

BEFORE THE NATIONAL GREEN TRIBUNAL
O.A. No. 17/2024
CENTRAL ZONE BENCH, BHOPAL

IN THE MATTER OF:

JITENRA SINGH BHATYIA

...APPLICANT

Versus

STATE OF MP & ORS

....RESPONDENTS

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Date: 02.04.2024

Submitted by MPPCB:-

Place: Bhopal



through Counsel
Adv. Parul Bhadoria
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Email: parul.bhadoria04@gmail.com

Report

Report in the Matter of OA No. 17/2024 (CZ) (Jitendra Singh Bhatia V/s State of Madhya Pradesh & Ors) in compliance of the order issued by Hon'ble NGT, Central Bench, Bhopal on dated 06/02/2024

Background :

A petition has been moved by Shri Jitendra Singh Bhatia & Others, R/O Shri Krishan Avenue, Phase-I, Limbodi, Ward No. 77, Indore (M.P.) that cutting of the trees and damaging the green belt in the Shri Krishan Avenue, Phase-I, Limbodi, Ward No. 77, Indore and damaging the fencing and cement poles illegally.

Hon'ble NGT has constituted a committee consisting of :

- i. One representative from the Collector, Indore (M.P.)
- ii. One representative from the Municipal Commissioner Indore (M.P.)
- iii. One representative from the State Pollution Control Board, (M.P.)

And Committee has been directed to visit the place and submit the factual and action taken report within 06 weeks.

In compliance of aforesaid directions of the Hon'ble NGT, following Officers have been nominated from respected Departments to visit the site and submit the report :

1	Representative of Collector, Indore	Sub Divisional Magistrate (SDM) Juni Indore
2	Representative of Municipal Commissioner, Indore	<ol style="list-style-type: none">1. Shri Divyank Singh, Additional Commissioner, Horticulture Department, Nagar Palik Nigam Indore2. Shri Jitendra Jamidar, Executive Engineer, Horticulture Department, Nagar Palik Nigam Indore3. Shri Nagendra Singh Bhadoriya, Zonal Officer, Zone No. 13. Nagar Palik Nigam Indore4. Shri Chetan Patil, Sub Engineer, Horticulture Department, Nagar Palik Nigam Indore

3	Representative of M.P. Pollution Control Board	Regional Officer, M.P. Pollution Control Board, Indore
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As per the directions of Hon'ble NGT following Officer has visited the place on dated 15/03/2024 to verify the facts :

- i. Shri Ghanshyam Dhangar, SDM, Juni Indore
- ii. Shri S.N. Dwivedi Regional Officer, MPPCB Indore
- iii. Shri Jitendra Jamidar, EE, IMC
- iv. Shri Nagendra Singh Bhadoriya, Zonal Officer, IMC
- v. Shri Chetan Patil, Sub Engineer, IMC
- vi. Shri Sanjay Jain, Scientist, MPPCB Indore

Applicant Shri Jitendra Singh Bhatia and Non-Applicant Shri Ravi Dangi, Shri Ajit Manuja & Others residents Shri Arun Kumar Lamaniya & others were also present during inspection.

Panchnama during inspection was prepared, copy of which is enclosed as **Annexure-1**.

Observations during inspection :

1. The applicant Shri Jitendra Singh Bhatia resides at in front of garden, located at Shri Krishan Avenue, Phase-I, Limbodi, Ward No. 77, Indore (M.P.). As per document submitted by Applicant, the total area of garden is 3140 Sqm. (Copy of Approved T&CP Map is enclosed as **Annexure-2**). Other houses are also in front of garden. The road between garden and houses is about 7.5 meters wide.
2. For better understanding of the area, a google map showing garden, Shri Jitendra Bhatia house and nearby area is enclosed as **Annexure-3**.
3. During visit it is found that the boundary of garden has been demarcated by using cement poles and fenced with barbed wire towards road side i.e. towards Applicant Shri Bhatia house. Houses of Limbodi Villagers are located on other side of the garden.

