There should be tree census within the State city wise and district wise to be monitored by the Principal Chief Conservator of Forest or official nominated by the PCCF.*
- v. *Centrally Empowered Committee before granting the permission may also consider the alternate to the plan of cutting the trees which could necessitated felling of fewer number of trees or if option is available or not.*

- vi. *Centrally Empowered Committee will also ensure the compensatory afforestation to compensate for the trees that have been cut down and to ensure their survival upto five years with records and progress city wise, district wise.*
- vii. *The PCCF, State of MP must have to ensure that there shall not be any cutting of trees without sanction from the competent authority and necessary directions be issued at the district headquarter and in case of any cutting of trees without due permission of competent authority necessary action must be initiated promptly and immediately.*
- viii. *The Centrally Empowered Committee may also ensure the compensatory afforestation and forestation @ 10 times to 100 times to the ratio of availability of the land in the same area within a time frame.”*

31. It is also argued by the Applicant in person that it will take a minimum of 70 years to 100 years to again re-generate or re-create the green cover created by cutting of 700 trees and thus the destruction of so many trees adversely affect the environment and life of several human beings. Accordingly, the compensation of compensatory afforestation should be in ratio to that period and ratio to the oxygen generated by the plant during the life time of the trees.
32. The matter was taken on 03.07.2025 and after calling the report from the Bhopal Municipal Corporation and the State, the Tribunal observed as follows:-

“20. Learned Counsel for the State as well as BMC Mr. Prashant M. Harne with Ms. Disha Chouksey has filed reply and submitted that Bhopal Municipal Corporation has removed the encroachment earlier and 77 encroachments have been removed by the Respondent State/BMC and District Administration. Rest 56 encroachers have accepted the notices and as monsoon season is going on and majority of the encroachments are of urgency in nature, thus they may remove

after the rainy season. It is further submitted that 10 encroachments from Manisha Market and near Shahpura Lake have been removed.

21. Applicant Mr. Subhash C. Pandey has submitted that the Municipal Corporation and State Administration have to file the complete status with regard to removal of the encroachments and matters of encroachments still under process so that it may be verified and proper reply may be submitted.

22. Learned Counsel appearing for the respondent no. 5 has submitted that the respondent no. 5 has not made any encroachment and thus on this point the applicant have to file the rejoinder with evidence. Applicant is directed to submit the rejoinder on that point. In the meantime, the BMC and the PWD Department is directed to verify the status of the respondent no. 5 and to submit the report.”

33. The contention of the Applicant is that Respondent No. 5 has also encroached the land of green belt and also instrumental behind the cutting of the trees for utilizing the green belt area for the commercial purposes. In reply thereof, the learned counsel for Respondent No. 5 has submitted that the Respondent No. 5, being himself deeply concerned towards the environmental issues, fully supports the issues raised by the Applicant in the Original Application and the answering Respondent No. 5, is also concerned with the fact the questioned forestry, green cover specially those developed by the Capital Project Administration Forest, on the central and side verges of various roads in the capital city of Bhopal, M.P. shall be protected, preserved and maintained and action shall be taken against the encroachers, who have encroached upon or destroyed any portion of such forestation on the central and/or side verges of the various roads.
34. It is further argued that that neither the Respondent has ever made any encroachment on any side verge nor has cut or severed any tree nor has

done any cement work or made any seating arrangement and in-fact the answering Respondent No. 5 has not been identified as an encroacher in the list of 692 encroachers, filed on the record of the case, by the Applicant himself. As a matter of fact, the answering Respondent No.5 has neither been identified as an encroacher by the CPF or any other agency, authority or department, nor his name has been included in the List of 692 Encroachers. It is further submitted that Respondent No. 5 has not made any encroachment on the side verge of link road no. 3 in front of the aforesaid plot 120-121.

35. It is further submitted that the said side verge of Link Road no. 3 in front of Plot no. 120, 121 owned by the answering Respondent no. 5, which exists from the descent of the Savarkar Setu flyover in the east till the intersection with the Bittan Market Shahpura Lake Road at Banskhedhi, has been developed and maintained by the CPA since the beginning, intersection of roads and cross roads at various places in between. This intersection has been protected by covering it with barbed wire fencing which was installed about more than 30-35 years back.
36. In a detailed report submitted by the applicant the name of Respondent No. 5 has been mentioned with the allegation that there are cutting up large number of trees and encroachment on green belt area, utilising the land for commercial activities and further submitted that respondent no. 5 was also identified by the first list of CPA forest in its list of encroacher list-1 dated 17.03.2020, and details have been given in the list on page-44 at Sr. No. 26. The CPA forest has described that 10,000 square metre area is encroached even up to Nallah by way of fitting paver block on the green belt.

37. Vide order dated 11.09.2023, the Members of the Committee were directed to visit the site and verify and the members of the committee visited on 17.10.2023 against Respondent No. 5 and at Sl. No. 2, they have reported that there are evidence of cutting of trees about three numbers and there are laying of paver blocks, pavement and benches on green belt area, the benches for sitting is being used by the occupier in violation of environmental rules and further that since in green belt a paver block, pavement and benches like encroachment found, so possibility of cutting of trees in green belt in past could not be ruled out.
38. The Applicant has further submitted that there are video recording and evidence that encroachment situation has worsened since the filing of the case and further that encroachment has been expanded covering more green belt areas and further that over 15 heritage old large trees appear to have been illegally felled which is a serious violation of environmental and forestry laws. Due to such reckless encroachment:-

- *“The natural flow of the Nala has been choked, increasing the risk of urban flooding*
- *No green buffer remains along either side of the Nala, affecting ecological balance and urban biodiversity.*
- *The illegal tree cutting and commercial use of green belt land sets a dangerous precedent in violation of public interest and urban environmental policy.*

Notably, such encroachments by R/5 had earlier contributed to a serious flood-like situation, which endangered nearby residents. The approximate total area encroached by R/5 on the green belt and Nala is estimated to be over 3000 sq. ft.

The protective fencing installed around the green belt in front of R/5's hospital has been found damaged and broken at several locations, allegedly to create unauthorized entryways for the hospital, which again is illegal and deliberate.”

39. The applicant has further prayed that :-

i. A Committee consist of Bhopal Municipal Corporation, Paryaavaran Vaniki Vanmandal, Bhopal and Town & Country Planning authorities be directed to visit the Nala situated near plot numbers 120 and 121, and submit a factual status report of encroachments on the green belt and bed of the Nala. Illegal tree cutting, and construction activities adjoining the side verge may also be submitted before this Hon'ble Tribunal to avoid any further flood disaster in the future.

ii. Wire fencing in front of plot numbers 120 and 121 be repaired, and paving blocks and benches laid over it be removed immediately.

iii. After removing all types of encroachments in front of the hospital of R/5 and the nearby side verge, afforestation with indigenous plants not less than 2 meters in height be conducted immediately, and tagging of the same may also be done so as to avoid any further encroachments at the site in question.”

40. Vide order dated 31.07.2025, this Tribunal directed the Respondents to examine the matter and submit the report as follows:-

“9. The representative of the Municipal Corporation, Bhopal with learned counsel Mr. Prashant M. Harne attending the proceedings and fairly admitted that they have not measured the plot no. 120-121. The main thrust by the applicant Mr. Subhash C. Pandey are that in the guise of plot no. 120-121, the owner has encroached the land of the green belt and nallah also. Bhopal Municipal Corporation has fairly admitted that they have not measured it and now they are ready to measure it and to identify, demarcate and protect by way of fencing and thereafter develop as a green belt by means of deep plantation. Accordingly, BMC is directed to do the needful by identify and measurement of the above land and protect it by wire fencing in front of plot no. 120-121. The damaged wire must be repaired.

10. Learned counsel for the Bhopal Municipal Corporation has further submitted that they can remove the encroachment of any nature on the green belt area or the nalah. The action taken report on behalf of municipal corporation has been filed and submitted that some encroachments (58 in numbers) have been removed and due to rainy

seasons, the authorities are unable to remove this rest and submitted that actions shall be taken immediately in due course of time as soon as possible.

11. With regard to the cutting of the trees by the National Highway Authority for the development of the road Ayodhya Bypass, report has been submitted but we restrain passing any order with direction that necessary permission must be taken from the competent authority and there must be minimum damage to the green belt/trees and plantation with existing trees must be adopted with geo-tagging.”

41. Later on, on 25.09.2025, another version has been reported that PWD Department is also responsible for the maintenance of the roadside encroachments and in response the Bhopal Municipal Corporation (BMC) responded as follows:-

“12. The Engineer, Bhopal Municipal Corporation (BMC), who participated the proceedings, has submitted that it is being maintained by the BMC and being protected by the person or authority residing nearby. However, he has further submitted that more plantations will be done with the aid of the public and the BMC subject to local production. If the general public are utilizing the tree cover or sitting or resting, there should not be any objection but there should not be any damage to the trees. It is directed to carry out plantation using tall seedlings involving Hospital staff and local residents within 7 days. Utmost care should be taken to make plantation successful to establish green cover.”

42. The Petitioner/Applicant has impleaded some of the Respondents individually after the proceedings has been started and made allegations against Respondent No.5/Dr. Sanjay Kumar, Director Gastrocare, Liver & Digestive Disease Center, Bhopal, with regard to encroachments.
43. In response to the above, learned Counsel for Respondent No.5 has argued that neither the Respondent has ever made any encroachment

on any site verge nor has cut or severed any tree nor has done any cement work or made any seating arrangement and, in fact, the answering Respondent No.5 has not been identified as an encroacher in the list of 692 encroachers. It is clarified that the barbed wire fencing of the site verge of the Link Road No.3 in front of Plot No.120, 121, E3, Arera Colony Bhopal, owned by the answering Respondent No.5 got damaged over the period of time due to nature wear and tear and it was only upon the complaint and repeated request made by the Respondent to the concerned CPA and the Municipal Authority that the said barbed wire fencing was repaired and installed the concerned authorities and is being maintained by them. As a matter of fact, bench and its cement concrete base, as is visible, has also been installed by the CPA authority themselves so that the passerby and neighbourhood people can sit and rest in the shelter of trees. It is further argued that the Respondent undertakes to maintain the greenery and to ensure that the green belt should be protected.

