

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 832/2024

IN THE MATTER OF:

Akash Vashishtha

...Applicant

Versus

State of Uttar Pradesh & Ors.

...Respondents

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Proof of service

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Through



Akash Vashishtha

Party in person

R/o- R-7/17, Raj Nagar, Ghaziabad-UP

Email id:- akashvashishtha.official@gmail.com

Mobile No. 9717006866

Place:- Delhi

Dated:- 20.09.2025

283/2020, *R.S. Virk Vs. Central Pollution Control Board*. The said act of concretization, in excess of 5% limit, is also in non-compliance of the Letter, dated: 26.06.2024 of the UP Pollution Control Board, a statutory body under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution), Act, 1974, to the Ghaziabad Development Authority (GDA) and the Municipal Commissioner, Ghaziabad, asking them to take action and ensure that whatsoever construction/activity is being carried out in the park, is only, in accordance with the Lay-Out Plan of the Park, as approved by the GDA. The aforesaid act is further in complete transgression of the Guidelines, dated: 21.07.2000, 03.09.2013 and 23.09.2013 of the Ministry of Urban Development, Government of India. The said act also violates the Government Order (No. 1703A/9-AA-1-29-Vividh/98 (AA.B.)), dated: April 2001, issued by the State of Uttar Pradesh, issued in respect of promoting ground water recharge.

2. That during the pendency of the present proceedings, a coordinate Bench of this Hon'ble Tribunal, while dealing with a similar issue of excessive, indiscriminate concretization of roadsides/roadberms in Noida and Greater Noida, in O.A. No. 363/2022, *Vikrant Tongad Vs. State of Uttar Pradesh & Ors.* inter alia observed as under:

“ ...

72. Concretization in a larger way increases impervious layer leading to reduction in ground water recharge or no ground water recharge and also results in wastage of run-off. It also affects bio-diversity by damaging eco- system and ecological complex of the soil. Soil is a habitat and storehouse to a vast diversity of micro and macro organisms, which are vital in nutrient cycles, soil fertility and other ecological functions. These micro and macro organisms within the soil, in turn support a huge diversity of various species of birds and other organisms by acting as their prey-base. Soil concretization

obviously causes complete loss of bio-diversity of the soil. We have already noticed that concretization creates heat islands, tends to reflect heat back into atmosphere resulting in climate warming and also reflects the harmful long-wave infrastructure radiations. Concretization of roadsides and roadberms therefore, has been discouraged from time to time and various orders have been passed by Tribunal, as have been discussed above.

85. ...However, looking to the importance of the issue, we reiterate that in general, all the local bodies and authorities in development of urban areas or for construction of road, roadberms, footpath etc., shall follow the Guidelines issued by various authorities and also the directions issued by this Tribunal against indiscriminate concretization and for use of permeable tiles or semi-permeable tiles etc. as also the protection of trees by keeping adequate area around it non-concretized to ensure healthy growth of trees and its survival for longer period, shall be complied with and observed in words and spirit. The Guidelines issued by UP Government cover substantial aspects and conform the basic Guidelines of the States/UTs, till different Guidelines are issued by any concerned State/UT.

...”

(Emphasis supplied)

(A True Copy of the Judgment, dated: 21.11.2024, passed by this Hon'ble Tribunal in O.A. No. 363/2022, *Vikrant Tongad Vs. State of Uttar Pradesh & Ors.*, is annexed herewith and marked as **ANNEXURE AA-1**)

3. That notwithstanding the observations and directions passed by this Hon'ble Tribunal in O.A. No. 363/2022, *Vikrant Tongad Vs. State of Uttar Pradesh & Ors.*, Judgment, dated: 10.11.2016, passed by this Hon'ble Tribunal in O.A. No.

21/2014, *Vardhaman Kaushik Vs Union of India & Ors.* and Order, dated: 03.12.2020, in O.A. No. 283/2020, *R.S. Virk Vs. Central Pollution Control Board* as well as the Orders of this Hon'ble Tribunal in O.A. No. 165/2013, *Akash Vashishtha Vs. Union of India & Ors.*, the Ghaziabad Nagar Nigam is continuing with mindless and indiscriminate concretization of parks and roadsides/roadberms in Ghaziabad.

4. That some of the parks which have been concretized much in excess of the 5% limit, in addition to those mentioned in the O.A., stipulated in terms of the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975, Government Order, dated: 23.03.2018 as well as Orders passed by this Hon'ble Tribunal are: Ramlila Ground (Sector-5, Raj Nagar), Vishwanath Park (Sector-14, Raj Nagar), Sector-2 Park, Raj Nagar, Sector-9 Park, Raj Nagar, Lohia Nagar Park, Sector-11 and 13 Park, Central Park, Raj Nagar, Sector-2 Park, Raj Nagar, Kavi Nagar Park near Shiva Temple, Shri Krishna Janmashtami Park, Vijay Nagar and Lohia Nagar Park. It is submitted that since several parks do not bear the signages mentioning names of such parks, the same could only be identified either by the locations of such parks or by the geo-coordinated photographs of such parks.

(A True Copy of the Photographs depicting extensive constructions inside Parks, as well as along roadsides/roadberms, is annexed herewith and marked as **ANNEXURE AA-2**)

5. That the parks are green spaces that perform vital life-giving and life-saving ecological functions and services, similar to a pond or other water body, such as providing fresh air, Oxygen, recharging ground water, maintaining local temperature-levels, absorbing ambient atmospheric heat and pollution, maintaining the quality of soils, Carbon sequestration, preserving biodiversity etc. Since clean air and clean, fresh water are the

first and foremost requirements of Life under Article 21 of the Constitution of India any construction or disturbance critically upsets the ecological services rendered by a Park. It is for this reason that the ponds, wetlands, rivers and other water bodies have been granted an absolute, unfettered protection by the Hon'ble Supreme Court as well as by this Hon'ble Tribunal.

6. That in the name of Yoga Shed, the Respondent No. 6, Ghaziabad Nagar Nigam, has concretized a significant portion of the Shukla Park, in Sector-10, Raj Nagar, without even determining the total area of other permanent concretized structures inside the said park.
7. That it is submitted that the Nagar Nigam has not erected any signages/signboards/wall writings, outside any park under its jurisdiction, stating the areas, thereof, along with the area covered under various concretized structures. Taking advantage of such a situation, the Nagar Nigam has been mindlessly constructing some structure or the other, without any utility, in complete violation of the Government Order(s) as well as the Order(s) and directions of this Hon'ble Tribunal, frustrating the purposes of a park.

RESPONSE TO REPLY, DATED: 04.02.2025 OF GDA

8. That the Reply, dated: 04.02.2025, filed by the GDA is completely dehors the provisions of the Uttar Pradesh Urban Planning and Development Act, 1973. The said authority has deliberately placed incorrect statements and incorrect interpretation of the law so as to misguide this Hon'ble Tribunal.
9. That it is submitted that even after a scheme or park/green belt is handed over to the Nagar Nigam, the land-use patterns and uses are strictly governed by the provisions of the Uttar Pradesh Urban Planning and Development Act, 1973. The Nagar Nigam

is only a maintenance body, entrusted with providing services and performing functions within the scheme of the Uttar Pradesh Municipal Corporations Act, 1959.

10. That it is not open to the Nagar Nigam to contravene the provisions of the land-uses as contained in the Uttar Pradesh Urban Planning and Development Act, 1973.
11. That a park/green belt/playground, once so reserved in the Master Plan/Lay-out Plan is strictly required by the Uttar Pradesh Urban Planning and Development Act, 1973 to be so kept. The Nagar Nigam or any municipality cannot encroach by itself or authorizing any person to alter the land-uses, thereof, by raising constructions, or otherwise, of any structure, whatsoever. A park shall be maintained as a park, for all future purposes for which act, the Nagar Nigam's role and functions is only to the extent of maintaining its horticulture and boundary-repair works. The
12. That the act of constructions inside Parks, whether inside Shukla Park, or any other park by the Nagar Nigam frustrates the scheme and operation of Sections 14, 16, 26A, 27, 28 and 28-A of the Uttar Pradesh Urban Planning and Development Act, 1973.
13. That Section 14 of the Uttar Pradesh Urban Planning and Development Act, 1973 holds as under:

“14. Development of land in the developed area (1) After the declaration of any area as development area under section 3, no development of land shall be undertaken or carried out or continued in that area by any person or body (including a department of Government) unless permission for such development has been obtained in writing from the [ViceChairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local

Authority under this Act or the State Authority, as the case may be] 3 in accordance with the provisions this Act.

(2) After the coming into operation of any of the plans in any development are no development shall be undertaken on carried out or continued in that area unless such development is also in accordance with such plans.

...”

14. That Section 16 of the aforesaid Act is reproduced as under:

“16. Uses of land and buildings in contravention of plans.- After the coming into operation of any of the plans in a zone no person shall use or permit to be used any land or building in that zone otherwise than in conformity with such plan : Provided that it shall be lawful to continue to use upon such terms and conditions as may be prescribed by bye-laws made in that behalf, any land or building for the purpose and to the extent for and to which it is being used upon the date on which such plan comes into force.”

(A True Copy of the Uttar Pradesh Urban Planning and Development Act, 1973 is annexed herewith and marked as **ANNEXURE AA-3**)

15. That it is adequately evident from the above reading of the provisions of the Uttar Pradesh Urban Planning and Development Act, 1973 that the same shall have field in matters related to land-uses even after a scheme or a park/green belt is handed over to the Municipal Corporation.

PRAYER

That in view of the facts and circumstances as stated hereinabove, it is, most respectfully, prayed that this Hon’ble Tribunal, may be

pleased to grant the reliefs sought in the Original Application as well as the accompanying Application for Interim Relief, and/or pass any other or such other further Order(s) or direction(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

Filed by



Akash Vashishtha

Party in person

R/o- R-7/17, Raj Nagar, Ghaziabad-UP

Email id:- akashvashishtha.official@gmail.com

Mobile No. 9717006866

Place:- Delhi

Dated:- 20.09.2025

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 832 OF 2024**

IN THE MATTER OF:-

Akash Vashishtha

... Applicant

Versus

State of Uttar Pradesh & Ors.

... Respondents

AFFIDAVIT

I, Akash Vashishtha S/o Sh. S.N. Vashishtha, aged about 47 years, R/o R-7/17, Raj Nagar, Ghaziabad- Uttar Pradesh -201001, presently at new delhi do hereby solemnly affirm and state as under:

1. That I am Applicant in the above titled Original Application and am conversant with the facts and circumstances described in the present case and such, I am competent to swear this affidavit.
2. That the contents of the affidavit accompanying are true and correct and nothing material has been concealed therefrom.

I, IDENTIFIED THE
DEPONENT WHO HAS
SIGNED IN MY PRESENCE

VERIFICATION

Verified on this _____ that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.

Akash

DEPONENT



ATTESTED
[Signature]
NOTARY PUBLIC

Akash

DEPONENT

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

**ORIGINAL APPLICATION NO.363/2022
(I.A. No.555/2024)**

IN THE MATTER OF:

- 1. VIKRANT TONGAD**
81, Bhanota, Greater Noida,
Gautam Budh Nagar,
(Uttar Pradesh) – 201311

- 2. DR. SUPRIYA MAHAJAN**
466, Sector-28, Ward 3A,
Arun Vihar, Noida,
Gautam Budh Nagar (Uttar Pradesh)

...Applicants

Verses

- 1. STATE OF UTTAR PRADESH**
Through its Chief Secretary
101, Lok Bhawan, UP Civil Secretariat,
Vidhan Sabha Marg,
Lucknow (Uttar Pradesh) -226001

- 2. DISTRICT MAGISTRATE, GAUTAM BUDH NAGAR**
Collectorate Office,
Near LG Office, Surajpur,
Greater Noida (Uttar Pradesh) – 201306

- 3. NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY
(NOIDA AUTHORITY)**
Through its Chief Executive Officer,
Administrative Complex,
Sector-6, Noida
(Gautam Budh Nagar), UP – 201301

- 4. GREATER NOIDA INDUSTRIAL DEVELOPMENT AUTHORITY
(GNIDA)**
Through its Chief Executive Officer
Plot No. 1, Knowledge Park-04, Greater Noida,
Gautam Budh Nagar (Uttar Pradesh) – 201308

5. **MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE (MOEF&CC)**
Through its Secretary,
Indira Paryavaran Bhavan,
Jor Bagh Road,
New Delhi-110003
6. **DISTRICT GROUND WATER MANAGEMENT COUNCIL, GAUTAM BUDH NAGAR**
Through its Chairperson,
Collectorate Office,
Near LG Office, Surajpur,
Greater Noida (Uttar Pradesh) – 201306
7. **ARUN VIHAR RESIDENTS WELFARE ASSOCIATION (AVRWA)**
Through its General Secretary,
AVRWA Office, 310-321,
RWA Marg,
Arun Vihar, Sector-37,
Noida (Gautam Budh Nagar), UP – 201303
8. **RESIDENTS WELFARE ASSOCIATION SECTOR-50 NOIDA**
Through its General Secretary,
RWA Office, Main Gate,
Overseas Apartments,
F-9, Sector-50, Noida,
Gautam Budh Nagar (UP)-201301
9. **RESIDENTS WELFARE ASSOCIATION SECTOR-47 NOIDA**
Through its General Secretary,
Community Centre, RWA Office,
Sector-47, Noida,
Gautam Budh Nagar (UP) – 201303
10. **RESIDENTS WELFARE ASSOCIATION SECTOR-55 NOIDA**
Through its General Secretary,
Community Centre,
Sector-55, Noida,
Gautam Budh Nagar (UP) – 201301
11. **RESIDENTS WELFARE ASSOCIATION SECTOR-62 NOIDA**
Through its General Secretary,
HCL Towers,
Sector-62, Noida,
Gautam Budh Nagar, (UP) – 201309

...Respondent(s)

COUNSELS FOR APPLICANT(S):

Mr. Akash Vashishtha, Advocate alongwith applicant in person

COUNSELS FOR RESPONDENT(S):

Mr. Gi. Gi. C. George and Mr. Sunil Kumar, Advocates for respondents no. 1, 2 and 6

Mr. Pinaki Misra, Senior Advocate with Mr. Nishikant Singh and Mr. Swatej Jetta Advocates for respondent no.3 NOIDA with Mr. Lokesh M, CEO, NOIDA (through VC), Mr. Ravindra Gupta, CLO, Mr. S. P. Singh, Law Officer, NOIDA

Mr. Ravindra Kumar, Senior Advocate with Mr. Shivam Saksena, Advocate for GNIDA

Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB

Mr. Atif Suhrawardy, Advocate for CPCB (through VC)

Mr. Shlok Chandra and Mr. Sankalp Sharma, Advocates for MoEF&CC (through VC)

CORAM:

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

RESERVED ON: NOVEMBER 21, 2024
PRONOUNCED ON: MAY 21, 2025

JUDGMENT**BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER**

1. This Original Application (hereinafter referred to as '**OA**') has been preferred by Vikrant Tongad and Dr. Supriya Mahajan. Both are residents of District Gautam Budh Nagar, State of Uttar Pradesh. It is alleged that there is huge damage to environment due to reckless, excessive and indiscriminate concretisation of road sides and roadberms, carried out by New Okhla Industrial Development Authority (hereinafter referred to as '**NOIDA**') in Sectors 28, 37, 47, 50, 55 and 62 and by Greater Noida Authority (hereinafter referred to as '**G NOIDA**') in Sectors Omega 1, Alpha and P3. The said authorities are also violating orders of Tribunal passed in **OA 165/2013, Ashish Vashishtha vs. Union of India & Ors.** and also, Government Order dated 23.03.2018 issued by

State of UP and concurred by Ministry of Environment, Forest and Climate Change (hereinafter referred to as '**MoEF&CC**') in **Execution Application No. 34/2017 in OA 165/2013, Akash Vashishtha vs. Union of India & Ors.** Act of these authorities is also in gross violation of judgment dated 10.11.2016 passed in **OA 21/2014, Vardhaman Kaushik vs. Union of India & Ors.** and dated 03.12.2020 passed in **OA 283/2020, R. S. Virk vs. Central Pollution Control Board.** The activities are also in complete transgression of Guidelines dated 21.07.2000, 03.09.2013 and 23.09.2013 of Ministry of Urban Development, Government of India, besides, in contravention of Government Order dated April 2001 issued by State of UP.

2. Applicants have impleaded, besides State of UP; District Magistrate, Gautam Budh Nagar and two authorities i.e., NOIDA and G NOIDA, also MoEF&CC, District Ground Water Management Council, Gautam Budh Nagar (hereinafter referred to as '**DGWMC GB Nagar**') and certain Residents Welfare Associations namely, Arun Vihar Residents Welfare Association; Residents Welfare Association, Sector-50, Noida; Residents Welfare Association, Sector-47, Noida; Residents Welfare Association, Sector-55, Noida; and, Residents Welfare Association, Sector-62, Noida.

3. The facts stated in OA, in brief, are that applicant-1 is a resident of G NOIDA and a water and environmental conservationist, engaged in the work of environmental protection for last several years. He was also honoured by various authorities for his work on environmental protection. Applicant-2 is senior Consultant Dermatologist, practicing in National Capital Region (hereinafter referred to as '**NCR**') for the last 20 years, and has written several articles on preservation of environment

and ecology and co-founded a community citizens initiative called “Sustainable Alternatives and Awareness against Plastic and Household Waste (SAAPH)”.

4. Applicants have stated that for conservation of ground water recharge, State Government of UP earlier took a conscious decision while issuing Government Order dated April 2001 (annexure A-7 at page 121) and communicated the following decision to be executed and implemented by the concerned authorities:

“2. इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि रेन वाटर हार्वेस्टिंग एवं ग्राउण्ड वाटर के समुचित प्रबन्धन हेतु योजनाओं की संरचना तथा विकास एवं निर्माण के समय शासन द्वारा विचारोपरान्त निम्न व्यवस्थाएं सुनिश्चित किए जाने का निर्णय लिया गया है:-

2.1 महायोजना/जोनल प्लान स्तर पर कार्यवाही

नगरीय क्षेत्रों में प्राकृतिक जलाशयों, तालाबों झीलों को चिन्हित कर महायोजना / जोनल डेवलपमेंट प्लान में उनके अनिवार्य संरक्षण हेतु प्राविधान किए जाएं एवं इनके अन्तर्गत आने वाली भूमि को किसी अन्य उपयोग में प्रस्तावित न किया जाए। साथ ही जलाशयों, तालाबों को प्रभावी रूप से रेन वाटर हार्वेस्टिंग के उपयोग में लाने हेतु चारों ओर के क्षेत्र का ड्रेनेज यथासम्भव इन्हीं जलाशयों में निस्तारित करने हेतु प्राविधान किए जाएं, परन्तु औद्योगिक क्षेत्रों का प्रवाह उचित उपचार के उपरान्त ही इनमें मिलाया जाए।

2.2 योजना/ले-आउट प्लान स्तर पर कार्यवाही

- (i) 20 एकड़ एवं अधिक क्षेत्रफल की विभिन्न योजनाओं के ले-आउट प्लान्स में पार्क एवं खुले क्षेत्रों के अन्तर्गत कुल योजना क्षेत्र के लगभग 5 प्रतिशत भूमि पर तालाब / जलाशय जमत ठक्कपमेद्ध बनाई जाएं जिनसे ग्राउण्ड वाटर चार्ज हो सके। ऐसे जलाशय / तालाब का न्यूनतम क्षेत्रफल एक एकड़ होगा और उसकी गहराई 6 मीटर होगी।
- (ii) 20 एकड़ से कम क्षेत्रफल की योजनाओं में उपरोक्तानुसार तालाब / जलाशय बनाए जाएं अथवा पार्क / ग्रीन बेल्ट के अन्तर्गत निर्धारित मानक के अनुसार एक कोने में रिचार्ज वैल/ रिचार्ज टैन्क बनाए जाएं।
- (iii) नई योजना बनाने से पूर्व क्षेत्र का ज्योलॉजिकल / हाइड्रोलॉजिकल / हाइड्रोज्योलॉजिकल सर्वेक्षण कराया जाए ताकि ग्राउण्ड वाटर रिचार्जिंग हेतु स्थानीय आवश्यकतानुसार उपयुक्त पद्धति को अपनाया जा सके,
- (iv) पार्कों में पक्का निर्माण (पक्के पेवमेंट सहित) 5 प्रतिशत से अधिक न किया जाए तथा फुटपाथ व ट्रेक्स यथासम्भव परमिएबल या सेमी-परमिएबल परफोरेटेड ब्लॉक्स के प्रयोग से ही बनाए जाएं।

2.3 भवन निर्माण स्तर पर कार्यवाही

- (i) 1000 वर्ग मीटर एवं इससे अधिक क्षेत्रफल के समस्त उपयोगों के भूखण्डों तथा सभी ग्रुप

हाउसिंग योजनाओं में छतों एवं खुले स्थानों से प्राप्त होने वाले बरसाती जल को परकोलेशन पिट्स चमतबवसंजपवद च्यजेद्ध के माध्यम से ग्राउण्ड वाटर चार्जिंग के लिए अनिवार्य किया जाए। इस हेतु भवन उपविधियों में भी व्यवस्था की गई है तथा उसी के अनुसार भवन मानचित्र स्वीकृत किए जाएंगे।

- (ii) भविष्य में निर्मित होने वाले समस्त शासकीय भवनों में छतों एवं खुले स्थानों से प्राप्त होने वाले बरसाती जल को ग्राउण्ड वाटर चार्जिंग के लिए आवश्यक व्यवस्था सुनिश्चित की जाए तथा इसके लिए आवश्यक धनराशि भवन की लागत में ही प्राविधानित की जाए।
- (iii) पूर्व में निर्मित शासकीय भवनों में भी रूफ टाप रेन वाटर हार्वेस्टिंग एवं रिचार्ज प्रणाली को अपनाया जाए तथा इसके लिए आवश्यक धनराशि की व्यवस्था सभी विभागों द्वारा अपने-अपने कार्यक्रमों के अन्तर्गत सुनिश्चित की जाए।

2.4 अन्य कार्यवाही

- (i) सड़कों, पार्कों तथा खुले स्थान में वृक्षारोपण हेतु ऐसे पेड़-पौधों की प्रजातियों का चयन किया जाए जिनको जल की न्यूनतम आवश्यकता हो तथा जो कम जल ग्रहण करके ग्रीष्म ऋतु में भी हरे-भरे रह सकें।
 - (ii) यदि सम्भव हो तो सड़कों के किनारे कच्चे रखे जाएं जिनमें "ब्रिक-ऑन-एज" / "लूज-स्टोन पेवमेन्ट" का प्राविधान किया जाए ताकि ग्राउण्ड वाटर की चार्जिंग सम्भव हो सके।
3. रेन वाटर हार्वेस्टिंग एवं रिचार्ज प्रणाली के सम्बन्ध में अन्य तकनीकी जानकारी क्षेत्रीय निदेशक, केन्द्रीय भूजल परिषद लखनऊ क्षेत्र, निदेशक, भूगर्भ जल विभाग, उत्तर प्रदेश तथा मुख्य अभियंता, लघु सिंचाई वृत्त, लखनऊ से प्राप्त की जा सकती है।
 4. कृपया उपरोक्त निर्देशों का कड़ाई से अनुपालन करने हेतु अपने अधीनस्थ कार्यरत संस्थाओं को अपने स्तर से आवश्यक निर्देश जारी करने का कष्ट करें। इसके अतिरिक्त रेन वाटर हार्वेस्टिंग की विभिन्न पद्धतियों के व्यापक प्रचार-प्रसार हेतु भी आवश्यक कार्यवाही सुनिश्चित करने का कष्ट करें।”

English Translation by Tribunal:

“2. In this connection, I have been directed to say that at the time of formulation, development and construction of schemes for proper management of rain water harvesting and ground water, after due consideration by the Government, it has been decided to ensure the following arrangements:-

2.1 Action at the master plan/zonal plan level

Natural water reservoirs, ponds and lakes in urban areas should be identified and provisions should be made in the master plan/zonal development plan for their mandatory conservation and the land under these should not be proposed for any other use. Also, to effectively use the water reservoirs and ponds for rain water harvesting, provisions should be made to dispose the drainage of the surrounding area into these water reservoirs as far as possible, but the effluent from industrial areas should be mixed into them only after proper treatment.

2.2 Action at scheme/lay-out plan level

- (i) *In the layout plans of various schemes of 20 acres and more area, ponds/reservoirs should be constructed on approximately 5% of the total plan area under parks and open areas so that ground water can be charged. The minimum area of such a reservoir/pond will be one acre and its depth will be 6 meters.*
- (ii) *In schemes of less than 20 acres area, ponds/reservoirs should be constructed as above or recharge well/recharge tank should be constructed in one corner as per the prescribed standard under park/green belt.*
- (iii) *Geological/Hydrological/Hydrogeological survey of the area should be done before planning a new scheme so that suitable method can be adopted for ground water recharging as per local requirement.*
- (iv) *Concrete construction (including concrete pavement) should not be more than 5% in parks and footpaths and tracks should be constructed using permeable or semi-permeable perforated blocks as far as possible.*

2.3 Action at building construction level

- (i) *In all plots of 1000 sq. m. and above area for all uses and in all group housing schemes, rainwater collected from roofs and open spaces should be made mandatory for ground water charging through percolation pits (PP). For this, provision has also been made in the building bye-laws and building maps will be approved accordingly.*
- (ii) *In all the Government buildings to be constructed in future, necessary arrangements should be made for ground water charging from rain water collected from roofs and open spaces and the required amount for this should be provided in the cost of the building itself.*
- (iii) *Roof top rain water harvesting and recharge system should be adopted in previously constructed government buildings also and necessary arrangement of funds for this should be ensured by all the departments under their respective programmes.*

2.4 Other actions

- (i) *For plantation on roads, parks and open spaces, such species of trees and plants should be selected which require minimum water and can remain green even in summer by consuming less water.*
- (ii) *If possible, the sides of the roads should be kept unpaved in which provision of "brick-on-edge" / "loose-stone pavement" should be made so that charging of ground water is possible.*

3. *Other technical information regarding rain water harvesting and recharge system can be obtained from Regional Director, Central Ground Water Council Lucknow Region, Director, Ground Water Department, Uttar Pradesh and Chief Engineer, Minor Irrigation Circle, Lucknow.*
4. *Please issue necessary instructions at your level to the organizations working under you for strict compliance of the above instructions. Apart from this, please ensure necessary action for wide publicity of various methods of rain water harvesting.”*

4. Ministry of Urban Development, Nirman Bhawan, New Delhi, Government of India issued an action plan dated 02.09.2013 for flood proofing of cities/towns. It identified the following factors causing flooding of localities and neighbourhoods in various cities:

- “a. Lack of planned storm water drainage system.*
- b. Increased run off due to inappropriate concretization/paving in urban area and increased intensity of precipitation due to climate change.*
- c. Sinking of plinth due to increase in height of roads.*
- d. Choked storm water drains with solid waste, including construction & demolition (C&D) waste.*
- e. Closed storm water drains owing to careless surfacing, including concretisation, of the carriageway.*
- f. Improper design of the road.*
- g. Diminishing spread and depth of the urban water bodies (lakes & ponds) and lack of its integration with storm drainage system.*
- h. Inadequate arrangements to dispose off storm water from low lying areas.”*

5. To mitigate the impact of several rain in future, the Ministry suggested the following actions plan to be adopted in future:

“(a) Lack of planned storm water drainage system.

Most of the cities are still having unplanned storm drainage system which were basically developed in piecemeal manner along with growth of city. As such the drains are not capable to accommodate/carry the run off from contributory catchments which often lead to over flowing of drains and consequent water logging. These drains are often not designed to accommodate the run off at required rate to avoid water logging and are designed on very conservative side following the thumb rule. Such extension of drains

to adjoining undeveloped area and after its development to another adjoining undeveloped area leads to ineffective discharge of storm water and often leads to water logging.

(b) Increased run off due to inappropriate concretization/paving in urban area and increased intensity of precipitation due to climate change.

Due to rapid concretization/paving in urban area, volume of peak run off is increasing leading to water logging/ flooding in urban areas. The ever increasing concretization/paving in urban areas. reduces ground water recharge on one hand and increases peak run off on other hand, thus, resulting in overflowing of existing drains already clogged with solid waste. As such there is urgent need to review existing By-laws in urban areas to make it mandatory to manufacture and use of porous paving tiles/bricks, to the extent feasible, to facilitate ground water recharge. Rain water harvesting is closely linked with urban flooding and its provision in houses would be beneficial in not only reducing water requirement but also bring down the level of flooding

In addition to above, it is well established now that because of anthropogenic activities, global warming is on rise, resulting in change in rainfall pattern and intensity of precipitation. This necessitates enhancing of capacities of existing storm drains and constructing new drains incorporating above factors.

(c) Sinking of plinth due to increase in height of roads.

Re-carpeting of roads either to improve surface or to strengthen it, results in increase in thickness of road. This makes the plinth level of the buildings lower than the road surface. This situation, in case of heavy rainfall, could lead to rainwater entering the houses. At times, when the drainage system is clogged, such rainwater mixes with the sewerage, which flows back into the house. This would call for a survey of the city roads to identify areas where the road surface is higher than the plinth levels. Careless re-carpeting could also result in disturbance of existing services and approach to houses along these roads.

Keeping in view the recent technological innovations, it is advised to adopt hot in situ recycling technology by removing the top bituminous layers, remixing with desired quantity of bitumen deficient and re-laid hot mixed to desired thickness. These steps are executed in one go by continuous chain of machines so as to disturb the existing road for few hours only.

Alternatively, road surface may be maintained by removing the entire top bituminous surfaces and transport to plant for recycling and then relay after adding these deficient materials. This technology is

also same as above, but time consuming and involves transportation of materials.

Another aspect for improving the riding quality of roads is to adopt the Micro-surfacing Technology. It has a thin layer of modified bitumen emulsion mixed with very small size aggregates, which virtually fills the cracks and seals the entire surface at top to make it more resistant to withstand the traffic load for further period of 2 to 3 years.

Cement Concrete roads may be adopted for new urban roads having long life span of 20 to 25 years and do not require frequent relaying. Thus technology is preferable when service utility ducts can be provided separately.

(d) Choked storm water drains with solid waste, including construction & demolition (C&D) waste.

Growing consumerism and changing lifestyle brings in more rubbish from the households. As the garbage collection systems are not modernised/systematised, it leads to spreads of the rubbish on the streets, leading to spillage into the storm water drains. While street surfaces are cleaned, the storm water drains are rarely cleaned and thus get gradually choked. Such choking is compounded by the C&D waste getting pushed into the storm water drains. Rubbish in the drains attracts rodents, dogs, crows, monkeys etc., which often are carriers of germs and viruses of various diseases,

It is, therefore, suggested that streets should be made garbage free, by following the concept of bin-less streets. Under this concept, households are expected to keep the garbage within the homestead, and handover the same at a fixed time to the house-to-house collector. The civic bodies should make it a point to ensure that the storm water drains remain clean at all times, as much as they work to keep the street surfaces clean.

(e) Closed storm water drains owing to careless surfacing, including concretisation of the carriageway.

Owing to increasing motorised traffic, the carriage way is often widened, but in a careless manner, which results in either diminishing the carrying capacity of the storm water drains or, to the complete closure of such drains/inlets. The situations becomes complicated and practically irreversible, if it results from concretisation of the street surface. Therefore, while surfacing or resurfacing the road, the storm water drain system should be adequately provided for and protected

(f) Improper design of the road.

The road design should provide for rain water to flow smoothly and promptly sideways, into the storm water drain. However, it is often noticed that the road surface does not have proper camber, which make the road itself as the drain. Water stagnant on the road surface makes the bitumen lose its strength/ adhesiveness and leads to development of pot holes. The pot holes store more water and enhance the progression of the decay of the road surface.

It is, therefore, suggested that road design should be done carefully, to let the rain water flow freely and quickly sideways across the road into the drain and not along the road length. While the new roads should be designed suitably, even the existing roads should be reviewed and camber cofrection taken up.

(g) Diminishing spread and depth of the urban water bodies (lakes & ponds) and lack of its integration with storm drainage system.

The water from the storm water drains should be allowed to be seeped into the soil, to the extent possible without flooding, and then let into water bodies. The surplus water from the water bodies would have to be released into the major natural drains, onwards into the rivulets/rivers.

It is, however, possible to find some of the water bodies already choked or encroached upon and silted. Such cases would need to be identified and corrective measures taken. Connecting such water bodies with city drainage system may result in storm peak attenuation and thus diminishing the flooding of city area. This may require preparation of the Drainage Plan for the city/ town and its immediate surrounding areas, which, put together, should be notified as Local Planning Area (LPA) under the relevant State Law. The Drainage Plan for the LPA should be notified as part of the Master Plan

(h) Inadequate arrangements to dispose off storm water from low lying areas.

Often low lying pockets in cities lack credible arrangements to dispose off storm water like adequate pumping capacity. Even if pumping arrangement is available that becomes dysfunctional during rains leading to flooding of areas. Also, often outfall drains are not designed appropriately to effectively discharge in water receiving bodies like lakes/rivers and this also, some times, leads to compounding of problem by back flow from such water bodies. These aspects also need to be addressed appropriately.”

5. The issue of reckless excessive concretization in municipal area of District Ghaziabad was considered by Tribunal in **OA 165/2013, Akash Vashishtha vs. Union of India & Ors. (supra)**, wherein Tribunal passed an order on 17.08.2015 (corrected on 02.09.2015), directing District Magistrate, Ghaziabad to constitute a Committee consisting of officers of Nagar Nigam, Ghaziabad; Ghaziabad Development Authority; Municipal Corporation, Ghaziabad; an Expert Professor Bishwajit Bhattacharjee of IIT Delhi and officer of Department of Horticulture to examine what kind of tiles should be, and at which area be used for covering and which area should be left.

