

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE**

I.A. NO. 3 OF 2026

IN

ORIGINAL APPLICATION NO. 2/ 2026

Nishikant Jadhav

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

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Date:27.03.2026

Adv. Kabir Jhamb

Counsel on behalf of Respondent No.11

relief in the matter and reserves its right to file detailed para-wise reply in the original Application if the same will be required in future.

PRELIMINARY OBJECTIONS

- 2.** At the outset it is submitted that the present original application is not maintainable before this Hon'ble Tribunal as the petitioner is raising a challenge to a belated issue that has already been adjudicated by the Hon'ble High Court in public Interest Litigation bearing number PIL 4 of 2023 filed by Swachh Association and thereafter by Hon'ble Supreme Court in Special Leave Petition (C) No. 1420 of 2024 filed by the same party. The copy of PIL 4 of 2023 filed before the Hon'ble Bombay High Court, Nagpur is hereto annexed and marked as **Annexure-R11/1** and the copy of Special Leave Petition (C) No. 1420 of 2024 filed before the Hon'ble Supreme Court is hereto annexed and marked as **Annexure-R11/2**.
- 3.** It is submitted that the entire project undertaken by the answering respondent on the said khasra no.13/3 Mauza Futala was under the challenge including the construction of parking plaza. The Hon'ble High Court as well as the Hon'ble Supreme Court has upheld the validity of the project and the

same has attained finality. The petitioner cannot re agitate the same cause of action and seek reconsideration of the same project before this Hon'ble Tribunal when the issue of environment pertaining to environmental sustainability and ecological harmony is also considered and settled including the issue of construction of parking plaza. The copy of judgement dated 30.11.2023 passed by Hon'ble High Court in PIL 4 of 2023 and the copy of Judgement dated 07.10.2025 passed by the Hon'ble Supreme Court in Special Leave Petition (C) No. 1420 of 2024 are hereto annexed and marked as **Annexure-R11/3 & R11/4**.

4. It is submitted that once the entire project including the construction of parking plaza being executed by the answering respondent at khasra no.13/3 Mouza Futala has been finally adjudicated before the Hon'ble Supreme Court of India then that has a binding force over all the authorities, forums and tribunals. That this Hon'ble Tribunal is subordinate to Hon'ble High Court so also the Hon'ble Supreme Court acts an appellate authority to this Tribunal. When the said matter has been adjudicated including the issues of environment by the Hon'ble Apex Court, then in



these circumstances re adjudication of the same before this Hon'ble Tribunal cannot be justified in law. And hence this Hon'ble Tribunal need not proceed further in the matter against the execution of the construction of parking plaza over khasra no. 13/3 Mouza Futala.

5. It is further submitted that the said issue has also become a subject matter of Public Interest Litigation bearing PIL 16 of 2025 filed by Swachh Association, Nagpur, pending adjudication before the Hon'ble Bombay High Court, Nagpur Bench. It is further made clear a challenge to the proposed land use of the present land is subjected to challenge by filing an additional affidavit on 25.03.2025, thus in these circumstances when the substantial challenge there, is a challenge identical to the one raised here in the present Original Application, this Hon'ble Tribunal should refrain from proceeding to hear and pass any orders in the matter. It is further submitted that as the issue is pending before the Hon'ble High Court in the pending public interest litigation the same issue need not be re adjudicated before this Tribunal as this Hon'ble Tribunal is subordinate to High Court in so far as territorial jurisdiction of Hon'ble High Court



is concerned and that it is a settled principle of law that the law declared by the Hon'ble High Court in the state is binding on authorities and tribunals under its superintending jurisdiction and they cannot ignore the same. Therefore, the matter need not be proceeded further awaiting the orders passed before the Hon'ble High Court, at Nagpur bench in Public Interest Litigation No. 16 of 2025. The copy of Additional Affidavit dated 25.03.2025 filed by Swachh Association in PIL 16 of 2025, pending before Hon'ble High Court, Nagpur is hereto annexed and marked as **Annexure-R11/5**.

6. That the Petitioner has deliberately suppressed this material fact and by suppressing the fact is trying to obtain an interim order in the matter. That as the Petitioner has not approached this Hon'ble Tribunal with clean hands, he is not entitled for any relief, much less the relief being claimed by the Petitioner in the interlocutory application.
7. Thus, in these circumstances as the entire project has been approved by the Hon'ble Supreme Court which includes the construction of Parking Plaza which is being tried to be re adjudicated here by suppressing this material fact from this



Hon'ble Tribunal. It is further pointed out that the matter pending is under adjudication before the Hon'ble High Court in the PIL No 16 of 2025. Thus, in these circumstances the hearing in the present matter may be deferred till the decision of the Hon'ble High Court in PIL No 16 of 2025 or in alternative the challenge as regarding to the construction of parking plaza on khasra no 13/3 Mouza Futala be rejected outrightly as the same has an approval of the Hon'ble Supreme Court.

SPECIFIC REPLY

8. It is submitted that the land in question, originally admeasuring 30 acres and bearing Survey No 13, was initially owned by the Department of Revenue, State of Maharashtra. This land was handed over to Respondent No 2 Dr Punjabrao Deshmukh Krishi Vidyapeeth, Akola in 1968-1969 for agricultural and research purposes, as per notifications dated 20.05.1968 and 13.10.1969 of the State of Maharashtra, Agriculture and Co-operation Department. The copy of Notifications dated 20.05.1968 and 13.10.1969 are hereto annexed and marked as **Annexure-R11/6**.



9. It is submitted that the answering respondent has been entrusted with the work of “Futala Lake Nagpur Viewing Gallery with Tunnel” by the Public Works Department (PWD) of the State of Maharashtra on deposit work basis vide job no. CRF-MAH-2018-19-269 dated 19.07.2018. The answering Respondent is an executing agency for the said project. Construction of Viewing Gallery, Parking Plaza and cement Concrete Road near Futala Lake are the main components of the said project. The present project of parking plaza is being constructed on the land bearing Khasra No. 13/3 city survey no 234 mouza Futala (Total Area 23.06 Ha) out of which area admeasuring 6000 sqm was transferred to the PWD by Respondent No.2-PDKV on 14.08.2020. The copy of letter dated 21.08.2018 from PWD to the answering respondent for handing over the work approved under central Road Fund is hereto annexed and marked as **Annexure-R11/7**. The copy of letter by Respondent No.2-PDKV to PWD dated 14.08.2020, transferring the land for construction and development of parking plaza is hereto annexed and marked as **Annexure-R11/8**.



10. It is submitted that said Parking Plaza is being developed by Respondent No.11-MMRCL only after due approval of Heritage Committee on 15.06.2021 and thereafter on 30.06.2022 when the Environmental Management Plan (EMP) report and Dam Stability Report was submitted. The copy of letter dated 20.07.2022 recording the minutes of the Heritage Conservation Committee held on 30.06.2022 is hereto annexed and marked as **Annexure-R11/9**.

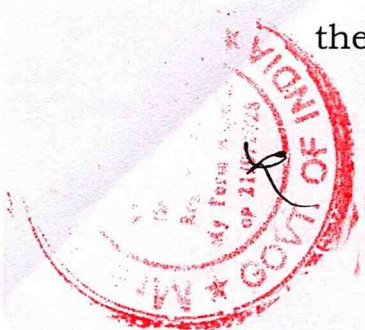
11. It is further submitted that the Parking Plaza plan was thereafter sanctioned by the Town Planning Department NMC vide letter dated 01.09.2022. It is submitted that such approvals have also gone through the eyes of Hon'ble Supreme Court and Hon'ble Bombay High court in the aforesaid litigations. That the execution of the present project is strictly in consonance to the use and work permissible as per the UDCPR-2020 and approvals granted by the competent authorities. That at no stretch of imagination the said construction work of parking plaza undertaken by the Respondent No.11 can be said to be of a commercial in nature. The copy of letter dated 01.09.2022 from the Town Planning Department, NMC granting approval to the



construction of the said project is hereto annexed and marked as **Annexure-R11/10**.

12. It is further made clear that the contention of the Petitioner that the sanction given for such a construction on 01.09.2022 without changing the use of land is also on a wrong notion as Regulation No. 4.11 (xxxiii) of the UDCPR 2020, permits the construction if the same is up to 0.2 FSI of the gross plot area. Therefore, the sanction plan approved by Deputy Director, Town Planning Department, NMC on 01.09.2022 is accordingly in compliance with all the norms holding the field. Thus, it is crystal clear that the construction of Parking Plaza is permissible on the said land. The copy of Clause 4.11 of the UDCPR, 2020 is hereto annexed and marked as **Annexure-R11/11**.

13. It is further submitted that the contention of the petitioner that the project land is a forest land is totally incorrect and hence it is denied. It is made clear that Hon'ble Supreme Court vide its order dated 25.05.2025 in the case of *T.N. Godavran Thirumulpad Versus Union of India and others* has permitted the continuation of use of the land of which the allotment was made prior to 12.12.1996. Admittedly the



land in question is allotted to Respondent No.2-PDKV vide notifications dated 20.05.1968 and 13.10.1969, accordingly the Respondent No.2-PDKV has permitted the said land to be used by the State Government for its project by passing legal resolutions. That the said land being allotted to Respondent No.2-PDKV is shown in agricultural zone of the Development Plan sanctioned by the State Government for the city of Nagpur. It is submitted that the construction of parking plaza on the said land is also not in contravention to the detailed order passed by the Hon'ble Supreme Court. That as per the instructions received by this respondent from the competent authority of the State Government it is submitted that the State of Maharashtra through collector has already submitted the proposal to the central government as per the directions of the Hon'ble Supreme Court vide order dated 25.05.2025 passed in the case of *T.N. Godavran Thirumulpad Versus Union of India and others* filed as *Annexure-VII* at Pg. 87. Thus, in these circumstances it cannot be said that the land in question is a forest land. That the challenge in this regard of the Petitioner is without any substance and merit. It is submitted that the construction being undertaken by the



answering respondent is just proper and legal. In fact, the said project is being undertaken in public interest and therefore the public interest lies in favour of the project and not against it.

14. Thus, in these circumstances, it is submitted that the work of construction of parking plaza at Khasra No. 13/3 Mouza Futala by Respondent No.11 is just, proper and legal. There is no case which is made out for grant of interim relief in the matter as there is no prima facie case, no balance of convenience in favour of the petitioner and the petitioner will not suffer any irreparable injury or loss which cannot be compensated in terms of money. On the contrary, the entire construction which is being undertaken is as per the judgment of Hon'ble Supreme Court dated 07.10.2025 passed in Special Leave Petition (C) No. 1420 of 2024 and also in consonance to the order passed by the Hon'ble Supreme Court dated 22.05.2025 in the pending matter of *T.N. Godavran Thirumulpad Versus Union of India and others*. Thus, in these circumstances the present original application and interlocutory application are devoid of any substance



and merits and deserves to be dismissed. The Petitioner is not entitled for any interim relief in the matter.

Hence this reply.

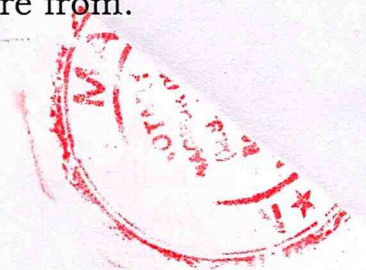
H. L. KAWRE
Chief Project Manager - CRF
Maharashtra Metro Rail Corporation Ltd.
Respondent No.11

Date: 27.03.2026

Place: NAGPUR

VERIFICATION AND AFFIDAVIT

I, Hiralal Kawre, Chief Project Manager/CRF-II Maharashtra Metro Rail Corporation Ltd, aged 61 years, Respondent No.11 do hereby solemnly go on oath and state that I am conversant with the facts and circumstances of the case and as such competent to swear the present affidavit. That the contents of the Paras 1 to 14 of the present reply/submissions are facts as per official records and my knowledge and nothing has been concealed there from.



H. L. KAWRE
Chief Project Manager - CRF
Maharashtra Metro Rail Corporation Ltd.
Respondent No.11

Date: 27.03.2026

Place: NAGPUR

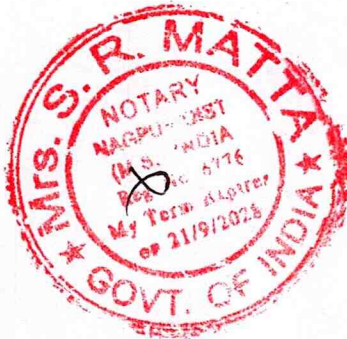
Identified by Advocate

Before me,

ADVOCATE FOR RESPONDENT
NO 11

(Adv. Kabis Thamb)

NOTARIAL REG
ENTRY No. 9362
DATE 27/3/2026



SWORN BEFORE ME ON THIS 27 TH
DAY OF March 2026 AT NAGPUR BY
SHRI / SMT / KU Hiralal Kawre
R/O NAGPUR WHO HAS BEEN IDENTIFIED BY
SHRI / SMT. Kabis Thamb
ADVOCATE, NAGPUR

Mrs. S. R. MATTA
ADVOCATE & NOTARY
B-B, Clarke Town, Nagpur



ANNEXURE-R11/1

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR

PUBLIC INTEREST LITIGATION NO. 4 OF 2022
DIST: NAGPUR

IN THE MATTER OF:

ARTICLE 226 OF THE
CONSTITUTION OF INDIA;

IN THE MATTER OF:

ARTICLE 21, ARTICLE 48-A,
ARTICLE 51-A(g) OF THE
CONSTITUTION OF INDIA;

IN THE MATTER OF:

SECTION 63 (1b) OF THE
MAHARASHTRA
MUNICIPAL CORPORATION
ACT, 2019;

IN THE MATTER OF:

SECTION 22, SECTION 43,
SECTION 46, OF THE
MAHARASHTRA REGIONAL



& TOWN PLANNING ACT,
1966;

IN THE MATTER OF:
DEVELOPMENT CONTROL
RULES FOR THE NAGPUR
CITY.

IN THE MATTER OF:
REGULATIONS FOR
CONSERVATION OF
BUILDINGS, ARTIFACTS
STRUCTURES AREAS &
PRECINCTS OF HISTORIC
AND OR CULTURAL
SIGNIFICANCE (HERITAGE
BUILDINGS AND HERITAGE
PRECINCTS) AND/OR
NATURAL FEATURES OF
ENVIRONMENTAL
SIGNIFICANCE, FOR THE
CITY OF NAGPUR;

IN THE MATTER OF:
Swacch Association,
A Non-profit Organisation registered



under the Societies Registration Act 1860
and under the Bobay Public Trust Act, 1950,
having its office at 15, Laxmi apartments,
Opposite to Axis bank, through its President
Mrs. Anasuya Vinod Chhabrani,
Civil lines, Nagpur – 440001, Mobile No.9850489953
PAN No.AASTS9043H.

E-mail ID :

... PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through the Ministry of
Environment, Mantralaya,
Mumbai-440032
- 2] The Public Works Division No. 1,
Through its Executive Engineer,
Nagpur.
- 3] Municipal Corporation Nagpur
Municipal Corporation Road, Civil Lines,
Nagpur-440001, though its Commissioner.
- 4] Maharashtra Metro Rail Corporation Limited
Through its Managing Director,
"Metro Bhawan", East High court Road (VIP Road),
in front of Dr. Babasaheb Ambedkar College,



Near Dikshabhoomi, Nagpur- 440010

5] Nagpur Metropolitan Regional Development Authority,
West High Court Road, Gokulpeth,
Nagpur-440010, through its Commissioner.

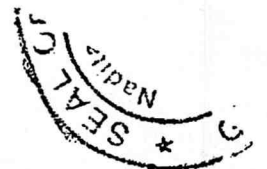
6] Dr. Punjabrao Deshmukh Krishi Vidyapeeth,
through its Registrar, Nagpur Maharajbagh Zoo,
Nagpur 440001.

7] Maharashtra Animal Fishery Science University,
through its Registrar,
Nagpur North Telangkhedi Road, Near Telankhedi Lake,
Nagpur 440001.

8] The Union of India,
Through the Secretary Ministry of
Environment and Forest,
New Delhi.

9] The Wetland Authority for the
State of Maharashtra,
Through its Member Secretary,
New Administrative Bhavan,
15th Floor, Madame Cama Road,
Mantralaya, Mumbai – 400032.

... RESPONDENTS



TO,
THE HON'BLE CHIEF JUSTICE
AND OTHER HON'BLE JUDGES
OF THIS HON'BLE HIGH COURT.

THE HUMBLE PETITION OF THE PETITIONER ABOVE
NAMED MOST RESPECTFULLY SHEWETH THAT

1. The particulars of the cause / order against which the petition is made:-

The Petition is directed against the construction of Viewer's Gallery on the bank of Futala Tank a Wetland as well as Grade I Heritage Precinct in Nagpur, installation of musical fountain & laser show machinery inside the Tank as well as Construction of 9 storied building near the tank for parking, food plaza, restaurant on the land of Dr. Punjabrao Deshmukh Krishi Vidyapeeth in violation of the zone as mentioned on the sanctioned Development Plan for the City of Nagpur.

Subject Matter in Brief: -



By the present Public Interest Litigation, the Petitioner is seeking direction to the Respondents not to operate musical fountains and laser show inside the Futala Tank.

The Petitioner is also seeking direction that the machinery installed inside the Futala Tank and work carried out for the installation of musical fountain be removed and the Tank be restored to its natural condition as existed before carrying out this work.

The Petitioner is also seeking direction that the Respondents should not construct further the work of parking plaza on land owned by Dr. Punjabrao Krishi Vidyapeeth bearing Khasra No. 13/3 and demolish the construction already undertaken on the said site and restore the site to its natural state as it existed before carrying out the construction.

The Petitioner is also seeking direction that the Viewer's Gallery constructed on the bank of Futala Tank, a protected



wetland be demolished and the bank of lake be restored to its original condition.

2.Particulars of the Petitioner: -

That the Petitioner is a non-profit organization registered under Societies Registration Act, 1860 and the Bombay Public Trust Act, 1950, bearing Reg. No. F-33478 (N). A true copy of the registration certificate is filed herewith and marked as **ANNEXURE- "A"**. It is having PAN AASTS9043H. The Petitioner is a law-abiding organization of Nagpur city. The Petition is being filed through its President and an authorization to that effect dated 05/12/2022 is filed herewith and marked as **ANNEXURE - "B"**.

The Petitioner aims to promote responsible citizenship, to adopt green practices, make proper use of their waste, so that in turn, we have a livable environment. The Petitioner to implement these ideas organizes workshops, campaigns, seminars and conferences to create awareness amongst individuals, groups, institutions and local self-Government bodies. The Petitioner always struggles and strives to secure the



best interest of public and healthy environment and further seeks to prevent the loss of wildlife and forest treasures by illegal operations. Petitioner believes in obedience of law of land. The Petitioner has filed a present petition with pure public interest and has no personal interest whatsoever in filling the present petition.

The Respondent No. 1 is the State of Maharashtra, Through the Ministry of Environment, Mumbai. The Respondent No. 2 is the Public Work Division No. 1 whose name has been entered into the record of rights of ownership of Futala Tank. The Respondent No. 3 is the Municipal Commissioner, Nagpur Municipal Corporation, Nagpur. The Respondent No. 4 is Maharashtra Metro Rail Corporation Limited. The Respondent No. 5 is the Nagpur Metropolitan Region Development Authority, Nagpur. The Respondent no. 6 is Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Nagpur The Respondent No. 7 Maharashtra Fishery Science University, Nagpur Respondent No. 8 is the Union of India, Through the Ministry of Environment and Forest, New Delhi. The



Respondent No. 9 is the Wetland Authority for the State of Maharashtra.

Thus, the Respondents are "State" within the meaning of Article 12 of the Constitution of India and hence are amenable to writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

3. The Petitioner hereby declare and undertake :-

A] That the present petition is being filed by way of the Public Interest Litigation and the Petitioner does not have any personal interest in the matter. The petition is being filed in the interest of the General Public of the State of Maharashtra.

B] That the entire litigation costs, including the Advocates fee and other charges are being borne by the members Petitioner, by way of way of individual contributions.

C] That thorough research has been conducted in the matter raised through the present petition.



D] To the best of the Petitioners knowledge and research, the issue raised was not dealt with or decided earlier. The petitioner had initially filed petition at Principal seat of this Hon'ble Court vide PUBLIC INTEREST LITIGATION NO. 138 OF 2022. This Hon'ble Court granted liberty to the petitioner to approach at Nagpur, by keeping all contentions open. A true copy of the order dated 15/12/2022 is filed herewith and marked as ANNEXURE - "C", for perusal.

E] The Petitioner has understood that in the course of hearing of this petition the Court may require any security to be furnished towards cost or any other charges and the Petitioner will have to comply with such requirements.

4. The facts pertaining to present Public Interest Litigation:-

1. A] The Petitioner states and submits that the subject matter of the public interest litigation is construction of viewer's gallery on the bank of Futala Tank, installation of musical fountain in the body of the Tank and also the construction of a 9 storied building near Tank for proposed parking, food-court and

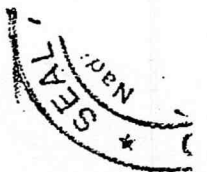


restaurant on the land of Respondent No. 6 Punjabrao Deshmukh Krishi Vidyapeeth that too in violation of the zone as shown in the sanctioned Development Plan for Nagpur.

2. The Petitioner submits that the Futala Tank also known as Telangkhedi Tank is a waterbody situated on the west side of the Nagpur City. The said waterbody was constructed in 1799 by Shri Gyanoji Bhosale. The Petitioner submits that total area of the tank alongwith its catchment is about 200 hectares. The Tank has all essential requisites and characteristics of Wetland and as such it is a vital aquatic ecosystem. The Petitioner submits that this more than 200 year old natural resource is having aquatic flora and fauna and is rightly categorised as Grade I natural Heritage precinct, being prime landmark of the city of Nagpur under the Regulations for Conservation of buildings, artefacts, structures, areas & precincts of historic and or cultural significance (heritage buildings and heritage precincts) and/or natural features of environmental significance, for the city of Nagpur.

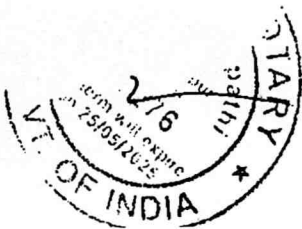


3. The Petitioner submits that the Petitioner is objecting to the project of so-called beautification of Futala Tank that hampers its basic natural environ and serenity by adding concrete structure on its bank and converting it into artificial entertainment centre by installing machinery for musical fountain into water inside the body of lake. The Petitioner is relying upon the information received by the president of the organization from Respondents vide Applications filed under the Right to Information Act. The Petitioner submits that by letter dated 21st may 2022 under reference No. Maha-Metro/RTI/Anusaya Kale Chhabrani/362/2022/5826, Respondent No. 4 issued the sanctioned Plan of Master Layout of Futala Development Project. The said plan has been sanctioned on 18/10/2019 and discloses that the construction for viewing gallery comprises ground floor, Mezzanine and First Floor totally admeasuring 934.098 Sq.mts of construction. The Petitioner submits that the viewing Gallery is on the bank of Futala Tank on space between concrete road and the Tank. The Petitioner submits that the detailed calculation of measurements



of the Construction is shown on the Plan. The sanctioned Plan of Master Layout of Futala Development Project issued under reference No. Maha-Metro/RTI/Anusaya Kale Chhabrani/362/2022/5826 by Respondent No. 4 under Right to Information Act, 2005 by letter dated 21st May 2022 is annexed hereto and marked as ANNEXURE -"D". The Petitioner however submits that in another piece of information received by the president of Petitioner organization under Right to Information Act, 2005, bearing reference 146/RTI dated 21/3/2022 a chart has been given wherein total construction of Viewer's Gallery viz. Ground floor + First Floor + Second Floor is given as 4,205.149 Sq.mts i.e. 45,262.54 Sq.ft. The Petitioner submits that the said chart shows classic arrangement that exists at any multiplex theater which is used for entertainment. The copy of the chart of information received by the president of Petitioner organization under Right to Information Act, 2005, bearing reference 146/RTI dated 21/3/2022 from Respondent No. 3 is annexed herewith and marked as ANNEXURE- "E".

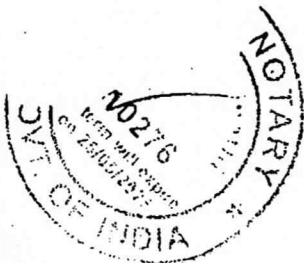
4. The Petitioner submits that the Petitioner has received



information supplied under the RTI Act, 2005 by Respondent No. 3 herein which shows the noting of officers involved in the procedure for passing plans for construction of Viewer's Gallery submitted by the Respondent No. 2 herein. The Petitioner submits that in the said noting it has been categorically admitted by the Officers of Respondent No. 3 Corporation that as per D.C Rules of Nagpur a construction site must be at a distance of 15.00 meters from a waterbody and as shown in the plans it is clear that the construction site is at a distance of 9.00 meters. It has also been noted that the construction site is near Tank and during monsoon the level of water increases to a certain height. Since provision is there to extract the excess water out if the level of water is increased than the particular height, it is necessary to have a construction site at a distance of 15.00 meters from the waterbody so that no danger of whatsoever nature is caused to the proposed construction. But the necessary distance is not available. Since the project is adding beauty to Nagpur City, relaxation is required to the proposed beautification project by Hon'ble Commissioner. The Petitioner



submits that in noting, one of the officers has even mentioned that in the sanctioned development project of Nagpur City the proposed construction is on the place between Tank & 18.0 M road, however, factual situation on site, the said construction is seen to be on the *pali* of the Tank (तलावाच्यापाठीवर) on space between water level of tank & 18.0 M wide road. The Petitioner submits that concerned officers of Respondent No. 3 have unanimously noted certain things like i) Construction site must be at distance of 15 meters from waterbody ii) Distance of 15 meters from waterbody is not available on site as at some places the distance of proposed construction is less than 15 meters from waterbody iii) Since the project is public utility project providing entertainment to public and adding to beauty of city the relaxation to mandatory distance of 15 meters can be granted under the Development Control Rules as quoted in the said noting. The Petitioner submits that subsequent noting show that in fact the mandatory provision of maintaining distance of construction site from 15 meters was in fact relaxed by the Commissioner vide order dated 1.03.2019 by using powers



under the Development Control Rules and the plans were sanctioned by Respondent No. 3. The copy of the internal noting of Officers of Respondent No.3 involved in passing of plan for the construction of Viewers Gallery supplied under the RTI Act, 2005 bearing reference No. 146/RTI dated 21/3/22 is annexed hereto and collectively marked as ANNEXURE - "F". The Petitioner submits that one is perplexed after reading the noting and wonders as to how public power vested in Authority can be exercised in such manner for such an extraneous purposes by giving complete go by to mandatory provision of law when the officer of the Respondent No. 3 Corporation notes that the proposed construction is on the pali of Tank which is an integral part of the Tank.

5. The Petitioner submits that the Petitioner is also relying upon the Application for development preferred by the Respondent No. 2 under the provisions of the Maharashtra Regional & Town Planning Act, 1966 to Respondent No. 3 herein for sanction of plans. The copy of the Application dated 8/2/2019 preferred by the Respondent No. 2 under the provisions



of the Maharashtra Regional & Town Planning Act, 1966 to Respondent No. 3 herein for sanction of plans, as received by the Petitioner under the Right to Information Act, 2005 in March 2022 is annexed hereto and marked as ANNEXURE- "G". The Petitioner submits that Futala Tank being Grade I Heritage Precinct before granting approval to development the Commissioner is required to consult the Heritage Conservation Committee and shall act on advice of the Committee under provisions of the Regulation. The Petitioner submits that the Heritage Conservation Committee in its meeting dated 15/06/2021 granted its sanction to construction of Viewer's Gallery on the bank of Futala Tank and also for development work of Musical Fountain, Sound, Light & Laser/Multimedia show on the condition that Precaution should be taken not to cause damage to the Heritage spot of Futala Tank while doing proposed development work. The Petitioner submits that development work of Parking Plaza on the land belonging to Punjabrao Deshmukh Krishi Vidyapeeth was approved by the Heritage Conservation Committee subject to compliance of



certain conditions mentioned in the report of its sub-committee. The copy of the minutes of the meeting of the Heritage Conservation Committee dated 15/06/2021 is annexed hereto and marked as ANNEXURE- "H". The Petitioner submits that under the Heritage Regulations, for Grade I heritage like Futala Tank, scope for development is very narrow and the same is permissible only if it is necessary in the interest of strengthening & prolonging life of the precinct. That too absolutely essential and minimum changes are allowed which must be in accordance with the original. The Petitioner therefore submits that construction of viewer's Gallery, musical fountain with laser lights and multimedia show, by no stretch of imagination would ever fit into this restricted covenant. Also the changes introduced by construction are not minimal and absolutely non-essential. Last but not least the changes introduced in the Tank are not in accordance with the original Futala Tank. The Petitioner submits that entire new construction changing the skyline has been introduced on the bank of Tank as well as near the Tank. Therefore the decision of the Heritage Conservation



Committee is illegal and non-est in the eyes of law and therefore the Commissioner should not have sanctioned the project in view of provisions of Heritage Regulations. The Petitioner submits that the Commissioner as well as Heritage Conservation Committee, have failed to take into consideration the relevant grounds while exercising their power under the Regulations and hence the sanction accorded by both is arbitrary and liable to be set aside.

6. The Petitioner submits that the subject No. 10 of the minutes of the Heritage Committee also show that a sub-committee was set up by the Heritage Committee to do survey of the site of parking plaza & submit its report to the Committee. The minutes further show that in the report submitted by said sub-committee it was mentioned that No Objection Certificate from Dam Safety Organization, Nashik (DSO) as well as Structural Stability of Dam Wall from V.N.I.T has not been submitted. The Heritage Committee accorded its sanction to the construction of Parking Plaza on condition to comply with the issues raised in the report of the sub-committee. The Petitioner



submits that to the best of their knowledge, the issue has not been examined from the aspect of Dam Safety Organization, Nashik and Structural stability of Dam Wall from V.N.I.T. The Petitioner therefore submits that the sanction accorded by the Heritage Committee to the project was arbitrary, illegal and on irrelevant consideration and therefore void.

7. The Petitioner submits that the Headquarters MC (U) Air Force by its letter dated 10th July 2018 had raised an objection for Laser light show at Futala Tank. The Petitioner submits that in the said letter in Paragraph No. 2 the Air Force Headquarters mention that "helicopter training and NVG flying is regularly undertaken at VSN helipad. Futala lake falls in the Take off/approach path of the helipad. Laser lights show at Futala lake will affect the vision of the pilot and could lead to accident/incident. Hence a conditional No Objection Certificate is hereby issued for installation of musical fountain without (R) without Laser unit at Futala Lake..." The copy of the letter dated 10th July 2018 issued by the HQ MC (U) AF, Nagpur under reference no. MC (U) /1405/1/Wks issued to Respondent

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No. 5 NMRDA is annexed hereto and marked as ANNEXURE- "I".

8. The Petitioner submits that the parking plaza for this project has been proposed on the land owned by the Punjabrao Deshmukh Krishi Vidyapeeth. The Petitioner submits that the proposed construction of said parking plaza consists of a 9 storied building consisting of a parking area as well as Food Court, AC restaurant and Gazebo. The Petitioner submits that in the Sanctioned Development Plan of Nagpur, the land on which the Parking plaza is being constructed has been shown in light green colour and hence the construction of parking plaza along with Restaurant and Food Court is not permissible and contrary to zone. The copy of the development plan as available on the official website of the Nagpur Improvement Trust <https://www.nitnagpur.org/dppopimg/img11.html> is annexed hereto and marked as ANNEXURE-"J". The Petitioner submits that the construction of a parking plaza on the land of Punjabrao Deshmukh Krishi Vidyapeeth is contrary to Development Control Rules for Nagpur City as well as the

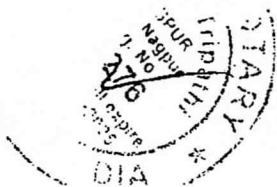


sanctioned Development Plan and land user shown therein. The Petitioner further submits that the said land being given to Punjabrao Deshmukh Krishi Vidyapeeth for purposes of Agriculture, Research, Education & Crop Cultivation and therefore could not have been used for any other purposes much less for construction of parking plaza with Food Court, Restaurant and Gazebo. The Petitioner submits that in the reply dated 18/04/2019 given by Punjabrao Deshmukh Krishi Vidyapeeth to Dr. Jaydeep Das under the Right to Information Act, this position has been disclosed by the Office of Estate Officer II, College of Agriculture, Nagpur. The Copy of letter dated 18/04/2019 alongwith information supplied by the Office of Estate Officer II, College of Agriculture, Nagpur under reference No. No.CAN/E.O.-II/RTI/01/19 is annexed hereto and marked as ANNEXURE-"K". The Petitioner submits that in a curious letter of No-Objection to the so-called beautification project viz. Musical fountain, laser & multimedia show at Futala Tank given to Respondent No. 5 herein, the Respondent No. 6 has mentioned in Condition No. 5 that:



"The half portion of the income of the proposed project be given to the University and for that a Joint Agreement for 15 years be executed in the first place".

The Copy of the letter dated 06/07/2018 sent by Respondent No. 6 to Respondent No. 5 herein is annexed herewith and marked as ANNEXURE-"L". The Petitioner submits that the Petitioner is not aware as to whether in fact such an agreement has been executed or not, however, the expression of desire by Respondent No. 6 in its letter indicates the outlook that the Respondents bear towards a natural resource and the nature of project that has been proposed at Futala Tank. The Petitioner submits that the artificial nature of the project and the wish of sharing the income of the project that is expressed by none other than the University i.e. Respondent No. 6 herein shows the commercial nature of the project and the fact that the natural resource is not used for the natural purposes but for commercial purposes and therefore against the principles of public trust. The Petitioner submits that it also shows the anthropocentric attitude of Respondents towards a natural resource instead of eco-centric



approach.

9. The Petitioner further submits that the proposed construction site is near Futala Tank as such an aspect of Environmental Impact if any of proposed construction to the extent of 26668.86 Sq.mts on the water body and surrounding should have been done by Respondent Nos. 3 & 4 herein. The Petitioner submits that on the contrary the Environment Management Plan (EMP) has been done by Respondent No. 4 which lacks study from aspect of the impact on the Waterbody. The Petitioner submits that hence the construction of Parking Plaza is illegal.