4. About 100 small and large trees were observed in the garden, mostly along with boundary of garden.
5. No cutting of trees was observed except one tree, whose stem cut above the ground upto 01 meter was observed.
6. A pucca house is located at left side of the garden, which is used as milk booth for residents of the colony and it has been told during visit that this milk booth has been constructed from MLA Fund. A temporary tin shed at one corner of this house (milk booth) boundary has also been found, which is used for community programs by the colony residents.
7. The Applicant Shri Jitendra Bhatia has told that cement pole of fencing along the boundary of garden have been damaged/removed and cement chairs have also been broken by non Applicant. He also told that boundary of garden should be constructed and gardens should be developed by Indore Municipal Corporation (IMC).
8. Local resident of Colony were present during inspection in 8 to 10 numbers and have told that they had placed cement chairs in memory of their ancestors and also planted the trees in the garden. None had removed or damaged the chairs but some chairs become damaged due to use for long time. They told that the Applicant Shri Jitendra Bhatia is a Journalist and wants that other persons from the colony should not come to garden because the garden is located in front of his house; however Applicant Shri Bhatia had denied from this statement during inspection.
9. During visit no cement chair seen in garden but cement poles were seen in along the boundary of garden and garden area was fenced with barbed wire.
10. Commissioner Indore Municipal Corporation has constituted a Committee under Shri Divyank Singh, Additional Commissioner,

Horticulture Department of Municipal Corporation vide their Order no. 35/MC/2024 dated 07/03/2024. The Officers of Municipal Corporation were part of inspection team on inspected dated 15/03/2024. Horticulture Department Municipal Corporation Indore has submitted a report, which is enclosed as **Annexure-4**. As per report Municipal Corporation (Horticulture Civil Department) has prepared a proposal of Rs. 30,75,478/- (Rupees Thirty Lack Seventy Five Thousand Four Hundred Seventy Eight Only) for development of the garden. Therefore, It is submitted that action is being taken by Municipal Corporation Indore.

Conclusion :

1. There is dispute between both the Applicant Shri Jitendra Singh Bhatia and Non Applicant's Shri Ravi Dangi, Shri Ajit Manuja, and other residents of Shri Krishan Avenue, Phase-I, Limbodi, Ward No. 77, Indore (M.P.) regarding use of garden area because that is located in front of Applicant Shri Bhatia's house and due to disturbances take place by movement of people in the garden and vehicle on the road.
2. Both Applicant & Non Applicants were shown need of development of the garden during inspection, so it can be useful to the Resident's of colony.
3. The trees are already in existence in garden only one tree was seen fell down whose one meter stem was observed remains on the site.

Recommendations:

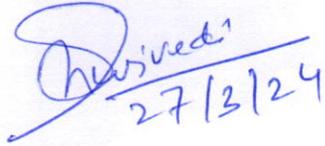
1. As per Town and Country Planning approved map, the area is designated as garden, which is public place and should not be prohibited for other persons of the colony to use. Hence Applicant may be directed to not to prohibit other persons for use of the garden area.

2. The road in front of the Applicant's house is also public property and therefore, Applicant cannot prohibit movement of vehicles on the road.
3. Residents of the colony via Rahwasi Sangh may be directed to use the garden area for community purpose but it should be ensured that there should not be any disturbance to residents living near the garden like Applicant and other houses. Parking of vehicles in front of Applicant's house by other persons should not be carried out. Noise level should be kept within prescribed limits during any function taking place in garden area or milk booth area.
4. Municipal Corporation Indore should be directed to develop and maintain the garden according.

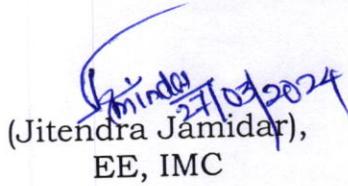
Enclosed : Annexure 1 to 4 *f-Photographs*