6. Recommendations of Committee were placed before Tribunal on 06.07.2016 in **OA 165/2013 (supra)** and Tribunal accepted the recommendations relating to water bodies, ponds, lakes in the area, construction in the parks as well as road side and the kind of tiles that were required to be used and directed State Government to issue Policy Guidelines in consonance with the minutes of the recommendation of Committee. Tribunal also directed MoEF&CC to consider the said report and issue appropriate directions in that behalf if require.

7. The issue of massive air pollution in Delhi and NCR was considered by Tribunal in **OA 21/2014, Vardhaman Kaushik vs. Union of India & Ors.** and other connected OAs. In its order dated 10.11.2016, Tribunal identified the following seven major contributors of air pollution in NCR:

- i. Construction activity and carriage of construction material.
- ii. Burning of Municipal Solid Waste and other waste.
- iii. Burning of agriculture residue.
- iv. Vehicular Pollution.

- v. Dust on the roads.
- vi. Industrial and power house emission including fly-ash.
- vii. Emissions from Hot-Mix Plants and Stone Crushers.

8. After interacting with the parties and their counsels and in depth deliberations on all the facet of air pollution, Tribunal for monitoring of air pollution, constituted Centralised Monitoring Committee and State Monitoring Committees for ensuring proper implementation of the judgments of Tribunal and Supreme Court and laws relating to prevention and control of air pollution and also issued following general directions in its order dated 10.11.2016:

“General Directions.

1. *The committee afore-referred shall prepare a complete action plan for environmental emergency as well as prevention and control of air pollution, wherever parameters are found to be in excess of prescribed standards*
2. *This action plan should be strictly in consonance with the judgement and orders afore-referred. Of course the Committees are at liberty to provide any additional measures that are required to be taken.*
3. *The action plan so prepared shall be submitted to the Central Committee which will approve the same and fix the period for its implementation in regular course of business of the concerned authority, Corporations, etc.*
4. *Each of the states shall in its very first meeting notify one district which has major land use as agriculture. This district could be taken as a model district for implementation of the direction and orders in relation to complete stoppage of burning of agriculture/crop residue. The Committee will ensure that all the incentive in terms of the judgement are provided with utmost priority.*
5. *There should be all preventive, precautionary and effective steps taken well in advance to the next harvest season.*

6. *It shall then submit a specific report upon field inspection whether there has been complete extinguishment of the practice of crop burning in that area or not, and the reasons thereof. Then it shall implement the scheme in rest of the States in a gradual manner.*
7. *All the States Governments, Public Authorities and Development Agencies shall introduce vacuum cleaning machines for removal of dust and waste from the roads in a gradual manner. Cleaning of dust manually should be stopped. Mechanical cleaning of the roads should be introduced. Manual cleaning of dust only helps in re-generation of pollution and does not effectively cause cleaning of roads or air either.*
8. *Police Authorities and the local bodies should ensure that wherever mechanised cleaning of dust is introduced, at the relevant time the vehicles ought not to be parked on either side of the roads.*
9. *It should be ensured that there should be no leaves, municipal solid waste, plastic, agriculture residue, oil and oil products are burnt in open or otherwise. Strict punitive action should be taken in accordance with the orders of the Tribunal, if any person is found to be violating these directions and orders passed by the Tribunal.*
10. *50% of the staff of the Corporations, Committees, Development Agencies and the concerned department of the Government should be on field inspection to ensure proper and effective implementation of the directions. The staff on field duty shall submit a report to the Officer in-charge, who would then submit a report to the State Committee, bring to its notice whether the implementation and effectiveness of the orders and directions by the said authorities was satisfactory or not.*
11. *The Traffic Police, PWD and all public authorities shall ensure that there is free flow of traffic and there are no undue jams on the traffic lights or otherwise.*
12. *The person who violates the directions of the Tribunal in regard to vehicular pollution should be strictly made liable in terms of the judgement of the Tribunal for payment of environmental compensation. This compensation could be recovered by the concerned department and representative of the authorities including the Police.*

13. *We have already noticed in our judgement that on the basis of the data available, nearly three lakhs litres of petrol is burnt in NCT of Delhi everyday by stationery vehicles in the traffic jam or the traffic light. The Committee shall consider this aspect with utmost priority and submit its suggestion to the Tribunal for orders.*
14. *We direct all the State Governments, NCT of Delhi also to issue guidelines with regard to manufacturing, sale and burning of crackers in the jurisdiction of the respective States/NCT of Delhi. Such direction must be taken into consideration that the crackers if permitted are of the nature which would generate least smoke and produce least noise. It should be within the prescribed parameters.*
15. *All authorities concerned should create social awareness particularly in schools and colleges as to the dis-advantage and adverse impact on public health of indiscriminate burning of crackers on different festive seasons.*
16. *We also direct the State Governments and NCT of Delhi particularly the State of Punjab to consider withdrawal of incentive provided to the agriculturists who are found to be defaulting and burning agriculture/crop residue. We take note of the fact that the Government of Punjab has already issued Notification dated 22nd October, 2013, wherein burning of agriculture/crop residue has been prohibited.*
17. *The order of the Tribunal in relation to all diesel vehicles more than 10 years of age and petrol vehicles which are more than 15 years of age shall not ply on the roads of NCT of Delhi, shall be enforced rigorously. The other States are directed to take decision, in relation particularly to diesel vehicles which are of more than 10 years of age.*
18. *We direct NCT of Delhi, DDA, all Corporations and PWD to ensure that all its parks, flyovers, roads around the government building, there is greenery and study has been conducted and found that if greenery is spread over all the flyovers and roads of NCT of Delhi, it will help in increasing of oxygen by 20%. It will help a large number of people to breathe fresh air. Efforts should be made to cover open land with green grass.*
19. *All the concerned authorities shall ensure that the waste dumping sites are not put on fire under any circumstances.*
20. *We grant liberty to all the government departments, PWD etc to*

bring before the Tribunal offenders or defaulting persons with complete details. If such list is filed, the Tribunal shall issue notice to them for payment of environmental compensation and for passing of such other punitive orders as may be necessary in the facts and circumstances of the case.

21. *The Committee would also recommend the steps that various authorities are required to take for providing health care and immediate treatment to the public who suffer from effects of air pollution.*

22. *All the amounts collected under the orders of the Tribunal for environmental compensation should be utilized only for the purpose of prevention and control of air and water pollution in NCT of Delhi and the concerned States subject to the orders of the Tribunal.”*

9. In the light of Tribunal's order dated 06.07.2016 passed in **OA 165/2013 (supra)**, State Government issued an order dated 23.03.2018. The said Government Order reproduces the recommendations made by Committee constituted by District Magistrate, Ghaziabad pursuant to Tribunal's order dated 02.09.2015 passed in **OA 165/2013 (supra)** as under:

“(1) प्राकृतिक अवशेष-नगरीय क्षेत्रों में प्राकृतिक जलाशयों, तालाबों व झीलों के विकास कार्य:-

(अ) जलाशयों, तालाबों व झीलों के चारों ओर मिट्टी का पुस्ता बनाकर अधिकतम 2.10 मीटर चौड़ाई में फ्लाई ऐश (Fly Ash) ब्रिक/स्ट्रेट ओवर ब्रन्ट ब्रिक / परमिएबुल या सेमी-परमिएबल फस्फारेटेड ब्लॉक ही लगाया जा सकता है। सीमेन्ट कंक्रीट इन्टरलाकिंग टाइल्स अथवा ब्लैक टॉप रोड पूर्ण रूप से निषिद्ध रहेगी।

(ब) जलाशयों, तालाबों को प्रभावी रूप से रेन वाटर हार्वेस्टिंग के उपयोग में लाने हेतु चारों ओर के क्षेत्र का ड्रेनेज यथासंभव इन्हीं जलाशयों में निस्तारित करने हेतु प्राविधान किये जायेंगे, परन्तु औद्योगिक क्षेत्रों का प्रवाह उचित / ट्रीटमेन्ट के उपरान्त ही इनमें मिलाया जाय।

(2) पार्कों में पक्का निर्माण:-

(अ) फुटपाथ में स्टेबिलाइज्ड सॉयल (Stabilized Soil) / कोर्स सैण्ड / ग्रेनुलर सबवेस (G.S.B.) का ही उपयोग इसी प्राथमिकता में किया जायेगा।

(ब) पार्कों में चाहर दीवारी, फुटपाथ-फव्वारा, अवस्थापना द्वारा क्रियान्वित, कार्य जैसे- जनसुविधा आदि में कुल आच्छादित क्षेत्रफल सम्बन्धित पार्क के कुल क्षेत्रफल का 5 प्रतिशत से अधिक न किया जाय।

(3) सड़कों के किनारे:-

- (अ) सड़कों के किनारे कैरिज-वे को छोड़कर किनारों पर दोनों और अधिकतम 0.50 मीटर चौड़ाई में ही परफोरेटेड ब्लॉक्स / फ्लाई ऐश ब्रिक / स्ट्रेट ओवर ब्रन्ट ग्रीक ही लगाये जा सकते हैं।
- (ब) जिन सड़कों पर फुटपाथ का प्राविधान किया गया है, वहाँ फुटपाथ पर परमिएबल परफोरेटेड ब्लॉक्स / फ्लाई ऐश ब्रिक / स्ट्रेट ओवर ब्रन्ट ब्रिक का ही प्रयोग किया जायेगा।

जिन सड़कों पर फुटपाथ का प्राविधान है। फुटपाथ के ग्रेनुलर के ऊपर सबवेस / डब्लूएम०एम० के ऊपर इन्टरलॉकिंग टाइल्स / ब्रिक-ऑन एज (खड़जा) लगाया जा सकता है। फुटपाथ की अधिकतम चौड़ाई 1.50 मीटर ही हो सकती है। सड़कों का शेष भाग नाला, नाली एवं अन्य अवस्थापना सुविधाओं हेतु खाली रहेगा।”

English Translation by Tribunal:

“(1) *Natural remains - Development work of natural water reservoirs, ponds and lakes in urban areas:-*

- (a) *By making earthen embankment around water reservoirs, ponds and lakes, only fly ash brick/straight over brick/permeable or semi-permeable phosphorated block can be used in a maximum width of 2.10 meters. Cement concrete interlocking tiles or black top road will be completely prohibited.*
- (b) *In order to effectively use the reservoirs and ponds for rain water harvesting, provisions will be made to drain the surrounding area into these reservoirs as far as possible, but the effluent from industrial areas should be added to them only after proper treatment.*

(2) *Permanent construction in parks:-*

- (a) *Only Stabilized Soil / Coarse Sand / Granular Subways (G.S.B.) will be used in footpaths with priority.*
- (b) *In parks, the total area covered by boundary wall, footpath-fountain, works implemented by infrastructure such as public facilities etc. should not exceed 5 percent of the total area of the concerned park.*

(3) *Road sides:-*

- (a) *Perforated blocks / fly ash bricks / straight over burnt grid can only be laid up to a maximum width of 0.50 metre on both sides of the roads except the carriageway.*
- (b) *On the roads where provision of footpath has been made, only permeable perforated blocks / fly ash bricks / straight over burnt bricks will be used on the footpath.*

Interlocking tiles / brick-on edge can be laid on top of subways/WMM on top of granular pavement on roads where pavement is

provided. The maximum width of the footpath can be 1.50 m only. The remaining part of the road will remain vacant for drains, sewers and other infrastructure facilities.”

10. On the said recommendations, State Government took following decision:

“4- उक्त के संबंध में शासन द्वारा निम्नानुसार कार्यवाही कराये जाने का निर्णय लिया गया है-

- (1) प्राकृतिक अवशेष-नगरीय क्षेत्रों में प्राकृतिक जलाशयों, तालाबों व झीलों के विकास कार्य:-
 - (अ) जलाशयों, तालाबों व झीलों के चारों ओर मिट्टी का पुस्ता बनाकर अधिकतम 2.10 मीटर चौड़ाई में फ्लाई ऐश (Fly Ash) ब्रिक/स्ट्रेट ओवर ब्रंट ब्रिक/ परमिएबुल या सैमी-परमिएबल फरफारेटेड ब्लॉक ही लगाया जाय। सीमेन्ट कंक्रीट इन्टरलाकिंग टाइल्स अथवा ब्लैक टॉप रोट पूर्ण रूप से निषिद्ध होंगे।
 - (ब) जलाशयों, तालाबों को प्रभावी रूप से रेन वाटर हार्वेस्टिंग के उपयोग में लाने हेतु चारों ओर के क्षेत्र का ड्रेनेज यथासंभव इन्हीं जलाशयों में निस्तारित करने हेतु प्राविधानित किये जाय, परन्तु औद्योगिक क्षेत्रों का प्रवाह उचित / ट्रीटमेन्ट के उपरान्त ही इन जलाशयों में मिलाया जाय।
- (2) पार्कों में पक्का निर्माण:-
 - (अ) फुटपाथ में स्टेबिलाइज्ड सॉयल (Stabilized Soil) / कोर्स सैण्ड / ग्रेनुलर सबवेस (G.S.B.) का ही उपयोग प्राथमिकता पर किया जाय।
 - (ब) पार्कों में चाहर दीवारी, फुटपाथ फव्वारा, अवस्थापना मद से क्रियान्वित कार्य जैसे-जनसुविधा आदि में कुल आच्छादित क्षेत्रफल सम्बन्धित पार्क के कुल क्षेत्रफल का 5 प्रतिशत से अधिक न किया जाय।
- (3) सड़कों के किनारे-
 - (अ) सड़कों के किनारे कैरिज-वे को छोड़कर किनारों पर दोनों ओर अधिकतम 0.50 मीटर चौड़ाई में ही परफोरेटेड ब्लॉक्स/फ्लाई ऐश ब्रिक/स्ट्रेट ओवर ब्रंट ब्रिक का प्रयोग किया जाय ।
 - (ब) जिन सड़कों पर फुटपाथ का प्राविधान किया गया है, वहीं फुटपाथ पर परमिएबल परफोरेटेड ब्लॉक्स / फ्लाई ऐश ब्रिक/स्ट्रेट ओवर ब्रंट ब्रिक प्रयोग किया जायेगा।
 - (स) जिन सड़कों पर फुटपाथ का प्राविधान किया गया है, वहां फुटपाथ के ग्रेनुलर के ऊपर सबवेस/ डब्ल्यूएम०एम० के ऊपर इन्टरलाकिंग टाइल्स / ब्रिक-ऑन-एज (खडजा) लगाया जाय। फुटपाथ की अधिकतम चौड़ाई 1.50 मीटर ही हो सकती है। सड़कों का शेष भाग नाला, नाली एवं अन्य अवस्थापना सुविधाओं हेतु खाली रखा जाय।”

English Translation by Tribunal:

“4-- In relation to the above, the Government has decided to take the following action-

- (1) *Natural remains- Development work of natural reservoirs, ponds and lakes in urban areas:-*
- (a) *Around reservoirs, ponds and lakes, earthen embankments should be made and only fly ash bricks/straight over burnt bricks/permeable or semi-permeable perforated blocks should be used in a maximum width of 2.10 metres. Cement concrete interlocking tiles or black top rot will be completely prohibited.*
- (b) *In order to effectively use the reservoirs and ponds for rain water harvesting, provision should be made to drain the surrounding area into these reservoirs as far as possible, but the effluent from industrial areas should be mixed into these reservoirs only after proper treatment.*
- (2) *Construction of concrete in parks:-*
- (a) *Stabilized Soil/ Coarse Sand/ Granular Subways (G.S.B.) should be used on priority in footpaths.*
- (b) *In parks, the total covered area of works like boundary wall, footpath, fountain, public facilities etc. implemented under infrastructure head should not exceed 5% of the total area of the concerned park.*
- (3) *Road sides -*
- (a) *Perforated blocks/fly ash bricks/straight over burnt bricks should be used on both sides of the road except carriage-way in a maximum width of 0.50 meter.*
- (b) *On the roads where provision of footpath has been made, permeable perforated blocks / fly ash brick / straight over burnt brick will be used on the footpath.*
- (c) *Interlocking tiles / brick-on-edge (khadja) should be laid on the subbase / WMM above the granular of the footpath on the roads where provision of footpath has been made. The maximum width of the footpath can be 1.50 meters only. The remaining part of the road should be kept empty for drains, sewers and other infrastructure facilities.”*

11. In para 5 of Government Order dated 23.03.2018 (at page 101 of paper book), State Government directed all the local bodies to act in accordance with the said decision of State Government and if any rules or by-laws require amendment, the same may be carried out.

12. It appears that there was some time gap in issue of Government Order dated 23.03.2018 and in the meantime for execution of Tribunal's judgment dated 06.07.2016 passed in **OA 165/2013 (supra), Execution Application No. 37/2017 (supra)** was filed which came up before Tribunal on 30.07.2018. MoEF&CC took a stand before Tribunal that it concurs with Policy Guidelines dated 23.03.2018 issued by State Government in respect of non-concretisation of open spaces. In view thereof, Tribunal found that nothing further was required and **Execution Application No. 37/2017 (supra)** was disposed of vide order dated 30.07.2018.

13. Ministry of Urban Development and Poverty Alleviation, Government of India, New Delhi issued an Office Memorandum dated 21.07.2000 (annexure A-11 at page 161) circulating Guidelines for greening of urban areas and landscape and the same reads as under:

“Guidelines for greening of urban areas and landscaping

1. To avoid use of excessive tiling of pavements: porous materials to be used

*Unnecessary and excessive tiling of the roadside pavement should be avoided. The **area around trees lined along the road should not be covered with tiling as it hampers the basic necessary functions and needs of the trees i.e root aeration and availability of water get drastically reduced. Whenever tiling is done, porous tiles alone should be used.** Roots of the trees should be protected, top soil should be preserved while taking up civic works. Indiscriminate tiling of road dividers and footpaths should be avoided.*

2. Tiling should be done only on pavements with heavy pedestrian traffic:

***Tiling should be only done on the roadside which have heavy pedestrian movements.** In case of bridges and such areas where there are no pedestrian movements, tiling may be avoided and in case tiling is to be done, **preference is to be given to porous tiles** as porous materials allows seepage of ground water. The species of trees may be chosen for their pollution*

reduction abilities including dust trapping to avoid reliance of a single species, a combination of trees, shrubs, grasses should be grown.

3. Growth of grasses to be encouraged

The necessity of grasses playing a vital role in making soil suitable for vegetation should be realized and unnecessary digging of soil should be stopped forthwith.

4. Excessive pruning to be avoided

*Practice of excessive pruning of crops should be avoided. Pruning of plants in a well nurtured garden and pruning of roadside plants should be differentiated. **Excessive pruning may lead to upsetting the root shoot ratio. Leaf pruning should not be resorted to.***

5. Compost to be made of leaves

Leaf is an excellent material for making of compost and burning of leaves causes pollution. A system of composting of leaves in nearby parks should be adopted which will provide water retentive mar ure to civic agencies. Some fallen leaves may be left near the base as water retentive mulch.

6. Adequate space to be left around trees

***An area of 6"x 6" around the trees should be left uncemented. Widening of roads upto the trunk of trees is to be avoided as roots come under the asphalted roads and will gradually die.** In case of storm, these trees can topple down. Activities which adversely affect the roots are to be kept at a minimum.*

7. Digging near trees to be avoided

*Digging near the trees by allowing telephone, electricity, sewage lines should be avoided to avoid root injury; sufficient space should be left along the ground for the trees. **In no case should roots be exposed.** Washing avenue trees foliage may be done on a tri-monthly basis to get rid of particulate matter from the foliage.*

8. Use of Organic Compost:

The dead trees may be replaced by young plants after providing sufficient compost in the pits. Organic manure added with compost FYM mix with nitrogen fixing bacteria culture and neem cake should be spread on the green and poured into the soil before either irrigating the tree basin or before rains.

9. Planting of second line trees to be encouraged:

New trees which may be called as second generation trees must

be planted preferably 2-3 meters behind the existing road trees in an alternate position or inside the bungalow compounds. A mix of foliage and fruit trees should be planted. Planting of fairly well established large trees should be undertaken as chances of their survival will be more. Cues of species to be adopted may be taken from the old trees lining Delhi's roads.

10. Initiation of EEC activities

Horticulture dept. may initiate education/awareness campaign with school students and elders and users of the park where the different species of trees are present in the particular park and importance about preservation of eco-systems is explained. School students may be taken for nature walks in a major garden to get them associated with the flora and fauna around them. Also the citizens of an area residing near a park can be involved for this awareness campaign.

11. Compactness of soil near trees to be avoided

Compactness of soil should be avoided within at least one meter around the tree. Perforated metallic frame can be used for this purpose. *Soil surveys around the trees should be done by removing stones.*

12. Setting up a Central Resource Centre

A Central Resource Centre should be set up to aid and advise the State Governments, Municipal Corporations and other development agencies dealing with matters pertaining to horticulture and landscaping. A manual on the subject should also be prepared.

13. Stress on shelter beds of thick trees

Around the cities vulnerable to desert wings, shelter - beds of special design of thick trees should be planted.

14. Updating technology of transplantation of trees

Technology of transplantation of trees should be updated to ensure at least 80 percent of the success rate of planted trees. As far as possible, trees grown in the nursery with a height of four to six meters should be planted. Presently, survival rate of trees is less due to animal menace and non-caring of trees. The public participation in caring of trees planted around their houses may be ensured.

15. Setting up of a tree disease surgery unit in Horticulture Dept.

A small tree disease/surgery unit should be created in all horticulture departments to cure tree maladies.

16. Earmarking of some cost of projects for landscaping

In any layout plan of land and housing development, at least two and a half percent of the cost of the project should be earmarked for landscaping and green development.

17. Use of kitchen and garden waste for compose

Technology to use the kitchen and garden waste to fabricate building and landscaping material should be perfected and made available to all the urban development agencies.

18. Proper care of water fronts

Underground water does not gets recharged sufficiently because of use of concrete around them. Efforts should be made to get the water fronts recharged and these fronts kept clean.

19. Heritage building to be landscaped

Areas around heritage buildings should be suitable landscaped and beautified.

20. Greening of void areas not required for minimum construction

*Urban void areas should not be allowed to exist and the area not required for immediate development or construction, should be made green and fenced with suitable landscaping. Similarly road **berm/right of way required for future road widening should be landscaped and maintained as green.***

21. Encouragement for water harvesting technologies

Information regarding water harvesting has to be disseminated in public and its use encouraged. It should be ensured that quality of water does not get deteriorated for which required measures are to be taken.

22. For maintenance of greens internally

Criss-cross paths should be provided for in the gardens and lawns. There should be connecting gated at all corners so that people do not walk on the grass.

23. Public participation to be ensured

Public participation at present is poor in maintenance of green. This has to be activated and Residents Welfare Association and to be involved in planting of new trees and in their survival. User groups need to be activated; NGO's can play a catalytic role in this. Each NGO may earmark a selected area for its activities thereby dividing the entire Net area. A Committee with officials from MCD, NDMC, DDA, GNCTD, etc will act as a nodal agency and will review every month or as necessary.”

14. In **OA 283/2020 (supra)**, Tribunal considered the steps to mitigate impact of dust pollution, arising out of dry sweeping of roads in metro cities. Applicant R.S. Virk had claimed that dust pollution contributes to about 43% of air pollution in metro cities. Application was disposed of by Tribunal vide judgment dated 03.12.2020 and we find it appropriate to reproduce para 2 to 8 of the said judgment as under:

“2. In *M.C. Mehta vs. Union of India & Ors.*, (2020) 7 SCC 573, following direction was issued:

“ xxx xxx xxx
 20. For taking care of the road dust **let water sprinklers/dust suppressors be used on the roads. An IIT expert suggested about the appropriate water pressure for the sprinklers. At what pressure water should be sprinkled so as to reduce the pollution and dust so that it does not add to the pollution. Let the Corporations act on advice of the expert of the IIT. Such roads where traffic congestion is more, let traffic plan be also prepared in such a manner so that there is no extra burden on a particular road so that traffic congestion is taken care of. It is for the concerned traffic authorities to take immediate steps in this regard.**”

3. The issue of vacuum cleaning of roads has been considered by the Hon’ble Supreme Court in *M.C. Mehta vs. Union of India*, (2016) 4 SCC 269, at page 281 as follows:

“ xxx xxx xxx
13. We, accordingly, direct the Government of NCT of Delhi to take immediate steps for repair of pavements and make pavements wherever the same are missing and also to take immediate steps for procurement of the requisite vacuum cleaning vehicles for use on Delhi roads expeditiously but not later than 1-4-2016.”

4. We note that as per ‘Air Quality Monitoring Emission Inventory & Source Apportionment Studies’ for Delhi conducted by the NEERI, Nagpur in December, 2018, dust pollution was noted to be one of the contributors to the air pollution of Delhi. The contribution of road dust was found to be 52.5% to PM10 emissions. The sources of dust pollution are wind blown, natural dust, road dust, re-suspension, construction dust and particles generated from combustion sources. It was observed that the dust components can be controlled.

5. We also note that in the Graded Response Action Plan (GRAP) for Delhi and NCR prepared by the CPCB, there is a provision for

“increase frequency of mechanized cleaning of road and sprinkling of water on roads. Identify road stretches with high dust generation” by Municipal Corporations, PWD and NHAI when the air quality is ‘severe’. There is also a study of “Source Apportionment of PM_{2.5} & PM₁₀ Concentrations of Delhi NCR for Identification of Major Sources” by the Automotive Research Association of India (ARAI) and The Energy and Resources Institute (TERI) in August, 2018 noting as follows:

“4.1 PM₁₀

Seasonal variation of PM₁₀ shows higher contribution of dusty sources in summer (38%–42%) as compared to winter in Delhi-city as well as NCR Towns. This can be attributed to dry conditions and higher wind velocities resulting in entrainment of dust. However, contribution of dusty sources (e.g. road, construction and soil dust) was also significant in winter season (23%–31%). contribution of vehicles to PM₁₀ was slightly higher in winter (17%–18%) in Delhi-city and NCR Towns than in summer (15%–16%).”

6. This Tribunal has been considering remedial action for control of air pollution in 122 Non-Attainment Cities (NACs) in the country in OA 681/2018, News item published in "The Times of India" Authored by Shri Vishwa Mohan titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15." The Tribunal directed constitution of Air Quality Monitoring Committees (AQMCs) in all the States/UTs having NACs comprising of Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State. The AQMCs work under the Principal Secretary, Environment of the State and finally under the Chief Secretary. The function of the AQMCs is to prepare and execute action plan for control of the air pollution.

7. In view of acknowledged fact that dust pollution is significant component of air pollution and sweeping of roads is one of the sources of dust pollution **sprinkling of water before sweeping of roads including the pavements needs to be explored, as directed by the Hon’ble Supreme Court quoted above.** The water to be used for the purpose of sprinkling should be treated STP water and not the fresh water. Further mitigation which may be considered is planting of grass/raising small herbs and shrubs on the sides of the pavements and on open dusty areas including the areas on the sides of the pavements. The pavements may also be appropriately covered so as to prevent generation of dust.

8. Accordingly, we direct all the Municipal Corporations/Local Bodies in NCR where air quality levels are normally non-compliant and in all

*other cities with the air quality 'poor' and above to take necessary steps to ensure sprinkling of water before sweeping of roads, using treated water from STPs, and **take further steps of planting of grass/raising small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements/right of way. The pavements may also be appropriately covered so as to prevent generation of dust.** Attention also needs to be given to stop burning of biomass/waste and regulate construction and demolition activities following the laid guidelines and protocols under GRAP/NCAP. All the Municipal Corporations/Local Bodies may send their reports to the Principal Secretary, Environment of the State, heading the AQMCs, once in a quarter. First such report may be furnished by 01.02.2021, mentioning the steps initiated and thereafter every quarter such action taken reports may be furnished. The Principal Secretary, Environment heading the AQMCs may compile the data and furnish the same to the CPCB. First such report by AQMCs may be furnished to the CPCB by 28.02.2021. The CPCB may give a consolidated report by 31.03.2021 to this Tribunal in OA 681/2018 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.*

The application is disposed of.

A copy of this order be forwarded to the Chief Secretaries, Secretaries, Environment and Urban Development Department/Local Bodies of all the States/UTs and the CPCB by e-mail for compliance.

The Secretary, Urban Development/Local Bodies may forward a copy of this order to all the Municipal Corporations/Local Bodies in the States/UTs for compliance forthwith."

15. Applicant has also referred to certain newspaper reports highlighting the damage likely to be caused due to rampant concretization and construction around the trees and also even otherwise as a bye-product of urbanization. It is said that when concretized, carbon stored in the soil escapes into the atmosphere, which then gets oxidized to form carbon dioxide, a major green house gas, leading to temperature escalation. This carbon sequestration potential is also emphasized by Ecological Society of America and has been analysed by American Environment Researcher and Writer D. Schwartz. The concrete surface,

be it buildings or roads or footpaths, radiate heat waves in the evening making nights as hot as days and decreasing difference between the maximum and minimum temperatures, resulting in urban heat island effect. The Guidelines issued by Ministry of Urban Development to Chief Secretaries of all States and Union Territories calling for greening of urban areas and landscaping have failed to guide civic agencies and town developers to cover issues relating to water harvesting, prevention of flooding, conservation of water bodies, and protection of green cover while ensuring people-centric approach in the process. The Guidelines expressly speak about avoiding use of excessive tiling of pavements and use of porous material wherever required. But these guidelines are only recommendatory on account whereof have failed to achieve desired results. The above facts have been observed in an article titled "Concretisation, the silent killer" authored by Akanksha Jain published in the daily newspaper "The Hindu", photocopy whereof has been placed on record at page 159/160. It is also stated therein that unnecessary and excessive tiling of roadside pavement should be avoided and areas around trees lining the roads should not be covered with tiling. Whenever tiling is done, porous tiles should be used. Roots of trees should be protected, top soil preserved while taking up civic works and indiscriminate tiling of road dividers and footpaths should be avoided. Tiling should be done only on pavements with heavy pedestrian traffic and preference is to be given to porous tiles as porous material allow seepage of groundwater.

16. The applicant has also referred to reply affidavit filed by Central Ground Water Authority (hereinafter referred to as '**CGWA**') in **OA 165/2013 (supra)** stating that increase in impervious layer leads to reduction in ground water recharge. The co-efficient run-off in concrete

pavement is 0.85 while in urban residential areas, it is between 0.3 to 0.5. CGWA has stressed upon improvised designs for pavement so that the same may reduce surface run-off and increase ground water recharge.

17. The run-off coefficient for any catchment is the ratio of the volume of water that runs off a surface to the volume of rainfall that falls on the surface. Higher the run-off coefficient, less is the absorbing capacity of the surface.

18. Hazardous consequences of ground/surface/soil concretization has been stated in detail by applicant under several heads and we find it appropriate to reproduce the same as under:

“A. PREVENTION OF GROUND WATER RECHARGE, INCREASING SURFACE RUN-OFF BY 85-90%:

An increasing impervious land cover (concretization/tiling of soiled and open ground surfaces) prevents percolation of rain water by up to 90 percent and blocks natural recharge of ground water aquifers, thereby leading to wastage of precious rain water up to 90 percent due to increased surface run-off into storm water drains, thus, further aggravating the crisis of water scarcity. The run off coefficient of concrete pavements in urban areas is 0.75-0.95, which means that concrete surfaces leads to 75%-95% of run-off.

B. CONCRETISATION CAUSES URBAN FLOODING/WATER LOGGING:

Due to reduced absorption of rainwater on the land and consequent reduction in water percolation, the water accumulates and is spread into different directions, causing intense urban flooding and water logging. Flooding in urban areas causes immense damage to the environment as well as human health, every year. Some direct impacts of urban flooding and water logging include loss of top layer soil leading to reduced carbon sequestration, contamination of ground water, failure of storm water drainage system, mixing of sewage with drainage water, spread of diseases and contamination of drinking water etc. Certain indirect impacts include air pollution due to stagnant traffic etc.

The Intergovernmental Panel report on Climate Change on Climate Change 2021: The Physical Science Basis released in August 2021

also warned about the extreme repercussions of climate change that India could face in the coming years. Increased incidents of urban flooding are one of the extreme events that will become common.

C. ELIMINATION OF BIODIVERSITY:

Soil is a complete ecosystem, an ecological complex and is a constituent of “biological diversity” within the meaning of Section 2(b) of The Biological Diversity Act, 2002.

Section 2(b) of The Biological Diversity Act, 2002 defines biological diversity as under: —2.

“Definitions.—In this Act, unless the context otherwise requires,—

(b) “biological diversity” means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of ecosystems;”

Soil, is a habitat and storehouse to a vast diversity of micro and macro organisms, which are vital in nutrient cycles, soil fertility and other ecological functions. These micro and macro organisms within the soil, in turn, support a huge diversity of various species of birds and other organisms by acting as their prey-base.

Soil concretization causes complete loss of the biodiversity.

D. CONCRETISED SURFACES CREATE ‘HEAT ISLANDS’:

Extensive soil/ground/surface concretization creates, what is called in landscape practices, as, ‘**Urban Heat Island**’, and produces a huge warming effect, leads to manifold increase in the temperatures of the lower layers of atmosphere. Reduction in green areas in the city and excessive use of materials like cement and concrete has led to global warming and climate change.

A difference of 7-8 degrees Celsius has been observed between the temperatures recorded on a grassy/soiled surface and a concretised/paved surface.

