

# Nitin Saxena vs National Highway Authority Of India on 20 May, 2026

Item No. 1A

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

Original Application No.53/2026-PB  
(Earlier O.A. No.100/2025(CZ))

□.□. □o. 52/2026, □.□. No. 53/2026, □.□. □o. 54/2026  
□.□. □o. 55/2026, □.□. No. 56/2026, □.□. No. 57/2026  
□.□. No. 264/2026, □.□. No. 294/2026, □.□. No. 298/2026)

IN THE MATTER OF:

Mr. Nitin Saxena,  
Nitin Saxena,  
S/o Shri Lalta Prasad,  
Aged 47 years, R/o A-509,  
Ashoka Garden, Bhopal, M.P.,

Applicant(s)

Versus

1. National Highway Authority of India,  
Through Head Office G 5 & 6,  
Sector-10, Dwarka, New Delhi-110075 Project Implementation Unit  
Address HIG-5/E-3, Near Ganesh Mandir, Old Habibganj Naka, Arera Colony Bhopal, Madhya Pradesh, Respondent No.01
2. Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi, Respondent No.02
3. Forest Department, Government of Madhya Pradesh, Office of Additional Chief Secretary/Principal Secretary Mantralaya, Vallabh Bhawan, Bhopal, Madhya Pradesh, Respondent No.03
4. Collector Bhopal, Office at Collectorate, A-Block, old Secretariat, Bhopal (MP), Respondent No.04
5. District Forest Officer,

Paryavaran Vaniki Vanmandal,  
74 Bungalow, Khel Parisar, Bhopal,

Respondent No.05

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6. Commissioner, Bhopal Municipal  
Corporation,  
4B, Habibganj, Kushabhau Thackrey  
Inter State Bus Terminus Bhopal,  
Madhya Pradesh,

Respondent No.06

COUNSELS FOR APPLICANT(S):

Mr. Harpreet Singh Gupta, Adv. with Mr. Pratipal Singh Gupta, Mr.  
Srajan Jain, Mr. Chinmay Singh Kulhara, Ms. Bhumika Sharma &  
Ms. Prchi Menghani, Advs. for Applicant (Through VC)

COUNSELS FOR RESPONDENT(S):

Mr. K.M. Nataraj, ASG with  
Mr. Ayush Dev Bajpai & Mr. Anuj, Advs. for R-1  
Ms. Ahuja Kulshreshtha, proxy counsel for  
Ms. Gunjan Chouksey, Adv. for BMC  
Ms. Rukhmini Bobde, Mr. Vinayak Aren & Ms. Aishwarya Nigam,  
Advs. for the State of Madhya Pradesh

CORAM:

HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER  
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER

Date of completion of hearing and reserving of order

: 17.04.2026

Date of uploading of order on website

: 20.05.2026

JUDGMENT

SHEO KUMAR SINGH (J):

(1) BRIEF FACTS AND SUBMISSIONS OF THE APPLICANT:

1. Main question involved in this application is proposal by the National Highway Authority of India (NHAI) to cut and fell a large number of trees for the proposed Asharam Tiraha to Ratnagiri Tiraha Ayodhya Bypass Project in the city of Bhopal. By means of filing this application, the O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

Applicant has prayed to cancel the project of road construction activities from Asharam Tiraha to Ayodhya Bypass and to consider the alternate route to avoid unnecessary felling of trees or to use the space available either side of the existing road for the purpose of widening the road which will eliminate the need of felling of trees or to ensure plantation of big number of trees of native species in the area and to ensure the protection and compensatory afforestation according to rules.

2. The Applicant has submitted that on 25.04.2025, a caveat notice regarding cases arising out of felling of 8000 trees for the aforesaid project was published by Respondent No.1 in a daily newspaper. Thereafter, formal objections were lodged by the Applicant before the Tree Officer/Commissioner, Bhopal Municipal Corporation against the notice of caveat as per the news published in the daily newspaper. It is argued that the cutting of trees and reduction of the green area has a direct impact on the rise in temperature levels of the area. The newspaper cutting dated 22.05.2024 of Patrika indicates how the temperature levels were significantly different in Char Imli and in Kolar area, where the temperature in Kolar was 44 degrees Celsius, Char Imli had a temperature of 36 degree Celsius. In this regard, it is pertinent to refer to research article titled 'Land Surface Temperature Variations:

Case Study Bhopal' which is authored by Pallavi Tiwari and Arka Kanungo, wherein the conclusion is that greens at the local level and along the road are crucial at reducing the temperatures.

3. It is further argued that provisions of the Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001, (Sections 3 to 8) have O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. not been complied with by the authorities concerned while permitting the felling of the trees. The relevant provisions are quoted below:-

"Section 3: Restriction on felling of trees Notwithstanding any custom, usage, contract or local-law for the time being in force, no person shall without permission under the provision of this Act fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within the urban area.

Section 4: Appointment of Tree Officer The State Government may appoint one or more forest officers of the rank not below that of a Gazetted Forest Officer, Commissioner, Municipal Corporation or Chief Municipal Officer as "Tree Officer" for the purposes of this Act, for each Urban Area.

Section 5: Appointment of other officers The State Government may, from time to time, appoint such other officers and employees of Forest Department or Local

Authority as may be considered necessary who shall be subordinate to the Tree Officer.

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

(1) Any person desiring to fell or remove or otherwise dispose of, by any means, a tree, shall make an application to the concerned Tree Officer for permission in such form and containing such particulars and accompanied by such documents as may be prescribed. (2) On receipt of the application, the Tree Officer shall acknowledge the application and may by order after inspecting the tree and holding such enquiry, as he may deem necessary, either grant permission in whole or in part or refuse permission for reasons to be recorded in writing, within 30 days from the date of receipt of the application:

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

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

(i) is dead, diseased or wind fallen; or

(ii) constitutes a danger to life and property; or

(iii) is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or

(iv) constitutes an obstruction to traffic or if necessary for maintenance of power/telephone lines etc. (3) The permission granted under sub-section (2) may be subject to the condition that the applicant shall plant another tree or trees of the same or other suitable species on the same site or premises, and where this is not possible, make such contribution as may be prescribed, within thirty days from the date the tree is felled or within such extended period as the Tree Officer may allow. (4) If the Tree Officer fails to communicate the decision within the period specified under sub-section (2) the permission applied for shall be deemed to have been granted."

Section 7: Preservation of trees-

It shall be the duty of the applicant to comply with the order made under sub-section (3) of Section 6 and to ensure that the tree or trees grow well and are well preserved.

Section 8: Implementation of order made under Section 6- (1) Every person who is under an obligation to plant trees under an order made under Section 6 shall start preparatory work within

thirty days of the date of receipt of the order or directions, as the case may be and shall plant trees in accordance with such order or directions in the ensuing or following rainy season or within such extended time as the Tree Officer may allow and shall provide adequate and effective protection to the trees that are planted in the land or the area from any damage."

4. The Applicant has relied on M.C. Mehta v. Union of India & Ors. (In Re:

Taj Trapezium Zone), WP(C) No. 13381/1984, dated 11.02.2025, dated 11.02.1985, where the Hon'ble Supreme Court has observed as follows:

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"4. This is one more instance of several such instances which we have noticed. The public authorities seek permission to fell large number of trees, though actual felling of so many trees is not required. Practically, in case of every application made in Taj Trapezium area as well as in Delhi (in other Public Interest Litigation), we have noticed this tendency. Therefore, a direction was issued to the CEC to cause site visit to be made and to verify whether felling of so many trees is really required. It is the constitutional duty of all public authorities to save and protect as many trees as possible.

Therefore, when applications are made seeking permission for felling of trees, the public authorities have to be very meticulous and they should not apply for felling of more trees than necessary. Paragraph 7 of the report contains recommendations of the CEC where the CEC has recommended to grant permission for felling of 650 trees and translocation of 109 trees standing on the road side and falling in the TTZ subject to various conditions such as undertaking compensatory afforestation with indigenous species by planting 9000 trees of indigenous species on already identified non-forest land at the cost of the applicant-NHAI."

5. The State of Madhya Pradesh vide Annexure-C1, addressed a letter to the Central Government, Ministry of Road, Transport and Highways, for construction and widening of the Ayodhya Bypass i.e., 32 kilometers in length, (8 elevated corridors) construction and widening of road upto 16 kilometers connecting the Jaipur-Jabalpur National Highway No.46 which has now, due to urbanization of the city, came into the area of the city and requires widening the road to avoid the congestion of the transport. The Ministry of Road, Transport and Highways took a decision to call a detailed project report from the competent authority.

6. The Ministry of Road, Transport and Highways, Planning Zone, New Delhi, published a policy decision for land acquisition, tree felling, utility shifting across the alignment which was published vide office memorandum/notification dated 10th May, 2018, as follows:-

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"2. Upgradation project of any National Highway involves, (i) Acquisition of additional land, (ii) Shifting of utilities, (iii) Felling of trees, and (iv) Removal of existing structures which fall in the Right of Way (ROW) of the proposed expansion. Meeting these pre-requisites not only entails heavy cost but also involves a lot of time and effort. Further, the felling of grown-up trees leads to adverse effects on environment. It has been observed that shifting of utilities, felling of trees and structures can be considerably reduced (by about 50%) if the land for expansion of any highway is acquired on one side of an existing road, as against doing the same on both sides.

3. Accordingly, in continuation of the Circular of even number dated February 26, 2018 issued with regard to alignment of NHs, it has been decided that the project implementation agencies shall undertake additional land acquisition on one side of an existing road to the extent feasible for expansion of existing roads to next level of configurations. It may also be noted that the acquisition side shall be decided based on the intensity of the existing utilities and trees (following overall cost savings principle) and such side may change from one stretch to another stretch depending upon the most optimal alignment. Following policy guidelines shall be followed henceforth to minimize the requirement of additional land acquisition, optimization of utility shifting and felling of trees:

(1) For roads being developed as Two-lane with paved shoulders and where traffic is below 5,000 PCUs, the expansion shall be carried out within the existing ROW and land acquisition shall be limited to only re-alignments and bypasses.

In cases where the ROW permits expansion through eccentric widening (expansion of 3 mtrs on one side), the same shall be adopted as it reduces the need for utility shifting and tree felling to one side of the ROW, thereby reducing costs and saves the environmental footprints.

(ii) For roads being developed as Two-lane with paved shoulders with traffic between 5,000 to 10,000 PCUs, and where the projected traffic may go up to 40,000 PCUs in due course of about next 25-30 years, the additional Land shall be acquired for achieving a total ROW of 45 meters (existing + additional) in such a manner that the present construction (eccentric widening O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

to two lane with paved shoulders) and future expansion (4 lane eccentric widening) would impact utility shifting and tree-felling only on one side of the Right of Way (RoW). In nutshell, the development of the 2-Lane with PS will be undertaken on one side of the ROW of 45 mtrs so that as & when it matures for 4- laning, the other part of the divided carriageway and the Median do not disturb the existing carriageway of 2-Lane +PS. The additional land acquisition in these cases shall be done only when no parallel alignment is proposed or cannot be developed in future to diversify traffic. In case of traffic diversification potential, the two-lane with paved shoulders shall be developed within the available ROW.

(iii) For expansion of an existing two-lane or two lane with paved shoulders road to 4 lane with paved shoulder Highways, the following guidelines shall be followed for end-lane status and the stage development based on the present traffic (including the induced traffic:

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7. The Ministry of Road, Transport and Highways has further taken a policy decision for plantation, transplantation, beautification and maintenance and relevant provisions for selection of tree species for roadside plantation and schemes are as follows:-

"6. Plantation Scheme 6.1 The plantation scheme has been broadly classified into two categories which are as follows:-

- a) Tree planting along the Highway Turfing with grasses and shrub/herb.
- b) planting on medians/special landscapes/embankment slopes.

6.2. Selection of Tree Species for roadside plantations:

6.2.1 Plantation is one of the most important constituents of soft landscaping. Trees, shrubs and climbers have been used to enhance the soft natural ambience against harsh elements in most of the enhancement schemes. The planting species are decided based on the physical growth characteristics of trees, like form and shape, foliage pattern, growth rate, branching pattern, soil characteristics and conditions of the strip like water logged areas etc. While selecting the species of trees for landscaping, a great care shall be taken to choose the species, which already exist along the project corridor. On the other hand, if a pure avenue of single species is planted for a considerable length of the road, it gives a harmonious and pleasing look. It is, therefore, essential that mixtures of different species shall be avoided and pure avenues of a single species be planted over long stretches of road. This will enhance the aesthetic quality and will also render management easier.