10. The Petitioner further submits that by letter dated 17th April 2022, Respondent No. 4 gave information relating to details of the project and its cost. The Petitioner states and submits that the information discloses that the project is approved by Respondent No. 1 herein under Central Road Fund and the same is for improvement of Traffic Congestion at Futala Lake road and construction of concrete road with Viewing



Gallery in Nagpur. The said work has been transferred by Respondent No. 2 herein to Respondent No. 4 on "deposit work basis". The amount of the project is Rs.112.89 Cr. Funded by Respondent No.2 under Central Road Fund. The length of viewing Gallery is 350.00 RMT. The Parking Plaza construction is to the extent of 26668.86 Sqm. The Petitioner further submits that under caption 1.2 (5) it has been mentioned that work relating to musical fountain has been executed by NIT. It also has multimedia show and music fountain comprising flames and mist, designed and patented product of Crystal Group of France synchronized with light and songs of Hindi, Marathi & English Movies. The copy of the letter dated 17th April 2022 under Reference No.Maha-Metro/RTI/Anusaya Kale Chhabrani/351/2022/5640 issued by Respondent No. 4 under Right to Information Act, 2005 and the information supplied in pursuance thereof is annexed hereto and marked as ANNEXURE-"M". The Petitioner further submits that in another letter dated 29/3/2022 issued by Respondent No. 5 under outward No. Ex. Eng. (Project) 2900 it has been informed that the musical



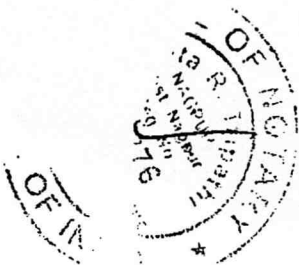
fountain, light, sound & multimedia show at Futala Tank has been raised by NMRDA and that as per project initiation work order contract amount of Rs. 48.44 Cr. Plus Project implementation & maintenance repairing cost of Rs. 10 Cr (for five years) plus 1.50 Cr. (five years) for purchasing IPR of songs plus for technical/steering committee 0.10 Cr plus Rs.5.81 Cr. Towards GST totalling to Rs. 65.85 Cr. Expenditure is expected. The said project is being implemented out of Nagpur Improvement Trust (NIT) Funds. The copy of the letter dated 29/3/2022 issued by Respondent No. 5 under outward No. Ex. Eng. (Project) 2900 to the president of Petitioner organization under Right to Information Act, 2005 is annexed hereto and marked as ANNEXURE-"N".

11. The Petitioner is annexing the photographs showing the construction of Viewer's Gallery on the bank of Futala Tank as well the musical fountain installed into the waterbody and photographs showing the waterbody before carrying out the construction work for giving an idea of extent of change that has

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been made due to the so-called beautification of Futala Tank. The Petitioner is also annexing the Photographs showing the work of Parking Plaza near Futala Tank on the land of Respondent No. 6. The copy of photographs of Viewer's Gallery on the bank of Futala Tank as well the musical fountain installed into the waterbody & the construction work of Parking Plaza near Futala Tank as well as earlier photographs are annexed hereto and collectively marked as ANNEXURE-"O". The Petitioner submits that the work relating to Viewer's Gallery as well as musical fountain and laser show is complete and the trials are also conducted from August 2022.

12. The Petitioner submits that the site where the parking plaza is being constructed belongs to Respondent No. 6. The Petitioner submits that the said land falls in the zone shown with light green colour in the sanctioned Development Plan for the city of Nagpur where 9th storied Parking Plaza with Restaurant, Gazebo etc. cannot be constructed by law. The Petitioner further submits that for the construction of the said Parking Plaza, lot of trees have been cut in contravention of the relevant laws as



applicable to the cutting of Trees. The Petitioner further submits that the information supplied under the Right To Information Application brings out this position. The Petitioner submits that the google image of the site gives the idea about the density of trees that existed before the project and the situation as it exists after the project starts. The google image of the place before commencement of the construction of the parking plaza and google image after commencement of the construction of Parking plaza as well as the information supplied under RTI Application filed have been annexed herewith and collectively marked as ANNEXURE-"P". The Petitioner submits that cutting of trees contrary to provisions of relevant laws applicable in this behalf is illegal. It is also in violation of Article 21, Article 48- A & Article 51 A (g) of the Constitution of India.

13. The Petitioner submits that realizing the importance of wetlands as ecosystems, high dependence of human society on wetlands for their sustenance and the pressures exerted by the society on wetlands resulting in degradation of wetlands, it was decided by the Government of India to have an appropriate

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geospatial database of natural resources based on unambiguous scientific methods. The Petitioner submits that the Wetland atlas of Maharashtra, which is part of the National Wetland Atlas of India, is such a database. The Petitioner submits that the said document has updated database and status of wetlands, compiled in Atlas format. The wetlands are categorised under 19 classes and mapped using satellite remote sensing data from Indian Remote Sensing Satellite: IRS P6- LISS III sensor. The results are organised at 1: 50, 000 scales at district, state and topographic map sheet (Survey of India reference) level using Geographic Information System (GIS). This publication is a part of this national work and deals with the wetland status of a particular State/Union Territory of India, through text, statistical tables, satellite images, maps and ground photographs. The National Wetland Atlas as well as Wetland Atlas for Maharashtra State recognise the fact that "India with its vast geographical extent supports a large and diverse wetland classes, some of which are unique. Wetlands, variously estimated to be occupying 1-5 percent of geographical area of the country, support about a



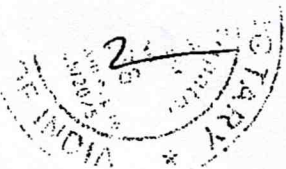
fifth of the known biodiversity. Like any other place in the world, there is a looming threat to the aquatic biodiversity of the Indian wetlands as they are often under a regime of unsustainable human pressures. Sustainable management of these assets therefore is highly relevant. Realising this, Govt. of India has initiated many appropriate steps in terms of policies, programmes and plans for the preservation and conservation of these ecosystems". The Petitioner further submits that at page 58 of the said Atlas wetlands in Nagpur region have been mapped. The Atlas mentions about the Nagpur region that "Total 1053 wetlands are mapped including 335 small wetlands (< 2.25 ha) with 41791 ha area. The district is dominated by man made wetland types. The tank/pond is the major wetland type. There are 601 Tank/pond mapped with 17920 ha area (42.87%). The reservoir/barrages with 11420 ha area occupy 27.32 %. Rivers/streams contribute 24.68 %." The Petitioner submits that at Page 59 of the Atlas, in the Wetland Map of Nagpur District, Futala Tank is clearly shown in the map. The relevant pages of the National Wetland Atlas : Maharashtra as published by Space



Application Centre (ISRO) Ahmedabad is annexed hereto and marked as ANNEXURE-"Q".

14. The Petitioner submits that the National level wetland inventory was carried out by SAC, Ahmedabad using multi-date IRS-LISS-III Data of 2006-07 timeframe on 1:50,000 scale under project "National Wetland Inventory and Assessment (NWIA)" funded by MoEF&CC. The mapping was carried in collaboration with State Remote Sensing Applications Centres and Academic Institutes. The 2,01,503 wetlands having an area more than 2.25 ha have been listed in the said inventory. The Petitioner submits that in the National Wetland Inventory and Assessment (NWIA) Futala Tank has been mentioned as *Phutal* at Page 1448, Serial No. 101170. The latitude and longitude of the Lake has been mentioned as 79.04179 & 21.15433 respectively. The Petitioner submits that the wetland type code of Futala Lake has been mentioned as 1202 as such the Futala has been categorised in the said document as 'Inland - Man-made - Tank/Pond' having an area of 55.98 ha. bearing Wetland Code 2709105515040013. The National Wetland Inventory and

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Assessment (NWIA) document is available on the Wetlands of India Portal as provided by the Ministry of Environment, Forest & Climate Change, Government of India. The relevant pages of the National Wetland Inventory And Assessment as downloaded from the official website <https://indianwetlands.in> showing listing of Futala Tank/Pond is annexed hereto and marked as ANNEXURE-"R".

15. The Petitioner submits that it is a significant fact that Futala Tank has been mapped as Wetland in the National Wetland Atlas: Maharashtra as well as listed as such in National Wetland Inventory and Assessment. The Petitioner therefore submits that the fact that Futala Tank is a wetland needs no separate evidence and as such all the protections afforded to wetland are available to the Futala tank. The Petitioner submits that Hon'ble Supreme Court of India in the matter of M.K. Balakrishnan & Oths. v. Union Of India has taken note of mapping of 2,01,503 wetlands in National Wetland Inventory and Assessment. The Hon'ble Supreme Court in its order dated 8th February 2017 has directed that "As a first step, the 'Brief

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Documents' with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010...we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorize all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

“(I) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated the 27th



November,1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically engineered organisms or cells notified vide GSR No.1037(E), dated the 5th December,1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated the 24th September, 2008;

(iv) solid waste dumping: provided that the existing practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding six months from the date of commencement of these rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: provided that the practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding one year from the date of commencement of these rules;



(vi) any construction of a permanent nature except for boat jetties within fifty meters from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules;

vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules.”

The Petitioner further submits that the Hon'ble Apex Court has reiterated the directions passed on 8th February 2017 and has said in its order dated 4th October 2017 that “We make it clear and reiterate that in terms of our order dated 8th February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010”. The copy of order dated 8th February 2017 as well as 4th October 2017 in Writ Petition No. 230 of 2001 by the Hon'ble Supreme Court are annexed hereto and collectively marked as ANNEXURE –“S”.

16. The Petitioner therefore submits that as per Hon'ble



Supreme Court's order mentioned above, Futala Tank is protected under Rule 4 of the Wetlands (Conservation & Management) Rules, 2010 that prescribes activities prohibited with respect to the Wetlands declared as such under the said Rules. The Petitioner submits that the Rule 4 of the Wetlands (Conservation & Management) Rules, 2017 which are in existence today is *ad verbatim* as Rule 4 of 2010 Rules. The Petitioner further submits that Government of India, Ministry of Environment, Forest & Climate Change (Wetlands Division) in its Office Memorandum bearing No. F. No. W-4/4/2022-WTL dated 6th March 2022, has referred to the Order dated 4th October 2017 of Hon'ble Supreme Court and in turn has directed in Paragraph 3 that "In view of above, it is once again clarified/reiterated that the 2,01,503 wetlands (>2.25 ha) as per the National Wetland Inventory and Assessment (NWIA), 2011 should be protected as per Rule 4 of the Wetlands (Conservation and Management) Rules, 2017. This protection is irrespective of the applicability of/notification as per the said Rules". The Copy of O.M. bearing No. F. No. W-4/4/2022-WTL dated 6th March



2022 as issued by the Government of India, Ministry of Environment, Forest & Climate Change (Wetlands Division) is annexed hereto and marked as ANNEXURE-“T”. The Petitioner therefore submits that the fact that the Futala Tank has not been notified under the Wetlands (Conservation & Management) Rules, 2017 has no bearing whatsoever on its protection value and significance and the same is to be afforded same degree of protection and treatment as the Wetland notified under the Rules of 2017.

17. The Petitioner submits that this Hon'ble Court is also seized with the Public Interest Litigation bearing No. 87 of 2013 filed by Vanashakti Public Trust for preserving the wetlands in the state of Maharashtra. The Petitioner submits that this Hon'ble Court (Coram: Hon'ble V.M. Kanade & Hon'ble S.C. Gupte JJ) by Order dated 14th October 2013 was pleased to direct that "In the meantime, however, we deem it fit and proper to give a direction, in respect of the areas which have been identified as Wetland Areas in the Wetland Atlas by the Central Government, that no reclamation of land and any kind of

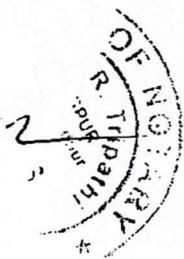


construction shall be permitted without leave of this Court". The Petitioner further submits that the same direction has been referred to by this Hon'ble Court (Coram: Hon'ble A.S. Oka & Hon'ble S.A.Sayyed JJ) in Paragraph 2 of the order dated 25th July 2016. The copy of order passed by this Hon'ble Court dated 14th October 2013 as well as 25th July 2016, in Public Interest Litigation No. 87 of 2013 are annexed hereto and collectively marked as ANNEXURE-"U". The Petitioner submits that therefore this Hon'ble Court has in unequivocal terms made it clear that leave of this Court shall be necessary before carrying out any kind of construction on areas/lands identified as Wetland areas in the Wetland Atlas by the Central Government. The Petitioner therefore submits that Respondents before commencing any construction of Viewer's Gallery on the bank of Futala Tank as well as installation of machinery for musical fountain inside the Tank should have sought for the Leave of this Hon'ble Court and hence such construction of Viewers Gallery as well as installing musical fountain is illegal and in blatant breach of order dated 14th October 2013 as well

as 25th July 2016, passed by this Hon'ble Court in Public Interest Litigation No. 87 of 2013.

18. The Petitioner submits that the protection and preservation of Wetlands has also received impetus from orders passed in this behalf by the National Green Tribunal in various matters. The Petitioner submits that some important orders/directions need mention here in order to demonstrate the degree of protection and its different aspects unfolded from these orders. The Petitioner submits that the need to conserve Wetlands has been highlighted by the National Green Tribunal in O.A. No. 325/2015 in matter of Lt.Col. Servadaman Singh Oberoi v. Union of India & Oths in following words:

“There can be no dispute that the water bodies play significant role in recharge of ground water, preventing soil erosion, harnessing rain water and maintaining micro-climate in the area. Need for conservation and protection of water bodies is thus obvious. This requires involvement not only at the level of the State but also at the level of the community for which State needs to take initiative. The threat caused to the water bodies is



by dumping of waste, discharge of effluents and encroachments. The steps required for restoration will include preparation and implementation of catchment area treatment plans, setting up of green belt and wherever viable setting up of biodiversity parks around the water bodies, cleaning up of the garbage/debris and demarcation by the Revenue Department on identification survey and demarcation. Each water body is required to be given a geo-referenced-UID and an action plan is required for restoration and protection of each of the water bodies. In this view of the matter, need for conservation and protection of water bodies is not confined to the State of Haryana alone but extends to the whole country". The Petitioner further submits that the NGT had noted further in the said Order that "indicative guidelines for restoration of water bodies have been uploaded on the website of the CPCB on 18.06.2019 but most the States have not submitted their action plans". The Order of NGT dated 25th February, 2020 passed in M.A. No. 26/2019 in O.A No. 325/2015 is annexed hereto and marked as ANNEXURE-"V". The Petitioner submits that in view of this Order the State is

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obliged to protect and conserve the Futala Tank and to frame an action plan for the same. In the humble opinion of the Petitioner, instead of moving forward in direction of protection and conservation of the Tank, Respondents are exploiting the natural resource to its detriment. The Petitioner submits that NGT in its final Order dated 18th November 2020 in O.A. No. 325/2015 directed that:

“(I) All States/Uts may forthwith designate a nodal agency for restoration of water bodies, wherever no such agency has so far been so designated.

(ii) Under oversight of the Chief Secretaries of the States/Uts, the designated nodal agency may

a. Hold its meeting not later than 31.1.2021 to take stock of the situation and plan further steps, including directions to District authorities for further course of action upto Panchayat levels and to evolve further monitoring mechanism as well as Grievance Redressal Mechanism (GRM)”. The Petitioner submits that the Report submitted in the said matter before NGT discloses the fact that State of Maharashtra has identified only 354 Water bodies and has not furnished any information with respect to



Status on Restoration of Water bodies, whereas as per the Wetland Atlas for Maharashtra, in State there are 23,046 wetlands which are more than 2.25 ha & 21,668 wetlands having area of less than 2.25 ha. The Petitioner thus submits that the Respondent has failed to comply with the orders/directions passed from time to time by Courts and Tribunals.

19. The Petitioner submits that the Ministry for Environment, Forest and Climate Change has notified Wetlands (Conservation & Management) Rules, 2017. The Petitioner submits that Respondent No. 9 is the Authority established under the rules and given powers and function for preservation and management of wetlands notified under the Rules. The Petitioner submits that the Ministry has also published guidelines to support the State Governments / Union Territory (UT) Administrations in the implementation of the Rules by providing guidance on various aspects relating to conservation of wetlands. The Petitioner submits that in the said document some examples of wetlands uses that may not be 'wise-use' are mentioned in which in case of urban lakes Concretization of

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shoreline for beautification has been mentioned. The Petitioner submits that the document mentions that "In several cases, the impact on ecosystem structure and functions, or tradeoffs in ecosystem services may not be immediately apparent. It is, therefore, recommended that the 'precautionary approach' is adopted to ensure that wetlands conservation is prioritized in the case of information uncertainty". The Petitioner submits that the Respondent No. 1 to 5 have not studied the impact of construction of Viewer's Gallery, Musical fountain, laser & multimedia show, the accompanied noise and light on waterbody, serenity, fauna & flora present in and around the Futala Tank. The Petitioner therefore submits that application of Precautionary approach becomes inevitable and apt in this case. The Petitioner further submits that point No. 68 of this document draws our attention to an important aspect that "Aquatic and terrestrial ecosystems are intimately linked by the process of the water flowing through them. *Every land use decision has a consequence on water availability (emphasized)*...Delineating a basin or a coastal zone enables demarcation of a distinct



hydrological unit which is the natural integration of all hydrological processes within its boundary and therefore an ideal and rational unit for soil, water and bio-resources conservation and management. Thus, management planning for wetlands should not be restricted to a defined administrative boundary, but rather take into account wider planning and management context of the basin or coastal zone within which the site is located (*emphasized*)”.

The copy of the document titled Guidelines for Implementing Wetlands (Conservation and Management) Rules, 2017 as published in 2020 by the Ministry For Environment, Forest and Climate Change, Government Of India is annexed hereto and marked as ANNEXURE -"W". The Petitioner submits that Respondents should have acted on lines of this document for achieving health and conservation of Futala Tank instead of planning & executing expensive beautification project which does not fit into the compass of any scientific and policy document as issued by the Government from time to time as well as laws applicable.



20. The Petitioner submits that two different and parallel tracks are seen when this subject viz. Wetland Conservation is seen from an angle of third party. First track is the track that perceives wetlands having intrinsic value and therefore seeks to conserve wetlands by trammeling the path of human actions with reference to wetlands. The Courts seem to have taken this path and issued various directions for preservation and protection of wetlands. The Petitioner submits that Respondent No. 8 also has issued plethora of material including documents, guidelines for this purpose as well as a dedicated Wetlands of India Portal <https://indianwetlands.in>. The Petitioner submits that, however, State i.e. Respondent No.1 to 5 in this case seems to have taken second track i.e. they are perceiving wetlands as units to provide artificial entertainment like musical fountain, laser and multimedia shows by charging tickets, that too by spending crores of rupees of taxpayers on such projects. The Petitioner therefore approaching this Hon'ble Court for justice.

The Petitioner thus aggrieved by the approach of the



Respondents towards wetland and actions in pursuance of such an approach which is ex-facie against the Constitutional as well as statutory provisions and simultaneously in blatant breach of the Orders passed by Hon'ble Apex Court as well as this Hon'ble Court in matters pertaining to the preservation of water bodies/ wetlands, is approaching this Hon'ble Court for justice through this Petition filed under Article 226 of the Constitution of India on the following grounds which have been taken in alternate and without prejudice to each other:

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A) The Petitioner submits that, the Futala Tank is also protected under the provisions of the Constitution of India and as such the action of Respondents must also be tested on the touchstone of Constitutional provisions and certain principles arising therefrom. The Petitioner submits that Article 21 viz. Right to life has been interpreted by the Hon'ble Supreme Court so as to include the right to clean air, clean water, clean environment, hygienic atmosphere and ecological balance. The Petitioner submits that Article 48-A lays down the duty of the State to

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protect and improve the environment and safeguard forest and wildlife of the country. The article 51-A (g) of the Constitution mentions the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures. The Petitioner therefore submits that this trio forms the bedrock of protection of the environment and preservation of natural resources including wetlands. The Respondents being state should have been mindful of their duties under Article 48-A & Article 51-A (g) while granting sanction to the project and plans. Hence action of Respondents of sanctioning plans allowing construction on the bank of Tank as well as installing musical fountain machinery inside the body of the Tank, is contrary to Constitutional provisions and hence not tenable as it endangers ecological balance.

B) The action of Respondent No. 5 of raising musical fountain inside the Futala Tank by installing machinery as well as construction of Viewers Gallery on the bank of the Futala Tank is in violation of Order dated 14/10/2013 & 25/07/2016 passed



in Public Interest Litigation No. 87 of 2013 by this Hon'ble Court as admittedly no leave has been sought by concerned Respondents before carrying out these activities.

C) The Petitioner submits that the Petitioner has the right to expect that the Futala Tank shall be maintained in its natural state and for particular types of uses only. The Petitioner submits that Respondents are trustees of Futala Lake and not owners of it. The Petitioner submits that Respondents being State are bound by the Principle of Public Trust as enunciated by the Hon'ble Apex Court in M.C. Mehta v. KamalNath. The action of installation of musical fountain, laser light shows by installing machinery inside the lake as well as construction of Viewer's Gallery on the bank of the Tank is contrary to Public Trust Principle and hence illegal. The Petitioner submits that due to acts of Respondents, the Futala Tank has not remained in its natural state but has been converted to an open theater which is used for entertainment by charging fees.

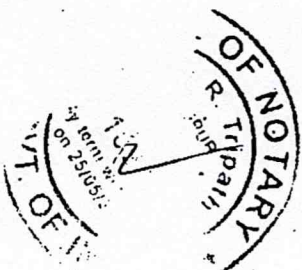
D) The construction of Viewer's gallery on the bank of Futala

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Tank and installation of Musical Fountain and related machinery inside the Tank body has resulted into change in the nature of water body as well as use of water body. A Tank having an undeveloped, pristine environment has been converted into an open air theater for public entertainment. Petitioner submits that this is not tenable in law and also contrary to Public Trust Principle as well as other statutory & Constitutional provisions.

E) The Petitioner submits that power vested by law cannot be exercised in this fashion by Respondent No. 1 to 5 so as to exploit the wetland as place of artificial entertainment by carrying out permanent changes on its shore and body, thus martyring its soul that too in contradiction with duties vested by law and the Constitution.

F) The Petitioner submits that it is for Respondent No. 3 & 4 to prove it to the satisfaction of this Hon'ble Court that they have considered the requisites of Rule 4 (vi) of the Wetland (Conservation and Management) Rules, 2017 before according sanction to the plan submitted for approval of Construction of



Viewer's Gallery in view of the Principle of Reversal of Burden of Proof.

G) The Petitioner submits that the construction of Viewer's Gallery on the bank of Futala Tank, Musical fountain and associated machinery inside the waterbody is absolutely against the precautionary principle and hence illegal.

H) The Petitioner submits that the proposed beautification project of the Futala lake consisting of construction of Viewer's Gallery on the bank of Futala Tank, musical fountain inside the Tank body is in violation of orders of Hon'ble Apex Court in W.P. No. 230 of 2001 whereby all 2,01,503 wetlands as shown in the National Wetland Inventory & Assessment have been protected and as the Futala Tank is mentioned in the said document.

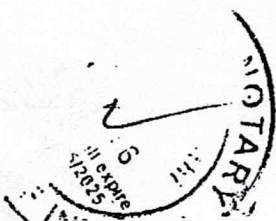
I) The Petitioner submits that the relaxation granted by the Commissioner of Respondent No. 3 Corporation under the Development Control Rules for Nagpur City to mandatory distance to be maintained from a waterbody is arbitrary, illegal and granted under the provisions that are non-applicable to the

facts and circumstances of the case.

J) The Petitioner submits that the Respondent No. 3 has no such power under the law to relax the condition in such manner so as to by-pass the mandatory distance to be maintained of construction from waterbody, results into making such mandatory provision nugatory and therefore such exercise of power on behalf of Respondent No. 3 is colourable and not valid.

K) The Petitioner submits that the discretionary powers as claimed to be exercised by Respondent No. 3 while granting relaxation to 15 meters distance rule is totally irrelevant to the facts and circumstances of the case & hence inapplicable. It amounts to arbitrary exercise of power and hence the relaxation granted by Respondent No. 3 while sanctioning the plan of Viewer's Gallery is illegal and liable to be quashed.

L) The Petitioner submits that the decision of the Heritage Committee to accord sanction to the construction of Viewer's Gallery, musical fountain as well as Parking Plaza is absolutely



contrary to the purpose for which power has been vested in the Committee under Heritage Regulations and hence the same is arbitrary and liable to be quashed.

M) The Petitioner submits that the Heritage Committee lacks power under the relevant law to grant sanction to such a project which proposes to change the basic structure of the Grade I heritage that too contrary to its natural status.

N) The Petitioner submits that the Respondents while exercising powers under the law while sanctioning the project, plans for construction and providing for so called beautification of Futala Tank, have failed to exercise power for the purposes for which the power has been vested in Respondents under the law viz. protection, preservation of wetland in its natural state and hence such exercise of power is bad in law, unreasonable, arbitrary and hence violative of Article 14 & 21 of the Constitution of India.

O) The Petitioner submits that Respondent No. 3 has acted in contravention of its mandatory duty as provided under the Section 63 (1b) of the Maharashtra Municipal Corporation Act,

1949 while sanctioning the plans pertaining to the so-called beautification project at Futala Tank.

P) The Petitioner submits that mandatory duties of Respondent No. 3 under Section 63 (1b) of the Maharashtra Municipal Corporation Act, 1949 cannot be sacrificed by discretionary duties of Respondent No. 3 under Section 65 (9) & (14) (9) of the Maharashtra Municipal Corporation Act, 1949

Q) The Petitioner submits that action of Respondent No. 3 of sanctioning plans relating to construction of Viewer's Gallery is in violation of provisions of Rule 4 (vi) of the Wetland (Conservation and Management) Rules, 2017 and consequently against the Order dated 8th February 2017 passed by Hon'ble Apex Court.

R) The Petitioner submits that Respondent No. 1 to 5 are bound by principle of reversal of burden of proof & hence they must prove it to the satisfaction of this Hon'ble Court that their action is benign and construction of Viewer's Gallery, installation of musical fountain and associated machinery inside the Tank is not



detrimental to the Wetland.

T) The Petitioner submits that Respondents should have taken an eco-centric approach in the matter and should have exercised powers vested in them for protection and preservation of the Water body instead of execution of artificial entertainment plan like the beautification project at Futala tank.

U) The Petitioner submits that action of Respondents of not carrying out directions of Hon'ble Apex Court as well as Hon'ble High Court & the National Green Tribunal passed from time to time for protection and preservation of wetland, and instead undertaking activities not connected with improvement of ecological character/health of wetland viz. the beautification of Futala Tank is a fraud on public power and hence illegal.

V) The Petitioner submits that the amount that is being spent for the beautification project viz. Construction of the viewer's gallery on the bank of Futala Tank, musical fountain, laser and multimedia show & parking plaza runs into crores of rupees. The Petitioner submits that Respondents are failing on the other hand

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in implementing the directions passed by the Hon'ble Apex Court as well as this Hon'ble Court with respect to protection of Wetlands. The Petitioner submits that this amount could have been spent for rejuvenation, biodiversity preservation, promotion of ecological aspects, of not only Futala but other lakes in Nagpur also. Hence action of Respondent No. 1 to 5 is arbitrary, irrational and illegal.

W) The Petitioner submits that the action of Respondent No. 3 & 4 of sanctioning plan of 9 storied parking plaza on land bearing Khasra No. 13/3 & construction of parking plaza with Food court and restaurant there is absolutely illegal and contrary to provisions of law and Constitution. The said action is not in conformity with the zone and hence cannot be undertaken. Therefore arbitrary, illegal and unsustainable in the eyes of law.

21. The Petitioner states that being aggrieved by the conduct of the Respondents, the Petitioner has left with no option but to approach this Hon'ble Court by way of Public Interest Litigation seeking appropriate direction to the Respondents.



22. The Petitioner submits that the grievance of the Petitioner is with respect to the preservation of Futala Tank which is a wetland listed in National Wetland Inventory and Assessment document and also protected in terms of orders passed by Hon'ble Supreme Court in W.P. 230 of 2001. is situated in Nagpur City. The Petitioner submits that however, this Hon'ble Court is already in session of Public Interest Litigation No. 87 of 2013 filed by Vanashakti Public Trust for protection and preservation of Wetlands in the state of Maharashtra. The Petitioner submits that this Hon'ble Court is monitoring the said Petition since 2013 and all departments as well as authorities concerned with this task have been made answerable to this Hon'ble Court at Bombay. The Petitioner states that this Hon'ble Court has also passed an order in PIL No. 87 of 2013 that leave of Court is necessary before undertaking any construction on areas identified as Wetlands in National Wetland Atlas by Central Government. The Petitioner submits that leave of this Hon'ble Court was must before undertaking any activity with respect to Futala Tank beautification and since

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the Hon'ble Court at Bombay is seized with this matter, the Petitioner has chosen to file this matter before Hon'ble High Court at Bombay so as to avoid conflicting orders. The Petitioner submits that even the Bombay High Court Appellate Side Rules under Chapter XXXI by Rule 4A that has been inserted vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022 provide that:

“4A. The Chief Justice may in his discretion order that any case arising in any of the Judicial Districts of Maharashtra as well as Goa, shall be heard at the Principal Seat. Provided that the Chief Justice may in his discretion order that any case presented at the Principal Seat be heard at Nagpur Bench or Aurangabad Bench or the Bombay High Court at Goa.]”

The Petitioner is therefore seeking leave of Hon'ble Chief Justice to allow Petition to be filed and heard at Principal Seat in view of the fact that parent matter covering the subject of wetlands in Maharashtra is pending before the Principal Bench at Bombay.



23. The Petitioner solemnly declares that he has not approached this Hon'ble High Court or Hon'ble Supreme Court of India any time before, on the subject matter of the petition. Instant petition is filed by the Petitioner in pursuance of duty under Article 51-A (g) of the Constitution of India. The Petitioner solemnly declares that he does not have any direct or indirect interest.

24. **Source of information:-**

The Petitioner declared that the Petitioner has received the information through Information received by the President of Petitioner Organization in response to the applications under the Right to Information Act, applications filed with Respondents.

25. **Nature of extent of injury caused / apprehended :-**

The nature of the injury is well explained herein above. The Orders of Hon'ble Apex Court as well as this Hon'ble Court have not been followed thereby jeopardizing the natural resource viz. Futala Tank which is against Constitutional principles and other doctrines in the field of environmental law.

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26. **Any representation etc. made :-**

The Petitioner had made representation dated 17th May 2022 to the Wetlands Conservation Body Maharashtra. However, Petitioner submits that no action seems to have been taken on the same by the Authority.

27. **Delay, if any, in filing the petition and explanation therefore: -**

The Petitioner states that the Petitioner was advised to seek for information under the Right to Information Act and as such it was in the month of March 2022 the President of Petitioner sought for information by filing Application under the Act. The Petitioner received information in batches. The Petitioner thereafter sought for legal advice and time was taken thereafter by the Advocate for filing the Petition. The Petitioner further submits that since the subject matter involved in the present Petition pertains to preservation of Futala Tank and obligation of Respondents under the Constitution of India in preservation of Wetlands there is no delay in filing the present Public Interest Litigation and the Petitioner has approached this Hon'ble Court at the earliest.



28. Documents relied upon :

As Exhibited in the petition.

29. Reliefs prayed for :-

A) This Hon'ble Court may be pleased to declare that the installation of musical fountain & associated machinery inside the body of the Futala Tank is illegal and against the Principle of Public Trust as enunciated by the Hon'ble Apex Court.

B) This Hon'ble Court may be pleased to declare that the Construction of the Viewer's Gallery on the bank of Futala Tank is illegal.

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C) This Hon'ble Court may be pleased to issue appropriate Writ, Order or direction to Respondent No. 5 for removal of musical fountain and associated machinery installed inside the body of the Tank and further direct the Respondent No. 5 to restore the Tank to its original natural state.

D) This Hon'ble Court may be pleased to issue an appropriate Order, direction or Writ to Respondent No. 3 & 4 directing them to demolish the Viewer's Gallery constructed on the bank of Futala Tank and restore the bank to its original state.



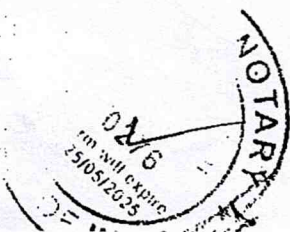
E) This Hon'ble Court may be pleased to declare that the Construction of Parking Plaza undertaken on land bearing Khasra No. 13/3 at Mauje Futala is contrary to the zone as shown in the sanctioned Development Plan for Nagpur and as such illegal.

F) This Hon'ble Court may be pleased to issue an appropriate Order, direction or Writ to Respondent No. 3 & 4 directing them to demolish the building under Construction on land bearing Khasra No. 13/3 at Mauje Futala.

G) Pending hearing and final disposal of this Petition, the Hon'ble Court may kindly be pleased to restrain Respondent No. 4 from carrying out further construction of the parking plaza on land bearing Khasra No. 13/3 at Mauje Futala forthwith.

H) Pending hearing and final disposal of this Petition, the Hon'ble Court may kindly be pleased to restrain Respondent No. 5 from holding shows of musical fountain, laser and multimedia on the Futala Tank.

I) Ad-interim relief in terms of prayer clause G) & H) above may kindly be granted.



J) Grant any other relief as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice.

K) This Hon'ble Court may be pleased to issue appropriate Order, direction or Writ to Respondent No. 1 & 9 directing the Respondents to prepare 'Brief Document' of Futala Tank in accordance with the Guidelines issued by Ministry for Environment, Forest & Climate Change for implementation of Wetland (Conservation & Management) Rules, 2017.

L) This Hon'ble Court may be pleased to issue appropriate Order, direction or Writ to Respondent No. 9 directing the Respondent to formulate integrated management plan of Futala Tank in accordance with the Guidelines issued by Ministry for Environment, Forest & Climate Change for implementation of Wetland (Conservation & Management) Rules, 2017 & implement the same.

M) This Hon'ble Court may be pleased to issue appropriate Order, direction or Writ to Respondent No. 9 directing the Respondent to define strategies for conservation and wise use of wetlands for Futala Tank in accordance with the Guidelines issued by Ministry for Environment, Forest & Climate Change for implementation of Wetland (Conservation & Management) Rules, 2017 & implement the same.