E. MULTIPLICATION OF HEAT GENERATED IN THE ATMOSPHERE:

The concretised surfaces tend to reflect heat back into the atmosphere, which adds up to the normal warming occurring in the atmosphere due to the presence of greenhouse gases in it, at a given point of time. Such accumulation of heat is hazardous not only to humans but to all forms of life.

F. REFLECTION OF HARMFUL ULTRAVIOLET RADIATIONS:

The concretised surfaces reflect the harmful, long-wave Infrared radiations, a major component of solar radiation, which re-enters the human bodies upon reflection and re-emission from the ground and are thus, fatal to all forms of life. Soiled ground surfaces, on the other hand, absorb most of the solar radiation and the Ultraviolet UV-B rays.

G. OMPACTION OF SOILS, LOSS OF TOP SOIL AND ORGANIC MATTER WITHIN IT:

Concretisation compacts the urban soils after removing off its organic matter and renders it infertile, forever. It causes loss of the top soil and loss of organic matter within it which makes it fertile and productive. At a time when 48 per cent land of the country is undergoing severe degradation, it is essential to protect the soil ecosystems and soil resources.

H. SOIL TAKES SEVERAL HUNDRED YEARS TO FORM:

It takes 900-1000 years to form a single centimetre of soil. Concretising it in one go eliminates the future possibility of utilizing such a precious natural resource.

I. GROUND/SURFACE CONCRETIZATION CAUSES LOSS OF SOIL, A MAJOR CARBON SINK:

Soil/ground concretization increases the concentration and accumulation of Carbon (in the form of Carbon dioxide, a major greenhouse gas), in the atmosphere, which in turn leads to warming of the atmosphere.

J. Soil/ground concretization is a major impediment to India's efforts to combat climate change:

Soil acts as a major 'Carbon Sink', sequestering a vast pool of carbon. After forests and oceans, soil is the biggest Carbon Sink. Since most cities and towns lack both forests and oceans, conservation of soil in its natural state, becomes dire necessary. The global soil carbon (C) pool of 2500 gigatons (Gt) comprises about 1550 Gt of soil organic carbon (SOC) and 950 Gt of soil inorganic carbon (SIC). The soil C pool is 3.3 times the size of the atmospheric pool (760 Gt) and 4.5 times the size of the biotic pool (560 Gt).

K. Preservation of top soil (because of its massive carbon sequestration properties) and prevention of soil/ground concretization essential to curb rising air pollution:

Preservation of top soil is important to curb rising air pollution in cities and towns as soil (because of its carbon sequestration) is vital to offset fossil fuel emissions.

The soil organic matter pool is currently losing about 1 to 2 Gigatons of carbon per year to the atmospheric pool because of changes in land use patterns, concretization of soil and soil compaction in urban areas. Soil, if concretized or compacted, causes the Carbon sequestered/stored in it to escape into the atmosphere, which then gets oxidized to form Carbon dioxide, a major greenhouse gas.

About 60 Gigatons of carbon per year enters the soil organic carbon sink as decaying biomass remains in the soil. About 61 to 62 Gigatons of carbon are lost from this pool as soil organic matter is oxidized by the atmosphere.

(A research paper titled „Soil Carbon Sequestration Impacts on Global Climate Change and Food Security“, of the American Association for the Advancement of Science, Washington, US, is annexed herewith and marked as ANNEXURE A-15).

- L. PREVENTION OF RISE IN TREE/GREEN COVERS IN CITIES:**
Concretised surfaces prevent the possibility of a rise in the tree and green covers in cities and towns, as no soiled or ‘kuccha’ land is available for undertaking plantations. Removing off the concrete or tiles is a tedious task and is practically not easy.
- M. CHOKING OF TREES/SAPLINGS TO DEATH:**
Concretisation chokes the trees to death and retards young saplings’ ability to grow. It blocks aeration and moisture necessary for the survival of plants. Trees get uprooted fast even during a minor wind or thunderstorm.
- N. GRASS VITAL FOR SOIL AND WATER CONSERVATION:**
Grass plays an important role in retaining the moisture within the soil, hastens water percolation into the ground and holds the top-soil intact, thus prevents soil and water erosion and maintaining the soil healthy and fertile.
- O. LEAVES, LITTER ORGANIC:**
Leaves, litter, plant waste etc. are organic and decompose easily. They are bio-degradable.
- P. VISUAL POLLUTION, RECREATIONAL VALUE:**
A concretised surface looks barren, deserted, unpleasant, and annoying whereas a green/grassy surface is aesthetically beautiful, eye-pleasing and stress relieving. Since soil in urban set-ups is vital to support plants, it has a high recreational value.”

19. The applicant has also referred to research paper titled as “Energy Saving Potentials and Air Quality Benefits of Urban Benefits of Urban

Heat Island Mitigation” written by Hashem Akbari published in “Solar Energy” conducted by U.S. Department of Energy stating that the cities that have been paved over do not receive the benefits of the natural cooling effect of vegetation. In the said research, planting of urban vegetation has been recommended.

20. With the above backdrop, applicant has complained that in NOIDA and G NOIDA, the work of tiling has been carried out. These tiles are non-porous, impermeable and high albedo material.

21. Albedo is the measure of the diffuse reflection of solar radiation out of the total solar radiation and measured on a scale from 0, corresponding to a black body which absorbs all incident radiation to 1, corresponding to a body that reflects all incident radiation.

22. Indiscriminate concretization of roadsides and roadberms has been carried out in various places like Sectors 28, 37, 47 50, 55 and 62. At a few stretches in Sectors 26, 27, 30, 41, 46, 51, 55 and 56, concretisation has also been carried out by NOIDA. Storm Water drains in most of the sectors of NOIDA and G NOIDA are lying defunct and remain choked with solid and other wastes, serving no purpose of water recharge due to absence of recharge pits and outlets thereof into water bodies or depressions. In the circumstances, the concretized ground surfaces tend to cause massive run off aggravating the crisis and consequently causing prevention of natural ground water recharge. Instead of promoting “green streets”, NOIDA authority is destroying all green road berms which were a part of NOIDA’s Master Plan as green infrastructure. The material being used to concretise the road berms is a solid concrete block. In NOIDA, grey infrastructure of storm water drainage is ageing, collapsing and

almost non-existent at places. The existing capacity to manage large volumes of storm water is decreasing in NOIDA drastically. Green Infrastructure systems, especially the green road berms, filter and absorb storm water, where it falls. It is, thus an urgent need to augment and maintain the green road berms. Use of cemented interlocking tiles promotes manufacture and use of cement, which is one of the highest emitter of Carbon emissions in India. Landscaping of roadsides and roadberms with grasses and other vegetation produces a cooling effect on the lower layers of the atmosphere, tending to reduce ambient temperature and vital to maintain microclimate and micro-ecology. Plantation of roadsides and roadberms with grasses and other vegetation and deconcretization as also restraining surface concretization of the ground is critical need of the hour especially in the changing weather pattern, witnessing sudden and unusual prolonged heat wave periods. MoEF&CC has a duty to develop and undertake measures, wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimize such effects, and where appropriate, provide for public participation in such assessment.

23. The applicant has complained that MoEF&CC has neither conducted any environmental impact assessment of indiscriminate tiling of roadsides and roadberms in NOIDA and G NOIDA nor determined adverse effects on biological diversity thereof. The applicant has been agitating over the reckless and indiscriminate concretization of roadsides and roadberms in NOIDA and G NOIDA for last several months and made complaints on various occasions to the concerned authorities in NOIDA and G NOIDA but none has responded or taken any action in the matter.

24. Applicant Vikrant Tongad sent a representation on 26.04.2022 to Chief Executive Officer, NOIDA with request to deconcretize the roadsides and roadberms in compliance with the State Government's Order dated 23.03.2018 and copies of said representations were forwarded to District Magistrate, Gautam Budh Nagar and Chief Secretary, Uttar Pradesh besides the office bearers of Residents Welfare Association of Sectors 37, 28, 50, 47, 55 and 62. None however has responded. Applicant No. 2 also made a similar complaint dated 01.08.2021 against rampant concretization carried out in some sectors of NOIDA and sent a further representation on 30.03.2022.

25. Having failed to receive any effective response or action on the part of the respondents concerned, the applicants have come up with the present OA with the following prayers:

“(i) Direct the Respondents to remove concretization of the roadsides and roadberms in Noida and Greater Noida done in excess of the limits prescribed by the Government Order, dated: 23.03.2018, and restore the areas under concretization to their original positions;

(ii) Direct the Respondents to plant grasses and other vegetation, including shrubs and herbs, on the roadsides and roadberms in Noida and Greater Noida, after deconcretizing them;

(iii) Direct the Respondents to remove concretization around trees, so as to ensure a minimum breathing space of 1 metres around trees, as held by the Order, dated: 23.04.2013, in O.A. No. 82/2013, Aditya N. Prasad Vs Union of India & Ors;

(iv) Penalise the Respondents for violating the Government Order, dated: 23.03.2018, issued by the State of Uttar Pradesh, the Orders of this Hon'ble Tribunal and the Guidelines of the Ministry of Urban Development;

(v) Direct the Respondent No., Ministry of Environment, Forests and Climate Change to issue directions under Section 3 and 5 of the Environment (Protection) Act, 1986 thereby, prohibiting any kind of concretization of the roadsides, open spaces and soft landscapes in Noida and Greater Noida, with interlocking tiles or otherwise, and to

keep them soft, natural and unconcretized, so as to allow natural ground water recharge and prevent surface run-off, waterlogging and urban flooding;

(vi) Direct the Respondent No., Ministry of Environment, Forests and Climate Change to issue directions under Section 3 and 5 of the Environment (Protection) Act, 1986 to deconcretise the roadsides, roadberms, open spaces and soft landscapes in Noida and Greater Noida, in a time-bound manner and enforce the Guidelines, dated: dated: 21.07.2000, 03.09.2013 and 23.09.2013 of the Ministry of Urban Development;”

Tribunal’s Order dated 24.05.2022:

26. Tribunal took cognizance of the matter on 24.05.2022 and after being *prima-facie* satisfied that substantial question relating to environment has arisen out of the implementation of the enactments specified in Schedule I to National Green Tribunal Act, 2010 (hereinafter referred to as ‘**NGT Act, 2010**’), issued notices to respondents with the direction to file their responses. Tribunal also issued an interim order directing respondents 3 and 4 i.e., NOIDA and G NOIDA not to carry out any further act of concretization of road-sides and roadberms in NOIDA and G NOIDA, in excess of the limits prescribed vide State Government’s Order dated 23.03.2018 concurred by MoEF&CC in **EA No. 34/2017 (supra)** and also as provided in guidelines dated 21.07.2000, 03.09.2013 and 23.09.2013 issued by Ministry of Urban Development, and order dated 06.07.2016 passed by this Tribunal in **OA No. 165/2013 (supra)**.

Short Reply/Counter Affidavit dated 24.09.2022 filed on behalf of respondent 3 i.e., NOIDA:

27. The allegations of reckless, excessive, and indiscriminate concretization of roadside and roadberms in NOIDA were denied by respondent 3. It is said that NOIDA is carrying out roadside constructions strictly in accordance with the directions of Tribunal and the guidelines

issued by State Government as well as other authorities including MoEF&CC and Central Pollution Control Board (hereinafter referred to as 'CPCB'). Respondent 3 has only laid down interlocking tiles on the granular sub base as permitted by Tribunal in its direction issued from time to time and also in compliance with State Government's Order dated 23.03.2018. Such interlocking tiles facilitates easy seepage of rain water into ground and thus is a balanced step taken by respondent 3 for making the city dust free and simultaneously remain environment friendly. The action of NOIDA is also consistent with the decision taken by Central Monitoring Committee constituted by order dated 10.11.2016 passed in **OA 21/2014 (supra)**. Central Monitoring Committee in its meeting dated 13.02.2020 took certain decisions which were communicated to Chief Executive Officers of NOIDA and G NOIDA vide letter dated 17.02.2020 (annexure-R/2 at page 256 of paper book) issued by Uttar Pradesh Pollution Control Board (hereinafter referred to as 'UPPCB') and the relevant extract thereof reads as under:

“अवगत कराना है कि वन, पर्यावरण एवं जल वायु परिवर्तन मंत्रालय के जोरबाग दिल्ली स्थित कार्यालय दिनांक 13.02.2020 को बैठक की गयी। बैठक अपशिष्ट निस्तारण कन्स्ट्रक्शन एण्ड डिमोलेशन निस्तारण, प्लास्टिक वेस्ट कलेक्शन एवं उसका निस्तारण, पार्किंग सुविधा, रोड डस्ट, अनपेव्ड रोड, मैकेनिकल स्वीपिंग एवं वाटर स्पिंकलिंग के कार्यों की समीक्षा की गयी एवं आवश्यक दिशा निर्देश जारी किये गये। आवश्यक बिंदु निम्नवत् है-

1. *समस्त स्थानीय निकाय द्वारा ठोस अपशिष्ट प्रबन्धन नियम 2016 के अनुसार कलेक्शन, सैग्रिगेशन निस्तारण की पूर्ण व्यवस्था सुनिश्चित की जाये।*
2. *समस्त स्थानीय निकाय द्वारा कन्स्ट्रक्शन एण्ड डिमोलेशन प्रबन्धन नियम 2016 के अनुसार कलेक्शन, सैग्रिगेशन, उपचार एवं निस्तारण की पूर्ण व्यवस्था सुनिश्चित की जाये।*
3. *समस्त स्थानीय निकाय द्वारा प्लास्टिक वेस्ट मैनेजमेन्ट नियम 2016 के अनुसार कलेक्शन, सैग्रिगेशन, उपचार एवं निस्तारण की पूर्ण व्यवस्था सुनिश्चित की जाये।*
4. *समस्त स्थानीय निकायों में सभी सड़कों पर मैकेनिकल स्वीपिंग की जाये तथा मैकेनिकल स्वीपिंग मशीनों पर जी०पी०एस० डिवाइस लगाने की व्यवस्था सुनिश्चित की जाये उक्त कार्य का रूट चार्ट स्थानीय वेब साईट पर प्रदर्शित की जाये।*
5. *समस्त स्थानीय निकायों में धूल जनित होने वाले क्षेत्रों में वाटर स्पिंकलिंग की जाये तथा वाटर*

स्प्रिकलिंग मशीनों पर जी०पी०एस० डिवाइस लगाने की व्यवस्था सुनिश्चित की जाये उक्त कार्य का रूट चार्ट स्थानीय निकायों स्थानीय वेब साईट पर प्रदर्शित की जाये।

6. *सड़कों को धूल रहित किया जाये तथा पेवमेन्ट पर ग्रीन पेवमेन्ट किया जाये अथवा इन्टरलॉकिंग किया जाये।*
7. *स्थानीय निकाय क्षेत्र में किसी भी स्थल पर यदि कन्स्ट्रक्शन एवं डिमोलेशन, ठोस अपशिष्ट, प्लास्टिक वेस्ट आदि भण्डारित है उसका तत्काल नियमानुसार निस्तारण सुनिश्चित किया जाये।”*

English Translation by Tribunal:

“It is to be informed that a meeting was held on 13.02.2020 at the Jor Bagh Delhi office of the Ministry of Forest, Environment and Climate Change. The meeting reviewed the works of waste disposal, construction and demolition disposal, plastic waste collection and its disposal, parking facility, road dust, unpaved road, mechanical sweeping and water sprinkling and issued necessary guidelines. The important points are as follows-

1. *All local bodies should ensure complete arrangements for collection, segregation and disposal as per the Solid Waste Management Rules 2016.*
2. *All local bodies should ensure complete arrangements for collection, segregation, treatment and disposal as per the Construction Demolition Waste Management Rules 2016.*
3. *All local bodies should ensure complete arrangements for collection, segregation, treatment and disposal as per Plastic Waste Management Rules 2016.*
4. *Mechanical sweeping should be done on all roads in all local bodies and ensure the installation of GPS devices in mechanical sweeping machines. The route chart of the said work should be displayed on the local website.*
5. *Water sprinkling should be done in dust generating areas in all local bodies and ensure the installation of GPS devices on water sprinkling machines. The route chart of the said work should be displayed on the local website of the local bodies.*
6. *Roads should be made dust free and green pavement or interlocking should be done on the pavement.*
7. *If construction and demolition, solid waste, plastic waste etc. is stored at any place in the local body area, its immediate disposal should be ensured as per rules.”*

28. Action taken by respondent 3 is also consistent with report submitted by Expert Committee constituted by Commission for Air Quality Management for suggesting permanent solution of air

pollution menace pursuant to Supreme Court's Order dated 16.12.2021 passed in **Writ Petition (Civil) No.1135/2020, Aditya Dubey vs. Union of India & Ors.** The Committee has suggested for oriented action plans for greening/paving of central verges and sidewalks along the entire road network so as to prevent air pollution. Policy Guidelines have been issued by State Government on 23.03.2022 in consonance with recommendations made by Prof. B. Bhattacharya Committee which have been accepted by Tribunal and it is provided therein that interlocking tiles/brick on edge may be laid down on Granular Sub Base/WMM.

29. Complying with Tribunal's order dated 23.04.2023 passed in **OA 82/2013, Aditya N. Prasad vs. Union of India & Ors.**, one meter around the tree has been left open. Earth work has been done by NOIDA after inspections, as per law, in all places where the area around tree was less than one meter. In NOIDA, a typical road is 12 meters wide consisting 5.5 meters carriageway, 1.25 meters road shoulder on both sides and 2 meters green area both sides including drainage. Road shoulders are in fact part of the carriageway left for extension of road in near future as per requirement. Presently, interlocking of tiles are laid on the said road shoulders which are very much part of the carriageway. Respondent 3 for water recharge and protection of environment has taken various steps. It has developed 738 parks in 1200 acre area, green belt in 800 acre area, road side plantation of trees in 1500 kms length in developed area and planting of 3-4 lakhs trees every year for making the city green. NOIDA has developed unique dust free zones by planting green grass in 275 kms road side Patri out of 1500 kms roads at appropriate places throughout NOIDA. While environment is important for human existence, development work is equally important. Development work

ought not be hampered on trivial environmental issues particularly at the instance of stranger or a person coming with vested interest and ulterior motive before Tribunal. Parawise reply has been given separately by NOIDA but basic facts noted above have been repeated and reiterated substantially, hence we are not repeating the same.

Status Report and Brief Submission dated 07.10.2022 filed by applicant:

30. Applicants have filed Status Report and brief submission dated 07.10.2022 placing on record photographs to show excessive and indiscriminate concretization of roadberms in NOIDA in various sectors including, but not limited to Sectors 28, 29, 35, 56, 105, 8, 10, 11 and 12, and these photographs are at pages 285 to 313 of paper book. It is also said that similarly respondent 4 (G NOIDA) has also carried out indiscriminate concretization of roadsides and roadberms in various sectors. Applicants have further submitted that roadsides and roadberms concretization has taken such severe form in the twin cities of NOIDA and G NOIDA that hundreds of kilometres and wide green vegetated roadsides have been replaced with concrete in most of the areas. Acts of indiscriminate concretization of roadsides and roadberms continue to be an exponentially increasing, irreversible ecological hazard and in transgression of the principles of Sustainable Development and Precautionary Principle. No attempt to minimize surface run-off of precious rainwater and 'Catch-the-Rain' has been made by the concerned respondents on the roadsides and in the current year despite ground water level alarmingly declining, more than 90% of precious rain water falling on the roads has been lost to run-off into dirty choked drains. There is annual phenomenon of urban flooding even with the lightest

showers in the area of NOIDA and G NOIDA. Green and vegetated roadsides are being sacrificed at the altar of illegal parking in NOIDA and G NOIDA. One of the major reasons for promoting roadside concretisation is creation of unauthorised parallel parking lots. To conceal their own failure and to escape their liability in not ensuring institutional/residential/commercial parking with the required extent or adequately within respective premises, as stipulated in the Master Plans, the above two Authorities have chosen the easy way out i.e., concretization of the roadsides and roadberms, sacrificing naturally soft, green, vegetated roadsides to the illegal parallel parking lots causing grave ecological hazard. Inevitable breakage of the concretized roadsides and roadberms creates more dust. Illegal act of concretisation of NOIDA and G NOIDA has the support of concerned Residents Welfare Associations. Some of the residential societies/Residents Welfare Associations have attempted to protect ground water recharge and environment by sending notices to residents for maintaining green road sides at their own expanses and not be a party of act of excessive concretization. Open land including road berms cannot be concretised.

31. Applicants have also made certain suggestions to deal with the issues raised by them and the suggestions in para 16 read as under:

“(i) NOIDA authority and GNIDA be asked to de-concretise roadsides and duly restore and maintain the planting strips with self-sustaining native, hardy, drought resistant grasses and shrubs requiring minimal use of mowing or herbicides.

(i) Such “Green Streets” projects may be started with a few pilot areas like Kachnar Marg, Chameli Marg, Maharishi Dayanand Marg in sectors 28, 29, 37, Arun Vihar.

(ii) It is our suggestion that the C & D debris resulting out of deconcretisation can be used as recycled aggregate concrete [RAC] in future road building as per laid down guideline of Indian Roads

Congress. As per CRRI, it is better to design thinner pavements, with minimal use of natural aggregates.

(iii) Excessive roadside concretisation be removed all around the twin cities, thereby, leading to habitat restoration, carbon sequestration and resilient permeable roadsides Thus, our roads and streets would help us in our fight against pollution, global warming and climate change.

(iv) Noida authority must recognise or applaud efforts towards environment preservation and maintenance of “Green Streets” by residents, as is followed in globally forward and smart cities, instead of penalising them.”

Short Reply/Counter Affidavit dated 07.10.2022 filed on behalf of respondent 4 i.e., G NOIDA:

32. G NOIDA has also filed its separate reply but having gone through the same, we find that it is almost in the same line and the same stand has been taken as that of NOIDA which we have already noted above, hence not repeating.

Short Reply dated 21.11.2022 filed on behalf of respondent 7 i.e., Arun Vihar Resident Welfare Association:

33. Respondent 7 has stated that it is only the end user of work carried out by NOIDA as such has no direct role in the matter but from the experience of residents, benefits which have been noted by respondent 7 are as under:

“IN RE: WORK ON ROAD SIDES/ SIDE WALK AND ROAD BERM HAS DECREASED THE DIFFICULTY AND ACCIDENTS OF RESIDENT ESPECIALLY CHILDRENS AND OLD AGE PEOPLE”

6. *That the Answering Respondent is a very old residential colony wherein a very large number of senior citizens and super senior citizens reside. Periodic resurfacing of the roads in the colony caused increase in the height difference between the road side/ sidewalk and the roads so much so that the difference varied from 6" to 10". That due to increase in the difference between the road side/ sidewalks and the roads the residents had to face a lot of difficulty especially during the rainy season as the same led to flooding and accidents causing injuries to the residents of the Answering Respondent. That due to the height difference*

between the road side/ side walk and the road a number of accidents have occurred in the colony wherein the residents had suffered injury especially the children and old age people.

7. *That the work carried out by Noida Authority on the road side/sidewalks and road berms have helped this old colony to level the height difference between roads and sidewalks which has helped in avoidance of accident as well as the waterlogging in the colony.*

IN RE: WORK ON SIDE WALKS AND ROAD BERMS HAS HELPED IN MITIGATING DUST POLLUTION AND HAS ALSO HELPED IN STOPPING WILD GROWTH IN THE RESIDENTIAL AREAS

8. *That poor air quality is no alien to the people of Delhi NCR including the residents of the Answering Respondent. That several factors are responsible for the poor air quality amongst which dust pollution polluting the air is one of the major factor. That the work carried out on the road side/ sidewalks and road berms has helped in mitigation of dust pollution and has also helped in stopping wild the road side /sidewalks in residential areas.”*

34. **Tribunal’s Order dated 03.01.2023:** While hearing the matter, Tribunal found that since applicant has relied on Government’s Order dated 23.03.2018 to support its submission that only permeable perforated blocks /fly ash brick straight over burnt bricks can be used on roadsides and footpath and interlocking tiles/brick on edge on footpath, granule subways /WMM but Learned Counsels appearing for respondents 3 and 4 i.e., NOIDA and G NOIDA relied on the letter dated 17.02.2020 issued by UPPCB, this Tribunal found it appropriate to implead CPCB as one of the respondents and directed accordingly to implead as respondent 12.

Brief Submissions dated 19.02.2024 of applicants:

35. The applicants stated that brief submissions be treated as part of OA and in pursuance to Status Report and Brief Submissions dated 08.10.2022 filed by applicants. It is said that any concretization of

roadsides/roadberms in the name of paving or otherwise, is highly deleterious and an irreversible hazard to the ecology and environment. It tends to obstruct rain water infiltration and consequent ground water recharge, causes run-off, urban flooding, severe water logging, eliminates bio-diversity, creates urban heat islands, trapping of heat generated in the atmosphere, compaction of soils, loss of soil (a major Carbon sink) and organic matter, and increases concentration and accumulation of Carbon (in the form of Carbon dioxide, a major Greenhouse gas) in the atmosphere leading to warming of atmosphere. Grassing or vegetation or landscaping of roadsides/roadberms is ecologically and environmentally productive and sustainable. It is the critical need of the hour in the light of no or negligible ground water recharge, rising air pollution and heat and increasing extreme precipitation (notably rainfall) amid climate. A concretised/paved surface only tends to scatter/disperse pollutants as against grasses, which have a strong tendency to increase water percolation rates and absorb all pollutants/particles, which, otherwise give rise to PM₁₀ levels and consequently, high Air Quality Index (hereinafter referred to as '**AQI**').

36. National Clean Air Program (hereinafter referred to as '**NCAP**') has emphasized on the greening of open spaces and street sides as an action plan for improving air quality.

37. Ministry of Housing and Urban Affairs (hereinafter referred to as '**MoHUA**') has specifically informed through the Portal for Regulation of Air pollution in Non-Attainment Cities (i.e., PRANA) that it is in the process of increasing the total permeable spaces from 1885 acres to 2575

acres. MoHUA has further informed that Rs.1768 Crores has been allocated to green spaces and parks sector.

38. United States Environment Protection Agency (i.e., EPA) has defined a “Green Street” as “a storm water management approach that incorporates vegetation (perennials, shrubs, trees), soil, and endangered systems (for example, permeable pavements) to slow, filter, and cleanse stormwater run-off from impervious surfaces (for example, streets, sidewalks). Green streets are designed to capture rain water at its source where rain falls”. EPA further calls for having green streets for the reason that Green streets protect water quality in rivers and streams by removing up to 90% of pollutants. They replenish ground water supplies, absorb carbon, improve air quality and neighbourhood aesthetics and provide green connections between parks and open space. Vegetated curb extensions improve pedestrian and bicycle safety, and calm traffic. According to EPA, Green streets reduce peak storm water flows, free capacity in the pipes to carry more waste water to the Sewage Treatment Plant (hereinafter referred to as ‘STP’) and reduce or stop sewer backups in basements.

39. Applicants have also placed reliance on an article titled as “A Guide to making street improvement in San Francisco”, stressed upon the need for sidewalk landscaping without giving further details of the above article as to where was it published and the details of the authors etc.

40. It is also said that Green Highways Policy 2015, framed by Ministry of Road Transport and Highways has strongly propagates and assigns responsibility of road implementation agencies to develop green corridor along highways by planting selective ornamental trees, landscaping and

turfing with grasses and ornamental shrubs. The extract of the above Policy has been placed on record as annexure A-4 at page 831.

41. Reliance is also placed on Guidelines for Pedestrian Facility, 2012 of Indian Roads Congress (hereinafter referred to as '**IRC**') which distinguishes between a roadberm and a sidewalk. According to IRC Guidelines, a Sidewalk is always above the level of the carriageway, separated by kerbs, unlike a roadberm or roadside which is the flat portion along the road, situated between the edge of the road and the drain if any or the boundary line of the property. The following extract of IRC Guidelines for Pedestrian Facilities, 2012 has been relied by applicant:

“Footpath (Footpaths)- It is a portion of right of way of road used for the movement of pedestrian traffic.

Pedestrian Level of Service (LOS)- Pedestrian level of service indicates the environmental qualities of a pedestrian space and serves as a guide for development of standards for pedestrian facilities. Environmental factors that contribute to the walking experience and therefore to the perceived level of service, such as comfort, convenience, safety, security and attractiveness, should also be considered.

5.2 Concept of Pedestrian Level of Service

Pedestrian level of service indicates the environmental qualities of a pedestrian space and serves as a guide for development of standards for pedestrian facilities. Pedestrian spaces should be designed in consideration of human convenience and have to be qualitatively suitable to the needs of human beings. The planning and design methods for pedestrian suggested by many researchers are based primarily on vehicular traffic flow theory. Additional environmental factors that contribute to the walking experience and therefore to the perceived level of service, such as comfort, convenience, safety, security and attractiveness, should also be considered.

5.3 Physical Characteristics

The pedestrian facilities shall comply with following physical characteristics:

(v) Potential for Vehicle Conflict: The footpaths need to be segregated from the roads, where fast moving vehicles ply. The two ways to protect the pedestrian from vehicle conflicts is the raised footpaths and the guardrails.

6 PEDESTRIAN FACILITIES DESIGN STANDARDS

6.1.2 Footpaths should be regarded as a transportation system which is connected and continuous, just like roadways and railways. They should not be sporadically placed where ever convenient, but instead should be provided consistently between all major attractions, trip generators, and other locations where people walk. In order to be effective, the sidewalks should be provided on both sides of the road and above the level of the carriageway separated by kerbs. Height of the kerb at the edge should, however, not exceed the height of a standard public step riser i.e. 150 mm.

6.1.3 Clear walking zone

...

A change in surface at the edge, such as a grass or ground or a verge, which often occurs naturally anyway, will help to prevent persons from straying off the path.

The minimum 1.8 m (width) x 2.2 m (Height) Walking Zone should be clear of all obstructions – both horizontally and vertically.

6.1.5.2 Footpaths should normally be designed for a pedestrian Level of service B, thereby providing wide pedestrian facilities for pleasant and comfortable walking. Under resource constraint, Level of Service C can be adopted for deciding width of footpath (Table 1). The width of the footpaths depends upon the expected pedestrian traffic and may be fixed with the help of the following guidelines subject to not being less than 1.8 m.

...

6.2.1 Kerb height

Maximum height of a pavement (including kerb, walking surface, top-of-paving) shall not exceed 150 mm from the road level, which is the standard anthropometric height of a public step/ riser.”

42. Applicant has complained that NOIDA has been carrying out massive concretization of soft, green roadsides and roadberms after uprooting roadside grasses and vegetation at the behest of Arun Vihar

Residents Welfare Association, Noida; roadsides and roadberms concretisation in the twin cities of NOIDA and G NOIDA is going on in as much as hundreds of kilometres and wide green vegetated roadsides have been replaced with concrete in most areas; the act of indiscriminate concretization of roadsides and roadberms continues to be an exponentially increasing, irreversible ecological hazard in transgression of the principles of Sustainable Development and Precautionary Principle as provided under Section 20 of National Green Tribunal Act, 2010 as also in utter disregard of well settled principle of inter-generational equity; respondents have made no attempt to minimise surface run-off of precious rainwater and catch the rain on the roadsides; ground water level is alarmingly declining every year, more than 90% of precious rainwater falling on the roads has been once again lost to run-off into dirty choked drains and that is a regular phenomenon; green and vegetated roadsides are being sacrificed at the altar of illegal parking in NOIDA and G NOIDA and one of the major reasons for promoting roadside concretisation is to create unauthorized parallel parking lots.

Reply filed by MoHUA vide e-mail dated 20.02.2024:

43. Reply has been filed by MoHUA through its letter dated 20.02.2024 addressed to Consultant (Judicial), Principal Bench, NGT stating therein that under Swachh Bharat Mission-Urban, Central financial assistance as Central Share funds are allocated to States/Union Territories for the entire Mission period. These funds are released as a whole and State Governments concerned further release funds to Urban Local Bodies as per the State Action Plan. The responsibility to implement the projects is that of State Governments/Union Territories/Urban Local Bodies. Besides sanitation, public order, public health and local Government are

State subjects under 7th schedule of the Constitution and it is the responsibility of State Government to take action on the complaint and the subject matter does not pertain to Swachh Bharat Mission-Urban, MoHUA.

Reply dated 24.04.2024 filed by CPCB:

44. CPCB has said that Tribunal vide order dated 02.09.2015 passed in **OA 165/2013 (supra) along with E.A. No. 34/2017 and M.A. No. 588/2016**, constituted a Committee, which submitted its observations and recommendations in relation to water bodies, ponds, lakes in the area, constructions in the parks as well as road side and kind of tiles that were required to be used. Tribunal vide order dated 06.07.2016 also directed Competent Authority and UP Government to issue Policy Guidelines. Further, vide order dated 10.11.2016 passed in **OA 21/2014 (supra)**, Tribunal directed Government's authorities to ensure greenery around the flyovers and roads and to cover the open land with grass along with implementation of air and dust control measures. Vide order dated 03.12.2020 passed in **OA 283/2020 (supra)**, Tribunal directed all local bodies in National Capital Region experiencing poor air quality to plant grass, raise small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements.

45. In the light of the above, following actions were required to be adopted by respective concerned agencies for mitigation of air/dust pollution and ground water recharge:

- "a. Efforts should be made to cover open land with green grass as directed by Hon'ble NGT in O.A No 21 of 2014.*
- b. Efforts should be made for planting of grass/raising small herbs and shrubs on the sides of the pavements/road shoulders and*

- on open dusty areas, including the areas on the sides of the pavements as directed by Hon'ble NGT in O.A No 283 of 2020*
- c. Compliance of the Guidelines for greening of urban areas and landscaping dated 23 September 2013 as issued by the Ministry of Urban Development may be ensured.*
 - d. Use of specified tiles as per the Government of Uttar Pradesh letter dated 23 March 2018 issued in compliance of the direction of Hon'ble NGT in O.A No 165 of 2013 be ensured.*
 - e. Roads should be made dust-free and pavements be made green pavements."*

46. With regard to parawise reply, CPCB basically in reference to documentary material has said that since the same is matter of record hence, no specific reply from CPCB is required.

