

Item No.09

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(THROUGH PHYSICAL HEARING (WITH HYBRID OPTION))**

Original Application No.70/2025(CZ)

Babu Lal Jajoo

Applicant(s)

Vs.

State of Rajasthan & Ors.

Respondent(s)

Date of Hearing: 11.05.2026

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant (s):

Mr. Lokendra Singh Kachhawa, Adv.

For Respondent(s):

Mr. Rohit Sharma, Adv. for State of Rajasthan
Mr. Vaibhav Thakuria, Adv. for RSPCB
Mr. Shubham Bharadwaj, Adv. for R-3

ORDER

1. The grievance of the applicant is protection of environment and flora and fauna at Kota Zoo, Kota (Rajasthan). It is submitted that the Kota Zoo was established by the Maharaja of Kota in the year 1905 and is considered as the only zoo in Hadotl region of Rajasthan. The forest department took control of the zoo in the year 1954 and since then operating the zoo. The Kota Development Authority has proposed to acquire the land belonging to Kota, Zoo which is forest land for development of Sports Complex. The decision taken by the Kota Development Authority is completely arbitrary, unjust and against the environment. The zoo is home to hundreds of trees which are over 100 years old and these trees are home to number endangered protected species of birds like Hornbill, Bulbul, Sunbird, Prinia, Vivar, Egrest, etc. The felling trees will cause

irreparable loss not only to the environment but also to the local residents and this forest took over 100 years to develop and cutting trees will adversely affect the ecosystem of the area.

2. The matter was taken up by this Tribunal and notices were issued to the Respondent. Reply has been filed.
3. During the course of hearing, a Committee consisting representative of the Principle Chief Conservator of Forest, Commissioner, Kota Division and one representative from the Member Secretary State Pollution Control Board, was constituted with direction to submit the factual and action taken report. The report has been filed. Rejoinder to the report and the reply has also been filed.
4. We have heard learned Counsel for the parties and perused the records.
5. Submissions of the learned Counsel for the Applicant are that Kota previously known as Kotah is the third-largest city of the State of Rajasthan. It is located about 230 kilometres south of the state capital, Jaipur, on the banks of Chambal River. As of 2024, with a population of over 1.5 million, it is the third most populous city in Rajasthan, after Jaipur and Jodhpur. administrative It serves as the headquarters for Kota district and Kota division. It was founded as 14th a walled city in the century in the erstwhile Bundi state and became the Capital of the princely state of Kota in 1625, following the separation of the Bundi and the Kota state. Kota is known for its coaching institutes for engineering and medical entrance exams, such as JEE and NEET. Each year, over 200,000 students move to Kota to prepare for these competitive exams, earning it the nickname

Coaching Capital of India. It is further submitted that the Kota Zoo was established by the Maharaja of Kota in the year 1905 and is the only zoo in Hadoti region of State of Rajasthan. The Zoo is having an area of about 2.2 hectares. The forest department took control of the zoo in the year 1954 and since then it is operated and maintained by the forest department of State of Rajasthan. The zoo is locate in heart of the city and works as oxygen chamber for the residents of the city.

6. The Respondent No. 4/Secretary, Kota Development Authority vide letter dated 04.04.2025, directed the Deputy Conservator (Wildlife), Kota as follows:-

"उपरोक्त विषयान्तर्गत निवेदन है कि माननीय लोकसभा अध्यक्ष महोदय की अध्यक्षता में आयोजित बैठक दिनांक 20.02.2025 के बैठक कार्यवाही विवरण में न्यास तरणताल नयापुरा कोटा के समीप वन विभाग की भूमि पर स्पोर्ट्स सिटी विकसित करने के निर्देश सचिव, कोटा विकास प्राधिकरण को दिये गये थे। इस क्रम में निवेदन है की उक्त भूमि पर स्पोर्ट्स सिटी विकसित किया जाना प्रस्तावित है। जिसका सक्षम स्तर पर निर्णय लिया जा चुका है तथा डी.पी. आर. का कार्य प्रगतिरत है व डायवर्जन की प्रक्रिया चल रही है। अतः निवेदन है कि उक्त भूमि पर किसी भी प्रकार की कार्य योजना व नव निर्माण करवाये जाने से पहले सक्षम स्तर पर चर्चा उपरांत ही अग्रिम कार्यवाही की जायें।"

7. The Deputy Conservator of Forests, Wildlife, Kota vide letter dated 17.04.2025 informed the Secretary, Kota Development Authority that the premises of Kota Zoo is a forest land and the zoo was established way back in the year 1905 and is home to various endangered/protected species of flora and fauna. The Kota, Zoo is surrounded by concrete structure of stadium and no plantation is being done by the authorities in the stadium. It is pertinent to mention here that the trees in Zoo works as oxygen

chamber for the athletes/sportsperson and visitor at the stadium. The use of Kota Zoo Forest land by the Kota Development Authority for development of Sports Complex will cause irreparable loss not only to the environment but also to the residents of Kota City.

8. It is further submitted that the Central Government through Ministry of Forest, Environment & Climate Change has initiated a Scheme called Nagar Van Yojana so as to increase the urban forest. Contrary to this the State Government has come up with a proposal to destroy the existing forest which has developed over a period of 100 years.
9. The main crux of the Applicant is that the Respondents have failed to go for any alternate site i.e. barren land, where they could develop their concrete forest without disturbing the natural forest which has developed over a period of 100 years. That even after shifting of animals to Abhedha Zoological Park this forest land can be utilized for rescue centre and for development of Urban Forest, so as to provide fresh air to the sportsperson and other individuals in the area and that after passing of considerable period of time, the concerned authorities have failed to develop basic plantation in and around the existing stadium and the plantation in the Kota Zoo is the only source of fresh air. This clearly shows that once this forest land is taken over by Kota Development Authority they will concrete forest only.
10. We have examined the guidelines of Nagar Van Yojana issued by MoEF&CC. The Nagar Van Scheme was initiated during June, 2020-21 during 'World Environmental Day' Celebrations. The implementation of the revamped "Nagar Van" Scheme, from the