6.2.2 The selection of plant types and planting arrangement shall be based on the following considerations:-

I. Aim and objective of plantation II. Shape and size (size and spread) of the canopy III. Texture and colour of foliage/flower/fruits in different seasons and stages of growth.

IV. Adaptability and suitability to agro-climatic regions/zones O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. V. Growth rate (slow/fast) average age of maturity and replacement cycle VI. After care and maintenance required for sustenance and growth VII. Economic and other social/recreational benefits VIII. Drawbacks and demerits if any, like prone to

insects/pests disease, animal grazing and human interference.

6.2.3 The Guidelines on Landscaping and Tree Plantation (IRC:SP:21-

2009), provide for detailed specifications with respect to roadside plantations and Median Plantation.

6.3. Plantation Pattern 6.3.1 The road landscape shall be developed envisaging a holistic approach to the entire stretch. A concept shall be evolved so as to maintain visual characteristics and uniformity in terms of landscape along the stretch. In the absence of uniform land availability for the plantations, different schemes may be worked out in tune with local variations in the design. To achieve this, the entire stretch of the project corridor shall be divided into homogenous landscape sections based on similarity in terms of available width, soil conditions, climate (temperature and rainfall) and topography. A study on the local flora and vegetative cover native to these sections shall be carried out as part of the field surveys to enable a choice of the suitable species for particular section. Depending on the available ROW, plantation pattern shall be worked out as follows:-

The first row along the Highways will be of small to medium sized ornamental trees.

Subsequent rows depending on the availability of width will comprise of ornamental and/or shade bearing species, of more height than those in the first row. In rural sections the last row will always be of shade bearing tall trees.

Planting of shrubs in the median.

Planting of herbaceous species as ground cover in the median, special landscapes, and embankment slopes.

Turfing with grass in the median, special landscapes, and embankment slopes.

6.3.2 Table 1, 2 and 3 list a few species, which can generally be planted throughout India.

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10. Road Safety The first row of plantation shall be sufficiently away from the roadway so that they are not a hazard to road traffic or restrict the visibility. Most vulnerable location in this regard are the inside of curve, median, junction corner and cut slopes. Trees shall be planted at a minimum distance of 14m from the central line of the extreme traffic lane to provide recovery area for the vehicle that runs off the road. The second row is 3m away from the first row. The third and the

subsequent rows is also be 3 m away from the second and so on as per availability of land. Growth of vegetation close on road curve may lead to serious reduction of clear sight distance and may cause accidents. Tall and overgrowth plants on and near the curve is not permissible. In plain terrain, a stopping site distance of 170 m corresponding to the designed speed of 100 Km per hour shall be ensured on all curved sections, on the innermost lane of the curve. Highway medians of upto 1.5 m width shall not be planted, as there is hardly any space left on such medians for maintenance. Undertaking maintenance on such medians from the carriageway may pose safety hazards. In case it is decided to raise plants on medians, permanent pipelines / drip irrigation systems must be laid to avoid use of tankers for watering.

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14. Performance Audit The monitoring Agency will conduct performance audit of Executing agencies for various projects on an Annual basis and award of new contracts to the agencies will be decided based on their past performance.

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17. Compliance to Forest Conservation Act and local laws Before starting any plantation, the local forest department will be consulted for ensuring compliance to any regulation in force that may affect raising, maintenance, and harvesting of the raised plantation. Necessary modifications will be made in the plantation scheme, in consultation with the forest department, to ensure compliance to law and to avoid complications at the time of harvesting and transportation of forest produce. In case the State Government has any provision for registration of such plantations, the same will be ensured under the relevant scheme.

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18. Survival The survival shall be 90% after raising the plantation of age one year at any stage during contractual period with normal shape and size." (2) PROJECT:

8. This project is for a road development project which is Six laning with both sides Service Road of Ayodhya Bypass from Design Km 0+000 near Ashram Tiraha on NH-46 to Km 16+439 end at Ratnagiri Tiraha on NH-146. This project is being undertaken by the National Highway Authority of India in the capital city of Bhopal in state of Madhya Pradesh. The total length of the project is 16.500 km. The project is being undertaken by the local office of the NHAI which is office of Project Director, Project Implementation Unit Bhopal Madhya Pradesh and that it is pertinent to mention that the above project is of vital importance as it facilitates the following purposes:

i. Proposed project corridor links NH-146 & NH-46. It will reduce travel time to reach Gwalior, Raisen/ Vidisha, Jabalpur, Betul & Indore from and via Bhopal and will connect various urban nodes by connecting them to National Highway (NH) and

State Highway (SH) networks.

ii. Construction of bypass will help reduce accidents by restricting the movement of commercial traffic in the city of Bhopal and will remove the 3 accidents Blackspots on the road, namely Best-Price Junctions, People's Mall Junction & Ratnagiri Tiraha, by the way of Grade Separation/Junction Development.

iii. six-lane will help reduce congestion in Ayodhya Bypass/Bhopal city. Travel time to Airport will cut to Half."

9. It is further stated that the Respondent - National Highway Authority of India (hereinafter referred as NHAI) has been set up by an act of O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

the Parliament which is the National Highway Authority of India Act, 1988 with the following objective:

"An Act to provide for the constitution of an Authority for the development, maintenance and management of national highways and for matter connected therewith or incidental thereto".

It has been entrusted with National Highways Development Project, which along with other minor projects, has vested in it 50329 kms of National Highways for development, maintenance and management. The objective of NHAI is to ensure that all contract awards and procurements conform to the best industry practices with regard to transparency of process, adoption of bid criteria to ensure healthy competition in award of contracts, implementation of projects conform to best quality requirements and the highway system is maintained to ensure best user comfort and convenience.

10. With regard to Commitment of NHAI towards Environment Protection and Sustainable Development, it is stated that the NHAI has been undertaking plantation drives from time to time to develop eco- friendly National Highways and has constantly addressed ecological concerns by adopting environmental-friendly methods. In the past policy years from 2016-17 to 2020-21, more than 2 crore plants have been planted. The aim is to saturate all National Highway stretches with plantations, collectively by Concessionaire, State Government Departments and Private Plantation Agencies. NHAI is engaging experts from the plantation, forestry, agriculture, horticulture field with vast experience for guiding and overseeing these activities. A brief brochure of the NHAI depicting the vision towards environment protection in the development of the highways titled "Harit Rajmarg".

11. It is further stated that the Green Highways Policy (Plantation, Transplantation, Beautification & Maintenance), 2015 had been laid O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. down by the Ministry of Road Transport & Highways, Government of India, whose objectives are as follows:-

- "i. To evolve a policy framework for plantation along National Highways.
- ii. To reduce the impact of air pollution and dust as trees and shrubs are known to be natural sink for air pollutants. iii. To provide much needed shade on glaring hot roads during summer.
- iv. To reduce the impact of ever-increasing noise pollution caused due to increase in number of vehicles;
- v. To arrest soil erosion at the embankment slopes. vi. To prevent glare from the headlight of incoming vehicles. vii. To moderate the effect of wind and incoming radiation. viii. To create employment opportunities for local people."

12. It is further argued that from the year 2015-16 to 2024-25 the number of plants in the median and avenue plantation is around 468.70 Lakhs. The consistent efforts taken by the answering respondent towards plantation across the country is evident from the information submitted before the Rajya Sabha in the last four sessions of the Parliament and that the above plantation efforts have also played a crucial role in carbon sequestration, which significantly reduces greenhouse gas emissions an essential contribution to India's Nationally Determined Contributions (NDCs) commitments made at COP26, aiming to reduce Emissions Intensity of its GDP by 45 percent by 2030, from 2005 level and to create an additional carbon sink of 2.5 to 3 billion tonnes of CO<sub>2</sub> equivalent through additional forest and tree cover by 2030. That it is submitted that the plantations also support biodiversity, offering habitats for birds and other wildlife, while improving microclimatic conditions along highways. Enhanced air and soil quality, moderated temperatures, O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. and increased biodiversity along the roadways contribute to a healthier environment for ecosystems and local communities. The Green Corridors created under the policy provide shade for travelers, reduce air, and noise pollution, and assist in groundwater recharge, which is critical for regions facing water scarcity. These green belts improve local environmental conditions, purify the air, and mitigate the adverse effects of Vehicular emissions, ultimately improving the health and well-being of citizens living along highways. On the aspect of the transparency and accountability towards the general public the respondent has also published the details of the Environmental, Social, and Governance (ESG) performance in its Sustainability Report of FY 2023-24.

13. With regard to Inadequate capacity of the Existing Highway, it is stated that at present the volume of the vehicular traffic is around 42,748 PCU vehicles per day, which will be 67,288 PCU vehicles per day by the year 2030 as mentioned in the Detailed Project Report(Chapter 6 Traffic Survey and Analysis Page 6-45& 6-46). The DPR is the pre-feasibility scientific study for assessment of this development project. In this DPR, a scientific study based on the vehicular traffic influx at the existing highway was carried and it has been reported that the requirement High urban traffic influx can be addressed by the development of a Six Lane Highway. The present highway is a two-lane highway and has a maximum capacity of 40,000 PCU vehicles per day, which cannot accommodate the influx of existing vehicular traffic, Thus the existing highway has already exhausted its capacity. After the submission of the above DPR report the answering respondent had undertaken assessment

of black spots O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. on the existing highway as well. That the issue of exhausted capacity of the existing highway forms the roots of many problems, First the traffic congestion leads to air and noise pollution. Secondly the dense heavy traffic on the existing highway is likely to become a hotspot of accidents. Within the Ayodhya Bypass, three accident-prone locations were identified, namely: People's Mall (Km 7+100), Best Price Tiraha (Km 6+900), and Ratnagiri Tiraha (Km 16+100). The answering respondent had undertaken the assessment of black spots and accident points on the existing highway by an expert consultant. In its report the consultant has provided the following summary:

"All three locations are characterized by very high traffic volumes as given by client, with the Average Daily Traffic (ADT) exceeding 40,000 PCU/day, which is significantly higher than the design service capacity of the existing facility. The analysis highlighted critical contributory factors such as absence of service roads, excessive and unregulated median openings, contra flow driving, unauthorized on-street parking, and inadequate traffic discipline. In addition, the proximity of commercial establishments, educational institutions, and major junctions intensified local access movements and created multiple conflict points, leading to frequent crashes.

The mitigation strategy for these locations was divided into short-term measures and long-term measures. Short-term measures such as transverse bar markings, rumble strips, regulatory and informatory signage (as per IRC:67-2022), median markers, solar blinkers, closure of redundant median cuts, and refurbishment of lane markings were implemented promptly at site. These interventions were confirmed during site visit. For the long-term solutions, major infrastructure improvements have been incorporated under the sanctioned six-laning project, as provided by the client. These include the construction of flyovers with service roads at People's Mall and Best Price Tiraha, and a comprehensive junction redesign at Ratnagiri Tiraha featuring channelizing islands, service lanes, and improved pedestrian facilities.

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The objective of these interventions is to segregate through traffic from local access movements, eliminate at-grade conflicts, and significantly reduce the risk of severe crashes. The projects have already been awarded, with the Appointed Date pending issuance. The stipulated construction period is 24 months.

In conclusion, by adopting this two-tiered approach - immediate short-term safety measures combined with permanent engineering interventions -- the Ayodhya Bypass is being systematically transformed into a safer and more efficient corridor. This methodology not only addresses the urgent need for crash mitigation but also aligns with long-term infrastructure goals under the NHAI framework. Once completed, these works will not only enhance traffic flow and operational efficiency but will also safeguard vulnerable road users such as pedestrians, cyclists, and

two-wheeler riders who are heavily present in the urbanized stretches of Bhopal."