Status Report dated 06.08.2024 filed by respondent 3 i.e., NOIDA:

47. Status Report is in furtherance of earlier response dated 24.09.2022 filed by NOIDA. The allegations of concretization of roadsides/road shoulders are denied and it is said that the same are wrong, incorrect and misleading. NOIDA has further said that all roadside constructions are being carried out strictly in accordance with directions given by Tribunal and Guidelines issued by State Government and other authorities like MoEF&CC and CPCB. No concretization has been done and only interlocking tiles have been laid on granular sub base. Adequate space of 1.5 × 1.5 meters around the tree has been left open. The complaint of concretization of road side and road berms in Sectors 28, 29, 37, 47, 50, 55 and 62 in NOIDA is denied and it is reiterated that only interlocking tiles on granular sub base have been laid down on the road side and that too, as per site conditions. The purpose of placing interlocking tiles is to make the roads dust free as per directions given by Supreme Court and this Tribunal from time to time and also taking into account the convenience of pedestrians. Some photographs have been

placed on record to show placement of interlocking tiles and space left around trees which are on pages 871 to 927.

Reply of MoEF&CC i.e., respondent 5 submitted vide e-mail dated 08.08.2024:

48. MoEF&CC has referred to Environmental Impact Assessment Notification dated 14.09.2006 (hereinafter referred to as '**EIA 2006**') which covers 38 projects/activities in its Schedule requiring Environmental Clearance (hereinafter referred to as '**EC**') before commencement of the project. It is said that Building and Construction Projects and Township and Area Development Projects are under Entry 8(a) and (b) of the Schedule to EIA 2006. Concretization of roads however does not come within the ambit of EIA 2006, hence, MoEF&CC has no submissions to be made in respect of the allegations made by applicants in this OA.

Additional Reply dated 09.08.2024 submitted vide e-mail dated 20.08.2024 by respondent 4 i.e., G NOIDA:

49. This reply has been submitted in the light of the observations made by Tribunal in its order dated 25.04.2024 that NOIDA and G NOIDA have not specifically mentioned about remediation of all the violations in the area, complained by applicants and particularly, in respect whereof photographs have been filed.

50. Referring to photographs at pages 82, 89, 90 and 92 of OA relating to concretization in the area of G NOIDA, respondent 4, in para 3 of its additional reply, has said as under:

“(i). the photographs dt. 10.5.2022 that have been filed at Page Nos.91 and 92 of the O.A. show that the inter-locking tiles are touching the tree trunk. These inter locking tiles have been

removed, which fact may be noticed in the photographs, which are filed as ANNEXURE R-4/ 1 and R-4/2 respectively.

- (ii). from the photograph filed at Page 82 it is alleged that concretization is being done. It is submitted that at that stage the road works were being carried out. The road works since then have been completed and there is no concretization along the road as alleged. On the contrary there is greenery. Copy of the photo is annexed hereto and marked as ANNEXURE R-4/3.*
- (iii). from the photograph at page 89 of the O.A. it is alleged that there concretisation. In response it is submitted that is submitted that there is no concretization. From the photograph at page 89 it can be noticed that in the Parking area, inter locking tiles had been laid. It is submitted that inter locking tiles have also been removed. Photograph of the area near the Yatharth Hospital is annexed hereto and marked as ANNEXURE R-4/4 (in contrast to page 89 of the Original Application).*
- (iv). From the photograph at page 90 of the Original Application it is alleged that there is concretization. It is submitted that the photograph is of Noida area as typed on the photo itself. Therefore no additional reply is required to be made by Respondent no. 4 in regard to this photo at Pg 90.”*

51. It is also said that interlocking around the trees has been removed from all other places and respondent 4 shall adhere to the mandate of Government's Order dated 23.08.2018. Wherever necessary only perforated tiles, fly ash bricks etc., as permissible, are used for the bare minimum foot path and the remaining portion is left vacant for plantation of grass, shrubs etc. In this manner, generation of dust is minimised while percolation of water into ground is equally ensured. Necessary orders are being issued to ensure that there is no concretization along the road anywhere in G NOIDA and wherever it is, the same is removed and area alongside the road be developed as green by planting grass and shrubs etc.

Applicant's Objections dated 07.09.2024:

52. In the above objections, initial part virtually reiterated what the applicants have already said in OA and its brief submissions and then also relied on certain media news published in various sources relating to cities like London, Leuven, Belgium, Paris and the countries like U.S., Canada and Australia etc. Summing up, the applicant has reiterated that deconcretization and depaving of the roadsides, roadberms and open soft areas is the critical need of the hour to allow water infiltration, ground water recharge, reduction of run-off into drains and prevention of fresh water wastage, reduction of heat islands, control of atmospheric heat, making more spaces available for plantations etc.

53. The applicants have also placed on record certain photographs to show that still indiscriminate and excessive concretization/pavement on the roadsides and roadberms are continuing and no efforts have been made to remove the same. Applicants have also relied on Tribunal's judgment dated 17.07.2023 passed in **OA 175/2022 (I.A. No. 621/2023), Vijay Kishor Goswami vs. State of Uttar Pradesh & Ors.**, wherein directions were issued that Government Order dated 23.03.2018 issued by State Government with regard to concretization and guidelines for greening of Urban Areas and Landscaping must be complied with in letter and spirit. The relevant extract of the judgment, as contained in para 16, is reproduced as under:

"However, we direct that the G.O. issued by the State of Uttar Pradesh with regard to concretization and Guidelines issued for Greening of Urban Areas and Landscaping must be complied in letter and spirit."

54. Reliance has also been placed by applicant on the judgment dated 30.11.2024 passed in **OA 378/2022, Mr. Sahil Garg vs. State of**

Punjab & Ors. wherein complaint about concretization of open spaces, roadsides etc. in SAS Nagar, State of Punjab was considered. Tribunal observed that **concretization on roadsides by use of interlocking tiles is not prohibited.** In the Guidelines for the use of Interlocking Concrete Block Pavement Published by Indian Roads Congress, use of interlocking concrete block pavement is not recommended for Expressways, National Highways, State Highways and Major District Road. However, if a Major District Road or State Highways passes through a habitation, their use is permitted. The Guidelines notice that Interlocking Concrete Block Pavements have been found to have applications in several situations and these situations are:

- (i) Footpaths and Side-walks,
- (ii) Cycle Tracks,
- (iii) Residential Streets,
- (iv) Car Parks,
- (v) Fuel Stations,
- (vi) Rural Roads through Villages,
- (vii) Toll Plaza,
- (viii) Highway Rest Areas,
- (ix) Bus Depots,
- (x) Approaches to Railway Level Crossings,
- (xi) Intersections,
- (xii) City Streets,
- (xiii) Truck Parking Areas,
- (xiv) Urban Sections of Highways,
- (xv) Road Repairs during Monsoon,
- (xvi) Container Depots,

- (xvii) Port Wharf and Roads, and
- (xviii) Roads in High Altitude Areas.

55. The Guidelines also acknowledge advantages and limitations of the use of interlocking tiles. Layer of sand is used under and between interlocking tiles. Use of interlocking tiles with sand without contamination is not prohibited as water can seep through the joints. Use of permeable block pavement in cities and towns can help replenish depleting underground sources of water, filter pollutants before they reach open water sources, help reduce storm water run-off and decrease the quantum of drainage structures. However, concretization upto the roots and trunks of the trees is not permissible. Referring to Tribunal's order passed in **OA 82/2013 (supra)** relating to the matter of de-concretization around trees standing on roads, pavements, parks etc. wherein Tribunal had directed public authorities, particularly Municipal Corporation of Delhi, Delhi Development Authority, Delhi Transport Corporation, National Highway Authority of India and Delhi Metro Rail Corporation and other Government respondents including Director General of Central Public Works Department and Chief Engineer, Public Works Department that all the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or other damaging elements be removed from the trees forthwith and that the concrete surrounding the trees within one metre of the trees be removed forthwith and due precaution taken in future so that no concrete or construction or repairing work is done atleast within one metre radius of the trunk of trees, Tribunal has observed that concretization around trees not only hampers root aeration but also the percolation of water which could ultimately lead to death of the tree.

56. Tribunal also took the view that an area of one meter around the tree must be left de-concretized at the time of construction of pavements or roads to facilitate percolation of water to the roots. Area should be leveled with earth/soil and grass/shrubs which may be planted, if needed. Tribunal has also expressed its view that even concretization/tiling of roadberms beyond footpath and central verge of the roads/pathways needs to be avoided and appropriate landscaping with plantation of grass, shrubs, flowering plants may be done which will not only allow drainage of water from the metalled portion of the road to the same but would also help in recharge of ground water and to add aesthetics of the road without hampering the prospect of widening of the road, if so required.

57. For maintenance of parks etc., Tribunal relied on Supreme Court's judgment in **Bangalore Medical Trust v. B.S. Muddappa, (1991) 4 SCC 54**, para 24, 25, 26, 27 and 28 and observed that the area of parks cannot be indiscriminately reduced in the name of making provision for parking and concretization of the same. Tribunal issued following directions to Chief Secretary, State of Punjab:

"17. In view of the above Chief Secretary to Government of Punjab is directed to issue appropriate instructions within one month to all the Municipal Bodies/Civic Agencies/Government Departments/Gram Panchayats to ensure:-

- (i) That all the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension insulated cables etc. placed on trees are removed within one month from the date of issuance of the instructions;*
- (ii) That the trees which are already concretized are de-concretized, manually without use of JCB machines etc so that the roots and trunks are not damaged, by leaving soil filled space of one meter radius to allow percolation of water to the roots thereof within two months from the date of issuance of the instructions;*

(iii) *That during fresh construction of roads/ pavements etc, a fresh clause is added in the tender documents that one meter area around the trees shall be left de-concretized/soil filled to allow percolation of water to the roots and that.*

(iv) *That concretization of road berms beyond footpath and central verge of the roads/ pathways be avoided and appropriate landscaping with plantation of grass, shrubs, flowering plants may be done, as may be viable.”*

58. Further relevant observations by Tribunal in para 20 to 25 of the judgment read as under:

“20. It may be observed here that due to ever escalating prices in real estate, open spaces and green belts are encroached upon by the Land Mafia in active connivance with the concerned Administrative Officers or due to inaction/negligence on their part in taking requisite remedial action. The practices of encroaching upon green belts/parks by constructing /erecting religious structures/parking spaces/ Transformers/DG Sets etc. is widely prevalent. Most convenient method of encroachment on green areas/parks is construction of some religious structures which are also defended by projecting questions of faith and masquerading the procured support of devotees having women and children in the forefront. Despite directions by Hon'ble Supreme Court for preventing/demolishing such unauthorized constructions on public land, the State and its instrumentalities continue to pose ignorance even despite complaints by the residents and coverage even by the print and electronic media.

21. In view of importance of protection and proper maintenance of open spaces, parks, green belts and instances of conversion of part or whole of open spaces, parks, green belts in the State of Punjab coming up before this Tribunal, we consider it appropriate to widen the scope of the present proceedings and constitute a Joint Committee comprising of representatives of (i) MOEF&CC, (ii) CPCB, (iii) ACS/Principal Secretary, Department of urban Planning Government of Punjab, (iv) ACS/Principal Secretary, Department of Local Bodies, Government of Punjab (v) Director General, Town and Country Planning, Punjab, (vi) Chief Administrator, PUDA and (vii) PSPCB with the directions to (1) compile/catalogue information regarding all green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Punjab with requisite details as to (a) location, revenue number, boundaries, measurements etc.; (b) present status regarding plantation/green cover, user, maintenance, and agency deputed for maintenance; and (c) encroachments (including encroachments made by unauthorizedly constructing religious

structures) made on the same with requisite details as to who made the encroachments, when and in which manner and what action has been taken/is to be taken for removal of such encroachments specifically mentioning Court cases decided/pending regarding the same; (2) to get entire such information uploaded on the website of the District Administration and Municipal Bodies for seeking public participation for protection of green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Punjab against any encroachment and also for ensuring proper use and maintenance thereof; and (3) to verify factual position of per capita green cover and assess its adequacy in view of the number of residents and give suggestions for remedial measures required to be taken for proper user, development, maintenance, protection, and improvement of such green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Punjab.

22. The Committee may constitute sub committees, seek reports from concerned administrative officers, NGOs, Civil Societies Environmental Activists or other experts in the field as may be considered appropriate and may also seek complaints from Members of Public. The Member Secretary, PSPCB shall be the Nodal Officer for coordination and compliance and all necessary expenses including travel, boarding, lodging expenses shall be borne by PSPCB. Report may be submitted by the Joint Committee within three months to this Tribunal by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF and also to the Chief Secretary to Government of Punjab who shall place the same before the Government of Punjab for such action on the recommendations of the Joint Committee as may be considered appropriate.

23. We are also of the considered view that the **matter of protection of green areas/public parks/green belts and trees needs proper statutory framework for reservation, development, maintenance and preservation of green areas/parks/greenbelts and protection of trees.** Besides the statutory frame work, appropriate administrative guidelines are also required to be issued for identification, demarcation, development, maintenance and preservation of green areas/parks/green belts and protection of trees in the urban development/colonization schemes/layouts.

24. In the context of increasing environmental air and water pollution, we consider it appropriate to make a suggestion to Government of Punjab to consider the desirability of making suitable amendments in the relevant Rules in this regard. We also find that at present there is no legislation in the State of Punjab for protection of green areas/parks/green belts and trees and **we also consider it**

appropriate to suggest to Government of Punjab to consider desirability of enactment of appropriate legislation on the lines of the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975 and the Delhi Preservation of Trees Act, 1994/the Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976. The Chief Secretary to Government of Punjab is directed to place the above suggestion before the Government of Punjab within two months for such action as may be considered appropriate.

25. In view of the above the present application is disposed of with direction to the Chief Secretary to Government of Punjab to file his affidavit mentioning in detail action taken for issuance of instructions and placing the recommendations of the joint Committee and also the suggestion given by this Tribunal before Government of Punjab as mentioned above before learned Registrar General of this Tribunal, within six months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF, who may, if necessary, put up the matter before this Bench for further directions.”

Status Report dated 16.10.2024 filed on behalf of respondent 3 i.e., NOIDA:

59. Referring to photographs annexed by applicants along with objections dated 07.09.2024, NOIDA has submitted its response to the various photographs as under:

“5. That the photographs annexed by the Applicant at Page No. 17 to 39 of the objection dated 07.09.2024 (Running Page No.1015 to 1037) and the status report with regard to same is being shown in the tabular chart as under:

Photographs annexed with Objection dated 07.09.2024	Status Report regarding the same
Photographs annexed at running Page No.1015.	All the Interlocking tiles shown in photograph has been removed except for two meters wide footpath. Supporting photograph is annexed with instant report.
Photographs annexed at running Page No.1016	Interlocking tiles shown in photograph has been put on soil. There is no concretization. Supporting photograph is annexed with this report.

<i>Photographs annexed at running Page No.1017</i>	<i>Interlocking tiles shown in photograph has been put on Granular Sub-Base. There is no concretization Supporting photograph is annexed.</i>
<i>Photographs annexed at running Page No.1018</i>	<i>Interlocking tiles shown in photograph has been put on soil. There is no concretization. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1019</i>	<i>All the Interlocking tiles shown in photograph has been removed except for two meters wide footpath. Supporting photograph is annexed with instant report.</i>
<i>Photographs annexed at running Page No.1020</i>	<i>Adequate space of 1 mtr. X 1 mtr. has been left around the tree.</i>
<i>Photographs annexed at running Page No.1021</i>	<i>Interlocking tiles shown in photograph has been put on over burnt brick and sand filling. There is no concretization. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1022</i>	<i>Interlocking tiles shown in photograph has been put on Granular Sub-Base. There is no concretization. Supporting photograph is annexed.</i>
<i>Photographs annexed at running Page No.1023</i>	<i>Interlocking tiles shown in photograph has been put on Granular Sub-Base. There is no concretization. Supporting photograph is annexed.</i>
<i>Photographs annexed at running Page No.1024</i>	<i>Adequate space of 1 mtr. X 1 mtr. has been left around the tree.</i>
<i>Photographs annexed at running Page No.1025</i>	<i>Interlocking tiles shown in photograph has been put on Granular Sub-Base. There is no concretization. Supporting photograph is annexed.</i>
<i>Photographs annexed at running Page No.1026</i>	<i>There are two photographs annexed on the said page. In the photograph annexed on the top interlocking tiles has been put on granular sub-base. It is stated that in the photograph shown below concrete tiles has put however on the said place expansion of road is proposed. Further adequate space of</i>

	<i>1mtr. X 1mtr. has been left open. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1027</i>	<i>There are two photographs annexed on the said page. In the photograph annexed on the top concrete tiles has put however on the said place expansion of road is proposed. Further adequate space of 1 mtr. X 1 mtr. has been left open. It is stated that in the photograph shown below interlocking tiles has been put on granular sub-base. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1028</i>	<i>There are two photographs annexed on the said page. Interlocking tiles has been put on granular sub base in the photograph shown on the top while in the photograph shown in the bottom interlocking tiles has been put on soil. There is no concretization. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1029</i>	<i>There are two photographs annexed on the said page. It is stated that removal of interlocking tiles on both places in the photographs is proposed except two meter wide footpath.</i>
<i>Photographs annexed at running Page No.1030</i>	<i>There are two photographs on the said page. Adequate space of 1 mtr. X 1mtr. has been left open and removal of C.C. is proposed on the place shown in the top the page, while on the place shown in the bottom of page, Removal of interlocking tile is proposed except two meter wide footpath.</i>
<i>Photographs annexed at running Page No.1031</i>	<i>Interlocking tiles has been put on Granular Sub-Base the place shown in photograph. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1032</i>	<i>There are two photographs annexed on the said page. Interlocking tiles has been put on soil in the photograph shown on the top while in the photograph shown in the bottom</i>

	<i>interlocking tiles has been put on granular sub-base. There is no concretization. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1033</i>	<i>There are two photographs annexed on the said page. It is stated that interlocking tiles on granular sub base has put on the place shown in the top of the page, while on the place shown in the bottom of page, tiles has been removed. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1034</i>	<i>Interlocking tiles on granular sub base has been put on the places in photograph. There is no concretization. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1035</i>	<i>Interlocking tiles on granular sub base has been put on the places in photograph. There is no concretization. Supporting photograph is annexed with this report.</i>
<i>Photographs annexed at running Page No.1036</i>	<i>Adequate space around the trees are left open.</i>
<i>Photographs annexed at running Page No.1037</i>	<i>Interlocking tiles on the places shown in the photograph has been put on soil. There is no concretization. Supporting photograph is annexed with this report.</i>

60. It is further said that NOIDA would remove concretization if the same is brought to its notice and wherever it was found and pointed out by applicants to have continued, contrary to the relevant guidelines and judgment of Tribunal, the same have been removed.

Additional Reply filed vide e-mail dated 07.11.2024 by respondent 4 i.e., G NOIDA:

61. Here again, reply to the complaint of applicants with regard to certain areas where excessive concretization/concretized tiles have continued, has been responded and respondent 4 has said as under:

(i). As regards the photograph on page 1038 and the 1st photograph on the Pg.1040, the answering Respondent places on record photographs with a comparative closer look to show that there is no concretization or inter-locking tiles around the trees. The photograph is of the surrounding of the Stadium. As is visible in the photograph at page 1038 of the Objections filed by the Applicants and also the photographs now filed as ANNEXURE R-4/ 1 to this Additional Reply, there is a central verge, which is open and covered by grass. So far as laying of inter-locking tiles on the left side of the photograph is concerned, it is submitted that the same has been covered, so as to ensure this road side can be used for parking of vehicles coming to the Stadium otherwise excessive dust would be generated on account of plying and parking of vehicles. This would also leave scope for widening of the service road. A portion with the inter-locking tiles is part of the road and not part of the Green along side the road and whenever need arises, the width of the road can be increased, obviating the allegation of conversion of green open space into a road. Laying of inter-locking tiles on this area would minimise generation of dust particles, which will help in maintaining ambient quality of air. Removal of the inter-locking tiles alongside this road, would not only cause dust pollution but also expose the outside edges of the road from caving in and in case of need, provide additional width to the existing road.

(ii). As regards the photographs at page 1039 of the Objections filed by the applicants, it is submitted that the inter-locking tiles are being removed from the service lane. In this regard, the answering Respondent annexes a photographs of the same area (as on page 1039 of the Objection) which is marked as **ANNEXURE R-4/2** to the Additional Reply. The work has slowed down due to steep rise in AQI in an around the NCR, which includes the city of Greater Noida.

(iii). As regards the 2nd photographs on page 1040 and 1041, the answering Respondent places on record photographs with a comparative closer look to show that there is no concretization or even inter-locking tiles around the trees. This area is Knowledge Park-4 and not Knowledge Park-2 as shown by the Applicants. As is visible in the photographs at page 1040 (2nd photograph) and 1041 of the Objections filed by the Applicants and also the photographs now filed as **ANNEXURE R-4/3** to this Additional Reply, there is a central verge, which is open and covered by grass. So far as laying of inter-locking tiles on the left side of the photograph is concerned, it is submitted that the same has been covered, so as to ensure that there is no excessive dust being generated on account of plying of vehicles and for the time being leaving scope for widening of the road. A portion with the inter-locking tiles is part of the road and not part of the Green along side the road and whenever need arises, the width of the road

can be increased, obviating the allegation of conversion of green open space into a road. The laying of inter-locking tiles is with a view to minimize generation of dust particles, which will help in maintaining ambient quality of air. The area behind the wall on the right side of the photograph is Park. The laying of inter-locking tiles serves as Parking space to the Visitors coming to the Park. Removal of the inter-locking tiles alongside the road, would not only cause dust pollution but also expose the outside edges of the road from caving in and in case of need, provide additional width to the existing road.

It is again clarified that the 2nd photograph at page 1040 and Page 1041 do not correctly depict the area as Knowledge Park-2. This area is actually Knowledge Park-4, which fact can be verified from the two Chimneys, which are visible in the middle of the photograph. The answering Respondent has taken an adequate care about maintaining the Green at the central verge and also sides, where full grown trees can be noticed. In fact, grass is also seemed to be growing at certain places in the photographs at page 1040 on the pavement along side the road, which has inter-locking tiles.

(iv). As regards the Photograph on Page 1042 of the Objection is concerned, it is submitted that this area is in Noida and not Greater Noida.”

62. Respondent 4 has reiterated in para 5 that its is complying and adhering to the mandate of UP State Government’s Order dated 23.08.2018 and wherever necessary only perforated tiles, fly ash bricks etc. as permissible are used for bare minimum footpath and remaining portion is being left vacant for plantation of grass, shrubs etc. and this is for mitigating generation of dust so as to avoid air pollution and percolation of water into ground is also being ensured. It is further said that orders have already been issued that there should be no concretization along the road anywhere in G NOIDA and wherever existed the same be immediately removed.

63. **Tribunal’s Order dated 17.10.2024:** On 17.10.2024, Tribunal while hearing the matter, found that there was a contradiction in the stand of NOIDA i.e., respondent 3 in as much as in its reply dated

24.09.2022 in para 4, it has said that it has not carried out any concretization on the roadside while the fact is otherwise hence, Tribunal required NOIDA to show cause as to why action be not taken against it for making a false statement observing that the record shows that concretization has still continued.

I.A. No. 555/2024 in the nature of reply by respondent 3 (NOIDA) filed vide e-mail on 08.11.2024:

64. NOIDA in its reply has stated in para 5 has stated in para 5 to 7 as under:

- “5. *It is submitted with great respect that the total area of Noida Authority is about 203 square kilometers divided into more than 168 sectors and therefore in such circumstances it is quite possible that despite of the best efforts made by the Authority some concretized places might have been left. However, the Respondent No.3/Noida Authority is always ready and willing to remove any concretization which is brought to its notice. The Authority is bound to absolutely comply with the directions of this Hon'ble Tribunal, however at the same time, this Tribunal may appreciate that removing of entire concretization from road side and road berms from the total area and every nook & corner of Noida, may not be a practical solution as it leads to several complication as there cannot be any one-size-fits-all formulae for all the roads of Noida as it depends on various supervening circumstances, including traffic loads, human population load, size of the road, pollution due to dust, pedestrian safety etc.*
6. *That the authority most respectfully request this Hon'ble Tribunal to kindly appreciate the practical concern of traffic and pedestrians, which clearly seems to have completely missed the attention of applicant, however, well his concern might be. From the traffic hazard point of view, very often Road traffic, by accident or otherwise tends to spillover onto the off road from the black tarred portion, which needs immediate stability of vehicle or else the same could lead to over turning of vehicle leading to fatalities. This is a global Phenomena and well established safety precaution in road construction and therefore some marginal concretisation of the off road portion of road become absolutely necessary for vehicle and pedestrian safety. The applicant in its concern for ecology and water*

seepage has given a complete go by to the practical and legal concerns of vehicular traffic and pedestrian. Therefore, while Noida is ready & willing to comply with the directions of this Hon'ble Tribunal as it may be directed for any particular area, sector, road etc., subject to this Hon'ble Tribunal been kindly mindful of the **practical exigency of road/pavement constructions and safety, which are as per globally prevalent standards.**

7. Further, it is most respectfully submitted that during the month of Oct-Feb, which are the most pollution prone months of North India, the Supreme Court monitored environmental committee routinely come out with GRAP (Graded Response Action Plan) recommendations which invariably mandates off-roads section to be not left dust prone, but rather be concretised/tiled, so as to avoid dust particles in the air contributing to air pollutions. This would again be at complete variance to the wish list of the applicant.
8. That the Respondent No.3/Noida Authority most respectfully, in response to the above said show cause notice issued vide order dated 17.10.2024 and the observations made therein, begs to submit as herein under:
 - I. That from the order dated 21.08.2024 passed by this Hon'ble Tribunal it is apparent that the first ground for not allowing the relief prayed in the interim stay application (I.A. No.115/2022) was that the relief sought in the said interim application was virtually similar to the reliefs prayed for in the final reliefs. Further, this Hon'ble Tribunal, was of the view that since the pleadings were complete and the matter was also ready for hearing and the issue involved required consideration on merit, as such this Hon'ble Tribunal observed that there was no occasion to pass any such interim relief at that stage. This Hon'ble Tribunal also noted that in any case, both the Noida as well as the Greater Noida Authority have filed their reply wherein they have denied any kind of concretization of the road side & road berms.
 - II. That the relevant portion of the order dated 21.08.2024 vide which the I.A. No.115/2022 has been rejected by this Hon'ble Tribunal is being reproduced herein below for the ready reference:
 - “2. Virtually the reliefs sought in this application are one of the final reliefs sought in Original Application.

3. *In any case, respondents Greater Noida authority, (hereinafter referred to as ‘G Noida’ and New Okhla Industrial Development Authority (hereinafter referred to as ‘Noida’) have filed their replies stating that they are not gone for any concretization in violation of Government Order and wherever the concretization was done that has been removed. Since the issue requires to be consideration on merit and the pleadings are complete and matter is ready for hearing, therefore, we do not find any occasion to pass an interim order at this stage, interlocutory application is accordingly rejected.”*

III. *Thus, from the aforesaid, in the humble submission of Noida, the issuance of show cause notice on the ground that Noida have made false statement which resulted into rejection of I.A. No.115/2022 is not entirely contextual, inasmuch as it is not the case that I.A. No.115/2022 has been rejected by this Hon’ble Tribunal merely relying on the statement of the Respondent No.3/Noida Authority.*

IV. *That in any case the averment/statement made by the Noida Authority in its reply dated 24.09.2022 was purely contextual in the sense that no concretization had been made at the specific places alleged in the Original Application and in no case it was a general and sweeping statement about the length & breadth of Noida.*

V. *That the Respondent No.3/Noida Authority have never concealed any fact or made a false promise before this Hon’ble Tribunal. It is submitted that **places where concretization to some extent has been found has been. fairly accepted by the Noida Authority (Refer Status Report dated 16.10.2024 filed by the Noida Authority).***

*Further, not only such sporadic incident of concretization has been accepted by the Noida Authority but the **Noida Authority has also always been ready and willing to remove such concretization immediately.***

VI. *That the photographs mentioned in para 2 of the order dated 17.10.2024 has been placed by the Respondent No.3/Noida Authority itself, which shows that nothing has been concealed by the said Authority. It is submitted that the **photographs mentioned in Para 2 of the order dated***

17.10.2024 pertains to a private house situated in Sector 29, Noida wherein there is concretization outside the said house. A bare perusal of the said photographs would show that **no concretization has been done by the Noida Authority as shown in the photograph rather the same has been done by the house owner of that particular house shown in that photograph.** In any case, the Noida Authority binds itself to remove the said concretization if it falls onto the Public road portion. Further, noida has removed concretisation from the golf course service road in foot-path of sector-74.

- VII. That the total length and breadth of Noida Authority is about 203 square Kilometer divided into more than 168 sectors and therefore in such circumstances **it is quite possible that despite the best efforts made by the Authority some concretized places might have been left.** However, it is submitted that the Noida Authority is always ready and willing to remove any concretization which is brought to its notice and is unconditionally bound by the orders of this Hon'ble Tribunal.
- VIII. That it is a matter of record that **by and large there is no contemporaneous concretization in Noida nowadays and only interlocking tiles on granular sub-base has been put in place which is permissible in terms of Government Order dated 23.03.2018 and dated 17.02.2020.** It is submitted that putting interlocking tiles on granular sub-base has been permitted by this Hon'ble Tribunal vide its various orders passed from time to time.
- IX. That it is also a matter of record that the Noida Authority have not concretized roadside even after rejection of the said I.A. No.115/2022 and nor will concretize any further during the pendency of the above captioned O.A. No.363/2022. It is submitted that undisputedly the Respondent No.3/Noida Authority have not gained any sort of benefit pursuant to rejection of I.A. No.115/2022 by this Hon'ble Tribunal.
- X. Lastly, it is submitted most respectfully that **the present CEO has joined Noida only in July, 2023 and the person, who signed the reply dated 24.09.2022, Shripal Bhatti has since been superannuated on 30.08.2024.**

7. *That in view of the submissions made herein above it is most humbly and respectfully submitted that there had been no ill-intention nor there could be any intention of Noida to make a false statement before this Hon'ble Tribunal. **Noida tenders its unconditional apology** for the same and undertakes to be cautious in the future."*

65. Considering the issue of incorrect statement made by NOIDA in the light of explanation rendered, we find it appropriate not to proceed further in this matter with a warning that in future, the authority shall be more cautious in making a statement in Court.

66. Now coming to the merits of the matter, it cannot be doubted that conservation of ground water recharge in various ways has been attempted to be ensured, by various authorities from time to time by issuing several directions.

67. In April 2001, UP State Government issued Guidelines for the purpose of conservation of ground water recharge and made provisions for protection of water bodies and also construction of Rain Water Harvesting. It is said that in urban areas, natural water bodies be identified and for their compulsory protection, provisions should be made in Master Plan/Zonal Development Plans. The area within water bodies should not be allowed to be used for any other purpose. Drainage system should be made effective by use of Rain Water Harvesting in maintenance of water bodies but industrial effluents shall be discharged only after its treatment. In layout plans of 20 acres and more area, 5% of the land should be ensured for water bodies so that ground water may be recharged. The minimum area of such water body must be 01 acre and depth of 06 meter. In the park/green belt, as per the prescribed standards, recharge wells/recharge tanks should be constructed on the

site. Geological/ hydrogeological/ hydrological survey should be conducted before a new plan/scheme so that as per the local requirement, ground water recharging arrangement may be made. In the park, no permanent construction (permanent pavement) should be made on an area beyond 5% and as far as possible, footpath and tracks should be constructed with permeable or semi-permeable perforated blocks. In the plots of 1000 square meters or more and in all group housing societies, run-off water should be collected so as to be used for ground water recharge and similar arrangements should be made in open areas of Government bodies including roads. Roof top rain water harvesting and recharge system should be applied in already constructed Government buildings and requisite funds be arranged by all the departments through their own programmes. The plants should be selected in such a way as they require minimum water and remain green in summer season by consuming less water. If possible, the sites of roads should be kept kacha/unpaved or brick-on-edge” or “loose stone pavement” should be used so that ground water recharging may be allowed.

68. An action plan was prepared by Ministry of Urban Development on 02.09.2013 for flood proofing of cities/towns and its content, we have already noticed above.

69. State Government of UP further issued an order on 23.03.2018 to give effect to the recommendations of the Committee constituted by District Magistrate, Ghaziabad pursuant to this Tribunal’s order dated 02.09.2015 passed in **OA 165/2013 (supra)** and decision taken by Government in light of the recommendations, has already been noticed

above. Besides other, Government had taken a decision that stabilized soil, coarse sand and granular sub-base should be prioritized in pathways and stoppable surfaces in parks. Further, construction of outer walls of parks, footpaths, platforms, seating arrangements etc. should not exceed 5% of the total available area. With regard to 'road edges', State Government Order dated 23.03.2018 said that only perforated blocks/fly ash bricks/stones etc. should be used on both side of roads along with footpath edges upto a maximum of 0.50 meters width and where roads along with footpaths have been proposed, only perforated tiles/fly ash bricks/stones should be used on the footpath. Where footpaths have been proposed, arrangements should be made for proper drainage of rain water/storm water through interlocking tiles/paving blocks. The maximum width of footpaths should not exceed 1.50 meters. Roads should have open drains, culverts and other drainage facilities.