Nagar Van Udyan Yojana implemented during 2015, aimed to develop 'Nagar Vans' across the country in next five years. The Scheme is revised with a renewed focus on peoples' participation, and is to be implemented in collaborative mode by various agencies. The primary objective is to create forest/green spaces in urban areas, by protecting forest/non-forest land within cities/towns or its vicinity from degradation and encroachment. The scheme is designed to actively engage local residents and different agencies in developing bio-diverse forests for social and environmental benefits in an urban landscape:

Objectives:

- 1. Creating green space and aesthetic environment in an urban set up.*
- 2. Creating awareness about plants and biodiversity and developing environment stewardship.*
- 3. Facilitating in-situ conservation of important flora of the region.*
- 4. Contributing to environmental improvement of cities by pollution mitigation, providing cleaner air, noise reduction, water harvesting and reduction of heat islands effect.*
- 5. Extending health benefits to residents of the city and*
- 6. Helping cities become climate resilient.*

Guidelines for implementation of Nagar Van/Vatika Yojana:

A Nagar Van/Nagar Vatika is/will be a forested area in the city or in its vicinity. Nagar Van/Vatika should be accessible to the city dwellers/general public, and will be suitably managed for providing wholesome natural environment for recreation, education, biodiversity conservation and supported services like water and soil conservation, pollution abatement, reduction of heat islands effect of the city with the essential elements for regular use.

C1. General

1. *The scheme is proposed to be implemented for a period of five years starting from 2020-21 to 2024-2025.*
2. *The scheme aims at developing 400 Nagar Vans and 200 Nagar Vatikas across the country in cities having Municipal Corporation/Municipal Council/Municipalities.*
3. *Nagar Van may be developed over a minimum area of 10 ha and a maximum of 50 ha within 5 km limits of Municipal Corporation/Municipal Council/Municipality.*
4. *Nagar Vatika may be developed in an area of minimum 1 ha and maximum of 10 ha within the city limits.*
5. *The Scheme aims at development of Nagar Van/Nagar Vatika primarily on forest or other land available for greening/tree planting within the limits of municipalities or in its vicinity located within 5 km limit. The purpose will be to improve the density of vegetation by planting judicious mix of different locally appropriate species of shrubs and trees as per local site conditions and protection of forest lands within and in the vicinity of cities which are getting affected/degraded and are facing the threat of encroachment.*
6. *Nagar Van/Nagar Vatika may be developed on forest or other vacant non-forest public land.*
7. *The area selected shall be accessible to city dwellers/general public.*
8. *Nagar Van should have minimum of 2/3rd area under woodland/tree cover and may be considered on lands other than forest land for expanding green cover in urban spaces.*
9. *Implementing agencies other than Forest Departments such as Municipalities may also be considered for development of Nagar Van/Nagar Vatika based on recommendations of State Governments.*
10. *Educational institutions, Universities, Government/Non-Government organisations/ULB may also take up 'Nagar Van/Vatika' on land owned by them and the proposals are to be routed through State Government.*
11. *Participation of local people, students in plantations may be encouraged to create a sense of ownership. Innovative concepts like creation of Panchvati, Aushadhi Vatika, Nakshatra Van, Oxyzones etc. may be taken up to attract people in plantation activities.*

12. *The financial modalities of the scheme will be as follows:*

- a. *The Ministry will provide one time development and non-recurring grant to the implementing agency for creation of an area of Nagar Van/Vatika to a maximum extent of Rs. 2.0 crores for 50 ha. Balance cost will be met by the implementing agency through its own resources.*
- b. *Financial assistance from Govt. of India under this scheme shall be provided as a grant to State Forest Department (SFD), and the SFD further release the portion of the grant meant for an implementing agency within a period of seven (7) days.*
- c. *The Nagar Van/Nagar Vatika may be developed in a collaborative mode involving forest and other departments of the State/UT Government, NGOs, Industries, Corporate bodies, Civil societies etc.*
- d. *The Nagar Van/Nagar Vatika may be developed with a participatory approach, adopting a PPP model, to ensure public participation in planning, implementation and management of Nagar Van/Nagar Vatika. An agreement between different stakeholders should be signed as may be needed.*
- e. *For raising of plantations and developing other components of a Nagar Van/Nagar Vatika, NGOs, Corporate bodies, Industries, civil society, ULBs and other institutions may be involved.*
- f. *The Implementing Agency of Nagar Van/Nagar Vatika may levy user fee, receive grants from other agencies etc. from Year-1 of the scheme itself.*
- g. *A Corpus of the entire funds received by the implementing agency shall be maintained as an interest bearing account in a government/ public sector bank.*
- h. *Financial assistance will be provided under this scheme to each Nagar Van/Nagar Vatika for the first two years only.*
- i. *Detailed account of receipts and Nagar Van/Nagar Vatika wise expenditure shall be maintained by each implementing agency. Likewise, the SFD shall maintain an account of receipts, and implementing agency wise expenditure from its Corpus.*

j. All funds received by implementing agency shall be subject to annual audit by a chartered accountant.