44. Since the green belt and plantation is the work to be undertaken with the responsibility of all citizens and stakeholders, thus, the Respondent No.5 is directed to maintain the greenery in front of the hospital and ensure the protection in all times by barbed wire under the supervision of the DFO and the Municipal Corporation. This is intended to share the responsibility by the citizens to maintain the green belt. Since the fresh air will be available to the citizens and residents around the green belt, thus, they are also responsible for maintenance of it. Accordingly, the allegations and application of the Respondent No.5 are disposed of accordingly and the Respondent No.5 is directed to maintain the green belt and its protection at its own cost under the supervision of the

authorities concerned. They can use it sitting purpose only as bench are already installed by the CPA and in case of those benches are damaged, the Respondent can repair it or replace it. There will not be any cemented work or interlocking paving work in the area of green belt.

45. Similarly, learned Counsel Mr. Deepesh Joshi appearing for Respondent No.4/ Bhopal Fracture Hospital, Bhopal, has argued that the allegations levelled against the said Respondent are false and frivolous. It is submitted that the hospital was constructed during the period 2013-2018 and started operation from March, 2018, and existing trees are there and Respondent has ensured that the said green belt of trees are cleaned and used for shadow visitors and, hence, the same is beautified by covering the same by barbed fencing and some sitting area is also deployed therein so that no garbage is thrown affecting the greenery of the said area. The learned Counsel has undertaken that the Respondent No.4 undertakes to maintain the plantation and the greenery of the green belt.
46. Accordingly, the application of the said Respondent is disposed of with a direction that the green belt, greenery, plantation, maintenance and maintenance of barbed wire and protection in front of the hospital is to be ensured by the Respondent No.4 at its own cost for the reasons that the fresh air is also available for the citizens residing there and the persons whose houses or hospital or units are established around the green belt, but this will be under the supervision of BMC and the DFO/Forest Department, Social Forestry concerned. There will not be any change of green belt except greenery and plantation and no paving block will be installed there except existing sitting arrangements which is to be repaired or replaced by the Respondent No.4 himself.

47. Similarly, the Respondent No.7 has undertaken that the Respondent is not indulging in any activity of deforestation and has always offered full cooperation to the statutory authorities supporting plantation drives taking place in the city of Bhopal and has been extremely vigilant in ensuring the environment protection and safeguard.
48. Accordingly, the Respondent No.7 is directed to cooperate in maintenance of the green belt and plantation and all stakeholders/citizens who are residing around the green belt are responsible citizens and are, thus, directed to maintain it protect it and to develop it.
49. During the course of hearing, a question was raised as to the authority who will maintain the green belt/CPA area and the Collector, Bhopal, vide meeting dated 23.11.2023 constituted a Committee to supervise the encroachments and also take action for removal of the encroachments. The Members of the Committee are:-

<i>(1) Additional Collector, Bhopal,</i>	<i>(President)</i>
<i>(2) Additional Commissioner, Garden, BMC,</i>	<i>(Member)</i>
<i>(3) Additional Commissioner, Encroachments, BMC,</i>	<i>(Member)</i>
<i>(4) Superintending Engineer, Garden, BMC,</i>	<i>(Member)</i>
<i>(5) All Executive Engineers, Garden, Bhopal,</i>	<i>(Member)</i>
<i>(6) All Forest Range Officers, Bhopal,</i>	<i>(Member)</i>

50. Accordingly, the responsibility has been given to this Committee and this Committee is expected to monitor the encroachments, its removal, plantation, maintenance and development of the green belt. The Committee will periodically report the matter at every three months to

the Collector with action taken report. After examining the report, the Collector may issue appropriate order.

51. Submissions of the learned Counsel for the Respondent No.9/Sagar Gaire, Restaurant, Bhopal, are that the Respondent is not involved in any encroachment nor any tree cutting and submitted that fly-ash bricks have been used outside to avoid dust generation while plying of heavy vehicles. By using fly-ash bricks, helpful for percolation of ground water in rainy season as well as control over air pollution in the area. The parking is being used in its own premises and not encroachment as alleged.
52. On the allegation and reply as submitted, we make it clear and direct that there should not be any encroachment on the green belt area and no bricks will be installed. The Respondent No.9 may develop the plantation/green belt as it was and to protect it by means of fencing for the reasons being responsible citizen and the fresh air is to be used by the nearby citizens and it is their constitutional duty to protect the ecology. The matter will be examined by the BMC and the Forest Department for taking remedial actions and ensure that the green belt must be maintained.
53. Submissions of the learned Counsel for the Public Works Department (PWD) are that the PWD has no magisterial powers or otherwise to execute any demolition/proceedings against the encroachers and the Bhopal Municipal Corporation and revenue authorities may act under the provisions of Madhya Pradesh Municipal Corporation Act, 1961, the Madhya Pradesh Land Revenue Code, 1956, and PWD will only provide labourers as and when required by other departments and if any such requisition is made to PWD, the same shall be provided.

54. Since the District Magistrate/Collector has already constituted a committee for taking action, thus, the members of the committee will take necessary as per norms to supervise the area to be undertaken by members of the committee on regular basis. The District Magistrate will monitor the working of committee on priority basis.
55. During the course of hearing, another question was raised with regard to the construction and maintenance of road maintained by the National Highways Authority of India. Madhya Pradesh Government Nagariya Avam Awas Vikas Vibhag vide letter dated 03.09.2025 has constituted a High Level Centrally Empowered Committee of nine senior officers to supervise the matter and in case any tree cutting is involved where the number of proposed tree cutting is more than the prescribed by the notification then this Committee will examine it.
56. With regard to the allegations at Plot No.120 and 121, the Bhopal Municipal Corporation has submitted an undertaking for plantation activity in front of these plots with a view to enhance and augment for existing green cover in the said area and a total of 45 trees of various species have been planted with the active participation of the hospital staff. The geo-tagged photographs evidencing the plantation and related activities have been attached with this. It is further submitted that out of total 692 encroachments, at the time of filing the reply on 06.11.2025 total encroachments have been removed except 51 encroachments which are yet to be removed as they pertain to residential or religious structures and necessary proceedings have been initiated to remove the encroachments.
57. It is further submitted that in order to protect and preserve the green belt developed by the Bhopal Municipal Corporation/Environment and

Forestry Department, a proposal for barbed wire fencing has been duly prepared and tender proceedings have already initiated in this regard. Execution of the fencing work shall be completed within the stipulated period of time in accordance with the terms and conditions of the tender and as per the approved plan.

58. We make it clear that after completion of barbed wire fencing, it will be the responsibility of the hospitals concerned to protect it and to maintain it on their point side. In case of any damage, they have to repair it at their own cost. The quality of the pillars and the barbed wire will be decided by the BMC and be informed to the all stakeholders/hospitals residing around the green belt and they have to maintain the same quality.
59. This Tribunal vide proceedings and order dated 07.11.2025, directed the Respondent to verify the encroachments and tree cover with the satellite imagery before 15 years and current status to compare with regard to the green belt and encroachments and the Forest Department was directed to take immediate action and to file the report using the CIS technology to assess the changes in the vegetation cover of the area.
60. In response to the above, the learned Counsel for the Respondent/MPPCB has filed the response and submitted that the Divisional Forest Officer, Paryavaran Vanki Vanmandal, Bhopal, vide their letter no. 169 dated 20.01.2026, informed that the Principal Chief Conservator of Forests (Conservation), Madhya Pradesh Forest Building, Bhopal, has sent a letter to the Director General, Forest Survey of India (FSI), Dehradun, Uttarakhand vide letter no./courtcase/10-10/151 dated 16.01.2026, requesting preparation of the assessment report and the said assessment report will be submitted as and when received and

the Divisional Forest Officer, Paryavaran Vanki Vanmandal, Bhopal, vide their letter no. 294 dated 03.02.2026, provided the assessment of forest/vegetation cover within the Bhopal Municipal Corporation (BMC) limits using remote sensing and GIS technology, based on India State of Forest Report (ISFR) 2013 and ISFR 2023 datasets. As per the assessment provided by FSI, forest cover has been defined as areas having tree canopy density of 10% or more and area of one hectare or more, irrespective of land ownership. The comparative forest cover status within the Bhopal Municipal Corporation area is summarized as under:-

Category	ISFR 2013 (sq km) (2010–2011)	ISFR 2023 (sq km) (2021–2022)	Change (sq km)
Very Dense Forest	0.00	0.03	+0.03
Moderately Dense Forest	17.99	14.78	-3.21
Open Forest	22.80	29.76	+6.96
Total Forest Cover	40.79	44.57	+3.78

61. It is further argued that from the above, the total forest cover within the Bhopal Municipal Corporation area has increased by 3.78 sq km during the period from ISFR 2013 to ISFR 2023. The decrease in Moderately Dense Forest has largely transitioned into Open Forest and Very Dense Forest categories. It is further clarified that the Forest Survey of India does not assess or report encroachments on forest land and the present analysis is strictly limited to change in forest cover based on satellite imagery.
62. The submissions of the learned Counsel for the State Mr. Prashant M. Harne are that in compliance of the order of this Hon’ble Tribunal dated 10.12.2025 the Divisional Forest Officer, Bhopal has furnished the satellite imagery and comparative data of 2013 and 2023 vide letter no.

295 dated 03.02.2026. The information provided by the DFO, Paryavaran Vaniki Vanmandal, Bhopal, the very Dense Forest area has been increased by 0.03 square km, the Moderate Dense Forest area has decreased by 3.21 square km, the Open Forest area has been increased by 6.96 square km and the total forest cover area has been increased by 3.78 square km and as 58 encroachments are of residential or religious nature, the process to remove these encroachments has already been initiated. The District Collector, Bhopal has issued instructions vide letter no. 57/NGT/367/2026, Dated 13.01.2026 to all the concerning sub-divisional officers (revenue) and Tehsildars to remove the said encroachments in compliance of the order of this Tribunal dated 10.12.2025. It is further submitted that the revenue officers and Executive Engineer, Bhopal Municipal Corporation have identified 8 encroachments in the vicinity of Pulbogda to Patrapul road (Galla Mandi). The details of the encroachments along with a covering letter no. 527/U.Sh./N.Ni.Bho./2026 dated 30.01.2026 has been forwarded to the Sub Divisional Officer (Revenue) City Circle, Bhopal for further action and that the officials of revenue department and Bhopal Municipal Corporation have physically visited the said encroached area and prepared a panchnama in respect of the encroachments.

63. Learned Counsel for the State has further informed the Tribunal that as per the report submitted by the DFO, Bhopal, considering the Forest Survey of India Report, there is an increase in forest cover during 2013-2023 in the city of Bhopal, while Applicant has argued that the report has been submitted without ground truthing, hence, cannot be relied upon and many areas are infested with unwarranted invasive weeds

which must have been taken into account in area as open forest as mentioned in the report.