14. It is further submitted that the present highway is necessary to ensure that decongestion of the highway which shall result into reduction in the vehicular air and noise pollution. The execution of this project shall be based on the principles of sustainable development. The answering respondent has ensured that every effort is made to utilise the fly ash in the construction of the project thereby ensuring compliance of the MoEF&CC Notification dated 31.12.2021. Further the project also involves avenue and median plantation of 10,000 trees across the highway. That the Respondent shall also be responsible for the maintenance of these trees for a period of 15 years. The concessionaire (contractor) who has been awarded the work order for this project also has the responsibility to undertake plantation which is the part of the concessionaire agreement itself. The answering respondent is also pursuing with the District Administration to ensure removal of the existing encroachment from O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. the National Highway and reclamation of the green cover across the existing highway. The project shall be constructed and maintained by the NHAI as per the proper road safety standards. The green cover shall be properly maintained and there shall be no encroachment or illegal felling of trees during and after the construction of the highway. It is stated that the project shall involve maximum usage of pre-cast concrete girders and reinforced earth (RE) walls which will be manufactured offsite to minimize construction-related pollution and disruption in the urban area. The offsite construction shall be from Ready Mix Concrete Plant in order to ensure there is significantly low air pollution and within every 3 months NHAI shall conduct air quality and noise monitoring and depending on the results the methodology of the construction will be changed. The NHAI has requested the Bhopal Municipal Corporation to provide 5 Lakh Ton inert waste from the legacy waste lying in the Bhanpur Khanti. Further NHAI has also requested the BMC to provide legacy waste (inert material) lying at Adampur Khanti for its usage in the another connect project which is 4 Laning from km 0.000 to 42.040 Bhopal (Ratnaigiri Tiraha) to Vidisha (Morikodi). Thus, NHAI is taking sincere efforts to make the project ecologically viable by ensuring that the construction of this highway would help in disposal of legacy waste. It is further stated that the NHAI has also written to Gadarwada TPP, Narsighpur for supply of fly ash. Approx. 13 Lakh Tonnes of Fly ash which is to be utilised in the project and as per the fresh proposal, NHAI has is considering reduction in number of trees to be felled for project by changing the design of the highway by reducing the median width and utility corridor. This change shall be O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. subject to the approval of competent authority of NHAI Head Quarters, New Delhi. The Project earlier involved felling of 9946 trees, however after meeting of Central Empowered Committee on 15.09.2025, NHAI was asked to rework it's proposal for saving of maximum tree without sacrificing road safety aspect of its design and drawings. Accordingly, NHAI has again submitted an alternate proposal for felling of 7936 trees, which is extremely necessary to be felled in order to develop the required infrastructure in city considering the compliance of road safety specifications as laid down by IRC Guidelines (SP: 84:2019). It is stated that the present trees were planted as "avenue plantation" by road owing agency along the road in the land of roadway which was acquired after paying due compensation to previous owners in the year 1972. The Avenue plantation is done by ANY road agency along the road while keeping in mind that in future considering the need for upgradation and development, these trees might need to cut for expansion of road. Thus, tree felling exercise for

expansion of the project is inevitable. However, NHAI undertakes to implement "REDENSIFICATION" of trees on it's own land along this road stretch by doing median and avenue plantation of 10,000 plants (to be maintained for 15 years) in place of 7936 plant proposed to be felled after completion of the project. Further NHAI vide letter no. 28613 dated 23.09.2025 has sought land (of the nature chota bada jhad ka jangal) nearby the project in Bhopal from the District Collector, Bhopal to undertake plantation for remaining 70000 trees of 10 times required compensatory forestation. These plants after maturing will have carbon sequestration ability to absorb much more carbon by 2028- O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

2030 than the existing trees. Hence the same would result in restoration and improvement of the green cover and mitigate air pollution.

15. It is further argued that the length of the entire project is less than 100 KM and in terms of the Ministry of Environment, Forest and Climate Change vide S.O. 3194 (E) dated 14.07.2022 the project has been exempted from the requirement of Environmental Clearance. The SOP and compliance of the safeguards has been enumerate as follows:-

Sr. Environmental Safeguard Compliance by NHAI A. Risk Assessment, Landslide Plain area no landslide.

	Management and Management Plan	Disaster	Disaster Management Plan has been prepared Concessionaire.
B.	Tunnelling and Directional Drilling	Horizontal	There are no tunnels in the present project.
C.	Soil Conservation and muck dumping plan	and muck	No hill cutting production. Top soil conserved and used in median plantation and side slope turfing.
D.	Noise Management		Within every 3 months NHAI shall conduct air ensure that the noise pollution is reduced to a minimum extent.
E.	Air Pollution		Within every 3 months NHAI shall conduct air ensure minimum air during the construction process. The required Concessionaire to is install air pollution devices to restrict the emissions from the construction process. Apart from that NHAI has asked

- F. Water Management for 13 lakh Ton of Flyash from NTPC Gadarwara which will aid in reduction of air pollution and utilization of Fly Ash generated in MP. The construction of the project is not near any river or water body. The natural drainage system shall not be affected by the project and rain water harvesting structures will be constructed along the highway stretch near storm water drains on both side of NH.
- G. Traffic Management The Concessionaire required to prepare effective is a Traffic management plan to ensure there is no traffic congestion and air pollution from the construction process.
- H. Avenue Plantation/Green Belt Re-densification of present avenue plantation will be done as 10,000 trees to be planted for development of green belt.

16. It is further submitted that undertaking of any development activity, certain changes are bound to happen in the ecology and environment of the area, however the same cannot put a complete ban on development. In this regards the answering respondent relies on the recent order dated 29.07.2025 passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition (Civil) No.2/2019 "In Re: Felling of Trees in Aarey Forest (Maharashtra)" wherein the Hon'ble Supreme Court of India had made following significant observation:

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"13. No doubt that the protection of environment is important, as has been consistently held by us that the environmental resources are held in trust for the future generations. However, at the same time, the necessity for carrying out development activities, cannot be ignored.

If a country has to progress, the development of infrastructure is also necessary. Unless proper infrastructure is put in place, a country cannot progress. No doubt that while permitting such development, a caution has to be taken that the least damage is caused to the environment. Further, compensatory measures, so as to compensate the loss caused to the environment have to be undertaken. It has always been necessitated that the number of trees to be planted has to be in

multiples of trees felled."

And further that the present project is of vital importance achieve decongestion of traffic and connection of two major highways which are NH-146 and that the tree felling exercise shall be in complete consonance with the provisions of the Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001.

17. The National Highway Authority of India directed the authorities concerned for detailed project report, DPR, and in July 2024, the agency prepared the DPR as follows:

"PROJECT OVERVIEW As described, earlier the project corridor of the project road majorly connects NH -46 and 146 from Ashram Tiraha on NH-46 to Ratnagiri tiraha on NH-146 Bhopal city in the state of Madhya Pradesh. The proposed project corridor Part I- "6 laning with both sides Service Road of Ayodhya Nagar Bypass of Bhopal City section of NH-46 from Design Km 0.000 near Ashram Tiraha to Design Km 16+439 at Ratnagiri Tiraha (Design Length -16.439 Km) under NH(O) in the state of Madhya Pradesh on HAM Modes" and Part II as "Rehabilitation and Upgradation of Existing 4 lane section with Flyover and Underpasses at major Built-up sections from Design Km.0+000 O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

(Ratnagiri Tiraha) to Design Km. 5+600 (Adampur) section of NH-146 in the State of Madhya Pradesh.

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18. Annual average daily traffic and the load are given as follows:

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(3) ENVIRONMENT CLEARANCE:

19. EIA Notification, 2006 and its amendment:

The EIA notification dated 14th September, 2006 imposes certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the schedule to the notification, being undertaken in any part of India, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy as approved by the Union Cabinet on 18th May, 2006.

The notification has listed out the Projects or activities requiring prior environmental clearance under Category "A" and "B" based on the spatial extent of potential impacts and potential impacts on human health and natural and manmade resources.

Category "A" projects require prior environmental clearance from MoEF&CC on the recommendations of an Expert Appraisal Committee (EAC) and Category "B" projects require prior environmental clearance from State or Union territory Level Environment Impact Assessment Authority (SEIAA) on the recommendations of a State or Union territory Level Expert Appraisal Committee (SEAC). In the absence of a duly constituted SEIAA or SEAC, a category "B" project shall be treated as a Category "A" project.

S. O 3067 (E) dated 1st Dec 2009 exempts all state highway expansion projects, except those in hilly terrain (above 1000 m AMSL) and ecologically sensitive areas, have already been exempted from the purview of the Environmental Impact Assessment Notification 2006.

SO 2559(E) dated 22nd August 2013 exempts 'scoping' all Highways projects covered under entry (ii) of column (3) and column (4) under sub-item (f) of item 7 of the schedule i. e. National Highway Expansion projects and state Highway expansion projects in hilly terrain (above 1,000m AMSL and or ecologically sensitive area. The projects referred shall prepare EIA and EMP specified by Ministry of Environment, Forests and O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

Climate Change considering the new substitution against sub- item (f) of item 7, in column (3) for the entry (ii), namely:

"Expansion of National Highway greater than 100 Km involving additional right of way or land acquisition greater than 40 m on existing alignment and 60 m on re-alignment or by-passes."

Any project specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco- sensitive areas and (iv) inter-State boundaries and international boundaries.

List of projects requiring Prior Environmental Clearance is given in the "SCHEDULE" of EIA Notification. As per the Schedule:

Conclusion: Therefore, based on the above mention notification, the proposed project does not fall under Cat. A and Cat. B under 7(f) Schedule of 14th September 2006 EIA notification. Thus, Environmental Clearance from the EAC, MoEF&CC is not required.

20. The matter was also considered by the High Level Committee known as CEC and discussed the matter as follows:

a. An EIA (Environmental Impact Assessment) report, prepared by an agency accredited by NABET (National Accreditation Board for Education and Training), was presented before the Committee by NHAI. As per the report, as a result of project construction and the proposed plantation, there will be a reduction in CO<sub>2</sub> and PM<sub>2.5</sub> and PM<sub>10</sub> emissions. The level of O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

CO<sub>2</sub> sequestration and oxygen production will become equal to the present level by the year 2029.

b. A revised EIA (Environmental Impact Assessment) report has been prepared by NHAI, in which all discrepancies have been corrected and compliance with environmental standards has been reported.

21. The EIA report which was prepared under the authority by the National Highway Authority of India considered the project view and other things and considered all other point with regard to benefit of the project, the traffic survey, study of the project area, emission from the traffic, environmental screening and scoping, especially biological environment and tree cutting and discussed the matter as follows:

**Biological Environment** The proposed up-gradation of the project road doesn't involve forest areas. Hence, anticipated impact on Forest area is not envisaged. Existing road side vegetation and trees were recorded during the field survey.

**Forest Area** There is no forest along the project road. Therefore, impact related to forest will not appear from the project.

**Wildlife** There is no wildlife sanctuary, national park or bioserve along the project roads. Therefore, no impact is anticipated on wildlife due to up-gradation of the project road.

**Tree Cutting** Avenue Plantation were carried out by the road construction agency 20-25 years back these exists on both sides of the road under widening. These rows of plants consist mainly only O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

timber producing trees, no significant fruit or flower bearing trees could observed in the surveyed area which is required for widening of the road. Also, these rows of trees do not have any endangered or heritage tree plants.

Based on the survey and need of the project approximately 8000 trees are likely to felled for upgradation of the project. Trees growing within the proposed toe line (bottom of formation) will need to be removed for upgradation of the project road. Roadside trees with strong and rigid stems can pose safety hazards. Some trees

obstruct clear sight distances. Others have a propensity to overturn when old and are potential safety hazards depending upon age and decay condition. All such trees that are safety hazards need to be cleared. All efforts will be made to cutting of trees.

There will be a significant, direct impact due to cutting of the roadside trees, it includes:

- The loss of shade.
- Loss of tree products.
- Loss of birds nesting place.
- Removal of roadside trees will also reduce comfort levels for slow moving • traffic and pedestrians.
- The removal of trees would lead to erosion and contributes to the loss of the micro-ecosystems developed on the roadside.
- Besides these trees act as noise barrier, dust absorption, pollutant sequester, etc. Removal of Vegetation Clearing and grubbing is the foremost requirement to start the construction activities of the project roads. The impact due to removal of vegetation includes:

- Dust generation during windy atmosphere.
- Loss of productive top soil.

Construction Phase:

- Tree felling for road widening will impact local flora and fauna, with approximately 8000 trees being removed.

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- Vegetation clearing may lead to habitat loss for small animals and birds, increased soil erosion, and loss of productive topsoil.
- Dust generation during construction may hinder photosynthesis, affecting nearby vegetation.