C. II Components of Nagar Van/Nagar Vatika:

Following items of work may be undertaken in a Nagar Van/Nagar Vatika –

- 1. Fencing of the area.*
- 2. Establishment and maintenance of woodlots/tree cover with emphasis on locally appropriate tree/shrub species.*
- 3. Theme based plantations, like Smriti Van, Rashi (Nakshatra) Van, etc.*
- 4. Plants to include ornamental trees, shrubs and climbers, medicinal plants, flowering plants, fruit trees etc. to represent floral biodiversity.*
- 5. Irrigation/rain water harvesting facility.*
- 6. Establishment and maintenance of public conveniences, drinking water facilities, benches, walkways/ footpath, jogging and cycle track etc.*
- 7. Establishment and maintenance of Information and extension centre including I&E kiosk, display boards, signage, information brochures etc.*

11. The members of the Joint Committee visited the site and submitted the report as follows:-

*The entire campus of the Kota Zoo was inspected. All the trees, plants, rescued wild animals and birds living naturally in the campus were observed. Lot of greenery was observed in the campus. Around 30 different types of trees were found in the premises. 50 to 100 years old trees of Peepal (*Ficus religiosa*), Banyan (*Ficus benghalensis*), Kalpvriksha (*Adansonia digitata*), Jamun (*Syzygium cumini*), Tamarind (*Tamarindus indica*), Kaith (*Limonia acidissima*), Neem (*Azadirachta indica*) are available here. There is a tree Batuk Amla (*Flacourtia emarginata*), which is a very rare species. There are two Kalpvriksha trees, out of which one seems to be more than 100 years old, while the age of the other tree may be 30-40 years. There are many Jamun trees here, which have been fruit laden presently. This fruit was seen being eaten by monkeys, bulbuls, hornbills and other birds on the site.*

- 1. During visit, Shikra bird, crow, peacock, black drongo, Ashy Prinia, Indian Robin, Egret, Pond Herons, Cattle Egret, Comb*

Duck, sparrow and two types of doves (Laughing Dove and Eurasian Dove) were also seen. There are 40 species of birds exist in this premises. (List of birds existed in premises as provided by DCF wildlife Kota vide letter dated 06.08.2025 is annexure herewith and marked as Annexure- IV.) Since it is rainy season, no bird's nests were seen on the site but the movement of many birds was seen in the premises.

- 2. During inspection of the site, a python was rescued. Its length was about 7-8 feet. It was informed by officials of forest department that the treatment and health checkup of the said wild animal will be done by the senior veterinary doctor to check whether the wild animal is injured or sick. During visit various animals were seen in the zoo, some of which were crocodiles, gharials in the crocodile cage, pelicans, combduck, cormorant, egret, China hen, lesser whistling duck etc. Birds were seen in the aviary. Four pythons, two bonnet macaques and 30 star tortoises are also kept in the respective enclosures.*
- 3. During inspection on the site, old cages were seen. The staff present here told that Asiatic lion, Bengal tiger and Indian leopard etc wild animals were kept in the said cages respectively. Today these cages are used as rescue wards. Wild animals like leopard, bear, hyena etc. rescued are kept in quarantine here and after getting healthy, these wild animals are again released in the open forest. The staff present has stated that the said cages are quite old (state time). The structure, design and thickness of the iron of the cages indicate that the cages are quite old.*
- 4. As per land documents provided during visit, the said land was found to be Forest Department's account holder, Khasra number 271, area 1.50 hectare and it was found that the zoo land is uncultivable land.*
- 5. The office of Deputy Conservator of Forest, Wild Life Kota, Office of Regional Forest Officer, Flying Squad Wild Life Kota, Office of Supervisor, Zoo Kota were found operating in the said premises. Along with this, Wild Life Rescue Center Kota and Pakshi Ghar (Aviary) Kota are also being operated in the same premises.*

Observations:

1. Kota Zoo has wide range of trees, animals and birds. Some of rare species of trees are present in Kota Zoo which are very old, in good condition and are Indigenous. Many birds reside on trees of these species. Butterflies, moths, bees, ants, lizards and many other creatures reside on these trees because these trees are local (Indigenous). Birds do not nest on exotic plants like *Conocarpus erectus*, *Spathodea*, *Lantana*, *Tabebuia*, *Terminalia bucerus*, *Gulmohar*, *Peltaform* etc. which are being planted in cities now a days. The age of these exotic plants also very less (25 to 50 years). Butterflies, moths, bees, ants etc. do not reside on these exotic plants. Such trees grow rapidly, but their plantation is not appropriate for ecology/environment. It is more appropriate to plant local plants (Indigenous), as the age of local plants can be from 200 to 1000 years. Therefore, in the opinion of the committee, the local plants/trees located at the aforesaid site should be preserved on priority basis.

2. During the inspection of the aforesaid site, it was told that the said zoo is built by the State Time. The said cages also appear to be quite old. In such a situation, before removing the said structures, it would be appropriate to take the opinion of the concerned department from the heritage point of view.

3. The said land was found to be forest land. As per the rules of the Forest Conservation Act 1980, only after diversion, other departments can get any work done on the said land. Therefore, it is appropriate to get any work, done only after approval from competent authority.

4. At present, the said premise houses Schedule-1 wild animals namely crocodile, gharial, python and pelican, which can be shifted after the permission of Central Zoo Authority, New Delhi. Presently, the enclosures for the above mentioned wild animals in Abheda Biological Park, Kota are not ready. Hence, it is not advisable to disturb the aforesaid wild animals.

5. The offices related to forest protection and protections of wild animals are functioning in this complex. 4-5 wild animals are rescued and come here every day. Being situated in the middle of the city and having a clean environment, the wild animals are able to recover quickly in this habitat. Therefore, this place is

suitable as a wild animal rescue center. Also, this place is suitable for an aviary due to the jungle-like feeling here, the birds are able to live more happily and comfortably in this environment. Hence, it is advised to keep the aviary and rescue center here.