N) This Hon'ble Court may be pleased to issue appropriate Order, direction or Writ to Respondent No. 9 directing the Respondent to set-up grievance mechanism having jurisdiction over the entire State of Maharashtra for entertaining grievances of general public relating to Wetlands, on lines of directions as issued by this Hon'ble Court in its order dated 25/07/2016 in Public Interest Litigation No. 87 of 2013.

O) This Hon'ble Court may be pleased to issue appropriate Order, direction or Writ to Respondent No. 9 directing the Respondent to carry out its functions as mentioned under Rule 5 (4) of the Wetland (Conservation & Management) Rules, 2017 with respect to all water bodies in Nagpur District as mapped and shown in National Wetland Atlas : Maharashtra, prepared by the Central Government.

50] **Caveat :-**

That no notice has been received of lodging a Caveat by the opposite party.

NAGPUR.
DATE : 19.12.2022

[Signature]
COUNSEL FOR PETITIONER.

Mr. A.V. Chhabrami
PETITIONER



VERIFICATION

I, Mrs. Anusaya Vinod Chhabrani, Aged about 53 years, the President and the authorized person by the Petitioner organization, do here take oath and state on solemn affirmation that contents of paragraph No. 1 to 42 and 44 to 52 are the statement of facts are true and believed to be true by me. The contents of the paragraph no. 43 is the legal submission, which I believe to be true and correct and the contents of paragraph no. 53 is the Prayer clause, which I believe is correct to my personal knowledge and belief.

Hence verified and signed at Nagpur on this 19 day of December, 2022.

Mrs A.V. Chhabrani
DEPONENT

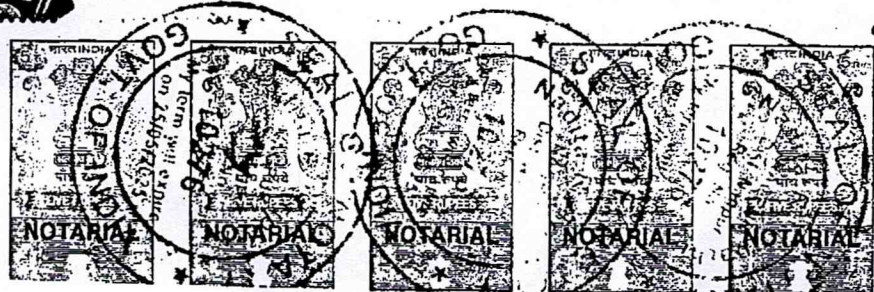
I KNOW AND IDENTIFY
THE DEPONENT.

GS. Narwade
ADVOCATE.



sworn before me on this 19 day of 12 2022 at Nagpur.
Shri/Smt./Ku Anusaya Vinod Chhabrani
Rio Nagpu who has been identified
by Shri/Smt GS. Narwade
Advocate Nagpur

NOTARIAL REG
No. 1702
19.12.22



[Signature]
P. PRIPATHI
TARY
Shri State
Nagpur

ANNEXURE-R11/2

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

[ORDER XXI RULE 3(1)(A)]

SPECIAL LEAVE PETITION (CIVIL) NO. OF 2024

(ARISING OUT OF IMPUGNED JUDGMENT AND ORDER DATED 30TH NOVEMBER 2023 PASSED BY THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, NAGPUR IN PIL NO. 4 OF 2023).

WITH PRAYER FOR INTERIM RELIEF

IN THE MATTER OF:

SWACCH ASSOCIATION, NAGPUR ...PETITIONER

-VERSUS-

THE STATE OF MAHARASHTRA & ORS. ...RESPONDENTS

I.A. NO. _____ OF 2024

APPLICATION SEEKING EXEMPTION FROM FILING
CERTIFIED COPY OF THE IMPUGNED ORDER

I.A. NO. _____ OF 2024

APPLICATION SEEKING EXEMPTION FROM FILING OFFICIAL
TRANSLATION OF ANNEXURES P-7, P-9, P-10, 12, 13 and P-16

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER : ANINDITA MITRA

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A

IN THE SUPREME COURT OF INDIA

(ORDER XXI RULE 3(1)(a))

CIVIL APPELLATE JURISDICTION

(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)

SPECIAL LEAVE PETITION (CIVIL) NO. _____ of 2024

IN THE MATTER OF:

SWACCH ASSOCIATION, NAGPURPETITIONER

-VERSUS-

THE STATE OF MAHARASHTRA & ORS. ...RESPONDENTS

OFFICE REPORT ON LIMITATION

1. The Petition is within time.
2. The Petition is barred by time and there is delay of days in filing the same against order dated 30.11.2023 and petition for condonation of days delay has been filed.
3. There is delay of days in re-filing the petition and petition for condonation of days delay in re-filing has been filed.

BRANCH OFFICER

New Delhi
Dated: 03.01.2024

A-1

PROFORMA FOR FIRST LISTING

SECTION-

The case pertains to (Please tick/check the correct box):

- Central Act: N.A
- Section: N.A
- Central Rule: (Title) NA
- Rule No(s): NA
- State Act: N.A.
- Section: N.A.
- State Rule: N.A.
- Rule No(s): N.A.
- Impugned Interim Order: (Date) NA
- Impugned Final Order/Decree: (Date) 30.11.2023
- High Court: (Name) Hon'ble High Court of Judicature at Bombay Nagpur
Bench, Nagpur
- Names of Judges: **CORAM : A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ..**

- Tribunal/Authority: (Name) NA
1. Nature of matter: CIVIL
2. (a) Petitioner/appellant : Swacch Association, Nagpur
(b) E-mail ID : NOT KNOWN
(c) Mobile phone number NA
3. (a) Respondent : State of Maharashtra & ORS.
(b) E-mail ID: NOT KNOWN
(c) Mobile phone number NOT KNOWN
4. (a) Main category classification: 1807
(b) Sub classification: ORDINARY CIVIL MATTER
5. Not to be listed before: N/A
6. (a) Similar disposed of matter with citation, if any, & case details: No similar disposal matter.

(b) Similar pending matter with case details : No similar matter is pending.

7. **Criminal Matters: NO**

(a) Whether accused/convict has surrendered: NA

(b) FIR No. NA Date: NA

(c) Police Station: NA.

(d) Sentence Awarded: N.A

(e) Period of sentence undergone including period of detention / custody undergone: NA

8. **Land Acquisition Matters: N/A**

(a) Date of Section 4 notification: N/A

(b) Date of Section 6 notification: N/A

(c) Date of Section 17 notification: N/A

9. **Tax Matters: State the tax effect: NA**

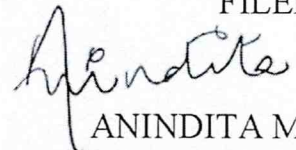
10. **Special Category (first petitioner/appellant only):**

Senior citizen >65 years SC/ST Woman/child
 Disabled Legal Aid case in custody

11. Vehicle Number: NA

FILED ON: 03.01.2024

FILED BY:



ANINDITA MITRA
 ADVOCATE ON RECORD
 FOR THE PETITIONER(S)/
 CODE NO.2634
 E-121,3RD FLOOR, G.K.-1
 NEW DELHI - 110048
 PHONE NO.: M -7838533122

B**SYNOPSIS**

The present Special Leave Petition is being filed against the judgment and order dated 30th November 2023 (“**Impugned Order**”) passed by the Hon’ble High Court of Judicature at Bombay, Nagpur Bench (“**High Court**”) in PIL No. 4 of 2023 (“**PIL**”), wherein the Hon’ble High Court, has *inter-alia* erroneously held that being a man-made water body, Futala Lake (“**Futala**”) is not a “Wetland” under Rule 2(1)(g) of the Wetlands (Conservation and Management) Rules, 2017 (hereinafter referred to as “**the Rules**”) *inspite of* the admitted legal and factual position that Futala has been categorized as a “Wetland” at page 1448, serial number 101,170 of the National Level Wetland Inventory as carried out by Space Application Centre and also in the map of the Wetland Atlas of Maharashtra (at page 59), which is a part of the National Wetland Atlas of India. In spite of being aware of this position, the Hon’ble High Court erroneously allowed the concerned authorities to continue with the activities of construction of parking plaza and viewers gallery and other activities in Futala Lake/ Tank thereby causing great ecologic ramifications.

It is most humbly submitted that Futala Lake/ Tank, also known as Telangkhedi Tank, is a Wetland as well as Grade I Heritage Precinct in Nagpur, Maharashtra. The said tank was constructed in the year 1799 by one Shri Gyanoji Bhosale. The total area of the tank along with its catchment is about 200 hectares. The Petitioner herein is raising the issue with regard to the construction of Viewer’s gallery on the bank of Futala Tank, installation of musical fountain & laser show machinery inside the Tank as well as construction of 7 storied building near the tank for parking, food plaza,

restaurant (“**Constructions**”) all for the purpose of commercial gain and business prospects inspite of the said tank being a “Wetland”. Given the above conspectus, it is submitted that the Impugned Order is erroneous and unlawful inter-alias on the following grounds:

(1) Futala Tank is clearly shown as a “Wetland” in the map of the Wetland Atlas of Maharashtra (at page 59), which is a part of the National Wetland Atlas of India:

The Impugned Order arbitrarily fails to consider that National Level Wetland Inventory was carried out by Space Application Centre (“**SEC**”), Ahmedabad under Project “National Wetland Inventory and Assessment (“**NWIA**”)” funded by the Ministry of Environment, Forest and Climate Change (“**MOEFCC**”) where out of a total 2,01,503 wetlands listed in the said inventory, Futala tank has been mentioned as Phutal at page 1448, serial number 101,170 of NWIA. Furthermore, Futala Tank is clearly shown in the map of the Wetland Atlas of Maharashtra (at page 59), which is a part of the National Wetland Atlas of India. It is, therefore, most humbly submitted that mapping of Futala Tank in National Wetland Atlas and listing in National Wetland Inventory and Assessment is evidence of the fact that Futala Tank is a wetland. As such, all the protections afforded to wetland are available to Futala Tank.

(2) Impugned Order violates of Rule 4 of the Wetlands (Conservation and Management), Rules 2017 and Zonal Development plans published by the Respondent themselves:

D

The Impugned Order clearly transgresses the office memorandum dated 8th March 2022 of MOEFCC which clarifies that the 2,01,503 Wetlands (having area more than 2.25 hectare) as per the NWIA (wherein Futala is clearly categorized as a Wetland) shall be protected as per Rule 4 of the Wetlands (Conservation and Management), Rules 2017. It is most humbly submitted that the prohibition, as contemplated by Rule 4 of the Rules of 2017 to undertake any activity of a permanent and/or temporary nature is statutorily disallowed insofar as Futala Tank is concerned.

It is submitted that the activities undertaken by the respondents were prohibited and amounted to committing an encroachment on a water body. Referring to the provisions of the Unified Development Control and Promotion Regulations for the State of Maharashtra, it is submitted that even for a construction of a temporary nature, permission of the Planning Authority is necessary as per the Regulations. Admittedly, in the present case no such permission have been taken by the concerned Respondents, clearly resulting in breach of the said Regulations as well as violation of Rule 4 of the Rules of 2017. Similarly with respect to the construction of viewer's gallery on the bank of Futala, though the said area fell within the green zone, commercial activities were sought to be undertaken therein. This construction was within 50 metres of the water body and there was no power whatsoever with the Planning Authority to relax such criteria. The parking plaza being constructed across the road also fell within the green zone wherein construction was not permissible. Giving a go by to the Regulations and without changing the user of such land, the construction had been undertaken.

The Hon'ble High Court failed to consider the Environment Status Report of the City of Nagpur that was prepared by the National Environmental Engineering Research Institute, Nagpur to submit that the quality of the Lake water would deteriorate with the user of the Lake for such activities.

(3) Erroneous interpretation of Rule 2(1)(g) of the Rules of 2017:

The Hon'ble High Court, *only* on the unlawful premise that the lake was a man-made water body concluded that the Futala Tank would not be included in the definition of the term 'wetland' erroneously interpreted Rule 2(1)(g) of the Rules of 2017. The Hon'ble High Court has erroneously ignored the words "specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, creation and irrigation purposes", and wrongly concluded that the Futala Lake was not a 'wetland' when it was clearly apparent from the definitions of a 'wetland' in the Rules of 2017, that only when a human man made water body or tank had been specifically constructed for drinking water purposes or for aquaculture, salt production, creation and irrigation purposes", could the water body or tank, not be included in the definition of 'wetland'. In the instant case, admittedly, the Futala Lake had neither been constructed for drinking water purpose, nor for aquaculture or salt production or for irrigation purposes. Thus, the exclusion part/clause of 2(1)(g) of the Rules of 2017 was not applicable to the Petitioner and the Futala Tank very well came within the definition of 2(1)(g) of the Rules of 2017.

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(4) Violation of the law laid in M.K. Balakrishnan and Ors. Versus Union of India; Writ Petition (Civil) No. 230 of 2001:

The Impugned Order is in clear violation of the law laid down by this Apex Court in *M.K. Balakrishnan and Ors. Versus Union of India; Writ Petition (Civil) No. 230 of 2001* where vide order dated 08.02.2017, this Hon'ble court has taken note of mapping of 2,01,503 wetlands in National Wetland Inventory and Assessment & passed various directions with a view to preserve the said wetlands. The said directions have been reiterated by this Hon'ble Court in the subsequent order dated 04.10.2017 wherein this Hon'ble Court directed, inter alia, that the 2,01,503 wetlands that had been mapped by the Union of India *which included Futala* were to remain protected under the Rules of 2017 on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.

(5) Violation of order dated 14.10.2013 issued by the Hon'ble Bombay High Court in the matter of "Vanshakti & Ors. Vs. Union of India & Ors." PIL No. 87 of 2013

Furthermore, the Hon'ble High Court erred in not considering the injunctive directions vide order dated 14.10.2013 issued by the Hon'ble Bombay High Court in the matter of "*Vanshakti & Ors. Vs. Union of India & Ors.*" *PIL No. 87 of 2013*, directing, inter alia, that the areas, which have been identified as wetland areas in wetland atlas by the Central Government, no reclamation of land, and any kind of construction shall be permitted without leave of the Hon'ble High

Court. It is apposite to mention herein that in the present case no such permission has been prayed before the Hon'ble High Court.

It is therefore, most humbly submitted that the Hon'ble High Court, with respect, wrongly entered into the artificial distinction between the construction of permanent nature or temporary nature is legal and valid when the direction dated 14.10.2013 passed by the Hon'ble High Court itself prohibits any kind of construction on wetland areas as identified by Central Government into Wetland Atlas which includes Futala Tank. The construction of structure of floating stage, banquet hall and restaurant spreading over huge area and admeasuring 15000 sq feet as well as huge artificial Banyan tree made of steel material with screen balanced on huge iron cage foundation structure/guarder inside wetland dumped with 7000 tonnes concrete stones ought not be said to be activity of temporary nature and as such permissible under Rule 4 of the Wetlands (Conservation and Management) Rules 2017.

(6) Other Statutory Violations:

The Impugned Order further fails to consider the following violations in law on the part of Respondents:

Srl. No.	Requirement under legislation/ precedent	Violation by Respondents
I.	<p>Under Chapter 8.12 "Scope of Changes in Heritage Grade-I" (C) issued by Ministry of Housing & Urban Affairs-</p> <p><i>"No interventions be permitted either on exterior or interior of the heritage</i></p>	<p>Heritage Conservation Committee granted construction permission of Viewer's Gallery on the bank of Futala Tank and also permission or development</p>

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	<i>building or natural features unless it is necessary in the interest of strengthening and prolonging the life of the buildings/or precincts or any part or features thereof. For this purpose, absolutely essential and minimum changes would be allowed and they must be in conformity with the original.”</i>	work of Musical Fountain, Sound, Light & Laser/Multimedia against the rules provided in Government Resolution dated 18 th October 2003 issued by Government of Maharashtra which clearly states that no changes can be made to heritage structures without downgrading them. The Regulation also disallows the changing of skyline in any manner especially by creating other high rise buildings which the Heritage Committee clearly overlooked while sanctioning the permission.
II.	Rule 4 (vi) of Wetlands (Conservation and Management) Rules, 2017: <i>“any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules”</i>	Respondent No. 3 sanctioned plans relating to construction of Viewer’s gallery in Futala Tank in complete violation of the Wetlands Rules.
III.	As per Development Control Rules of Nagpur, Maharashtra a construction site must be at a distance of 15.00 meters from a waterbody.	Mandatory distance of 15 metres was relaxed by the Ld. Commissioner of Respondent No. 3 in violation of the Development Control Rules of Nagpur, Maharashtra. This issue although pleaded and argued before the High Court by the Petitioner, fails to be considered or be dealt with in the Impugned Judgment at all.
IV.	Section 63 (1B) of the Maharashtra Municipal Corporation Act, 2019;	Commercial interest of the Respondents given

	<p>It shall be incumbent on the Corporation to make reasonable and adequate provision, by any means or measures which it is lawfully competent to it to use or to take, for each of the following matters, namely:</p> <p>(1b) urban forestry, protection of the environment and promotion of ecological aspects</p>	<p>precedence over environmental concerns of general public. No Environment Clearance taken. No Environmental impact assessment conducted by Respondents to assess the impact of such construction in gross violation of the Environment Protection Act and the Wetland Act and its Rules and Regulations.</p>
V.	<p>Respondents being State are bound by the Principle of Public Trust as enunciated by this Hon'ble Court in <i>MC. Mehta v. KamalNath</i></p>	<p>The action of installation of musical fountain, laser light shows by installing machinery inside the lake as well as construction of Viewer's Gallery on the bank of the Tank is contrary to Public Trust Principle. The Impugned Judgment fails to consider this legal issue.</p>
VI.	<p>As per the report submitted by the sub-committee set up by Heritage Conservation Committee it was mentioned-</p> <p>No Objection Certificate from Dam Safety Organization, Nashik (DSO) as well as Structural Stability of Dam Wall from V.N.I.T was to be submitted.</p>	<p>Neither Structural Stability of Dam Wall from V.N.I.T nor No Objection Certificate from Dam Safety Organization, Nashik (DSO) was submitted.</p>
VII.	<p>Order dated 14.10.2013 passed by Hon'ble Bombay High Court in "Vanshakti & Ors. Vs. Union of India & Ors." PIL No. 87 of 2013, directing inter alia:</p> <p>"..In the meantime, however, we deem it fit and proper to give a direction, in respect of the areas, which have been</p>	<p>Respondents herein sanction plans for reclamation as well as construction in Futala Tank in violation of the order dated 14.10.2013 by the Bombay High Court</p>

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	identified as wetland areas in wetland atlas by the Central government, that no reclamation of land, and any kind of construction shall be permitted without leave of this court.”	
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(7) Violations of the sanctioned Development Plan for Nagpur and permissions for commercial constructions in and around Futala Tank which is an agricultural zone granted without change of land use permissions accorded to the Respondents for the same:

The Impugned Order clearly is in violation of the sanctioned Development Plan for Nagpur as published by Respondent No. 5 in as much that that the land on which the proposed constructions are to take place were given to Punjabrao Deshmukh Krishi Vidyapeeth (Respondent No. 6) herein, strictly for purposes of Agriculture, Research, Education & Crop Cultivation and therefore could not have been used for any other purposes much less for construction of parking plaza with Food Court, Restaurant and Gazebo, etc. for commercial purpose. The Impugned Order has erred in law in not appreciating that the construction of Parking Plaza is still going on and the same is on the land which falls in agricultural zone (shown in light green colour in the Development Plan for Nagpur) meaning, thereby, under the Development Control Regulations on such land, Parking Plaza cannot be constructed as the said use would be against the zone and hence illegal. The Hon'ble High Court failed to consider that no permissions were applied for by the Respondents for change use from "Agricultural" to "Commercial" and inspite of this gross abuse of the regulations

and sanction plan, they were granted permission for the commercial constructions in and around a Wetland causing great and immense environmental damage. Infact it is only in 2022, after a four to five years delay, that the Respondent No. 4 has applied for such change in land use permission and the same has still NOT been obtained as of date in toto.

- (8) The Impugned Judgment is also squarely in the teeth of the judgment dated 21st October 2011- passed by the Hon'ble High Court of Judicature at Nagpur, Nagpur Bench in PIL No. 34 of 2010 and W.P No. 125/2011 which clearly directed the demolition of constructions that were made on the similar land belonging to the Respondent No.6.
- (9) The Hon'ble High Court, with respect, committed an error apparent on the face of the record by ignoring the purpose for which the construction of floating restaurant, stage, banquet & artificial banyan tree is being put up inside wetland area viz. commercial, entertainment & tourism purpose, and amounts to non-wetland uses resulting in encroachment of the wetland and is therefore prohibited under Rule 4 (2) (i) of the Wetlands (Conservation & Management) Rules, 2017. It is most humbly submitted that the Respondents have failed to comply with Article 21, Article 48-A and Article 51A (g) of the Constitution of India while proposing and executing projects of musical fountain, laser show, multimedia, construction of viewers gallery on the bank of the said league as well as construction of parking plaza on the land belonging to Krishi Vidyapeeth.
- (10) The Hon'ble High Court has, with respect, failed to appreciate the term 'permanent nature' as used in the Rule 4 (2) (iv) of the Wetlands (Conservation

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& Management) Rule, 2017. The Hon'ble High Court fails to consider that the said structures are well embedded to the floor of the lake and not floating. i.e. it does move around in water but is in one place and stationed with fixed heavy iron and concrete structures.

(11) The Impugned Order fails to appreciate that Respondents being State are bound by the Principle of Public Trust as enunciated by this Hon'ble Court in *MC. Mehta v. Kamal Nath*, reported in (1997) 1 SCC 388. The action of installation of musical fountain, laser light shows by installing machinery inside the lake as well as construction of Viewer's Gallery on the bank of the Tank is contrary to Public Trust Principle and hence illegal. The Petitioner submits that due to acts of Respondents, the Futala Tank has not remained in its natural and original open state but has been converted to an restricted theatre which is used for entertainment by charging fees commercially. Hence the present petition

LIST OF DATES

DATE	PARTICULARS
Nil 1799	Futala Tank, also known as Telangkhedi Tank, a waterbody situated on the west side of Nagpur City, was constructed in the year 1799 by Shri Gyanoji Bhosale.
18.01.2003	Futala Tank has been listed as Grade-I Heritage Structure in Gazette notification issued by the State Government on 18.10.2003.
2006-2007	<p>National Level Wetland inventory was carried out by a SAC Ahmedabad under Project "National Wetland Inventory and Assessment (NWIA)" funded by MoEF&CC. About 2,01,503 wetlands have been listed in the said inventory. Futala Tank has been mentioned as <i>Phutal</i> at page 1448, serial no. 101170 of NWIA. Wetland type code of Futala Lake has been mentioned as 1202.</p> <p>True Copy of the p.1448, serial no. 101170 of NWIA is annexed hereto and marked as Annexure P-1 at Pages. (39 to 39).</p> <p>True copy of p. 58-59 of the wetland atlas of Maharashtra which is a part of the national wetland atlas of India is annexed hereto and marked Annexure P-2 at Pages. (40 to 41).</p>
14.10.2013	The Hon'ble Bombay High Court in the matter of "Vanshakti & Ors. Vs. Union of India & Ors." being PIL No. 87 of 2013 inter alia directed

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	<p>as follows- “ <i>In the meantime, however, we deem it fit and proper to give a direction, in respect of the areas, which have been identified as wetland areas in wetland atlas by the Central government, that no reclamation of land, and any kind of construction shall be permitted without leave of this court</i>”. The said PIL is pending before the Hon’ble High Court.</p> <p>Note: The wetland atlas of Maharashtra is a part of the national wetland atlas of India. At page 58 of the said atlas wetlands in Nagpur region have been mapped. At page 59, specifically, Futala Tank is clearly shown in the map.</p> <p>A copy of the order dated 14.10.2013 passed by the Hon’ble Bombay High Court, principle bench, in PIL No. 87 of 2013 has been annexed hereto and marked as Annexure P-3 at Pages. (42 to 43).</p>
08.02.2017	<p>This Hon’ble Court in the case of <i>M.K. Balakrishnan and Ors. Versus Union of India; Writ Petition (Civil) No. 230 of 2001</i> took note of the mapping of 2,01,503 wetlands in National Wetland Inventory and Assessment & passed various directions with a view to preserve the said wetlands.</p>



	<p>A copy of the order dated 08.02.2017 passed by this Hon'ble Court in Writ Petition (Civil) No. 230 of 2001 has been annexed hereto and marked as Annexure P-4 at Pages. (44 to 53).</p>
26.09.2017	<p>The Wetlands (Conservation and Management) Rules, 2017 (the Rules of 2017) was published in the official gazette on 26.09.2017.</p>
04.10.2017	<p>This Hon'ble Court vide the order dated 04.10.2017 in Writ Petition (Civil) No. 230 of 2001 directed, inter alia, that the 2,01,503 wetlands that had been mapped by the Union of India were to remain protected under the Rules of 2017 on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.</p> <p>A copy of the order dated 04.10.2017 passed by this Hon'ble Court in Writ Petition (Civil) No. 230 of 2001 has been annexed hereto and marked as Annexure P-5 at Pages. (54 to 58).</p>
06.07.2018	<p>A No-Objection letter dated 06.07.2018 was issued by Respondent No. 6 to Respondent No. 5 to for the alleged beautification project of the Futala Tank i.e Musical fountain, laser & multimedia show at Futala Tank. The said NOC inter alias, stipulated a condition no. 5 that "<i>half portion of the income of the proposed project be given to the University and for that a Joint Agreement for 15 years be executed in the first place</i>".</p>

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10.07.2018	<p>The Headquarters MC (U) Air Force by its letter dated 10.07.2018 raised an objection for Laser light show at Futala Tank. The said letter inter alia, mentions that "<i>helicopter training and NVG flying is regularly undertaken at VSN helipad. Futala lake falls in the Take-off/ approach path of the helipad. Laser lights show at Futala lake will affect the vision of the pilot and could lead to accident/incident. Hence a conditional No Objection Certificate is hereby issued for installation of musical fountain without (R) without Laser unit at Futala Lake ...</i>".</p> <p>A true copy of the letter dated 10th July 2018 issued by the HQ MC (U) AF, Nagpur under reference no. MC (U) /1405/1/Wks issued to Respondent No. 5 NMRDA is annexed hereto and marked as Annexure P-6 at Pages. (59 to 66).</p>
18.04.2019	<p>A letter/ Reply dated 18.04.2019 under reference No. CAN/E.O.-II/RTI/01/19 was issued by the Office of Estate Officer II, College of Agriculture, Nagpur stating that the subject land on which construction was to take place, was given to Punjabrao Deshmukh Krishi Vidyapeeth, Respondent No. 6 herein, for purposes of Agriculture, Research, Education & Crop Cultivation and therefore could not have been used for any other purposes much less for construction of parking plaza with Food Court, Restaurant and Gazebo.</p>

18.10.2019	Respondent No. 4 sanctioned the Plan for Master Layout of Futala Development Project. The said plan discloses that the construction for viewing gallery comprises ground floor, Mezzanine and First Floor totally admeasuring 934.098 Sq.mts of construction.
15.06.2021 and 07.07.2021	<p>Heritage Conservation Committee in its meeting dated 15/06/2021 granted its sanction to construction of Viewer's Gallery on the bank of Futala Tank and also for development work of Musical Fountain, Sound, Light & Laser/Multimedia show on the condition that precaution should be taken not to cause damage to the Heritage spot of Futala Tank while doing the proposed development work. Such approval was clearly against the rules provided in Government Resolution dated 21st October 2003 issued by Government of Maharashtra which clearly states that no changes can be made to heritage structures without downgrading them. The Regulation also disallows the changing of skyline in any manner which the Heritage Committee clearly overlooked while sanctioning this permission.</p> <p>True copy letter dated 07.07.2021 of minutes of meeting dated 15.06.2021 is annexed hereto and marked as Annexure P-7 at Pages. (67 to 94).</p>

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08.03.2022	<p>Vide Office Memorandum dated 08.03.2022 issued by MoEF&CC it was reiterated/ clarified that the wetlands identified as per NWIA 2011 should be protected as per Rule 4 of the Rules of 2017.</p> <p>A copy of Office Memorandum dated 08.03.2022 issued by MoEF&CC is annexed herewith and marked as Annexure P-8 at Pages. (95 to 95).</p>
21.03.2022	<p>Vide reference number 146/RTI dated 21.3.2022 under Right to Information Act, 2005 a chart was obtained wherein total construction of Viewer's Gallery viz. Ground floor, first floor and second floor is was shown as 4,205.149 Sq.mts i.e., 45,262.54 Sq.ft. The said chart shows classic arrangement that exists at any multiplex theatre which is used for entertainment.</p> <p>Note: Information under RTI Application No. 146/R11 dated 21-03-2022 was received on 13.05.2022.</p>
29.03.2022	<p>Vide letter dated 29/3/2022 issued by Respondent No. 5 under outward No. Ex. Eng. (Project) 2900 it came to surface that the musical fountain, light, sound & multimedia show at Futala Tank was raised by NMRDA and that as per project initiation work order contract amount of Rs. 48.44 Cr. Plus Project implementation & maintenance repairing cost of Rs. 10 Cr (for five years) plus 1.50 Cr. (five years) for purchasing IPR of songs plus for technical/steering committee 0.10 Cr plus Rs.5.81 Cr. Towards</p>

	GST totalling to Rs. 65.85 Cr. Expenditure is expected. The said project is being implemented out of Nagpur Improvement Trust (NIT) Funds.
17.04.2022	Letter dated 17th April 2022 under Reference No. Maha-Metro/RTI/Anusaya Kale Chhabrani/ 351/2022/5640 issued by Respondent No. 4 under Right to Information Act, 2005 stipulated that the total cost of the project was Rs.112.89 Cr. And was being funded by Respondent No.2 under Central Road Fund.
13.05.2022	<p>Information under RTI Application No. 146/R11 dated 21-03-2022 was received on 13.05.2022.</p> <p>A copy of chart of information and the sanction letter received on 13.05.2022 by the President of Petitioner organization under Right to Information Act, 2005, bearing reference 146/RTI from Respondent No. 3 is annexed herewith and marked as Annexure P-9 at Pages. (96 to 152).</p> <p>Furthermore, copy of the internal noting of Officers of Respondent No.3 involved in passing of plan for the construction of Viewers Gallery was also supplied to Petitioner on 13.05.2022, wherein the noting officers involved in the procedure for passing plans for construction of Viewer's Gallery submitted by the Respondent No. 2 herein. In the said noting it has been categorically admitted by the Officers of Respondent No. 3 Corporation that as per D.C Rules of Nagpur a construction site must be</p>

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	<p>at a distance of 15.00 meters from a waterbody and as shown in the plans it is clear that the concerned construction site is at a distance of 9.00 meters. The said mandatory provision of maintaining distance of construction site from 15 meters had been relaxed by the Commissioner vide order dated 1.03.2019 by using powers under the Development Control Rules and the plans were sanctioned by Respondent No. 3.</p> <p>A copy of the internal noting of Officers of Respondent No.3 dated 13.05.2022 supplied under the RTI Act, 2005 bearing reference No. 146/RTI is annexed herewith and marked as Annexure P-10 at Pages. (153 to 158).</p>
17.05.2022	<p>The Petitioner herein made representation to the Wetlands Conservation Authority on 17.5.2022 but cognizance of the same has still not been taken.</p>
21.05.2022	<p>Vide letter dated 21st May 2022 under reference No. Maha- Metro/RTI/ Anusaya Kale Chhabrani/3 62/2022/5 826, Respondent No. 4 issued the sanctioned Plan of Master Layout of Futala Development Project.</p> <p>A copy of letter dated 21st May 2022 under reference No. Maha- Metro/RTI/ Anusaya Kale Chhabrani/3 62/2022/5 826 has been annexed herewith and marked as Annexure P-11 at Pages. (159 to 162).</p>

<p>30.06.2022 and 20.07.2022</p>	<p>A letter dated 20.07.2022 was received by the Petitioner herein with the minutes of the meeting held on 30.06.2022 by the Nagpur Heritage Conservation Committee wherein, inter alia, opinion regarding the construction of parking plaza building at Mouza – Futala was discussed by the Committee. It is to be noted that the subcommittee after conducting spot inspection of the land of the said proposed multistoried parking plaza observed, inter alia, that the gallery as constructed differs from the one which was approved by heritage committee on 29.09.2018. Further, no sanction plans have been made available regarding the foundation work and various other discrepancies have been observed on the part of Respondents herein.</p> <p>A copy of the letter dated 20.07.2022 issued by the Nagpur Heritage Conservation Committee has been annexed herewith and marked as Annexure P-12 at Pages. (163 to 192).</p>
<p>01.09.2022</p>	<p>Nagpur Municipal Corporation, Rachana Vibhag, vide letter dated 01.09.2022 to Maharashtra Metro Rail Corporation Ltd. asked them to follow the terms and conditions while executing the Park Plaza Project.</p> <p>A copy of letter dated 01.09.2022 issued by Nagpur Municipal Corporation to Maharashtra Metro Rail Corporation Ltd. has been annexed herewith and marked as Annexure P-13 at Pages. (193 to 197).</p>

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17.10.2022	<p>The petitioner had approached the High Court of Judicature at Bombay, Principal Seat, vide PIL No. 138/2022 seeking to highlight the installation of a musical fountain and associated machinery at the Futala Tank as well as a declaration that the construction of the viewers gallery on the banks of the said Tank is illegal. The Hon'ble High Court on account of lack of territorial jurisdiction granted liberty to the petitioner to approach at Nagpur, by keeping all contentions open.</p>
<p>Nil January 2023</p>	<p>The Petitioner herein preferred Public Interest Litigation No. 4 of 2023 before Hon'ble High Court of Judicature at Bombay, Nagpur Bench.</p> <p>A copy of PIL No. 4 of 2023 filed by the Petitioner herein on Nil January 2023 before Hon'ble High Court of Judicature at Bombay, Nagpur Bench has been annexed herewith and marked as Annexure P-14 at Pages. (198 to 289).</p>
25.01.2023	<p>The Hon'ble Bombay High Court vide order dated 25.01.2023 issued notice to the Respondents in PIL No. 4 of 2023.</p> <p>A copy of the order dated 25.01.2023 passed by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench in PIL No. 4 of 2023 has been annexed herewith and marked as Annexure P-15 at Pages. (290 to 291).</p>

06.02.2023	<p>Letter addressed from Town Planning Department, Maharashtra to Respondent No. 4 stating that since the construction of a “commercial” Plaza is proposed to be on agricultural land parcel belonging to PDKV (Respondent No.6), an NOC was further required from Respondent No. 6 in order to consider their request of a proposed change in land use. This clearly shows that even after several years of sanctions and permission being granted by the Respondents for the proposed constructions, NO permission for change of land use was ever applied for and granted in the first place to the Respondents for such commercial constructions on agricultural lands.</p> <p>A true copy of the letter dated 06.02.2023 from Town Planning Department, Maharashtra to Respondent No. 4 is annexed hereto and marked Annexure – P-16 at Pages. (292 to 294).</p>
05.07.2023	<p>The Hon’ble High Court vide order dated 05.07.2023 rejected the Petitioner’s prayer for interim relief in the form of restraining the MMRCL from undertaking the activities with regard to placing of the artificial banyan tree and activities with regard to the floating banquet and floating restaurant.</p> <p>A copy of the order dated 05-07-2023 passed by the Hon’ble High Court of Judicature at Bombay, Nagpur Bench in PIL No. 4 of 2023 has been</p>

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	annexed herewith and marked as Annexure P-17 at Pages. (295 to 310).
30.11.2023	The Hon'ble High Court vide the Impugned Order disposed of the PIL preferred by the Petitioner.
03.01.2024	Hence, the present SLP.