70. The above Guidelines of UP State Government had been concurred by MoEF&CC, as stated before Tribunal in **Execution Application No. 37/2017** in **OA 165/2013 (supra)** and noticing the said stand, Execution Application was disposed of vide order dated 30.07.2018.

71. Ministry of Urban Development and Poverty Alleviation, Government of India has also issued an Office Memorandum dated 21.07.2000, circulating Guidelines for greening of urban areas and landscape and the relevant contents thereof have already been noticed above.

72. Concretization in a larger way increases impervious layer leading to reduction in ground water recharge or no ground water recharge and also results in wastage of run-off. It also affects bio-diversity by damaging eco-

system and ecological complex of the soil. Soil is a habitat and storehouse to a vast diversity of micro and macro organisms, which are vital in nutrient cycles, soil fertility and other ecological functions. These micro and macro organisms within the soil, in turn support a huge diversity of various species of birds and other organisms by acting as their prey-base. Soil concretization obviously causes complete loss of bio-diversity of the soil. We have already noticed that concretization creates heat islands, tends to reflect heat back into atmosphere resulting in climate warming and also reflects the harmful long-wave infrastructure radiations. Concretization of roadsides and roadberms therefore, has been discouraged from time to time and various orders have been passed by Tribunal, as have been discussed above.

73. It is true that in urban development every “i’s” and “dots” are not to be checked and it is appropriate if substantial compliance has been observed particularly, except in the cases where minor deviation is necessary on account of relevant factors like number of footfalls, traffic, area size etc., otherwise substantial compliance if made by the authorities, then there would be no occasion to raise any complaint of violation of the Guidelines issued against concretization.

74. The issue of plantation and maintenance of green belt in urban areas as also along the highways and wherever applicable necessary for greater recharge of ground water and for protection of environment has been considered by Tribunal time and again in various matters. Some of such authorities, we have already noticed above.

75. In **OA 386/2016, Society for Protection of Culture, Heritage, Environment, Tradition & Promotions of National Awareness**

(CHETNA) vs. National Highway Authority of India & Ors. vide order dated 05.09.2017, with regard to plantation of green belt on both sides of roads, maintenance of parks on the boundaries of the Group Housing Societies, Commercial Plots and Government's Offices and Residential Block etc., Tribunal disposed of OA by issuing following directions:

- “1. *The Learned Counsel appearing for the National Highways Authority of India submits that it will follow the Green Highways (Plantation, Transportation, Beautification and maintenance) Policy of 2015 in true spirit and substance. Wherever the land abutting the National Highway, roads, State national highway which are under construction under National Highways Authority of India, they will ensure plantation of green belt on both side of the road, wherever the Government land is available to them and wherever they have sufficient land after leaving scope of expansion, they would plant trees.*
2. *The NCT Delhi, State of Haryana and State of Rajasthan are directed to ensure due plantation is done at the Government land which are adjacent/abutting National Highway and such other State highways.*
3. *The State Government and all Local Authorities shall also issue directions to all the Group Housing Societies, Commercial Plots and land that is allotted by the State Government for any office, residential block, that they would plant trees along their boundaries and raise green belts around the buildings.*
4. *The State Government and all local authorities shall also encourage plantation of trees in public park and other places wherever it is possible to plant additional trees to ensure better environment and to provide greater protection to the ambient air quality prevailing in that area.*
5. *Bringing up these trees and their maintenance shall be the responsibility of all their local authorities, societies, etc.”*

76. Later, **Execution Application No.29/2018, Society for Protection of Culture, Heritage, Environment, Tradition & Promotions of National Awareness (CHETNA) vs. National Highway Authority of India & Ors.** was filed in **OA 386/2016 (supra)**. Considering the same

in its order dated 21.05.2019, Tribunal considered Guidelines on landscaping and tree plantation (IRC:SP:21-2009) prepared by Indian Road Congress and Tree Plantation Policy-2015 and observed in paras 9 and 11 as under:

“9. We may note that the 2009 Guidelines purport to give effect to ‘Sustainable Development’ principle of environment. It states that construction of highways result in felling of trees and project proponents need to mitigate environmental loss from all possible angles. Land needed for avenue plantations and landscape improvement must be planned. Width of ROW must be sufficient. Measures for landscape have been suggested in the Guidelines. Tree plantation is to be treated as an important component which should be functional for protection of slopes, providing shade in summer, for aesthetic effects and overall beauty. The Guidelines provide for transplantation of trees and minimum land width for a road. The Guidelines also provide for detailed measures for roadside plantation and maintenance with the purported object of mitigating pollution, providing shade, reducing noise pollution, soil erosion, tree species, plantation patterns etc. The Policy reiterates the 2009 Guidelines. It is acknowledged that roadside plantation is not satisfactory in most of the projects implemented through BOT, DBFOT and public funded projects. The nodal agency for forest areas should be the concerned Forest Officer. In case of public funded projects, the concerned Regional Officer of MoRTH/NHAI should be the nodal agency. In cases where roadside plantation is included in the concession agreement, the concerned concessionaire should be the nodal agency. The policy states that development of green highways was necessary by outsourcing plantation work for which institutional arrangement and financing pattern was laid down with details of plantation scheme and a monitoring agency. MoRTH is to review the Policy from time to time. The Policy also formulates model TOR to offset the loss of trees and other changes. Green corridor development and management rather than highway development is the objective.

xxx.....xxx.....xxx

11. The 2015 Policy provides for the principles to be followed for preparation of the Environment Management Plan, the implementation of the Environmental Monitoring Program, Guidelines for Rehabilitation of Dumpsites, Quarries and Borrow Areas, Guidelines for Siting, Operation and Re-development of Borrow Areas etc. The Guidelines for Rehabilitation of Borrow

Areas clearly provide for indicative rehabilitation measures which could be community water storage facility, recreational water spots, or rehabilitation by re-vegetation of the borrow areas.”

77. Further in para 15, 16 and 18, Tribunal observed as under:

- “15. We may notice that apart from 2009 Guidelines and 2015 Policy, the National Green Highways Mission (NHGM) of MoRTH was initiated in 2016. The task of planning, implementation and monitoring roadside plantation along one lakh kms network was entrusted to NHGM under the NHAI. An App to monitor real-time progress of the plantation operation and its management was also launched. As per reports in public domain, the tree plantation drive is also an intrinsic part of the government’s commitment to the world community at the Paris Climate Change meet (CoP 21) to do more to protect the environment. India has set the Intended Nationally Determined Contributions (INDCs) target of bringing down the Green House Gases (GHG) emissions by 35 percent by 2030. India has a total 46.99 lakh kms of road length, out of which over 96,214 kms are National Highways, accounting for only 2 per cent of total road length. However, the National Highways carry about 40 percent of the automobile traffic load. The NHGM was to develop all of existing National Highways and 40,000 kms of additional roads as Green Highways. As per the NHGM, wherever possible provision would be made for 4-5 metres of roadside plantation. The monitoring of plantation status was also included as an integral part of the Policy. The planting agency was also required to supervise all field operations like site preparation, seed sowing, plantation saplings and quality of planting material used. The monitoring agency was also to follow up the progress on continuous basis and conduct performance audit of the executing agencies for various projects on an annual basis.*
- 16. Problem of PM_{2.5} and PM₁₀ is universal. Steps to limit the said values to the prescribed standards need to be addressed in respect of all highways and not merely National Highways. Green belts are necessary so that environmental norms are maintained. Absence of green belts by not leaving requisite space on the roadside directly results in addition to air quality particularly PM_{2.5} and PM₁₀ which is detrimental to public health. This problem is of more magnitude when highway is passing through cities/towns and therefore making of exception in such areas may not be desirable. Even regulation of existing constructions may need to be considered in the context of ‘Sustainable Development’ in the interest of public health.*

Mandate of maintaining air quality is an overriding factor being part of right to life. Right to property cannot override right to life. The regulatory bodies thus have statutory and constitutional right to deal with the matter.

xxx.....xxx.....xxx

18. *We may note that while National Highways are covered by Entry 23 of List I, State Highways are covered by Entry 13 of List II of 7th Schedule to the Constitution. Subjects of legislation or policy with reference to the said entries may relate to acquiring land or provisions for construction of Highways and other incidental issues. Environment protection is an independent subject. With reference to Entry 13 of List I read with Article 253, the Parliament has enacted Environment (Protection) Act, 1986 for prevention, control and abatement of environmental pollution in pursuance of UN Conference on Human Environment, 1972. The Environmental Clearance Regulations, 2006 framed under Section 3(2) of the said Act require prior environmental clearance for projects mentioned in the schedule to the said regulations. Entry 7(f) of the Schedule relates to Highways. National Highways fall in Category A and State Highways fall in Category B. EIA is required for National Highways from the MoEF&CC and for State Highways from SEIAA. Such environmental clearance is given as per the principle of ‘Sustainable Development’. Even though National Highways Act, 1956 and the Control of National Highways (Land and Traffic) Act, 2002 deal with the subject of highways, the environmental clearance can and must lay down suitable conditions for protection of environment which could be over and above the statutory mandate of Highways Act or the Policies/Guidelines of the Ministry of Road Transport or the Highway Authority. Concept of ‘Sustainable Development’ apart from being enforceable under Section 20 of the NGT Act, it is also a component of Article 21 of the Constitution and thus is required to be read into every Statute or Policy. This requirement is inherent. Moreover, scope of Entry 7 (f) in the Schedule of the 2006 notification does not cover every Highway while environment issues relate to constructions on sides of Highways and access to the Highways. The MoEF&CC in co-ordination with the MoRTH is thus required to consider the question of access to Highway not being allowed directly but only through bylanes/exit lanes, distance being maintained between the Highway and any other construction. Sufficient area must be left on the sides of the Highways, not only for expansion but also for plantation of trees. Plea that such requirement cannot govern Highways on PPP model is unacceptable being contrary to the overarching Principle of ‘Sustainable Development’. Plea that no*

area being specified as being required to be kept vacant on sides of Highways, plantations are required only if space is available cannot be accepted. The mandate of law requires space to be left on the roadsides. Once it is so, extent of such space must be specified. In absence thereof plan for plantation and preventing encroachment and construction on roadside and also preventing direct access to Highway will be difficult to be implemented.”

78. In **OA 346/2019, Environment Protection Society (Regd.) vs. State of Punjab & Ors.**, vide order dated 08.08.2019, Tribunal considered the issue of illegal concretisation of trees and filling up of trees pits with concrete and bitumen at SAS Nagar, Mohali, Punjab. Joint Committee constituted by Tribunal vide order dated 29.03.2019 comprising Director, Town and Country Planning department, Punjab and Principal Chief Conservator of Forest (HoFF), Forest Department, Punjab had submitted a Report making following recommendations:

- “(i) To prevent the damage of the root system of trees the area of 1 meter should be left de-concretized around the base of the trees where ever possible while construction of the pavements or roads to facilitate percolation of water to the roots. The area should be leveled with earth/soil and grass may be planted where ever it is possible. It is also suggested to discourage concretization/tiling of central verge of the roads/pathways.*
- (ii) On narrower roads and paths, as far as possible, unpaved or katcha effective area of at least 1 square meter be left around the trees.*
- (iii) The trees which are already concretized should be de-concretized manually without damaging the roots of the trees.*
- (iv) Due precaution should be taken in future so that no concrete or construction or repairing work is done at least within one meter radius of the trunk of trees. This even should be the part of contracting agreements by the Municipal Corporation/ Concerned local Government.*
- (v) If public demands for the tiling of parking in front of their houses, then the same can be allowed to do by themselves with the conditions of leaving the minimum space around the tree (square meter).*

- (vi) *After removal of malba / concrete material etc., around the trees as the space will be filled with good soil should be carried out simultaneously.*
- (vii) *Maintaining the Enumeration reister of the existing trees by the Municipal Corporation and the same should be updated yearly to have the checks of trees protection.*
- (viii) *The trees which died due to the concretization should be replaced by the Municipal Corporation with the suitable tree species.*
- (ix) *For the effective implementation of the above aspects a Tree Officer can be designated by the Municipal Corporation.”*

79. Tribunal accepted the said recommendations and directed the authorities concerned to act upon the same and disposed of OA.

80. **OA 62/2021, Kapil Dev vs. State of Punjab & Ors.** also raised a similar issue i.e., cement concrete around the tree bottom/base. Referring to Tribunal's orders dated 23.04.2013 passed in **OA 82/2013, Aditya N. Prasad vs. Union of India & Ors.** and dated 08.08.2019 in **OA 346/2019, (supra)**, Tribunal directed the authorities concerned to act in accordance with law and disposed application vide order dated 10.03.2021.

81. In **OA 131/2021, H.C. Arora vs. State of Punjab & Ors.**, grievance of concretisation on roadsides preventing percolation of water into ground was considered. Referring to its earlier orders passed in **OA 346/2019 (supra)**, **OA 62/2021 (supra)** and **OA 386/2016 (supra)**, Tribunal vide its order dated 23.06.2021 observed that the authorities concerned shall take appropriate action in accordance with law.

82. In **832/2022, Dharmesh Sharma & Anr. vs. State of H.P.**, concretisation of trees at roadside obstructing percolation of water

causing damage to environment was considered. Relying on earlier judgments in **OA 346/2019 (supra)**, **OA 62/2021 (supra)** and **OA 82/2013 (supra)**, Tribunal directed the authorities concerned to take action accordingly and disposed of the matter vide order dated 06.01.2023.

83. Issue of construction raised in park was considered by Tribunal in **OA 292/2023, Amandeep Singh Bains vs. The Municipal Commissioner of Ludhiana**. In its order dated 14.05.2024, Tribunal relied on the law laid by Supreme Court in **Municipal Corporation, Ludhiana & Anr. vs. Balinder Bachan Singh & Ors., (2004) 5 SCC 182**, **Padma vs. Hiralal Motilal Desarda & Ors., (2002) 7 SCC 564**, **Bangalore Medical Trust vs. B.S. Muddappa & Ors. (1991) 4 SCC 54** and **SLP (C) No.8519/2006, Union of India & Anr. vs. State of Gujarat & Ors., (2010) 15 SCC 664** and observed in para 19 as under:

“19. In view of the above pronouncement, it is clear that the green areas/parks are required to be preserved and protected and no unauthorised structures in contravention of law can be permitted to erect.”

84. Placement of iron guards for protection of trees and raising of brick walls obstructing ground water recharge was considered by Tribunal in **OA 1272/2024, Mahesh Chandra vs. State of Uttarakhand** and relying on its earlier orders in **OA 386/2016 (supra)**, **OA 346/2019 (supra)**, **OA 82/2013 (supra)**, **OA 62/2021 (supra)** and **OA 131/2021 (supra)**, OA was disposed of vide order dated 22.11.2024 issuing following directions:

“13. In view of the above, we direct Municipal Corporation, Dehradun; Mussoorie Dehradun Development Authority; District Magistrate, Dehradun; Uttarakhand State Pollution Control Board; Divisional Forest Officer, Dehradun to look into the matter and ensure that concretization/tiling of pavements should not be in such a way

so as to effect growth of trees and also natural recharge system of groundwater; sufficient space is left of green cover in the greenbelts also and there should not be entire concretization or placement of impermeable tiles in such areas.”

85. Thus, consistently this Tribunal has shown its concern of taking steps for recharge of ground water and against concretization of roadside, roadberms around trees etc. In the present case, the facts discussed above show that both the authorities i.e., respondents 3 and 4 have taken a categorical stand that they are abiding UP State Government's Orders dated 23.03.2018 and 17.02.2020. There is also common stand of both authorities that wherever pointed out, they have removed concretization and are permitting/using interlocking tiles on granular subways as permitted. Looking to the vast area under their administrative and territorial jurisdiction, if in any particular area, some deviation is pointed out, they are ready to remove thereat also but in some places, considering the exigency of the roads, pavement construction and safety as also the traffic load of pedestrian etc., some concretization is necessary, and the same cannot be taken to be a violation of Guidelines issued by the authorities and directions issued by this Tribunal. We find substance in the above submissions. Since in the present case, substantial compliance has already been shown by the authorities i.e., NOIDA and G NOIDA, we do not find that any further direction is required to be issued. However, looking to the importance of the issue, we reiterate that in general, all the local bodies and authorities in development of urban areas or for construction of road, roadberms, footpath etc., shall follow the Guidelines issued by various authorities and also the directions issued by this Tribunal against indiscriminate concretization and for use of permeable tiles or semi-permeable tiles etc. as also the protection of trees by keeping adequate area around it non-concretized to ensure healthy growth of

trees and its survival for longer period, shall be complied with and observed in words and spirit. The Guidelines issued by UP Government cover substantial aspects and conform the basic Guidelines of the States/UTs, till different Guidelines are issued by any concerned State/UT.

86. We are issuing these directions PAN India and a copy of this order shall be communicated to all the Chief Secretaries of States and Union Territories and State Pollution Control Boards/Pollution Control Committees for necessary action and compliance.

87. We also give liberty to applicants in the present case, if they find that without any valid justification, unjustified concretization is still continuing, the same may be pointed out to the authorities of respondents 3 and 4 and they shall take needful steps for remediation.

88. With the above directions, this OA is disposed of.

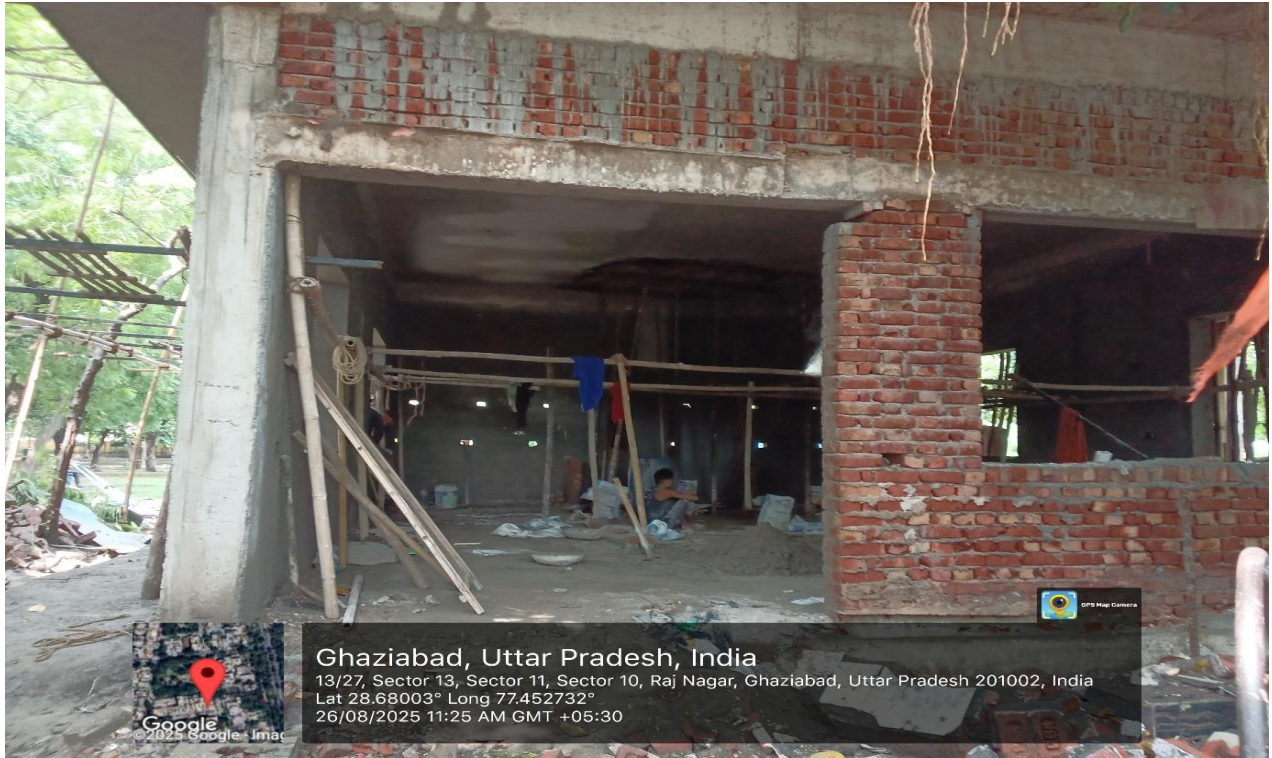
89. Pending IA also stands disposed of.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

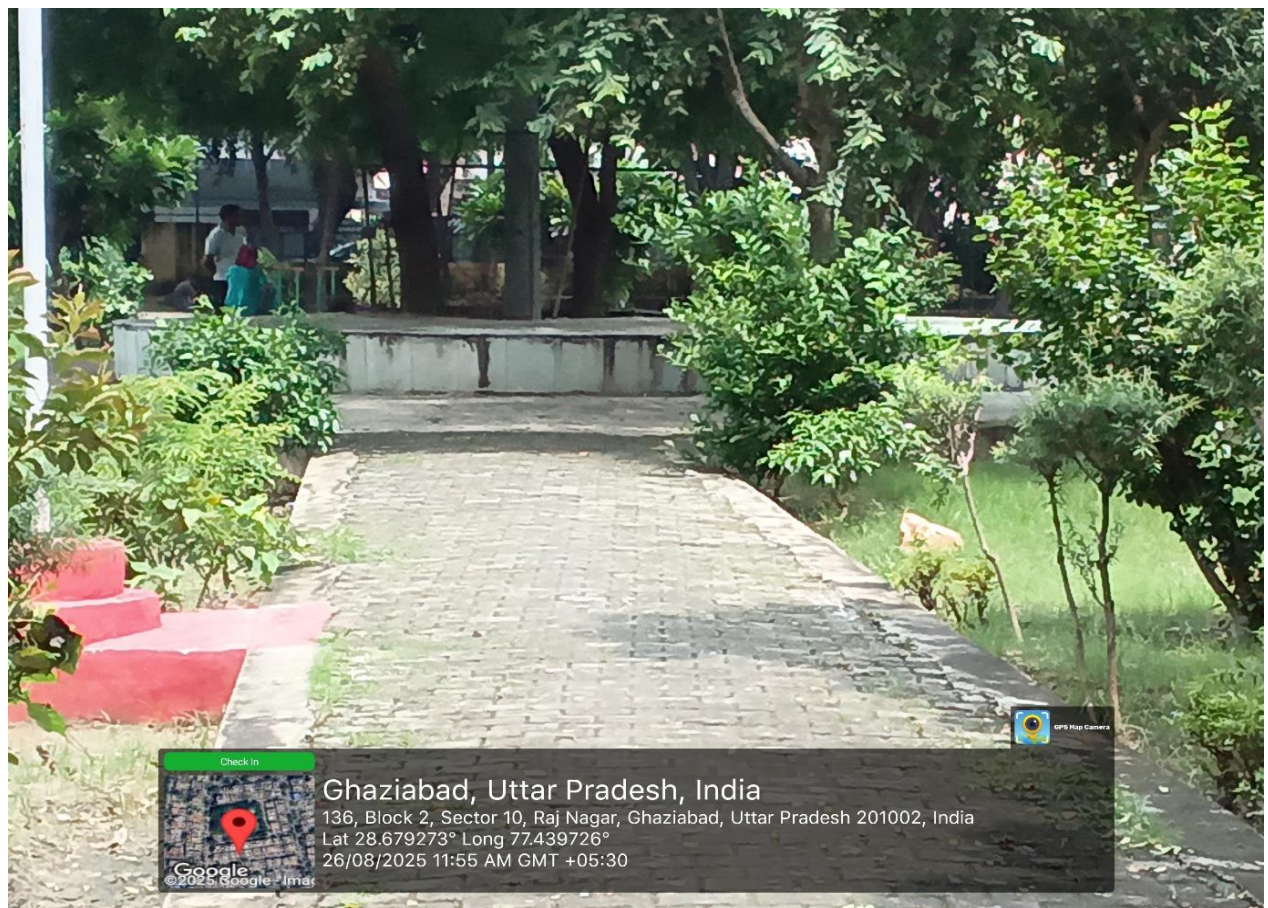
May 21, 2025
Original Application No.363/2022
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ANNEXURE AA-2



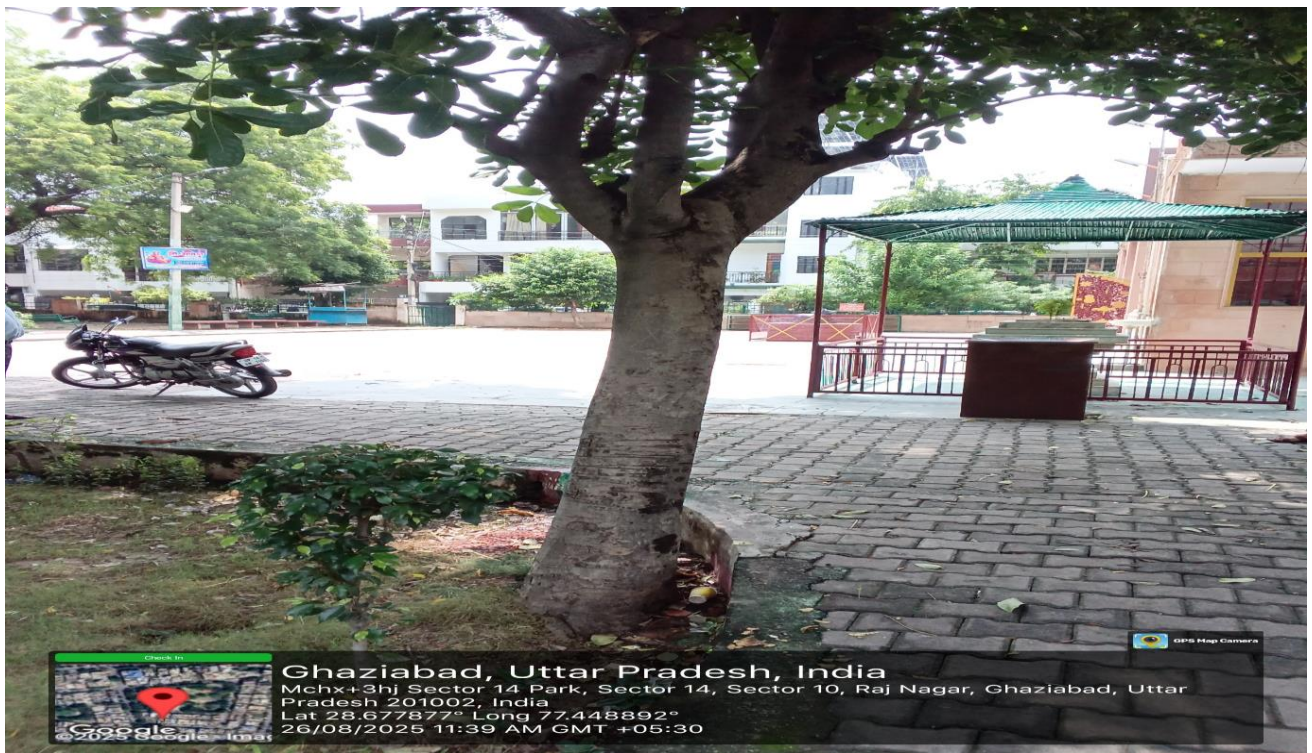




















CONCRETIZATION ALONG ROADSIDES









**THE UTTAR PRADESH URBAN PLANNING AND DEVELOPMENT
ACT, 1973¹**

[PRESIDENT'S ACT NO. 11 OF 1973]

**AN
ACT**

to provide for the development of certain areas of Uttar Pradesh according to plan and for matters ancillary thereto.

[It is hereby enacted as follows :-]²

**CHAPTER I
PRELIMINARY**

- | | |
|------------------------|--|
| Short title and extent | 1. [(1) This Act may be called the Uttarakhand Urban and Country Planning and Development Act, 1973 to the context of the State of Uttarakhand.] ³
(2) It extends to the whole of Uttar Pradesh, excluding Cantonment areas and lands owned, requisitioned or taken on lease by the Central Government for the purpose of defence. |
| Definitions | 2. In this Act, unless the context otherwise requires :-
(a) "amenity" includes road, water supply, street lighting drainage, sewerage, public works and such other convenience as the State Government may, by notification in the Gazette specify to be an amenity for the purposes of this Act;
(b) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes whether in actual use or not;
(c) "building operation" includes rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken in connection with the construction of buildings;
(d) ["bye-law" means a bye-law made under this Act by Uttarakhand Housing and Urban Development Authority (hereinafter referred to as the State Authority) or the Local Development Authority with the previous approval of the State Government;] ⁴
[(dd) 'Chairman' and 'Vice-Chairman' means the Chairman and the Vice-Chairman respectively of the Development Authority;] ⁵
[(ddd) "City development charge" means the charge levied on a private developer under section 38-A for the development of land;] ⁶
(e) "development" with its grammatical variations, means the carrying out of building, engineering, mining or other operations in on over or under land or the making of any material change in any building or land and includes re-development; |

1. Enacted by the President of September 2, 1973 and published in the U.P. Gazette, Ext
2. Subs. by U.P. Act No. 30 of 1974.
3. Subs. by section 2 of Uttarakhand Act No. 25 of 2013.
4. Subs. by section 3 (a) ibid.
5. Subs. by section 3 (b) ibid.
6. Ins. by section 3 (c) ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 2]

- (f) “development area” means any area declared to be a development area under section 3;
- (g) [the Development Authority or the Authority” in relation to the whole of the State Area shall be 'The Uttarakhand Housing and Urban Development Authority' (hereinafter referred to as the State Authority) and in relation to any development area shall be the Local Development Authority (hereinafter referred to as the Local Authority) constituted and notified under section 4 of the Act :

Provided wherever in this Act the word “Authority” appears, it shall be construed as the Local Authority until and unless expressly provided as the State Authority :

Provided further that the Urban Local Bodies and Village Panchayats will also be construed as Local Development Authority/ Local Authority under this Act if so declared by the State Government by issuing Notification under sub-section (1-A) of section 4 of this Act defining the extent of their development area(s). Concerned Officer/ person of such Urban Local Bodies and Village Panchayats shall exercise powers as determined by the State Government by the Gazette Notification under sub-section (1-A) of section 4 of this Act.]²

- [(gg) “Development Authorities Centralized Service” means a Centralized service created under section 5-A;]¹
- [(ggg) “development fee” means the fee levied upon a person or body under section 15 for construction of road, drain, sewer line, electric supply and water supply lines in the development area by the Local Development Authority;]³
- [(gggg)“Development Plan” means the Master Plan or Zonal Development Plan approved and published by the State Government under section 12 of the Act;
- (ggggg) ‘Chief Town and Country Planner’ means the Head of the Town and Country Planning Department of the State Government;]⁴
- (h) “engineering operations” includes the formation or laying out means of access to a road or the laying out of means the water supply;
- [(hh) “land use conversion charge” means the charge levied on a person or a body under section 38 –A for the change of land use in the Master Plan or the Zonal Development Plan;
- (hhh) 'license fee' means the fee levied on a private developer under section 39-B seeking license for assembly and development of land within the development area;]⁵
- (i) “means of access” includes any means of access, whether private or public, for vehicles or for foot passengers and includes a road;

1. Subs. section 2 by U.P. Act No. 21 of 1985.

2. Subs. by section 3(d) of Uttarakhand Act No. 25 of 2013.

3. Subs. by section 3 (e) *ibid*.

4. Ins. by section 3(f) *ibid*.

5. Ins. by section 3 (g) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 2]

- [(ii) “mutation charges” means the charges levied under section 15 upon the person seeking mutation in his name of a property allotted by the Authority to another person;]¹
- [(iii) “private developer” means an individual, company or association, body of individuals whether incorporated or not, owning or assembling or agreeing to own or assemble, whether by purchase or otherwise, land for development and to whom a license has been granted under section 39-B of this Act;]⁴
- (j) [“regulation” means a regulation made under this Act by the State Authority or the Local Development Authority with the prior approval of the State Government;]⁵
- (k) [“rules” means a rule made under this Act by the State Government or the State Authority;]⁶
- [(kk) “stacking fees” means the fees levied under section 15 upon the person or body who keeps building materials on the land of the Authority or on a public street or public place;]²
- (l) “to erect a building”, with its grammatical variations includes :-
- (i) any material alteration or enlargement of any building ;
 - (ii) the conversion, by structural alteration—
 - (a) of a building not originally constructed for human habitation into a place for human habitation; or
 - (b) into more than one place for human habitation, of a building originally constructed as one such place; or
 - (c) of two or more places of human habitation, into a greater number of such places;
 - (iii) such alterations of a building as effect an alteration of its drainage or sanitary arrangements or materially affect its security;
 - (iv) the addition of any rooms, buildings, houses or other structure to any building; and
 - (v) the construction, in a wall adjoining any street or land not belonging to the owner of the wall of a door opening on to such street or land;
- [(ll) “water fees” means the fees levied under section 15 upon a person or body for using water supplied by the Authority for building operation or construction of buildings;]³

1. Ins. by section 2 (b) of U.P. Act No. 3 of 1997.

2. Ins. by section 2 (c) *ibid*.

3. Ins. by section 2 (d) *ibid*.

4. Ins. by section 3 (h) of Uttarakhand Act No. 25 of 2013.

5. Subs. by section 3 (i) *ibid*.

6. Subs. by section 3 (j) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 3-4]

- (m) “zone” means any one of the division in which a development area may be divided for the purposes of development under this Act;
- (n) the expression “land” has the meaning assigned to it in section 3 of the Land Acquisition Act, 1894.