64. The Tribunal while going through the report observed that there is a decrease in the moderately dense forest and increase in open forest, technically moderating dense forest means the forest having density in between 40% to 70% and open forest means the density of forest in between 10% to 40%. It is, therefore, clear from the data submitted by the Respondent that degradation of vegetation cover has taken place during the said period resulting in increase in open forest and decrease in moderately dense forest.
65. We have also examined the national data and the report submitted by the MoEF&CC in different proceedings and found that data is not correct and the area has been reduced not only in the State of Madhya Pradesh but in other States also.
66. Forests and trees constitute one of the most important ecological assets of the country. They are not merely a source of timber or other forest produce, but are fundamental to the maintenance of ecological balance, biodiversity, climate regulation, soil conservation, water security and the quality of human life. Forests perform the vital functions of absorbing carbon dioxide, storing carbon, releasing oxygen, regulating temperature and rainfall, preventing soil erosion, conserving water and maintaining groundwater recharge. They provide habitat to wildlife and support the livelihood and traditional needs of millions of people, particularly forest-dependent communities.

67. The Supreme Court of India has repeatedly emphasised that forests are held by the State in trust for the public and that protection of forests is integral to the constitutional obligation to protect the environment. Article 48A requires the State to protect and improve the environment and safeguard forests, while Article 51A(g) casts a fundamental duty upon citizens to protect the natural environment, including forests. The Supreme Court has also recognised the relationship between forests, ecological balance and the right to life under Article 21.
68. The Supreme Court has further reiterated that the directions issued in *T.N. Godavarman Thirumulpad v. Union of India* require the States and authorities to maintain and restore forest cover and deal firmly with encroachments.
69. According to the India State of Forest Report, 2023, the total forest cover of India is 7,15,342.61 sq. km., constituting approximately 21.76% of the geographical area of the country. If tree cover outside forests is also included, the total forest and tree cover is substantially higher. The ISFR series demonstrates that forest cover does not uniformly increase across the country. At the national level, forest cover increased marginally between ISFR 2021 and ISFR 2023. However, several States recorded a decline. Of particular concern is Madhya Pradesh. Its forest cover was:-
- ISFR 2019 – 77,482.00 sq. km.*
- ISFR 2021 – 77,444.98 sq. km.*
- ISFR 2023 – 77,073.44 sq. km.*

70. Thus, between 2021 and 2023, there was a decline of approximately 371.54 sq. km., and between 2019 and 2023 a decline of approximately 408.56 sq. km. This aspect requires particular attention because Madhya Pradesh has the largest absolute forest cover among the States of India.

71. Encroachment upon forest land is one of the most serious threats to forest conservation. The Ministry of Environment, Forest and Climate Change placed before the National Green Tribunal data showing that, as of March 2024, approximately 13,056 sq. km. of forest land was under encroachment across 25 States/UTs. Ten States/UTs had not submitted the required information at that stage. The Parliamentary Standing Committee on Science and Technology, Environment, Forests and Climate Change has subsequently expressed serious concern over forest-land encroachment and noted that more than 13,000 sq. km. of forest area was reportedly occupied illegally across 25 States. The magnitude of the problem makes it necessary that forest encroachment should not merely be identified but should be subjected to:

- *Precise GIS-based identification;*
- *Physical demarcation;*
- *Preparation of encroacher-wise records;*
- *Issuance of notices in accordance with law;*
- *Time-bound eviction;*
- *Restoration of the land to the Forest Department;*

- *Fencing/demarcation by permanent pillars;*
- *Ecological restoration and plantation; and*
- *Continuing monitoring to prevent re-encroachment.*

72. With regard to the State of Madhya Pradesh, the Madhya Pradesh requires special consideration because of its exceptionally large forest estate. As per ISFR 2023:

- *Geographical area: 3,08,252.11 sq. km.*
- *Forest cover: 77,073.44 sq. km.*
- *Percentage of geographical area under forest cover: 25.00%*
- *Tree cover: approximately 8,650.14 sq. km.*
- *Forest + tree cover: approximately 85,723.58 sq. km.*

The State of Madhya Pradesh, therefore, accounts for a very substantial part of India's forest resources.”

73. At the same time, the State has recorded a decline of 371.54 sq. km. in forest cover between 2021 and 2023. More significantly, the information placed before the NGT in relation to forest encroachment reported approximately 5,460.9 sq. km. of forest area under encroachment in Madhya Pradesh as of March 2024, the highest reported figure among the States/UTs covered by that exercise. The figure is extremely serious and calls for an independent verification, district-wise mapping and a time-bound programme for removal of encroachments.

74. The Madhya Pradesh has the largest amount of encroached forest land in India, with over 5.46 lakh to 5.74 lakh hectares currently impacted.

This strategic framework details advanced technological tracking, structural legislative reforms and community-centric initiatives designed to reclaim, fortify, and sustainably manage the State's vital forest reserves over a timeline with following Strategic Interventions:-

“A. Technological & Real-Time Monitoring

- *AI-Powered Satellite Tracking: Deploy automated, daily/weekly alert systems integrating Google Earth Engine and Sentinel-2 imagery to instantly flag land-cover anomalies and sudden canopy loss.*
- *Drone Surveillance Networks: Maintain fixed-wing and multi-rotor tactical drone patrols with thermal imagery arrays across volatile hotbeds like Burhanpur, Khandwa, and Jabalpur.*
- *GIS Boundary Geofencing: Digitize and permanently map the state's legal forest parameters onto an immutable, cloud-backed centralized registry.*

B. Legal & Administrative Reforms

- *Resolving 'Orange Land' Disputes: Establish accelerated multi-agency land settlement commissions to decisively clear ownership deadlocks between the Forest and Revenue departments.*
- *FRA Audit and Verification: Introduce strict independent verification mechanisms for Individual Forest Rights (IFR) claims to filter legitimate tribal claims from organized commercial land-grabbing mafias.*
- *Inter-State Tactical Coordination: Form joint police-forest boundary enforcement units operating in synergy with bordering states like Maharashtra and Chhattisgarh.*

C. Shared Governance & Community Empowerment

- *Empowering Van Samitis: Restructure Joint Forest Management (JFM) rules to grant Primary Forest Committees an increased, direct share of minor forest produce revenues, establishing financial incentives for self-policing.*

- *Revenue Village Transitions: Expedite the systematic administrative transformation of designated 'forest villages' into official revenue villages, enabling access to mainstream welfare and minimizing agricultural sprawl.*

D. Landscape Restoration & Defense perimeters

- *Cattle-Proof Trenches & Bio-Fencing: Construct extensive perimeter trenches and deep native thorny shrub borders across vulnerable forest edges.*
- *Agroforestry Buffers: Forge Public-Private-Community Partnerships to hand over degraded perimeter lands to local populations for regulated green agroforestry, turning barren edges into active economic shock-absorbers.*

75. It is very important that critical review of action taken by the field officers of Forest Department to be undertaken on quarterly basis by the Principal Secretary, Department of Forest. It is not sufficient merely to state the total area presently under encroachment and same to be examined for effective planning and its execution in field. For effective judicial and administrative monitoring, the following information should be obtained from the Field Officer/Forest Department for the last five financial years:-

- *Financial Year,*
- *Forest land under encroachment at beginning of year,*
- *Fresh encroachment detected,*
- *Area from which encroachment removed,*
- *Area restored to Forest Department, and*
- *Balance encroachment,*

76. The figures should be scrutinized separately for Reserved Forest, Protected Forest, other recorded forest, deemed forest and other categories to which the forest-conservation regime applies. The Ministry itself has advised States/UTs regarding removal of encroachments on forest land and submission of periodic status reports concerning eviction carried out by State Forest Departments.

77. The Bhopal District requires separate in depth examination because forest land and ecologically sensitive areas occur in close proximity to an expanding urban area. According to ISFR 2023, Bhopal District has:

- *Calculated geographical area: approximately 2,771.95 sq. km.*
- *Very Dense Forest: 0.10 sq. km.*
- *Moderately Dense Forest: 114.04 sq. km.*
- *Open Forest: 222.21 sq. km.*
- *Total Forest Cover: 336.35 sq. km.*
- *Percentage of district area under forest cover: 12.13%.*

The 2023 assessment shows a small decline of approximately 0.54 sq. km. compared with the 2021 assessment.

78. A total area of approximately 238.141 hectares at Chandanpura was subsequently notified as protected forest in July 2021, and the relevant Khasra numbers were included within the notified protected forest area. This illustrates the need for proper coordination between the Revenue, Forest and municipal

authorities, particularly where forest land lies within or adjacent to rapidly expanding urban settlements.

79. In view of the magnitude of the issue, Madhya Pradesh/CCF of the respective area should prepare a comprehensive digital forest-land register containing the following and to monitor the same on regular basis:-

- *District;*
- *Forest Division;*
- *Range;*
- *Beat;*
- *Compartment number;*
- *Village;*
- *Khasra number;*
- *Total recorded forest area;*
- *GPS coordinates;*
- *GIS/satellite imagery;*
- *Nature of forest classification;*
- *Name and details of encroacher, wherever legally permissible;*
- *Date on which encroachment was detected;*
- *Area encroached;*
- *proceedings initiated;*
- *notices issued;*
- *eviction order passed;*
- *actual date of eviction;*
- *area restored;*
- *present physical status;*
- *fencing/pillar status; and*
- *plantation/ecological restoration status.*

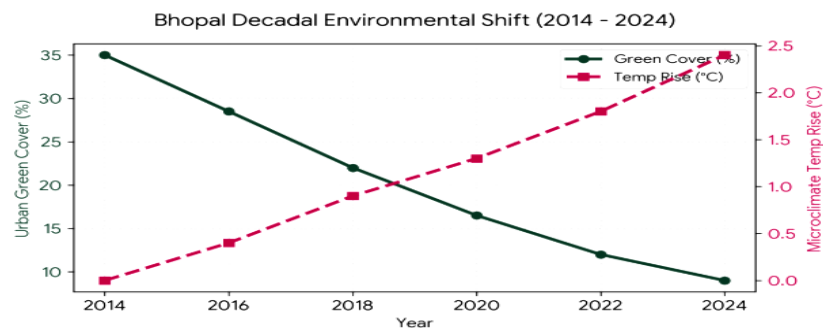
Such a system would make it possible to monitor every parcel of forest land and prevent repeated encroachment.