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Public Interest Litigation No.4 of 2023

Swacch Association, Nagpur

... Petitioner

Versus

The State of Maharashtra and others

... Respondents

Shri S.A. Rajeshirke with Shri Amogh Parlikar and Shri K.S. Narwade,
Counsel for Petitioner.

Shri S.K. Mishra, Senior Advocate, assisted by Shri A.S. Fulzele,
Additional Government Pleader for Respondent Nos.1, 2 and 9.

Shri S.K. Mishra, Senior Advocate, assisted by Shri J.B. Kasat, Counsel
for Respondent No.3.

Shri Anand Parchure, Counsel for Respondent No.4.

Shri S.M. Puranik, Counsel for Respondent No.5.

Shri A.R. Patil, Counsel for Respondent Nos.6 and 7.

Shri N.S. Deshpande, Deputy Solicitor General of India for
Respondent No.8.

CORAM : A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.

Date when arguments were heard : 11th October, 2023.

Date when the judgment was pronounced : 30th November, 2023.

JUDGMENT (PER A.S. CHANDURKAR, J.) :

1. The present proceedings have been filed in public interest by Swacch Association, a Society registered under the Societies Registration Act, 1860 as well as under the Maharashtra Public Trusts Act, 1950. It seeks to raise the issue with regard to impermissibility of installation of musical fountain and associated machinery inside the body of Futala Tank. It also seeks to object to the construction of the viewer's gallery on the bank of Futala Tank and prays that the Tank be

restored to its original state after demolishing the viewer's gallery. The prayer for interim relief was made by the petitioner during the pendency of the present proceedings and by the order dated 5-7-2023, the interim relief as prayed for was not granted. However, directions were issued to the respondents to ensure that the spirit behind imposing restrictions under Rule 4 of the Wetlands (Conservation and Management) Rules, 2017 ('the Rules of 2017') is strictly observed and no construction of a permanent nature within Futala Lake is undertaken. In the aforesaid backdrop, the present proceedings are being considered.

2. According to the respondents, the order dated 5-7-2023 takes into consideration all the apprehensions expressed by the petitioner. They submit that as Futala Lake is not a 'wetland' as defined under Rule 2(1)(g) of the Rules of 2017, the interim order dated 5-7-2023 be made absolute and the parties be directed to act in accordance with the directions issued therein. The petitioner however contends otherwise to urge that the prohibition, as contemplated by Rule 4 of the Rules of 2017 to undertake any activity of a permanent nature in a wetland be implemented insofar as Futala Lake is concerned.

3. Shri S.A. Rajeshirke, learned counsel for the petitioner, submitted that Futala Lake, though not declared as a 'wetland' in terms of Rule 2(1)(g) of the Rules of 2017, was an identified wetland and the same found mention in the National Wetland Inventory and Assessment (NWIA). The said inventory having been taken in the year

2006-07 and Futala Lake having been identified as a wetland, the provisions of the Rules of 2017 ought to be applied with full rigor. Referring to the very same decisions that were pressed into service when the prayer for interim relief was considered, the learned counsel submitted that no construction of any nature whatsoever was permissible in such water body. Referring to Rule 4(2) of the Rules of 2017, it was urged that the activities undertaken by the respondents were prohibited for being so undertaken at a wetland. Such activities amounted to committing an encroachment on a water body. Referring to the provisions of the Unified Development Control and Promotion Regulations for the State of Maharashtra, it was submitted that even for a construction of a temporary nature, permission of the Planning Authority was necessary. Such permission was not taken, thus resulting in breach of the said Regulations as well as violation of Rule 4 of the Rules of 2017. A similar contention was raised insofar as construction of viewer's gallery on the bank of Futala Lake was concerned. Though the said area fell within the green zone, commercial activities were sought to be undertaken therein. This construction was within 50 metres of the water body and there was no power whatsoever with the Planning Authority to relax such criteria. The parking plaza being constructed across the road also fell within the green zone wherein construction was not permissible. Giving a go by to the Regulations and without changing the user of such land, the construction had been undertaken which required interference at

the hands of the Court. The learned counsel then referred to the Environment Status Report of the City of Nagpur that was prepared by the National Environmental Engineering Research Institute, Nagpur to submit that the quality of the Lake water would deteriorate with the user of the Lake for such activities. Huge amounts were likely to be spent on the said venture which was highly arbitrary. Commercial interests of the respondents could not be given precedence over environmental concerns of the general public. Reference was made to the provisions of Section 63 of the Maharashtra Municipal Corporations Act, 1949 to indicate the nature of duties and responsibilities of the Municipal Corporation in that regard.

4. To substantiate the stand of the petitioner, the learned counsel referred to the Public Trust Doctrine as envisaged in the decisions in *M.C. Mehta Versus Kamal Nath and others* [(1997) 1 SCC 388], and *Hinch Lal Tiwari Versus Kamala Devi and others* [(2001) 6 SCC 496] that had been referred to in *Navi Mumbai Environment Preservation Society and another Versus Ministry of Environment through its Secretary, Department of Environment and others* [2018 SCC OnLine Bom 4074]. The learned counsel also referred to the decision in *Jitendra Singh Versus Ministry of Environment and others* [(2020) 20 SCC 581] in that regard. Attention was also invited to the Precautionary Principle that stands accepted by the Hon'ble Supreme Court in its decisions and it was submitted that the activities undertaken by the respondents ought to

be discontinued. The said venture itself could be shifted to a place otherwise than a green belt so as to protect Futala Lake. On this premise, it was prayed that this Court may pass appropriate directions in public interest.

5. Shri S.K. Mishra, learned Senior Advocate for the respondent Nos.1, 2 and 9 which included the State Wetland Authority, opposed aforesaid submissions. He reiterated the stand taken by the said respondents while opposing the prayer for interim relief. He submitted that though the activities in question had commenced in 2019, the present proceedings had been filed in December 2022 and thereafter by amending the prayers in June 2023, the petitioner had sought to raise a belated challenge to such activities. There was no explanation whatsoever furnished by the petitioner for the delay in approaching the Court in the present proceedings. The construction activities that had commenced after obtaining due sanction were on the verge of completion. Reference was made to the sanction orders dated 18-10-2019 and 1-9-2022 issued by the Competent Authorities. It was pointed out that these orders of sanction had not been challenged by the petitioner nor was a prayer made that the sanctions granted were illegal. As long as the orders of sanction operated, there was no question of demolishing the construction that was undertaken on that basis.

It was submitted that as a Wetland Authority constituted by the Ministry of Environment of the State Government, it had taken a

specific stand that Futala Lake was not a 'wetland' under Rule 2(1)(g) of the Rules of 2017. The contents of the affidavit filed on behalf of the Wetland Authority were neither disputed nor controverted. Since Futala Lake was a man-made water body, it did not answer the definition of a 'wetland' under Rule 2(1)(g) of the Rules of 2017. While the petitioner sought to support its stand by contending that Futala Lake was an identified wetland, the Wetland Authority had specifically asserted that it was not a declared 'wetland' under the Rules of 2017. There was no reason whatsoever to disregard the opinion of the Competent Authority that was placed on record. It was then submitted that after obtaining all due permissions and without disturbing the ecology, the activities in question had been undertaken. Due permission of the Heritage Committee had also been obtained which had not been challenged by the petitioner. The requisite plans were sanctioned by the Planning Authority under the relevant regulations which again were not subjected to challenge. Since all activities were being undertaken in accordance with the sanctioned plans, there was no illegality in the same. The learned Senior Advocate submitted that the State was conscious of the responsibilities envisaged by Articles 48-A and 51-A of the Constitution of India. Since it was clear that the provisions of Rule 4(2) had not been violated, no relief whatsoever be granted to the petitioner. The directions issued in the interim order dated 5-7-2023 were being complied with by the respondents.

6. Shri Anand Parchure, learned counsel appearing for the respondent No.4- Maharashtra Metro Rail Corporation Limited (MMRCL), submitted that the said respondent was merely an executing agency of the plans that had been duly sanctioned by the Competent Authority. He referred to the affidavits filed on behalf of the said respondent dated 14-6-2023 and 25-8-2023. It was reiterated that no permanent structure was being constructed in the water body. The artificial banyan tree was in fact a projection on a screen and the same was not to be constructed. The plans as well as the drawings undertaken under the guidance of Visvesvaraya National Institute of Technology, Nagpur were also referred to. It was further submitted that various activities had been undertaken to restore the precincts of the Futala Lake at the instance of the Heritage Committee. The activities in the Lake would result in agitating the surface of the water which would ultimately result in maintaining its quality. There was no threat to aqua life in that regard. The respondent No.4-MMRCL would ensure that none of the activities undertaken would result in causing any damage to the Tank. It was reiterated that the directions issued in the interim order would be obeyed by the said respondent. Since no permanent structure was being constructed, the apprehensions expressed by the petitioner were misconceived.

7. Shri S.M. Puranik, learned counsel appearing for the respondent No.5- Nagpur Metropolitan Regional Development Authority reiterated the stand that was taken earlier. He too

questioned the delay on the part of the petitioner in approaching the Court and submitted that after obtaining all due permissions, the work in question had been undertaken.

Shri A.R. Patil, learned counsel for the respondent No.6- Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Nagpur referred to the resolution dated 9-6-2020 that was passed by the respondent No.6 permitting use of the land for construction of the parking plaza. Since the said land was not of much use to the respondent No.6, the same was permitted to be used as parking plaza. The ownership of the said land continued with the respondent No.6 while permitting such user. Reference was also made to the sanction granted in that regard along with the permission for change of user dated 6-2-2023 issued by the Urban Development Department of the State of Maharashtra. It was thus submitted that no further directions ought to be issued in the present proceedings.

8. We have given due consideration to the respective submissions and we have also perused the documentary material on record. At the outset, we may state that most of the contentions now urged were also urged when the prayer for interim relief was considered. The said contentions find mention in the order dated 5-7-2023 and hence with a view to avoid repetition, a separate reference to the same is not being made herein. Suffice it to observe that the order dated 5-7-2023 was not subjected to any further challenge and the same continues to operate. On the basis of the material on record, a finding has been

recorded based on the affidavit filed by the Director, Environment and Climate Change Department of the State Government/Principal Secretary to the State Wetland Authority that Futalaka Lake being a man-made water body, it does not fall within the definition of the term 'wetland' under Rule 2(1)(g) of the Rules of 2017. There is no additional material placed on record thereafter for this Court to re-consider the said issue afresh. It may be noted that the learned counsel for the petitioner reiterated that the petitioner was relying on the fact that Futala Lake was an identified wetland as per the NWIA 2006-07 while the respondents urged that the said Lake being a man-made water body is not a declared wetland. Since the field is covered by the Rules of 2017 and Futala Lake does not answer the definition of the term 'wetland', we hold that being a man-made water body, Futala Lake is not a 'wetland' under Rule 2(1)(g) of the Rules of 2017.

9. Notwithstanding the aforesaid position on record, we may refer to the Office Memorandum dated 8-3-2022 issued by the Ministry of Environment, Forests and Climate Change of the Government of India. In the light of the order passed by the Hon'ble Supreme Court on 4-10-2017 in Writ Petition (Civil) No.230 of 2001 [*M.K. Balakrishnan and others Versus Union of India and others*], it was clarified/reiterated by the said Office Memorandum that the wetlands identified as per NWIA 2011 should be protected as per Rule 4 of the Rules of 2017.

Thus even if Futala Lake is not a declared wetland by the State Wetland Authority, the restrictions imposed vide Office Memorandum dated 8-3-2022 ought to apply to the said Lake. It is in this backdrop that the respondents had been directed to ensure that the spirit behind enacting the Rules of 2017 is not violated by undertaking any construction of a permanent nature within Futala Lake. We are inclined to continue this direction with a view to protect and preserve Futala Lake from any construction of permanent nature being undertaken therein. At this stage, we may refer to the affidavit dated 25-8-2023 filed on behalf of the respondent No.4-MMRCL. In Paragraph 13 of the said affidavit, it has been stated as under :

“13. ... It is submitted that the Respondent No.4 assures this Hon'ble Court that none of the above activities would be carried out without appropriate sanctions and permission of which are already obtained and it would be ensured that not only the guiding provisions and rules are adhered to but even the cleanliness, hygiene and associated items as contemplated under the Swacch Bharat Mission would be implemented. It is further ensured that any of the activities undertaken would not result in causing any damage to the tank. It is further ensured that during the construction by this Respondent, the water body where the floating banquet hall, floating restaurant as well as Artificial Banyan Tree are proposed is kept clean and is properly maintained by taking all necessary precautions/steps in this regard.”

10. Notwithstanding the fact that Futala Lake is not a declared wetland, we cannot be oblivious of the expectations envisaged in Part IV and Part IV-A of the Constitution of India. Article 48-A requires the State to protect and improve the environment and to safeguard the forest and wildlife of the country. Article 51-A(g) recognizes the duty of every citizen of India to protect and improve the natural environment including lakes. Thus even if Futala Lake is not a declared wetland, the duties and responsibilities imposed by the aforesaid provisions would have to be adhered to in true letter and spirit. The learned counsel for the petitioner is justified in invoking the Public Trust Doctrine that has been recognized by the Hon'ble Supreme Court in its various decisions including the decision in *Animal and Environment Legal Defence Fund Versus Union of India and others [(1997) 3 SCC 549]*. In *M.C. Mehta* (supra), it has been observed that the Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of one's status in life. The said doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes.

The Precautionary Principle has also been recognized by the Hon'ble Supreme Court in its various decisions including the decision in *A.P. Pollution Control Board Versus M.V. Nayudu [(1999) 2 SCC 718]*. According to the said principle, it is better to err on the side of caution and prevent environmental harm that could be irreversible in future. It would be better to anticipate environmental harm and take measures to avoid it or to choose the least environmentally harmful activity. The said principle has been thereafter consistently applied by the Courts in larger public interest. A Co-ordinate Bench in *Navi Mumbai Environment Preservation Society* (supra) has applied both the aforesaid principles while considering measures to be taken to safeguard lakes and water bodies in Navi Mumbai. We are of the view that an approach based on a fusion of the Public Trust Doctrine as well as the Precautionary Principle would be required to be adopted in the present case so as to preserve Futala Lake which is a man-made water body.

11. We may state that the efforts taken by the petitioner in highlighting the present issue deserve to be recognized as the present proceedings have been initiated in public interest and they are not adversarial in nature. Preservation of Futala Lake is of paramount importance and the respondents are duty bound to act responsibly in a manner consistent with Articles 48-A and 51-A(g) of the Constitution of India. It is for this reason that the aspect of unexplained delay and laches on the part of the petitioner, as urged by the respondents, is not

considered a formidable reason for not entertaining the present proceedings in public interest.

12. It is not in dispute that the activities of construction of the viewer's gallery and parking plaza are preceded by various requisite permissions and sanctions granted by the concerned authorities. The documents on record indicating the same supported by affidavits of the concerned authorities have not been specifically challenged by the petitioner. In effect, therefore, the sanctions granted including the sanctions dated 18-10-2019 and 1-9-2022 continue to operate. Similarly, the permissions granted by the Heritage Committee on 30-6-2022 as well as 6-2-2023 granted by the Urban Development Department permitting change of user continue to operate. In absence of any challenge to the same, a total prohibition on such activities as sought by the petitioner cannot be imposed. At the same time, it would be necessary to ensure that in accordance with the spirit of the Rules of 2017, no permanent construction would be undertaken at the man-made water body- Futala Lake.

13. Thus, by applying the Public Trust Doctrine as well as the Precautionary Principle, it is directed that the respondents shall ensure that the spirit behind the Rules of 2017 and especially Rule 4(2)(vi) thereof is not violated by undertaking any construction of a permanent nature within Futala Lake. The respondent No.4-MMRCL alongwith the respondent No.3- Nagpur Municipal Corporation are directed to ensure that the activities undertaken by them do not result in causing

any damage to the Lake. They shall also ensure that the water body where the floating banquet hall, floating restaurant as well as the artificial banyan tree are proposed is kept clean and is properly maintained by taking all necessary precautions/steps in that regard. In addition, the statements made in the affidavit dated 25-8-2023 filed on behalf of MMRCL that have been reproduced hereinabove would also be binding on the said respondent.

It is expected that the respondents would also be alive to the need for preserving the man-made water body- Futala Lake to enable the future generations also to be able to witness the Lake in its present form. It would therefore be necessary for the respective respondents to ensure that their activities do not result in causing any ecological damage to the water body and that the quality of aqua life is not adversely affected. Though the present proceedings are being disposed of with a hope that the respondents would abide by the expectations referred to hereinabove, it is made clear that it would be open for any public-spirited citizen to bring to the notice of the Court any acts that could result in causing damage to the water body in future.

14. The Public Interest Litigation is disposed of in aforesaid terms leaving the parties to bear their own costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)
SPECIAL LEAVE PETITION (CIVIL) NO. OF 2023
WITH PRAYER FOR INTERIM RELIEF**

POSITION OF PARTIES

		BEFORE HIGH COURT	BEFORE THIS COURT
	IN THE MATTER OF:		
1.	Swacch Association, Nagpur A Non-profit Organisation registered under the Societies Registration Act, 1860 and under the Bombay Public Trust Act, 1950, having its office at 15, Laxmi Apartments, Opposite to Axis Bank, through its president: Mrs. Anasuya Vinod Chhabrani, Civil lines, Nagpur- 440001, Mobile No. 9850489953, PAN No. AASTS9043H	Petitioner	Petitioner

VERSUS

1.	The State of Maharashtra, Through Secretary the Ministry of Environment, Mantralaya, Mumbai-440032	Respondent No. 1	Contesting Respondent No. 1
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2. **The Public Works Division No.1,** Respondent No. Contesting
Through its Executive Engineer 02 Respondent No. 2
Nagpur
3. **Municipal Corporation Nagpur,** Respondent No. 3 Contesting
Municipal Corporation Road, Civil Respondent No. 3
Lines, Nagpur - 440001, through its
Commissioner
4. **Maharashtra Metro Rail** Respondent No. 4 Contesting
Corporation Limited Through its Respondent No. 4
Managing Director, "Metro Bhawan"
East High Court Road (VIP Road) In
front of Dr. Babasaheb Ambedkar
College, Near Dikshabhoomi,
Nagpur-440010
5. **Nagpur Metropolitan Regional** Respondent No. 5 Contesting
Development Authority West High Respondent No. 5
Court Road, Gokulpeth, Nagpur-
440010, through its Commissioner
6. **Dr. Punjabrao Deshmukh Krishi** Respondent No.6 Contesting
Vidyapeeth. Through its Registrar, Respondent No.6
Nagpur Maharajbagh Zoo, Nagpur-
440001
7. **Maharashtra Animal Fishery** Respondent No. 7 Contesting
Science University, Through its Respondent No.7
Registrar, Nagpur North Telangkhedhi
Road, Near Telankhedhi Lake,
Nagpur-440001

8. **The Union of India**, Through the Secretary Ministry of Environment and forest, New Delhi Respondent No.8 Contesting Respondent No.8
9. **The Wetland Authority for the State of Maharashtra**, Through its Member Secretary, New Administrative Bhavan, 15th Floor, Madame Cama Road, Mantralaya Mumbai-4400032 Respondent No.9 Contesting Respondent No.9

To,

The Hon'ble Chief Justice of India
and his companion justices of the
Hon'ble Supreme Court of India

The humble Petition of the
above named Petitioner

MOST RESPECTFULLY SHEWETH:

1. The present Special Leave Petition is being filed by the Petitioner herein under Article 136 of the Constitution of India against the judgment and order dated 30th November 2023 passed by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, PIL No. 4 of 2023, wherein the Hon'ble High Court, with respect, wrongly held that being a man-made water body, Futala Tank is not a wetland under Rule 2(1)(g) of the Wetlands (Conservation and Management) Rules, 2017 and directed the sanctions granted by concerned

authorities to continue with the activities of construction of parking plaza and viewers gallery and other so-called beautifications of Futala Tank.

2. QUESTIONS OF LAW

The following questions of law arise for consideration of this Hon'ble Court:

- A. Whether the constructions of floating restaurant, banquet, stage as well as artificial banyan tree screen and other uses contemplated in and around Futala falls under prohibited activities of non-wetland use as provided under Rule 4 (2) (i) of the Wetlands (Conservation and Management) Rules 2017? Such construction amounts to reclamation under the Wetlands (Conservation and Management) Rules 2017 and hence falls under prohibited activities?
- B. Whether High Court has Committed an error of law by holding that the construction inside the wetland is temporary construction and as such there is no violation of Rule 4 (2) (vi) of the Rules? Whether the High Court has, with respect, committed an error of law by not interpreting Rule 4 of the Wetlands (Conservation & Management) rules 2017 in its entirety and focusing only on Rule 4 (2) (vi)? Whether High Court has erroneously failed and omitted to consider and appreciate that the term 'permanent nature' as used in the Rule 4 (2) (iv) of the Wetlands (Conservation & Management) Rule, 2017?

- C. Whether the Impugned Order clearly is in violation of the sanctioned Development Plan for Nagpur as published by Respondent No. 5 in as much that that the land on which the proposed constructions of parking plaza with Food Court, Restaurant and Gazebo, etc are to take place were given to Punjabrao Deshmukh Krishi Vidyapeeth (Respondent No. 6) herein, strictly for purposes of Agriculture, Research, Education & Crop Cultivation and therefore could not have been used for any other purposes much less for such commercial purpose?
- D. Whether the Hon'ble High Court erroneously overlooked the fact that only after a delay of several years and after the filing of the writ petition before the High Court, was a change of land use request was made by the Respondents which is still pending and without having been granted such permission, the constructions have been undertaken?
- E. Whether the Hon'ble High Court erred in examining and deciding the status of Futala Lake as Wetland under Section 2 (1) (g) of the Wetlands (Conservation & Management) Rules, 2017?
- F. Whether High Court committed an error of law by overlooking the fact that even as per Unified development Control Regulations construction of permanent nature and construction of temporary nature are determined with reference to intention or use of same for which it is constructed hence in such circumstances the disputed construction falls in construction of

permanent nature hence prohibited under Rule 4 of the Wetlands (Conservation & Management) Rules, 2017?

- G. Whether the Impugned Judgement fails to consider that the construction of floating restaurant, stage, banquet as well as artificial banyan tree inside the Futala tank is in violation of the judgment and order passed by this Hon'ble Court on 8/02/2017 as passed in case of "**M.K. Balkrishnan v. Union Of India in W.P. 230 of 2001**"?
- H. Whether impugned order is in complete violation of the injunctive order dated 14.10.2013 passed by the Hon'ble High Court in "**Vanshakti & Ors. Vs. Union of India & Ors.**" **PIL No. 87 of 2013**, regarding protection of areas shown as wetland areas in the Wetland atlas by the Central Government which applies to Futala Lake squarely?
- I. Whether the High Court committed a grave error in deciding status of Futala under Section 2 (1) (g) of the Wetlands (Conservation & Management) Rules, 2017 as the same is subject matter of PIL No. 87 of 2013 pending before the Principal Court at Bombay. In these circumstances, whether the finding that Futala Lake is not a Wetland under Section 2 (1) (g) of the Rules of 2017 is perverse and without jurisdiction and hence liable to be set aside.
- J. Whether High Court has erred in law in failing to appreciate that the construction of floating restaurant, stage and banquet as well as artificial

banyan tree inside the wetland would change the use and character of Futala Lake as wetland and thereby it is against the principle of Public Trust as enunciated by the Apex Court in the matter of M.C. Mehta v. Kamal Nath as reported in (1997) 1 SCC 388 ?

3. DECLARATION IN TERMS OF RULE 3 (2)

The Petitioner states that no other petition seeking leave to appeal has been filed by them against the Impugned Judgment and Order dated 30th November 2023 passed by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, PIL No. 4 of 2023.

4. DECLARATION IN TERMS OF RULE 5

The annexures P-1 to P-17 produced along with the SLP are true copies of the pleadings/documents which formed part of the records of the case in the Court below against whose order the leave to appeal is sought for in this Petition.

5. GROUNDS

A. The Petitioner craves leave to appeal, *inter-alia* on the following grounds, which are without prejudice to each other:

- a) For that the Hon'ble High Court failed to appreciate that the Futala Tank is specifically categorized as a "Wetland" in the wetland map prepared

by the Space Application Centre (ISRO) as well as the State Remote Sensing Application Centre, Nagpur in its National Wetland Inventory and Assessment (NWIA), which is a project funded by the Ministry of Environment, Forest and Climate Change. The said inventory is of the year 2006-2007 and Futala Lake is shown to comprise of a wetland area of 55 hectares and 98 acres.

- b) For that the Hon'ble High Court failed to consider that based on the orders of this Hon'ble Court on 04.10.2017, the Ministry of Environment, Forest and Climate Change had issued an Office Memorandum on 8.3.2022 stipulating that the 2,01,503 wetlands as per the NWIA, 2011 would stand protected as per Rule 4 of the Rules 2017 irrespective of the applicability of/notification as per the said Rules. As such, all the protections afforded to wetland are available to Futala Tank.
- c) For that the Impugned Judgment is clearly in the teeth of the order dated 14.10.2013 and 25.07.2016 passed by the Bombay High Court in Public Interest Litigation No. 87 of 2013 (*Vanshakti and others versus Union of India and others*) which clearly directed that no construction, whatsoever of any nature was permissible in any wetland without the leave of the Court. Therefore, Futala Tank, which was also identified as a wetland, also stood protected and any activity of construction in the form of floating banquet, performing stage and floating restaurant was unlawful and impermissible.

d) For that the High Court erroneously held that, “...*Prima facie, in the light of the aforesaid position, the said lake being a man-made water-body, it would not be included in the definition of the term ‘wetland’ under the Rule 2 (1) (g) of the Rules of 2017.....*”. The said conclusion was based only on the premise that the lake was a man-made water body and therefore would not be included in the definition of the term ‘wetland’. This is clearly in the teeth of the Rule 2(1)(g) of the Rules of 2017 which is reproduced as under: -

“2. *Definitions.*: ---

1) *In these rules, unless the context otherwise requires,-*

.....

(g) *‘wetland’ means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, creation and irrigation purposes.*”

On the perusal of this Rule which defines the term ‘wetland’, it is clear that a ‘wetland’ included an area of marsh, fen, peatland or water, both

natural and artificial. In the instant case, the Futala Tank, was man made and hence artificial. The words, “but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, creation and irrigation purposes”, have again been misinterpreted by the Hon’ble High Court in as much as the Hon’ble High Court has not considered the Futala Lake as a ‘wetland’ only because it is human made water body, whereas the definition of “wetland” clearly states that “.....but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, creation and irrigation purposes”, meaning thereby that those human made water bodies or tanks cannot be considered to be a ‘wetland’, which have specifically been constructed for drinking purposes, aquaculture, salt production, creation and irrigation purposes. It is most humbly submitted that the Hon’ble High Court has erroneously ignored the words “specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, creation and irrigation purposes”, and wrongly concluded that the Futala Lake was not a ‘wetland’ when it was clearly apparent from the definitions of a ‘wetland’ in the Rules of 2017, that only when a human man made water body or tank had been

specifically constructed for drinking water purposes or for aquaculture, salt production, creation and irrigation purposes”, could the water body or tank, not be included in the definition of ‘wetland’.

However, in the instant case, the Futala Lake had neither been constructed for drinking water purpose, nor for aquaculture or salt production or for irrigation purposes. Thus, the exclusion part/clause of 2(1)(g) of the Rules of 2017 was not applicable to the Petitioner and the Futala Tank very well came within the definition of 2(1)(g) of the Rules of 2017.

- e) The High Court failed to consider that the said constructions that were being undertaken by the Respondents in fact amounted to committing encroachment on a water body. The High Court further failed to consider that the provisions of the Unified Development Control and Promotion Regulations for the State of Maharashtra clearly mandate that even for a construction of a temporary nature, permission of the Planning Authority was necessary. Such permission was not taken by the concerned Respondents, thus resulting in breach of the said Regulations as well as violation of Rule 4 of the Rules of 2017. The High Court further failed to consider that insofar as construction of viewer’s gallery on the bank of Futala Lake was concerned, even though the said area fell within the green zone in the development plans, commercial activities

were sought to be undertaken therein which was unlawful and impermissible. This construction was within 50 metres of the water body and there was no power whatsoever with the Planning Authority to relax such criteria. The parking plaza being constructed across the road also fell within the green zone wherein construction was not permissible.

- f) The Impugned Order clearly is in violation of the sanctioned Development Plan for Nagpur as published by Respondent No. 5 in as much that that the land on which the proposed constructions are to take place were given to Punjabrao Deshmukh Krishi Vidyapeeth (Respondent No. 6) herein, strictly for purposes of Agriculture, Research, Education & Crop Cultivation and therefore could not have been used for any other purposes much less for construction of parking plaza with Food Court, Restaurant and Gazebo, etc. for commercial purpose. The Impugned Order has erred in law in not appreciating that the construction of Parking Plaza is still going on and the same is on the land which falls in agricultural zone (shown in light green colour in the Development Plan for Nagpur) meaning, thereby, under the Development Control Regulations on such land, Parking Plaza cannot be constructed as the said use would be against the zone and hence illegal. The Hon'ble High Court failed to consider that no permissions were applied for by the Respondents for change use from "Agricultural" to "Commercial" and in spite of this gross abuse of the regulations and

sanction plan, they were granted permission for the commercial constructions in and around a Wetland causing great and immense environmental damage. Infact it is only in 2022, after a four to five years delay, that the Respondent No. 4 has applied for such change in land use permission and the same has still NOT been obtained as of date in toto.

- g) That the Hon'ble High Court failed to consider that the discretionary powers as claimed to be exercised by Respondent No. 3 while granting relaxation to 15 meters distance rule is totally irrelevant to the facts and circumstances of the case & hence inapplicable to the construction of the Viewers Gallery.
- h) For that the Hon'ble High Court failed to consider that the Respondents have acted in contravention of its mandatory duty as provided under the Section 63 (1b) of the Maharashtra Municipal Corporation Act, 1949 while sanctioning the plans pertaining to the so-called beautification project at Futala Tank. The Petitioner submits that mandatory duties of Respondent No. 3 under Section 63 (1b) of the Maharashtra Municipal Corporation Act, 1949 cannot be sacrificed by discretionary duties of Respondent No. 3 under Section 65 (9) & (14) (9) of the Maharashtra Municipal Corporation Act, 1949
- i) For that the Hon'ble High Court failed to consider that the floating banquet and the performing stage was being built on an unprecedented large area admeasuring 10,000 square feet and the floating restaurant

and that the parking plaza was being built on the area admeasuring 5,000 square feet and 26,668.88 sq. meters. respectively, which clearly disturbs the ecological makeup of the lake.

- j) For the Hon'ble High Court failed to consider the most vital fact that as per the Regulations for Conservation of Heritage Buildings /Precincts/Natural Features, the Futala Tank which was also called the Telangkhedi Tank was mentioned at Serial No. 132 of the Schedule shown to be heritage Grade-I feature and no activities of development could be undertaken on the same. On the other hand the project that was being undertaken by the Respondent No. 6 was in the nature of a commercial entertaining project and ought to have been restrained by the Hon'ble High Court.
- k) For the Hon'ble High Court erroneously failed to consider that the stance of the District Collector that "wetlands in Nagpur District may be considered as 'Nil' was against the facts and evidence on record produced by the Petitioner. The Petitioner had clearly placed evidence before the Hon'ble High Court vide the wetland map prepared by the Space Application Centre (ISRO) and the State Remote Sensing Application Centre, Nagpur, where the Futala Tank clearly finds mention in the National Wetland Inventory and Assessment (NWIA) which is being project funded by the Ministry of Environment, Forest and Climate Change and the Inventory was of the year 2006-07. Hence,

the contention of the District Collector that “wetlands in Nagpur District may be considered as ‘Nil’ was against the facts and evidence on record produced by the Petitioner.

- 1) For the Hon’ble High Court has, with respect, committed a palpable error in holding to the effect, “The Statements made in the aforesaid affidavit by the Member Secretary, State Wetland Authority have not been countered by the Petitioner nor are the contents of the said affidavit denied”, when it is on record that the Petitioner had not only rebutted the contentions of the Ld. District Collector orally but had produced enough material on record to substantiate their contentions with evidence. Hence, the findings to the effect: “The Ld. Senior Advocate referred to the Affidavit of the Director, Environment and Climate Change Department and Member Secretary, State Wetland Authority that the Tank did not fall within the definition of ‘wetland’ under the Rule of 2017 especially as it was a man-made water-body. The Tank was created artificially and therefore it was not a wetland as per the communication dated 23.05.2023 issued by the District Collector to the Environment Department. There was no rejoinder filed by the Petitioner to the aforesaid affidavit and hence the statement made on oath by a responsible authority in that regard ought to be accepted”, and “The Statement made in the aforesaid affidavit by the Member Secretary, State Wetland Authority have not been countered by the Petitioner nor

- are the contents of the said affidavit denied”, are erroneous and based upon conjectures and surmises.
- m) For the Hon’ble High Court has, erroneously omitted to consider the fact that the collector himself had stated in the communication dated 23.05.2023 that “*The Tehsildar Nagpur city vide letter dated 19th May 2023 has communicated that Futala lake is created artificially*”. The Definitions of a ‘wetland’ under Rule 2(1)(g) of the Rules of 2017 includes an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, creation and irrigation purposes”, Thus, the stand taken by the State Wetland Authority that the Futala Lake does not fall under the definition of a ‘wetland’ only because it was man-made tank and the observation of the Hon’ble High Court in this regard to the effect, is squarely against the Rules of 2017 and ought to have been set aside.
- n) For that the finding of the Hon’ble High Court that all permissions had been granted to the Respondents for constructing the Parking Plaza and the viewer’s gallery, even though the Parking Plaza for commercial use

was being constructed in an area declared as 'green area' as per the zonal plans was squarely unlawful and ought to have been set aside. Similarly such finding of the Hon'ble Court regarding the viewer's gallery was also unlawful inasmuch that it was being constructed on the land touching the embankment structure as brought on record with evidence, by the Petitioner.