12. The submissions of the learned Counsel for the Applicant are that it is a very old zoo of 100 years and within in the area of forest and the use cannot be diverted without due permission from the MoEF&CC in accordance with the Forest (Conservation) Act, 1980.
13. The submissions of the learned Counsel for the Respondent No.05/Department of Forest and Wildlife are that the premises currently house several protected wild animals, including Schedule I species such as crocodile, gharial, and python, and Schedule II species such as bonnet macaque, parakeet, birds of prey, pelican, comb duck, ibis, blackbuck (haran) and star tortoise. These animals cannot be relocated to any other place unless they are formally shifted to the Abheda Biological Park, Kota, which is the designated facility for their long-term housing as per departmental protocol and statutory requirements and the campus contains numerous indigenous trees aged between 50 to 100 years, including Peepal, Banyan, Kaith, Semal, Kalpvriksha, Jamun, and Acacia, all of which warrant preservation due to their ecological significance. These trees support nesting and habitat for various bird species such as hornbill, bulbul, sunbird, prinia, weaver bird, starling, and egrets, which regularly utilise the canopy and branches for roosting and breeding and further that Forest Department has not granted any permission for tree felling, removal of vegetation, alteration of land use, or transfer of the forest land to any external agency.

14. The Deputy Conservator of Forest, Kota, has communicated the category of the birds seen in the zoo as follows:-

- | | |
|---------------------------------------|------------------------------------|
| 1. <i>Shikra</i> | 21. <i>Rose ringed parakeet</i> |
| 2. <i>Spotted Owl</i> | 22. <i>Alexandrine parakeet</i> |
| 3. <i>Indian Grey Hornbill</i> | 23. <i>Hoopo</i> |
| 4. <i>Grey Francolin</i> | 24. <i>Greater coucal</i> |
| 5. <i>Grey francolin</i> | 25. <i>Indian cuckoo</i> |
| 6. <i>Spotted Dove</i> | 26. <i>Rock pigeon</i> |
| 7. <i>Collared dove</i> | 27. <i>Red vented bulbul</i> |
| 8. <i>Black Drongo</i> | 28. <i>Indian peafowl</i> |
| 9. <i>Fruit Bat</i> | 29. <i>Jungle babbler</i> |
| 10. <i>Common kingfisher</i> | 30. <i>Common myna</i> |
| 11. <i>White throated kingfisher</i> | 31. <i>Indian robin</i> |
| 12. <i>Green bee eater</i> | 32. <i>Plain prinia</i> |
| 13. <i>Coppersmith barbet</i> | 33. <i>Tailorbird</i> |
| 14. <i>Brown shrike</i> | 34. <i>Red wattled lapwing</i> |
| 15. <i>Golden oriole</i> | 35. <i>Pond heron</i> |
| 16. <i>Wire tailed swallow</i> | 36. <i>Little-egret</i> |
| 17. <i>Purple sunbird</i> | 37. <i>Comb duck</i> |
| 18. <i>House sparrow</i> | 38. <i>White breasted waterhen</i> |
| 19. <i>Black Kite</i> | 39. <i>Little Cormorant</i> |
| 20. <i>Yellow footed green pigeon</i> | 40. <i>Great tit</i> |

15. The submissions of the learned Counsel for Respondent No.06/State Pollution Control Board are that the land is within the possession of the Forest Department and without permission of Forest Department, the use of the land cannot be changed.

16. The arguments advanced on behalf of learned Counsel for the Respondent No.03 & 04 are that, the letter dated 04.04.2025 was sent to the forest department with intent to inform the forest department about the proposal of the making of sports facility over the zoo premise to avoid frustration of any construction work by the forest department considering the proposal to make a sports facility there. The said proposal is a proposed one and subject to making of a detailed project report, the detailed project

report has yet not been formulated and is still awaited. Hence, the present original application is premature and misconceived.

17. Merely because the sports facility has been proposed at Kota Zoo land, does not mean that Respondent No.3 is going immediately without a development plan and required permissions and clearances including following the procedure for acquisition of the said land from the concerned department. the respondent no.3 has given its assurance through the factual report in following words:-

"नयापुरा चिड़ियाघर की जमीन पर स्पोर्ट्स सिटी विकसित करने की कार्य योजना बनाने के निर्देश प्रदान किये गये थे। नयापुरा चिड़ियाघर को अभेड़ा बायोलॉजिकल पार्क में शिफ्ट किया जा चुका है। नयापुरा चिड़ियाघर की जमीन पर स्थित पेड़ों, हरियाली व परिसर में स्थित स्ट्रक्चर को ध्यान में रखते हुये कार्य योजना तैयार की जायेगी। नयापुरा चिड़ियाघर की जमीन रेवेन्यू रिकॉर्ड के अनुसार फोरेस्ट डिपार्टमेन्ट के नाम दर्ज है। कोटा विकास प्राधिकरण द्वारा फोरेस्ट डिपार्टमेन्ट से एन. ओ. सी. व क्लीयरेन्स हेतु कन्सल्टेन्सी कार्य का कार्यादेश दिया जा चुका है। फोरेस्ट डिपार्टमेन्ट से एन. ओ. सी. व क्लीयरेन्स के पश्चात ही स्पोर्ट्स सिटी की कार्य योजना तैयार की जावेगी।"

Thus, it has been made clear by the Respondent No. 3 that the project to build a sports facility as proposed shall be initiated and executed when all the NOC's and clearances are taken. The project proposed has yet to be considered in detail by the competent authorities and all the necessary measures are required to taken before initiation of the said project. It it further submitted that, the zoo land neither has yet been acquired from the forest department nor in the possession of the respondent no.3. Therefore, no question of felling of the trees and affecting or endangering flora and fauna arises yet.

18. It is further submitted that almost all the animals of the Kota Zoo have been shifted to the Abhedha Biological Park by the Forest

Department and the rest of the animals are already proposed to be transferred in phase 2. Even if the project takes place as proposed, once the detailed project report will be prepared. highest attention would be paid for the protection of trees, using methods such as transplantation of trees or their relocation. However, again, the same would be a concern once the department gets all the permissions and clearances and prepares a detailed plan. The object behind the proposal of building sports facility on the zoo land is to facilitate with modern and well equipped facilities to sports. persons at the Kota stadium and the Kota stadium is just beside the zoo land.