Operational Phase:

- Improved road conditions may allow for the growth of new vegetation, enhancing the biological environment.
- Increased traffic may pose risks to wildlife crossing the road, potentially leading to accidents.

Mitigation Measures:

- Compensatory afforestation at a 10:1 ratio, planting native and fast-growing species during monsoon months to ensure better survival rates.
- Trees with rich crown growth shall be planted as compared to the present species (like Kaner, Ber, Eucalyptus etc) having very poor or no crown cover.
- Barbed wire fencing around plantation areas to protect plants.
- Dust suppression measures during construction.
- Installing signage and speed restrictions in areas prone to wildlife crossings.
- Regular monitoring of plantation and survival rates of newly planted trees.
- Minimizing tree cutting and vegetation removal to reduce adverse impacts.

These measures aim to minimize the negative effects on the biological environment and promote ecological restoration.

22. Mathematical formulas:

"A. For Trees to be Cut:

To accurately determine the amount of CO<sub>2</sub> absorbed by trees, two critical measurements are taken directly from the tree: its diameter, measured in cm, and its height, measured in meters. These measurements are essential for calculating both the Above-Ground Biomass (AGB) and Below-Ground Biomass (BGB). These biomass values are calculated based O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

on a specific formula that incorporates these two parameters.  $AGB = 0.25 \times D \times H$   
Where:

- AGB: Above-Ground Biomass (Kg).
- D: The tree diameter measured at 1.37 meters from the

ground (Cm). This measurement is used globally as a standard to get better results. However, we can still use the formula if your tree is below 1.37 meters.

- H: The tree height (m).

The overall green weight of the biomass is estimated to be 120% of the AGB value, based on the assumption that the BGB, which comprises the tree's root system, accounts for approximately 20% of the AGB /3/. Therefore, BGB can be calculated as follows:

$BGB = 0.2 \times AGB$  From these formulas, we can calculate the total biomass from a tree:

Total Biomass (TB) = AGB + BGB = AGB + 0.2AGB = 1.2AGB On average, a tree consists of 72.5% dry matter and 27.5% moisture content. To calculate the tree's dry weight, we could multiply the total weight of the tree by 72.5%.

Total Dry Weight (TDW) = TB \* 0.725 Carbon occupies 50% of the total dry weight. Therefore, Total Carbon (TC) = TDW \* 0.5 With the value of total carbon, we can calculate the value of CO<sub>2</sub> equivalent sequestered on a tree. CO<sub>2</sub> has one molecule of Carbon and two molecules of Oxygen. The atomic weight of Carbon is 12u, and the atomic weight of Oxygen is 16u. The weight of CO<sub>2</sub> in trees is determined by the ratio of CO<sub>2</sub> to C is 44/12 3.67. Therefore, to determine the weight of carbon dioxide sequestered in the tree, multiply the weight of carbon in the tree by 3.67.

CO<sub>2</sub> weight = TC × 3.67 O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

It is worth noting that the CO<sub>2</sub> weight above represents the CO<sub>2</sub> sequestered in the entire lifetime of the tree. To ascertain the annual or yearly rate of CO<sub>2</sub> sequestration, divide the total weight of CO<sub>2</sub> absorbed by the tree's age.

Carbon dioxide sequestration vis-à-vis Oxygen production by Existing old trees proposed to be felled total no. of trees - 7,934 Average height of the trees taken as 4 meters Average Age of the trees taken as 15 years O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

B. For New Trees To be Planted Carbon dioxide sequestration vis-à-vis Oxygen production by new trees proposed to be planted Total no. - 80000 Data Overview • Tree inventory includes counts categorized by Girth at Breast Height (GBH) across five size bands.

- Projections span from 2026, when old trees will be felled, to 2032, coinciding with new plantation efforts starting in 2026. • New plantation involves 80,000 saplings with a 90% survival rate in the first year and a 2% annual mortality rate, enhanced by a Miyawaki growth boost of 30%.

Carbon Sequestration and Oxygen Production Calculations • For existing trees, calculations involve determining Diameter at Breast Height (DBH), Above Ground Biomass (AGB), Below Ground Biomass (BGB), and total biomass to estimate carbon and CO<sub>2</sub> stock. The annual CO<sub>2</sub> factor varies by GBH band, with total annual CO<sub>2</sub> calculated by summing across bands.

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Oxygen production is derived from CO<sub>2</sub> sequestration using a stoichiometric ratio.

Yearly Results Summary • From above it is revealed that the CO<sub>2</sub> sequestration and oxygen production for both old and new trees, highlighting the increasing contributions by the proposed newly planted trees over a time period of 02-03 years.

#### (4) COMPLIANCE OF THE INDIAN ROAD CONGRESS GUIDELINES:

23. The standard operating procedure prepared by the Ministry of Environment, Forest and Climate Change, by order dated 6th of O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. February, 2023, issued the office memorandum to traffic management, green belt and the required clearances and guidelines, which are as follows:

"Water management i. A comprehensive assessment of water catchment, hydrology and drainage pattern within 10km of the alignment shall be carried out. No diversion of the natural course of the river/creck shall be made. All the major, minor bridges and culverts should not affect the drainage systems. Flood plains of the rivers/drainage systems are not to be disturbed. Rain water harvesting structures to be constructed at the either sides of the road.

ii. In case the road passes through a flood plain of a river, the detail assessment of micro drainage, flood passages and information on flood periodicity should be carried out and a management plan shall be prepared and implemented iii. Appropriate measures must be taken while undertaking digging activities to avoid any likely degradation of water quality Traffic management i. The proponent shall carry out a detailed traffic study to assess inflow of traffic from adjoining areas like airport/urban cities. The detailed traffic planning studies shall include complete design, drawings and traffic circulation plans (taking into consideration integration with proposed alignment and other state roads etc.) Wherever required adequate connectivity in terms of VUP (vehicle underpass)/ PUP (Pedestrian underpass) needs to be included.

ii. Traffic Control Devices/Road Safety Devices/ including various types of cautionary, informatory, regulatory as mandatory signboards, road markers, studs, etc. shall be provided at appropriate locations all along the project stretch in accordance with the specifications laid down in Manual of Specifications and

Standards for Expressways (IRC: SP.99-2013) and 1988, IRC:25, 1RC-26, IRC35, 1867, IRC79, IRC 103 and Section 800 of MORTH Specifications O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

Avenue plantation/ Green Belt i. Necessary green belt shall be provided on both sides of the highway with proper central verge and cost provision should be made for regular maintenance. Green belt shall be developed with a native tree species in accordance with CPCB guidelines ii. Old, large and heritage value trees should be retained based on girth and age regulations as may be prescribed by the Forest Department. Where the trees need to be cut/transplanted with prior permission from the concerned local Authority, compensatory plantation for the forest land in the ratio of 1:10 (ie planting of 10 trees for every tree that is cut/ or survival of any transplanted tree) shall be done and maintained as per the extant norms of State Govt. /Central Govt. Plantations to be ensured species (cut) to species (planted).

iii. The plantation activity be geo-tagged, before and after pictures be taken with geo tags and having date and time stamps to ensure maximum survival of the planted species. Periodical monitoring be carried out and survival percentage of the plantation should form the basis of making payments for such plantation.

Besides above, the Project Authority shall obtain other statutory clearances, wherever applicable. The following are list of some requisite clearances for guidance, but not limited to, which may be applicable to such road projects:

i. Indian Road Congress (IRC) guidelines.

ii. Forest clearance under Forest Conservation Act, 1980 and CRZ clearance as per CRZ Notification 2011/2019. iii. If the project is passing through/located within the notified ecologically sensitive zone (ESZ) around a notified National Park/Wildlife Sanctuary or in the absence of notified ESZ, within 10 km from the boundary of notified National Park/Wildlife Sanctuary, the project proponent may simultaneously apply for the clearance from the standing committee of NBWL.

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iv. Provisions for management of construction and demolition activities related thereto as contained in Construction and Demolition Waste Management Rules, 2016.

v. The project affected people shall be rehabilitated in accordance with the Resettlement & Rehabilitation plans approved by the concerned competent authority.

(5) CONSIDERATION BY THE HIGH LEVEL CENTRALLY EMPOWERED COMMITTEE:

24. In another matter (Original Application No.68/2025) a direction was issued to consider the matter by the High Level Centrally Empowered Committee where the cutting of trees, are in large number, in any area for the construction of the road or the development. Accordingly, the State of Madhya Pradesh, Rural Development and Housing Department, vide notification, dated 01.09.2025, constituted a Centrally Empowered Committee, consisting (1) Additional Chief Secretary, Urban Development and Housing Department, (2) Commissioner, Urban Administration and Development, (3) Commissioner, Horticulture Department, Bhopal (4) Secretary, Forest Department, Government of Madhya Pradesh or the concerned officer Principal Chief Conservator of Forests, Forest Department, Madhya Pradesh. (5) Member Secretary, Madhya Pradesh Pollution Control Board, (6) Commissioner, Chief Municipal Officer concerned, (7) Regional Director, Central Pollution Control Board, (8) Regional Director, Environment, Forest and Climate Change Department, (9) Executive Director, Environmental Planning and Coordination Organization, APCO, Bhopal.

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25. The Centrally Empowered Committee, considered the relevant points and submitted the proceeding details (ordered dated 12.12.2025), as follows:

"// Proceedings Details // Under the chairmanship of the Additional Chief Secretary, Government of Madhya Pradesh, Urban Development and Housing Department, the second meeting of the High Level Centrally Empowered Committee, constituted in connection with Hon'ble NGT Case No. 68/2025 and the Madhya Pradesh Tree Preservation (Urban Area) Act, 2001, was held on 19.11.2025 at 12:00 noon, at Mantralaya Vallabh Bhawan, Bhopal. As per the enclosed list Appendix-1, Page No.-07, the members and concerned officers attended the meeting.

At the beginning of the meeting, discussions were held on the orders dated 23.05.2025 and 23.07.2025 passed in Hon'ble NGT Case No. 68/2025 and on the provisions of the Madhya Pradesh Tree Preservation (Urban Area) Act, 2001. Thereafter, the Project Manager, Regional Office, NHAI, Bhopal, presented a detailed proposal before the Committee regarding permission for felling of trees for construction of a 6-lane road including service road from AsharamTiraha to Ratnagiri, and the Director (Project), MPMRCL, Bhopal, presented a proposal regarding permission for felling of trees for the Metro Project.

The main points related to the proposals and the decisions of the Committee are as follows:

(A) Regarding permission for felling of trees for construction of a 6-lane road including service road from AsharamTiraha to Ratnagiri by NHAI, Bhopal

1. In compliance with the suggestions given in the first meeting dated 15.09.2025, NHAI has presented a revised proposal. In the previous meeting, the Committee had

directed that, with a view to conserving the maximum number of trees, the width of the median and other unnecessary structures should be re-

examined, keeping in view the trees that were mandatorily required to be cut. In compliance with the Committee's directions, NHAI reduced the width of the median from 5 meters O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

to 1.5 meters (from AsharamTiraha to Ratnagiri Tiraha) and removed the concrete utility duct from both sides. As a result, the number of affected trees has now been reduced from 9,888 to 7,871. From the perspective of road safety and considering the 6-lane configuration, further reduction is not possible. For the development of the project, felling of 7,871 trees is necessary. Out of the trees to be cut, 5,188 are timber trees (including teak, sheesham, saakhu, mahua, deodar, mango, and neem) and 2,683 are non-timber trees (including bamboo, banana, etc.).

2. Under compensatory plantation, NHAI will plant more than ten times the number of trees cut. NHAI will plant 10,000 trees on both sides of the project road (from AsharamTiraha to Ratnagiri Square) and 70,000 trees in nearby areas Jhirniya and Jhagariyakhurd. For the above work, NOC for 85 hectares of land has been obtained from the Revenue Department. A copy of Revenue Order No. 02237/B121/25-26, Circle 2, Tehsil Huzur, Bhopal is enclosed.

Details of the sites proposed for compensatory plantation and the number of trees are mentioned in the following table:

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3. An EIA (Environmental Impact Assessment) report, prepared by an agency accredited by NABET (National Accreditation Board for Education and Training), was presented before the Committee by NHAI. As per the report, as a result of project construction and the proposed plantation, there will be a reduction in CO<sub>2</sub> and PM<sub>2.5</sub> and PM<sub>10</sub> emissions. The level of CO<sub>2</sub> sequestration and oxygen production will become equal to the present level by the year 2029.