- o) That the High Court failed to consider that the construction carried out by the Respondents for installing artificial Banyan Tree and proposed construction to be carried out for Floating stage, walkway inside the wetland is unlawful and against the O.M. dated 08.03.2022 as issued by the Ministry of Environment, Forest and Climate Change.
- p) That The construction carried out by the Respondent No. 4 for installing artificial Banyan Tree and proposed construction to be carried out for Floating stage, walkway inside the wetland is against the principle of Public Trust as enunciated by the Hon'ble Apex Court in the case of *MC. Mehta v. Kamal Nath* (1997) 1 SCC388 and as such, illegal and hence liable to be removed.
- q) The Petitioner submits that, the Futala Tank is also protected under the provisions of the Constitution of India and as such the action of Respondents must also be tested on the touchstone of Constitutional provisions and certain principles arising therefrom. The Petitioner submits that Article 21 viz. Right to life has been interpreted by the

Hon'ble Supreme Court so as to include the right to clean air, clean water, clean environment, hygienic atmosphere and ecological balance. The Petitioner submits that Article 48-A lays down the duty of the State to protect and improve the environment and safeguard forest and wildlife of the country. The article 51-A (g) of the Constitution mentions the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures. The Petitioner therefore submits that this trio forms the bedrock of protection of the environment and preservation of natural resources including wetlands. The Respondents being state should have been mindful of their duties under Article 48-A & Article 51-A (g) while granting sanction to the project and plans. Hence action of Respondents of sanctioning plans allowing construction on the bank of Tank as well as installing musical fountain machinery inside the body of the Tank, is contrary to Constitutional provisions and hence not tenable as it endangers ecological balance.

- r) For that the construction of Viewer's Gallery on the bank of Futala Tank, Musical fountain and associated machinery inside the waterbody is absolutely against the legally established norms such as precautionary principle and hence illegal. For that the action of concerned of proposing and taking step in the construction of Banquet, Floating Stage, Floating Restaurant, artificial banyan tree are all foreign and artificial elements

being introduced in the natural lake ecosystem which apart from being harmful cannot be permitted under law. The same would change the nature of the lake and would convert it into a place of entertainment restaurant and banquet hall which is illegal.

- s) For it is most humbly submitted that the Respondent No. 3 has no such power under the law to relax the condition in such a manner so as to bypass the mandatory distance to be maintained of construction from waterbody, results into making such mandatory provision nugatory. Therefore, it is most humbly submitted that such exercise of power on behalf of Respondent No. 3 is colourable and not valid.

6. GROUND FOR INTERIM RELIEF

- A. For that in view of the grounds urged above, it is most humbly submitted that the Petitioner has established a prima facie case on merits and the balance of convenience lies in favour of the Petitioner and against the Respondents. It is, therefore, in the interest of justice that pending the hearing and final disposal of the present Special Leave Petition, operation and effect of the impugned final order dated 30th November 2023 passed by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, PIL No. 4 of 2023 and any proceedings/ activity pursuant thereto, be stayed. Such an order is called for in the facts and circumstances of the case, and in the interest of justice. There is grave urgency in the present matter. It

is most humbly submitted that the Impugned Order is permitted to stand and is not stayed pending the hearing and final determination of the present Petition, the Petitioner would suffer irreparable loss and prejudice.

7. PRAYER

The Petitioner humbly prays that this Hon'ble Court may be pleased to:

- a) Grant Special Leave to Appeal against the impugned final order and judgment dated 30th November 2023 passed by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, PIL No. 4 of 2023.
- b) Pass any such further order(s) that this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

8. PRAYER FOR INTERIM RELIEF:

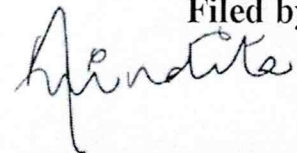
It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to:

- (i) grant an ad interim ex-parte stay of operation of the Order dated 30th November 2023 passed by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, PIL No. 4 of 2023;

- (ii) restrain Respondents Nos. 2,3,4 and 5 from carrying out further construction of the parking plaza on land bearing Khasra No. 13/3 at Mauje Futala;
- (iii) restrain Respondents Nos. 2,3,4 and 5 from holding shows of musical fountain, laser and multimedia on the Futala Tank.
- (iv) restrain the Respondents Nos. 2,3,4 and 5 may kindly be restrained from carrying out any/further construction inside the Futala Lake in execution of construction of banyan tree and/or Floating Stage inside the Futala Lake and
- (v) pass such other order or further orders as may be deemed fit and proper in the facts and circumstances of the case.

**AND FOR THIS ACT OF KINDNESS THE PETITIONER HEREIN
DUTY BOUND SHALL FOREVER PRAY**

Filed by:



(ANINDITA MITRA)

ADVOCATE FOR THE PETITIONER

Filed on: 03.01.2024

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2023

IN THE MATTER OF:

SWACCH ASSOCIATION, NAGPUR

...PETITIONER

-VERSUS-


STATE OF MAHARASHTRA & ORS.

...RESPONDENTS

CERTIFICATE

CERTIFIED that the Special Leave Petition is confined only to the pleadings before the Court/Tribunal whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/annexures attached to the Special Leave Petition are necessary to answer the questions of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the petitioners/person authorized by the petitioners whose affidavit is filed in support of the Special Leave Petition.

Filed by:



(ANINDITA MITRA)

ADVOCATE FOR THE PETITIONER

Filed on: 03.01.2024

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2023

IN THE MATTER OF:

SWACCH ASSOCIATION, NAGPUR

...PETITIONER

-VERSUS-

THE STATE OF MAHARASHTRA & ORS.

...RESPONDENTS

AFFIDAVIT

I, Anasuya Kale Chhabrani, W/o Vinod Chhabrani, aged about 54 years, R/O, 15, Laxmi Apartments, Opp. Axis Bank, Rabindranath Tagore Road, Civil Lines, Nagpur 440001, Presently at Nagpur, (authorized representative of Swacch Association) do hereby solemnly affirm and declare on oath as under :-

1. I am the Petitioner I am authorized to act on its behalf and well conversant with the facts and circumstances of the case and as such competent to swear this affidavit.
2. I state that the Petition and the accompanying applications have been drafted strictly as per my instructions. I have understood the contents of the Synopsis and List of Dates from Pages **B** to **X**, paragraphs 1 to 8 on Pages **15** to **35**, of the accompanying Petition and the applications at Pages **311** to **315** and state that the facts stated



therein are true to my knowledge, information and belief based on the record of the case. Parties to the present Petition are same as they were before the court below.

- 3. The Petitioner has not filed any other petition before this Hon'ble Court against the Impugned Order of the High Court.
- 4. No fact which was placed before the court below has been placed in the Petition. The annexures are true copy of their respective originals.

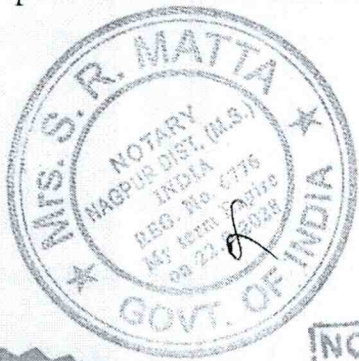


Mrs. A.V. Chhabram

DEPONENT

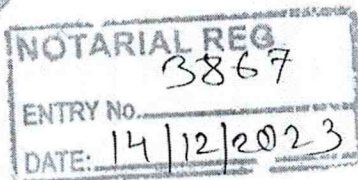
VERIFICATION:

Verified at _____ on the _____ day of _____ 2023 that the facts stated in paras 1 to 4 herein are true to my knowledge and belief no part of it is false and nothing material has been concealed therefrom.



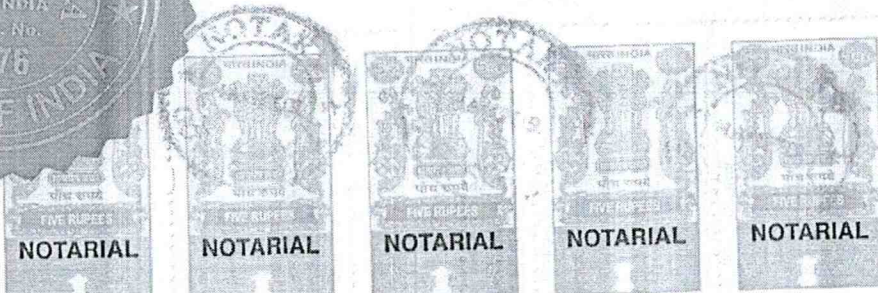
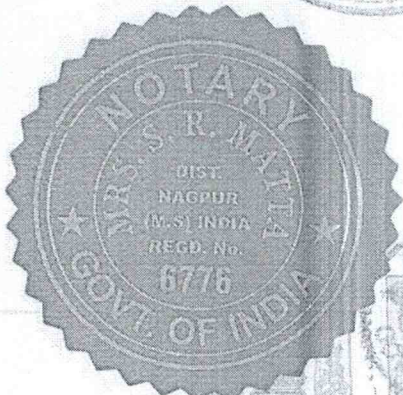
Mrs. A.V. Chhabram

DEPONENT



SWORN BEFORE ME ON THIS 14th DAY OF Dec 2023 AT NAGPUR BY SHRI/SMT./KU Anusaya. kale Chhab R/O. NAGPUR WHO HAS BEEN IDENTIFIED BY SHRI/SM^T _____ ADVOCATE NAGPUR

Matta
Mrs. S. R. MATTA
 Advocate & Notary
 18-B Clark Town, Nagpur



1 PIL-4-2023- Corrected Judgment as per Hon'ble Court's Order Dated 2-2-2024.odt



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Public Interest Litigation No. 4 of 2023

Cause title of
Judgment is
corrected as per
Hon'ble Court's
Order dated
02.02.2024.

Swacch Association,
A Non-profit Organization registered
under the Societies Registration Act 1860
and under the Bombay Public Trust Act, 1950,
having its office at 15, Laxmi apartments, Opposite
to Axis bank, through its President Mrs. Anasuya
Vinod Chhabrani, Civil Lines, Nagpur – 440001,
Mobile No. 9850489953
PAN No. AASTS9043H
E-mail ID:

... Petitioner

Versus

1. State of Maharashtra,
Through the Ministry of Environment,
Mantralaya, Mumbai - 440032
2. The Public Works Division No.1,
Through its Executive Engineer,
Nagpur.
3. Municipal Corporation Nagpur
Municipal Corporation Road, Civil Lines,
Nagpur – 440001, through its Commissioner.
4. Maharashtra Metro Rail Corporation Limited
Through its Managing Director,
“Metro Bhawan”, East High Court Road
(VIP Road), in front of Dr. Babasaheb Ambedkar
College, Near Dikshabhoomi,
Nagpur – 440010
5. Nagpur Metropolitan Regional Development
Authority, West High Court Road, Gokulpeth,
Nagpur – 440010, through its Commissioner.
6. Dr. Punjabrao Deshmukh Krishi Vidyapeeth,
through its Registrar, Nagpur Maharajbagh Zoo,
Nagpur – 440001
7. Maharashtra Animal Fishery Science University,
through its Registrar, Nagpur North Telangkhedi
Road, Near Telangkhedi Lake, Nagpur – 440001
8. The Union of India,
Through the Secretary,
Ministry of Environment and Forest,
New Delhi

9. The Wetland Authority for the State of Maharashtra, Through its Member Secretary, New Administrative Bhavan, ... Respondents
15th Floor, Madame Cama Road, Mantralaya,
Mumbai – 400032.

Shri S.A. Rajeshirke with Shri Amogh Parlikar and Shri K.S. Narwade, Counsel for Petitioner.

Shri S.K. Mishra, Senior Advocate, assisted by Shri A.S. Fulzele, Additional Government Pleader for Respondent Nos.1, 2 and 9.

Shri S.K. Mishra, Senior Advocate, assisted by Shri J.B. Kasat, Counsel for Respondent No.3.

Shri Anand Parchure, Counsel for Respondent No.4.

Shri S.M. Puranik, Counsel for Respondent No.5.

Shri A.R. Patil, Counsel for Respondent Nos.6 and 7.

Shri N.S. Deshpande, Deputy Solicitor General of India for Respondent No.8.

CORAM : A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.

Date when arguments were heard : 11th October, 2023.

Date when the judgment was pronounced : 30th November, 2023.

JUDGMENT (PER A.S. CHANDURKAR, J.) :

1. The present proceedings have been filed in public interest by Swacch Association, a Society registered under the Societies Registration Act, 1860 as well as under the Maharashtra Public Trusts Act, 1950. It seeks to raise the issue with regard to impermissibility of installation of musical fountain and associated machinery inside the body of Futala Tank. It also seeks to object to the construction of the viewer's gallery on the bank of Futala Tank and prays that the Tank be restored to its original state after demolishing the viewer's gallery. The prayer for interim relief was made by the petitioner during the pendency of the present proceedings and by the order dated 5-7-2023, the interim relief as prayed for was not granted.

However, directions were issued to the respondents to ensure that the spirit behind imposing restrictions under Rule 4 of the Wetlands (Conservation and Management) Rules, 2017 ('the Rules of 2017') is strictly observed and no construction of a permanent nature within Futala Lake is undertaken. In the aforesaid backdrop, the present proceedings are being considered.

2. According to the respondents, the order dated 5-7-2023 takes into consideration all the apprehensions expressed by the petitioner. They submit that as Futala Lake is not a 'wetland' as defined under Rule 2(1)(g) of the Rules of 2017, the interim order dated 5-7-2023 be made absolute and the parties be directed to act in accordance with the directions issued therein. The petitioner however contends otherwise to urge that the prohibition, as contemplated by Rule 4 of the Rules of 2017 to undertake any activity of a permanent nature in a wetland be implemented insofar as Futala Lake is concerned.

3. Shri S.A. Rajeshirke, learned counsel for the petitioner, submitted that Futala Lake, though not declared as a 'wetland' in terms of Rule 2(1)(g) of the Rules of 2017, was an identified wetland and the same found mention in the National Wetland Inventory and Assessment (NWIA). The said inventory having been taken in the year 2006-07 and Futala Lake having been identified as a wetland, the provisions of the Rules of 2017 ought to be applied with full rigor. Referring to the very same decisions that were pressed into service when the prayer for interim relief was considered, the learned counsel

submitted that no construction of any nature whatsoever was permissible in such water body. Referring to Rule 4(2) of the Rules of 2017, it was urged that the activities undertaken by the respondents were prohibited for being so undertaken at a wetland. Such activities amounted to committing an encroachment on a water body. Referring to the provisions of the Unified Development Control and Promotion Regulations for the State of Maharashtra, it was submitted that even for a construction of a temporary nature, permission of the Planning Authority was necessary. Such permission was not taken, thus resulting in breach of the said Regulations as well as violation of Rule 4 of the Rules of 2017. A similar contention was raised insofar as construction of viewer's gallery on the bank of Futala Lake was concerned. Though the said area fell within the green zone, commercial activities were sought to be undertaken therein. This construction was within 50 metres of the water body and there was no power whatsoever with the Planning Authority to relax such criteria. The parking plaza being constructed across the road also fell within the green zone wherein construction was not permissible. Giving a go by to the Regulations and without changing the user of such land, the construction had been undertaken which required interference at the hands of the Court. The learned counsel then referred to the Environment Status Report of the City of Nagpur that was prepared by the National Environmental Engineering Research Institute, Nagpur to submit that the quality of the Lake water would deteriorate with the

user of the Lake for such activities. Huge amounts were likely to be spent on the said venture which was highly arbitrary. Commercial interests of the respondents could not be given precedence over environmental concerns of the general public. Reference was made to the provisions of Section 63 of the Maharashtra Municipal Corporations Act, 1949 to indicate the nature of duties and responsibilities of the Municipal Corporation in that regard.

4. To substantiate the stand of the petitioner, the learned counsel referred to the Public Trust Doctrine as envisaged in the decisions in *M.C. Mehta Versus Kamal Nath and others [(1997) 1 SCC 388]*, and *Hinch Lal Tiwari Versus Kamala Devi and others [(2001) 6 SCC 496]* that had been referred to in *Navi Mumbai Environment Preservation Society and another Versus Ministry of Environment through its Secretary, Department of Environment and others [2018 SCC OnLine Bom 4074]*. The learned counsel also referred to the decision in *Jitendra Singh Versus Ministry of Environment and others [(2020) 20 SCC 581]* in that regard. Attention was also invited to the Precautionary Principle that stands accepted by the Hon'ble Supreme Court in its decisions and it was submitted that the activities undertaken by the respondents ought to be discontinued. The said venture itself could be shifted to a place otherwise than a green belt so as to protect Futala Lake. On this premise, it was prayed that this Court may pass appropriate directions in public interest.

5. Shri S.K. Mishra, learned Senior Advocate for the respondent Nos.1, 2 and 9 which included the State Wetland Authority, opposed aforesaid submissions. He reiterated the stand taken by the said respondents while opposing the prayer for interim relief. He submitted that though the activities in question had commenced in 2019, the present proceedings had been filed in December 2022 and thereafter by amending the prayers in June 2023, the petitioner had sought to raise a belated challenge to such activities. There was no explanation whatsoever furnished by the petitioner for the delay in approaching the Court in the present proceedings. The construction activities that had commenced after obtaining due sanction were on the verge of completion. Reference was made to the sanction orders dated 18-10-2019 and 1-9-2022 issued by the Competent Authorities. It was pointed out that these orders of sanction had not been challenged by the petitioner nor was a prayer made that the sanctions granted were illegal. As long as the orders of sanction operated, there was no question of demolishing the construction that was undertaken on that basis.

It was submitted that as a Wetland Authority constituted by the Ministry of Environment of the State Government, it had taken a specific stand that Futala Lake was not a 'wetland' under Rule 2(1)(g) of the Rules of 2017. The contents of the affidavit filed on behalf of the Wetland Authority were neither disputed nor controverted. Since Futala Lake was a man-made water body, it did not answer the

definition of a 'wetland' under Rule 2(1)(g) of the Rules of 2017. While the petitioner sought to support its stand by contending that Futala Lake was an identified wetland, the Wetland Authority had specifically asserted that it was not a declared 'wetland' under the Rules of 2017. There was no reason whatsoever to disregard the opinion of the Competent Authority that was placed on record. It was then submitted that after obtaining all due permissions and without disturbing the ecology, the activities in question had been undertaken. Due permission of the Heritage Committee had also been obtained which had not been challenged by the petitioner. The requisite plans were sanctioned by the Planning Authority under the relevant regulations which again were not subjected to challenge. Since all activities were being undertaken in accordance with the sanctioned plans, there was no illegality in the same. The learned Senior Advocate submitted that the State was conscious of the responsibilities envisaged by Articles 48-A and 51-A of the Constitution of India. Since it was clear that the provisions of Rule 4(2) had not been violated, no relief whatsoever be granted to the petitioner. The directions issued in the interim order dated 5-7-2023 were being complied with by the respondents.

6. Shri Anand Parchure, learned counsel appearing for the respondent No.4- Maharashtra Metro Rail Corporation Limited (MMRCL), submitted that the said respondent was merely an executing agency of the plans that had been duly sanctioned by the

Competent Authority. He referred to the affidavits filed on behalf of the said respondent dated 14-6-2023 and 25-8-2023. It was reiterated that no permanent structure was being constructed in the water body. The artificial banyan tree was in fact a projection on a screen and the same was not to be constructed. The plans as well as the drawings undertaken under the guidance of Visvesvaraya National Institute of Technology, Nagpur were also referred to. It was further submitted that various activities had been undertaken to restore the precincts of the Futala Lake at the instance of the Heritage Committee. The activities in the Lake would result in agitating the surface of the water which would ultimately result in maintaining its quality. There was no threat to aqua life in that regard. The respondent No.4-MMRCL would ensure that none of the activities undertaken would result in causing any damage to the Tank. It was reiterated that the directions issued in the interim order would be obeyed by the said respondent. Since no permanent structure was being constructed, the apprehensions expressed by the petitioner were misconceived.

7. Shri S.M. Puranik, learned counsel appearing for the respondent No.5- Nagpur Metropolitan Regional Development Authority reiterated the stand that was taken earlier. He too questioned the delay on the part of the petitioner in approaching the Court and submitted that after obtaining all due permissions, the work in question had been undertaken.

Shri A.R. Patil, learned counsel for the respondent No.6- Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Nagpur referred to the resolution dated 9-6-2020 that was passed by the respondent No.6 permitting use of the land for construction of the parking plaza. Since the said land was not of much use to the respondent No.6, the same was permitted to be used as parking plaza. The ownership of the said land continued with the respondent No.6 while permitting such user. Reference was also made to the sanction granted in that regard along with the permission for change of user dated 6-2-2023 issued by the Urban Development Department of the State of Maharashtra. It was thus submitted that no further directions ought to be issued in the present proceedings.

8. We have given due consideration to the respective submissions and we have also perused the documentary material on record. At the outset, we may state that most of the contentions now urged were also urged when the prayer for interim relief was considered. The said contentions find mention in the order dated 5-7-2023 and hence with a view to avoid repetition, a separate reference to the same is not being made herein. Suffice it to observe that the order dated 5-7-2023 was not subjected to any further challenge and the same continues to operate. On the basis of the material on record, a finding has been recorded based on the affidavit filed by the Director, Environment and Climate Change Department of the State Government/Principal Secretary to the State Wetland Authority that Futalaka Lake being a

man-made water body, it does not fall within the definition of the term 'wetland' under Rule 2(1)(g) of the Rules of 2017. There is no additional material placed on record thereafter for this Court to re-consider the said issue afresh. It may be noted that the learned counsel for the petitioner reiterated that the petitioner was relying on the fact that Futala Lake was an identified wetland as per the NWIA 2006-07 while the respondents urged that the said Lake being a man-made water body is not a declared wetland. Since the field is covered by the Rules of 2017 and Futala Lake does not answer the definition of the term 'wetland', we hold that being a man-made water body, Futala Lake is not a 'wetland' under Rule 2(1)(g) of the Rules of 2017.

9. Notwithstanding the aforesaid position on record, we may refer to the Office Memorandum dated 8-3-2022 issued by the Ministry of Environment, Forests and Climate Change of the Government of India. In the light of the order passed by the Hon'ble Supreme Court on 4-10-2017 in Writ Petition (Civil) No.230 of 2001 [*M.K. Balakrishnan and others Versus Union of India and others*], it was clarified/reiterated by the said Office Memorandum that the wetlands identified as per NWIA 2011 should be protected as per Rule 4 of the Rules of 2017.

Thus even if Futala Lake is not a declared wetland by the State Wetland Authority, the restrictions imposed vide Office Memorandum dated 8-3-2022 ought to apply to the said Lake. It is in this backdrop

that the respondents had been directed to ensure that the spirit behind enacting the Rules of 2017 is not violated by undertaking any construction of a permanent nature within Futala Lake. We are inclined to continue this direction with a view to protect and preserve Futala Lake from any construction of permanent nature being undertaken therein. At this stage, we may refer to the affidavit dated 25-8-2023 filed on behalf of the respondent No.4-MMRCL. In Paragraph 13 of the said affidavit, it has been stated as under :

“13. ... It is submitted that the Respondent No.4 assures this Hon'ble Court that none of the above activities would be carried out without appropriate sanctions and permission of which are already obtained and it would be ensured that not only the guiding provisions and rules are adhered to but even the cleanliness, hygiene and associated items as contemplated under the Swacch Bharat Mission would be implemented. It is further ensured that any of the activities undertaken would not result in causing any damage to the tank. It is further ensured that during the construction by this Respondent, the water body where the floating banquet hall, floating restaurant as well as Artificial Banyan Tree are proposed is kept clean and is properly maintained by taking all necessary precautions/steps in this regard.”

10. Notwithstanding the fact that Futala Lake is not a declared wetland, we cannot be oblivious of the expectations envisaged in Part IV and Part IV-A of the Constitution of India. Article 48-A requires the State to protect and improve the environment and to safeguard the forest and wildlife of the country. Article 51-A(g) recognizes the

duty of every citizen of India to protect and improve the natural environment including lakes. Thus even if Futala Lake is not a declared wetland, the duties and responsibilities imposed by the aforesaid provisions would have to be adhered to in true letter and spirit. The learned counsel for the petitioner is justified in invoking the Public Trust Doctrine that has been recognized by the Hon'ble Supreme Court in its various decisions including the decision in *Animal and Environment Legal Defence Fund Versus Union of India and others [(1997) 3 SCC 549]*. In *M.C. Mehta* (supra), it has been observed that the Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of one's status in life. The said doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes.

The Precautionary Principle has also been recognized by the Hon'ble Supreme Court in its various decisions including the decision in *A.P. Pollution Control Board Versus M.V. Nayudu [(1999) 2 SCC 718]*. According to the said principle, it is better to err on the side of caution and prevent environmental harm that could be irreversible in future. It would be better to anticipate environmental

harm and take measures to avoid it or to choose the least environmentally harmful activity. The said principle has been thereafter consistently applied by the Courts in larger public interest. A Co-ordinate Bench in *Navi Mumbai Environment Preservation Society* (supra) has applied both the aforesaid principles while considering measures to be taken to safeguard lakes and water bodies in Navi Mumbai. We are of the view that an approach based on a fusion of the Public Trust Doctrine as well as the Precautionary Principle would be required to be adopted in the present case so as to preserve Futala Lake which is a man-made water body.

11. We may state that the efforts taken by the petitioner in highlighting the present issue deserve to be recognized as the present proceedings have been initiated in public interest and they are not adversarial in nature. Preservation of Futala Lake is of paramount importance and the respondents are duty bound to act responsibly in a manner consistent with Articles 48-A and 51-A(g) of the Constitution of India. It is for this reason that the aspect of unexplained delay and laches on the part of the petitioner, as urged by the respondents, is not considered a formidable reason for not entertaining the present proceedings in public interest.

12. It is not in dispute that the activities of construction of the viewer's gallery and parking plaza are preceded by various requisite permissions and sanctions granted by the concerned authorities. The documents on record indicating the same supported by affidavits of

the concerned authorities have not been specifically challenged by the petitioner. In effect, therefore, the sanctions granted including the sanctions dated 18-10-2019 and 1-9-2022 continue to operate. Similarly, the permissions granted by the Heritage Committee on 30-6-2022 as well as 6-2-2023 granted by the Urban Development Department permitting change of user continue to operate. In absence of any challenge to the same, a total prohibition on such activities as sought by the petitioner cannot be imposed. At the same time, it would be necessary to ensure that in accordance with the spirit of the Rules of 2017, no permanent construction would be undertaken at the man-made water body- Futala Lake.

13. Thus, by applying the Public Trust Doctrine as well as the Precautionary Principle, it is directed that the respondents shall ensure that the spirit behind the Rules of 2017 and especially Rule 4(2)(vi) thereof is not violated by undertaking any construction of a permanent nature within Futala Lake. The respondent No.4-MMRCL alongwith the respondent No.3- Nagpur Municipal Corporation are directed to ensure that the activities undertaken by them do not result in causing any damage to the Lake. They shall also ensure that the water body where the floating banquet hall, floating restaurant as well as the artificial banyan tree are proposed is kept clean and is properly maintained by taking all necessary precautions/steps in that regard. In addition, the statements made in the affidavit dated 25-8-2023 filed

on behalf of MMRCL that have been reproduced hereinabove would also be binding on the said respondent.

It is expected that the respondents would also be alive to the need for preserving the man-made water body- Futala Lake to enable the future generations also to be able to witness the Lake in its present form. It would therefore be necessary for the respective respondents to ensure that their activities do not result in causing any ecological damage to the water body and that the quality of aqua life is not adversely affected. Though the present proceedings are being disposed of with a hope that the respondents would abide by the expectations referred to hereinabove, it is made clear that it would be open for any public-spirited citizen to bring to the notice of the Court any acts that could result in causing damage to the water body in future.

14. The Public Interest Litigation is disposed of in aforesaid terms leaving the parties to bear their own costs.

Sd/-
(MRS. VRUSHALI V. JOSHI, J.)

Sd/-
(A.S. CHANDURKAR, J.)

Cause title of the Judgment is corrected as per Hon'ble Court's Order dated 2-2-2024.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. _____ OF 2025
(@Special Leave Petition (C) No.1420 OF 2024)

SWACCH ASSOCIATION, NAGPUR

...APPELLANT(S)

VERSUS

**THE STATE OF MAHARASHTRA
& ORS.**

...RESPONDENT(S)

J U D G M E N T

N.V. ANJARIA, J.

Leave granted.

1.1 Heard learned Senior Advocate Mr. Gopal Sankaranarayanan for the appellant, learned Solicitor General Mr. Tushar Mehta for respondent Nos.1, 2 and 8, learned Additional Solicitor General Ms. Aishwarya Bhati for

respondent Nos.8 and 9, learned Senior Advocate Mr. Shekhar Naphade for respondent No.3, learned Senior Advocate Mr. S.K. Mishra for respondent No.4, learned Senior Advocate Mr. Dama Seshadri Naidu for respondent No.5, learned Senior Advocate Mr. Rohit Anil Rathi for respondent No.6, learned Senior Advocate Mr. Neeraj Kishan Kaul for the intervenor, along with the respective assisting learned advocates, at length.

2. The appellant-original petitioner addresses challenge to the judgement and order dated 30.11.2023 passed by the Division Bench of the High Court of Bombay¹, whereby the High Court disposed of the Public Interest Litigation No.4 of 2023 with certain observations and directions, declining to grant prayers made in the petition.

2.1 The petition before the High Court was filed by the appellant-Swacch Association-an organisation registered under the Societies Registration Act, 1860 as also under the Bombay Public Trusts Act, 1950, claiming to be a body engaged in the green practices and for promoting a healthy environment, in which a grievance was raised in respect of certain constructions and recreational activities set up in and around the Futala Lake² in Nagpur City, Maharashtra. The case put forward by the appellant was that the said Futala

¹ Hereinafter, "High Court".

² Hereinafter, "Futala Tank"

Lake was a 'wetland' and it ought to be protected for its environmental value and that the constructions which were made thereat were of permanent nature.

2.2 What was prayed was to declare that the installation of Musical Fountain and machinery thereof inside the body of the Futala Lake was illegal and against the public trust principle. It was further prayed to declare that the construction of the Viewer's Gallery on the bank of the Futala Tank was also illegal. The third prayer was for issuance of direction against respondent No.5-Nagpur Metropolitan Regional Development Authority to remove the Musical Fountain and the related set-up installed inside the body of the Futala Tank and to restore the Tank to its original state.

2.3 The fourth prayer was advanced for directing respondent No.3-Municipal Corporation Nagpur and respondent No.4- Maharashtra Metro Rail Corporation to demolish the viewer's gallery. Yet another prayer was made to declare that the construction of the Parking Plaza on the land bearing *Khasra* No.13/3 at *Mauje Futala* was contrary to the zone shown in the sanctioned development plan for Nagpur. Also, a direction was sought against respondent Nos.3 and 4 to demolish the building which was under construction on the said land.

2.4 Interim prayers were made seeking a restraint order against respondent No.4 from carrying out further construction of the Parking Plaza as also against respondent No.5 from holding of Musical Fountain Show, Laser Show and Multimedia Show at the Futala Tank.

3. The case of the appellant before the High Court and further emphasised before this Court was *inter alia* that in the guise of beautification and in the name of recreational activities for the people, the respondent authorities had proceeded to construct and erect the Viewer's Gallery on the bank of the Futala Tank and had installed Musical Fountain in the body of the Tank. It was the grievance of the appellant that the construction of nine storeyed building near the Futala Tank was proposed for parking, food court, etc. and that erected there was a Floating Restaurant, artificial Banyan Tree and a Musical Fountain inside the body of the lake.

3.1 It was contended that the Futala Lake was identified as 'wetland' in the map of Wetland Atlas of Maharashtra which was part of National Wetland Atlas. It was further claimed that the Lake is a 'wetland' within the meaning of Rule 2(1)(g) of the Wetlands (Conservation & Management) Rules, 2017³, therefore the restrictions contained in Rule 4(2) (vi) of the 2017 Rules would apply, more particularly in the

³ Hereinafter, "2017 Rules".

present case the prohibition contained in Rule 4(1)(iv) would operate.

3.2 It was stated that in the National Wetland Inventory as carried out by Space Application Centre, Ahmedabad under the project “National Wetland Inventory and Assessment (“NWIA)” funded by the Ministry of Environment, Forest and Climate Change, Government of India, the Futala Tank was mentioned amongst 2,01,503 wetlands in the inventory list. The definition of wetland provided in Rule 2(1)(g) of the 2017 Rules has been wrongly construed by the High Court.

3.3 It was the case of the appellant that not only those prohibitions were given a go-by in creating recreational and beautification projects at the lake site, but the Construction Rules and the norm of minimum Fifteen meters’ distance for any construction from a waterbody were also violated. It was further contended that in the sanctioned development project of Nagpur City, the proposed construction between the Futala Tank and eighteen metres road was permissible, however the construction was found to be on the *Pali* (boundary wall) of the Futala Tank.

3.4 It was next contended that the setting up of artificial Banyan Tree was a permanent construction inside the waterbody which was not only in breach of the prohibitory

rules, but also it has a damaging effect to the Lake. It was the case that a waterbody of Futala Tank- a 'wetland', was exploited for commercial purposes without caring for adverse ecological effect.

3.5 It was pleaded that under Article 21 of the Constitution, right to life has been given an expanded interpretation by this Court to include the right to clean air, clear water, clean environment, hygienic atmosphere and ecological balance. Article 48-A of the Constitution lays down the duty of the State to protect, safeguard and improve the environment and safeguard forest and wildlife, in addition to Article 51-A (g) of the Constitution which casts a duty on every citizen to protect the natural environment including lakes and rivers.