19. Learned Counsel for the Applicant has filed rejoinder and argued that the Respondent without exploring any alternate site for the proposed sports complex and without having prior permission under the Forest Conservation Act, 1980, indirectly issued directions to the Forest Department to not to utilize its own land and restrained them to make any development without prior discussion at the competent level.
20. It is further argued that the decision taken is completely biased, arbitrary and illegal. Further, the decision taken is totally in contradiction of the scheme of Govt. of India i.e. Nagar Van Yojana, which has been introduced to develop urban forest; contrary to this, the Respondent has proposed to develop a concrete jungle at the cost of forest standing tall for the last 100 years and providing fresh air to the residents of Kota and it is further submitted that the report of the Forest Department shall be read in its totality. The Forest Department in its report has categorically provided the details of species of flora and fauna

present at the site, the operation of rescue centre and even number of animals pertaining to schedule I species of Wildlife (Protection) Act, 1972, are still there. If it is presumed that the animals in cages will be shifted to Biological Park, even though, the species of birds seen every year in the zoo will be adversely affected and with time vanish from the area, affecting the complete ecosystem of the area. Further, the rescue centre for animals will also be affected and the damage which can be attributed due to cutting of trees will be an irreparable loss, even if 10 times of compensatory plantation is being done.

21. Learned Counsel for the Respondent No.03 & 4 has filed additional reply and argued that the communication to Forest Department was not to stop them to use the land but was an information about the proposal of the sports project. Therefore, it was stated in the letter that, a discussion would be better before taking any decision about new construction over the land. The intention of the said communication is being misinterpreted to falsely intercept a cause of action merely on a proposed project.
22. It is a basic understanding of the settled principles that the environmental law does not stop a government institute to build infrastructure having a balance between economic growth with ecological protections. Mere proposal of the same does not give rise to a cause of action to the applicant as no violation to the any of the statutes enshrined in Schedule I of the National Green Tribunal Act, 2010 takes place. Since, a Detailed policy, clearances, permissions, acquisition of the land etc. are pending, the challenge to the project 1412 would be tenable once all the

policy making aspects are taken care of before the execution of the same.

23. It is further argued that unless and until policies finalized and project is approved and Environmental Clearance is granted the procedure as narrated by the Applicant are at the primary stage and simply a proposal.
24. It is a well established principle that society should be ruled by rule of law not rule by law and if the public property is being in danger then the official will be responsible to protect it and also responsible for the damages.

DOCTRINE OF PUBLIC TRUST AND PUBLIC ACCOUNTABILITY:

25. When we are considering the issue with regard to 'Rule of Law' and 'Separation of Powers', we will also have to take into effect the matters where the executive transgresses its power and acts and demolishes the structures without following the procedure prescribed by law. Though the doctrine of public trust has been largely applied by this Court in environmental matters, it cannot be disputed that the executive exercises its powers as a 'trustee' of the citizens. Therefore, the executive actions must be consistent with maintaining public trust.
26. Conversely, when the executive acts in breach of the principles of 'rule of law' and 'separation of powers', the doctrine of public trust and accountability would come into play. The Hon'ble Supreme Court in the case of *Delhi Airtech Services Private Limited and another v. State of Uttar Pradesh and another (2011) 9 SCC 354*, observed as follows:

“213. These authorities instrumentalities of the State and the officers are empowered to exercise the power on behalf of the State. Such exercise of power attains greater significance when it arises from the statutory provisions. The level of expectation of timely and just as performance of duty is higher, compared to the cases where the power is executively exercised in discharge of its regular business. Thus, all administrative norms and principles of fair performance are applicable to them with equal force, as they are to the government department, if not with a greater rigour. The well-established precepts of public trust and public accountability are fully applicable to the functions which emerge from the public servants or even the persons holding public office.

214. In State of Bihar Vs. Subhash Singh [(1997) 4 SCC 430], this Court, in exercise of the powers of judicial review, stated that the doctrine of "full faith and credit" applies to the acts done by the officers in the hierarchy of the State. They have to faithfully discharge their duties to elongate public purpose.

215. The concept of public accountability and performance of functions takes in its ambit, proper and timely action in accordance with law. Public duty and public obligation both are essentials of good administration whether by the State or its instrumentalities. In Centre for Public Interest Litigation v. Union India (2005) 8 SCC 202: (2006) 1 SCC of (Cri) 23] , this Court declared the dictum that State actions causing loss are actionable under public law. This is a result of innovation, a new tool with the courts which are the protectors of civil liberties of the citizens and would ensure protection against devastating results of State action. The principles of public accountability and transparency in State action are applicable to cases of executive or statutory exercise of power, besides requiring that such actions also not lack bona fides. All these principles enunciated by the Court over a passage of time clearly mandate that public officers answerable for both their inaction and irresponsible actions. If what ought to have been done is not done, responsibility should be fixed on the erring officers, then alone, the real public purpose of an answerable administration would be satisfied.

216. The doctrine of "full faith and credit" applies to the acts done by the officers. There is a presumptive evidence of regularity in official acts, done performed, and there should be faithful discharge of duties to elongate public purpose in accordance with

the procedure prescribed. Avoidance and delay in decision-making process in government hierarchy is a matter of growing concern. Sometimes delayed decisions can cause prejudice to the rights of the parties besides there being violation of the statutory rule.

217. This Court had occasion to express its concern in different cases from time to time in relation to such matters. In State of A.P. v. Food Corporation of India ((2004) 13 SCC 53: 2006 SCC (L&S) 873), this Court observed that it is a known fact that in transactions of government business, no one would own personal responsibility and decisions would be leisurely taken at various levels.