80. A crisis management group is required to be constituted by the multi-tiered response framework combined force of the Police/Revenue/Forest /Administration to form specialized Forest Task Forces to launch the time bound action plan for removal of encroachments in the manner and the policy taken in the case of Burhanpur Forest Division and Jhabua Eco-Restoration model where thousand hectares of land has been restored from the encroachments. The Department of Forest have to focus more towards community driven conservation by restructuring local Joint Forest Management Samities (Van Samities) to legally protect harvesting rights over minor forest produce and a direct share of timber thinning proceeds in exchange for zero-encroachment pledges.
81. Over the last decade (2014-2024), Bhopal has experienced a rapid ecological transformation. Once celebrated as one of India's greenest capital cities, aggressive urban expansion, central housing redevelopment, and transit infrastructure networks have heavily fragmented the city's green lung. Quantitative data from spatial tracking reveals a direct correlation between the clear-felling of mature heritage canopies and a measurable rise in local thermal stress:

❖ ***“Decadal Environmental Metrics***

- *Urban Green Cover Loss: Total dense tree cover within the core urban limits plummeted from approximately 35% in 2014 down to just 9% by 2024.*
- *Felling Aggregates: Independent academic surveys estimate that between 4,000,000 to 5,000,000 mature trees were cut down over the decade.*

- *Long-Term Canopy Reduction:* Spatial records compiled by the Indian Institute of Science (IISc), Bengaluru, indicate a 44% drop in overall tree canopy across the wider metropolitan area over a rolling 20-year timeline.



❖ **Microclimate Temperature Changes**

The removal of mature, shade-providing tree canopies has eliminated natural evapotranspiration cooling. As a result, asphalt, concrete, and high-density roofing materials have absorbed solar radiation, forming intense Urban Heat Islands (UHIs) across the city. Key shifts include:

- *Average Temperature Hike:* Mean summer microclimate temperatures in highly clear-felled zones (e.g., TT Nagar) have spiked by 2.4°C to 3.1°C compared to historical baselines.
- *Surface Thermal Disparity:* Infrared thermal imaging shows localized surface temperatures on bare roadways and plazas peaking up to 6°C higher than surrounding pockets that retain natural vegetation.
- *Nighttime Warming:* The heat storage capacity of newly built infrastructure prevents rapid evening radiation cooling, raising minimum nighttime temperatures by 1.8°C.

❖ **Tactical Reforestation Recommendations**

To reverse the tree canopy crisis and mitigate rising temperatures, the following specific urban forestry frameworks must be deployed immediately:

A. Accelerated Miyawaki Urban Forestry

The Miyawaki technique should be implemented on fragmented urban parcels to mimic natural multi-layered native forests. This approach provides 30x denser green cover and 10x faster growth than traditional linear plantations.

- **Species Matrix:** Multi-tiered structures must feature native trees like Neem (*Azadirachta indica*), Karanj (*Millettia pinnata*), Amaltas (*Cassia*

fistula), and Palash (Butea monosperma) to maximize local biodiversity and climate resilience.

- **Target Sites:** *High-density zones including the vacant perimeters of the Smart City area in TT Nagar, transit boundaries of the Metro Rail corridors, and surrounding industrial clusters.*

B. Structural Macro-Level Mandates

- **Cool Roof & Eco-Roof Bylaws:** *Mandate the installation of extensive green roofs or reflective high-albedo coatings on all new commercial complexes and state housing redevelopments to directly counter Urban Heat Island spikes.*
- **Green Space Ratios:** *Update municipal building laws to ensure that a minimum of 20% of every new plot area is reserved for soft-scaped, deep-root vegetative planting.*
- **Vertical Green Walls:** *Retrofit concrete metro pillars and flyover support structures with automated vertical irrigation facades to absorb particulate matter and lower roadside temperatures.”*

❖ **Macro Regional Context (ISFR Data Comparison)**

Bhopal's urban canopy loss mirrors larger regional dynamics across Madhya Pradesh as recorded in the India State of Forest Report (ISFR):

Metric Vector	Urban Bhopal (Decadal Trend)	Madhya Pradesh State Total
Net Area Impact	Reduction from 35% to 9% urban cover	Net loss of 612.41 sq km of canopy
Encroachment & Clearing	Estimated 4-5 Lakh trees felled	408.56 sq km converted primarily for agriculture
Primary Risk Vector	Civic Infrastructure & Housing expansion	Organized land mafias & border agricultural shift

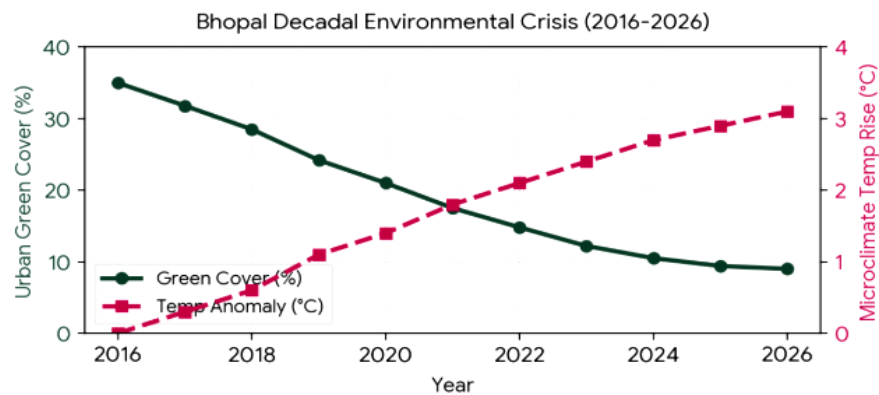
82. We have also examined the Municipal Policy available on the site of the Bhopal Municipal Corporation which has prepared the plan taking the figures from 2016-2026 and reported as follows:-

**“BHOPAL URBAN CANOPY RECOVERY & MICROCLIMATE
MITIGATION ACT, 2026**

.....X.....X.....X.....X.....

Over the past ten years (2016–2026), the city of Bhopal has undergone unprecedented urban consolidation and infrastructure development. Projects including the Bhopal Metro Rail corridor, the TT

Nagar Smart City redevelopment, and broad arterial road widening have caused a substantial ecological deficit. Over 4,00,000 to 5,00,000 mature heritage trees have been logged, precipitating an ecological collapse of the city's traditional 'green lung' canopy. Consequently, localized spatial data indicates that Bhopal's core urban green canopy plummeted from 35% down to an alarming 9%. This canopy depletion has removed critical evapotranspiration buffers, causing severe microclimatic shifts. Highly built-up zones now routinely register ambient summer temperatures 2.4°C to 3.1°C higher than surrounding rural baselines, creating hazardous Urban Heat Islands (UHI).



2. Core Policy Pillars & Statutory Mandates

2.1 High-Density Miyawaki Urban Forestry

The BMC shall establish a specialized 'Urban Tiny Forest Cell' to execute dense native afforestation using the Miyawaki methodology on highly fragmented public lands.

- *Mandatory Site Allocations:* All vacant land parcels over 200 sq. meters owned by BMC, Smart City Bhopal, or BDA must allocate at least 25% of their footprint to Miyawaki plots.
- *Multi-Tiered Canopy Matrix:* Reforestation must exclusively employ native species: Neem and Karanj for the upper canopy, Amaltas and Palash for the sub-canopy layer.

2.2 Civil Engineering Retrofits & Infrastructure Mandates

Large-scale public infrastructure operators shall structurally integrate biological buffers into concrete designs to offset tree felling impacts.

- *Metro Pillar Living Walls:* The Bhopal Metro Rail Corporation Limited (BMRCL) is mandated to engineer vertical modular green facades across all concrete pillars along elevated lines.

- Transit Hub Eco-Buffers: All active metro rail stations, depots, and public BRTS bus terminals must construct a 5-meter deep perimeter green buffer to capture vehicular emissions and reduce localized heat build-up.

2.3 Building Bylaw Amendments: Eco-Roof & Cool Roof Mandates

The Bhopal Municipal Building Bylaws are hereby amended to incorporate mandatory thermal reflective and green roofs for all new structural permissions.

- Commercial Retrofits: All new commercial, educational, and multi-family residential structures (Plot Area > 500 sq. meters) must cover at least 40% of unshaded roof space with living green roofs.
- Cool Roof Coating: Residential plots below 500 sq. meters must coat all exposed roof spaces with high-albedo, solar-reflective cooling paints exhibiting an initial Solar Reflectance Index (SRI)³⁷⁸.

83. We have also examined data collected by the MoEF&CC, Forest Protection Division, which was addressed to all the Chief Secretaries and Principal Secretaries, Department of Forest and Wildlife, vide letter dated 22.02.2025 and again in March, 2025. The data which has been submitted with regard to the encroachments removal and percentage of loss of forest are as follows:-

DETAILS OF ENCROACHMENT OF FOREST (IN HECTARES) RECEIVED FROM THE FOLLOWING STATES/UTS										
S.No.	State/UT	Total Forest Cover	Details of encroachment					Total encroachment upto March, 2024	Action Taken for removal of encroachment year wise	Percentage loss of forest as on March, 2024
			Protected Forest	Reserve Forest	Deemed Forest	Sanctuaries and protected areas	Any other type of forest			
1.	Andaman & Nicobar Islands	674402	264.154	3,477.92	-	Nil	-	3742.08	-	1.28%
2.	Assam	28311.51 (in sq.km)		340547.79	not notified	21534.83		362082.62		19.92%
3.	Arunachal Pradesh	6643067		33719.07		18028.20	1752.69	53499.96		0.81%
4.	Andhra Pradesh	3767751.01	168.34	6190.23	0	6910.23	49.46	13318.16	Action taken as per the law	0.35%
5.	Chandigarh			0.154	-	0.206	0.30	0.66		0.019%
6.	Chhattisgarh	4289513.964	9393.360	9833.857	0	2400.457	110.542	16891.225	2446.534	0.394%
7.	Dadar & Nagar and Daman & Diu	227750	-	21.252	-	18.588	48.99	88.77		0.531%
8.	Gujarat	1924235.277	12644.01	132.827	0	29.6702	201.6162	13008.11937	12784.75	0.676%
9.	Goa	22442100	Nil	Nil	Nil	Nil	Nil	N.A.	N.A.	Nil
10.	Karnataka	3872999	48393.49	32536.11	-	5378.84	-	86308.44	11196.64	1.94%