3.6 The appellant then referred to the principle of public trust enunciated by this Court in **M.C. Mehta vs. Kamal Nath & Ors.**⁴ It was submitted that the construction of Viewer's Gallery on the Futala Tank would change the nature of the waterbody as well as its use, to take away its environmental value. It was submitted that the activities permitted in and around the tank run contrary to the doctrine of public trust.

4 (1997) 1 SCC 388

3.7 It may be mentioned that the High Court by a reasoned order dated 05.07.2023 refused to grant any interim relief to the appellant. The *prima facie* finding was recorded in the interim order that the Futala Lake does not fall within the purview of Rule 2(1)(g) of the 2017 Rules. However, the High Court observed that since the lake was mentioned as 'wetland' in the National Wetland Inventory and Assessment (NWIA), prohibition in Rule 4(2)(vi) of 2017 Rules deserves to be treated as relevant to protect the lake.

4. Respondent No.3-Municipal Corporation Nagpur, respondent No.4-Maharashtra Metro Rail Corporation and respondent No.5- Nagpur Metropolitan Regional Development Authority filed their replies and placed materials before this Court also in the present proceedings to refute the case and allegations of the appellant.

5. The following facts which are not disputed, go to show that the competent authorities granted various permissions for the projects and recreational facilities at Futala Lake, which were in accordance with the Rules and the norms.

(a) For Viewer's Gallery, plans were submitted on 29.08.2019 which were sanctioned by the Municipal Corporation Nagpur on 18.10.2019. The Heritage Committee granted sanction on 29.09.2018 and the

revised plan was sanctioned on 15.06.2021, in accordance with which the work was executed.

(b) The Parking Plaza plan was sanctioned by the Town Planning Department, Nagpur Municipal Corporation on 01.09.2022. The Heritage Committee also approved the parking plaza construction. It was thereafter that the Environmental Management Plan and the Dam Stability reports were submitted. The Heritage Committee again sanctioned the proposal on 30.06.2022.

(c) The Floating Stage-cum-Floating Banquet was permitted as per the No Objection Certificate (NOC) received on the different occasions on 07.03.2022, 21.03.2022 and 08.04.2022 from the Public Works Department. Similarly, NOCs were received from Group Captain, Commanding Officer, HQ Maintenance Command (Unit) on 22.09.2022, from District Deputy Commissioner of Animal Husbandry, Nagpur on 28.04.2022, from Assistant Commissioner, Fisheries Department, Nagpur on 23.05.2022, from the authority of the Heritage Conservation Committee, Nagpur on 20.07.2022, from Nagpur Municipal Commissioner, Nagpur on 10.05.2022 and also from the City Police Commissioner, Nagpur on 03.12.2022. Thus, the competent authorities have sanctioned the project.

(d) The artificial Banyan Tree is a part of Multimedia Show for which also admittedly, NOC was obtained from the authorities mentioned above, including the local authority.

(e) In respect of alleged utilization of land bearing Number 13/3 Mauje Futala, the Forest Department through Office of the Deputy Conservation Officer, Nagpur by communication dated 01.03.2024, stated that the said land was not a forest land. It was occupied by Dr. Panjabrao Deshmukh Agricultural University which used to grow saplings thereon.

(f) The Parking Plaza is not set up in the agricultural zone. It was given out that as per the applicable Regulation, the development of parking plaza upto 0.2 FSI of the gross plot area is permissible and that the competent authority has sanctioned the building plan accordingly in compliance with the norm.

(g) By Notification dated 15.10.2003, the State Government sanctioned the 'Regulations for conservation of building, artefacts, structures, areas and precincts of historic and cultural significance'. The Futala Tank is mentioned at serial number 132 in the Schedule of these Regulations which is treated as Grade I heritage structure.

In that view, the necessary sanction of the Heritage Conservation Committee was obtained before securing the permission for development of Futala Tank and Parking Plaza etc. which was granted by the Heritage Committee after obtaining a compliance report.

5.1 It is to be stated that the abovementioned permissions and No Objection Certificates granted by the competent authorities concerned, for the recreational facilities and beautification project set up at the place of the Lake, have not been challenged by the public interest litigant-appellant at any stage of the proceedings.

5.1.1 The respondents, including respondent No.4 have stated that in order to ensure the protection of ecological balance, compensatory afforestation was carried out in respect of the trees which were required to be removed for executing the directions at certain places. The trees which were removed were compensated by planting other trees at the location given by the Municipal Corporation. It was claimed that the Floating Musical Fountain Show resulted into improvement of quality of water in the Futala Tank and its aquatic life is enhanced. It was further stated that the Viewer's Gallery and the Parking Plaza are in the dry zone. The Viewer's Gallery has worked as protection against dumping of waste and encroachment.

5.2 Now, before proceeding further, it is warranting for the court to conclude on the kind and nature of the constructions in and around the Futala Tank, which are subject matter of grievance. The work of Viewer's Gallery has been executed as per the approved plan and that it was shown that the same is constructed on the Bund road adjacent to the precinct of the Futala Tank, which does not disturb the existing precinct. It is at a height of 4 metres above the dam level, which is permissible under the guidelines. The Gallery does not touch the embarkment structure. It could not be demonstrated that the Viewer's Galley in its existence has any adverse ecological effect.

5.2.1 No constructions are carried out in the catchment area of the Lake. The construction of the floating restaurant, banquet and the platform could not be categorized as permanent construction. It was given out that platform design was reviewed and vetted by IIT, Mumbai.

5.2.2 What was harped in particular on behalf of the appellant is that the Banyan Tree artificially created for recreational purpose is put up inside the Futala Lake and that it is a permanent structure causing serious harm to the waterbody. It was also claimed that 7000 tonnes of concrete stones were dumped inside the tank for constructing the screen of the Banyan Tree.

5.2.3 As per the factual details placed by the respondents, the said allegation was erroneous and exaggerated, merely based on the newspaper clipping. It was stated that since the Banyan Tree is to be used as the screen for the 3D show, it is accordingly erected using the Kerb stones weighing 350 tonnes in the total area placed inside the structure so that there is no lateral movement and the wind load is countered.

5.2.4 The Banyan Tree size is 25m x 10=250 square meters which is just 0.51% of the total area of the tank. Importantly, the structure of Banyan Tree is not secured by any permanent foundation. Nor it is affixed on the bed of the tank. Therefore, the structure of banyan tree cannot be termed as permanent structure. The working of the said Banyan Tree structure was executed as per the design proof-checked by Visvesvaraya National Institute of Technology, Nagpur.

5.2.5 When the Banyan Tree is not embedded on the bed of the lake and when there is no foundational support laid for it inside the tank and when it is removable at any time, this Court is inclined to accept and hold that the erection of Banyan Tree could not be regarded as a permanent structure. The structure possesses all the characteristics of a temporary structure on account of its very nature of built and removability, the existence thereof cannot be viewed as perpetual.

5.3 Next examining the central issue as to whether the Futala Tank classifies within the meaning and definition of Section 2(1)(g) of the 2017 Rules, the Futala Tank, also known as Telangkhedi Tank, a waterbody situated on the Western side of Nagpur City, was constructed in the year 1799 by Shri Gyanoji Bhosale. The lake covers, along with its catchment to be about 200 hectares. It was not a natural water reservoir, but constructed by the then Ruler, to cater to the irrigational needs. Undoubtedly, the lake is a man-made lake for the city of Nagpur.

5.3.1 When the definition of 'wetland' in Rule 2(1)(g) of the 2017 Rules is looked at, the Futala Lake is not classifiable within the statutory definition. The 2017 Rules are framed by the Parliament in exercise of powers conferred by Section 25 read with Sub-Section (1) and clause (v) of Sub-Section (2) and Sub-Section (3) of Section 3 and Section 23 of the Environment (Protection) Act, 1986, in supersession of Wetlands (Conservation and Management) Rules, 2010.

5.3.2 Rule 2 (1)(g) of the Rules contained the definition of 'Wetland' which is as under,

“ 2(1) ...

(g) 'wetland' means an area of marsh, fen peatland, or water; whether natural or artificial, permanent or

temporary, with water that is static or flowing, fresh, brackish or last, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes.”

5.3.3 It could be seen from the aforesaid definition of ‘wetland’ that the statutory concept of wetland does not include river channels, water body and tanks which are specifically constructed for drinking water purposes and the structural construction is for aquaculture, salt production, recreation and irrigation purposes. Such exclusions stand outside the corners of the definition. Section 2(1)(i) is the definition of “wise use of wetlands” to mean the maintenance of the ecological character, achieved through implementation of eco-system approach within the context of sustainable development.

5.3.4 The historical facts given out in the reply of respondent No.4 filed in the present proceedings, goes to show clearly that the lake is a man-made waterbody constructed for drinking water and for irrigation purpose. It is

stated that as per the available record of Futala Tank at the Nagpur Museum of Archaeological Department of Nagpur popularly known as Ajab bungalow, *'Originally the reservoir was constructed to create a source of water in the Telankhedi precinct, which was recreational garden for the bhonsale's and site for their prestigious guest house for dignitaries. This catchment lake was formed by damming the Futala stream which collects water from the slope of seminary hills and starky hillock. Retaining wall forms the eastern edge of the lake, and it was a broad low parapet and circular bastions. Futala stream which is one of the important tributaries of Nag River in the City, became significant due to holding of water in the Futala Tank.'*

5.3.5 The Futala Tank is thus an arrangement in the lower promenade in the centre. There is a well in which water is collected through weep holes inside the stone masonry. The water is supplied by gravity force through pipes. It was stated that there is a valve for operation. These aspects go to show that the Futala Lake was made for irrigational purpose. It was stated that the area of the Punjabrao Deshmukh Krishi Vidyapeeth which is for agricultural and research purpose falls on the Eastern side, that is, on other side of the road.

5.4 In view of this Court, the Futala Lake is a man-made waterbody and it does not fall within the meaning of the

statutory definition and is not a 'wetland' as defined in Rule 2(1)(g) of the 2017 Rules. The definition excludes human-made waterbodies and those constructed *inter alia* for irrigation purposes. The High Court was justified in recording finding in the interim order dated 05.07.2023 and confirming the same while passing the impugned final judgment and order.

5.5 It is to be noted that Rule 4 of the 2017 Rules which provides for the restrictions of activity in the 'wetland' would not apply *stricto sensu* to Futala Tank as the Lake falls outside the statutory definition. The said Rule is extracted hereinbelow,

“4. Restrictions of activities in wetlands.—(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.

(2) The following activities shall be prohibited within the wetlands, namely,-

(i) conversion for non-wetland uses including encroachment of any kind;

(ii) setting up of any industry and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the

Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;

(iv) solid waste dumping;

(v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,

(vii) poaching.” (Emphasis supplied)

5.6 It is to be noticed however, that one of the prohibited activities in Rule 4 (2)(vi) of the 2017 Rules is construction of permanent nature. In **M.K. Balakrishnan vs. Union of India** which was Writ Petition (Civil) No.230 of 2001 by order dated 08.02.2017, this Court dealt with the subject matter of ‘wetland’ identification and directed as under,

“We direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorize all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010”

5.6.1 In the subsequent order dated 04.10.2017, the aforesaid direction was reiterated stating that in terms of the previous orders dated 08.02.2017, a total of 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principle as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.

5.6.2 In view of above, the High Court in its impugned judgment correctly observed in paragraph 9,

“Notwithstanding the aforesaid position on record, we may refer to the Office Memorandum dated 8-3-2022 issued by the Ministry of Environment, Forests and Climate Change of the Government of India. In the light of the order passed by the Hon’ble Supreme Court on 4-10-2017 in Writ Petition

(Civil) No.230 of 2001 [M.K. Balakrishnan and others Versus Union of India and others], it was clarified/reiterated by the said Office Memorandum that the wetlands identified as per NWIA 2011 should be protected as per Rule 4 of the Rules of 2017.”

5.6.3 The following further pertinent observations made by the High Court in the same paragraph,

“.....even if Futala Lake is not a declared wetland by the State Wetland Authority, the restrictions imposed vide Office Memorandum dated 8-3-2022 ought to apply to the said Lake. It is in this backdrop that the respondents had been directed to ensure that the spirit behind enacting the Rules of 2017 is not violated by undertaking any construction of a permanent nature within Futala Lake. We are inclined to continue this direction with a view to protect and preserve Futala Lake from any construction of permanent nature being undertaken therein.”

5.7 It is to be appreciated that the High Court gave certain directions including that the respondent shall ensure that the spirit of Rule 4(2)(vi) of the 2017 Rules will be respected and structure of any permanent nature within the lake would not be undertaken. The High Court further directed the respondents including the Municipal Corporation Nagpur to ensure that the activities nearby the Futala Lake does not lead to any damage to the Lake and further that the entire

waterbed along with its recreational and beautification structures are kept clean and properly maintained.

5.8 It is only proper that this pristine waterbody in the city of Nagpur continues to exist with twin objectives, namely to bring public good for the citizens of the city of Nagpur and also contribute to maintain environment friendliness without causing any ecological damage, both to the waterbody itself as well as to the quality of aqua life. This Court reiterates the directions as well as hope expressed by the High Court.

5.9 Applying the restrictions and rigours of Rule 4 of 2017 Rules and in ensuring its relevance to the waterbodies or wetlands, even if they are not covered within the statutory definition, there is a recognition of precautionary principle and doctrine of public trust, which is a judicial foresight and a salutary approach. The various directions issued by the High Court as referred to above, in the impugned judgment, are only an extension of such foresighted thought acted upon.

6. The judicial wisdom has evolved the doctrine of public trust. This doctrine has the intake of Articles 48-A and 51-A (g) of the Constitution, which in its ultimate analysis aims to preserve and conserve the natural resources like air, water, objects of nature to be applied for public good and collective societal interest and the natural bodies of various kinds on the earth. The concept is that the public has a right

to expect certain natural things including waterbodies, wetlands and natural lands like forests to retain their natural ingredients, and further that the idea of maintenance of their original characteristics finds way into the law of the land.

6.1 Propounded in **M.C. Mehta** (supra) and several subsequent decisions of this Court, the public trust doctrine is a salutary principle. The Supreme Court observed in **M.C. Mehta** (supra) that,

“The notion that the public has a right to expect certain lands and natural areas to retain their natural characteristic is finding its way into the law of the land. The ancient Roman Empire developed a legal theory known as the "Doctrine of the Public Trust". The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life.....”

(Para 23)

6.2 In the following observation, there lies a dictum that upholding of the public trust principle is the duty of the governmental authorities dealing with the natural resources,

“25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people

as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes.

(Para 25)

6.2.1 It was then stated,

“Three types of restrictions on governmental authority are often thought to be imposed by the public trust : first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third the property must be maintained for particular types of uses.”

(Para 25)

7. The public trust doctrine need not be limited to the natural bodies such as waterbodies, wetlands, lakes, rivers which are nature’s gifts, but holds true also with respect to the man-made or artificially created waterbodies as well as the things and the objects from nature in order to promote ecology and environment. All those man-made or artificial bodies created from natural resources which contribute to the environment and are eco-friendly in their existence, have to be subject to the doctrine of public trust.

8. The human activities which are in tune with the nature and ecology or which are designed for creating healthy environment have to be guided and protected by legal measures. It calls for the responsibility not only on the part of the citizens, but the authorities also are equally enjoined to ensure that the doctrine of public trust in this sphere is applied and furthered.

9. The public trust doctrine would thus extend in respect of even man-made or artificially created natural objects, waterbodies, lakes, wetlands, etc. which are drawn and created from the nature or natural resources. It would in ultimate analysis pave way to extend to ensure the availment of right of healthy environment and ecological balance recognized for the citizens under Article 21 of the Constitution. At the same time promoting sustainable development for public good is not alien to it.

10. The judgment and order of the High Court and the directions issued therein are a balancing exercise. It is eminently proper and legal, booking no error.

11. The present appeal is hereby dismissed.

In view of the dismissal of the Appeal, all interlocutory applications, as may be pending would not survive and stand disposed of accordingly.

.....,CJI.
[B.R. GAVAI]

.....,J.
[K. VINOD CHANDRAN]

.....,J.
[N.V. ANJARIA]

**NEW DELHI;
OCTOBER 07, 2025.**

(VK)

ANNEXURE-R11/5

IN THE HIGH COURT OF JUDICATURE AT
BOMBAY, NAGPUR BENCH, NAGPUR

PUBLIC INTEREST LITIGATION NO. 16/2025

PETITIONER:

Swachh Association, Nagpur through its authorized representative Smt. Anusaya Chhabrani aged 54 years, Occupation:- Private, R/o 15, Laxmi Apartment, Civil Lines, Nagpur - 440001

NOTARIAL REG.
ENTRY NO. 2444
DATE: 25/4/2025

Notary Seal
25/4/25
Notary Seal

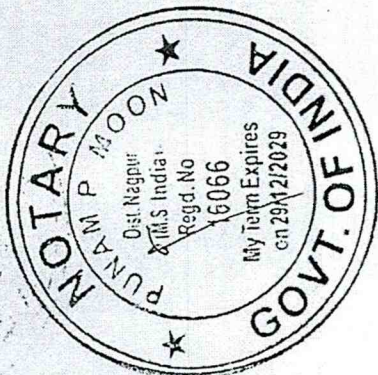
//Versus//

RESPONDENTS:

1. State of Maharashtra, through its Secretary, Forest Department, Mantralaya, Mumbai

2. State of Maharashtra, through its Secretary, Agriculture Department, Mantralaya, Mumbai

Keel Copy
25/4/25
To Adv. G.A. Kunte



3. Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Akola through its College of Agriculture, Maharajbagh, Sitaburdi, Amravati Road, Nagpur

4. Maharashtra Council of Agriculture Education and Research, 132/B, Bhamburda, Bhosale Nagar, Pune, 411007

5. The Collector, Nagpur

6. India Air Force, Vayusena Nagar, Nagpur.

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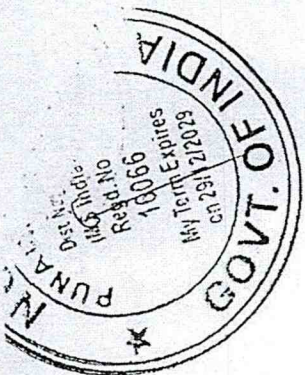
7. Nagpur Improvement Trust, through
its Chairman, Station Road, Sadar,
Nagpur

8. Nagpur Municipal Corporation
through its Commissioner, Near Vidhan
Bhavan, Collector's Colony, Nagpur.

**ADDITIONAL AFFIDAVIT FOR AND ON BEHALF OF
PETITIONER**

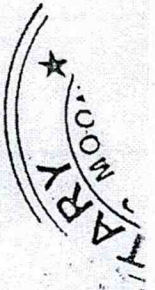
The petitioner most humbly and respectfully begs to submit as
under:-

1. The present petition in the nature of public interest litigation
brings to surface the gross and patent illegalities in the
allotment of Punjbarao Deshmukh Krishi Vidyapeeth
(PDKV) Land Parcels for commercial purposes which are
solely meant for agricultural education and research in the
city of Nagpur. It further sheds light over the gross neglect
and abandonment of PDKV Land Parcels having lush green
flora and fauna which are essentially the lungs of the



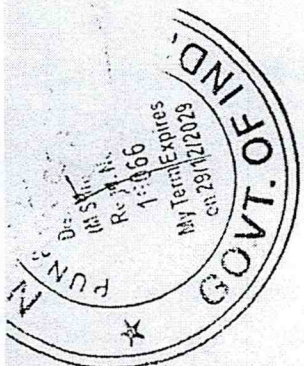
prosperous Nagpur City. There is an express prohibition by the state to devolve these crucial land parcels for commercial and non-agricultural use. Notwithstanding, the events which have transpired during last couple of years would make it apparent that these GRs are not followed in their true letter and spirit. On 26/02/2025, this Hon'ble Court had restrained the private parties to whom PDKV Land is allotted to carry out any construction over the said lands until further orders.

2. Recently, it has come to the petitioner's knowledge that respondent no.8 has published a public notice dated 28/03/2025 on prominent newspapers such as The Hitavada, The Times of India etc. for modification of use of PDKV land bearing Kh. No. 13/3, City Survey Number.234, Mouza - Futala admeasuring 6000 Sq. Mtr. (hereinafter referred to as "the said land") from Agriculture to Parking and Commercial. The aforesaid modification is proposed under Section 37 of the Maharashtra Regional and Town Planning Act, 1966 passed in the administrative resolution



dated 19/02/2025 of respondent no.8. Petitioner was shell-shocked to know the aforesaid development in spite of explicit order dated 26/02/2025 of this Hon'ble Court to not use the PDKV lands for commercial purposes. A copy of public notice dated 28/03/2025 is attached herewith and marked as ANNEXURE-T.

3. In addition to this, it is pertinent to mention that the entire project on Futala Lake which includes musical fountain show on the lake, construction of Parking Plaza etc. has been stayed by the Hon'ble Supreme Court vide its order dated 12/02/2024 in Special Leave Petition (Civil) No. 1420/2024 which is operating till date. A copy of order dated 12/02/2024 is attached herewith and marked as ANNEXURE-U.
4. Respondent no.8 being aware regarding the aforesaid orders has in an ex-facie illegal and unlawful manner proposed the aforesaid modification of land from agriculture to parking and commercial. It is reiterated that the aforesaid land is prohibited for commercial and non-agricultural use in view



of the government resolutions dated 30/07/2004 and 30/05/2011. Nonetheless, respondent no.8 being ignorant and callous to the aforesaid developments has proceeded to publish the impugned public notice dated 28/03/2025. Petitioner has also submitted its objection to the Assistant Director of Town Planning Department of respondent no.8 on 02/04/2025. However till dated response is awaited. A copy of objection dated 02/04/2025 is attached herewith and marked as ANNEXURE-V.

5. It is also pertinent to mention that the 7/12 extract of the said land classifies it under the category of 'Zudpi Jungle'. Zudpi Jungle is considered as Forest Land for the purposes of Forest Conservation Act as stated by the Ministry of Environment, Forests and Climate Change vide its communication dated 27/06/2018. What is more appalling is the fact that before the publication of the impugned notification, respondent no.8 had already commenced the construction on the said land. Subsequent to the directions dated 12/02/2024 issued by the Hon'ble Apex Court, the

APRY

construction on the said land has come to a halt. Subsequently, after lapse of one year from the date of the order of the Hon'ble Apex Court, respondent no.8 has published the impugned notification. It is apparent that actions of respondent no.8 are serious afterthought, without any authority in law and in complete defiance to the directions of this Hon'ble Court. The impugned notification being contemptuous in nature needs interference at the hands of this Hon'ble Court. A copy of 7/12 extract and communication dated 27/06/2018 is attached herewith and marked as ANNEXURE-W.

Hence this additional affidavit.

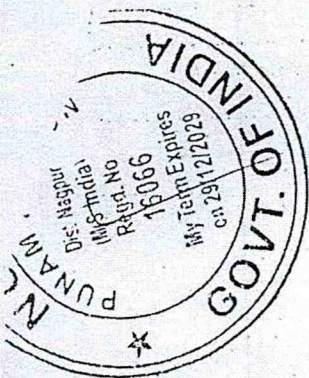
NAGPUR

DATE:

Malviya

COUNSEL FOR PETITIONER

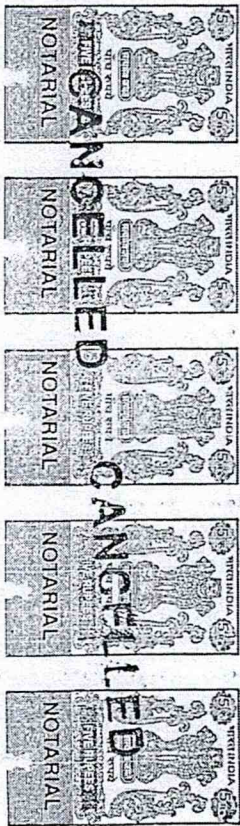
ADV. PARTH C. MALVIYA





SOLEMN AFFIRMATION

I, Anasuya W/o Vinod Chhabrani, Aged - 56 years, Occupation - Private, R/o R/o 15, Laxmi Apartment, Civil Lines, Nagpur - 440001, presently at Nagpur, do hereby take oath and state on solemn affirmation as under;



(I) I am the authorized representative of petitioner in the instant matter and competent to swear affidavit on petitioner's behalf. I am aware of the facts and circumstances of the present case. I say that I have read and understood the contents of the present application and the same has been explained to me in vernacular. I say that the contents of the above application from para 1 to 5 are true and correct to the best of my personal knowledge and belief.

(II) I say that the aforesaid application is drafted by my counsel under my instructions and are true and correct as per my personal knowledge and belief.

Hence verified, signed and affirmed on this th 25 day of March, 2025 at Nagpur.

Mrs A.M. Chhabrani

DEPONENT

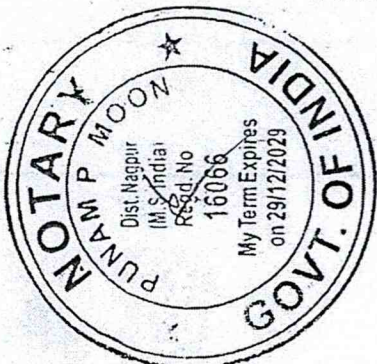
SWORN/SOLEMNLy AFFIRMED BY Anusuya W/o Vinod Chhabrani WHO IS PERSONALLY KNOWN TO ME / IDENTIFIED BY Parth Malviya (Adv) BEFORE ME THIS THE 25th DAY OF April 2025 AT NAGPUR

Poon
PUNAM P. MOON
NOTARY
NAGPUR DIST. (M.S.) INDIA

Parth Malviya

I know & identify the deponent

(Parth C. Malviya)
ADVOCATE



Annexure - T

NAGPUR MUNICIPAL CORPORATION NOTICE

Modification under section 37 of Maharashtra Regional and Town Planning Act 1966

Whereas the Revised Development Plan of Nagpur City prepared under the provisions of Maharashtra Regional and Town Planning Act 1966, section 31(i) has been partially sanctioned by the Govt. vide Urban Development Department Notification No. TPS-2496-2643-CR-300(a)-97-UD-9, date: 7th January 2000 and came into force from 1st March 2000. Excluded part of development plan has been sanctioned vide Govt. Notification No. TPS-2400-1628-CR-200-2000-UD-9, dated: 10th September 2001 and came into force from Date: 21st September 2001. Also Nagpur Municipal Corporation has been declared as the "Planning Authority" for Nagpur City except the area covered under seven schemes vide Govt. Notification No. TPS-2401/855/CR-76/UD-9, date: 27th Feb. 2002 and Nagpur Municipal Corporation has been declared as "Planning Authority" for Nagpur City areas covered under seven scheme wide Government Notification No. TPS-2419/1419/CR-64/2019-UD-9, Dt. 27th August 2019 and also Nagpur Municipal Corporation has been declared as "Planning Authority" for Nagpur city except the areas covered under seven scheme wide Govt. Notification No. TPS-2419/1419/C.R. 154b(Part-1)/2019-UD-9, Dt. 09th April 2021. For the said proposal Nagpur Municipal Corporation is planning authority.

The land bearing Mouza- Futala, Kh. No. 13/3, CTS No. 234, area admeasuring area 6000 sq.mtr. is owned by Panjabrao Krushi Vidyapith, Akola Krushi Mahavidyalaya Nagpur. (as shown in DP plan) The use of land is Agriculture in the sanctioned development plan.

In the said revised sanctioned Development plan The Nagpur Municipal Corporation desirous of making some modification u/s 37 of Maharashtra Regional and Town Planning Act 1966, Nagpur Municipal Corporation passed the administrative resolution No. 133/मनपा/प्रशासक, dt. 19/02/2025 for make the aforesaid modification. The aforesaid modification proposed is as under.

Schedule

Sr. No.	Ownership	Kh. No. / CTS No.	Mouza	Approximate	User as per sanctioned D.P.	Proposed change U/s 37 of MRTPA Act 1966
1	(Panjabrao Krushi Vidyapith, Akola) Krushi Mahavidyalaya Nagpur.	Kh. No. 13/3, CTS No. 234	Futala	6000 sq.mtr.	Agriculture	Parking & Commercial

And here after the part plans of Development Plan of Nagpur showing the aforesaid modification is displayed at the office of Deputy Director, Town Planning Dept. of Nagpur Municipal Corporation, Shree Chhatrapati Shivaji Maharaj Administrative Building, B & C wing third floor, civil line, Nagpur-440001 for inspection by public during office hours on all working days. The suggestions and objections in writing which may be received by Assistant Director, Town Planning Dept. of Nagpur Municipal Corporation, Shree Chhatrapati Shivaji Maharaj Administrative Building, B & C wing third floor, civil line, Nagpur in respect of the said modification to the Development Plan within a period of 30 days from the date of publication in the official Gazette, will be considered by the Municipal Commissioner before submitting a said modification proposal to the State Govt. for sanction.

(Dr. Abhijit Chaudhary)
Municipal Commissioner
Nagpur Municipal Corporation.

11/02/2025

नवभारत

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नागपूर महानगरपालिका, नागपूर सूचना

महाराष्ट्र प्रादेशिक व नगर रचना अधिनियम 1966 चे कलम 37 नूसार फेरवदल

नागपूर शहराची सुधारीत विकास योजना महाराष्ट्र प्रादेशिक व नगर रचना अधिनियम 1966 चे कलम 37(1) अन्वये शासन, अधिसूचना नगर विकास विभाग क्र. टिपीएस -2496-2643 -प्र.क्र. 300(अ) -97 - नवी -9, दि 07 जानेवारी 2000 अन्वये मंजूर झाली असून ती दि 01 मार्च 2000 पासून अंमलात आली आहे तसेच वगळलेल्या भागाची विकास योजना शासन अधिसूचना, नगर विकास विभाग क्र. टिपीएस-2400-1628-सी.आर.-200-नवि-9, दि. 10.09.2001 अन्वये मंजूर झाली असून ती दि. 21.09.2001 पासून अंमलात आलेली आहे. तसेच शासनाचे नगर विकास विभागाचे अधिसूचना क्र. टिपीएस-2401-885-प्र.क्र.-76/नवि-9 दि. 27.02.2002 अन्वये नागपूर सुधार प्रत्यासत्त्या क्षेत्रांतर्गत सात योजनांचे क्षेत्र वगळून उर्वरीत नागपूर शहराकरीता नागपूर महानगरपालिकेला नियोजन प्राधिकरण म्हणून घोषित केलेले आहे. तथापी शासनाकडील नगर विकास विभागाची अधिसूचना क्र. टिपीएस-2419-1419-प्र.क्र.-154/2019-नवि-9, दि.27.08.2019 अन्वये संपूर्ण क्षेत्राकरीता नागपूर महानगरपालिका नियोजन प्राधिकरण म्हणून घोषित केलेले होते. तद्वंतर शासनाकडील शासन निर्णय क्र. टिपीएस -2419/ प्र.क्र. 154 (भाग-1)/2019-नवि-9, दि. 09.04.2021 अन्वये 7 योजनेतील स्मार्ट सिटी अंतर्गत नगर रचना योजनेतील क्षेत्र वगळून पुन्हा त्या क्षेत्राकरीता नागपूर सुधार प्रत्यासत्ता नियोजन प्राधिकरण म्हणून घोषित केलेले आहे. आणि ज्याअर्थी, मौजा-फुटाळा येथील खसरा क्र. 13/3(पै), नगर भुमापन क्र. 234 मधील जमिन मिलकीयत सरकार, जे.ई. पंजाबराव कृषी विद्यापीठ अकोला, कृषी महाविद्यालय, नागपूर यांचे नावे असून जमिनीचे एकूण क्षेत्र 23.08 हेक्टर एवढे आहे. सदर एकूण जागेपैकी 6000.00 चौ.मी. क्षेत्राची नकाशात दर्शविल्यानुसारची जागा पंजाबराव कृषी विद्यापीठाने सार्वजनिक बांधकाम विभाग क्र. 1 यांना जमिनीचा मालकी हक्क कायम ठेऊन वाहनतळ उभारणीकरीता दि. 09.06.2020 रोजीच्या विशेष सभेतील ठराव क्र. 24/2020 अन्वये अटी व शर्तीच्या अधिन राहून करारपत्रान्वये दिलेली आहे. त्यानुसार पंजाबराव कृषी विद्यापीठाने पत्र क्र. 1455, दि. 27.10.2020 अन्वये दिलेली आहे. सदर जागेवर मेट्रोमार्फत वाहनतळ व वाणिज्य वापरकरीता बांधकाम करावयाचे असल्याने मंजूर विकास योजनेतील सदर जागेचा विभाग बदल करणेच्या अनुषंगाने मेट्रो रेल कॉर्पोरेशन लिमिटेड यांच्या प्रस्तावानुसार शासनाने नागपूर महानगरपालिकेस आदेशित केल्याप्रमाणे महाराष्ट्र प्रादेशिक नियोजन व नगर रचना अधिनियम 1966 चे कलम 37 अन्वये फेरवदल करण्याचे ठरविले आहे व यासाठी नागपूर महानगरपालिकेने ठराव क्र. 133/मनपा/प्रशासक, दि.19.02.2025 नूसार उपरोक्त फेरवदलाची कार्यवाही करण्यास मंजूरी प्रदान केली आहे. त्यानुसार विकास योजनेत सुचविलेले प्रस्तावित फेरवदल खालीलप्रमाणे आहे.

अनुसूची

अ. क्र	जागेची मालकी	खसरा क्र. / नभूक्र.	मौजा	जागेचे क्षेत्र (चौ.मी.)	मंजूर विकास योजनेनुसार जागेचा वापर	म.प्रा.नि. व न.र. अधिनियम 1966 चे कलम 37 नूसार प्रस्तावित फेरवदल
1	(पंजाबराव कृषी विद्यापीठ अकोला) कृषी महाविद्यालय, नागपूर	ख. क्र. 13/3, नभूक्र. 234	फुटाळा	6000.00	कृषी	वाहनतळ व वाणिज्य

त्याअर्थी, उपरोक्त फेरवदल दर्शविणारा नागपूर शहराच्या सुधारीत विकास योजनेचा भाग नकाशा महानगरपालिकेच्या नगर रचना विभाग, श्री छत्रपती शिवाजी महाराज प्रशासकीय इमारत, वी व सी विंग, तिसरा माळा, महानगरपालिका मार्ग, सिव्हील लाईन्स, नागपूर - 440001 या कार्यालयात कामकाजाचे सर्व दिवशी कार्यालयीन कामकाजाचे वेळेत जनतेच्या निरीक्षणासाठी खुला ठेवण्यात आला आहे. तरी नागरीकांना सुचित करण्यात येते की, ही सूचना प्रकाशीत झाल्याचे तारखेपासून एक महिन्याचे कालावधीत विकास योजनेतील उपरोक्त फेरवदलाच्या संबंधात ज्या सूचना किंवा हरकती महानगरपालिकेकडे प्राप्त होतील त्यावर महानगरपालिकेकडून सूनावणी देण्यात येईल. तद्वंतर फेरवदलाचा प्रस्तुत प्रस्ताव नागपूर महानगरपालिकेकडून शासनाकडे मंजूरीसाठी सादर करण्यात येईल.