218. Principles of public accountability are applicable to such officers/officials with all their rigour. Greater the power to decide, higher is the responsibility to be just and fair. The dimensions of administrative law permit judicial intervention in decisions, though of administrative nature, which are ex facie discriminatory. The adverse impact of lack of probity in discharge of public duties can result in varied defects, not only in the decision-making process but in the final decision as well. Every officer in the hierarchy of the State, by virtue of his being "public officer" or "public servant", is accountable for his decisions to the public as well as to the State. This concept of dual responsibility should be applied with its rigours in the larger public interest and for proper governance."

27. The Court held that the well-established precepts of public trust and public accountability are fully applicable to the functions which emerge from the public servants or even the persons holding public office. It has been held that the doctrine of "full faith and credit" applies to the acts done by the officers in the hierarchy of the State. They have to faithfully discharge their duties to elongate public purpose.

28. This Court referring to its earlier decision in the case of *Centre for Public Interest Litigation and another v. Union of India and others*²⁵ (2005) 8 SCC 202 held that the State actions causing loss are actionable under public law. The courts, which are the protectors of civil liberties of the citizens, would ensure

protection against devastating results of State action. The principles of public accountability and transparency in State actions are applicable to cases of executive or statutory exercise of power, besides requiring that such actions also do not lack bona fides. The Court held that the public officers are answerable for both their inaction and irresponsible actions. For such actions or inactions, responsibility should be fixed on the erring officers so as to ensure the real public purpose of an answerable administration.

29. The Court held that the principles of public accountability are applicable to the government officials with all their rigour. Greater the power to decide, higher is the responsibility to be just and fair. It has been held that every officer in the hierarchy of the State, by virtue of his being "public officer" or "public servant", is accountable for his decisions to the public as well as to the State. It has been held that the concept of dual responsibility should be applied with its rigours in the larger public interest and for proper governance.
30. The Court in the case of *Express Newspapers Pvt. Ltd. and others v. Union of India*²⁶ (1986) 1 SCC 133 and others had an occasion to consider the distinction between exercise of power in good faith and misuse in bad faith. While elaborating the principle of fraud on power, this Court observed thus:

"119. Fraud on power voids the order if it is not exercised bona fide for the end design. There is a distinction between exercise of power in good faith and misuse in bad faith. The former arises when an authority misuses its power in breach of law, say, by taking into account bona fide, and with best of intentions, extraneous matters or by ignoring relevant matters. That would render the impugned act or order ultra vires. It would be a case of fraud on powers....."

BASIC PRINCIPLES:

31. At the outset, it is imperative to establish the three foundational principles viz., (i) Doctrine of Public Trust, (ii) Principle of Sustainable Development, and (iii) Right to healthy environment, that must guide the consideration of other aspects in this case.

PUBLIC TRUST DOCTRINE:

32. The Doctrine of Public Trust asserts that vital natural resources such as rivers, seashores, forests, and air are held in trust by the State for the benefit and enjoyment of the public. Rooted in Roman law, which classified these resources as common property (*res communis*) or unowned (*res nullius*), and refined by English common law, this doctrine places a fiduciary duty on governments to protect them from privatization or exploitation that compromises public interests. It imposes three key restrictions viz., (a) resources must remain accessible for public use, (b) cannot be sold for private gain, and (c) must be preserved in their natural state. Courts internationally, have extended its scope to protect wetlands, riparian forests, and ecologically fragile lands, emphasizing the need for environmental preservation in light of modern ecological challenges. This evolving interpretation reflects the doctrine's relevance in maintaining the balance between sustainable development and environmental conservation. In *M.C. Mehta v. Kamal Nath*¹² [(1997) 1 SCC 388], this court elucidated the doctrine of public trust as follows:

"24. The ancient Roman Empire developed a legal theory known as the "Doctrine of the Public Trust". It was founded on the ideas that certain

common properties such as rivers, seashore, forests and the air were held by the Government in trusteeship for the free and unimpeded use of the general public. Our contemporary concern about "the environment" bears a very close conceptual relationship to this legal doctrine. Under the Roman law these resources were either owned by no one (res nullius) or by everyone in common (res communis). Under the English common law, however, the Sovereign could own these resources but the ownership was limited in nature, the Crown could not grant these properties to private owners if the effect was to interfere with the public interests in navigation or fishing. Resources that were suitable for these uses were deemed to be held in trust by the Crown for the benefit of the public. Joseph L. Sax, Professor of Law, University of Michigan proponent of the Modern Public Trust Doctrine in an erudite article "Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention", Michigan Law Review, Vol. 68, Part 1 p. 473, has given the historical background of the public trust doctrine as under:

"The source of modern public trust law is found in a concept that received much attention in Roman and English law the nature of property rights in rivers, the sea, and the seashore. That history has been given considerable attention in the legal literature, need not be repeated in detail here. But two points should be emphasised. First, certain interests, such as navigation and fishing, were sought to be preserved for the benefit of the public; accordingly, property used for those purposes was distinguished from general public property which the sovereign could routinely grant to private owners. Second, while it was understood that in certain common properties such as the seashore, highways, and running water "perpetual use was dedicated to the public", it has never been clear whether the public had an enforceable right to prevent infringement of those interests. Although the State apparently did protect public uses, no evidence is available that public rights could be legally asserted against a recalcitrant government.

25. The public trust doctrine primarily rests on the principle that certain resources like air, sea, waters, and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general

public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the public trust doctrine imposes the following restrictions on governmental authority: "Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent, and third property must be maintained in particular types of uses".

33. Further, in *Vedanta Limited v. State of Tamil Nadu: (2024) SCC Online SC 230*), it was observed by this Court as follows:

"25. In addition, the public trust doctrine, recognized in various jurisdictions, including India, establishes that the state holds natural resources in trust for the benefit of the public. It reinforces the idea that the State must act as a steward of the environment, ensuring that the common resources necessary for the well-being of the populace are protected against exploitation or degradation. These principles underscore the importance of balancing economic interests with environmental and public welfare concerns. While the industry has played a role in economic growth, the health and welfare of the residents of the area is a matter of utmost concern. In the ultimate analysis, the State Government is responsible for preserving and protecting their concerns.