4. A revised EIA (Environmental Impact Assessment) report has been prepared by NHAI, in which all discrepancies have been corrected and compliance with environmental standards has been reported.

5. It was stated by the Indian National Highways Authority to the members of the Committee that development of the said project will not only eliminate the black spots (Karond, People's Mall, and Ratnagiri) and improve road safety, but will also facilitate movement of emergency services.

The Committee recommends permission for felling of 7,871 trees for the development of the Ayodhya Nagar Bypass Project, subject to the following conditions:

1. In lieu of felling 7,871 trees, the Indian National Highways Authority shall ensure plantation of more than ten times, i.e., 80,000 saplings, at the mentioned sites. If any

tree of Rare/Threatened Species is found, it shall be replaced.

2. Prior to the onset of the monsoon, all necessary preparations (pits, manure, soil, etc.) for planting all 80,000 saplings shall be completed, and immediately upon commencement of the monsoon, the plantation work shall be carried out simultaneously. The minimum height of the saplings shall be

6 feet, and as per the Hybrid Annuity Model (HAM), for 15 years.

Similarly, 181 trees covering approximately 27,513 square meters of land will be affected in the cut-and-cutwork area (Palara Bridge and Sawmill Complex) required for the Tunnel Boring Machine (TBM) entry/exit of the underground metro construction. Thus, a total of 668 trees will need to be removed, including the currently under- O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

construction line (Bhadbhada-Ravojgil) and the underground cut-and- cut work area.

(b) Description of affected trees: Of the 666 affected trees, 568 have a girth greater than 30 cm, and 80 have a girth less than 30 cm. Affected trees primarily include Karanj, Neem, Cassia Siamea, Eucalyptus, Shausham, Babul, Amaltas, Arjun, Ankolle, and Claire.

(c) Compensatory Afforestation: To date, 10,200 trees of various species, including Neem, Karanj, Peepal, Sheesham, Amla, Jamun, Tamrind, Cassia Siamea, Gulmohar, and Acacia, have been planted in the BHEL campus, Gandhi Nagar crematorium, Chantarpur, Bawaria, and Bundelkhand compensate for the trees affected by the Metro Rail project. Additionally, 3,553 trees have been planted by agencies/stakeholders involved in the metro construction work. Currently, 6,680 trees will be planted as compensation for the proposed removal of 668 trees. The estimated amount for compensatory tree planting and the conservation and maintenance of the trees will be deposited with the Bhopal Municipal Corporation office. Additionally, a plan is proposed to plant 10,015 trees in the Metro Rail Depot complex. The proposed species primarily include Neem, Kadamba, Sheesham, Kachnar, Karanj, etc.

(d) Satellite Imaging & Drone Videography will also be ensured to ensure the maintenance of trees.

2. In this regard, the following directions and suggestions were given by the Committee • In compensatory plantation, priority should be given to Mahua, Neem and other native species, completely eliminating the Palm species.

- The nearby forest area should be kept to a minimum and maximum plantation density should be ensured on the available land.

- Regular air quality monitoring should be conducted at metro project construction sites to minimize dust and pollution generated by construction activities and to prevent increased pollution levels, especially during the winter season. This monitoring should also be conducted in accordance

with the guidelines of the National Clean Air Program (NCAP). Data from the Air Quality Monitoring Center established by Madhya O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

Pradesh Pollution Control Board should be regularly made available to the Committee.

• Wherever possible, vertical garden biodiversity parks should be developed and the number of indoor plants should be increased to enhance environmental quality and longevity. • Curtain wall to prevent dust from center pillar and be increase to reduce pollution.

3. In view of the Metro project in the city, the committee recommends permission with the following conditions:

(a) MPMRCL will ensure compliance with all environmental standards.

(b) Regular environmental and air quality monitoring of construction sites shall be carried out.

(c) The progress report of compensatory plantation will be made available to the Committee/Department within the stipulated period.

(d) Compensatory plantation of 6680 saplings to Municipal Corporation, Bhopal for a period of 15 years. Maintenance amount will be deposited.

(e) It should be ensured that the said amount of compensatory plantation is spent on the same item by the Directorate/Municipal Corporation, Bhopal.

4. The Committee issued instructions to ensure compliance with the following guidelines in respect of both the above proposals:-

I. The orders of Hon'ble NGT case No. 68/2025 dated 23.06.2025 and 23.07.2025 and the rules and conditions of Madhya Pradesh Vrikshon Ka Parikshan (Urban Area) Act, 2001 have to be complied with.

II. Undertaking for Compensatory Afforestation will be given to the committee by NHAI and MPMRCL or the amount for compensatory afforestation will be deposited with the Directorate of Municipal Corporation, Bhopal.

III. The work of felling and compensatory plantation will be monitored for 15 years by forming a Technical Committee (Forest Department/Municipal Corporation/Horticulture O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

Directorate and through consultation with Madhya Pradesh Pollution Control Board officials) in the district. IV. Madhya Pradesh Pollution Control Board will do air quality Monitoring in the planning

area.

V. Only local species should be planted.

VI. Tree felling should be done only during day time and complete safety standards should be followed.

VII. During tree cultivation, compliance with all environmental guidelines should be ensured.

VIII. Damage to government/private property should be caused during tree felling. If any occurs, NHAI/Metro will be responsible.

IX. NHAI/METRO will be responsible for any loss of life during tree cultivation X. There should be no problem for the local community and transportation during tree felling.

XI. In case of non-compliance of all the above conditions, the permission will be automatically cancelled.

The responsibility for protection and maintenance of the saplings up to the said period shall rest with NHAI. Immediate replacement of dead/damaged saplings shall be ensured, and survival data shall be maintained.

2. Satellite imagery or drone videography shall also be carried out. Payment to the contractor shall be linked to the survival of the trees.

3. During tree felling, in case of any possibility of birds falling, getting injured, or damage to nests, NHAI may take the assistance of a reputed NGO/company to ensure their safety, care, and protection.

4. Pollution shall be monitored by MPPCB through the Air Quality Monitoring System installed near the Ayodhya Bypass, and in case of any kind of abnormality, the Board shall inform NHAI along with appropriate corrective suggestions, which shall be complied with immediately by NHAI.

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5. NHAI shall utilize the maximum inert material of the Municipal Corporation, Bhopal, in this project as well as in other projects around Bhopal for road construction.

6. If fly ash is used by NHAI in the project, it shall be ensured that there is no possibility of air pollution in the urban area, and environmental guidelines shall be complied with during its use. A detailed plan shall be prepared and monitoring shall be ensured.

7. During implementation of the project, treated water obtained from Sewage Treatment Plants (STPs) located in Bhopal shall be used by NHAI in accordance with the technical standards of

nearby STPs.

8. Excavated material obtained from the existing road shall be fully utilized in the same road construction works. The said material shall not be dumped at other locations in the city. (B) Regarding permission for felling of trees for the Metro Project

1. A detailed presentation was given regarding permission for felling of 487 trees for the Bhadbhada to Ratnagiri alignment, and 181 trees for the underground section including Cut-and- Cover-1 and ramp (Patra Pul in front of Bharat Talkies) and the area located behind the sawmill premises, totaling 668 trees. The main points of the presentation are as follows:

2. The need for removal of trees for construction of the metro rail project: Metro rail projects are generally constructed in urban areas over or parallel to road medians. As a result, trees located in the road median create direct obstruction to construction work and it becomes necessary to remove them. On the road median of the Blue Line of the Bhopal Metro Project (Bhabbhada to Ratnagiri Tiraha), 67 trees are located which are mandatorily required to be removed for construction of the metro structure. In addition, keeping in view the required median width after construction of the metro project and the required Right of Way (ROW) during construction, the Metro Rail Corporation (MPMRCL) O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

optimized the ROW by reducing it from 10 meters to 9 meters. As a result of this optimization, out of the earlier identified 667 trees, 180 trees were conserved, and now only 487 trees remain required to be removed."

26. The members of the committee, who attended the meetings, put their attendance signature with the mobile phone number and the decision have been communicated to the authorities concerned and the copy have been sent to this tribunal, which is on record.

27. Learned Counsel for the Applicant has raised the issue with regard to photographs and the road congestion, where the timing and date is printed as 21st of November 2025 and objected the very relevancy of the photographs taken. In reply thereof, Learned Council for the respondent has submitted that the first meeting was initially held on 15th of September, 2025 and certain directions were issued to the respondent and second meeting was convened on 29th of September 2025 and following directions were issued to the Respondent:

1. In the instructions given in the orders dated 23.05.2025 and 23.07.2025 in OA No.68/2025(CZ), action on the points related to the Forest Department should be taken by them.

2. A detailed study should be done of the existing road transport and the proposed possible transport and a report should be prepared.

3. Get the Environmental Impact Assessment (EIA) of the proposed proposal prepared and submitted by institutions recognized by the Government of India.
4. The proposed proposal should utilize the actual required site so that environmentally important tree species can be saved.
5. The proposal should contain at least three options for compensatory plantation in lieu of the affected trees and should be given by NHAI.

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6. The proposal of tree plantation through Miyawaki method should not be included as an option for compensation.
7. As per the suggestion of Central Pollution Control Board, Biodiversity Park should be built as an alternative to compensation for trees.
8. Construction of elevated roads should be considered where there are dense and environmentally important tree species.
9. Solid waste material from Adampur Khanti should be used by NHAI during road construction."

28. The final report was prepared on 12th of December 2025 and in compliance of the above order, before final meeting and in direction of the first meeting, above photographs were taken, thus there is no technical error and the photographs were taken in compliance of the order of the Central Empowered Committee to satisfy them with regard to the road congestion. Thus, the objection raised by the applicant is not tenable. A question has been raised by the applicant with regard to the availability of the land.

29. In reply thereof, the submission of the Learned Counsel for the respondent /the National Highway Authority of India are that the above information was provided by the Planning Director to the Collector and the details of the area and the land has been communicated to the authorities concerned. The Nayab Tahsildar Huzur Bhopal, vide Annexure- A3 (paper 1009) decided the land to be provided for the plantation and the District Collector Bhopal, vide the communication dated 06.11.2025, passed an order giving the land for the plantation or transplantation of the trees.

30. Next question raised is with regard to the maintenance of the trees and Centrally Empowered Committee has considered this point and O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. necessary direction has been issued in paragraph 4, (3) directing the authorities to maintain the plants and trees up to 15 years. Thus, there are application of mind and everything has been duly considered by the committee.

31. Learned Counsel for the Applicant has raised issue that the CEC has not provided the opportunity of hearing and it violated the natural justice. The committee was constituted in compliance of the order of the NGT to serve the purpose of the protection of the trees and to curtail the cutting of trees and to be considered by the high level committee. The matter of natural justice is not always to be raised with, unless and until there is a substantial loss or violation of the right title or interest of the person aggrieved.

32. In *Chairman, Board of Mining Examination and Chief Inspector of Mines & Anr. Vs. Ramjee*, AIR 1977 SC 965 the Court has observed that natural justice is not an unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference of the administrative realities and other factors of a given case, can be exasperating. The Courts cannot look at law in the abstract or natural justice as a mere artefact. Nor can they fit into a rigid mould the concept of reasonable opportunity. If the totality of circumstances satisfies the Court that the party visited with adverse order has not suffered from denial of reasonable opportunity, the O.A. No.53/2026-PB *Nitin Saxena Vs. National Highway Authority of India & Ors.* Court will decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures.

33. In *Union of India Vs. Tulsiram Patel*, AIR 1985 SC 1416 the Hon'ble Supreme Court held:-

"Though the two rules of natural justice, namely, *nemo judex in causa sua* and *audi alteram partem*, have now a definite meaning and connotation in law and their content and implications are well understood and firmly established, they are nonetheless not statutory rules. Each of these rules yields to and changes with the exigencies of different situations. They do not apply in the same manner to situations which are not alike. These rules are not cast in a rigid mould nor can they be put in a legal straitjacket. They are not immutable but flexible."