Advt No : 1101/PR,

Dt : 28/03/2025

(डॉ.अभिजित चौधरी)

आयुक्त महानगरपालिका, नागपूर

Nagpur Edition

Mar 29, 2025 Page No. 11

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Annexure:-U

ITEM NO.11

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1420/2024

(Arising out of impugned final judgment and order dated 30-11-2023 in PIL No. 4/2023 passed by the High Court of Judicature at Bombay at Nagpur)

SWACCH ASSOCIATION, NAGPUR

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

(IA No.12236/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.12238/2024-EXEMPTION FROM FILING O.T. and IA No.14172/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 25-01-2024 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) Mr. Gopal Shankarnarayan, Sr. Adv.
Ms. Anindita Mitra, AOR
Mr. Satyajit Sarna, Adv.
Ms. Trisha Chandran, Adv.
Ms. Ragini Pandey, Adv.

For Respondent(s) Ms. Anagha S. Desai, Adv

UPON hearing the counsel the Court made the following
O R D E R

1 Issue notice returnable on 12 February 2024.

2 Ms. Anagha S Desai, counsel appearing on behalf of the fourth respondent accepts notice and seeks time to file a counter affidavit.

Signature Not Verified
Digitally signed by
NEETA SARKAR
Date: 2024.01.27
11:24:35 IST
Reason:

- 3 The counter affidavit shall be filed within a period of two weeks.
- 4 Till 12 February 2024, the fourth respondent shall maintain the *status quo* in all respects and no fresh construction shall be carried out.
- 5 List the Special Leave Petition on 12 February 2024.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

Annexure :- V



SWACCH ASSOCIATION

Registered under The Bombay Public Trust Act, 1950 vide Regd No. F-33478 (NAG), PAN : AASTS9043H
 15, Laxmi Apartments, Opp to Axis Bank, R.T. Road, Civil Lines, Nagpur
 Mob :- 9850489953, 9860009653 | Web- www.swacchnagpur.org | E-mail- swacchnagpur@gmail.com

Date: 02-04-2025

To,
 Asst. Director,
 Town Planning Department,
 Nagpur Municipal Corporation (NMC)
 B&C Wing, third floor, Shree Chatrapati Shivaji Maharaj Administrative Building,
 Civil Lines, Nagpur – 440001

Subject: Strong Objection to Illegal Post Facto Land Use Change Notification for Khasra No. 13/3, Mouja Futala (CTS No. 234) – Violation of FCA 1980 and Environmental Laws

Respected Sir,

We, Swacch Association Nagpur, a registered organization working towards environmental conservation, wetland protection, women's livelihood, and sustainable urban development in collaboration with local authorities, strongly object to the proposed land use change of Khasra No. 13/3, Mouja Futala (CTS No. 234), from agricultural to parking and commercial under Section 37 of the MRTP Act, 1966, as advertised in Advt. No. 1101/PR dated 28-03-2025 (Annexure-1- Copy of Newspaper advertisement in Times of India, 29/03/2025).

1. Ongoing Legal Proceedings & Violations of Law

It is pertinent to note that our association is already a petitioner in:

- SLP No. 1420/2024 before the Hon'ble Supreme Court of India concerning Futala Fountain & surrounding wetland violations which also include the land use violations in Khasra 13/3 Mouza Futala.
- PIL No. 16/2025 regarding illegal constructions and commercialisations on PDKV lands and Zudpi Jungle violations. Hon'ble High Court of Bombay (Nagpur Bench) has ordered stay on all commercial works. (Annexure- 2- Copy of order of Hon'ble High Court in PIL 16 of 2025 dated 26-02-2025)
- There is also a parent case regarding status of Zudpi Jungles being sub-judice in Hon. Supreme Court of India & CEC report 29 of 2019 dated 22nd Oct 2019 clearly mentions that.... "Zudpi jungle land which has not been put to non-forest use prior to 12.2.1992 will attract provisions of FCA"....in WP 202 of 1995. In report 8 of 2025 dated 17-02-2025 of CEC same thing has been reiterated. (Annexure 3- Copy of GR of Maharashtra Govt. dated 8th August 2013 that FCA rules apply to all Zudpi jungles)

Despite the matter being sub-judice, Maha Metro and its contractors, in connivance with authorities, have illegally constructed a multi-storeyed parking and commercial complex on Zudpi Jungle land, which is meant for agricultural use only. The same has been apprised to various authorities by Swacch Association time and again and it is hoped cognisance is taken in this regard (Annexure- 4- Letters written by Swacch Association to Regional Office, MOEFCC and Forest Department dated 01-04-2025 and attached thread of prior communications). During their affidavits to Hon'ble Court authorities (NMC and Maha Metro) have failed to mention this fact while hiding the truth from Judiciary. This is a blatant violation of:

- Forest Conservation Act (FCA), 1980
- Environmental Protection Act, 1986

2/4/25
 2/4/25
 2/4/25

2/4/25
 2/4/25
 L.D.C.
 Town Planning Dept
 N.M.C.

- Wetland (Conservation & Management) Rules, 2017
- Thus the land use Change Notification under MRTP Act 1966 is illegal at its initiation as land is Zudpi Jungle and FCA 1980 rules have to be applied.

2. Notification Under MRTP Act is Illegal & Contemptuous

The Hon'ble Courts have already been apprised of these violations, and there are stay orders prohibiting further construction on the disputed land. Despite this, NMC's attempt to grant post-facto clearance through this notification is illegal, arbitrary, and in contempt of court. FCA 1980 rules have to be applied here.

3. Demand for Immediate Withdrawal & Legal Action

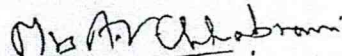
We strongly demand:

1. Immediate withdrawal of the illegal land use change notification and cancel the procedures until Judiciary decides on above cases.
2. Strict legal action against officials/contractors involved in unauthorized construction in past of the parking Plaza and commercial complex without proper procedures and sanctions and land use change.
3. Restoration of the land to its original status as per environmental laws and PDKV original mandate.

We are enclosing previous representations, court orders, and photographic evidence of the violations as construction work was already carried out without proper sanctions for your record (Annexure-5- Photograph of multi-storeyed building already built before sanctions and land use change including FCA Act implementation). Any further attempts to regularize illegal constructions will make the concerned authorities liable for legal action as per laws of the land. If such violations are regularised then it will leave a disastrous precedent for future as it will set example for all future violations going scot-free and escaping law.

We request an urgent written response and action to our objections to this proposed land use change notification, which clearly shows repeated violations and most importantly is a post facto action after construction without sanctions on Zudpi jungle land.

Yours faithfully,



Anasuya Kale Chhabrani
President
9850489953

Enclosures:

1. Annexure-1- Copy of Newspaper advertisement in Times of India, 29/03/2025
2. Annexure- 2- Copy of order of Hon'ble High Court in PIL 16 of 2025 dated 26-02-2025
3. Annexure 3- Copy of GR of Maharashtra Govt. dated 8th August 2013 that FCA rules apply to all Zudpi jungles
4. Annexure- 4- Letters written by Swacch Association to Regional Office, MOEFCC and Forest Department dated 01-04-2025 and attached thread of prior communications
5. Annexure-5- Photograph of multi-storeyed building already built before sanctions and land use change including FCA Act implementation

CC to:

1. Chief Minister, Maharashtra (through email)
2. Commissioner, Nagpur Municipal Corporation

<p style="text-align: center;">याच नमुना बारा (मिकांची नोंदवही) [महाराष्ट्र ग्रामीण महसूल अधिकाऱ्यांचे अधिलेख आणि नोंदवही (सकारण करणे व सुविधीय ठेवणे) नियम १९७१ यातील नियम २९]</p>											
<p>बार - जुंदाळा (१४३७९६)</p>			<p>तालुका - रामपूर (उडप)</p>					<p>पिस्ता - रामपूर</p>			
<p>सुधारण क्रमांक व तपविनाम</p>			<p>१३/३</p>								
<p>विकासातील श्रमाचा वसुली</p>								<p>सुधारणीय विकासात वास्तुची नोंद</p>		<p>शेता</p>	
वर्ष	हंगाम	वारी क्रमांक	विकासा प्रकार	विकासा मार	जल विहित	अजल विहित	जल विवनाचे साधन	स्वरूप	शेता		
(१)	(२)	(३)	(४)	(५)	(६)	(७)	(८)	(९)	(१०)	(११)	
										<p>शे.आर. वी.सी</p>	
२०१८-१९	संपूर्ण वर्ष							बगीचा पत्र	२३.०५००		
२०१९-२०	संपूर्ण वर्ष							पटाई पत्र	२३.०५००		
२०२०-२१	संपूर्ण वर्ष							पटाई पत्र	२३.०५००		
२०२१-२२	संपूर्ण वर्ष	१०१						छात्री पत्र	२३.०५००		

टीप :- सदरची नोंद सोसायल वीप द्वारे घेण्यात आलेली आहे



F. No. 8-33/2001-FC
Government of India
Ministry of Environment, Forests and Climate Change
(FC Division)

Indira Paryavaran Bhawan,
Aliganj, Jor Bag Road,
New Delhi - 110003.
Dated: 27th June, 2018

To,
The Principal Secretary/Secretary (Forests),
All States / UT Governments

Sub: Guidelines on the issue of Zudpi Jungle of Maharashtra.
Sir,


I am directed to refer the matter related to the General condition i.e. ~~the condition stipulated by the Regional Office Nagpur while according permission for diversion of 15.84 ha of Zudpi Jungle on 05th January 2017. This is a general condition imposed in all diversion cases under FCA, 1980 vide FCA guidelines 2.8.~~

The matter was discussed in the PMO on 09th April 2018, and the decision was conveyed to MoEF&CC vide PMO ID No. 670/61/C/15/2017-ES I dated 11th April 2018. In the meeting it was decided that *"In view of the contention of government of Maharashtra, that Zudpi Jungle is not a notified forest and its status remain revenue land, the diversion orders under forest (Conservation) Act for such Zudpi land can include the condition 'the land may be transferred to other agency department of person only with the prior approval of the state government instead of the current condition requiring prior approval of the central government."*

The matter has been examined in the Ministry and it is conveyed that the general condition in case of diversion of Zudpi Jungle land (as specified in category I (Diversion of 32,229ha of fragmented Zudpi Jungle for Public purpose/ public infrastructure) and Category -II (Encroachments excluding commercial purposes prior to 12/12/1996)) proposed under Simplified Procedure conveyed vide letter No. 8-33/2001-FC shall be read as

~~the condition stipulated by the Regional Office Nagpur while according permission for diversion of 15.84 ha of Zudpi Jungle on 05th January 2017. This is a general condition imposed in all diversion cases under FCA, 1980 vide FCA guidelines 2.8.~~
~~the condition stipulated by the Regional Office Nagpur while according permission for diversion of 15.84 ha of Zudpi Jungle on 05th January 2017. This is a general condition imposed in all diversion cases under FCA, 1980 vide FCA guidelines 2.8.~~
This is issues with the prior approval of competent authority.

Yours faithfully


(Sandeep Sharma) . 27. 6. 18

Inspector General of Forests (FC)

Copy to:

1. The Principal Chief Conservator of Forests, Government of Maharashtra, Nagpur.
2. The Addl. PCCF (Central), Regional Office, Nagpur
3. Divisional Commissioner, Nagpur.
4. The Nodal Officer, O/o the PCCF, Government of Maharashtra, Nagpur.
5. Monitoring Cell, FC Divisions, MoEF&CC.
6. Guard File.

असा. क्र. ८९

रजिस्टर्ड नं. एम्. एच.-९



महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

सोमवार, मे २०, १९६८/विंशत्य ३०, शके १८९०

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत

भाग चार-ब

महाराष्ट्र अधिनियमांमध्ये महाराष्ट्र शासनाने तयार केलेले (भाग एक, एक-अ व एक-ब) यामध्ये प्रसिद्ध केलेले नियम व आदेश यांमधील (याने) नियम व आदेश

AGRICULTURE AND CO-OPERATION DEPARTMENT.

Sachivalaya Annexe, Bombay-32, 17th May 1968

MAHARASHTRA AGRICULTURAL UNIVERSITY (KRISHI VIDYAPEETH) ACT, 1967.

No. AGU. 1067-16953-V.—In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Agricultural University (Krishi Vidyapeeth) Act, 1967 (Mah. XXIII of 1967), the Government of Maharashtra hereby directs that the following provisions of the said Act shall come into force on the 1st day of June 1968, namely:—

- Section 7.
- Section 22.
- Section 38.
- Sections 43 to 48 (both inclusive).

By order and in the name of the Governor of Maharashtra,

V. Y. MASUREKAR,
Deputy Secretary to Government.

भाग चार-ब—१२३

(७१९)

शासकीय मध्यवर्ती मुद्रणालय, मुंबई.

Attested

 Registrar
 Dr. PDKV, Akola

923

Copy of Section 7 of Maharashtra Act, IX of 1969

The Punjabrao Agricultural University (Krishi Vidyapeeth) Act, 1968.

Transfer of certain colleges and Institutions to the University.

7. (I) Notwithstanding anything contained in the Maharashtra Agricultural University (Krishi Vidyapeeth) Act, 1967, the colleges of agriculture at Parbhani, Nagpur and Akola and the Veterinary College at Nagpur shall cease to be constituent colleges of the Maharashtra Krishi Vidyapeeth, and shall pass to and be maintained by the University as its constituent colleges, from such date as the State Government may by notification in the Official Gazette specify :

Mah. XXIII of 1967.

Provided that, the Maharashtra, Krishi Vidyapeeth shall be competent to declare the results and to award degrees, diplomas, certificates or other academic distinctions to the students of the said colleges or to any post-graduate or other students, who may have appeared at any examination held by or on behalf of that University before such specified date.

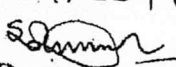
The control and management of the colleges specified in sub-section (1) as from the said date shall stand transferred to the University, and all properties and assets and liabilities of the Maharashtra Krishi Vidyapeeth in relation thereto shall stand transferred to, and vest in, the University.

(3) Where before the date notified under sub-section (1), the Maharashtra Krishi Vidyapeeth has made any contract in relation to any of the said colleges, that contract shall be deemed to have been made by the University, and any reference therein to the Maharashtra Krishi Vidyapeeth shall be construed as a reference to the University.

(4) Notwithstanding anything contained in this Act or the Statutes and Regulations made thereunder, any student of a college specified in sub-section (1), or any post-graduate or other student who immediately before the said date was studying or was eligible for any examination of the Maharashtra Krishi Vidyapeeth, shall be permitted to complete his course in preparation therefor, and the University shall provide for such period and in such manner as may be prescribed for the instruction, teaching, training and examination of such students in accordance with the courses of studies of the concerned University.

(5) The control and management of such research and other institutions of the Department of Agriculture and of other Departments of the State Government as the State Government may, by notification in the Official Gazette, specify in this behalf shall, from such date as may be specified in that notification, be transferred to the University; and thereupon all properties and assets and liabilities of the State Government in relation to such institutions shall also likewise stand transferred to, and vest in, the University.

(6) Within a period of three years from the date on which this section comes into force, (or such further period as the State Government may by notification in the official Gazette specify,) the State Government shall arrange to transfer to the University, and the University shall thereupon assume responsibility for, the maintenance --

Attested

 Registrar
 Dr. PDKV, Akola

Cor. 2/-

-2-

-of agricultural schools, gramsevak training centres, home science wings, workshop wings, soil conservation training centres and short term courses such as gardening or mali training, oil engine training in the use and maintenance of oil engines, stockmen training, poultry training, mass training, refresher training, and the like, which are situated in the University area and which are or may be under the control of the Department of Agriculture or any other Department of the State Government.* * *

Mah.
XVII
of
1972.

1(7) Notwithstanding anything hereinbefore in this section contained, with effect from the date of commencement of the Maharashtra Agricultural University (Krishi Vidyapeeth) Act, 1972, the college of agriculture at Parbhani and certain other institutions shall cease to vest in the University and shall pass to and be maintained by the other University as provided in section 7 of that Act.)

Mah.
V of
1972.

Mah.
XXIV
of
1973.

2(7 A. Notwithstanding anything contained in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, with effect from such date or dates, not being later two years from the commencement of the Maharashtra Agricultural Universities and Zilla Parishads and Panchayat Samitis (Amendment) Act, 1973, as may be appointed and subject to such terms and conditions (if any) as may be specified, by the State Government by notification in the Official Gazette, the management and maintenance of agricultural schools (together with any property appertaining thereto) vesting in the Zilla Parishads and situated in the University area shall cease to vest in the Zilla Parishads and shall stand transferred to the University. The University shall thereupon assume responsibility for the management and maintenance as in the case of other institutions transferred to it under subsection (6) of section 7. The responsibility of the Zilla Parishads to give grants to aided agricultural schools shall also, with effect from the date aforesaid, cease and shall become the responsibility of the University, subject to such terms and conditions (if any) as may be specified by the State Government by notification in the Official Gazette.

Transfer of management and maintenance and control of certain agricultural schools from Zilla Parishads to the University.

7B. If in the opinion of the University, any college, research institution, school, centre, activity or other institution transferred and vesting in it under section 7 or 7A, is surplus to its requirements, the University may request the State Government that the same may be transferred to the State Government. Upon such request, the State Government may, by notification in the Official Gazette, direct that such institution shall, from such date and subject to such terms and conditions (including those relating to the employees serving therein or thereunder) as may be specified in the notification, cease to vest in the University and pass to and be maintained by the State Government; and thereupon all properties and assets and liabilities of the University in relation to such institution shall stand transferred to, and vest in, the State Government. The conditions of service of employees, if any, transferred to the State Government along with the institution shall not be less favourable than those applicable to them immediately before such transfer.

Transfer of certain institutions to Government.

21/10/69

धत्ता. क्र. १५१

रजिस्ट्रेशन नं. एम.ए.व.-१



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, ऑक्टोबर १३, १९६९/आरिवन २१, शके १८९१

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग चार-ब

महाराष्ट्र शासनाने महाराष्ट्र अधिनियमान्वये तयार केलेले (भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

AGRICULTURE AND CO-OPERATION DEPARTMENT

Sachivalaya Annexe, Bombay-32, 13th October 1969

PUNJABRAO AGRICULTURAL UNIVERSITY (KRISHI VIDYAPEETH) ACT, 1968.

No. AGU. 1069/4561-(III)-V.—In exercise of the powers conferred by sub-section (2) of section 1 of the Punjabrao Agricultural University (Krishi Vidyapeeth) Act, 1968 (Mah. IX of 1969), the Government of Maharashtra hereby directs that the following provisions of the said Act shall come into force on the 19th day of October 1969, namely :—

Sub-sections (1) and (2) of section 3,
Section 69.

By order and in the name of the Governor of Maharashtra,

R. J. LATKAR,

Deputy Secretary to Government.

भाग चार-ब—२३६

(८९४)

Attested

 Registrar
 Dr. EDKV, Akola

८९५ महाराष्ट्र शासन राजपत्र, असा., अंकितो. १३, १९६९/आदिवन २१, त्रके १८९१, प्राग चोर-व :

AGRICULTURE AND CO-OPERATION DEPARTMENT

Sachivalaya Annexe, Bombay-32, 13th October 1969

PUNJABRAO AGRICULTURAL UNIVERSITY (KRISHI VIDYAPEETH) ACT, 1968.


No. AGU. 1069/4561-(III)-V.—In exercise of the powers conferred by sub-section (2) of section 1 of the Punjabrao Agricultural University (*Krishi Vidyapeeth*) Act, 1968 (Mah. IX of 1969), the Government of Maharashtra hereby directs that the following provisions of the said Act shall come into force on the 20th day of October 1969, namely :—

Sub-section (1) of section 4,
Sections 5 to 8 (both inclusive),
Section 13,
Section 22,
Sections 38 to 52 (both inclusive),
Sub-section (3) of section 54,
Sections 55 to 57 (both inclusive),
Sections 61 and 62,
The First Schedule.

By order and in the name of the Governor of Maharashtra,

R. J. LATKAR,
Deputy Secretary to Government.

भासकीय मध्यवर्ती मुद्रणालय, मुंबई.

Attested

Registrar
Dr. PDKV, Akola

GOVERNMENT OF MAHARASHTRA

Agriculture and Cooperation Department
Resolution No. CDS 2077/1313(1233)-SADF

Mantralaya Annex, 9,

Bombay - 32,

28th September 1977.

READ : Government Letter No. CDS 2077/1313(1233)/SADF dated the 7th February 1977.

Letter No CDS/1 (Nagpur -1074-77-AH-10, dated the 1st April 1977, from the Director of Animal Husbandry, Maharashtra State, Pune.

Letter No. CDS/2077/1313(1233)/SADF, dated 20th May 1977
Letter No. LACQ/89/8976, dated 15th June, 1977 from the Registrar, Punjabrao Krishi Vidyapeeth, Akola.

Letter No. CDS-1(Nagpur) 3040-77-AH-10, dated 20th Aug. 1977 from Director of Animal Husbandry, M.S. Pune.

Resolution : Government is pleased to accord sanction to the exchange of lands admeasuring 44.51 hectares (110 acres) belonging to the Animal Husbandry Department in Survey No. 2 at Cattle Breeding Farm, Nagpur, for the lands admeasuring 56.47 hectares (139.54 acres) in survey Nos. detailed below, belonging to the Punjabrao Krishi Vidyapeeth, Akola.

S. No.	Area in acres
Kh. No. 23/1	50.00
Kh. No. 21	5.94
Kh. No. 39/1	19.20
Kh. No. 52/3	1.90
Kh. No. 39	10.50
Kh. No. 13	30.00
Kh. No. 36	22.00
	<u>139.54</u>

2. The land will be exchanged on the following terms and conditions :-

I) the lands should be transferred on "as is where is" basis without demolition or removal of any structures or fixtures.

II) Only livestock and moveable deadstock should be shifted.

III) The possession of the land from the Punjabrao Krishi Vidyapeeth should be taken after the structures if any, occupied by persons are vacated completely.

IV) The land in th possession of the Cattle Breeding Farm, Nagpur should be handed over only on taking possession of the land from the Punjabrao Krishi Vidyapeeth, with (iii) above.

3. This Government Resolution issues with the concurrence of the Revenue and Forests Department and the Finance Department via the letter of un-official reference No. 6954/SFD, dated the 19th September, 1977.

By order and in the name of the
Governor of Maharashtra,

Sd/-

Section Officer, Government of M.

**OFFICE OF THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT NO.1, SADAR, NAGPUR.
EMAIL: DIV1NAGPUR.EE@MAHAPWD.COM**

Date: 21.08.2018

Serial No. /date/2018

To,
The Managing Director,
Maha Metro Railway Corporation,
Nagpur.

Sub. To hand over work approved under Central Road Fund to
Mahametro, Nagpur.

Sub. Letter No. Road-4/Kemani/Contract Work/6179 dated
20.08.2018 from the Chief Engineer, P.W. Regional
Department

With reference to above it is directed to hand over the pending
work mentioned below to get it done.

- 1) At Futala Lake Nagpur Viewing Gallery with Tunnel (Job
No. CRF-MH-2018-19-269 dated 19.07.2018) Rs. 112.89
crores.
- 2) Development of Junction at Nagpur Railway Station
Jaistambha square, Manas Chowk to Jaistambha road
development (Job No. CRF-MH-2018-19-270 dated
19.07.2018) Rs. 234.21 crores.

For the above work from time to time as and when we will receive the funds from Central Government it will be passed on to you. Similarly it is suggested that there will not be any increase in the rate.

Therefore subject to adhering the above instructions the above works are handed over to your Department.

Encl. above referred letter.

Sd/-
(J. H. Bhanuse)
Executive Engineer,
P. W. D. No. 1

CC. TO :

- 1) The Chief Engineer, P.W. Department, Nagpur for information.
- 2) The Superintendent Engineer, Public Works Department, Nagpur for information.
- 3) The Sub Divisional engineer, P. W. Project Sub Division, for information and necessary action.

Sd/-
Joint Superintendent,
Krushi University, Nagpur.

// TRUE TRANSLATION //



ADVOCATE

DR. PANJABRAO DESHMUKH AGRICULTURE UNIVERSITY
Krushni Nagar, Akola – 444 104 (Maharashtra)

Important/Urgent

O.No. GAD/Land/561/810/2020
Date: 14.08.2020

To,
Associate Dean,
Agriculture College,
Maharajbag, Nagpur

Subject: Regarding demand of land for construction of parking in 6000 sq.mtrs. land out of 23.06 H.R. land of Kh. No. 13/3, Mouje Futala in possession of University at Nagpur.

Reference: 1) Letter No. Resha/R-1/4611/2019 dated 26.06.2019 of Executive Engineer, Public Works Department Division No. 1, Nagpur
2) Resolution No. KP/24/2020 dated 9th June, 2020 passed in the Executive Council of University.

Sir,

It is proposed to erect/construct colourful fountain, lights and laser show at Futala Reservoir, Nagpur and a proposal is received from Executive Engineer, Public Works Department No. 1, Nagpur for acquiring 6000 sqm. land out of total 23.06 H.R. land of Kh. No. 13/3, Mouje Futala, which is in possession of University, for construction of parking space for visiting spectators/tourist.

In this respect a subject no. 26/2020 is tabled in the meeting of Executive Council of University held on 9th June, 2020 and the same is passed vide Resolution No. KP/24/2020. The Xerox copy is enclosed herewith.

Therefore you are requested to initiate action as per the attached decision.

Sd/-
Registrar,
Dr. P.K.V., Akola
Encl: As above.

Copy to:

- 1) The Executive Engineer, Public Works Department No. 1, Residency Road, Sadar, Nagpur, for information.
- 2) The Assistant Registrar (Committee department) Dr. P.D.V. Akola for necessary action to be taken as per letter No. FBB-10/85/2020 dt. 10.08.2020.
- 3) Personal Assistant to Registrar, for the information of Vice-Chancellor.

\\ TRUE TRANSLATION //

Kobirhans

ADVOCATE

No 327
**RESOLUTION PASSED BY THE EXECUTIVE COUNCIL IN
ITS SPECIAL MEETING DATED 9TH JUNE, 2020**

Subject No. 26/2020: Regarding demand of 6000 sqm. land out of total 23.06 H.R. land of Kh. No. 13/3, Mouje Futala in possession of University at Nagpur for construction of parking space. (Appendix-26)

The above mentioned subject is tabled by the Associate Dean, Agricultural College, Nagpur. It is revealed in the note on said subject that the team of members of University Executive Committee has inspected the said land and that big project is being built at the said place with colorful fountains and spot lights.

The Registrar informed the meeting that even after giving the said land for parking, we are left with lower part for our use. Dr. C.D. Mayi, E.C. member has opined that I have seen the said place and the lower part, after making arrangement for parking on the upper portion, can be available for use and that the said project is of beautification. When the E.C. member Shri. Moreshwar Wankhede suggested that the subject subject should be tabled in a special meeting, the Vice-Chancellor opined that as it is not possible to called a meeting due to

outbreak of COVID-19 hence it will be proper to take a decision. Shri. Gopikisan Bajoria, E.C. member informed that many cases are pending in respect of land hence, approval can be given principally if the same is within purview of University Agreement. Then after a detail discussion an unanimous decision is taken by the members and passed following resolution.

Resolution No. : EC/24/2020

Date: 9th June, 2020

The construction of colorful fountains, lights and laser show is proposed on University land at Futala reservoir, Nagpur and the Executive Engineer, Public Works Department No. 1, Residency Road, Sadar, Nagpur has made a demand of 6000 sq.m. land out of 23.06 H.R. land of Kh. No. 14/3, Mouje Futala for creating parking space for spectators/tourists visiting the said place. The University, subject to the terms and conditions of agreement, is principally gives its approval for using said 6000 sqm. land by reserving its ownership rights.

// TRUE TRANSLATION //

Kolita/WD

ADVOCATE

NAGPUR HERITAGE CONSERVATION**COMMITTEE, NAGPUR**

Shri Chhatrapati Shivaji Maharaj Administration Building,
C-Wing, 3rd floor, Mahanagarpalika Marg,
Civil Lines, Nagpur-400001.

Phone : 0712-2567016, website : www.nmcnagpur.gov.in.

O. No. MANAPANA/Heritage/Sabha/742

Dated: 20.07.2022

Minutes of the meeting of Nagpur City Heritage Conservation Committee under the Chairmanship of Shri Ashok Mokha, Architect, Urban Designer, Nagpur was held on 30th June 2022.

As per the Order No.TPS-2412/6(f)/Case No. 94(n)/12/Navi-9 dated 06th September 2014 of the Government Urban Development Department about the conservation of the conservation of the historical and architectural buildings and as per Rule 34, sub-rule 13 of the Nagpur Urban Sanctioned Development Control Rule as per the Government Resolution a committee for Nagpur Urban Heritage Conservation and ten members committee was formed as follows. Similarly there are two additional members as per the committee under Chairman.

1.	Shri Arun Patankar, Retired, B.P.S./Retired Chairman, N.D.P. Nagpur	Chairman
2.	Deputy Commissioner-1 Municipal Corporation, Nagpur	-Member
3.	Shri P. S. Patankar (Structural Engineer)	-Member
4.	Shri Habib Khan (Architect & Director Priyadarshani & Lokmanya Tilak Institute of Architecture & Design Studies, Nagpur)	-Member
5.	Dr. Mrs. Ujjwala Shirish Chakradeo, Principal, L.A.D. College, Nagpur	-Member
6.	The Curator, Nagpur Museum, Nagpur	-Member
7.	Dr. Shri Tapan Chakravarti, Ex Director, Niri, Nagpur	-Member
8.	Dr. Mrs. Shubha Johari, (P. Pathak, History Division, Nagpur College, Nagpur.	-Member
9.	The Assistant Director, Town Planning Division, Nagpur Branch, Nagpur	-Member
10.	The Superintendent Engineer, Nagpur Development Authority, Nagpur	-Member
11.	Shri Ashok Mokha, Architect, Urban Designer	-Member
12.	The Information Officer of the Government of Maharashtra Information & Public Relation Directorate, Nagpur District.	-Member
13	The Deputy Director, Town Planning, Nagpur, M.N.P. Nagpur	-Member Secretary

As per the Resolution No.TPS-2412/6(f)/Case No.
94(n)/12/Navi-9 dated 06 September 2014 from the Town

Development Department of the Government a committee was formed to conserve the buildings with Architectural view in the Nagpur City. Under the said committee as per Regulation Rule No. 13.2.1 for Group No. (1),(3), (4) and (7) along with the Chairman the duration of the committee was for three years upto 05/09/2017. Thereafter the duration of the committee was over.

However, as there was Guru Nanak Jayanti programme to be held on 04/11/2017 at Kasturchand Park and as the Gurunanak Jayanti Committee had filed a Civil Application No. 1495/2017 and Public Interest Petition No.45/2017 in the Hon'ble Court for getting permission the Hon'ble Court passed an order on 11/10/2017 that though the duration of the Committee formed was over till new committee is not formed by the Government the old committee shall continue.

As the Chairman of the committee Arun Patankar, retired B.P.S./Retired Chairman, Nagpur Development Authority expired on 25/11/2017 and the member Shri Tapan Chakravarit, Ex Director, Niri, Nagpur expired on 14/02/2022, as also Dr. Mr.s Ujjwala Shirish Chakradeo, Principal, L.A.D. College Nagpur was appointed as Chancellor on SNTD Women College she informed on phone at the time of discussion that

she will not be able to attend the Heritage Conservation Committee as also Task Force meeting.

Accordingly the meeting of the Heritage Conservation Committee was held on 30/06/2022 at 4.00 pm under the Chairmanship of Shri Ashok Mokha, Architect, Urban Designer, Nagpur at Shri Chhatrapati Shivaji Maharaj Administration Building, C Wing, 3rd floor, Mahanagarपालिका Marg, Civil Lines, Nagpur. In the said meeting members of Sr. No. 3,8,9,11 and 13 were present. The meeting was initially postponed for want of Coram and it was restarted because the agenda was important.

The Chairman started the meeting and a seven member committee was formed as per the direction of the Hon'ble High Court and the meeting of the said Task Force was held on 25.11.2021 at 4.00 PM under the Chairmanship of Shri Ashok Mokha. In the said meeting following decisions have been taken.

Agenda No. 1	At Zero Miles statue there are total four horses of sand stone and one stone stature and out of four horses two have been partially damaged and their legs broken. Similarly the statue has developed gaps. In order to make repair the Executive
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Engineer, P.W.D. No. 1, Nagpur has asked for fund of Rs. 25.00 Lakhs

Similarly under Public Litigation No. 45/2017 as per Para 14 of Amicus Curie filed in order to do leveling of Kasturchand Park minimum 1000 truck load of earth is required. Accordingly this office by its letter dated 21/09/2020 and 25/09/2022 the Executive Director, P.W.D. No. 1 Nagpur has been directed to submit report. The Superintendent, Engineer, Public Works Department, Nagpur has given an estimate of Rs. 223.45 lakhs by its letter dated 29/09/2020.

For leveling of Kasturchand Park ground under the Prime Minister Mining area Development scheme Rs. 50.00 Lakhs fund was approved by the District Mining Division, Nagpur on 26/10/2020 under his Note by the then Collector. However, the Executive Director, P.W.D. No.1, Nagpur informed that till date the said fund is not given.