SUSTAINABLE DEVELOPMENT:

34. The doctrine of sustainable development was evolved to strike a balance between economic advancement and environmental safeguards. It envisions development that can be sustained by nature environment. While the advancement of industries and infrastructure is indispensable for fostering employment and generating revenue, such growth cannot come at the cost of irreparable ecological damage. This Court has already extensively considered the concept of sustainable development in the

following decisions, the relevant paragraphs of which are reproduced below:

(i) Vellore Citizens' Welfare Forum (supra) (1996) 5 SCC 647:

"10. The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called "Our Common Future". The Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland and as such the report is popularly known as "Brundtland Report". In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a document called "Caring for the Earth" which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in history deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents, namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". We have no hesitation in holding that "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists."

(ii) Intellectuals Forum v. State of A.P¹⁴ [(2006) 3 SCC 549]

"84. The world has reached a level of growth in the 21st century as never before envisaged. While the crisis of economic growth is still on, the key question which often arises and the courts are asked to adjudicate upon is whether economic growth can supersede the concern for environmental protection and whether sustainable development which can be achieved only by way of protecting the environment and conserving the natural resources for the benefit of humanity and future generations could be ignored in the garb of economic growth or compelling human necessity. The growth and development process are terms without any content, without an inkling as to the substance of their end results. This inevitably leads us to the conception of growth and development, which sustains from one generation to the next in order to secure "our common future". In pursuit of development, focus has to be on sustainability of development and policies towards that end have to be earnestly formulated and sincerely observed. As Prof. Weiss puts it, "conservation, however, always takes a back seat in times of economic stress". It is now an accepted social principle that all human beings have a fundamental right to a healthy environment, commensurate with their well-being, coupled with a corresponding duty of ensuring that resources are conserved and preserved in such a way that present as well as the future generations are aware of them equally."

(iii) Tirupur Dyeing Factory Owners Assn. v. Noyyal River Ayacutdars Protection Assn¹⁵ (2009) 9 SCC 737

"The concept of "sustainable development" has been explained that it covers the development that meets the needs of the person without compromising the ability of the future generation to meet their own needs. It means the development, that can take place and which can be sustained by nature/ecology with or without mitigation. Therefore, in such matters, the required standard is that the risk of harm to the environment or to human health is to be decided in public interest, according to a "reasonable person's" test. The development of the industries, irrigation resources and power projects are necessary to improve employment opportunities and generation of revenue, therefore,

cannot be ignored. In such eventuality, a balance has to be struck for the reason that if the activity is allowed to go on, there may be irreparable damage to the environment and there may be irreparable damage to the economic interest. A similar view has been reiterated by this Court in T.N. Godavarman Thirumulpad (104) v. Union of India [(2008) 2 SCC 222] and M.C. Mehta v. Union of India ((2009) 6 SCC 142)."

(iv) Vedanta Limited (supra)¹³ 2024 SCC Online SC 230:

"24. The closure of the industry is undoubtedly not a matter of first choice. The nature of the violations and the repeated nature of the breaches coupled with the severity of the breach of environmental norms would in the ultimate analysis have left neither the statutory authorities nor the High Court with the option to take any other view unless they were to be oblivious of their plain duty. We are conscious of the fact that the unit, as this Court observed in its decision in 2013, has been contributing to the productive assets of the nation and providing employment and revenue in the area. While these aspects have undoubted relevance, the Court has to be mindful of other well-settled principles including the principles of sustainable development, the polluter pays principle, and the public trust doctrine. The polluter pays principle, a widely accepted norm in international and domestic environmental law, asserts that those who pollute or degrade the environment should bear the costs of mitigation and restoration. This principle serves as a reminder that economic activities should not come at the expense of environmental degradation or the health of the population.

26. As consistently held in numerous decisions of this Court, the unequivocal right to a clean environment is an indispensable entitlement extended to all persons. Air, which is polluted beyond the permissible limit, not only has a detrimental impact on all life forms including humans, but also triggers a cascade of ecological ramifications. The same is true for polluted water, where the pervasive contamination poses a profound threat to the delicate balance of ecosystems. The impact of environmental pollution and degradation is far reaching: it is often not only severe but also persists over the long term. While some adverse effects may be immediately evident, the intensity of other kinds of harm reveals itself over time. Persons who live in surrounding areas may develop diseases which not only result in financial

burdens but also impact the quality of life. The development and growth of children in these communities may become stunted,

creating a tragic legacy of compromised potential. Basic necessities, such as access to potable water, may not be met, exacerbating the challenges faced by these already vulnerable populations. Undoubtedly, such adverse effects are felt more deeply by marginalized and poor communities, for whom it becomes increasingly difficult to escape the cycle of poverty.

27. This Court is also alive to the concept of intergenerational equity, which suggests that "present residents of the earth hold the earth in trust for future generations and at the same time the present generation is entitled to reap benefits from it." The planet and its invaluable resources must be conscientiously conserved and responsibly managed for the use and enjoyment of future generations, emphasizing the enduring obligation to safeguard the environmental heritage for the well-being of all.

28. It is an undeniable and fundamental truth that all persons have the right to breathe clean air, drink clean water, live a life free from disease and sickness, and for those who till the earth, have access to uncontaminated soil. These rights are not only recognized as essential components of human rights but are also enshrined in various international treaties and agreements, such as the Universal Declaration of Human Rights, the Convention on Biological Diversity, and the Paris Agreement. As such, they must be protected and upheld by governments and institutions worldwide, even as we generate employment and industry. The ultimate aim of all our endeavors is for all people to be able to live 'the good life. Without these basic rights, increased revenue and employment cease to have any real meaning. It is not merely about economic growth but about ensuring the well-being and dignity of every individual. As we pursue development, we must prioritize the protection of these rights, recognizing that they are essential for sustainable progress. Only by safeguarding these fundamental rights can we truly create a world where everyone has the opportunity to thrive and prosper.