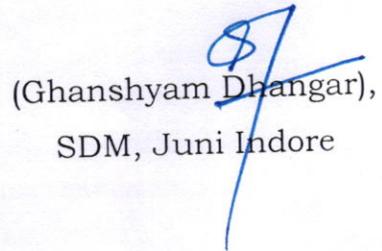
(Sanjay Jain)
Scientist
MPPCB, Indore



(S.N. Dwivedi)
Regional Officer,
MPPCB, Indore



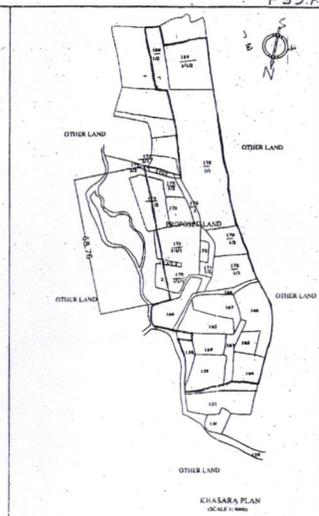
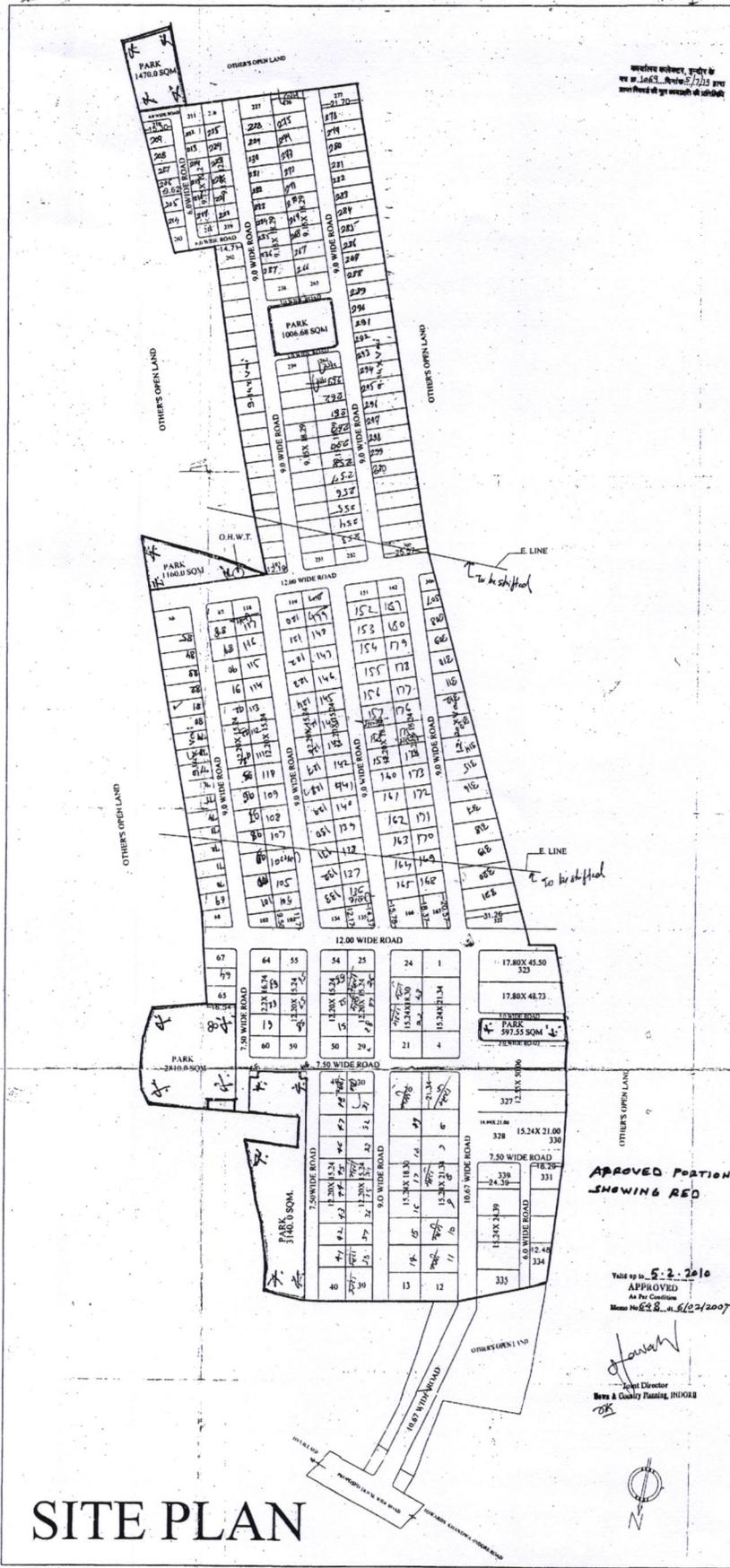
(Jitendra Jamidar),
EE, IMC



(Ghanshyam Dhangar),
SDM, Juni Indore

PA-I

F-53.P.42



LAY OUT PLAN OF RESIDENTIAL COLONY (SHRI KRISHNA AVENUE)
 ON KH.NO. 158, 159, 161, 162/1, 162/2, 163/1, 163/2, 164, 165, 166/1, 166/2, 167, 169, 170/1/1, 170/1/2, 181/1/1, 181/1/2, 179/1/1/1, 179/1/1/2, 172, 173/1, 174/1, 175, 179/1/1/4, 177/1, 179/2/1, 171/1, 171/2 & 176/1,
 LIMBODI, TAH. & DISTT. INDORE (M. P.)