11.	Kerala	1153113.9	40.537	2327.9777	7.267	18.2273	2581.515	4975.5239	Kerala Forest department is taking stringent action as per law for eviction and prosecution of encroachment cases. Eviction of forest encroachments post 01.01.1977 has been declared as the policy of the State Government and earnest efforts for protecting the forest lands against encroachments. Law and order problems associated with eviction of old encroachments and litigation's during Cairns construction are the major impediments faced by the department in addressing the issue. Digitization of forest boundaries in collaboration with the revenue department is also in progress and consolidating the GPS data of the Cairns is also being carried on.	0.4315%
12.	Lakshadweep	90.33 %	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
13.	Maharashtra	6196268	11578.12	39776.33	846.88	1067.94	4485.54	57554.87	244.72	0.93%
14.	Odisha	5215595	2375.7059	14411.16 672	105.7286	259.5891	23355.3742	40507.56452	Encroachment cases has been booked	0.78%
15.	Puducherry	5333	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
16.	Punjab	184665	2327.25	0	0	383.62	4808.55	7567.42	(i)As per the legal process the encroachers can be removed only after following the "Due process of Law" (ii) Notices are being/have been issued to the encroachers as per Law. (iii) Cases under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 are being/have been filed against the Encroachers who are not vacating the forest Land despite notices issued. (iv) The unclassified forests are primarily evaceue lands and were transferred to Forest Department in the year 1971 and possession of these lands was not handed over to the Department. It was under cultivation before the land was transferred to Forest Department and it has been included in the list of forest area because this land is under the ownership of Forest Department as per Revenue Record. As clarified earlier, these areas have been under agriculture for past many decades.	-1.08%
17.	Tamil Nadu		4160.887	5767.0709	0	5785.554	54.97	15768.48		
18.	Tripura	674337.668	386.181	111182.785	425.275	39149.690	80900.903	4242.374		15.432%
19.	Uttarakhand	1919360.74	0.49	4984.82	0	7.13	0	4992.43	-	0.26011%
20.	Uttar Pradesh	1783628.518	78.38	21555.69	2028.80	2798.32	36.27	26497.45		
21.	Jharkhand	2372114	18248.58	1728.28	11.68	51.93	0	20040.47	6808.81 Ha. Encroachment has been removed	0.84%
22.	Sikkim	3652.667	-	466.46	-	0.390	2.31	469.16	-	0.128%
23.	Madhya Pradesh	7617363.51	184200.64	310281.81	166.26	3568.40	3571.21	546089.45	17496.54	7.17%
24.	Mizoram	1799046	0	24738.75	0	34.21	0	24772.96		4.25%
25.	Manipur	1659827	599.07	2489.02		182.11		3270.20		0.20%

84. There are reports that certain land mafias, tribal communities are promoting the disadvantage of Forest Rights Act and helping the particular tribal groups, the forest dwellers, migrate from their native

places to create illegal settlements in the forest by cutting trees in another district to claim right over the encroached land under the Act. It is for the Forest Department to resolve the dispute immediately as soon as possible and to remove the encroachments and take the possession of the forest area and to maintain it and to ensure that there should not be any encroachment within the forest area.

85. With regard to the encroachments, the Hon'ble Supreme Court has already taken cognizance of the matter, especially with regard to the Bhopal and Madhya Pradesh, and necessary directions have been issued.
86. A grave and serious violation of environmental laws with regard to the encroachment on the water bodies, encroachment on the public land, illegal constructions, construction without authority and approval of competent authority, violating the Wetland (Conservation and Management) Rules, 2017, rules regarding Town and Country Planning, violation of Master Plan, have been highlighted in the application. Article 21 of the Constitution of India protects not only the human rights but also casts an obligation on human beings to protect and preserve a specie becoming extinct, conservation and protection of environment is an inseparable part of right to life. In *M. C. Mehta v. Kamal Nath and Others*: (1997) 1 SCC 388, the Court enunciated the doctrine of "public trust", the thrust of that theory is that certain common properties such as rivers, seashores, forests and the air are held by the Government in trusteeship for the free and unimpeded use of the general public. The resources like air, sea, waters and the forests have such a great importance to the people as a whole, that it would be totally unjustified to make them a subject of private ownership. The

State, as a custodian of the natural resources, has a duty to maintain them not merely for the benefit of the public, but for the best interest of flora and fauna, wildlife and so on. The doctrine of 'public trust' has to be addressed in that perspective.

87. When the law protector becomes the law violators, how law will be protected. The basic principle of rule of law is to follow rule/ law and not to break or violate it. For the negligence of those to whom public duties have been entrusted can never be allowed to cause public mischief. Public servants if committing wrong in discharge of statutory functions and later on if it was found not be in accordance with law within the knowledge of the officer concerned then it cannot be said to be the work and duty within the definition of State Act. The action and construction is not only disregard to the law but it is negation of the authority of the State by the public official doing the act and expending the budget in accordance with their wishes. An action specifically punitive action does lie for doing what the legislature has authorized if it is done negligently carelessly and in violation of the law. Under our Constitution sovereignty vests in the people. Every limb of the constitutional machinery is obliged to be people oriented. No functionary in exercise of statutory power can claim immunity, except to the extent protected by the statute itself. Public authorities acting in violation of constitutional or statutory provisions oppressively are accountable for their behaviour before authorities created under the statute like the commission or the courts entrusted with responsibility of maintaining the rule of law. Each hierarchy in the Act is empowered to entertain a complaint by the consumer for value of the goods or services and compensation. Any act by any officer in violation of the

rules is abuse of power, deliberate maladministration, and perhaps also other unlawful acts causing injury. The servants of the government are also the servants of the people and the use of their power must always be subordinate to their duty of service. A public functionary if he acts maliciously or oppressively and the exercise of power results in harassment and agony then it is not an exercise of power but its abuse. No law provides protection against it. He who is responsible for it must suffer it. Compensation or damage as explained earlier may arise even when the officer discharges his duty malafidely and not in accordance with the guidelines, when it arises due to arbitrary or capricious behaviour then it loses its individual character and assumes social significance. Harassment of a common man by public authorities is socially abhorring and legally impermissible. It may harm him personally but the injury to society is far more grievous. Crime and corruption thrive and prosper in the society due to lack of public resistance. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning in offices instead of standing against it. Therefore, the award of compensation for harassment by public authorities not only compensates the individual, satisfies him personally but helps in curing social evil. It may result in improving the work culture and help in changing the outlook.

88. Absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The Rule of Law means that the decisions should be made by the application of known

principles and rules, such decisions should be predictable and the citizens should know where he is. If decision is taken without any principle or without any rule, it is unpredictable and such decision is the anti-thesis of a decision taken in accordance with the Rule of Law. Even where there is no ministerial duty as above, and even where no recognised tort such as trespass, nuisance, or negligence is committed, public authorities or officers may be liable in damages for malicious, deliberate or injurious wrong-doing. There is thus a tort which has been called misfeasance in public office, and which includes malicious abuse of power, deliberate maladministration, and perhaps also other unlawful acts causing injury.

89. In the case reported in *S.G. Jaisinghani. Vs. Union of India*: AIR 1967 SC 1427, Hon'ble Supreme Court held that absence of arbitrary power, is first essential of 'rule of law' upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule, it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law.
90. In the case reported in AIR 1975 SC p. 2260, Hon'ble Supreme Court interpreted the rule of law as under:-

"205. Rule of Law postulates that the decisions should be made by the application of known principles and rules and in general such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule,

it is not predictable and such decision is the antithesis of a decision taken in accordance with the rule of law."

94. In the case reported in (2011) 6 SCC 508: NOIDA Entrepreneurs Association. Vs. NOIDA and others, Hon'ble Supreme Court while emphasising for maintenance of rule of law in the country observed that public bodies or the State instrumentalities are trustees of the public property and their action must be in conformity with the Statutory provisions and also should be just and fair, to quote relevant portion:

"38. The State or the public authority which holds the property for the public or which has been assigned the duty of grant of largesse etc., acts as a trustee and, therefore, has to act fairly and reasonably. Every holder of a public office by virtue of which he acts on behalf of the State or public body is ultimately accountable to the people in whom the sovereignty vests. As such, all powers so vested in him are meant to be exercised for public good and promoting the public interest. Every holder of a public office is a trustee.

39. State actions are required to be non-arbitrary and justified on the touchstone of Article 14 of the Constitution. Action of the State or its instrumentality must be in conformity with some principle which meets the test of reason and relevance. Functioning of a "democratic form of Government demands equality and absence of arbitrariness and discrimination". The rule of law prohibits arbitrary action and commands the authority concerned to act in accordance with law. Every action of the State or its instrumentalities should neither be suggestive of discrimination, nor even apparently give an impression of bias, favouritism and nepotism. If a decision is taken without any principle or without any rule, it is unpredictable and such a decision is antithesis to

the decision taken in accordance with the rule of law.

40. The Public Trust Doctrine is a part of the law of the land. The doctrine has grown from Article 21 of the Constitution. In essence, the action/order of the State or State instrumentality would stand vitiated if it lacks bona fides, as it would only be a case of colourable exercise of power. The Rule of Law is the foundation of a democratic society. (Vide: M/s. Erusian Equipment & Chemicals Ltd. v. State of West Bengal & Anr., AIR 1975 SC 266; Ramana Dayaram Shetty v. The International Airport Authority of India & Ors., AIR 1979 SC 1628; Haji T.M. Hassan Rawther v. Kerala Financial Corporation, AIR 1988 SC 157; Kumari Shrilekha Vidyarthi etc. etc. v. State of U.P. & Ors., AIR 1991 SC 537; and M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu & Ors., AIR 1999 SC 2468)."

95. A country should not be ruled by men but should be ruled by law. It means, the State action must conform to statutory provisions. The power must flow from Rules, Regulations and statutory provisions. In absence of powers conferred by the statutory provisions, State or its instrumentalities cannot divest a person from his or her property or abridge or dilute the right protected by Articles 14 and 21 of the Constitution of India safeguarding life, liberty livelihood or quality of life."

91. Arbitrariness of public authorities are antithesis of rule of law. In *M/s. Erusian Equipment & Chemicals Ltd. Vs. State of West Bengal & Anr.*: AIR 1975 SC 266, the Supreme Court observed that where Government activity involves public element, the "citizen has a right to claim equal treatment", and when "the State acts to the prejudice of a person, it has to be supported by legality." Functioning of "democratic form of Government demands equality and absence of arbitrariness and discrimination". Similarly, in *Ramana Dayaram Shetty Vs. The*

International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that every action of the executive Government must be informed by reasons and should be free from arbitrariness. That is the very essence of rule of law and its bare minimum requirement. Thus, the decision taken in an arbitrary manner contradicts the principle of legitimate expectation and the plea of legitimate expectation relates to procedural fairness in decision making and forms a part of the rule of non-arbitrariness as denial of administrative fairness is Constitutional anathema. (Vide *E.P. Royappa Vs. State of Tamil Nadu*, AIR 1974 SC 555; *Smt Maneka Gandhi Vs. Union of India & Anr.* AIR 1978 SC 597; *Ghaziabad Development Authority Vs. Delhi Auto & General Finance Pvt. Ltd. & Ors.*, AIR 1994 SC 2263; and *Ku. Shrilekha Vidyarthi Vs. State of U.P. & ors.*, AIR 1991 SC 537). The rule of law inhibits arbitrary action and such action is liable to be invalidated. Every action of the State or its instrumentalities should not only be fair, legitimate and aboveboard but should be without any affection or aversion. It should neither be suggestive of discrimination nor even apparently give an impression of bias, favouritism and nepotism. (Vide *Haji T.M. Hassan Rawther Vs. Kerala Financial Corporation*, AIR 1988 SC 157).