34. It is equally well settled that the principles of natural justice must not be stretched too far and in this connection, reference may be made to the decisions of the Supreme Court in *Sohan Lal Gupta & Ors. Vs. Asha Devi Gupta & Ors.*, (2003) 7 SCC 492; *Mardia Chemicals Ltd. Vs. Union of India*, AIR 2004 SC 2371 and *Canara Bank Vs. Debasis Das*, AIR 2003 SC 2041.

35. It is further to be noted that the Court is to proceed as to whether non observance of any of the principles enshrined in statutory rules or principles of natural justice have resulted in deflecting the course of justice. Even, if in a given case, like the fact of the present case there may be some deviation but it has not resulted in grave injustice or has not prejudiced the cause of the petitioner because the decision taken by the respondent was based on the scientific report. This Court does not function as a Court of appeal on the finding of scientific report submitted by the experts. On examining the facts O.A. No.53/2026-PB *Nitin Saxena Vs. National Highway Authority of India & Ors.* and circumstances of the present case, it cannot be held that the process adopted or decision made by the respondents is in anyway arbitrary or irrational or in any way in violation of the

principles of natural justice.

36. Natural justice is at least as old as the first man created on earth - the biblical 'Adam'. J.R. Lucas in his book 'On Justice' states (at page

86):

"Hence, when we are judging deeds, and may find that a man did wrong, there is a requirement of logic that we should allow the putative agent to correct misinterpretations or disavow the intention imputed to him or otherwise disown the action. God needed to ask Adam 'Hast thou eaten of the tree whereof I commanded thee that thou shouldest not eat?' Because it was essential that Adam should not be blamed or punished unless he had done exactly that deed. If the serpent had planted the evidence, or if he had beguiled Adam into eating it under the misapprehension that it came from another, non- forbidden tree, then Adam had not sinned and should not have been expelled from Eden. Only if the accused admits the charge, or, faced with the accusation, cannot explain his behaviour convincingly in any other way, are we logically entitled to conclude that he did indeed do it."

37. In some of the early judgments of this Court, the non-observance of natural justice was said to be prejudice in itself to the person affected, and proof of prejudice, independent of proof of denial of natural justice, was held to be unnecessary. The only exception to this rule is where, on "admitted or indisputable" facts only one conclusion is possible, and under the law only one penalty is permissible. In such cases, a Court may not issue its writ to compel O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. the observance of natural justice, not because it is not necessary to observe natural justice, but because Courts do not issue writs which are "futile" - (S.L. Kapoor v. Jagmohan and Ors. (1980) 4 SCC 379 at paragraph 24. In P.D. Agrawal v. State Bank of India and Ors. (2006) 8 SCC 776) however, the Court observed that this statement of the law has undergone a "sea change", as follows:

"39. Decision of this Court in S.L. Kapoor v. Jagmohan [(1980) 4 SCC 379] whereupon Mr Rao placed strong reliance to contend that nonobservance of principle of natural justice itself causes prejudice or the same should not be read "as it causes difficulty of prejudice", cannot be said to be applicable in the instant case. The principles of natural justice, as noticed hereinbefore, have undergone a sea change. In view of the decisions of this Court in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364] and Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] the principle of law is that some real prejudice must have been caused to the complainant. The Court has shifted from its earlier concept that even a small violation shall result in the order being rendered a nullity. To the principle/doctrine of audi alteram partem, a clear distinction has been laid down between the cases where there was no hearing at all and the cases where there was mere technical infringement of the principle. The Court applies the principles of natural justice having regard to the fact situation obtaining in each case. It is not applied in a vacuum without reference to the relevant

facts and circumstances of the case. It is no unruly horse. It cannot be put in a straitjacket formula."

(emphasis supplied)

38. Equally, the prejudice that is caused, apart from natural justice itself being denied, cannot be said to be present in a case in which there are admitted facts. Thus, in *K.L. Tripathi v. State Bank of India and Ors.* (1984) 1 SCC 43, the Court held:

"xxx.....xxx.....xxx O.A. No.53/2026-PB Nitin Saxena  
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32. The basic concept is fair play in action administrative, judicial or quasi-judicial. The concept of fair play in action must depend upon the particular lis, if there be any, between the parties. If the credibility of a person who has testified or given some information is in doubt, or if the version or the statement of the person who has testified, is, in dispute, right of cross- examination must inevitably form part of fair play in action but where there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross- examination to be fulfilled to justify fair play in action. When on the question of facts there was no dispute, no real prejudice has been caused to a party aggrieved by an order, by absence of any formal opportunity of cross-examination per se does not invalidate or vitiate the decision arrived at fairly. This is more so when the party against whom an order has been passed does not dispute the facts and does not demand to test the veracity of the version or the credibility of the statement.

(7) There may be situations where the interests of State or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

39. Nothing has been shown by the applicant with regard to any violation of rules or non-application of mind and, there is no failure of justice or nothing has been shown by the applicant about the violation of natural justice. On the point of expert report or the report submitted by CEC we have heard the applicant and nothing has been shown to prejudice the right title or interest. Thus, the contention as raised by the Learned Counsel for the applicant is not enabled. (6) DESIGN ALTERNATE ROAD AND ALIGNMENT:

40. Submissions of the learned Counsel for the Applicant are that available alternate road has not been considered by the National O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. Highway Authority of India and the EIA Report though considered the project but it does not mention the alternatives in the project. The PP has argued that it was discussed and considered as follows: -

"6.1 ALTERNATIVE ALIGNMENTS discussed in the EI Report are as follows: -

- i. The existing road and the land covered under widening is already pre-acquired by the NHAI and no additional land is proposed to be acquired.
- ii. This link road between NH-146 and NH-46 was constructed earlier based on the traffic density and other projections.
- iii. Any fresh alignment for this project would require acquisition of good amount of land which would invite number of Environmental issues including land-use diversions with associated damages.
- iv. While addressing the environmental and social issues for fresh alignment the cost of the project is escalated, To avoid the acquisition of land and properties, the project envisages the development within as minimum Row as possible."

41. Further submissions of the Applicant are that before cutting such large no. of trees for any such development purposes all possible alternatives shall be considered in light of the MC Mehta Vs. Union of India & Ors. 1997 AIR SCW552 and the matter was referred to the Centrally Empowered Committee to consider the alternate route but the same was not duly considered. It is further submitted that the High Level Central Empowered Committee permitted the cutting of the trees in certain conditions without considering the sufficient available space on the side of the road. It is further submitted that the executing road was constructed as per the proposed road section O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. in Bhopal Development Plan 2005 and it highlights the design of the road and after that maximum number of trees were planted around the highway in question. Felling up such number of trees directly violate the road section passed under the Bhopal Development Plan 2005.

48. In reply to the above contentions, the learned Counsel for the Project Proponent-NHAI has submitted that the project is based upon DPR which has been prepared by the experts after undertaking a detailed scientific study. The applicant has not considered the technical specification of the National Highway, design and alignment with regard to the crucial element in road safety and traffic management. The respondent has to follow the guidelines of Indian Road Congress which has also mentioned in the MoEF&CC dated 06.02.2023 with the facts that there is sufficient space available on either side of the execution road, so that road can be widened without having to cut the trees adjacent to the road.

49. The above contention of the learned Counsel for the Applicant is vague and not supported by any expert report. The present project has been envisaged after considering the heavy traffic on the existing highway and to develop a sustainable infrastructure for the public at large. The DPR prepared in the present case is a detailed study of traffic pattern and highway geometrics of the project highway was carried out for preparation of the report which had further undergone a detailed scrutiny at the level of Project Implementation Unit, Bhopal, NHAI Regional Office, and the NHAI HQ. This project was given final approval by the Ministry of Road Transport & Highways. The

road alignment was envisaged and designed keeping in view the O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. geometries of the road, road safety during construction and after construction etc., and as such the change of alignment cannot be considered and hence, any modifications to the same shall be contrary to the public interest and Road Safety. In this reference the answering respondent relies upon the judgment of the Hon'ble Supreme Court of India in the case of Union of India vs. Kaushala Shetty and others, (2011) 12 SCC 69 held as under:-

"24 Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance, NHAI prepares and implements projects relating to development and maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited."

50. Whenever a construction of on existing highway is carried out into a new highway (for example a two-lane highway developed into four lane) the answering respondent has a duty to ensure that the project is completed on time. Since the ongoing construction creates traffic O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. issues which brings the aspect of public safety. The answering respondent through their highway administration are duty bound to ensure that no accident take place during the construction of these highways. During the construction/development work various machines, equipment, vehicles, etc. are engaged which are present on the construction site persistently throughout the construction. There are digging works, utility shifting and other similar activities which disrupt the normal flow of ongoing traffic. The same may give rise to potential black spots which needs to be rectified and to ensure the same the answering respondent has a duty to complete the project in a timely manner thereby ensuring the standards of road safety are maintained at all times. This also ensures the compliance of the directions passed by the Hon'ble Supreme Court of India's Committee on Road Safety.

51. Whenever carrying out any highway project, it is significant to adhere to the timelines set by the project agreement. These timelines are necessary to be followed otherwise the cost of project escalates significantly which results in to loss the Department and thereby the public exchequer. The Concessionaire/Contractor of the project invests heavily in these highway project to ensure timely completion thereby making the project financially viable for them. The same is in public interest as the main purpose of these projects is to ensure facilitation of the public at large on the national highways.

52. The timely completion of the projects can also be viewed from the angle of air pollution. The construction of four/six lane highways is carried out to ensure that there is no congestion and traffic jam on the highways thereby reducing the air pollution by vehicles. If the O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. vehicles ply at the roads for longer period (struck in traffic jam) then the air pollution is likely to increase as well.

53. That the concessionaire agreement of the present project was executed on 27.01.2025. In terms of this concession agreement the concessionaire was entitled to the damage of Rupees 8,36,910/-in words Eight Lac Thirty) per day (Damages clause 4.2 of the Concession Agreement dated 27.01.2025) from the appointment date (11.08.2025) till the entire stretch of highway is handed over to the concessionaire for starting the construction work. The construction work can only be started after cutting of all the trees and clearing of the land. That the same has already created significant financial liability on the cost of the project (5.43 Crores approx.) and the same shall be eventually incurred by the public exchequer. The expenditure incurred by the National Highway Authority of India is around Rupees 15 Crores. These expenditures include preparation of DPR, Tender process, fees payable to Road Safety (Consultant) and supervision charges paid to Utility Owning Department and fees payable to Independent Engineer (Consultant). The answering respondent submits that the financial implications of the project must be considered because in case the project is not executed the same shall result in irreparable damage to the public at large in terms of infrastructure and exchequer.

54. Learned counsel for the respondent has further submitted that while preparing the detailed project report the alignment and the re- alignment has been duly considered as follows: -

"IMPROVEMENT PROPOSALS O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

1.5.1. Proposed Alignment The proposed alignment was presented to Land acquisition committee LAC Stage I LA Committee accorded approval for the recommended alignment. The same alignment was presented to Land Acquisition committee Stage II approval and LAC II granted approval for the proposed alignment. Project Appraisal and Technical Scrutiny Committee (PATSC) meeting held in the month of December 2023 with 6 Lane Elevated Highway with Service Road throughout the project corridor and approved by the committee. Later Standing Finance Committee (SFC) meeting was held on dated 12.01.2024 & 18.01.2024 and the committee approved the proposed project corridor and minutes issued. Accordingly, for the approved alignment the Final Detailed Project Report for the project corridor starting from Ashram Tiraha from Km 0+000 to Ratnagiri Tiraha on NH-146 at Km 16+439 proposed to Six lane with Service Roads on Both sides' corridor.

1.5.2. Bypasses & Realignment Proposed The proposed project corridor is to develop existing 4 lane road to concentric widening on both sides with 6 lane with service road on both sides along the densely habituated areas Ayodhya Nagar of Bhopal city.

Hence there are nil Bypass/Realignments along the project corridor.

1.5.3. Road Geometry The project road has been re-designed to accommodate speeds of 100kmph, adopted as per IRC SP 87:2019 Enabling this higher speed will require re- design and re-alignment of the road in certain sections given here.

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55. The design structure was also considered and it was discussed in the DPR that that along with the project stretch. There are several bridges culverts under over passes and flyovers.

56. It is further argued by the learned counsel for the respondent that National Highway Authority is a professionally managed Statutory Body has been expertise in the field of development and maintenance of the National Highway and the design and alignment which has been duly considered and formulated in the DPR and by the Expert Committee cannot be challenged by the applicant without any basis.