BELONGING TO:
C. S. M. DEVELOPERS Pvt. Ltd.
 DIRECTOR:
 SHRI MANISH S/O SHRI RADHESHYAMI BANSAL.
 ADITYA GHRII NIRMAN SA.SANTHA MARYADIT.
 BY JETENDRA S/O HEMCHAND JI CHOURSIYA.
 MRS. SHILARANI.
 W/O SHRI RAJENDRA KUMAR SHIGUI KASLIWAL.
 SHRI SHUSHIL.
 S/O SHRI RAJENDRA KUMAR SHIGUI KASLIWAL.
 SHRI JAYANT.
 S/O SHRI RAJENDRA KUMAR SHIGUI KASLIWAL.
 SHRI PRAKASH.
 S/O SHRI VIJAY CHANDJI CHAULANI.
 MRS. ASHA
 W/O SHRI PRAKASH CHAULANI.
 87/1 SAR HUKAMCHAND MARG, INDORE.

AREA STATEMENT:

AREA OF LAND	= 101800.00 SQM. (100.00%)
AREA OF PLOT	= 66564.40SQM. (65.38%)
AREA OF ROAD	= 25051.37SQM. (24.61%)
AREA OF PARK	= 10184.23 SQM. (10.01%)

LEGENDS

SEPTIC TANK	- S.T.
OVER HEAD WATERTANK	- O.H.W.T.
MILK BOOTH	- M.B.
TRANSFARMER	- T.F.

NOTES:

- * ALL DIMENSION IN METERS.
- * OWNER PROPERTY SHOWN BY RED LINE.
- * EXISTING ELECTRIC LINE SHIFT ALONG THE ROAD SIDE.

APPROVED PORTION SHOWING RED

Valid up to **5.2.2010**
 APPROVED
 As Per Condition
 Memo No. **622. a. 5/02/2007**

[Signature]
 Joint Director
 Town & Country Planning, INDORE

[Signature]
 OWNER'S SIGN

[Signature]
 ENG. SIGN
 T. e. n. no. 107

RELIABLE ASSOCIATES
 ARCHITECTS, ENGINEERS
 SURVEYORS & VALUERS
 I.G.-I, Panchwanti Apartment,
 9/2, Y.N. Road, Indore.
 Ph. No. 2535094
 Mob. No. 94250-57713