92. In the *State of Andhra Pradesh & Anr. Vs. Nalla Raja Reddy & Ors.*, AIR 1967 SC 1458, the Constitution Bench of the Apex Court observed as under:-

“Official arbitrariness is more subversive of doctrine of equality than the statutory discrimination. In spite of statutory discrimination, one knows where he stands but the wand of official arbitrariness can be waved in all directions indiscriminately.”

93. Statutory rules are required to be observed. It is settled law that when the action of the State or its instrumentalities is not as per the rules or regulations and supported by a statute, the Court must exercise its jurisdiction to declare such an act to be illegal and invalid. In *Sirsi Municipality Vs. Cecelia Kom Francis Tellis*, AIR 1973 SC 855, the Supreme Court observed that “the ratio is that the rules or the regulations are binding on the authorities.” Similarly, a Constitution Bench of the Hon'ble Supreme Court in *Sukhdev Singh & Ors. Vs. Bhagatram Sardar Singh Raghuvanshi & Anr.*, AIR 1975 SC 1331, has observed as under:-

“The statutory authorities cannot deviate from the conditions of service. Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violation of rules and regulations. The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.....In cases of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies.....the element of public employment or service and the support of statute require observance of rules and regulations. Failure to observe requirements by statutory bodies is enforced by courts by declaring (action) in violation of rules and regulations to be void. This Court has repeatedly observed that whenever a man's rights are affected by decision taken under statutory powers, the Court would presume the existence of a duty to observe the rules of natural justice and compliance with rules and regulations imposed by statute.”

94. Hon'ble Supreme Court of India has taken a serious view with regard to the encroachments on public lands, construction without order of

competent authority and construction on public land and warned the public authorities to take immediate remedial measures. Relevant part of the order passed in M.A. Diary No. 17103/2026 arising out of SLP (C) No.8044/2025: (*Loganathan Vs. The State of Tamil Nadu & Ors.*), is quoted below:-

“.....in the present case, the petitioner was able to construct a G + 1 floor building without any sanction plan being approved. It speaks volumes about the conduct and the responsibility of the Municipal Corporation, which is required to be aware of the developments on the ground and also, is required to ensure that no violation of any rules and regulations or requirement relating to construction is made. A full one and a half storied building getting constructed and not even noticed by the Authorities and only thereafter, an order is passed for demolition by the very same Authorities. It indicates an alarming state of affairs as the same could not have been done without the collusion and connivance of the Municipal Authorities. Accordingly, we direct the State Government to conduct a thorough inquiry, as to why, such incidents occur where entire structures are completed without due sanction from the proper authorities, including the Municipal Corporation, without any resistance or corrective measures being taken by them to prevent such constructions.

4. Before deciding the future course of action, let learned counsel for the Municipal Corporation submit a report, as to why, the situation has been allowed to develop in the manner it has. The report to be submitted by respondent no.2 by filing a personally affirmed affidavit within three weeks.

4. It has come to our notice that the Additional Secretary (Technical), Housing and Urban Development Department, Chennai, by order dated 22.03.2024, appears to have granted relief to the persons, who have violated building norms, by directing that no coercive action be taken, while also issuing certain directions to the authorities. We are unable to comprehend how such an order could have been passed by the said authority, particularly when there was a blatant violation evident in the construction undertaken by the party concerned, and when there was a direction by the High Court to ensure that the matter was dealt with strictly in accordance with law.

5. Respondent No.1 State of Tamil Nadu is directed to file an affidavit disclosing the details of the officer(s), responsible for passing the aforesaid order dated 22.03.2024, and also furnish an explanation as to how such an order came to be passed in the facts and circumstances stated above. The affidavit shall be filed within four weeks from today.

6. From the facts emerging in the present proceedings, and from similar matters coming before this Court, it is evident that there are apparent widespread and blatant violations of building bye-laws and land-use regulations. Constructions are frequently undertaken in blatant violation of the applicable norms and regulations, including in the prohibited areas. More importantly, upon completion, such lands and buildings are often put to uses other than those for which sanction was originally granted by the competent authority.

7. We have also been coming across cases where residential colonies are being converted into commercial areas by the unauthorised use of residential buildings and lands for commercial purposes. Such practices are not only contrary to law and public interest, but also cause significant inconvenience and prejudice to bona fide residents, who have invested substantial resources in purchasing property and constructing their houses. The environmental and civic consequences of such misuse by unscrupulous elements of society are equally serious and have far-reaching implications.

9. Accordingly, all Municipal Corporations and Municipalities, as the case may be, of the capital cities of all the States and Union Territories are impleaded as party respondents.

10. The aforesaid authorities are directed to conduct a comprehensive inquiry within their respective jurisdictions to identify areas that are demarcated exclusively for residential use, but are being misused for non-residential purposes by the persons concerned. A detailed list of such cases shall be prepared and placed before this Court by way of affidavits, to be personally affirmed by the Commissioners of the concerned Corporations/Municipalities. The said exercise shall cover their entire jurisdiction, including all 'islands', which may technically claim to be outside the limits of such Corporations/Municipalities, but are located within or surrounded by the Corporation/Municipality area, if any, all residential colonies, group housing societies, and similar developed/development areas.”

95. The matter was again taken up by the Hon'ble Supreme Court of India in M.A. Diary No. 17103/2026 (*Loganathan Vs. The State of Tamil Nadu & Ors.*), and vide order dated 20.05.2026 held as follows:-

“3.

According to him, buildings have been constructed far beyond the sanctioned plans, with deviations exceeding the condonable limits and in blatant violation of the building bye-laws. There are innumerable structures where permission was granted only for construction up to two storeys, whereas the actual construction is far in excess thereof. Such structures are inherently unsafe as the foundations are not designed to bear the additional load. Considering the high footfall in these areas, he submitted that a calamity is only waiting to happen.

4. Upon a query being put to the learned senior counsel appearing for the Municipal Corporation of Delhi, regarding the aforesaid issue, the response was that multiple usages are permissible under the Master Plan. We are not satisfied with such a stand. The Master Plan may permit multiple uses; however, once a person opts for a particular use and obtains sanction of the building plan from the competent authority for that specific purpose, any subsequent change of user is wholly impermissible and amounts to nothing short of a fraud on the system. This aspect appears to have been completely glossed over by the Municipal Corporation of Delhi and may even indicate tacit

collusion and connivance with the violators for extraneous considerations, which are neither difficult to comprehend nor unknown.

5. Be that as it may, this Court is convinced that some drastic action is required in the matter. We are conscious of the fact that in such cases, a statutory remedy is ordinarily available to the person against whom action is initiated. However, by approaching the statutory or quasi-judicial authorities, which may be known by different nomenclatures, including appellate authorities under the relevant enactments, proceedings remain pending for long periods despite statutory timelines prescribed for their disposal. The situation becomes even more complicated when further proceedings are instituted before the High Courts, where such matters often remain pending for years.

6. Having regard to the picture that has emerged and the submissions advanced by the learned Amicus, we issue the following directions for the present:

*(i) All the respondents shall file fresh affidavits indicating the actual action taken pursuant to the surveys conducted by them. Such affidavits shall be personally affirmed by the head of the concerned authority, viz., Chairman, Chairperson, Chief Executive Officer, or by whatever designation such officer may be known. The affidavits shall reflect effective action taken on the ground and not a mere ritualistic compliance. We clarify that by "follow up action", we mean immediate and effective measures, including sealing, demolition, or any other action warranted in law, particularly in conformity with the judgment of this Court in *Rajendra Kumar Barjatya (supra)*. The nature and extent of such action shall be specifically disclosed in the affidavits. The concerned officers are cautioned to be truthful not only to this Court but also to themselves while discharging the statutory obligations attached to their offices.*

(ii) The statutory appellate authorities and quasi-judicial forums dealing with matters relating to violations of building norms, unauthorized constructions, change of land use and allied issues shall ensure that all such cases pending before them are disposed of, as far as possible, within a period of three months from today. Any unwarranted deviation therefrom may render the concerned authority answerable to this Court if such violation is brought to its notice or otherwise comes to its knowledge.

(iii) While filing their affidavits, the respondents shall also take note of the judgment of this Court in Rajendra Kumar Barjatya & Ors. Vs. U.P. Awas Evam Vikas Parishad & Ors. and Rajeev Gupta & Ors. Vs. U.P. Aas Evam Vikas Parishad & Ors., in Civil Appeal No.14604 of 2024 and Civil Appeal No.14605 of 2025, the directions issued therein, and shall ensure strict compliance thereof, particularly at the initial stage itself.

.....”

13. Our prima facie view is fortified by the fact that though this Court had initially granted an order of interim stay in favour of the petitioner, the Special Leave Petition came to be dismissed on 16.02.2026. Consequently, from that date onwards, no interim protection was operating. Yet, the structure continues to remain intact without any consequential action having been taken. This circumstance prima facie suggests connivance. The affidavit filed by the Additional Chief Secretary is shocking and reflects a blatant disregard for the rule of law, coupled with a bold attempt to shield the petitioner. In our considered view, the officer is required to explain her conduct.

14. Accordingly, she is directed to remain personally present before this Court on the next date of hearing along with a show-cause response explaining why appropriate proceedings should not be initiated against her for the aforesaid conduct.

16. Learned Amicus further pointed out that the Jaipur Development Authority has neither entered appearance nor filed any affidavit. He submitted that he has received numerous complaints from residents of Jaipur alleging serious violations. At this juncture, we clarify our earlier order and observe that the concerned authority shall not take shelter behind the plea that, instead of the authority itself, the Municipal Corporation has erroneously been impleaded. It is the authority responsible for town planning, sanction of building plans, enforcement of building bye-laws and regulation of land use that is required to respond in the present proceedings.”