57. The learned Counsel has relied on the decision taken by the Hon'ble Supreme Court of India in Civil Appeal No.2866 of 2001 Union of India Vs. Dr. Kushala Shetty & Ors., decided on 21.02.2011, where Hon'ble Supreme Court of India observed as follows:-

i. The plea of the respondents that alignment of the proposed widening of National Highways was manipulated to suit the vested interests sounds attractive but lacks substance and merits rejection because except making a bald assertion, the respondents have neither given particulars of the persons sought to be favoured nor placed any material to prima facie prove that the execution of the project of widening the National Highways is actuated by mala fides and, in the absence of proper pleadings and material, neither the High Court could nor this Court can make a roving enquiry to fish out some material and draw a dubious conclusion that the decision and actions of the appellants are tainted by mala fides.

ii. A somewhat similar question was considered in Girias Investment Private Ltd. v. State of Karnataka (supra). In that case, the acquisition of the land under the Karnataka Industrial Areas Development Act, 1966 was challenged on various grounds including the one that the acquisition was vitiated due to mala fides. While rejecting the plea of mala fides, the Court referred to S.R. Venkataraman v. Union of O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

India (1979) 2 SCC 491, State of Punjab v. Gurdial Singh (1980) 2 SCC 471 and Collector (D.M.) v. Raja Ram Jaiswal (1985) 3 SCC 1 and observed:

"14. It is obvious from a reading of the pleadings quoted above that only vague allegations of mala fides have been levelled and that too without any basis. There can be two ways by which a case of mala fides can be made out; one that the action which

is impugned has been taken with the specific object of damaging the interest of the party and, secondly, such action is aimed at helping some party which results in damage to the party alleging mala fides. It would be seen that there is no allegation whatsoever in the pleadings that the case falls within the first category but an inference of mala fides has been sought to be drawn in the course of a vague pleading that the change had been made to help certain important persons who would have lost their land under the original acquisition. These allegations have been replied to in the paragraph quoted above and reveal that the land which had been denotified belonged to those who had absolutely no position or power. In this view of the matter, the judgments cited by Mr Dave have absolutely no bearing on the facts of the case."

iii. We may also refer to the Constitution Bench judgment in *E.P. Royappa v. State of Tamil Nadu* and another (1974) 4 SCC 3. In that case, the petitioner, who was transferred from the post of Chief Secretary and posted as Officer on Special Duty, challenged the action of government on various grounds including the one that the decision of the government was vitiated due to mala fides of the Chief Minister. This Court rejected the plea of mala fides by making the following observations:

"90. .... The petitioner set out in the petition various incidents in the course of administration where he crossed the path of the second respondent and incurred his wrath by inconvenient and uncompromising acts and notings and contended that the second respondent, therefore, nursed hostility and malus animus against the petitioner and it O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

was for this reason and not on account of exigencies of administration that the petitioner was transferred from the post of Chief Secretary. The incidents referred to by the petitioner, if true, constituted gross acts of maladministration and the charge levelled against the second respondent was that because the petitioner in the course of his duties obstructed and thwarted the second respondent in these acts of maladministration, that the second respondent was annoyed with him and it was with a view to putting him out of the way and at the same time deflating him that the second respondent transferred him from the post of Chief Secretary. The transfer of the petitioner was, therefore, in mala fide exercise of power and accordingly invalid.

91. Now, when we examine this contention we must bear in mind two important considerations. In the first place, we must make it clear, despite a very strenuous argument to the contrary, that we are not called upon to investigate into acts of maladministration by the political Government headed by the second respondent. It is not within our province to embark on a far-flung inquiry into acts of commission and omission charged against the second respondent in the administration of the affairs of Tamil Nadu. That is not the scope of the inquiry before us and we must decline to enter upon any such inquiry. It is one thing to say that the second respondent was guilty of misrule and another to say that he had malus animus

against the petitioner which was the operative cause of the displacement of the petitioner from the post of Chief Secretary. We are concerned only with the latter limited issue, not with the former popular issue. We cannot permit the petitioner to side track the issue and escape the burden of establishing hostility and malus animus on the part of the second respondent by diverting our attention to incidents of suspicious exercise of executive power. That would be nothing short of drawing a red herring across the trail. The only question before us is whether the action taken by the respondents includes any component of mala fides; whether hostility and malus animus against the O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

petitioner were the operational cause of the transfer of the petitioner from the post of Chief Secretary.

92. Secondly, we must not also overlook that the burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility. Here the petitioner, who was himself once the Chief Secretary, has flung a series of charges of oblique conduct against the Chief Minister. That is in itself a rather extraordinary and unusual occurrence and if these charges are true, they are bound to shake the confidence of the people in the political custodians of power in the State, and therefore, the anxiety of the Court should be all the greater to insist on a high degree of proof. In this context it may be noted that top administrators are often required to do acts which affect others adversely but which are necessary in the execution of their duties. These acts may lend themselves to misconstruction and suspicion as to the bona fides of their author when the full facts and surrounding circumstances are not known. The Court would, therefore, be slow to draw dubious inferences from incomplete facts placed before it by a party, particularly when the imputations are grave and they are made against the holder of an office which has a high responsibility in the administration. Such is the judicial perspective in evaluating charge of unworthy conduct against ministers and other high authorities, not because of any special status which they are supposed to enjoy, nor because they are highly placed in social life or administrative set up --these considerations are wholly irrelevant in judicial approach--but because otherwise, functioning effectively would become difficult in a democracy. It is from this standpoint that we must assess the merits of the allegations of mala fides made by the petitioner against the second respondent."

58. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. and maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway

development and maintenance. NHAI prepares and implements projects relating to development and maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The Court can nullify the acquisition of land and, in rarest of rare cases, the particular project, if it is found to be ex-facie contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither any violation of mandate of the Act has been established nor the charge of malice in fact has been proved.

59. The above judgments have been relied upon by the Hon'ble Madhya Pradesh High Court in WP 3213/2023 (M/s Neeti Development & Leasing Pvt. Ltd. Vs Union of India), Hon'ble Allahabad High Court in WP 8467/2017 (Deepak Gupta v Union of India & Ors.) and Hon'ble Madras High Court in WP 30969/2013 (E. Suganthi v Union of India & Ors.) and other various judicial pronouncements. Thus, the principle laid by the Hon'ble Supreme Court of India is that the scope of judicial review in the DPR of the national highway is very limited. O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

60. The subject road as per DPR study is to be used for urban traffic of the city or commercial traffic generating from local residential townships, apartments, school, colleges, hospital, mall, shopping complexes and other dense commercial units set up along the existing Ayodhya Bypass and coming to the city and going outside. While the outer Bhopal bypass (Bhopal/Kokta Bypass) is for bypassing the heavy commercial traffic which have no interaction with Bhopal city. One cannot be the alternative of the other. Since land for Ayodhya Nagar bypass from Ashram Tiraha to Ratnagiri Tiraha was already acquired by State Govt. Hence, it makes no sense to create another alternate route for these two-point acquiring afresh land creating financial burden on public exchequers and disturbing urban settlement. CEC in the very first meeting asked NHAI to explore the alternative to reduce tree felling. Since the land was already acquired alternatives were found in terms of redesigning the project facility and same were submitted to CEC in subsequent meetings. The same can also be looked upon from the lens of Google earth.

61. Next argument advanced by the learned counsel by the applicant are that sufficient space is available on either side of the execution road and the respondents have to slow further before resorting to felling of trees. The learned counsel for the respondent has replied that the highway is guided by the guidelines of Indian Road Congress and the Applicant has no expertise in the decision on the alignment of the highway.

62. The present project 30 meters of land shall be utilized for the construction of the 6-lane main carriage way of road. Beyond this O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. land will be utilized for construction 7.5m width service road, 1.5m width paved shoulder, 2m width footpath cum drain on both side of the main carriageway of the highway for smooth movement of the local traffic. Therefore, total land width utilized in construction of MCW, Service Road & other items on both side of MCW will be 52m. Further, in the balance land

avenue plantation shall be undertaken. Rules are quoted below:-

"14.2. As per as per para 1.13 of IRC:SP:87-2019, the objective of planning a 6-lane highway shall be to ensure that the long distance through traffic is able to operate at a speed dictated only by the flow on the main highway and not by any other factors, such as interference from local traffic, access traffic or cross traffic. The traffic having short distance or local O&D, access traffic and cross traffic shall be separated from the long distance through traffic. Service road shall be provided in continuous length on both sides.

14.3 Further, as per clause 3.1.1 of IRC:SP:87-2019, there shall be no direct access to the main highway and all access shall be from service roads which shall be provided on both sides of the main highway and interconnected through underpasses, overpasses or grade separators. The existing direct access to the highway shall be closed and alternative access through service roads only shall be provided.

14.4 Moreover, as per para 9.9.3 of IRC SP 87-2019, for construction of Flyover/VUPs, in the first stage, the traffic will be diverted to a service road or temporary road and construction of piers/embankment/RE wall would be taken up in the cordoned portion.

In this regard, it is respectfully submitted that presently the traffic on this road is past the limit of 4 lane road i.e. (40000PCU), hence six laning of road is required. Further to ensure safety of urban traffic multiple conflicts points on the existing road shall be permanently removed by introducing 18 Nos. LVUPs, 3 Nos. Viaducts (Total length 4770m), 8 Nos. Flyover in main carriageway making it an elevated access-

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controlled road. Further, service road on both side of the elevated highway is being construction for smooth and conflict free movement of the local traffic.

14.5 Hence, in the instant case, Construction of 6 lane elevated highway over the existing road with service road on both side is mandated as per IRC:SP:87-2019 and construction of the same is not possible with cutting of the 7781 Nos. trees planted as avenue plantation.

14.6 Even if the issue is examined from the perspective of environment protection (in order to save the trees) it is respectfully submitted that the road safety standards cannot in any manner be compromised. The same shall adversely affect the design of the highway and can lead to accidents, 14.7 That it is further the answering respondent has also been assigned the role of Highway Administrator under the National Highways 4 (Land and Traffic) Act, 2002 and the Highway Administration Rules, 2004. This Act lays down a statutory duty on the NHAI to ensure that the road

safety standards are followed and act against the congested or unsafe part of the highway. Thus, the answering respondent had filed its reply on the limited aspect of road safety by stating that the construction along the highway should be as per the rules."

63. The road safety standards have to be maintained in order to ensure that the traffic plying at the highway and the pedestrians have a safe passage and there is no road accident. The answering respondent has a statutory duty to ensure the road safety at all times. While preparing the brief EIA Report with regard to the alignment the matter of reassessment land slide horizontal directional drilling soil conservation, noise management, air pollution traffic management, avenue planation, monitoring provision compliance of the statutory clearances like India Road Congress Guidelines Forest Conservation Act 1980 and other provisions has been duly considered by the O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. Competent Authority and it was found that the major number of accidents and fatalities which occurred at the people small black spot, base black spot, Ratnagari Tiraha black spot may be avoided by the service road on both side and the junction development. The project was further considered on the point of economic and Industrial Development Environmental Upgradation, traffic survey emission from the traffic, traffic projections and Ayodhya Bypass by correcting the figure by different studies of experts. The matter was again reconsidered by the high level Centrally Empowered Committee and a detailed map of the road under the project has been duly considered.

64. The submission of the Learned Counsel for the applicant is that the technical committee of the National Highway Authority of India or the agency preparing the DPR or the CEC failed to apply the mind and based the decision on the report of the highway authority and there was no scientific study. These are the administrative decisions taken by the highly technical experts of the road construction under the Ministry of Road and Transport and the opinion of the expert is based on the scientific study which was submitted and placed before the committee.