CHAPTER II

The Development Authority and its Objects

- | | | |
|----------------------------------|----|--|
| Declaration of development areas | 3. | <p>If in the opinion of the State Government any area within the State requires to be development according to plan it may by notification in the Gazette declare the area to be a development area :</p> <p style="padding-left: 40px;">[Provided any area covered under the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) (as applicable in the State of Uttarakhand) is declared as a Development Area under this Section, the provisions of the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) shall stand repealed for the said area.]¹</p> |
| The Development Authority | 4. | <p>[(1) The State Government may by notification in the Gazette constitute for the purposes of this Act, an authority to be called the 'Uttarakhand Housing and Urban Development Authority' for all the development areas in the State with headquarter at such place as the State Government may specify and Local Development Authority for any development area.]²</p> <p>[(1-A) The State Government may by notification in the Gazette declare the Urban Local Bodies and Village Panchayats as Local Development Authority/ Local Authority defining the extent of their development area. The State Government by the said Notification may also define the powers of such Local Authorities and define the designations of the persons/ officers to exercise the powers under this Act. The State Government may also declare/ designate/appoint the Chairman of such Local Development Authorities under this Sub Section for the purpose of exercising the powers under this Act. Such Urban Local Bodies and Village Panchayats declared as Local Development Authority under this sub section, shall act for the purpose of development as per the provisions of this Act.</p> <p>(1-B) The existing Board of such Urban Local Bodies and Village Panchayats, shall be deemed to be the Board of the Local Development Authority/Local Authority under this Act to the extent of the powers delegated to them under sub-section (1-A) of section 4.]³</p> <p>(2) The [Uttarakhand Housing and Urban Development Authority/ State Authority or the Local Development Authority]⁴ shall be a body corporate, by the name given to it in the said notification, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.</p> |

1. Added by section 4 of Uttarakhand Act No. 25 of 2013.

2. Subs. by section 5 (a) ibid.

3. Added by section 5 (b) ibid.

4. Subs. by section 5 (c) ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 4]

- [(2-A) (1) The Uttarakhand Housing and Urban Development Authority or the State Authority shall consist of the following members; namely :--
- (a) The Minister incharge of the Housing Department of the State Government who shall be the Chairman;
 - (b) The Principal Secretary/ Secretary to the Department of Housing of the State Government who shall be the Vice- Chairman;
 - (c) A full time Chief Administrator appointed by the State Government, who shall not be below the rank of Principal Secretary/Secretary to the State Government;
 - (d) A full time Additional Chief Administrator appointed by the State Government, who shall not be below the rank of Additional Secretary/Secretary to the State Government;
 - (e) The Principal Secretary/ Secretary to the Department of Finance of the State Government : ex-officio,
 - (f) Principal Secretary/ Secretary to the Department of Urban Development of the State Government : ex-officio,
 - (g) Principal Secretary/ Secretary to the Department of Planning of the State Government : ex-officio,
 - (h) Principal Secretary/ Secretary to the Department of Forest of the State Government : ex-officio,
 - (i) Principal Secretary/ Secretary to the Department of Tourism of the State Government : ex-officio,
 - (j) Principal Secretary/ Secretary to the Department of Industries of the State Government : ex-officio,
 - (k) The Chief Town and Country Planner of Town and Country Planning Department of the State Government : ex-officio,
 - (l) The Finance Controller of the State Authority to be appointed by the State Government : ex-officio, and
 - (m) such other non official members, not more than two, as the State Government may from time to time by notification appoint.
- The non official members as mentioned in clause (m) above shall hold office during the pleasure of the State Government:
- Provided that such non official member may at any time by writing under his hand addressed to the Chief Administrator resign his office and on such resignation being accepted shall be deemed to have vacated his membership.
- (2) No act or proceeding of the State Authority shall be invalid by reason of the existence of any vacancy in or defect in the constitution of the State Authority.]²
 - (3) The [Local Development]³ Authority in respect of a development area which includes the whole or any part of a city as defined in the [U.P. Municipal Corporations Act, 1959]¹ shall consist of the following members; namely :-

1. Subs. by section 2 (a) of U.P. Act No. 12 of 1994.

2. Added by section 5 (d) of Uttarakhand Act No. 25 of 2013.

3. Ins. by section 5 (e) ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 4]

- (a) a Chairman to be appointed by the State Government;
 - (b) a Vice-Chairman to be appointed by the State Government;
 - [(bb) Secretary of the Local Development Authority to be appointed by the State Government;]⁴
 - [(c) the Secretary to the State Government incharge of the Department in which, for the time being, the business relating to the Development Authorities is transacted, [or any person nominated by him]⁵ ex-officio;]³
 - (d) the Secretary to the State Government, incharge of the Department of Finance, [or any person nominated by him]⁵ ex officio;
 - (e) the Chief Town and Country Planner, Uttar Pradesh, [or any person nominated by him]⁵ ex-officio;
 - [(f) the Managing Director of the Jal Nigam, established under the Uttar Pradesh Water Supply and Sewerage Act, 1975 [or any person nominated by him]⁵ ex-officio;]²
 - (g) the Mukhya Nagar Adhikari [or any person nominated by him]⁵ ex-officio;
 - (h) the District Magistrate of every district or any part of which is included in the development area, [or any person nominated by him]⁵ ex-officio;
 - (i) four members to be elected by Sabhasads of the [Municipal Corporation]¹ for the said city from amongst themselves :

Provided that any such member shall cease to hold office as such as soon as he ceases to be Sabhasad of the [Municipal Corporation]¹;
 - (j) such other member not exceeding three as may be nominated by the State Government.
- (4) The appointment of the Vice-Chairman [of the local development authority]⁶ shall be whole time.
- (5) The Vice-Chairman shall be entitled to receive from the funds of the [local development authority]⁷ such salaries and allowances and be governed by such conditions of service as may be determined by general or special order of the State Government in this behalf.
- (6) A member referred to in clause (c), clause (d), clause (e) or clause (f) or sub-section (3) may instead of attending a meeting of the [local development authority]⁷ himself depute an officer, not below the rank of Deputy Secretary in the department in the case of a member referred to in clause (c) or clause (d) and below the rank of Town Planner in the case of a member referred to in clause (e) and not below the rank of Superintending Engineer in the case of a member referred to in clause (f), to attend the meeting. The officer so deputed shall have the right to take part in the proceedings of the meeting and shall also have the right to vote.

1. Subs. by U.P. Act No. 3 of 1957.
 2. Subs. by section 2 of U.P. Act No. 19 of 1976.
 3. Subs. by section 3 of U.P. Act No. 21 of 1985.
 4. Added by section 5 (f) of Uttarakhand Act No. 25 of 2013.
 5. Subs. by section 5 (g) ibid.
 6. Ins. by section 5 (h) ibid.
 7. Subs. by section 5 (i) ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 5]

- (7) The [local development authority]¹ in respect of a development area other than that mentioned in sub-section (3) shall consist of a Chairman, a Vice-Chairman and not less than five and not more than eleven such other members, including at least one member from the Municipal Boards and Notified Area Committees having jurisdiction in the development area, who shall hold office for such period and on such terms and conditions, as may be determined by general or special order of the State Government in this behalf:

Provided that the Vice Chairman or a member other than an ex-officio member of the authority may at any time by writing under his hand addressed to the State Government resign his office and on such resignation being accepted shall be deemed to have vacated his office.

- (8) No act or proceedings of the Authority shall be invalid by reason of the existence of any vacancy in or defect in the constitution of the [local development authority]¹.

Staff of the
Authority

5. [(1) The State Government may by notification in the Gazette appoint three suitable persons as the Chief Administrator, Additional Chief Administrator and the Finance Controller respectively of the State Authority, as provided in sub-section (2-A) of section 4, who shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to them by the State Authority.
- (2) Subject to such control and restrictions as may be determined by general or special order of the State Government, the Chief Administrator or the Additional Chief Administrator of the State Authority may appoint number of other officers and employees as may be necessary for the efficient performance of the functions of State Authority and may determine their designations and grades.
- (3) The Chief Administrator, Additional Chief Administrator, the Finance Controller and other Officers and employees of the Authority shall be entitled to receive salaries and allowances from the funds of the State Authority and shall be governed by such salaries, allowances and other conditions of service as may be determined by regulations made in this behalf by the State Government.]²
- [(4)]² The State Government may appoint two suitable persons respectively as the Secretary & the Chief Accounts Officer of the [local development authority]³ who shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to them by the Authority or its Vice-Chairman.
- [(5)]² Subject to such control and restrictions as may be determined by general or special order of the State Government, the [local development authority]³ may appoint such number of other officers and employees as may be necessary for the efficient performance of its functions and may determine their designations and grades.
- [(6)]² The Secretary, the Chief Accounts Officer and other officers and employees of the [local development authority]³ shall be entitled to receive from the funds of the [local development authority]³ such salaries and allowances and shall be governed by such other conditions of service as may be determined by regulations made in that behalf.

1. Substituted by section 5 (i) of Uttarakhand Act No. 25 of 2013.
 2. Renumbered and add by section 6 (a) *ibid*.
 3. Subs. by section 6 (b) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 5A-6]

[Creation of
Centralized
Services

- 5-A (1) Notwithstanding anything to the contrary contained in section 5 or in any other law for the time being in force, the State Government may at any time by notification, create one or more 'Development Authorities Centralized Services' for such posts, other than the posts mentioned in sub-section (4) of section 59, as the State Government may deem fit, common to all the Development Authorities and may prescribe the manner and conditions of recruitment to and the terms and conditions of service of person appointed to such service.
- (2) Upon creation of a Development Authorities Centralized Service, a person serving on the posts included in such service immediately before such creation, not being a person governed by the U.P. Palika (Centralized) Services Rules, 1966 or serving on deputation, shall unless he opts otherwise, be absorbed in such service –
- (a) finally, if he was already confirmed in his post; and
- (b) provisionally, if he was holding temporary or officiating appointment.
- (3) A person referred to in sub-section (2) may, within three months from the creation of such Development Authorities Centralized Service communicate to the Government in the Housing Department, his option not to be absorbed in such Centralized Service, failing which he shall be deemed to have opted for final or provisional, as the case may be, absorption in such Centralized Service.
- (4) Suitability of a person absorbed provisionally, for final absorption in a Development Authorities Centralized Service, shall be examined in the manner prescribed and if found suitable he shall be absorbed finally.
- (5) The services of an employee who opts against absorption or who is not found suitable for final absorption shall stand determined and he shall without prejudice to his claim to any leave, pension, provident fund or gratuity which he would have been entitled to be entitled to receive as compensation from the Development Authority concerned, an amount equal to--
- (a) three month's salary, if he was a permanent employee;
- (b) one month's salary, if he was a temporary employee.
- Explanation— For the purposes of this sub-section the terms 'salary' includes dearness allowance, personal pay and special pay, if any.
- (6) It shall be lawful for the State Government or any officer authorized by it in this behalf to transfer any person holding any post in a Development Authorities Centralized Service from one Development Authority to another.]¹

Advisory
Council

6. (1) The State Government may, if it thinks fit, constitute an Advisory Council for the purpose of advising the Authority on the preparation of the master plan and on such other matters relating to the planning of development or arising out of or in connection with, the administration of this Act as may be referred to it by the Authority.

1. Added by section 5 of U.P. Act No. 21 of 1985.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 6]

- (2) The advisory council in respect of a development area referred to in sub-section (3) of section 4 shall consist of the following members; namely –
- (a) the Chairman of the Authority, ex-officio who shall be the President;
 - (b) the Chief Town and Country Planner, Uttar Pradesh and the Chief Engineer, Local Self-Government Engineering Department, Uttar Pradesh ex-officio;
 - (c) the Director, Medical and Health Services, Uttar Pradesh or his nominee who shall not be below the rank of a Deputy Director , ex-officio;
 - (d) four representatives of the local authorities having jurisdiction within the limits of the development area, to be elected by their members from among themselves;
 - (e) the Transport Commissioner, Uttar Pradesh or his nominee who shall not be below the rank of Deputy Transport Commissioner, ex-officio;
 - (f) the Chairman, State Electricity Board, Uttar Pradesh or his nominee, ex-officio;
 - (g) all the members of the Houses of the People and the State Legislative Assembly whose constituencies include any part of the development area;
 - (h) all members of the Council of States and the State Legislative Council who have their residence in the development area;
 - (i) three members to be nominated by the State Government, one of whom shall represent the interest of labour and one interest of industry and commerce in the development area.
- (3) For the purposes of clause (h) of sub-section (2), the place of residence of a member of the Council of States or the State Legislative Council shall be deemed to be that mentioned in the notification of his election or nomination, as the case may be, as such member.
- (4) An elected member under clause (d) of sub-section (2) shall hold office for a term of three years from the date of his election to the council and shall be eligible for re-election :
- Provided that such term shall come to an end as soon as the member ceases to be a member of the local body from which he was elected.
- (5) The advisory council, if any respect of a development area other than that mentioned in sub-section (2) shall consist of such members as may be determined by the State Government by general or special order in that behalf.
- (6) The [Advisory Council]¹ shall meet as and when called by the Chairman :
- Provided that such meeting shall be held at least twice a year.

1. Added by section 6 of U.P. Act No. 13 of 1975.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 7-7A]

Objects of the Authority 7. The objects of the [local development authority]¹ shall be to promote and secure the development of the development area according to plan and for that purpose the Authority shall have the power to acquire, hold, manage and dispose of land and other property, to carry out building, engineering, mining and other operations, to execute works in connection with the supply of water and electricity to dispose of sewage and to provide and maintain other services and amenities and generally to do anything necessary or expedient for purposes of such development and for purposes incidental thereto :

Provided that save as provided in this Act nothing contained in this Act shall be construed as authorizing the disregard by the Authority of any law for the time being in force.

²[Functions of the State Development Authority 7-A

The State Development Authority shall have the following powers—

- (i) To assess the necessity of declaring/notifying any areas in the State as development area and thereupon give recommendation to the State Government in this regard and recommend constitution of local development authorities for the said areas;
- (ii) To prepare Master Plans/Zonal Plans through Town and Country Planning Department or through outsourcing for planned development of notified development areas in the State and get them implemented through the local development authorities;
- (iii) To examine the proposals received from the local development authorities for amendment in the old Master Plan and give its recommendations to the State Government in this regard;
- (iv) To review the works of various development authorities of the State and Town and Country Planning Department and issue necessary directions to them;
- (v) To give recommendation to the State Government regarding distribution of works/determination of jurisdiction amongst local development authorities, Urban Local Bodies and Gram Panchayats in respect of plan sanctioning and enforcement in various notified areas;
- (vi) To grant permission for the plans in the notified/ development areas as per the limit/norms prescribed by the State Government and to do supervision/enforcement of such projects through local development authorities/ Local bodies;
- (vii) To conceptualize and formulate projects of infrastructure development having inter regional benefits in the State, mobilize funds for such projects from State/Central Government or through private investment and implement the project by itself or through local development authorities;
- (viii) To acquire/collect land for the development of residential projects and use such land for the project developed by itself or by local development authorities or based on Public Private Partnership;

1. Substituted by section 7 (1) of Uttarakhand Act No. 25 of 2013.
2. Added by section 7 (2) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 7-B]

- (ix) To explore opportunity of such mega projects on Public Private Partnership which are in the interest of State, create favourable environment in this regard and take all necessary steps for this purpose;
- (x) To prepare guidelines for the local development authorities with regard to Housing and infrastructure development works and ensure compliance;
- (xi) To prepare a policy for the promotion of Low Cost Housing and give recommendation to the State Government in this regard;
- (xii) To decide the quantum of fund to be allocated to local development authorities from its own fund and allocate the same amongst the local development authorities;
- (xiii) To sit in revision against the orders of the Chairman of local development authorities passed under this Act;
- (xiv) To carry out such other functions which may be assigned to it by the State Government from time to time.

Control by the
State Authority

7-B

- (1) All orders passed by the State Authority shall be passed in the name of the Chief Administrator of the State Authority.
- (2) The Local Development Authority, the Chief Town and Country Planner of the Town and Country Planning Department, the Chairman or the Vice-Chairman of the Local Development Authority or any other officer designated/ appointed by the State Government under sub-section (1-A) of section 4 of the Local Development Authority shall carry out such directions as may be issued from time to time by the State Authority for the efficient administration of this Act.
- (3) If in, or in connection with, the exercise of its powers and discharge of its functions by the State Authority, the Chairman or the Vice-Chairman of the Local Development Authority under this Act any dispute arises between the State Authority and any Local Development Authority or between the two or more Local Development Authorities, the same shall be referred to the State Government, whose decision on such dispute shall be final.
- (4) The State Authority may, at any time, either on its own motion or on application made to it in this behalf, call for the records of any case disposed of or order passed by the Local Development Authority or of its Chairman for the purpose of satisfying itself as to the legality or propriety of any order passed or direction issued and may pass such order or issue such direction in relation thereto as it may think fit :

Provided that the State Authority shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard.

- (5) Every order of the State Authority made in exercise of the powers conferred by this Act shall be final and shall not be called in question in any court.]¹

1. Substituted by section 7 (2) of Uttarakhand Act No. 25 of 2013.

CHAPTER III**Master Plan and Zonal Development Plan**

- Civil survey of and master plan for the development area
8. [(1) The Town and Country Planning Department or any other agency appointed/nominated by the State Authority, shall, in consultation with the concerned Local Development Authority, as soon as may be, prepare a master plan for the development area as directed by the State Authority.]¹
- (2) The Master plan shall—
- (a) define the various zones into which the development area may be divided for the purposes of development; and indicated the manner in which the land in each zone is proposed to be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development shall be carried out; and
- (b) serve as a basic pattern of frame-work within which the zonal development plans of the various zones may be prepared.
- (3) The master plan may provide for any other matter which may be necessary for the proper development of the development area.
- Zonal Development Plans
9. (1) Simultaneously with the preparation of the master plan or as soon as may be thereafter, the [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]² shall proceed with the preparation of a Zonal development plan for each of the zones into which the development area may be divided.
- (2) A zonal development plan may—
- (a) contain a site-plan and use-plan for the development of the zone and show the approximate locations and extents of land uses proposed in the zone for such things as public buildings and other public works and utilities, roads, housing, recreation, industry, business markets, schools, hospitals and public and private open spaces and other categories of public and private uses;
- (b) specify the standards of population density and building density;
- (c) show every area in the zone which may in the opinion of the [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]² be required or declared for development or re-development; and
- (d) in particular, contain provisions regarding all or any of the following matters; namely –
- (i) the division of any site into plots for the erection of buildings;
- (ii) the allotment or reservation of land for roads, open spaces, gardens, recreation-grounds, schools, markets and other public purposes;
- (iii) the development of any area into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;

1. Substituted by section 8 of Uttarakhand Act No. 25 of 2013.

2. Subs. by section 9 *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 10-11]

- (iv) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and height and character of buildings;
 - (v) the alignment of buildings of any site;
 - (vi) the architectural features of the elevation or frontage of any building to be erected on any site;
 - (vii) the number of residential buildings which may be erected on plot or site;
 - (viii) the amenities to be provided in relation to any site or buildings or such site whether before or after the erection of buildings and the person or authority by whom or at whose expense such amenities are to be provided;
 - (ix) the prohibitions or restrictions regarding erection of shops, workshops, warehouses or factories or buildings of a specified architectural feature or buildings designed for particular purposes in the locality;
 - (x) the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;
 - (xi) the restrictions regarding the use of any site for purposes other than erection of buildings;
 - (xii) any other matter which is necessary for the proper development of the zone or any area thereof according to plan and for preventing buildings being erected haphazardly in such zone or area.
- Submission of plans to the State Government for approval
10. (1) In this section and in sections 11, 12, 14 and 16 the word ‘plan’ means the master plan as well as the zonal development plan for a zone.
- (2) Every plan shall, as may be after its preparation be submitted by the Town and Country Planning Department or any other agency appointed/ nominated by the State Authority to the State Authority, who shall submit the same to the State Government for approval. The State Government may either approve the plan without modification or with such modifications as it may consider necessary or reject the plan with directions to the State Authority for getting a fresh plan prepared according to such directions.]¹
- Procedure to be followed in the preparation and approval of plan
11. (1) Before preparing any plan finally and submitting it to the State Government for approval. The [Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]² shall prepare a plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed by regulations made in that behalf inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice.

1. Substituted by section 10 of Uttarakhand Act No. 25 of 2013.

2. Subs. by section 11(1) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 12-12A]

- (2) The [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]¹ shall also give reasonable opportunity to every local authority within whose local limits and land touched by the plan is situated, to make any representation with respect to the plan.
- [(3) After considering all objections, suggestions and representations, that may have been received by the Town and Country Planning Department or any other agency appointed/ nominated by the State Authority, the Town and Country Planning Department or any other agency appointed/ nominated by the State Authority shall finally prepare the plan and submit it to the State Authority for its onward submission to the State Government, with its recommendation and observation, if any, for approval.]²
- (4) Subject to the foregoing provisions of this section, the State Government may direct the[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]¹, to furnish such information as that Government may require for the purpose of approving any plan submitted to it under this section.

Date of
commencement
of plan

12.

Immediately after a plan has been approved by the State Government, the [State Authority and the concerned Local Development Authority]³ shall publish in such manner as the State Government may specify, a notice standing that a plan has been approved and naming a place where a copy of the plan may be inspected at all reasonable hours and upon the date of first publication of the aforesaid notice the plan shall come into operation.

[CHARACTER III-A

Arterial Roads in Development Area

Maintenance
and
improvement
of façade of
certain
buildings
abutting
arterial roads

12-A

- (1) Where in any development area, any building occupied wholly for non-residential purposes or partly for residential and partly for non-residential purposes abuts an arterial road, the occupier of such building shall be bound to repair, white-wash, colour-wash or paint the façade of such building at his own cost in accordance with any bye-laws made in that behalf.
- (2) Where the authority, with a view to ensuring symmetry with any color-scheme or other specification made in that behalf considers it necessary or expedient so to do or where any occupier fails to repair, white-wash, colour-wash or paint the facade of any building in accordance with sub-section (1), it may by order require that the said work shall be carried out by the Authority itself or under its direction and may accordingly, also require the occupier to pay the cost of such work to the Authority.
- (3) The cost of any work referred to in sub-section (2) shall be calculated on a 'no profit no loss' basis and in case of any dispute about the reasonableness of the amount required to be deposited, the same shall be decided by the State Government and subject thereto, the order of the Authority shall be final and shall not be called in question in any court.

1. Substituted by section 11 (1) of Uttarakhand Act No. 25 of 2013.
2. Subs. by section 11 (2) ibid.
3. Subs. by section 12 ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 13]

- (4) In case of non-payment by an occupier of the whole or part of the cost of any work referred to in sub-section (2), it shall on the certificate of the Vice-Chairman, be recoverable from the occupier as arrears of land revenue.

Explanation— In this section—

- (a) the expression ‘arterial road’ shall have the meaning assigned to it in the bye-laws;
- (b) the expression ‘occupier’, in relation to a building means the person in actual occupation or use of the building and includes—
- (i) the owner (which expression shall include an agent or trustee or a receiver, sequestrator or manager appointed by a Court, or a mortgagee with possession of the buildings) in occupation;
 - (ii) the tenant who for the time being is paying or is liable to pay rent in respect thereof to the owner;
 - (iii) the rent-free grantee or licensee thereof;
 - (iv) the person who is liable to pay to the owner damages for unauthorized use and occupation thereof.¹

CHAPTER IV

Amendment of the Master Plan and Zonal Development Plan

- Amendment of plan 13. (1) The [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]² may make any amendments in the master plan or the zonal development plan as it thinks fit, being amendments which, in its opinion do not effect important alterations in the character of the plan and which do not relate to the extent of land uses or the standards of population density.
- (2) The State Government may make amendments in the master plan or the zonal development plan whether such amendments are of the nature specified in sub-section (1) or otherwise.
- (3) Before making any amendments in the plan, the [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]² or as the case may be, the State Government shall publish a notice in at least one newspaper having circulation in the development area inviting objections and suggestions from any person with respect to the proposed amendments before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the State Government.
- (4) Every amendment made under this section shall be published in such manner as the [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]² or the State Government, as the case may be, may specify and the amendment shall come into operation either on the date of the first publication or on such other date as the [Town and Country Planning Department or any other agency appointed/nominated by the State Authority]² or the State Government as the case may be, may fix.

1. Added by section 3 of U.P. Act No. 19 of 1976.

2. Substituted by section 13 (1) of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 14]

- (5) When the [Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]¹ makes any amendment in the plan under sub-section (1) it shall report to the [State Authority]² the full particular of such amendments within thirty days of the date on which amendments come into operation.
- (6) If any question arises whether the amendments proposed to be made by the [Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]¹ are amendments which effect important alterations in the character of the plan or whether they relate to the extent of land-uses or the standards of population density, it shall be referred to the State Government whose decision thereto shall be final.
- (7) Any reference in any other Chapter, except Chapter III, to the master plan or the zonal development plan shall be construed as reference to the master plan or the zonal development plan as amended under this section.

CHAPTER V

Development of Lands

Development
of land in the
developed area

14. (1) After the declaration of any area as development area under section 3, no development of land shall be undertaken or carried out or continued in that area by any person or body (including a department of Government) unless permission for such development has been obtained in writing from the [Vice-Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]³ in accordance with the provisions this Act.
- (2) After the coming into operation of any of the plans in any development are no development shall be undertaken on carried out or continued in that area unless such development is also in accordance with such plans.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), the following provisions shall apply in relation to development of land by any department of any State Government or the Central Government or any local authority--
 - (a) when any such department or local authority intends to carry out any development of land it shall inform the [Vice-Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]⁴ in writing of its intention to do so, giving full particulars thereof, including any plans and documents, at least 30 days before undertaking such development;

1. Substituted by section 13 (1) of Uttarakhand Act No. 25 of 2013.
2. Subs. by section 13 (2) ibid.
3. Subs. by section 14 (1) ibid.
4. Subs. by section 14 (2) ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 14]

- (b) in the case of a department of any State Government or the Central Government, if the [Vice-Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]¹ has no objection, it should inform such department of the same within three weeks from the date of receipt by it under clause (a) of the department's intention and if the [Vice-Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]¹ does not make any objection within the said period the department shall be free to carry out the proposed development;
- (c) where the [Vice-Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]¹ raises any objection to the proposed development on the ground that the development is not in conformity with any master plan or zonal development plan prepared or intended to be prepared by [Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]² or on another ground, by [Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]², as the case may be, shall—
- (i) either make necessary modifications in the proposal for development to meet the objections raised by the [Vice-Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]¹; or
- (ii) submit the proposals for development together with the objections raised by the [Vice-Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]¹ to the State Government for decision under clause (d);
- (d) the State Government, on receipt of proposals for development together with the objections of the [Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]¹ may either approve the proposals with or without modification or direct the department or the local authority, as the case may be, to make such modifications as proposed by the Government and the decision of the State Government shall be final;

1. Substituted by section 14 (2) of Uttarakhand Act No. 25 of 2013.

2. Subs. by section 14 (3) *ibid.*

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 15]

- (e) the development of any land begun by any such department or subject to the provisions of section 59 by any such local authority before the declaration referred to in sub-section (1) may be completed by that department or local authority with compliance with the requirement of sub-sections (1) and (2).

Application
for permission

15. (1) Every person or body (other than any department of Government or any local authority) desiring to obtain the permission referred to in section 14 shall make an application in writing to the [Vice-Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]³ in such form and containing such particulars in respect of the development to which the application relates as may be prescribed by [bye-laws]¹.
- (2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed by rules.

[(2-A) The [Local Development Authority or the State Authority]⁴ shall be entitled to levy development fees, mutation charges, stacking fees and water fees in such manner and at such rates as may be prescribed :

Provided that the amount of stacking fees levied in respect of an area which is not being developed or has not been developed, by the [Local Development Authority or the State Authority]⁴ shall be transferred to the local authority within whose local limits such area is situated.]²

- (3) On the receipt of an application for permission under sub-section (1), the [Vice-Chairman of the concerned Local Development Authority /Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]⁵ after making such inquiry as it considers necessary in relation to any matter [***]⁶ shall by order in writing either grant the permission, subject to such conditions, if any as may be specified in the order or refuse to grant such permission :

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused :

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1. Subs. by section 7 (b) of U.P. Act No. 13 of 1975.
 2. Subs. by section 3 (a) of U.P. Act No. 3 of 1997.
 3. Substituted by section 15 (1) of Uttarakhand Act No. 25 of 2013.
 4. Subs. by section 15 (2) *ibid.*
 5. Subs. by section 15 (3) *ibid.*
 6. Omitted by section 15 (4) *ibid.*

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 15]

Provided further that the [Vice-Chairman of the concerned Local Development Authority /Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]³ may before passing any order on such application give an opportunity to the applicant to make any correction therein or to supply any further particulars of documents or to make good any deficiency in the requisite fee with a view to bringing it in conformity with the relevant rules or regulations :

[Provided also that before granting permission, referred to in section 14 the [Vice-Chairman of the concerned Local Development Authority /Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]³ may get the fees and the charges levied under sub-section (2-A) deposited.]²

- (4) Where permission is refused, the grounds of such refusal shall be recorded in writing and communicated to the applicant.
- (5) Any person aggrieved by an order sub-section (4) may appeal to the [Chairman]¹ against that order within thirty days from the communication thereof and may after giving an opportunity or hearing to the appellant and if necessary also to the representative of the [Vice-Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]⁴ either dismiss the appeal or direct the [Vice-Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]⁴ to grant the permission applied for with such modifications or subject to such conditions, if any as may be specified.
- (6) The [Vice-Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]⁴ shall keep in such form as may be prescribed by regulations a register of applications for permission under this section.
- (7) The said register shall contain such particulars, including information as to the manner in which applications for permission have been dealt with as may be prescribed by regulations and shall be available for inspection by any member of the public at all reasonable hours on payment of such fee not exceeding rupees five as may be prescribed by regulations.

1. Subs. by section 7 (c) of U.P. Act No. 13 of 1975.

2. Ins. by section 3 (b) of U.P. Act No. 3 of 1997.

3. Substituted by section 15 (4) of Uttarakhand Act No. 25 of 2013.

4. Subs. by section 15 (5) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 15-A]

- (8) Where permission is refused under this section, the applicant or any person claiming through him shall not be entitled to get refund of the fee paid on the application for permission but the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]³ may, on an application for refund being made within three months of the communication of the grounds of the refusal under sub-section (4) direct refund of such portion of the fee as it may deem proper in the circumstances of the case.
- [(9) If at any time after the permission has been granted under sub-section (3), the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be]³ is satisfied that such permission was granted in consequence of any material mis-representation made or any fraudulent statement or information furnished, he may cancel such permission, for reasons to be recorded in writing and any work done thereunder shall be deemed to have been done without such permission :

Provided that a permission shall not be cancelled without affording to the person or body concerned a reasonable opportunity of being heard.]¹

[Completion certificate

- 15-A (1) Every person or body having been granted permission under sub-section (3) of section 15, shall complete the developments according to the approved plan and send a notice in writing of such completion to the [Local Development Authority or the State Authority as the case may be]⁴ and obtain a completion certificate from the [Local Development Authority or the State Authority as the case may be]⁴ in the manner prescribed or provided in the bye-laws of the Authority :

Provided that if completion certificate is not granted and refusal to grant it is not intimated within three months after receipt of the notice of completion, it shall be deemed that the completion certificate has been granted by the [Local Development Authority or the State Authority as the case may be]⁴.

- (2) No person shall occupy or permit to be occupied any commercial building or use or permit to be used such building or part thereof affected by any work unfit--
- (a) completion certificate has been issued by the [Local Development Authority or the State Authority as the case may be]⁴; or
- (b) [Local Development Authority or the State Authority as the case may be]⁴ has failed for three months after the receipt of the notice of completion to intimate its refusal of grant of the said certificate.

Explanation— For the purposes of this section the expression “commercial building” shall have the meaning assigned to it in the Uttar Pradesh Municipal Corporation Act, 1959.]²

1. Ins. by section 3 (c) of U.P. Act No. 3 of 1997.
 2. Ins. by section 4 ibid.
 3. Substituted by section 15 (5) of Uttarakhand Act No. 25 of 2013.
 4. Subs. by section 16 ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 16-17B]

Uses of land and buildings in contravention of plans

16. After the coming into operation of any of the plans in a zone no person shall use or permit to be used any land or building in that zone otherwise than in conformity with such plan :

Provided that it shall be lawful to continue to use upon such terms and conditions as may be prescribed by bye-laws made in that behalf, any land or building for the purpose and to the extent for and to which it is being used upon the date on which such plan comes into force.

CHAPTER VI

Acquisition and Disposal of Land

Compulsory acquisition of land

17. (1) If in the opinion of the State Government any land is required for the purpose of development or for any other purpose, under this Act, the State Government may acquire such land under the provisions of the Land Acquisition Act, 1894 :

Provided that any person from whom any land is so acquired may after the expiration of a period of five years from the date of such acquisition apply to the State Government for restoration of that land to him on the ground that the land has not been utilized within the period for the purpose for which it was acquired and if the State Government is satisfied to that effect it shall order restoration of the land to him on repayment of the charges which were incurred in connection with the acquisition together with interest at the rate of twelve percent per annum and such development charges if any as may have been incurred after acquisition.

- (2) Where any land has been acquired by the State Government, that Government may after it has taken possession of the land, transfer the land to the [State Authority or any Local Development Authority as the case may be]¹ or any local authority for the purpose for which the land has been acquired on payment of [State Authority or any Local Development Authority as the case may be]¹ or the local Authority of the compensation awarded under that Act and of the charges incurred by the Government in connection with the acquisition.