SCALE: 1:1000 DATE:
 DRG.NO. RA/SHRI KRISHNA/09/STP/01 DRN. PRAVIN

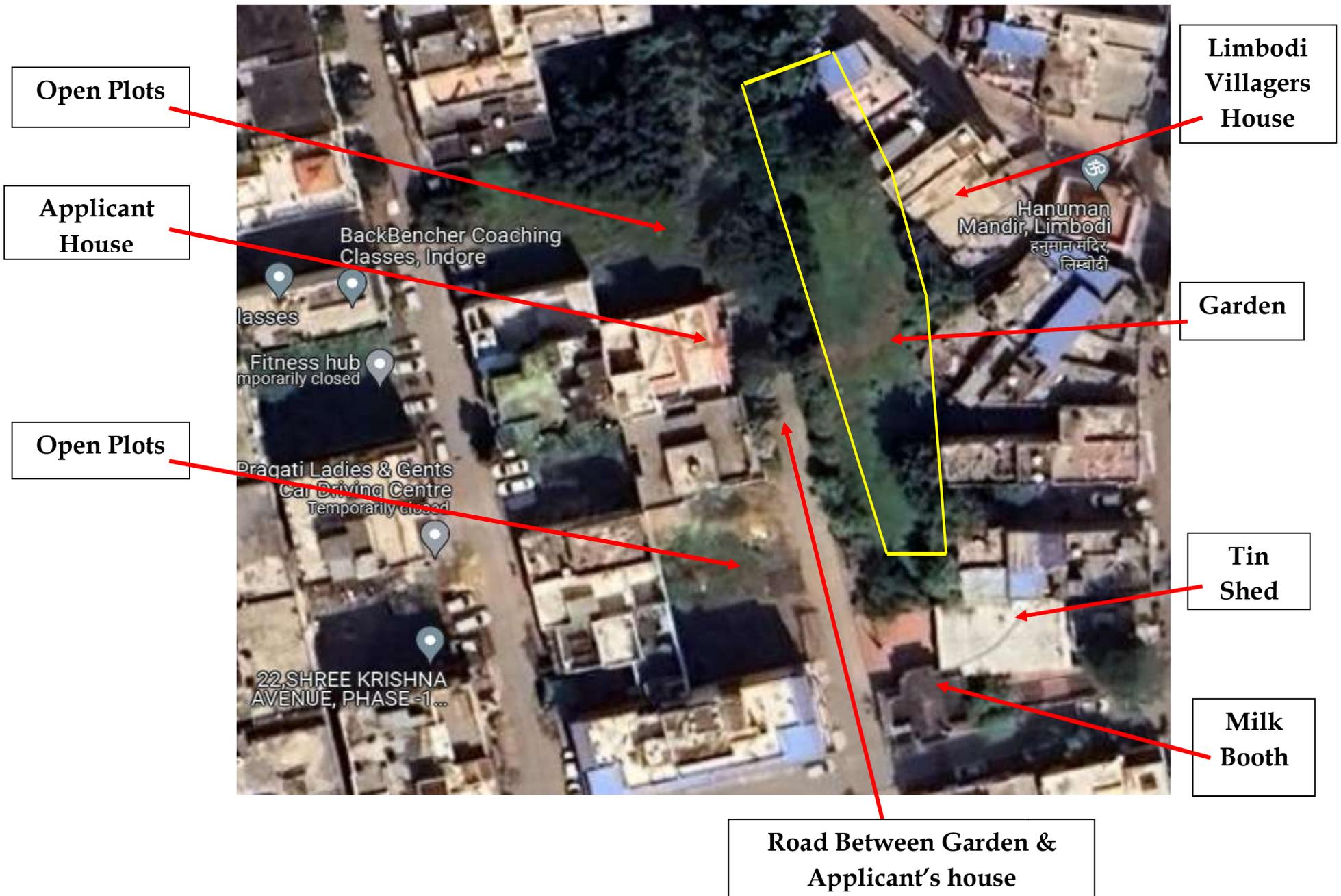
SITE PLAN

30/02/2007 - 339

277 = 339 - 62
 203 = 223 = 20
 84

6656441

Google Map Showing Garden, Shri Jitendra Bhatia's House and nearby area



कार्यालय, नगर पालिक निगम, इन्दौर

Ann-4

उद्यान विभाग

क्रमांक 3545 / उद्यान/23-24

इन्दौर दिनांक 21-3-2024

प्रति,

श्री एन.एस.द्विवेदी,
क्षेत्रीय अधिकारी,
म.प्र. प्रदूषण नियंत्रण बोर्ड,
स्कीम नं. 78 पार्ट-2 अरण्य विजयनगर,
इन्दौर

विषय :- माननीय एनजीटी भोपाल बेंच द्वारा प्रकरण ओ.ए. 17/2024 (CZ), (जितेन्द्र भाटिया विरुद्ध
म.प्र. शारान व अन्य) के अंतर्गत पारित आदेश दिनांक 06.02.2024 के अनुपालन बाबद।

संदर्भ :- बोर्ड मुख्यालय पत्र क्र. 589/विधि/भोपाल दिनांक 13 फरवरी 2024

विषयान्तर्गत संदर्भित पत्र के क्रम में निवेदन है कि, माननीय एनजीटी भोपाल द्वारा प्रकरण में निम्नानुसार संयुक्त समिति
निर्देशित की गयी है जिसमें :-

- 01 कलेक्टर इन्दौर को प्रतिनिधि।
- 02 आयुक्त, नगर निगम इन्दौर के प्रतिनिधि।
- 03 म.प्र. प्रदूषण निवारण भोपाल के प्रतिनिधि समन्वय के लिये नोडल अधिकारी किया गया है।
आयुक्त, नगर निगम इन्दौर द्वारा आदेश क्र. 35 दिनांक 07.03.2024 से निम्न समिति गठित की गई है।

- | | | |
|----------------------------|---|---------|
| 01 श्री दिव्यांसिंह | अपर आयुक्त, उद्यान विभाग, न.पा.नि. इन्दौर | अध्यक्ष |
| 02 श्री जितेन्द्र जर्गीदार | कार्यपालन यंत्री, उद्यान विभाग, न.पा.नि. इन्दौर | सदस्य |
| 03 श्री नागेंद्रसिंह शर्मा | झोन अधिकारी झोन क्र. 13, न.पा.नि. इन्दौर | सदस्य |
| 04 श्री चेतन पाटिल | उपयंत्री, उद्यान विभाग, न.पा.नि. इन्दौर | सदस्य |