96. With regard to the commercial activities in the residential colonies, the matter was brought before the Hon’ble Supreme Court of India and the Court vide order dated 09.07.2026 passed in M. A. Diary No.17103/2026 arising out of SLP (C) No.8044 of 2025, has held as follows:-

“.....7. We have also been coming across cases where residential colonies are being converted into commercial areas by the unauthorised use of residential buildings and lands for commercial purposes. Such practices are not only contrary to law and public interest, but also cause significant inconvenience and prejudice to bona fide residents, who have invested substantial resources in purchasing property and constructing their houses. The environmental and civic consequences of such misuse by unscrupulous elements of society are equally serious and have far-reaching implications.

3. Learned Amicus further submitted that from the issue which has now surfaced on the basis of the limited material placed before this Court through the affidavits filed by various municipalities and corporations, the problem appears to be enormous and the scale of violations staggering. By way of

illustration, he submitted that even in the national capital, i.e., Delhi, in areas like Lajpat Nagar and Sarojini Nagar, violations are of such magnitude that there exists a serious threat of a major mishap or calamity. According to him, buildings have been constructed far beyond the sanctioned plans, with deviations exceeding the condonable limits and in blatant violation of the building bye-laws. There are innumerable structures where permission was granted only for construction up to two storeys, whereas the actual construction is far in excess thereof. Such structures are inherently unsafe as the foundations are not designed to bear the additional load. Considering the high footfall in these areas, he submitted that a calamity is only waiting to happen.”

4. We are particularly bothered with the conduct of the Municipal Corporation of Delhi (hereinafter referred to as the 'MCD'). In the Judgment and Order dated 17.12.2024 passed by a Co-ordinate Bench of this Court in Civil Appeals No.14604 of 2024 along with 14605 of 2024 (authored by one of us, R. Mahadevan, J.) [Rajendra Kumar Barjatya and Another v. U.P. Avas Evam Vikas Parishad & Ors. 2024 INSC 990], specific directions were given apropos what is required to be done by the authorities. For ready reference, the same is quoted below:

'20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification illegalities, administrative failure,

regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.

21. Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in *Re: Directions in the matter of demolition of structures (supra)*:

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority

immediate steps be taken by the said authority concerned, in accordance with law, against the builder owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith. /

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal /revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect

and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.'

5. The learned Amicus Curiae has, at this juncture, pointed out that the respondent-Authorities concerned should take steps to demolish unauthorized constructions in accordance with law. The said stage (of demolition) will arrive after the due procedure and process of law is followed by, illustratively, issuing Show-Cause Notice, granting a hearing and then passing an order. It appears that Show-Cause Notices were issued to alleged violators, but no follow-up action worth its name was taken to bring the same to a logical conclusion, one way or the other. Even in cases where violations stand established and despite the aggrieved party having moved the High Court concerned, with the High Court directing the violating party not to proceed with construction, construction has been carried out rampantly without due intervention by the authorities, especially the MCD.

7.....

However, he submits that in view of the developments which have taken place on the ground subsequently, as referred supra, special, additional, more proactive and immediate steps shall be effected, not only to demonstrate the bonafides of the MCD and its officers but also

to ensure that the rule of law is enforced strictly and across the board, especially, in matters of the like herein, which are purely in the interest of the public-at-large.

97. The matter was again taken up by the Hon'ble Supreme Court in M.A. Diary No.17103/2026 on 04.08.2026 (*Loganathan Vs. The State of Tamil Nadu & Ors.*), and passed the following order:-

“..... $\mathcal{X}$ $\mathcal{X}$ $\mathcal{X}$ $\mathcal{X}$

9. The aforesaid officers have also assured this Court that all areas falling under their jurisdiction shall be kept free from stray animals in accordance with law. Let the same be ensured within four weeks positively.

10. This direction is extended to all the States and Union Territories to ensure that all public areas throughout India are kept free from stray animals.

11. Coming to the matter relating to the Jaipur Development Authority ("JDA" for short), it has been brought to the notice of this Court that the land use prescribed under the Master Plan is being blatantly violated, inasmuch as areas earmarked for specified activities are being used for other purposes. It has also been brought to our notice that agricultural/open land falling within the jurisdiction of the JDA is first required to be surrendered by the landowner to the JDA, whereafter approval is granted for its development. In certain cases, details whereof have been brought on record through various pleadings, the landowners have surrendered the land to the JDA, yet the JDA has neither approved its use for any other purpose nor prevented encroachments by third parties, who have even raised constructions thereon.

14. Another issue relating to the JDA concerns the use of commercial areas for institutional purposes, causing considerable inconvenience and hardship to the residents. The specific instance relates to coaching institutes operating from commercial areas, despite the Government having already provided dedicated multi-storeyed buildings for such purposes. Instead of relocating the coaching

institutes, those buildings are now reportedly being allotted to other institutions.

18. We make it clear that if any building has been specially earmarked and constructed for the purposes of relocating coaching institutes or other educational institutions, any allotment or settlement made in favour of any other person shall be subject to the final orders passed in these proceedings.

22. This Court is constrained to issue notice in the contempt proceedings, as it is an admitted position that no effective action has been taken against those who have blatantly violated the sanctioned land use prescribed under the Master Plan. The Vice-Chairman, Lucknow Development Authority, shall remain personally present on the next date of hearing to show cause as to why appropriate orders should not be passed against him for non-compliance with the orders of this Court.

23. In terms of our previous order, Ms. Kakarla Usha, Additional Chief Secretary, Housing and Urban Development Department, State of Tamil Nadu, has filed an affidavit. Ms. Kavitha Nithyanandan Rameshwar, learned Additional Advocate General has explained the factual matrix in detail. We have gone through the affidavit and are satisfied that the action taken by the officer concerned was bona fide. She acted with due promptitude and ensured that the action was taken not only in accordance with law but also in compliance with our earlier orders. We place on record our appreciation for the officer concerned and hope that she will continue to maintain the same level of diligence in future.”

98. As quoted above, the directions have been issued to all statutory authorities dealing with the matter relating to violations of building norms, unauthorised constructions, change of land use and allied use rules ensuring that the such pending matters must be disposed of as far as possible within a period of three months.

99. Accordingly, we direct the authorities concerned to comply the order immediately and submit the report within two weeks. We also direct the

personal affidavits of Commissioner of Municipal Corporation/Nagar Nigam, and the Chief Executive Officer of the Development Authority/Nagar Nigam, be filed within two weeks addressing as to what effective and actual steps have been taken on the ground situation for removal of the encroachments and for protection of the water bodies, in light of the above orders.

100. Through perusal of the report/records, our attention has been drawn that no action has been taken against the single official or authority who was responsible for preventing the unauthorised constructions and unauthorised possession of the public land and permitted the constructions without authority and without any permission. Accordingly, the Commissioner/Chief Executive Officer of the Nagar Nigam concerned will give specific details of actions taken against the errant officials under whose watch the violations/default occurred and went unchecked.

101. We further direct the Collector, the Municipal Commissioner and the Chief Executive Officer concerned to ensure the rule of law, constitutional provisions, State Laws, Wetland Rules, Town and Country Planning Acts and Urban/Municipal norms and regulations. Failure to comply the Central Law or the State Law will fasten the liability on the officer who is responsible to execute it and it shall be presumed that the construction and occupation of public land have been with the connivance of the official concerned.

102. The Hon'ble Supreme Court of India vide order dated 05.08.2026 passed in Miscellaneous Application Diary No.17103/2026: (*Loganathan Vs. The State of Tamil Nadu*) arising out of SLP (Civil) No.8044/2025, has observed as follows:-

“2. Apropos issue(s) relating to the Bhopal Municipal Corporation, we have been informed that upon survey, about 1,000 notices have been issued and many places sealed pursuant thereto and further that, consequential orders have also been passed. However, it was brought to the notice of the Court by Mr. K.M. Nataraj, learned the said Municipal Additional Solicitor General, representing Corporation that the Madhya Pradesh High Court at Jabalpur in various cases has granted stay/interim relief, as people have bypassed the statutory mechanism under the concerned statute and directly approached the High Court.

.....

6. At this juncture, our attention was drawn to the fact that initially the Bhopal Municipal Corporation had sealed about 100 premises, but later, the seals were removed by the same authority.

7. On our query, Mr. Nataraj, learned ASG, drew the attention of the Court to an administrative order issued by the Government of Madhya Pradesh, General Administration Department, dated 02.08.2026, whereby a 10-Member Committee has been constituted, purportedly, to come up with suggestions for procedural and policy decision-making to ensure compliance of the Judgment in Rajendra Kumar Barjatya v U.P. Avas Evam Vikas Parishad, 2024 INSC 990 dated 17.12.2024, penned by one us (R. Mahadevan, J.) and our Order dated 20.05.2026 in the present proceeding.

8. Learned counsel for the State of Madhya Pradesh submits that the administrative order supra is clarificatory in nature, at best, as the Government of Madhya Pradesh wishes to have a clear-cut policy on the matter.

9. We have no hesitation to hold that the said administrative order is prima facie contemptuous and seems intended to interfere with the administration of justice. Accordingly, the administrative order shall be kept in abeyance with immediate effect. Original file and records leading up to the constitution of this Committee be placed before us on the next date. Formal notice of contempt to the concerned may follow thereupon. Let this serve as a deterrent for any further/similar attempt to interfere with the directions issued by this Court.

10. Coming to the Patna Municipal Corporation, pursuant to our earlier Order, a fresh affidavit has been filed bringing on record the fact that after the survey conducted, as of now, a total of 26,746 cases have been found, where residential property has been put to non-residential/commercial use. The figure itself leaves nothing to doubt that there has been total abdication responsibility on behalf of the concerned Municipal Commissioners. The Patna Municipal Corporation was not even aware of such wide-spread violation and the alleged violators, till the time this Court took up the matter. We are informed that the present incumbent has been on the post since October 2025 and prior thereto, Mr. Animesh Kumar Parashar, I.A.S., was posted from 26.11.2021 to 04.10.2025 i.e., for close to four years.

11. In the affidavit filed by Mr. Parashar, I.A.S., it is stated that his tenure saw about 500 cases pertaining to violations of municipal bye-laws, of which 81 cases were initiated suo motu and orders were passed in 129 cases and besides these, more than 397 complaints and 22 miscellaneous cases were dealt with by him in accordance with law.

12. We find no justification in such figures for an officer who held the post for almost four years. It, tentatively, shows that the officer had no real concern with regard to what was transpiring on the ground level.

.....”