²[Land Bank of State Authority

- 17-A The State Authority shall have the power to create its own Land Bank through:--
- (a) the State Government under the Land Acquisition Act, or
 - (b) Surplus land received from the State Government, or,
 - (c) the Land Acquisition/Pooling Policy of the development authorities or,
 - (d) Purchase of land from any private person/agency / company, private or public.

Disposal of land by the State Authority

- 17-B (1) The State Authority may dispose of/transfer –
- (a) any land of its land bank to any of the Local Development Authority/Company/Agency/Person, Private or Public for providing affordable housing to the weaker sections of the society;

1. Substituted by section 17 (1) of Uttarakhand Act No. 25 of 2013.
2. Added by section 17 (2) ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 18]

- (b) any land acquired by the State Government and transferred to it without carrying out any development thereon ; or
- (c) any such land after carrying out such development as it thinks fit, to any Local Development Authority or any local authority or to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the development according to plan.
- (2) Nothing in this Act shall be construed as enabling the State Authority to dispose of land by way of gift, but subject thereto, references in this Act, to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.
- (3) Notwithstanding, anything contained in sub-section (2), the State Authority may create a mortgage or charge over such land (including any building thereon) in favor of the Life Insurance Corporation of India, the Housing and Urban Development Corporation, or a banking company or any other financial institution approved by general or special order in this behalf by the State Government.]³
- Disposal of land by the authority or the local authority concerned
18. (1) Subject to any directions given by the State Government in this behalf, the Authority or as the case may be, the local Authority concerned may dispose off—
- (a) any land acquired by the State Government and transferred to it without undertaking or carrying out any development thereon; or
- (b) any such land after undertaking or carrying out such development as it thinks fit,
to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the development of the development area according to plan.
- (2) Nothing in this Act shall be construed as enabling the Authority or the local Authority concerned to dispose of land by way of gift [***]¹ but subject thereto, references in this Act to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.
- [(3) Notwithstanding anything contained in sub-section (2), the Authority or the local authority concerned may create a mortgage or charge over such land (including any building thereon) in favour of the Life Insurance Corporation of India, the Housing and Urban Development Corporation or a banking company as defined in the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 or any other financial institution approved by general or special order in this behalf by the State Government.]²

1. Omitted by section 5(i) of U.P. Act No. 19 of 1976.

2. Subs. by section 5 (ii) *ibid*.

3. Added by section 17 (2) of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 19]

- (4) Where vacant land has been disposed of under this section by way of lease for making constructions within the stipulated time within right of forfeiture of the lease and re-entry upon failure to make constructions within such time and the lessee fails without sufficient reason, to make the constructions or a substantial portion thereof, within the stipulated time or such extended time as the lessor may grant, [the lessor may, subject to the provisions of sub-section (4-A) forfeit]¹ the lease and re-enter upon the land :

Provided that no forfeiture and re-entry shall be made unless the lessee has been allowed reasonable opportunity to show cause against the proposed action.

[(4-A) Where a lessee fails to make construction within the stipulated time and the extended time, if any, under sub-section (4) so that the total period from the date of lease exceeds five years, a charge at the rate of two percent of the prevailing market value of the concerned land shall be realized every year from him by the lessor and if from the date of imposition of the said charge a further period of five years elapses, the lease shall stand forfeited and the lessor shall re-enter upon the land :

Provided that where the period of five years has expired before the commencement of the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997 or where the period of five years expires within one year after such commencement, the charge shall be realizable after a period of one year from the date of such commencement.]²

- (5) Upon such forfeiture and re-entry, the premium paid by the lessee for such land shall be refunded without any interest, after deducting—
- (a) the amount, if any, due to the lessor under that lease; and
 - (b) a sum equivalent to 5 percent of the premium, for administrative expenses.
- (6) Any person aggrieved by an order under sub-section (4) may, within 30 days from the date of knowledge thereof, prefer an appeal to the District Judge whose decision shall be final.
- (7) The land so re-entered upon after forfeiture of lease may be disposed of in accordance with the provisions of sub-sections (1) and (2).]³

Nazul lands

19. (1) The State Government may by notification in the Gazette and upon such terms and conditions as may be agreed upon between that Government and the Authority, place at the disposal of the Authority, all or any developed and undeveloped lands in the development area vested in the State (known and hereinafter referred to as “nazul lands”), for the purpose of development in accordance with the provisions of this Act.
- (2) After any nazul land has been placed at the disposal of the Authority under sub-section (1), no development of any such land shall be undertaken or carried out except by or under the control and supervision of the Authority.

1. Ins. by section 5 (a) of U.P. Act No. 3 of 1997.
 2. Added by section 5 (b) *ibid*.
 3. Subs. by section 5 of U.P. Act No. 21 of 1985.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 20]

- (3) After any such nazul has been developed by or under the control and supervision of the Authority it shall be dealt with by the Authority in accordance with directions given by the State Government in that behalf.
- (4) If any nazul land placed at the disposal of the Authority under sub-section (1) is required at any time thereafter by the State Government, the Authority shall by notification in the Gazette, replace it at the disposal of that Government upon such terms and conditions as may be agreed upon between that Government and the Authority.

CHAPTER VII

Finance, Accounts and Audit

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|-----------------------|---|
| Fund of the Authority | <ol style="list-style-type: none"> 20. (1) The [Local Development Authority]² shall have and maintain its own fund to which shall be credited— <ol style="list-style-type: none"> (a) all moneys received by the [Local Development Authority]² from the State Government by way of grants, loans, advances or otherwise; (b) all moneys borrowed by the [Local Development Authority]² from sources other than the State Government by way of loans or debentures; (c) all [fees, tolls and charges]¹ received by the [Local Development Authority]² under this Act; (d) all moneys received by the [Local Development Authority]² from the disposal of lands, buildings and other properties, movable and immovable; and (e) all moneys received by the [Local Development Authority]² by way of rents and profits or in any other manner or from any other sources. (2) The fund shall be applied towards meeting the expenses incurred by the [Local Development Authority]² in the administration of this Act and for no other purposes. (3) Subject to any directions of the State Government, the [Local Development Authority]² may keep in current account of any Scheduled Bank such sum of money out of its fund as it may think necessary for meeting its expected current requirements and invest any surplus money in such manner as it thinks fit. (4) The State Government may after due appropriation made by Legislature by law in that behalf, make such grants, advances and loans to the [Local Development Authority]² as that Government may deem necessary for the performance of the functions of the Authority under this Act and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine. (5) The [Local Development Authority]² may borrow money by way of loans or debentures from such sources (other than the State Government) and on such terms and conditions as may be approved by the State Government. |
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1. Subs. by section 2 of U.P. Act No. 48 of 1976.

2. Substituted by section 18 (1) of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 20-A]

- (6) The [Local Development Authority]¹ shall maintain a sinking fund for the repayment of moneys borrowed under sub-section (5), and shall pay every year into the sinking fund such sum as may be sufficient for repayment within the period fixed of all moneys so borrowed.
- (7) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund was created and until such loan is wholly discharged it shall not be applied for any other purpose.
- [(8) The Local Development Authority shall contribute a fixed proportion of their net income to the State Authority as decided by the State Authority.
- (9) The State Authority shall, from the funds so collected under sub-section (8) above, decide the quantum of the fund to be allocated and shall allocate the same amongst the Local Development Authorities created under section 4 of this Act.]²

Funds of the
State
Authority

- 20-A (1) The State Authority shall have and maintain its own fund i.e. funds received from the Local Development authorities as well as the funds allocated by the State Government to it.
- (2) The fund shall be applied towards meeting the expenses incurred by the State Authority in the administration of this Act or for any other purposes/functions entrusted by it to the concerned Local Development Authority.
- (3) The State Authority shall have the power to decide the quantum of fund to be allocated and to allocate the same amongst the Local Development Authorities / Local bodies in order to strengthen them financially.
- (4) Subject to any directions of the State Government, the State Authority may keep in current account of any Scheduled Bank such sum of money out of its fund as it may think necessary for meeting its expected current requirement and invest any surplus money in such manner as it thinks fit.
- (5) The State Government may, after due appropriation in that behalf, make such grants, advances and loans to the State Authority as the State Government may deem necessary for the performance of the functions of the State Authority under this Act and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine.
- (6) The State Authority may borrow money by way of loans or, debentures or from such sources (other than the State Government) and on such terms and conditions as may be approved by the State Government.
- (7) The State Authority shall maintain a sinking fund for the repayment of moneys borrowed under sub-section (5) and (6) and shall pay every year into the sinking fund such sum as may be sufficient for repayment of all moneys so borrowed within the period fixed.
- (8) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose.]³

1. Substituted by section 18 (1) of Uttarakhand Act No. 25 of 2013.
 2. Added by section 18 (2) *ibid*.
 3. Added by section 19 *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 21-22]

- Budget of the Authority 21. The [Local Development Authority]¹ shall prepare in such form and at such time every year as the State Government may specify, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Authority.
- [Budget of the State Authority 21-A The State Authority shall prepare in such and at such time every year as the State Government may specify a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the State Authority.]²
- [Account and audit 22. (1) The [Local Development Authority and State Authority as the case may be]³ shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such forms as the State Government may specify.
- (2) The accounts of the [Local Development Authority and State Authority as the case may be]³ shall be subject to audit annually by the Examiner, Local Fund Accounts :
- Provided that in place of or in addition to the Examiner, Local Fund Accounts, the State Government may entrust the audit to the Accountant General, Uttar Pradesh or Comptroller and Auditor General of India or to any other Auditor on such terms and conditions, in such manner for such period and at such times as may be agreed upon between him and the State Government.
- (3) The rights, [Local Development Authority and State Authority as the case may be]³ and privileges of any person conducting audit under sub-section (2) shall—
- (i) in the case of Examiner, Local Fund Accounts, be the same as he has in connection with the audit of the accounts of local authority;
- (ii) in the case of the Accountant General, Uttar Pradesh or as the case may be, the Comptroller and Auditor General of India, be the same as he has in connection with the audit of Government accounts; and
- (iii) in the case of any other auditor, be as prescribed;
- and, in particular, he shall have the right to demand production of books, accounts, connected vouchers, papers and other documents and to inspect the Office of the Authority.
- (4) The accounts of the [Local Development Authority and State Authority as the case may be]³, as certified by the Auditor or any person appointed by him in that behalf together with audit report thereon shall be forwarded to the State Government annually or at such times as may be directed by it. The State Government may issue such directions to the authority as it may deem fit and the Authority shall be bound to comply with such directions.

1. Substituted by section 20 of Uttarakhand Act No. 25 of 2013.
 2. Added by section 21 *ibid*.
 3. Added by section 22 *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 23-25]

- (5) Any expenditure, incurred by the Auditor in connection with the Audit, shall be payable by the [Local Development Authority and State Authority as the case may be]² to the Auditor.]¹
- Annual Report 23. The [Local Development Authority and State Authority as the case may be]³ shall prepare for every year a report of its activities during that year and submit the report to the State Government in such form and on or before such date as the State Government may specify and such report shall be laid before both Houses of the Legislature.
- Pension and Provident Funds 24. (1) The [Local Development Authority and State Authority as the case may be]⁴ may constitute for the benefit of its whole-time paid members and of its officers and other employees in such manner and subject to such conditions, as the State Government may specify such pension or provident funds as it may deem fit.
- (2) Where any such pension or provident fund has been constituted, the State Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such funds as if it were a Government Provident Fund.

CHAPTER VIII

Supplemental and Miscellaneous Provisions

- Power of entry 25. The Vice-Chairman of the Authority may authorize any person to enter into or upon any land or building with or without assistants or workmen for the purpose of—
- (a) making any inquiry, inspection, measurement or survey or taking levels of such land or building;
 - (b) examining works under construction and ascertaining the course of sewers and drains;
 - (c) digging or boring into the sub-soil;
 - (d) setting out boundaries and intended lines of work;
 - (e) making such levels, boundaries and lines by placing marks and cutting trenches;
 - (f) ascertaining whether any land is being or has been developed in contravention of the master plan or zonal development plan or without the permission referred to in section 14 or in contravention of any condition subject to which such permission has been granted; or
 - (g) doing any other thing necessary for the efficient administration of this Act :

1. Subs. by section 2 of U.P. Act No. 28 of 1983.

2. Substituted by section 22 of Uttarakhand Act No. 25 of 2013.

3. Added by section 23 *ibid*.

4. Added by section 23 *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 26-26A]

Provided that –

- (i) no such entry shall be made except between the hours of sun-rise and sun-set and without giving reasonable notice to the occupier or if there be no occupier to the owner of the land or buildings;
- (ii) sufficient opportunity shall in every instance be given to enables woman, if any to withdraw from such land or building;
- (iii) due regard shall always be had, so far as may be compatible with exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the land or building entered.

Penalties

26. (1) Any person who whether at his own instance or at the instance of any other person or any body (including a department of Government) undertakes or carries out development of any land in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 14 or in contravention of any condition subject to which such permission, approval or sanction has been granted, shall be punishable with fine which may extend to [fifty thousand rupees]¹ and in the case of a continuing offence, with further fine which may extend to [two thousand five hundred rupees]¹ for every day during which such offence continues after conviction for the first commission of the offence.
- (2) Any person who uses any land or building in contravention of the provisions of section 16 or in contravention of any terms and conditions prescribed by regulations under the proviso to that section shall be punishable with fine which may extend to [twenty five thousand rupees]² and in the case of a continuing offence, with further fine which may extend to [one thousand two hundred and fifty rupees]² for every day during which such offence continues after conviction for the first commission of the offence.
- (3) Any person who obstructs the entry of a person authorized under section 25 to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

[Encroachment or obstruction on public land]

- 26-A (1) Whoever makes any encroachment on any land not being private property, whether such land belongs to or vests in the authority or not in a development area, except steps over drain in any public street shall be punishable with simple imprisonment for a term which may extend to one year and with fine which may extend to twenty thousand rupees.
- (2) Any offence punishable under sub-section (1) shall be cognizable.
- (3) Whoever by placing or depositing building material or any other thing whatsoever or otherwise makes any obstruction in any street or land not being private property, whether such street or land belongs to or vests in the Authority or not in a development area, except steps over drain in any public street or placing of building material during such period as may be permitted on payment of stacking fees on a public street or public place shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to two thousand rupees or with both.

1. Subs. by section 6 (a) of U.P. Act No. 3 of 1997.

2. Subs. by section 6 (b) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 26-A]

- (4) If there are grounds to believe that a persons has made any encroachment or obstruction on a land in development area which is not a private property the Authority or an officer authorized by it in this behalf may serve upon the person making encroachment or obstruction, a notice requiring him to obstruction within such period not being less than fifteen days as may be specified in the notice and after considering the cause, if any, shown by such person may order removal of such encroachment or obstruction for reasons to be recoded in writing :

Provided that any encroachment made on public land by a person belonging to weaker section on or before the date of commencement of the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997 shall not be removed until alternative land or accommodation is offered to rehabilitate him in such manner and on such terms and conditions as may be prescribed.

Explanation-- For the purposes of this section, the expression—

- (1) ‘a person belonging to weaker section’ means a person--
- (a) whose family on the date of commencement of the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997 does not hold any immovable property in any city as defined in the Uttar Pradesh Municipal Corporation Act, 1959 or any Municipal Area as defined in the Uttar Pradesh Municipalities Act, 1916; and
 - (b) whose principal sources of livelihood is manual labour, including the practice of any craft, either by himself or by the members of his family and includes a rickshaw-puller or scavenger, but does not include a person who has been assessed to income tax under the Income Tax Act, 1961 or trade tax under the Uttar Pradesh Trade Tax Act, 1948 or Sales Tax under the Central Sales Tax Act, 1956;
- (2) ‘family’ in relation to a person belonging to weaker section, means the husband or wife, as the case may be and unmarried minor children either or both of them.
- (5) Notwithstanding anything contained in the foregoing provisions the Authority or the officer authorized by it in this behalf shall in addition to the action taken as provided in this section, also have power to seize or attach any property found on the land referred to in this section or as the case may be, attached to such land or permanently fastened to anything attached to such land.
- (6) Where any property is seized or attached by an officer authorized by the Authority he shall immediately made in a report of such seizure or attachment to the Authority.
- (7) The Authority may make such orders as it thinks fit for the proper custody of the property seized or attached, pending the conclusion of decay or it is otherwise expedient so to do the Authority may order it to be sold or otherwise disposed off.
- (8) Where any property is sold as aforesaid, the sale proceeds after deducting the expenses, if any of such sale and other incidental expenses relating thereto, shall—

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 26-B]

- (a) where no order of confiscation is ultimately passed by the Authority; or
 - (b) where an order in appeal so requires, be paid to the owner thereof or the person from whom it is seized or attached.
- (9) Where any property is seized or attached under sub-section (5), the Authority may order confiscation of such property.
- (10) No order for confiscation of any property shall be made under sub-section (9) unless the owner of such property or the person from whom it is seized or attached is given—
- (a) a notice in writing, informing him of the grounds on which it is proposed to confiscate the property;
 - (b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and
 - (c) a reasonable opportunity of being heard in the matter.
- (11) Any order of confiscation under this section shall not prevent the infliction of any punishment to which the person affected thereby may be liable under the Act.
- (12) Any person aggrieved by an order made under sub-section (9) may within one month from the date of the communication to him of such order appeal against it to the District Judge.
- (13) On such appeal, the District Judge may after giving an opportunity to the appellant and the respondent of being heard, pass such order as he may think fit confirming modifying or setting aside the order appealed against and pending appeal may stay the operation of such order on such terms, if any as he thinks fit.
- [Claim for compensation for removal under section 26-A] 26-B (1) Any person aggrieved by the removal of obstruction or encroachment under sub-section (4) of section 26-A may within thirty days from the date of such removal prefer a claim for compensation or restitution or both before the Tribunal against either the Authority or the officer ordering the removal or against both and for making such officer personally liable for the loss caused to him due to such removal.
- (2) The District Judge having territorial jurisdiction over the area in which the removal of encroachment or obstruction as provided in sub-section (4) of section 26-A has taken place shall be the Tribunal for the purposes of this section.
- (3) Every order of the Tribunal for payment of any compensation or for the restitution of any immovable property shall be deemed to be a decree of the Civil Court and shall be executable as such :
- Provided that if the Tribunal awards any compensation against any officer personally, it shall be the duty of the Authority to realize the amount from the salary or other dues of the officer concerned and to pay it to the claimant.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 26C 26D]

- (4) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Indian Penal Code.
- (5) The Tribunal shall for the purpose of deciding a claim under this section have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters; namely –
- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) receiving evidence on affidavits;
 - (c) inspecting any immovable property or its locality or issuing commission for the examination of witnesses or documents of local investigation;
 - (d) requiring the discovery and production of documents;
 - (e) recording a lawful agreement, compromise or satisfaction and making an order in accordance therewith;
 - (f) any other matter which may be prescribed.
- (6) The decision of the Tribunal shall be final.

[Authority may, without notice, remove anything erected or deposited in contravention of Act

26-C

The Authority or an officer authorized by it in this behalf may, without notice cause to be removed—

- (a) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature of any fixture which shall be erected or set up in or upon or over any street or upon or over any open channel, drain, well or tank contrary to the provisions of this Act;
- (b) any stall, chair, bench, box, ladder, bale, board or shelf or any other thing whatever placed, deposited, projected, attached or suspended in upon from or to any place in contravention of this Act.

[Penalty for not preventing encroachment

26-D

Whoever specially entrusted with the duty to stop or prevent the encroachment or obstruction under this Act or any other Act, rules or bye-laws willfully or knowingly neglects or deliberately omits to stop or prevent such encroachment or obstruction shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both.]¹

1. Subs. by section 7 of U.P. Act No. 3 of 1997.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 27]

Order of
demolition of
building

27. (1) Where any development has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 14 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, in relation to there development area, then, without prejudice to the provisions of section 26 [the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]⁵ or any officer of the Authority empowered by him in that behalf]¹ may make an order directing that such development shall be removed by demolition, felling or otherwise by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period not being less than fifteen days and more than forty days from the date on which a copy of the order of removal with a brief statement of the reasons therefor has been delivered to the owner or that person as may be specified in the order and on his failure to comply with the order, [the [the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]⁵ or such officer]² may remove or cause to be removed the development and the expenses of such removal as certified by [the [the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]⁵ or such officer]² shall be recoverable from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue and no suit shall lie in the Civil Court for recovery of such expenses :

Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.

- (2) Any person aggrieved by an order under sub-section (1) may appeal to the [Chairman]³ against that order within thirty days from the date thereof and the [Chairman]³ may, after hearing the parties to the appeal either, allow or dismiss the appeal or may reverse or vary any part of the order.
- (3) The [Chairman]³ may stay the execution of an order against which an appeal has been filed before it under sub-section (2).
- (4) The decision of the [Chairman]³ on the appeal and subject only to such decision, the order under sub-section (1) shall be final and shall not be questioned in any court.
- (5) The provisions of this section shall be in addition to not in derogation of any other provisions relating to demolition of building contained in any other law for the time being in force.

Explanation-- [***]⁴

1. Subs. by section 8 (a) (1) of U.P. Act No. 13 of 1975.
 2. Subs. by section 8 (a)(2) ibid.
 3. Subs. by section 8(b) ibid.
 4. Omitted by section 8 (c) ibid.
 5. Substituted by section 25 of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 28-28 A]

Power to stop
development

28. (1) Where any development in a development area has been commenced or continued in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 14 or in contravention of any conditions subject to which such permission, approval or sanction has been granted then, without prejudice to the provisions of sections 26 and 27, the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]¹ of the Authority or any officer of the Authority empowered by him in that behalf may make an order requiring the development to be discontinued on and from the date of the service of the order and such order shall be complied with accordingly.
- (2) Where such development is not discontinued in pursuance of the order under sub-section (1), the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]¹ or the said officer of the Authority may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.
- (3) After the requisition under sub-section (2) has been complied with, the [Vice Chairman of the concerned Local Development Authority/Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]¹ of the Authority may depute by a written order a police officer or an officer or employee of the Authority to watch the place in order to ensure that the development is not continued.
- (4) Any person failing to comply with an order under sub-section (1) shall be punishable with fine which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.
- (5) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 27 or the discontinuance of the development under this section.
- (6) The provisions of this section shall be in addition to and not in derogation of any other provisions relating to stoppage of building operations contained in any other law for the time being in force.

[Power to seal
un-authorized
development

- 28-A (1) It shall be lawful for the [Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]² or an officer empowered by him in this behalf, as the case may be at any time before or after making an order for the removal or discontinuation of any development under section 27 of section 28 to make any order directing the sealing of such development in a development area in such manner as may be prescribed for the purposes of carrying out the provisions of this Act.

1. Substituted by section 26 of Uttarakhand Act No. 25 of 2013.

2. Subs. by section 27 *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 29-30]

- (2) Where any development has been sealed, the [Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]² or the officer empowered by him in this behalf, as the case may be may for the purposes or removing or discontinuing such development order the seal to be removed.
- (3) No person shall remove such seal except under an order made under sub-section (2) by the [Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]² or the officer empowered by him in this behalf.
- (4) Any person aggrieved by an order made under sub-section (1) or sub-section (2) may appeal to the Chairman against that order within thirty days from the date thereof and the Chairman may after hearing the parties to the appeal, either allow or dismiss the appeal.
- (5) The decision of the Chairman shall be final.]¹

Conferment of
other powers
of the
Authority

29. After a master plan or zonal development plan has come into operation under section 12, the Development Authority or its Vice-Chairman shall have such other powers and functions exercisable by the local authority concerned or its Chief Executive Officer, as the case may be under the enactment constituting that local authority, subject to such exceptions or modifications, as the State Government may by notification in the Gazette, specify.

Offences by
companies

30. (1) If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the businesses of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proved that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

1. Added by section 8 of U.P. Act No. 3 of 1997.

2. Substituted by section 27 of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 31-33]

Explanation—For the purposes of this section—

- (a) “company” means a body corporate and includes a firm or other association of individuals; and
- (b) “Director” in relation to a firm means a partner in the firm.

- | | | |
|---|-----|--|
| Fines when realized to be paid to the Authority | 31. | All fines realized in connection with prosecutions under this Act shall be paid to the Authority. |
| Composition of offences | 32. | <p>(1) Any offence made punishable by or under this Act may either before or after the institution of proceedings, be compounded by [the Vice-Chairman]¹ (or any officer authorized by him in that behalf by general or special order), on such terms, including any terms as regards payment of a composition fee, as the [Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act. of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act]² (or such officer) may think fit.</p> <p>(2) Where an offence has been compounded the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.</p> |
| Power of the Authority to provide amenity or carry out development at cost of owner in the event of his default and to levy cess in certain cases | 33. | <p>(1) If the Authority, after holding a local inquiry or upon report from any of its officers or other information in its possession is satisfied that any amenity in relation to any land in development area has not been provided in relation to that land which in the opinion of the Authority, ought to have been or ought to be provided or that any development of the land for which permission, approval or sanction had been obtained under this Act or under any law in force before the coming into force of this Act has not been carried out, it may after affording the owner of the land or the person providing or responsible for providing the amenity a reasonable opportunity to show cause, by order require him to provide the amenity or carry out the development within such time as may be specified in the order.</p> <p>(2) If any amenity is not provided or any such development is not carried out within the time specified in the order, then the Authority may itself provide the amenity to carry out the development or have it provided or carried out through such agency as it deems fit :</p> |

Provided that before taking action under this sub-section, the Authority shall afford a reasonable opportunity to the owner of the land or to the person providing or responsible for providing the amenity to show cause as to why such action should not be taken.

1. Subs. by section 8 of U.P. Act No. 3 of 1997.
 2. Substituted by section 28 of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 33]

- (3) All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate as the State Government may by order fix from the date when a demand for the expenses is made until payment may be recovered by the Authority from the owner or the person providing or responsible for providing the amenity as arrears of land revenue and no suit shall lie in the Civil Court for recovery of such expenses.
- (4) Notwithstanding anything contained in the foregoing sub-section where the Authority on the written representation by so many of the owners of any land in a development area as represent not less than one-half of the area of that land is satisfied that any amenity in relation to such land has not been provided which in the opinion of the Authority ought to have been or ought to be provided or that any development of that land for which permission, approval or sanction had been obtained under this Act or under any law in force before the [commencement of this Act]¹ has not been carried out, it may itself provide the amenity or carry out the development of have it provided or carried out through such agency as it deems fit and recover the expenses by levy of cess from all the owners of the said land :

Provided that if the owners making the said representation contend that the amenity had been agreed to be provided or the development had been agreed to be carried out by a colonizer or co-operative housing society through or from whom the land was acquired by them, they shall file with the Authority a copy of such agreement or of the deed of transfer or of the bye-laws of the society incorporating such agreement and no action shall be taken by the Authority under this sub-section unless notice has been given to the colonizer of the society, as the case may be to show cause why such action should not be taken :

Provided further that where the Authority is satisfied that the colonizer or the society has become defunct or is not traceable no notice under the last proceeding proviso need be issued.

- [(4-A) Where the authority provided any amenity in an area developed by it, the authority shall, till the responsibility for maintenance is assumed by the local authority as provided in section 34, be entitled to recover, in the manner prescribed, from the owner of the land or building, such charges therefore as may be fixed by the State Government by a notified order having regard to the expenses incurred for maintaining and continuing to provide such amenity.]²
- (5) The cess referred to in sub-section (4) shall be equivalent to the expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development, together with interest at such rate as the State Government may by order fix from the date of completion of the work until payment and shall be assessed and levied on all the owners of the land in proportion to the respective areas of land owned by them.

1. Subs. by section 9 of U.P. Act No. 13 of 1975.
2. Added by section 10 of U.P. Act No. 3 of 1997.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 34-35]

- (6) The said cess shall be payable in such number of installments and each instalment shall be payable at such time and in such manner, as the Authority may fix and arrears of cess shall be recoverable as arrears of land revenue and no suit shall lie in the civil court for recovery thereof.
- (7) The expenses incurred by the Authority or the agency employed by it under this section shall be certified by the Authority and such certificate, as also the assessment of the cess, if any under sub-section (5) shall be final.
- (8) If under any agreement between the owners of the land and the colonizer or the society referred to in sub-section (4), the responsibility for providing the amenity or carrying out the development rested with such colonizer or society, the cess payable under that sub-section by the owners shall be recoverable by them from the colonizer or society, as the case may be.

Power of Authority to require local authority to assume responsibilities in certain cases

34. Where any area has been developed by the Authority, the Authority may require the local authority within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provisions of the amenities which have not been provided by the Authority but which in its opinion should be provided in the area, on terms and conditions agreed upon between the Authority and that local authority and where such terms and conditions cannot be agreed upon then on a reference of the matter to the State Government by the Authority on terms and conditions settled by the Government in consultation with the local authority.

Power of Authority to levy betterment charges

35. (1) Where in the opinion of the Authority, as a consequence of any development scheme having been executed by the Authority in any development area, the value of any property in that area which has benefited by the development has increased or will increase, the Authority shall be entitled to levy upon the owner of the property or any person having an interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development :

Provided that not betterment charge shall be levied in respect of lands owned by Government :

Provided further that where any land belonging to Government has been granted by way of lease or licence by Government to any person, then that land and any building situate thereon shall be subject to a betterment charge under this section.

- (2) Such betterment charge shall be an amount --
- (i) in respect of any property situate in the township or colony, if any developed or in other area developed or redeveloped, equal to one-third of the amount; and
 - (ii) in respect of property situated outside such township, colony or other area, as aforesaid, not exceeding one-third of the amount,

by which the value of the property on the completion of the execution of the development scheme, estimated as if the property were clear of buildings exceeds the value of the property prior to such execution, estimated in like manner.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 36-37A]

- Assessment of
betterment
charge by
Authority
36. (1) When it appears to the [Vice-Chairman]¹ that any particular development scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the [Vice-Chairman]¹ may, by an order made in that behalf, declare that for the purpose of determining the betterment charge the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the [Vice-Chairman]¹ proposes to assess the amount of the betterment charge in respect of the property under section 34.
- (2) The [Vice-Chairman]¹ shall then assess the amount of betterment charge payable by the person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of the notice in writing of such assessment from the [Vice-Chairman]¹ inform the [Vice-Chairman]¹ by a declaration in writing that he accepts the assessment or dissents from it.
- (3) When the assessment proposed by the [Vice-Chairman]¹ is accepted by the person concerned within the period specified in sub-section (2) such assessment shall be final.
- (4) If the person concerned dissents from the assessment or fails to give the [Vice-Chairman]¹ the information required by sub-section (2) within the period specified therein the matter shall be determined by the [Chairman]² [and such determination shall not be questioned in any Court.]²
- [Finality of
decision
37. [Except as provided in ⁵[section 7-B]⁵, every decision]⁴ of the Chairman on appeal and subject only to any decision on appeal (if it lies and is preferred), the order of the Vice-Chairman or other officer under section 15 or section 27 shall be final and shall not be questioned in any Court.]³
- [Bar of
jurisdiction of
Civil Courts
- 37-A (1) No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Act under the rules or regulations made under this Act.
- (2) No suit shall lie against the State Government or any State or Local Authority for any relief in respect of any matter covered by this Act.
- (3) All suits, appeals, revisions, application for review and other incidental or ancillary proceedings including all proceedings under Order 39 of the First Schedule to the Code of Civil Procedure, 1908 (Act No. V of 1908) arising out of such suits, pending before any court subordinate to the High Court and all revisions arising out of interlocutory orders pending before the Courts subordinate to High Court, relating to any matter covered under this Act, on the date of commencement of this Act, shall stand transferred to the Chairman of the concerned Local Development Authority or the State Authority, as the case may be and Local Development Authority or the State Authority shall decide the cases in the same manner as if they were instituted before them under sections 27 and/or 28 or section 7-B of this Act respectively :

1. Subs. by section 10(a) of U.P. Act No. 13 of 1975.

2. Ins. by section 10 (b) *ibid*.

3. Subs. by section 11 *ibid*.

4. Subs. by section 6 of U.P. Act No. 19 of 1976.

5. Substituted by section 29 of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 38-39A]

Provided that the Local Development Authority or the State Authority, as the case may be, subject to the provisions of sections 27 and or 28 or section 7-B of this Act respectively, shall commence the proceedings from the stage at which the case stood transferred as aforesaid with any pleadings presented or any oral or documentary evidence produced in the court as if the same were presented or produced before them.]²

- Payment of betterment charges
38. (1) The betterment charge levied under this Act shall be payable in such number of installments, and each installment shall be payable at such time and in such manner, as may be fixed by bye-laws made in that behalf.
- (2) Any arrear of betterment charge shall be recoverable as an arrear of land revenue, and no suit shall lie in the civil court for recovery of such arrear.

- [Power of Local Development Authority to levy land use conversion charge and city development charge
- 38-A (1) Where in any development area the land use of a particular land is changed as a result of amendment of Master Plan or Zonal Development Plan under Section 13 on request of the land owner, the Local Development Authority shall be entitled to levy land use conversion charge on the owner of such land and in such manner and at such rates as may be prescribed :

Provided that the land use conversion charge shall not be recovered during consideration of the application made for land use change, rather only such processing fee as prescribed by the local development authority to meet the expenses on examining the matter and inviting objections in the news papers, shall be deposited by the applicant alongwith application. Only after the application found finally acceptable, the land use conversion charge shall be recovered from the owner of land by the concerned Local Development Authority prior to final notification under sub-section (4) of Section 13 of this Act :

Provided further that where the land use of a particular land is changed as a result of coming into operation of Master Plan or Zonal Development Plan, no land use conversion charge shall be levied upon the owner of such land.