आयुक्त, नगर पालिक निगम, इन्दौर द्वारा गठित समिति के सदस्यों द्वारा समिति अध्यक्ष, अपर आयुक्त (उद्यान) के
निर्देशानुसार माननीय एनजीटी द्वारा निर्देशित संयुक्त समिति के प्रतिनिधियों के साथ प्रश्नाधीन स्थल का निरीक्षण किया
गया, जिसमें आवेदक श्री जितेन्द्रसिंह भाटिया एवं कौलोनी के अन्य रहवासी भी उपस्थित रहे। स्थल पर आरोपित वृक्ष
काटाई का कोई साक्ष्य नहीं पाया गया, यद्यपि 01 वृक्ष जो उपस्थित रहवासियों के अनुसार झुक चुका था एवं पाथवे में
बाधक था, उसे कुछ उचाई से काटकर अन्यत्र स्थानांतरित किया जाना रहवासियों ने आवेदक के समक्ष बताया, जिस पर
शिकायतकर्ता ने कोई आपत्ती नहीं ली, आरोपित सिमेंट बैचसे भी तोड़े जाने का कोई साक्ष्य स्थल पर नहीं पाया गया।
प्रश्नाधीन स्थल पर पूर्ण रूप से चारों ओर चार दीवारी निर्मित नहीं है, यद्यपि पिछे की ओर लिम्बोदी ग्रामीण क्षेत्र के जो
मकान निर्मित है, उस ओर चार दीवारी बनी हुई पाई गई है। प्रश्नाधीन स्थल के अग्रभाग में जीर्ण-शीर्ण स्थिति में तार
फोर्सिंग जो काफी पुरानी है, लगी हुई पाई गई है, जो भी पूर्ण रूप से क्षतिग्रस्त किये जाने का कोई प्रमाण उपस्थित
रहवासियों एवं आवेदक द्वारा प्रस्तुत नहीं किया गया है।

आवेदक ने समस्त उपस्थितों के समक्ष प्रश्नाधीन स्थल पर बगीचे के सर्वांगीण विकास किये जाने की मंशा व्यक्त की
जिससे कि भविष्य में अतिक्रमण की कोई संभावना न रहे।

इसी क्रम में उद्यान अधिकारी के पत्र क्र. 3301 दिनांक 01.03.2024 से माननीय राष्ट्रीय हरित अधिकरण के निर्देशों
के अनुक्रम में सहा. उद्यान अधिकारी-03 उद्यान विभाग, नगर पालिक निगम, इन्दौर से भी तथ्यात्मक प्रतिवेदन चाहा गया
था, जिसके अनुपालन में सहा. उद्यान अधिकारी ने अपने प्रतिवेदन दिनांक 11.03.2024 से भी प्रतिवेदित किया है कि,
शिकायतकर्ता ने समक्ष में कहा है कि, उपलब्ध भूमि जो उद्यान के प्रयोजन की है पर चारों ओर न तो बाउण्ड्रीवाल है न
ही पानी की कोई व्यवस्था है, अतः उक्त व्यवस्थाएँ पूर्ण करवाई जाकर पौधारोपण किया जाये।

माननीय एनजीटी के निर्देशानुसार, निर्देशित समिति के स्थल पर आदेश एवं अन्य रहवासियों के समक्ष दिये गये
निर्देशों के अनुपालन में न.पा.नि. इन्दौर के उद्यान सिविल विभाग द्वारा राशि रुपये 30,75,478/- (अक्षरी तीस लाख
पिचोत्तर हजार चार सौ अठोत्तर मात्र) का प्रस्ताव तैयार किया गया है, तदनुसार प्रतिवेदन मात्र एनजीटी के समक्ष
प्रस्तुत किये जाने हेतु प्रेषित।

21/03/2024
उद्यान अधिकारी
नगर पालिक निगम, इन्दौर

**Photograph taken during inspection dated 15/03/2024 at Shri Krishna Avenue Phase-I, Limbodi, Indore
(NGT OA No. 17/2024 (CZ))**



Garden View



Plants along boundary in garden

Remains of tree cut (cut stem)



Milk Booth and tin shed adjacent to the garden

Location of Applicant's house with respect to garden

**Photograph taken during inspection dated 15/03/2024 at Shri Krishna Avenue Phase-I, Limbodi, Indore
(NGT OA No. 17/2024 (CZ))**



Discussion and inspection with Applicant and Non Applicant & local residents



Plantation along with boundary of garden



Boundary wall towards Limbodi Villegers



Status of Cement Poles and Barbed wire fencing