29. We have heard these proceedings for several days and after a careful evaluation of the factual and legal material, we have come to the conclusion that the Special Leave Petitions do not warrant interference under Article 136 of the Constitution."

(v) **M.C. Mehta v. Union of India**¹⁶ (2009) 6 SCC 142

"19.....As stated above, in the past when mining leases were granted, requisite clearances for carrying out mining operations were not obtained which have resulted in land and environmental degradation. Despite such breaches, approvals had been granted for subsequent slots because in the past the Authorities have not taken into account the macro effect of such wide scale land and environmental degradation caused by absence of remedial measures (including rehabilitation plan). Time has now come, therefore, to suspend mining in the above Area till statutory provisions for restoration and reclamation are duly complied with, particularly in cases where pits/quarries have been left abandoned. Environment and ecology are national assets. They are subject to inter-generational equity. Time has now come to suspend all mining in the above Area on Sustainable Development Principle which is part of Articles 21, 48A and 51(g) of the Constitution of India. In fact, these Articles have been extensively discussed in the judgment in M.C. Mehta's case (supra) which keeps the option of imposing a ban in future open. Mining within the Principle of Sustainable Development comes within the concept of "balancing" whereas mining beyond the Principle of Sustainable Development comes within the concept of "banning" It is a manner of degree. Balancing of the mining activity with environment protection and banning such activity are two sides of the same principle of sustainable development. They are parts of Precautionary Principle"

RIGHT TO HEALTHY ENVIRONMENT:

35. Right to life inherently includes the right to enjoy, pollution free environment, which are essential for the full enjoyment of life. If anything endangers or impairs the quality of life in derogation of laws, a citizen has the right to have recourse to Article 32 of the Constitution to address the pollution of environment which may be detrimental to the quality of life. This court has recognized the concept of 'right to healthy environment as part of the right to life

under Article 21 and thereby has also recognized the right to clean drinking water as a fundamental right. In fact, environmental rights, which encompass a group of collective rights, are now described as "third generation" rights. Therefore, the State, so as to sustain its claim of functioning for the welfare of its citizens, is bound to regulate water supply by safeguarding, maintaining and restoring the water bodies to protect the right to healthy water and prevent health hazards. This court has also laid down in many cases, that the States shall ensure that the water bodies are free from encroachments and steps must be taken to restore the water bodies. In this context, we may refer to the following judgments and observations made thereunder.

(i) Subash Kumar v. State of Bihar¹⁷ (1991) 1 SCC 598 : 1991 SCC OnLine SC 42

"7. Article 32 is designed for the enforcement of Fundamental Rights of a citizen by the Apex Court. It provides for an extraordinary procedure to safeguard the Fundamental Rights of a citizen. Right to live is a fundamental right under Art 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Art. 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life....."

(ii) State of Karnataka v. State of Andhra Pradesh¹⁸ (2000) 9 SCC 572

"175. Water is a unique gift of nature which has made the planet earth habitable. Life cannot be sustained without water. In the National Water Policy issued by the Government of India in 1987, it was declared that water is a prime natural resource, a basic human need and a precious national asset. Water, like air, is the essence for human survival. The history of water

availability and its user is tied up with the history of biologically evolution in all civilizations. It will not be wrong to say that not only the life started in water but rather water is life itself. It is essential for mankind, animals, environment, flora and fauna. There is no denial of the fact that in the ancient times water played an important role in the origin, development and growth of civilization all over the globe. Water is an important factor in the economic development of the countries which ultimately affects the social and human relations between the habitants. Planned development and proper utilization of water resources can serve both as a cause as well as an effect off the prosperity of a nation. Water on earth is available in the form of frozen snow, rivers lakes, springs, water ways, water falls and aqueducts, etc."

(iii) A.P. Pollution Control Board II v. Prof. M.V. Naidu and Others¹⁹ (2001) 2 SCC 62 : 2000 SCC OnLine SC 1679

"7. Our Supreme Court was one of the first Courts to develop the concept of right to 'healthy environment' as part of the right to "life" under Article 21 of our Constitution. [See Bandhua Mukti Morcha v. Union of India (1984 (3) SCC 161)]. This principle has now been adopted in various countries today.

8. In today's emerging jurisprudence, environmental rights which encompass a group of collective rights are described as "third generation" rights. The "first generation" rights are generally political rights such as those found in the International Convention on Civil & Political Rights while "second generation" rights are social and economic rights as found in the International Covenant on Economic, Social and Cultural Rights "Right to Healthy Environment". (See Vol.25) 2000 Columbia Journal of Environmental Law by John Lee P.283, at pp. 293-294 f. 29)."

36. Accordingly, on the principle of Public Trust Doctrine and rule of law, the present structure which is more than 100 years old and within the possession of the Forest Department/forest land cannot be diverted without due permission from the Competent Authority in accordance with the Forest (Conservation) Act,

1980. The actions of the Respondents are highly against the environmental rules and against the Forest (Conservation) Act, 1980.

37. Accordingly, the Original Application No.70/2025(CZ) deserves to be allowed and 100 years old forest area is required to be protected, which is situated in the mid of the city.

38. The Original Application No.70/2025(CZ) is allowed and the Respondents are restrained to cut and damage any tree without due permission from the Competent Authority and not to do any activities in the area in contravention of the Forest (Conservation) Act, 1980, and to find out an alternate site for development of sports complex.

39. With these observations, the **Original Application No.70/2025(CZ)** alongwith pending I.As., if any, stand **disposed of**.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

11th May, 2026,
Original Application No.70/2025(CZ)
I.D.