- (2) Where in any development area, a license has been granted to private developer for assembly and development of land, the Authority shall be entitled to levy city development charge on the private developer of such land and in such manner and at such rates as may be prescribed by the State Government.]³

39. [***]¹

- [Toll for amenities
- 39-A The Authority shall be entitled to charge and collect, toll for the use of approach roads and other amenities, at such rate and in such manner as may be notified by the State Government, from visitors, to such places of popular resort (including any ancient and historical monuments) within its development area as may be so notified :

1. Omitted by section 2 of Uttarakhand Act No. 07 of 2010.

2. Substituted by section 30 of Uttarakhand Act No. 25 of 2013.

3. Subs. by section 31 ibid.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 39B-41]

Provided that –

- (a) the rate of toll per visitor, shall not exceed [one thousand rupees]⁵;
- (b) the State Government may by notification, exempt any class or classes of visitors from the payment of the toll and may fix any day or days on which no toll shall be chargeable.]²

[License for
Assembly and
Development
of Land

39-B

The Local Development Authority /State Authority may grant license to private developer for assembly and development of land within its development area in such manner and for such period as may be prescribed.]⁶[Mode of
recovery of
moneys due to
Authority

40.

Any money due to an Authority on account of any fee or charges or from disposal of land, building or any other property, movable or immovable by way of rent, premium, profit or hire-purchase installment may without prejudice to the right of recovery by any other mode of recovery provided by or under this Act or any other law for the time being in force, be realized –

- (a) either, as arrears of land revenue upon a certificate of the amount due sent by the Authority to the Collector; or
- (b) by attachment and sale of property in the manner provided in sections 504, 505, 506, 507, 508, 509, 510, 512, 513 and 514 of the [Uttar Pradesh Municipal Corporations Act, 1959 (2) of 1959]⁴ and such provisions of the said Act shall *mutatis mutandis* apply to recovery of dues of an Authority as they apply to recovery of a tax due to a [Municipal Corporation]⁴ so however, that reference in the aforesaid sections of the said Adhiniyam to ‘Mukhya Nagar Adhikari’, [Corporation]⁴ and ‘Executive Committee’ shall be construed as references to ‘Vice-Chairman’, ‘Development Authority’ and ‘Chairman’ respectively :

Provided that no two or more modes of recovery shall be commenced or continued simultaneously.]³

Control by
State
Government

41. (1) The ¹[[State Authority or the Local Development Authority, as the case may be]⁷, the Chairman or the Vice-Chairman]¹ shall carry out such directions as may be issued to it from time to time by the State Government for the efficient administration of this Act.

1. Subs. by section 7 (i) of U.P. Act No. 19 of 1976.
 2. Added by section 3 of U.P. Act No. 46 of 1976.
 3. Subs. by section 6 of U.P. Act No. 21 of 1985.
 4. Subs. by U.P. Act No. 12 of 1994.
 5. Subs. by section 2 of U.P. Act No. 9 of 2000.
 6. Added by section 32 of Uttarakhand Act No. 25 of 2013.
 7. Subs. by section 33 (1) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 42-43]

- (2) If in, or in connection with, the exercise of its powers and discharge of its functions by the State Authority, Local Authority, the Chairman or the Vice-Chairman of the Local Development Authority or Local Development Authority created under sub-section (1-A) of section 4 under this Act any dispute arises between the State Authority, Local Authority, and even between the two Local Authorities or their respective Chairman or the Vice-Chairman or any other person / officer appointed/ designated under sub-section (1-A) of section 4 for the Local Development Authorities created under sub-section (1-A) of section 4 of this Act the decision of the State Government on such dispute shall be final]²
- (3) [***]³
- (4) Every order of the State Government made in exercise of the powers conferred by this Act shall be final and shall not be called in question in any court.]¹
- Returns and inspections 42. (1) The Authority shall furnish to the State Government such reports, returns and other information as that Government may from time to time require.
- (2) Without prejudice to the provisions of sub-section (1), the State Government or any officer authorized by the State Government in that behalf, may call for reports, returns and other information from the Authority or the local authority concerned in regard to the implementation of the master plan.
- (3) Any person authorized by the State Government or the officer referred to in sub-section (2) may enter into or upon any land with or without assistants or workmen for ascertaining whether the provisions of the master plan are being or have been implemented or whether the development is being or has been carried out in accordance with such plan.
- (4) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier or if there be no occupier to the owner of the land or building.
- Services of notices, etc. 43. (1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall save as otherwise provided in this Act or such rule or regulation be deemed to be duly served—
- (a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either—
- (i) sent by registered post; or
- (ii) delivered at the registered office or at the principal office or place of business of the company;
- (b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on and is either—

1. Added by section 7 (ii) of U.P. Act No. 19 of 1976.

2. Subs. by section 33 (2) of Uttarakhand Act No. 25 of 2013.

3. Omitted by section 33 (2) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 43]

- (i) sent by registered post; or
 - (ii) delivered at the said place of business;
- (c) where the person to be served is a public body or a corporation or society or other body, if the document is addressed to the secretary, treasurer or other chief officer of that body, corporation or society at its principal office, and is either –
- (i) sent by registered post; or
 - (ii) delivered at that office;
- (d) in any other case, if the document is addressed to the person to be served; and—
- (i) is given or tendered to him; or
 - (ii) if such person cannot be found is affixed on some conspicuous part of his last known place of residence or business, if within the development area or is given or tendered to some adult member of his family or is affixed on some conspicuous part of land or building to which it relates; or
 - (iii) is sent by registered post to that person.
- (2) Any document which is required or authorized to be served on the owner or occupier of any land or building may be addressed “the owner” or “the occupier”, as the case may be of that land or building (naming that land or building) without further name or description and shall be deemed to be duly served –
- (a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1); or
 - (b) if the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building or where there is no person on the land or building to whom it can be delivered is affixed to some conspicuous part of the land or building.
- (3) Where a document is served on a firm in accordance with clause (b) of sub-section (1), the document shall be deemed to be served on each partner of that firm.
- (4) For the purpose of enabling any document to be served on the owner of any property the secretary to the Authority may by notice in writing require the occupier (if any) of the property to state the name and address of the owner thereof.
- (5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family be deemed to be service upon the minor.
- (6) A servant is not a member of the family within the meaning of this section.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 44-51]

Public notice how to be made known	44.	Every public notice given under this Act shall be in writing over the signature of the Secretary to the Authority and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places within the said locality or by publishing the same by beat of drum or by advertisement in a newspaper having circulation in the locality or by two or more of these means and by any other means that the Secretary may think fit.
Notices etc. to fix reasonable time	45.	Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder requires anything to be done for the doing of which no time is fixed in this Act or regulation, the notice, order or other document shall specify a reasonable time for doing the same.
Authentication of orders and documents of Authority	46.	All permissions, orders, decisions, notices and other documents of the Authority shall be authenticated by the signature of the Secretary to the Authority or any other officer authorized by the Authority in that behalf.
[Authenticatio n of orders and instruments of the State Authority	46-A	All permissions, orders, decisions, notices and other documents of the State Authority shall be authenticated by the signatures of the Chief Administrator or any other officer authorized by the Chief Administrator of the State Authority in that behalf.] ¹
Members and Officers to be public servants	47.	Every member and every officer and other employee of the Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.
[Members and officers of the State Authority to be public servants	47-A	Every member, every officer and every employee of the State Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.] ²
Jurisdiction of courts	48.	No court inferior to that of a Magistrate of the first class shall try an offence punishable under [section 26 of] ³ this Act.
Sanction of prosecution	49.	No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Vice-Chairman of the Authority or any officer authorized by him in that behalf.
Protection of action taken in good faith	50.	No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.
Power to delegate	51.	(1) The State Government may by general or special order, direct that any power exercisable by it under this Act except the power to make rules may also be exercised by such officer in such cases and subject to such conditions, if any, as may be specified therein.

1. Added by section 34 of Uttarakhand Act No. 07 of 2013 .

2. Added by section 35 *ibid*.

3. *Ins.* by section 36 *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 52-53]

- (2) The Authority may by general or special order, direct that any power exercisable by it under this Act except the power to make regulations or bye-laws, may also be exercised by such officer or local authority, in such cases and subject to such conditions, if any, as may be specified therein.
- (3) The Vice-Chairman of the Authority may by general or special order, direct that any power exercisable by him under this Act may also be exercised by such officer of the Authority, in such cases and subject to such conditions, if any, as may be specified therein.
- [(4) The Chief Administrator of the State Authority may by general or special order direct that any power exercisable by him under this Act may also be exercised by the Addl. chief Administrator of the State Authority in such cases and subject to such conditions, if any, as may be specified therein.]¹

Savings

52.

Nothing in this Act shall apply to—

- (a) the carrying out of works for the maintenance, improvement or other alterations of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by any local authority or by any department of Government of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes cables or other apparatus including the breaking open of any street or other land for that purpose;
- (c) the operational construction (including maintenance, development and new construction) by or on behalf of a department of the Central Government;
- (d) the erection of a building not being a dwelling house, if such building is required for the purposes subservient to agriculture;
- (e) the excavations (including wells) made in the ordinary course of agricultural operations; and
- (f) the construction of unmetalled road intended to give access to land solely for agricultural purposes.

Exemption

53.

Notwithstanding anything contained in this Act the State Government may by notification in the Gazette exempt, subject to such conditions and restrictions, if any, as may be specified in such notification any land or building or class of lands or buildings from all or any of the provisions of this Act or rules or regulations made thereunder.

1. Added by section 37 of Uttarakhand Act No. 25 of 2013.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 54-56]

- Plans to stand modified in certain cases 54. (1) Where any land situated in the development area is required by the master plan or a zonal development plan to be kept as an open space or unbuilt upon or is designated in any such plan as subject to compulsory acquisition, then, if at the expiration of ten years from the date of coming into operation of the plan under section 12 or where such land has been so required or designated by any amendment of such plan, from the date of coming into operation of such amendment, under sub-section (4) of section 13, the land is not compulsorily acquired, the owner of the land may serve on the State Government a notice requiring his interest in the land to be so acquired.
- (2) If the State Government fails to acquire such land within a period of six months from the date of the notice, the master plan or as the case may be, the zonal development plan shall have effect, after the expiration of the said six months as if that land were not acquired to be kept as an open space or unbuilt upon or were not designated as subject to compulsory acquisition.
- Power to make rules 55. (1) The State Government [or State Authority]³ may by notification in the Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters; namely –
- [(a) the levy of fee on a memorandum of appeal under sub-section (5) of section 15 or under sub-section (23) of section 27;]¹
- (b) the procedure to be followed by the [Chairman]² in the determination of betterment charge and the powers that it shall have for that purpose;
- (c) any other matter which has to be or may be prescribed by rules.
- (3) [***]⁴
- Power to make regulations 56. (1) [The State Authority or the Local Development Authority or the Local Development Authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁵ may with the previous approval of the State Government make regulations not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the [the State Authority or the Local Development Authority or the Local Development Authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁵.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters; namely—
- (a) the summoning and holding of meetings of the [the State Authority or the Local Development Authority or the Local Development Authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁵, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum thereat;

1. Subs. by section 12 of U.P. Act No. 13 of 1975.

2. Subs. by section 8 of U.P. Act No. 19 of 1976.

3. Added by section 38 (1) of Uttarakhand Act No. 25 of 2013.

4. Omitted by section 38 (2) *ibid*.

5. Subs. by section 39 (1) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 57]

- (b) the powers and duties of the Secretary and Chief Accounts Officer of the [the State Authority or the Local Development Authority or the Local Development Authority created under sub-section (1-A) of section 4 of this Act, as the case may be]²;
 - [(bb) The powers and duties of the Chief Administrator, Additional Chief Administrator and Finance Controller of the State Authority.]³
 - (c) the salaries, allowances and conditions of service of the Secretary, Chief Accounts Officer and other officers and employees;
 - [(cc) The salaries, allowances and conditions of service of the Chief Administrator, Additional Chief Administrator, Finance Controller, and other officers and employees.]⁴
 - (d) the procedure for carrying out the functions of the [the State Authority or the Local Development Authority or the Local Development Authority created under sub-section (1-A) of section 4 of this Act, as the case may be]² under Chapter III and IV;
 - (e) the form of register of application for permission and the particulars to be contained in such register;
 - (f) the management of the properties of [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of Section 4 of this Act, as the case may be]⁵;
 - [(g) the fee to be paid on an application for permission under sub-section (1) of section 15;
 - (h) the fee to be paid for inspection or obtaining copies of documents and maps;
 - (i) any other matters which has to be or may be prescribed by regulations.]¹
- (3) Until an authority is established for an area under this Act, any regulation which may be made under sub-section (1) may be made by the State Government and any regulation so made may be altered or rescinded by the Authority concerned in exercise of its power under sub-section (1).

Power to make 57.
bye-laws

The [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of Section 4 of this Act, as the case may be]⁶ may, with the previous approval of the State Government make bye-laws consistent with this Act and the rules made thereunder for carrying out the purposes of this Act in respect of any matter affecting the general public and without prejudice to the generality of this power, such bye-laws may provide for—

1- Added by section 13 of U.P. Act No. 13 of 1975.
 2- Subs. by section 39 (1) of Uttarakhand Act No. 25 of 2013.
 3- Added by section 39 (2) *ibid.*
 4- Added by section 39 (3) *ibid.*
 5- Subs. by section 39 (4) *ibid.*
 6- Subs. by section 40 *ibid.*

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 58]

- (a) the form in which any application for permission under sub-section (1) of section 15 shall be made and the particulars to be furnished in such application;
- (b) the terms and conditions referred to in section 16, subject to which the used of lands and buildings in contravention of plans may be continued;
- [(bb) the guiding principles for composition of offences under section 32;]¹
- (c) the time and manner of payment of betterment charge under section 30;
- ²[(d) the grant of licences to architects, town planning engineers, surveyors, draftsmen for the preparation of building plans or water supply, drainage and sewerage plans and the fees to be paid for the grant of such licence;
- (e) for so long as the Zonal Development Plans are not prepared under section 9, the matter specified in clause (d) of sub-section (2) of that section;
- ³[(ee) the definitions of an arterial road and the colour scheme and other specifications according to which the facade of buildings abutting such road shall be repaired, whit-washed, colour-washed or painted, under section 12-A;]³
- [(f) any other matter which has to be or may be prescribed by bye-laws.]²

Dissolution of
Authority

58. (1) Where the State Government is satisfied that the purposes for which [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁴ was established under this Act have been substantially achieved so as to render to continued existence of the Authority in the opinion of the State Government unnecessary that Government may by notification in the Gazette declare that the authority shall be dissolved with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved accordingly.
- (2) From the said date—
- (a) all properties, funds and dues which are vested in or realizable by the [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁴ shall vest in or be realizable by, the State Government;
 - (b) all nazul lands placed at the disposal of the [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁴ shall revert to the State Government;
 - (c) all liabilities which are enforceable against the [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁶ shall be enforceable against the State Government; and

1. Added by section 14 (1) of U.P. Act No. 13 of 1975.

2. Ins. by section 14 (2) *ibid*.

3. Added by section 9 of U.P. Act No. 19 of 1976.

4. Subs. by section 41 of Uttarakhand Act No. 25 of 2013.

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[Section 59]

- (d) for the purpose of carrying out any development which has not been fully carried out by the [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁶ and for the purpose of realizing properties, funds and dues referred to in clause (a) the functions of the [the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be]⁶ shall be discharged by the State Government.

Repeal etc.
and savings

59. (1) (a) The operation of clause (c) of section 5, sections 54, 55 and 56 clause (xxxiii) of section 114, sub-section (3) of section 117, clause (c) of sub-section (1) of section 119, section 191, sections 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329 and 333, clauses (a) and (b) of sub-section (1) of section 334, section 335, 336, Chapter XIV of the [Uttar Pradesh Municipal Corporation Act, 1959,]⁴ sections 178, 179, 180, 180-A, 181, 182, 183, 184, 185, 186, 203, 204, 205, 206, 207, 208, 209, 210 and 222 of [Uttar Pradesh Municipalities Act, 1916]⁴ (or the said sections are extended under section 338 thereof or under section 38 of the ³[United Provinces Town Areas Act, 1914] or as the case may be of sections 162 to 171 of the [Uttar Pradesh Kshettra Panchayat and Zila Panchayat Adhiniyam, 1961]⁵ and of the Uttar Pradesh (Regulation of Building Operations) Act, 1958 and the Uttar Pradesh Avastha Vikas Parishad Adhiniyam, 1965, ²[(except in relation to those housing or improvement schemes which have either been notified under section 32 of the Uttar Pradesh Avastha Vikas Parishad Adhiniyam, 1965 before the declaration of the area comprised therein as development area or which having been notified under section 28 of the said Adhiniyam before the said declarations are thereafter approved by the State Government for continuance under the said Adhiniyam or which are initiated after such declaration with the approval of the State Government, hereinafter in this section referred to as 'Special Avastha Parishad Schemes')]² shall in respect of a development area remain suspended and sub-section (3) of section 139 of the [Uttar Pradesh Municipal Corporation Act, 1959]⁴, shall have effect as if the requirement as to constitution of a Development Fund were suspended with effect from the date of constitution of the Authority for that area and until the dissolution of such Authority and the provisions of [sections 6 and 24 of the United Provinces General Clauses Act, 1904]¹ shall apply in relation to such suspension as if the suspension amounted to repeal of the said enactments by this Act and in particular all proceedings relating to acquisition of land and interest in land for improvement schemes under the said enactments pending immediately before such suspension before any court, tribunal or authority may be continued and concluded in accordance with the provisions of the said enactments (which shall *mutatis mutandis* apply) as if those provisions were not suspended [and the powers, for doing anything which could but for such suspension of the Uttar Pradesh (Regulation of Building Operations) Act, 1958, be done by the prescribed authority and controlling authority and which can after such suspension be done by virtue of the application of section 6 of the Uttar Pradesh General Clauses Act, 1904 shall vest in the Vice-Chairman and the Chairman respectively.]³

1. Subs. by section 15(a) (ii) of U.P. Act No. 13 of 1975.
2. Subs. by section 6 (a) (i) of U.P. Act No. 47 of 1976.
3. Subs. by section 6 (a) (ii) *ibid*.
4. Subs. by section 11 (a) (i) of U.P. Act No. 3 of 1997.
5. Subs. by section 11 (2) *ibid*.
6. Subs. by section 41 of Uttarakhand Act No. 25 of 2013

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 59]

- [(aa) The operation of the Uttar Pradesh Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) (as applicable in the State of Uttarakhand) in relation to the area declared as a Development Area under section 3 of this Act, shall stand repealed as from the date of the declaration of development area and the Special Area Development Authority constituted under the Uttar Pradesh Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) for that area as from that date, shall stand dissolved.]⁴
- (b) The operation of the provisions suspended [and repealed]⁵ by virtue of clause (a) [and clause (aa)]⁶ shall revive upon the dissolution of the Authority under section 58 and the provisions of [section 6 and 24 of the united Provinces General Clauses Act, 1904]¹ shall apply in relation to the cesser of application of the corresponding provisions of this Act as if such cesser amounted to a repeal of these provisions of this Act by an Uttar Pradesh Act;
- [(c) Without prejudice to the generality of the provisions of clauses (a) [and clause (aa)]⁶ and (b), any bye-laws, directions or regulations under the [Uttar Pradesh Municipalities Act, 1916 or the Uttar Pradesh (Regulation of Building Operations) Act, 1958 or the [Uttar Pradesh Municipal Corporation Act, 1959]³ [or the Uttar Pradesh Special Area Development Area, Act, 1986]⁷ as the case may be and in force on the date immediately before the date of commencement of this Act shall in so far as they are not inconsistent with the provisions of this Act, continue in force, until altered, repealed or amended by any competent authority under this Act.]²
- [(d) All Development Authorities constituted under the present Act, before the commencement of this Act, shall continue to exist and will be deemed to be Local Development Authorities as if constituted by this Act, and any act/ function discharged by them in such capacity shall be deemed to have been done or taken under this Act.]⁸
- (2) Where any area for which an Improvement Trust constituted under the United Provinces Town Improvement Act, 1919 is in existence is declared to be a development area under section 3, the said Act as well as the Uttar Pradesh Local Bodies (Appointment of Administrator) Act, 1961, if applicable, shall in relation to such area, stand repealed as from the date of the constitution of the Development Authority for that area and the Improvement Trust shall as from that date, stand dissolved.

1. Sub. by section 15 (a) (ii) of U.P. Act No. 13 of 1975.
 2. Subs. by section 15 (a) (iii) *ibid*.
 3. Subs. by section 11 (a) (i) of U.P. Act No. 3 of 1997.
 4. Added by section 42 (1) of Uttarakhand Act No. 25 of 2013.
 5. Ins. by section 42 (2) *ibid*.
 6. Ins. by section 42 (3) *ibid*.
 7. Ins. by section 42 (4) *ibid*.
 8. Added by section 42 (5) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 59]

- (3) [On and from the constitution of the Development Authority in relation to a development area which includes the whole of a city as defined in the [Uttar Pradesh Municipal Corporation Act, 1959]³, all posts borne on the establishment of the [Municipal Corporation]⁴ of that city exclusively in connection with its activities under Chapter XIV of the said Adhiniyam or under the Uttar Pradesh (Regulation of Building Operations) Act, 1958, [or the Uttar Pradesh Special Area Development Authorities Act, 1986]⁵ immediately before the date of the constitution of the Development Authority, not being a post governed by the Uttar Pradesh Palika (Centralized) Services Rules, 1966 (hereinafter in this section referred to as the Centralized Services) shall on and from such date, stand transferred to the Development Authority with such designations as the Authority may determined and officers and other employees who are not members of any Centralized Services, serving under the [Municipal Corporation]⁴ of that city not exceeding the number of posts so transferred shall be selected in accordance with such directions as may be issued by the State Government for being appointed on the said posts and on such selection shall stand transferred to and become officers and other employees of the Development Authority and shall as such hold officer by the same tenure, at the same remuneration and on the same terms and conditions of service as they would have held the same if the Authority had not been constituted and shall continue to do so unless than until such tenure, remuneration and terms and conditions are duly altered by the Authority :]¹

Provided that any service rendered under the [Municipal Corporation]⁴ [or the Uttar Pradesh Special Area Development Authorities Act, 1986 or in relations to the functions specified under the U.P. Special Area Development Authorities Act, 1986]⁶ by any such officer or other employee before the constitution of the Authority shall be deemed to be service rendered under the Authority.

Provided further that the Authority may employ any such officer or other employee in the discharge of such functions under this Act as it may think proper and every such officer or other employee shall discharge those functions accordingly.

- (4) On and from the date of the constitution of the Development Authority in relation to a development area which includes the whole of a city as defined in the [Uttar Pradesh Municipal Corporation Act, 1959]³, all posts governed by the Centralized Services which were borne on the establishment of the [Municipal Corporation]⁴ [or the Special Area Development Authority]⁷ of that city exclusively in connection with its said activities immediately before the date of constitution of the Development Authority shall in and from such date stand transferred to the Development Authority with such designations as the State Government may determine, but all such posts shall continue to be filled by members of he Centralized Services, as they would have been filled had they not been so transferred to the Authority and the said Adhiniyam and the rules relating to the Centralized Services shall be amended accordingly.]]²

1. Subs. by section 15 (b) of U.P. Act No. 13 of 1975.
 2. Subs. by section 15 (c) *ibid.*
 3. Subs. by section 11 (a) (i) and 11 (b) of U.P. Act No. 3 of 1997.
 4. Subs. by section 11 (b) *ibid.*
 5. Ins. by section 42 (6) of Uttarakhand Act No. 25 of 2013.
 6. Ins. by section 42 (7) *ibid.*
 7. Ins. by section 42 (8) *ibid.*

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 59]

- (5) Every officer and other employee serving under an Improvement Trust referred to in sub-section (2) immediately before the date on the constitution of the Development Authority shall in and from such date be transferred to and become an officer or other employee of the Development Authority with such designations as the Authority may determine and shall hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held the same if the Authority had not been constituted and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Authority :

Provided that any service rendered under the Trust by any such officer or other employee before the constitution of the Authority shall be deemed to be service rendered under the Authority :

Provided further that the Authority may employ any such officer or other employee in the discharge of such functions under this Act as it may think proper and every such officer or other employee shall discharge those functions accordingly.

- (6) Notwithstanding the provisions of sub-sections (1) and (2) --
- (a) anything done or any action taken (including any notification issued or order or scheme made or permission granted) under any of the enactments referred to in sub-sections (1) and (2) shall so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been done or taken under the provisions of this Act unless and until it is superseded by anything done or any action taken under the provisions of this Act;
 - (b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by with or for any local authority constituted under any enactment referred to in sub-sections (1) and (2) in relation exclusively to the performance of functions assigned to the Development Authority by this Act shall be deemed to have been incurred, entered into or engaged to be done by with on for the Development Authority concerned;
 - (c) all properties, movable and immovable, vested in an Improvement Trust referred to in sub-section (2) shall vest in the Development Authority concerned, all properties movable and immovable vested in any other [local authority constituted under any enactment referred to in sub-section (1)]¹ in relation exclusively to the performance of functions assigned to the Development Authority by this Act shall vest in the Development Authority concerned;
 - (d) all rents, fees and other sums of money due to an Improvement Trust referred to in sub-section (2) or in relation exclusively to the performance of functions assigned to the Development Authority by this Act shall be deemed to be due to the Development Authority;

1. Subs. by section 15 (d)(1) of U.P. Act No. 13 of 1975.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 59]

- (e) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by for or against [any authority appointed or constituted under any enactment referred to in sub-section (1)]¹ or sub-section (2) in relation to the performance of functions assigned to the Development Authority by this Act may be continued or instituted by for or against the Development Authority;
- [(f) all appeals under sub-section (2) of section 15 of the Uttar Pradesh (Regulation of Building Operations) Act, 1958 [and all appeals under the U.P. Special Area Development Authorities Act, 1986]⁵ in relation to an area, declared under this Act as a development area, pending before the Controlling Authority on the date of such declaration shall stand transferred to the Chairman and the decision of the Chairman shall be final and all such appeals which were addressed to the Controlling Authority and which were entertained by the Chairman after he said declaration shall be deemed to have been preferred to the Chairman and the decision of the Chairman shall be final.]²

Explanation— For the purposes of this sub-section, the Development Fund referred to in sub-section (3) of section 139 of [the Uttar Pradesh Municipal Corporation Act, 1959]³, [or under the provisions of the Uttar Pradesh Special Area Development Authorities Act, 1986]⁶ and all properties created out of that fund, and all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by with or for the [Municipal Corporation]⁴ [or the Special Area Development Authority]⁶ in relation to such properties or in relation to the functions specified in Chapter XIV of the said Adhiniyam, [or the U.P. Special Area Development Authorities Act, 1986 or in relations to the functions specified under the U.P. Special Area Development Authorities Act, 1986] shall be deemed to relate to the performance of functions assigned to the Development Authority by this Act and clauses (a), (b), (c), (d) and (e) shall apply accordingly.

- (7) If any dispute arises between any Local Authority or a Development Authority whether for purposes of clauses (b), (c) and (d) of sub-section (6) any debt, obligation or liability was incurred or any contract was entered into or anything was engaged to be done by with or for any local authority or any property vested in any local authority or any rent, fee or other sum was due to any local authority in relation exclusively to the performance of functions assigned by this Act to the Development Authority it shall be referred to the State Government whose decision shall be final and shall not be questioned in any court.

1. Subs. by section 15 (d)(2) of U.P. Act No. 13 of 1975.

2. Added by section 15 (d) (3) *ibid*.

3. Subs. by section 11 (a) (i) of U.P. Act No. 3 of 1997.

4. Subs. by section 11 (b) *ibid*.

5. Ins. by section 42 (9) of Uttarakhand Act No. 25 of 2013.

6. Ins. by section 42 (10) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 59]

- (8) If any question arises whether for the purpose of sub-section (3) any officer or other employee of the [Municipal Corporation]² concerned [or the Special Area Development Authority]³ was immediately before the date of constitution of the Development Authority employed exclusively in connection with the performance of functions under Chapter XIV of the [Uttar Pradesh Municipal Corporation Act, 1959]¹, [or the U.P. Special Area Development Authorities Act, 1986]³ in the area for which the Development Authority is constituted, it shall be referred to the State Government whose decision shall be final and shall not be questioned in any court.
- (9) Nothing in sub-section (3) and (4) shall apply to an officer or other employee of a [Municipal Corporation]² or an Improvement Trust, [or the Special Area Development Authority]⁴ as the case may be, who within one month from the date of the constitution of the Development Authority concerned intimates the [Municipal Corporation]² or Trust [or the State Government]⁴ of his option not to become an employee of the Development Authority and on receipt of such intimation by that body, his employment thereunder shall stand immediately determined and his post under that body shall stand abolished and he shall be entitled to receive from that body compensation—
- (a) if he was employed immediately before the date of the constitution of the Development Authority in a permanent capacity, equivalent to three months salary;
- (b) if he was employed immediately before the date of the constitution of the Development Authority in a temporary capacity, equivalent to one month's salary.

Explanation— In this sub-section, the expression, “salary” includes Dearness Allowances, Special Pay or any other like allowance periodical allowance or pay.

- (10) Notwithstanding anything contained in the U.P. Industrial Disputes Act, 1947 in any other law for the time being in force, the transfer of services of any officer or the employee to the Development Authority under sub-section (3) or sub-section (5) shall not entitle him to any compensation under that Act or such other law and no such claim shall be entertained by any court, Tribunal or authority.
- (11) Notwithstanding anything contained in sub-sections (3) and (5) no appointment made or promotion, increment in salary, pension, allowance or any other benefit granted to any person after the commencement of this Act and before the date of constitution of the Development Authority which in the opinion of the Development Authority would not ordinarily have been made or granted or would not ordinarily have been admissible under the terms and conditions of service in force prior to the commencement of this Act shall have effect or be payable or claimable from the Development Authority or from any Provident, Pension or other fund or from any authority administering the fund unless, the State Government has by general or special order, confirmed the appointment, promotion or increment or has directed the continued grant of the pension, allowance or other benefit, as the case may be.

1. Subs. by section 11 (a) (i) of U.P. Act No. 3 of 1997.

2. Subs. by section 11 (b) *ibid*.

3. Ins. by section 42 (11) of Uttarakhand Act No. 25 of 2013.

4. Ins. by section 42 (12) *ibid*.

[The Uttar Pradesh Urban Planning and Development Act, 1973]

[Section 60]

- (12) For the persons who immediately before the date of constitution of the Development Authority were trustees of nay pension, provident, gratuity or other like fund constituted for the officers and other employees referred to in sub-section (3) or sub-section (5), other than trustees nominated by or under any law, there shall be substituted as trustees such persons as the State Government may by general or special order specify.
- (13) For the purposes of clauses (b), (c), (d) and (e) of sub-section (6) all the functions of a [Municipal Corporation]⁵ under Chapter XIV of the [Uttar Pradesh Municipal Corporation Act, 1959]⁴ and all the functions of the Uttar Pradesh Avas Evam Vikas Parishad under the Avas Evam Vikas Parishad Adhiniyam, 1965 other than those related to any [Special Avas Parishad Schemes]² [and all the functions under the U.P. Special Area Development Authorities Act, 1986]⁶ shall be deemed to be functions assigned to the Development Authority by this Act.
- [(14) Notwithstanding anything contained in section 365 of the [Uttar Pradesh Municipal Corporation Act, 1959]⁴ all acquisition of land and interest in land for an improvement scheme, the functions in respect of which are to be deemed as functions assigned to the Development Authority under sub-section (13) shall be completed at least up to the stage of making awards on or before ³[December 31, 1982.]]¹
- [(15) No act / acts or proceedings/ functions of the Development Authorities in the State of Uttarakhand constituted under the Uttar Pradesh Urban Planning and Development Act, 1973, done or performed before the commencement of this Act, so far as they are not inconsistent with the provisions of this act, shall be invalidated after the commencement of this Act, and all acts and functions performed by them before the commencement of this Act so far as they are not inconsistent with the provisions of this Act shall be deemed to have been done or performed under the provisions of this Act.]⁷

Repeal and savings

60. (1) The Uttar Pradesh Urban Planning and Development Ordinance, 1973 (U.P. Ordinance 7 of 1973), is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 12th day of June, 1973.

1. Ins. by section 10 (ii) of U.P. Act No. 19 of 1976.
 2. Ins. by section 6 (b) of U.P. Act No. 47 of 1976.
 3. Subs. by section 2 of U.P. Act No. 6 of 1982.
 4. Subs. by section 11 (a) (i) of U.P. Act No. 3 of 1997.
 5. Subs. by section 11 (b) *ibid*.
 6. Ins. by section 42 (13) of Uttarakhand Act No. 25 of 2013.
 7. Added by section 42 (14) *ibid*.

Fwd: Advance service of the Response on behalf of the Applicant in O.A. No. 832/2024

1 message

AKASH VASHISHTHA <akashvashishtha.official@gmail.com>

Sat, Sep 20, 2025 at 10:21 PM

To: Om Prakash <omprakash.life@gmail.com>

----- Forwarded message -----

From: **AKASH VASHISHTHA** <akashvashishtha.official@gmail.com>

Date: Sat, Sep 20, 2025 at 10:20 PM

Subject: Advance service of the Response on behalf of the Applicant in O.A. No. 832/2024

To: <bhanwar09@gmail.com>, bhanwar jadon <bhanwar09jadon@gmail.com>, yagyawalkya@dylawchambers.com
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Dear Sir/Madam,

Please find copy of the Response on behalf of the Applicant in O.A. No. 832/2024, Akash Vashishtha Vs. Union of India & Ors.

Regards,

Akash Vashishtha
Applicant-in-Person

Ph.: 9717006866

**Response by Applican.pdf**

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