103. Accordingly, we direct the Collector, Bhopal, and the Divisional Forest Officer, Bhopal, to undertake a joint survey and demarcate the entire recorded forest land/green belt within the district preferably through GIS/GPS and satellite imagery and to verify the encroachments and to remove it. Similarly, the PCCF concerned may undertake this exercise through the State of Madhya Pradesh to demarcate and identify the encroachments as narrated in the report submitted by the MoEF&C quoted above and to take action and submit the chart accordingly. Where the encroachment is found to be illegal, there is no lawful impediment, the concerned authorities should take action for removal

in accordance with law within a fixed time schedule. Merely removing an encroacher should not be treated as sufficient compliance. The recovered forest land should immediately be demarcated, protected by permanent boundary pillars and fencing and to be entered correctly in the revenue records, restored ecology and monitored against re-encroachments and also ensure that:

- (a) Where forest land has been cleared of encroachment, the authorities should prepare a restoration plan using native species and natural regeneration, rather than treating plantation alone as equivalent to restoration of an established forest ecosystem.*
- (b) The protection of forests is not a matter of beautification or merely increasing the number of trees. It concerns the protection of an ecological system essential for human survival, biodiversity, water security, climate resilience and the constitutional right to a healthy environment. The Supreme Court has made it clear that forests are a public trust and that the State has a duty to protect them. It has also repeatedly directed authorities to prevent and remove encroachments and to maintain and restore forest cover. The present data is particularly significant in the case of Madhya Pradesh. The State possesses the largest forest cover in absolute terms among Indian States, yet its forest cover declined by approximately 371.54 sq. km. between 2021 and 2023, while the reported forest-land encroachment figure of approximately 5,460.9 sq. km. as of March 2024 is a matter requiring urgent verification and remedial action.*
- (c) Bhopal, being a rapidly urbanising district, requires still closer monitoring. The reported clearance of 3.465 hectares in one identified forest-land encroachment matter demonstrates that removal is possible through coordinated action, while the continuing existence of identified encroachments demonstrates the need for sustained enforcement.*

(d) Only such a comprehensive approach can ensure that forest land remains available for present and future generations and that the constitutional and statutory obligations concerning environmental protection are effectively fulfilled.”

104. If we examine the statements submitted by the MoEF&CC, it is found that in the State of Madhya Pradesh approximately 546089.45 hectares of the land has been subject of encroachment upto March, 2024, and action has been taken only for removal of encroachment of 17496.54 hectares of land and percentage of loss of forest as on March, 2024, is approximately 7.17%. This figure shows that the very large area of the forest in Madhya Pradesh is subject to encroachment and it has not been made clear as to how much land has been restored back from the illegal encroachment. It is desirable that the report from the State-wise and District-wise should be called from the Forest Department with regard to the encroachment and the area where the action has been taken for removal of encroachments and restoration of forest. This data shows and falsify the data collected by the Bhopal Municipal Corporation and the actual area of the forest in the State of Madhya Pradesh as well as throughout the India has been reduced. Further, the data discloses that the total area upto March, 2024, which was under encroachment throughout India in 25 States and Union Territories is approximately 13056 sq. km. and the Parliamentary Standing Committee on Science and Technology, Environment, Forests and Climate Change has expressed serious concern over the forest land encroachment which is reported to be more than 13000 sq. km. of forest area. During two years in 2021 and 2023, there is a decline of 371.54 sq.km. of the forest cover and if we examine the State of Madhya

Pradesh that is more serious. Percentage of district area under forest cover is less than 12% in Bhopal as per ISFR 2023 and as per assessment comparing to 2021 to 2023, there is a decline of approximately 0.54 sq.km. in the Bhopal District only. This is a national data from ISFR which shows that the enhanced area of forest is wrongly calculated by the Forest Department.

105. In view of the above facts, we direct the Respondents as follows:-

- (i)** Respondents are directed to comply the Madhya Pradesh Vrakshon Ka Parirakshan Nagriya Kshetra Adhiniyam 2001 and if the number of trees for any development projects are required to be felled are more than the prescribed in the notification issued by the State Government then in that case the matter may be referred to the High Level Centrally Empowered Committee constituted by the State of Madhya Pradesh noted above.
- (ii)** Rules with regard to the compensatory plantation, compulsory afforestation, maintenance, green policy, plantation, transplantation, beautification and maintenance policy, 2015, must be complied with ensuring the survival of the trees according to the existing rules of the Forest Department and the Department shall monitor it.
- (iii)** The work of the compensatory plantation within the municipal area will be monitored for 15 years by the committee comprising of the members of the Forest Department, Municipal Corporation, Horticulture Department and State PCB for ensuring better survival and establishment of the plantation.

- (iv)** The matter with regard to the Ayodhya Bypass which has been raised in this application, will be governed by the order dated 20.05.2026 passed in O.A. No.53/2026 and directions issued in that O.A. will also be enforceable and applicable in the present application and the Respondents are directed to strictly enforce it.
- (v)** A high resolution GIS mapping of the Bhopal Municipal Corporation area including central and side verges of roads inside the city may be conducted and a tree census of the BMC area including identification of trees and species should be conducted for proper ground truthing and all types of encroachments and open lands within the BMC area should be identified, marked and protected after removal of encroachments.
- (vi)** The Bhopal Municipal Corporation is further directed to prepare a futuristic planned afforestation strategy for conservation of trees and greenery in the area with identification of indigenous and endangered tree species to be planted with a minimum height of two meters.
- (vii)** The Bhopal Municipal Corporation may also identify that the STP treated water sources in close proximity to plantation areas for effective utilization of treated water to support the plant growth and ward-wise mapping of entire BMC area may help in mitigating local climate change addressing the emerging issue of urban heat island reducing pollution and improving the air quality. Ward-wise public participation is of utmost importance to make the

entire project successful for conservation and protection of local forestry and greenery and the BMC may organise the annual function for distributing the prize to the units and hospitals residing around the green belt and to award the prize by constituting a High Level Committee to those persons who maintain the greenery in better condition. This may promote the interest of the citizens and the units residing around the green belt.

(viii) The Bhopal Municipal Corporation is also directed to reconsider the matter to suitably amend the relevant rules with the followings:-

- (a)** All vacant land parcels over 200 sq. meters owned by BMC, Smart City Bhopal, or BDA must allocate at least 25% of their footprint to Miyawaki plots.
- (b)** The Bhopal Metro Rail Corporation Limited (BMRCL) is mandated to engineer vertical modular green facades across all concrete pillars along elevated lines.
- (c)** All active metro rail stations, depots, and public BRTS bus terminals must construct a 5-meter deep perimeter green buffer to capture vehicular emissions and reduce localized heat build-up.
- (d)** All new commercial, educational, and multi-family residential structures (Plot Area > 500 sq. meters) must cover at least 40% of unshaded roof space with living green roofs.
- (e)** Residential plots below 500 sq. meters must coat all exposed roof spaces with high-albedo, solar-reflective cooling paints exhibiting an initial Solar Reflectance Index (SRI).

- (ix)** Encroachments on the site and central verges of the roads in Bhopal should be removed in a systematic way and year-wise followed by wire fencing, afforestation and geo-tagging in a phased manner. This exercise should be carried out in the other areas in coordination and cooperation with Ward Level Green Committee to be constituted by the Collector and the Bhopal Municipal Corporation.
- (x)** A high resolution satellite imagery such as – bird view or pic bird or high resolution drone survey should have been used followed by ground truthing for calculating the green belt and its encroachment.
- (xi)** The Respondents are directed to ensure that long lasting multi-purpose native species are to be selected for carrying out plantation to restore the area such as - Vad, Pipal, Khati Amli, Jamun, Desi Mango, Neem, Sesam, Kadam, Saj and Arjun to be given priority while carrying out plantation, considering their ecological importance for side verge and block plantation. For central verge of ornamental species of local origin of lower and middle canopy should be preferred for plantation for beautification and enhancement of greenery.
- (xii)** Similarly, for gaps in the forest area in the city, the Forest Department shall take up the plantation using saplings of local native forestry species as per working plan of the area from their own funds.
- (xiii)** The order of Hon'ble Supreme Court of India with regard to removal of encroachments, must be strictly complied with

within a time frame as directed by the Hon'ble Supreme Court and the Commissioner and Collector, Bhopal, shall monitor it through the committee and submit the compliance report to the Registrar of this Bench within three months. In case violations are found, the Registrar may place the matter for necessary orders.

(xiv) No concretization is to be allowed in the area of green belt and this should be maintained as green belt only to act as lungs for the local residents.

(xv) The Principal Secretary, Forest Department, and PCCF & HoFF, are directed to monitor the efforts made by the Forest Department for removal of encroachments on quarterly basis. Details of the forest review be submitted to Registrar of this Bench for consideration.

(xvi) We further direct the PCCF, Madhya Pradesh, Bhopal, to call and collect the report from the District Headquarter and to submit the report within three months with regard to the encroachments and total area of the forest in a following proforma – “Sl. No./Name of the District/Total Forest Cover/Details of Encroachment/Protected Forest/Reserve Forest/ Deemed Forest/Sanctuaries and Protected Areas/ Any other Forest/Total Encroachments Upto June, 2026/ Action Taken For Removal of Encroachment Year-wise/ Actual Area Removed From Encroachment/ and Percentage Loss of Forest As On Date”.

(xvii) The Collector, Bhopal, and the Divisional Forest Officer, Bhopal, are directed to undertake a joint survey and

demarcation of entire recorded forest land within the district preferably through GIS/GPS and satellite imagery and submit the consolidated report and time bound action proceeding and where encroachment is found to be illegal and there is no lawful impediment, the concerned authorities shall take action for removal in accordance with law within three months. The area should not only be removed from encroachers but it should be demarcated and protected by permanent boundary pillars, fencing wherever appropriate, entered correctly in the revenue records. Area faced from the encroachments should not be left open to invite future encroachment and, therefore, entire area is to be restored ecologically by taking up plantation by the Divisional Forest Officer. The Forest Department is directed to carry out plantation in entire area to be converted into green cover within 12 months. The PCCF is directed to monitor the progress for the same.

(xviii) The Committee duly constituted by the Collector will periodically monitor the encroachments and prepare a list on quarterly basis with regard to the name of the area, khasra khatoni number, if any, total area under encroachments, action taken for removal of encroachment alongwith date and remark column. This data should be collected and placed before the Collector for taking necessary actions. After submissions of the data and compiling it, the District Magistrate/Collector concerned

shall send a copy of this to the Registrar of this Bench for taking proper further action.

106. With these directions, the **Original Application No.17/2023(CZ)** alongwith pending I.As. if any, stands **disposed of**.

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

21st August, 2026,
Original Application No.17/2023(CZ)
AK