It is stated by the Executive Director, P.W.D. No.1, Nagpur that the leveling work of Kasturchand Park ground is not possible step by step. Similarly it is extremely to carry out the repair work of the umbrella at Kasturchand Park and similarly taking into consideration monsoon season advancing due to falling of damaged structure not to cause any untoward incident it was suggested by the Executive Director, Public Works Department No. 1, Nagpur to use the fund of Rs. 50.00 Lakhs for repair of

	<p>umbrella. Accordingly, the District Mining Officer directed in the meeting to find out if the fund is available for doing needful. Similarly the Collector has directed to submit proposal with the Government. Similarly in the meeting it was suggested by the District Planning Authority that the scheme of City Development of Municipal Corporation and Municipal Council is not applicable for 'A' category Municipal Corporation if such kind of proposal is submitted to Municipal Corporation then it can be forwarded to the Government level. Accordingly under the scheme of capital expenditure under special scheme for States under control of Central Government for the year 2022-23 out of the loan without any interest for repair of the Heritage structure at Kasturchand Park Rs. 26.00 Lakhs and for Zeromiles structural repair Rs. 25.00 was demanded with the Joint Director, Town Planning, Nagpur Division. It was also informed in the meeting to take a decision about sending proposal to the Government by holding discussion with the Chairman as suggested by the District Planning Officer for asking fund under Municipal Civil Up gradation Scheme.</p>
<p>Agenda No. 2</p>	<p>To give opinion about the construction of Parking Plaza Building at Village Futala, Kh. No. 13/3, City Survey No. 234.</p> <p>The General Manager, Planning -2, Maharashtra Metro Rail Corporation Ltd., Nagpur has submitted</p>

construction plan for multi storey parking plaza adjacent to Futala Lane & Cement Road in the area owned by PKV for installation of floating musical fountain /light sound and lazer multimedia show project near Telangkhedi lake and for the said purpose for parking arrangement at Kh. No. 13/3, village Futala 6000.00 sq. metres land owned by Punjabrao Krushi Vidyapith. For the approval of the said proposal the plan from Heritage Conservation Committee it was submitted to the Town Planning Department, Municipal Heritage Conservation Committee.

In the said proposal for cement road level ground floor plus three puzzle pit car parking arrangement is proposed. Similarly below the cement road level there are two upper and lower level basement and in this lower basement car parking and in upper basement scooter parking is proposed. In the ground floor on upper side from 1st to 3rd floor there is a car parking as also on 5th floor food shoppy car parking as also on 5th floor partial restaurant construction is proposed.

As per the proposed construction proposal is at heritage place adjacent to Futala Lake Cement road a decision was taken at the last moment agenda by the permission of Chairman, Heritage Conservation Committee in the meeting.

In this subject a discussion was held in the meeting of Heritage Conservation Committee on 05/03/2021.

In the said meeting of the Heritage Conservation Committee it was resolved that members of the committee Shri Ashok Mokha, Architect cum Urban Designer, Nagpur, member Shri P.S. Patankar (Structural Engineer) and Mrs. Ujwala Chakradeo, Principal A. D. College of Architecture, Nagpur should observe the site of work and submit report to the Heritage Conservative Committee in the next meeting and thereafter the Committee will take further decision. Accordingly the sub-committee has submits its proposal on 15/06/2021.

The sub-committee has done observation of the site of the proposed multy story parking plaza and submitted its observation as follows:

- 1. The gallery as constructed differs from the one which was approved by heritage committee on 29.09.2018. Applicant to make submission and submit revised proposal for approval to heritage committee.*
- 2. No NOC's in the letter from heritage committee dt.14.06.2021 as mentioned below has submitted:-*
 - a) From PWD Dept.*
 - b) From MNC/PKV/Fisheress/forest.*
 - c) From DSO, Nashik.*
 - d) Structural Stability of Dam Wall from V.N.I.T.*
 - e) Methodology for heritage wall preservation.*
- 3. The proposed 3D views of parking building*

have not been submitted for the sub-committee to make any comments on the matter.

4. Traffic evaluation study for ingress and egress needs to be submitted endorsed by competent authorities to ensure traffic plans during peak hours.

5. Surprisingly the foundation work of parking building is almost complete. No sanction plans have been made available till date. Applicants to make submission accordingly.

6. Environmental impact assessment report to be submitted for grade I heritage precinct.

7. Based on our detailed discussion it is recommended that the drawing which have been approved by heritage committee needs to stamped and signed so that to ensure no deviation in order of submission is executed at site.

The discussion was held in the meeting on the issues raised by the Sub-committee and at that time submission was done by Office and Shri Kishor Chiddarwar, Architect of Metro Railway Corporation Ltd. Thereafter the discussion was held on the said issue and approval was unanimously granted to the said project subject to compliance of the conditions. In view of that the Town Planning Department had suggested Metro Corporation to solve the issue. Out of that few issues have been solved and therefore

	<p>the Town Planning Department the proposal was submitted to the Commissioner the Commissioner directed to submit the proposal by getting opinion from the Heritage Committee. Once again the discussion was held and it was resolved as follows: In the past the Sub committee submitted its observation on 15/06/2021 about the issues and Maha Metro had submitted its compliance report by letter dated 28/03/2022.</p> <p>Similarly as regards structural stability of dam Maha Metro on 30/06/2022 submitted detailed report. The Chairman suggested to take the said report on record. Similarly in view of the report submitted for Methodology for heritage wall preservation the Chief Project Manager gave information about conservation of heritage wall. As the Mahametro has clarified the issues raised in the meeting dated 15/06/2021 by the Sub-Committee as on 30/06/2022 the Chief Project Superintendent, CRF-2, Mahametro, Nagpur will have to carefully follow the issues on the said issues. On such conditions the decision to grant permission was taken. The decision was taken on the presumption that Metro will construct heritage wall as per the report submitted by Mahametro and will carefully follow the conditions about Heritage.</p>
Agenda No. 3	Under Futala lake water sports activity for starting viewing Gallery, musical fountain, light sound and lazer Multimedia show the Heritage Conservation

	<p>Committee in this regard the Chief Project Superintendent (CRF-II) Mahametro, Nagpur asked about the objections. Accordingly a discussion was held on this subject on the basis of information provided by the Chief Project Superintendent, CRF-2, Mahametro, Nagpur on the condition that there should not be any damage to the original heritage structure, for Water Sports Activity it was resolved to give consent on the terms and conditions mentioned in the letter dated 07/03/2022 by the Superintendent Engineer, Public Works Department, Nagpur.</p>
Agenda No.4	<p>At Kasturchand Park running program on the birth day of Shri Rajiv Gandhi on 20/08/2022 was organized as Rajiv Gandhi Sadbhavana Daud and for that purpose the Chief Organizer has asked for permission of the Heritage Conservation Committee. In the past for such reason at Kasturchand Park on 27.03.022 permission has been granted to Lokmat Maha Marathon-200 as also on 13th March 2022 on World Women's day Marathon. Besides on 21.06.2022 a permission has been granted to International Yoga day programme. On the same basis a decision has been taken to grant permission to Rajiv Gandhi Sadbhavana Daud. In this regard a decision is taken to inform to the Collector, Nagpur about the same.</p>
Agenda No. 5	<p>At Jagnath Budhwari, Udasin Math, Nagpur as 6 umbrellas and other portion of the Shiv Temple has</p>

become dilapidated for repair of the same an application was submitted by Shri Mahant Shivanand Udasin on 06.05.2019. Similarly he has stated that the said Heritage site is very dilapidated and construction may fall any time. He has informed in the past that in order to avoid casualty out of the funds of the Government repair work be carried out.

As per Government approved Heritage Index at Jannath Budhwari, Nagpur which is known as Ram Mandir is a place at Sr. No. 4 and it is Grade II place. Similarly the ownership of this temple is with private trust.

A meeting was held in this regard. In the meeting Shri Mahant Shivanand and others were present. He informed the meeting that the structure of the temple has become dilapidated and due to rainy season any time it will fall and may cause accident. He requested the meeting to carry out repair work of this Heritage place from the Government fund or to demolish the older structure.

The meeting had discussed this issue and stated that the occupation of the said temple is with the Trust the Trust should submit the repair plan with the Heritage committee and by taking approval to the same without touching original heritage place should carry out the work at their own level and it was suggested that to the said structure by putting barricades at that place precaution should be taken that no one enters that premises .

The Applicant informed the Committee that the Trust is not having fund for repair and as the temple premises is in thick locality it is not possible to put barricades and make safety arrangement and no such machinery is available with them.

The Applicant suggested that as the said premises is a historical place and therefore by approaching the Indian Historical Department see that whether monetary help is available with them.

In the past in the Legislative Council, Government of Maharashtra by letter dated 28.09.2016 the M. L. A. Shri Girish Bachharajaji Vyas had informed about the damage of 5 umbrellas of Jagnath Budhwari, Nagpur temple and to check the same through Heritage Conservation committee and repair the same. It was therefore informed to the Chairman of the Trust of Jagnath Budhwari, Nagpur temple to remain present in the meeting held on 16.11.2016 but none was present from the side of the Trust.

In this regard a discussion was held in the meeting. In this regard as the ownership of the said temple is with the private Trust the concerned Trust should submit proposal of repair of the damaged portion to the Heritage Conservation Committee and take approval. The Heritage committee informed in the said meeting dated 05/07/2019 that the they should carry out repair work without damaging historical portion of the said temple.

Thereafter the members raised the issue of

Government recognized heritage places in the Nagpur city which has become very old and their repair and conservation in the meeting held on 20.08. 2019 . At that time discussion was held in the meeting on this issue. It was observed that due to financial funds not available with such private Trust and as the expert workers are not available the repair work and conservation could not be done. The members were of the opinion that the repair work of such places should be carried out by the Municipal Corporation, Nagpur from Heritage Fund under the guidance of the Municipal Corporation Engineers.

Accordingly on 31.08. 2019 the said subject was taken with the permission by the Chairman, Heritage Conservation Committee as a last minute agenda. On this subject a detailed discussion was held. Thereafter it was decided that in the Nagpur city from the Government acknowledged list very old and dilapidated places which are in occupation of the private entity and if the repair and conservation cannot be done of such heritage places form the private Institutes due to want of fund they should submit the proposal with the Heritage Conservation Committee and the committee after carrying out the inspection by taking decision in the meeting such repair work of the old heritage places should be submitted with the Municipal Corporation for approval of the Heritage Conservation Committee and thereafter be submitted for the approval of the

	<p>Commissioner of the Municipal corporation for carrying out repair through Heritage fund. This decision was passed unanimously. For the said purpose the technical procedure Construction Department appointed the Management Advisor M/s. Sakha Architech Shri Sandip Pathe and on that basis for the purpose of repair of five umbrellas of heritage place and for Shiv temple repair and rehabilitation Rs. 80.33 Lakhs plan has been prepared. A permission has been asked for from the Heritage Conservation Committee and Town Planning Department and the decision has been taken that the Chief Engineer, Municipal Corporation should submit plan for repair of the heritage places and plan for observation of the Committee.</p>
	<p>After taking decisions as stated above the Chairman thanked all the members present and declared that the meeting is over.</p> <p>The above minutes are submitted with the consent of Chairman.</p>

Sd/-
Chairman
Heritage Conservation
Committee, Nagpur

Sd/-
Member Secretary,
Heritage Conservation Committee,
Nagpur cum the Deputy Director,
Town Planning Division, Municipal
Corporation, Nagpur.

CC FOR INFORMATION :

1. The Commissioner, Municipal Corporation, Nagpur -
Member

2. Shri P. S. Patankar (Structural Engineer) – Member
3. Shri Habib Khan, (Architect & Director Priyadarshani & Lokmanya Tilak Institute of Architecture & Design Studies, Nagpur) – Member
4. Mrs. Ujjwala Shirish Chakradeo, Principal, L.A.D. College, Nagpur-Member
5. The Curator, Nagpur Museum, Nagpur – Member
6. Dr. Shri Tapan Chakravarti, Ex Director, Niri, Nagpur-Member
7. Dr. Mrs. Shubha Johari, (P. Pathak, History Division, Nagpur College, Nagpur.- Member
8. The Assistant Director, Town Planning Division, Nagpur Branch, Nagpur – Member
9. The Superintendent Engineer, Nagpur Development Authority, Nagpur - Member
10. Shri Ashok Mokha, Architect, Urban Designer, (as participated with the consent of the Chairman) – member
11. The Information Officer of the Government of Maharashtra Information & Public Relation Directorate,

Nagpur District, as participated with the consent of the Chairman) – member

12. The Deputy Director, State Heritage Department Nagpur, (Task Force, H. S. S.) – Member

CC. FOR INFORMATION AND ACTION:

1. The Collector, Nagpur.
2. The Information Officer, Information & Public Information Directorate, 1st floor, Divisional Commissionerate, Civil Lines, Nagpur.
3. The Superintendent, Committee Division, Municipal Corporation, Nagpur.
4. The Public Information Officer, Public Information Department, Nagpur.

CC. TO :

1. The Chief Planning Superintendent, (CRF-II) Mahametro, Nagpur.
2. The Executive Engineer, Zone No. 07, Satranjipura, MNP, Nagpur.
3. The Chief Planner of Rajiv Gandhi Sadbhavana Daud Committee, Nagpur.

4. The Executive Engineer, Public Works Department No. 1,
Nagpur.

**TRUE TRANSLATED
COPY**

NAGPUR MUNICIPAL CORPORATION, NAGPUR

(Town Planning Division)

3rd floor, Chhatrapati Shivaji Maharaj Administration Bhavan,
Mahanagarपालिका Marg, Civil Lines, Nagpur.

Phone : 0712-2567016,

website : www.nmcnagpur.gov.in.

O. No. MNP/NARAVI/Building Div/211/BP/Futala /TP/NMC/146 Date: 01.09.2022.

To,

The General Manager Planning-2,
Maharashtra Metro Rail Corporation Ltd.,
Nagpur.

Sub: Approval for the proposal of Parking Plaza Building At
village Futala, Khasara No.13/3, City Survey No.234.

- Ref. 1)** Plan No. LFMS/WL/21/146 dated 28.12.2020
submitted by you and resubmitted on 28.03.2022.
- 2) Meeting of Heritage Conservative Committee held
on 15.06.2021 and 30.06.2022.

With reference to above a proposal to construction Parking
Plaza Building at village Futala, Khasara No.13/3, City Survey
No.234 has been received in this Office by the above referred
letter. The approval is granted to the said proposal under the
special right of the Commissioner to the said Heritage
Conservation Committee proposal on the following terms and
conditions. As per the proposal submitted by METRO it is

mandatory to implement proposals suggested by the concerned Department.

1. It is binding to abide by the terms and conditions mentioned in the No Objection letters from the Garden Superintendent, Municipal Corporation, Fishery Department, Government of Maharashtra, District Husbandry Deputy Commissioner Office (Administration), Assistant Police Commissioner, Nagpur City, Dr. Punjabrao Deshmukh Agricultural College Conservative Committee.
2. In case there is any dispute arises about the ownership of the concerned land then it is binding on you to solve the same at your level.
3. The terms and conditions mentioned in the No Objection Certificate of the Fire Brigade about the safety of fire in the building shall be binding on you. In respect of water management, disposal of refuse, W.C., should be as per the Advise/consent of the Municipal Corporation Water department and Health Department.

4. In respect of Electricity supply a sanction letter be obtained from Electric Department.
5. The building design construction should be prepared by Structural engineer.
6. While implementing the said proposal the management of traffic shall be entirely the responsibility of your Department.
7. As per the Order No. MANPANA/NARAVI/VI. Yo. Nagpur/2091 dated 06.03.2019 as per the plan for road changed in the said premises 18.00 metres width road it is mandatory to construct such approach road in the said premises.
8. It is binding to obtain permission for sewer line, rain drain line, reserved area, the development of road in the said area etc. should be obtained from the concerned Municipal Corporation from concerned department.
9. It is mandatory to obtain permission from the Town Planning Department while getting approval to the plan for any changes in the Construction.

10. As per Rule No. 36 of the Development Control as per Appendix 'T' facilities be made available to the physically challenged persons.
11. In the building rain harvesting system be implemented.
Solar water heater be made available.

A copy of the approved plan is attached with this letter.

Sd/-
Deputy Director.
Town Planning Department,
Municipal Corporation, Nagpur.

CC. TO:

1. The Assistant Commissioner, Dharampeth, Zone No.2,
Municipal Corporation, Nagpur.
2. The Assistant Commissioner, Assessment Department,
Municipal Corporation, Nagpur

TRUE TRANSLATED

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**UNIFIED
DEVELOPMENT
CONTROL AND
PROMOTION
REGULATIONS
FOR
MAHARASHTRA
STATE.**

(As updated upto 30th January, 2024)

CHAPTER - 4

LAND USE CLASSIFICATION AND PERMISSIBLE USES

4.1 GENERAL

- i) In case of development / re-development of any land, building or premises, the intended use shall conform to the land use or, as the case may be, purpose of designation, allocation or reservation assigned to it in the Development Plan / Regional Plan/ Planning Proposal, unless specified otherwise.
- ii) **Non-Conforming Uses Existing Lawfully** - Any lawful non-conforming use of premises existing prior to the date of coming in to force of the Development Plan / Regional Plan / Planning Proposal shall continue and may be allowed to be expanded within the holding in the original sanctioned permission and that when a building containing non-conforming use is pulled down or has fallen down, the use of the new building shall be in conformity with these regulations or with lawful existing use.
- iii) **Existing features shown on the plan** - The existing features shown on Development / Regional Plan are indicative and shall stand modified on Development / Regional Plan / Planning Proposal as per actual situation. Mention of particular use on Development / Regional Plan shall not bar the owner from permission to develop land as allowed in the zone shown for such land. Also, boundaries of S.No., alignment of existing road / nallah and other physical features of land shall be as per measurement plan of Land Records Department and the land unaffected by such physical features shall be allowed to be developed for the uses permissible under the adjoining predominant land use zone.
- iv) **Development of Parking** - The Authority may develop any land, owned by or in possession of the Authority, for public parking in any of the forms - single or multi-storeyed, underground or above ground, irrespective of its existing use or proposed use in Development / Regional Plan / Planning Proposal.

Provided that the Authority may allow Basement Parking below existing or proposed Play Ground, in the plan at one or two levels below the ground level subject to conditions, as may be prescribed by the Authority.
- v) **Discontinuance of Zoning in pursuance of existing use** - If any land is shown in Public Semi-Public zone or Public Utility Zone because of the activity that existed there or otherwise, such lands shall be deemed to have been shown in the adjacent predominant Zone after such activity ceases to exist, unless otherwise prohibited.

4.2 LAND USE CLASSIFICATION AND EQUIVALENCY OF ZONES

The different land use classifications in Development / Regional Plan / Planning Proposal & different uses permissible in that land use zone and equivalency of zone in various Authorities' areas shall be as given below :-

- D) Residential Zone - Following other zones shall be treated as equivalent to Residential zone.
 - i) Residential Zone - (R1)
 - ii) Residential Zone with Shop line - (R-2)
 - iii) General Residential Zone.

4.11 AGRICULTURAL ZONE

- i) All agricultural uses including stables of domestic animals, piggeries, poultry farms accessory building, tents etc.;
- ii) Golf Course and Links, Race tracks, and shooting ranges with necessary safety measures, Trekking Routes / nature trails / nature walks, etc.;
- iii) Garden, forestry, nursery, public parks, private parks; play fields, summer camps for recreation of all types;
- iv) Public / semi-public sector utility establishments such as electric sub-stations, receiving stations, switch yards, over-head line corridors, radio and television stations, receiving stations, main stations for public gas distribution, sewage treatment and disposal works, water works along with residential quarters for essential staff required for such works;
- v) L.P.G. Godown, subject to following conditions :-
 - a) Minimum plot size and area of the plot shall be as decided by concerned Licensing Authority.
 - b) The maximum permissible FSI shall be 20% on this plot.
 - c) Only ground floor structure shall be permissible.
 - d) It is necessary to obtain No Objection Certificate from Controller of Explosives and competent fire authority.
- vi) Vehicle Fuel filling Station including LPG / CNG / Ethanol / Public Charging Stations for Electric Vehicles, subject to following conditions :-
 - a) Plot shall be located on any road with a minimum width of 12.0 m. or more.
 - b) FSI for such facilities in this zone shall be up to 20% on gross area, underground structures along with kiosks shall not be counted towards FSI.
 - c) NOC from Chief Controller of Explosives shall be necessary.
 - d) In case the plot is located on any Classified road, the distance from the junction of roads as may be specified by Indian Road Congress / Ministry of Road, Transport and Highway, shall be followed. (IRC guideline 2009 and MORTH Letter No.RW/NH-33023/19/99-DO III, Dated 25.09.2003 as amended from time to time)
 - e) In a plot of Fuel Station, other building or composite building for sales office, snack bars, restaurant, public conveniences or like activities , may be permitted
- vii) Pottery manufacture.
- viii) Storage and drying of fertilizer.
- ^(#) ix) Farm houses shall be permitted subject to following conditions :-
 - a) Minimum plot area for above use shall be 0.4 Ha. However, one farm house per land holding shall be permitted, irrespective of size of the land holding.
 - ⁽¹⁾ b) The FSI shall not exceed 0.04 subject to a maximum built up area of 400 sq.m. in any case. Only ground + 1 floor structure with height not exceeding 9.0 m. shall be permissible.
- x) Swimming pools / sports and games, canteen, tennis courts, etc.

⁽¹⁾ Substituted vide Corrigendum / Addendum No.CR.121/21, dt.02nd December, 2021

^(#) Clarification issued vide Order No.CR.236/18, dt.23rd December, 2021

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- xi) Amusement park.
- a) Amusement park with minimum plot area of 1.0 ha. with recreational and amusement devices like a giant wheel, roller coaster, merry-go-round or similar rides both indoor and outdoor, oceanic-park, swimming pool, magic mountain and lake, ethnic village, shops for souvenirs / citations, toys, goods, as principal uses and ancillary activities such as administrative offices, exhibition hall or auditorium, open air theatre, essential staff quarters, store buildings, fast food shops, museum, small shops, ancillary structures to swimming pool, ancillary constructions along with staff quarters and residential hotels. Maximum permissible FSI shall be 0.70 on gross plot area, out of which 0.20 shall be without payment of premium and remaining with payment of premium at the rate of 20% of the rate mentioned in the annual statement of rates of very said land without considering the guidelines therein.
 - b) The required infrastructure, like proper and adequate access to the park, water supply, sanitation, conservancy services, sewage disposal and adequate off-street parking will have to be provided and maintained by the promoters of the project at their cost.
 - c) The promoters of the project shall provide adequate facilities for collection and disposal of garbage at their cost, and will keep, at all times, the entire environment clean, neat and hygienic.
 - d) Area of Rides, whether covered or uncovered, shall not be computed towards FSI.
 - e) At least 250 trees (of indigenous species) per Hectore shall be planted and grown within the area of the park.
 - f) Sufficient parking facilities and ancillary facilities for cars, buses, transport vehicles etc. shall be provided on site.
- xii) IT / ITES parks / units with 0.20 FSI, subject to Regulation No.7.8.
- xiii) Any building / use by the Government / Semi-Government or Government Controlled bodies with basic FSI and village resettlement or resettlement of project affected person with full permissible FSI as that of residential zone.
- xiv) Biotechnology unit / B.T. Park subject to Regulation No.7.9.
- xv) Development of buildings of educational, research and medical institutions, community development, human resources development, rural upliftment, yogashram, mediation centres, vipashyana centres, spiritual Centres, goshalas, panjarpol, old Age homes and Rehabilitation Centres along with allied activities, Planetarium / Astronomical / Astrophysical facilities / projects with FSI of 1.00 on gross plot area, out of which 0.20 shall be without payment of premium and remaining with payment of premium at the rate of 20% of the rate mentioned in the annual statement of rates of very said land without considering the guidelines therein subject to following conditions :-

Conditions :-

- a) The trees at the rate of 250 trees per hectare shall be planted on the plot.
 - b) The provisions of higher FSI mentioned in Chapter - 7 of these Regulations shall apply to the above buildings listed in the said chapter. However, higher FSI in such case shall not exceed 100% of the above.
 - c) In case of educational use, 15% area may be used for commercial purpose subject to provisions of Regulation No.4.10(vi).
-

- xvi) Integrated highway / Wayside amenities such as motels, way-side restaurants, fuel pumps, service stations, restroom and canteen for employees working on site and truck drivers, service godowns, factory outlets, highway malls, hypermarket along with public conveniences like toilets, trauma centre, medicine shop, bank ATMs and like activities with FSI of 0.2 on gross area without payment of premium and further FSI upto 0.3 with premium at the rate of 20% land rate in Annual Statement of Rates of the said land without considering the guidelines therein, shall be allowed subject to following conditions :-

Integrated Highway / Wayside Amenities may be permitted to be developed on plots of land having a minimum area of 10,000 Sq.m. abutting to National Highways / State Highways or on any road not less than 18.0 m. width.

Provided that, No subdivision of land shall be allowed and location of fuel pump, if provided, shall be separately earmarked.

- ⁽¹⁾ Notwithstanding anything contained in this regulation, an individual use as mentioned in this regulation may be permissible, on road having minimum width of 12.0 m. The minimum plot size for this regulation shall be entire holding mention in the single 7/12 extract or minimum of 4000 Sq.m. In any case Sub-division / layout shall not be permitted.

- xvii) Ancillary Service Industries

Ancillary service industries for agro related products like flowers, fruits, vegetables, poultry products, marine products, related collection centres, auction halls, godowns, grading services and packing units, knowledge parks, cold storages, utility services (like banking, insurance, post office services) etc. on the land owned by individuals / organizations with FSI of 0.20 without payment of premium. Further FSI up to 1.00 may be granted with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.

- xviii) Any industry / industries with FSI of 0.20 without payment of premium and further FSI up to 1.00 with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein. Minimum buffer open space / set back (which may include marginal distance and road width if any) from the boundary of industrial Building / use to residential or habitable zone / use, shall not be less than 23.0 m. Such buffer open space shall be kept in the same land.

Provided that, the area under such buffer open space / setback shall not be deducted for computation of FSI.

Provided further that, if the land under industrial zone is utilized entirely for non-polluting industries, IT / ITES or like purposes, then such buffer zone / open space shall not be necessary.

Provided further that, Industrial layout / sub-division of land shall also be permissible subject to regulations of Industrial Zone. In such case, the plot shall be entitled for 0.20 FSI and further FSI as mentioned above, shall be subject to payment of premium. The condition to this effect shall be stamped on the layout / sub-division plan and also mentioned in the approval letter.

Provided further that, industrial godowns / godowns shall also be permissible under this regulation.

- xix) Solid waste management, land fill sites, bio-gas plants, power generation from waste.
xx) Power generation from non-conventional sources of energy. Area covered under solar panels shall not be counted in FSI.

⁽¹⁾ Inserted vide Corrigendum / Addendum No. CR 121/21, dt. 02nd December, 2021.

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- xxi) Brick, tile manufacture.
 - xxii) Fish Farming.
 - xxiii) Religious buildings subject to conditions as may be prescribed by Authority.
 - xxiv) Slaughter house or facilities for processing and disposal of dead animals with the special permission of Authority.
 - xxv) Cemeteries and crematoria and structures incidental thereto.
 - xxvi) Scrap Market with FSI of 0.20 without payment premium and further FSI upto 1.00 with the payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.
 - xxvii) Mangal karyalayas / lawns.
 - a) Minimum area for mangal karyalaya shall be 0.4 ha. with FSI of 0.20. It may be permitted along with essential guest rooms not exceeding 30% of the area of mangal karyalaya. Area for parking shall be 40% of gross area which shall be properly earmarked and bounded by bifurcating wall. Further FSI up to 1.00 with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.
 - b) Lawns for ceremony shall be 0.8 ha. with FSI of 0.10. Area for parking shall be 40% of gross area.
 - c) The plot for mangal karyalaya or lawn shall abut on road width of minimum 9.0 m. in case of Nagar Panchayat, Municipal Council and Regional Plan area and 12.0 m. in case of other areas.
 - xxviii) Bus Terminus.
 - xxix) Construction of any communication route, road, railway, airstrips, ropeways, ports, electric lines, etc.
 - xxx) Town planning scheme under the provisions contained in chapter - V of Maharashtra Regional & Town Planning Act, 1966 shall be allowed for minimum 20 hectare area, with proper road network subject to condition that entire cost of scheme shall be borne by the owners. After sanction of preliminary scheme under section 86 of the Act, all uses as that of residential zone, shall be permitted. FSI and other regulations shall be applicable as per residential zone. Or
 If the owners come together for development on aforesaid concept of town planning scheme instead of undertaking town planning scheme under the Act, the Authority may allow and approve such development subject to availability of existing approach road of minimum 12.0 m. width and earmarking 40% of the land for roads, parks, playgrounds, gardens, social infrastructure and sale by the Authority, which shall be handed over to the Authority subject to following -
 - a) Minimum 10% land shall be earmarked for play grounds and parks, for which no FSI / compensation shall be allowed.
 - b) Minimum 15% land shall be earmarked for social infrastructure and that for sale by the authority and shall be handed over to the authority for which compensation in the form of FSI shall be allowed in-situ.
 - c) Road area only to the extent of 15% shall be calculated in this component for which compensation in the form of FSI shall be allowed in-situ. The road area over and above 15% shall be calculated in the owner's / developer's share.
 - d) The regulation No.3.4 and 3.5 shall not be applicable in this case.
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Development permission for uses permissible in residential zone shall be granted phase wise after completion of physical infrastructure works including off-site infrastructure and handing over of land to the Authority. The land under such proposals shall be entitled for basic FSI / Premium FSI / TDR / In-situ FSI as that in Residential Zone.

- xxxix) Manufacturing of Fireworks / Explosives and Storage of Magazine / Explosives beyond 2.0 km. of Gaothan Settlement / Gaothan Boundary subject to No Objection Certificate from the Chief Controller of Explosives.
- xxxixii) Development of Cinema and TV film production, shooting, editing and recording studios with its ancillary and supporting users, including construction of staff quarters, rest rooms, canteens etc. subject to the following conditions :-
- The minimum plot area (necessarily under one ownership) shall not be less than 2.0 ha.
 - The permissible FSI shall be 0.2 on gross plot area without payment of premium and up to 1.00 with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.
- xxxixiii) Tourist homes, Resorts, Hotels, Motels, Health and Wellness spa, Golf courses, Art and Craft villages, Exhibition cum Convention Centre, Camping-Caravanning and tent facilities, Adventure Tourism Project, Eco Tourism Project, Agricultural Tourism Project, Medical Tourism Project, Boutique wineries, Guest houses and Bed and Breakfast scheme approved by MTDC / DoT etc., with Rooms / Suites, support areas for reception, kitchen, utility services etc., along with ancillary structures like covered parking, watchman's quarter, guard cabin, landscape elements, and if required, one observation tower per tourist resort upto the height of 15.0 m. with platform area up to 10 sq.m. in permanent / semi-permanent structural components. The permissible FSI shall be 0.2 on gross plot area without payment of premium and up to 1.00 with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.
- xxxixiv) Tourist Resort Complexes may be permitted with following conditions :-
- General conditions** - The minimum area of such site shall not be less than 1.00 Ha. and 0.4 Ha. in case of local resident.
 - Condition for Development** -
 - Maximum permissible FSI in this zone shall be 0.25 of gross plot area without payment of premium and remaining up to 1.00 with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.
 - The uses like resort, Holiday camp, recreational activities, amusement park, may be permitted in this zone.
 - If the site is located adjacent to forts, archaeological and historical monuments, the development shall be governed by the rules prescribed by the archaeological department.
 - If the site is located near natural lakes, then, development shall be governed by the following :-

Distance from High Flood Line (HFL) / Full Storage Level (FSL)	Development to be allowed
Up to 100 m.	Not permissible.
above 100 m. to 300 m.	Ground floor structure with maximum height of 5.0 m.
above 300 m. to 500 m.	G + 1 storey structure with maximum height of 9.0 m.
above 500 m.	Within permissible FSI and subject to other regulations.

- f) No subdivision of land shall be allowed.
- g) The land should have approach of minimum 9.0 m. wide road.
- h) The land having slope steeper than 1:5, shall not be eligible for development.

C) Infrastructural Facilities - All the infrastructural facilities required in site as specified by the Authority, shall be provided by the owner / developer at his own cost on the site. Proper arrangement for treatment and disposal of sewage and solid waste shall be made. No untreated effluent shall be allowed to pass into any watercourse.

- xxxv) In the areas of Local Bodies and the area of SPA where Development Plan or planning proposal is sanctioned, "Pradhan Mantri Awas Yojana" shall be permitted subject to the provisions of Regulation No.14.4.1.
- xxxvi) Individual house of size upto 150 sq.m. for entire holding mentioned in the single 7/12 extract, as on date of coming in to force of these regulations.
- xxxvii) Mining and quarrying subject to provisions of Regulation No.15.1
- xxxviii) In the area of Regional Plans (excluding the area of Local Bodies and SPA where Development Plan or planning proposal is sanctioned) "Pradhan Mantri Awas Yojana" shall be permitted subject to the provisions of Regulation No.14.4.2.
- xxxix) Development of Tourism and Hospitality Services under Community Nature Conservancy around wild life sanctuaries and national parks shall be permitted as per Regulation No.14.9.
- xxxx) Integrated Township Projects as per Regulation No.14.1.1.
- xxxxi) Buildings for Three star and above category hotels along National / State Highways, MDR and on other roads not less than 18.0 m. in width, may be permitted with FSI 0.2 on gross area without payment of premium and remaining up to 1.00 with payment of premium at the rate of 20% of land rate in Annual Statement of Rates of the said land without considering the guidelines therein.
- xxxxii) Bulk storage and sale of Kerosene subject to NOC of Chief Controller of Explosive, Government of India.
- ⁽¹⁾ xxxxiii) Development of housing for EWS / LIG as per Regulation No.7.7.
- ⁽¹⁾ xxxxiv) Development permissible adjacent to Gaathan as specified in Regulation No.5.1.1.

Notes :-

- 1) The permissible FSI for uses mentioned above shall be 0.20, if not specified.
- 2) Height of building shall be permissible as per regulation No.6.10 subject to FSI permissibility under this regulation.
- 3) For the uses permissible in Agricultural Zone minimum road width shall be 6.0 m. for non-special building, unless otherwise specified, and for special building shall be as per Regulation No.3.3.9.
- 4) The premium for FSI (allowed with payment of premium) shall be levied for FSI actually proposed in the permission.
- 5) The payment to be recovered in above cases shall be apportioned 50% - 50% between the Authority and the State Government, unless otherwise exempted by the Government by separate order.
- 6) The payment to be recovered in above cases may be exempted by the Government by separate order in case of deserving charitable institutions.
- 7) No such premium shall be leviable in case of Government / Semi Government or Government controlled bodies.
- 8) Trees at the rate of 100 / hector shall be planted on the land, unless otherwise specified.

⁽¹⁾ Inserted vide Corrigendum / Addendum No. CR 121/21, dt. 02nd December, 2021.