65. In reply thereof, the learned counsel appearing for the Respondent has submitted that the opinion of the experts is based on the scientific study which was submitted and placed before the Committee which are duly examined and relied on the decision of the Hon'ble Supreme Court in Transferred Case (Civil) No. 229 of 2020:

(Rajeev Suri Vs. Delhi Development Authority & Ors.), where Hon'ble the Supreme Court in Reliance Airport Developers, (2006) 10 SCC 1, O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. discussed the scope of judicial review in administrative action and noted thus:-

"56. One of the points that falls for determination is the scope for judicial interference in matters of administrative decisions. Administrative action is stated to be referable to broad area of governmental activities in which the repositories of power may exercise every class of statutory function of executive, quasilegislative and quasi-judicial nature. It is trite law that exercise of power, whether legislative or administrative, will be set aside if there is manifest error in the exercise of such

power or the exercise of the power is manifestly arbitrary (see *State of U.P. v. Renusagar Power Co.* [(1988) 4 SCC 59 AIR 1988 SC 1737]). At one time, the traditional view in England was that the executive was not answerable where its action was attributable to the exercise of prerogative power. Professor de Smith in his classic work *Judicial Review of Administrative Action*, 4th Edn. at pp. 285-87 states the legal position in his own terse language that the relevant principles formulated by the courts may be broadly summarised as follows. The authority in which a discretion is vested can be compelled to exercise that discretion, but not to exercise it in any particular manner. In general, a discretion must be exercised only by the authority to which it is committed. That authority must genuinely address itself to the matter before it; it must not act under the dictates of another body or disable itself from exercising a discretion in each individual case. In the purported exercise of its discretion, it must not do what it has been forbidden to do, nor must it do what it has not been authorised to do. It must act in good faith, must have regard to all relevant considerations and must not be influenced by irrelevant considerations, must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act, and must not act arbitrarily or capriciously...."

(emphasis supplied) O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

66. Hon'ble Supreme Court then summed up the principles into two broad categories thus:

"56. These several principles can conveniently be grouped in two main categories: (1) failure to exercise a discretion, and (ii) excess or abuse of discretionary power. The two classes are not, however, mutually exclusive. Thus, discretion may be improperly fettered because irrelevant considerations have been taken into account, and where an authority hands over its discretion to another body it acts *ultra vires*."

67. Hon'ble Supreme Court further added the grounds of non-application of mind to relevant factors and non-existence of facts and noted thus:

"57. ... If the power has been exercised on a non-consideration or nonapplication of mind to relevant factors, the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated..."

68. In *Council of Civil Service Unions*, Lord Diplock, attempted to sum up the grounds of judicial review of administrative action under three broad heads and noted thus:

"... Judicial review has I think developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action

is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'. That is not to say that further development on a case by case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of 'proportionality' which is recognised in the administrative law of several of our fellow members of the European Economic Community; but to dispose of the instant O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

case the three already well-established heads that I have mentioned will suffice."

(emphasis supplied)

69. Hon'ble Supreme Court succinctly summed up the position in (1994) 6 SCC 651: *Tata Cellular v. Union of India*, and observed thus:

"94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible."

(emphasis supplied)

70. In *State of Madhya Pradesh v. Narmada Bachao Andolan*, the Hon'ble Supreme Court was dealing with an issue of rehabilitation of persons displaced due to the construction of the dam. It went on to observe that judicial interference in a policy matter is circumscribed, in the following words:

"36. The Court cannot strike down a policy decision taken by the Government merely because it feels that another decision would have been fairer or more scientific or logical or wiser. The wisdom and advisability of the policies are ordinarily not amenable to judicial review unless the policies are contrary to statutory or constitutional provisions or arbitrary or irrational or an abuse of power. (See *Ram Singh Vijay Pal Singh v. State of U.P.* ((2007) 6 SCC 44], *Villianur Iyarkkai Padukappu Maiyam v. Union of India* (2009) 7 SCC 561] *Union for Civil and State of Kerala v. Peoples Liberties* [(2009) 8 SCC 46].) O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

37. Thus, it emerges to be a settled legal proposition that the Government has the power and competence to change the policy on the basis of ground realities. A public policy cannot be challenged through PIL where the State Government is competent to frame the policy and there is no need for anyone to raise any grievance even if the policy is changed. The public policy can only be challenged where it offends some constitutional or statutory provisions."

(emphasis supplied)

71. On the point of non-application of mind, by the EIA Member or CEC the Hon'ble Supreme Court in Rajeev Soori case held as follows:-

"289. It is noticed that the argument of non-application of mind has been invoked by the petitioners, irrespective of the nature of body whose decision has come to be assailed. The requirement of due application of mind is one of the shades of jurisprudential doctrine that justice should not only be done but seen to be done. It requires a decision-making body, judicial or quasi-judicial, to abide by certain basic tenets of natural justice, including but not limited to the grant of hearing to the affected persons. Rules of natural justice are not embodied rules. They are means to an end and not end in themselves. The goal of these principles is to prevent prejudice. It is from the same source that the requirement of application of mind emerges in decision making processes as it ensures objectivity in decision making. In order to ascertain that due application of mind has taken place in a decision, the presence of reasons on record plays a crucial role. The presence of reasons would fulfil twin objectives of revealing objective application of mind and assisting the adjudicatory body in reviewing the decision. The question that arises here is, whether the statement in the recorded minutes of the CVC meeting ("the features of the proposed Parliament building should be in sync with the existing Parliament building") is or is not indicative of application of mind.

290. In cases when the statute itself provides for an express requirement of a reasoned order, it is understandable that O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

absence of reasons would be a violation of a legal requirement and thus, illegal. However, in cases when there is no express requirement of reasons, the ulterior effect of absence of reasons on the final decision cannot be sealed in a straightjacketed manner. Such cases need to be examined from a broad perspective in the light of overall circumstances. The Court would look at the nature of decision-making body, nature of rights involved, stakeholders, form and substance of the decision etc. The list is not exhaustive for the simple reason that drawing a conclusion of non-application of mind from mere absence of reasons is a matter of pure inference and the same cannot be drawn until and unless other circumstances too point in the same direction. The aforesaid factor of nature of rights has been considered by this

Court in E.G. Nambudiri thus:-

"8. The question is whether principles of natural justice require an administrative authority to record reasons. Generally, principles of natural justice require that opportunity of hearing should be given to the person against whom an administrative order is passed. The application of principles of natural justice, and its sweep depend upon the nature of the rights involved, having regard to the setting and context of the statutory provisions. Where a vested right is adversely affected by an administrative order, or where civil consequences ensue, principles of natural justice apply even if the statutory provisions do not make any express provision for the same, and the person concerned must be afforded opportunity of hearing before the order is passed. But principles of natural justice do not require the administrative authority to record reasons for its decision as there is no general rule that reasons must be given for administrative decision.

Order of an administrative authority which has no statutory or implied duty to state reasons or the grounds of its decision is not rendered illegal merely on account of absence of reasons. It has never been a principle of natural justice that reasons should be given for decisions.

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See: Regina v. Gaming Board for Great Britain, ex p. Benaim and Khaida, (1990) 2 QB 417 at 431.

(emphasis supplied)

291. It is settled that in cases where individual rights are affected by the decision, an opportunity of being heard and application of mind couched in the form of reasons form part of the jurisprudential doctrine. Such cases need to be distinguished from cases which do not impinge upon individual rights and involve ordinary administrative processes. For, similar standards cannot be deployed to decide both these cases. When petitioners allege illegality on a ground such as absence of reasons in a pure administrative process, they must bear the burden to demonstrate the requirement of reasons in the first place. It is not as if reasons are mandatory in all decisions. What we are dealing with is the opinion of an advisory (administrative) body which is appointed by the same Government which calls for its advice and not to adjudicate upon rights of individuals. Even if we assume that the no objection by an advisory body would have the effect of affecting the objectivity of the final decision, the fact remains that it does not take the final decision. It is meant to invoke its expertise in light of the subject proposal placed before it and advise the Government as regards the feasibility of the proposed development in connection with the existing central vista region. The final decision would be that of the competent authority of the concerned department. Furthermore, what purpose would it serve to entangle an

advisory body into rigidity of recording elaborate reasons when its advice is not going to affect any stakeholder whatsoever nor can be made the basis to challenge the final decision of the competent authority. Not being a statutory body, its opinion has no finality attached to it nor could be appealed against to superior forum. Undeniably, in the process of decision-making, the Government may choose to consult as many bodies and agencies as it desires and opinion of every such advisory body cannot be assailed by supplying fictional standards without keeping in view the nature of body and context of advice.

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292. In E.G. Nambudiri, this Court noted as to how mere absence of reasons may not render the decision to be illegal thus:

"6.... Ordinarily, courts and tribunals, adjudicating rights of parties, are required to act judicially and to record reasons. Where an administrative authority is required to act judicially it is also under an obligation to record reasons. But every administrative authority is not under any legal obligation to record reasons for its decision, although, it is always desirable to record reasons to avoid any suspicion. Where a statute requires an authority though acting administratively to record reasons, it is mandatory for the authority to pass speaking orders and in the absence of reasons the order would be rendered illegal.

But in the absence of any statutory or administrative requirement to record reasons, the order of the administrative authority is not rendered illegal for absence of reasons. If any challenge is made to the validity of an order on the ground of it being arbitrary or mala fide, it is always open to the authority concerned to place reasons before the court which may have persuaded it to pass the orders...."

(emphasis supplied)

72. The DPR/EIA/NHAI/CEC members are expert in their domain fields and apprised the proposal, through scrutiny and detailed deliberations are done by the members. Therefore, the deliberations taken place in the meeting are always of technical nature. The objections and clarifications of the Project Proponent have been complied on various issues raised by the members and the proposal was recommended. The expert finding cannot be questioned and this can be relied on the following law points: -

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"A. Rajeev Suri v. Delhi Development Authority [2021 SCC Online SC 7] "494. The minutes of the two meetings of EAC are self- explanatory and reveal due application of mind, in light of the principles relating to application of mind enunciated above. We do not wish to repeat the same to avoid prolixity. EAC is an expert body and it is

amply clear that it has been made aware of all relevant information relating to the project and it has applied its mind to the proposal. Even on settled principles of judicial review, it is clear that relevant material has been considered by the committee and no reliance has been pointed out on any irrelevant material. The specific recommendations given by the committee do indicate that the committee was aware of the need for precautionary measures in environmental matters and accordingly, it suggested requirement of further permissions on certain counts.

495. Once an expert committee has duly applied its mind to an application for EC, any challenge to its decision has to be based on concrete material which reveals total absence of mind. Absent that material, due deference must be shown to the decisions of experts. The facts of the case do not reveal any deliberate concealment of fact/information from the EAC or supply of any misinformation....

515. We, therefore, upon a thorough examination, decline to interfere in the grant of EC. The expertise developed by the EAC cannot be undermined in a light manner and as noted above, due deference must be accorded to expert agencies when their 384 decisions do not attract the taint of legal unjustness".

B. N.D. Jayal & Anr. vs. Union of India [2004 (9) SCC 362]:

A 3- Judge Bench of the Hon'ble Supreme Court emphasized the exercise of judicial restraint in matters involving technical expertise.

20. This Court cannot sit in judgment over the cutting edge of scientific analysis relating to the safety of any project. Experts in science may themselves differ in their opinions while taking O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

decisions on matters related to safety and allied aspects. The opposing viewpoints of the experts will also have to be given due consideration after full application of mind. When the Government or the concerned authorities after due consideration of all viewpoints and full application of mind took a decision, then it is not appropriate for the Court to interfere. Such matters must be left to the mature wisdom of the Government or the implementing agency. It is their forte. In such cases, if the situation demands, the Courts should take only a detached decision based on the pattern of the well settled principles of administrative law. If any such decision is based on irrelevant consideration or non consideration of material or is thoroughly arbitrary, then the Court will get in the way. Here the only point to consider is whether the decision making agency took a well informed decision or not. If the answer is yes then there is no need to interfere. The consideration in such cases is in the process of decision and not in its merits.

21. In this context, reliance is sought to be placed on the decision of this Court in A.P. Pollution Control Board v. Prof. M.V. Nayudu (Retd.) and Ors., 1999 (2) SCC 718. In that decision, this Court viewed that in scientific matters of complex nature resulting in uncertainty, reference has to be made to a specialised technical/expert body and not merely decide the matter on well known

principles of administrative law of court not reexamining the matter if all relevant considerations have been taken note of. In the present case when once a decision had been given by this Court on safety aspects on an earlier occasion and thereafter the matter was again examined by the Government through different agencies and had taken a decision as to the necessity of further test by way of abundant caution should be relevant or not, we do not think, we can sit in judgment over such decision, particularly when there is no difference of opinion among the Experts as to the safety of the dam.

C. Sam Built Well Private Limited vs Deepak Builders [2018 (2) SCC 176]:

This judgement was rendered by the Hon'ble Supreme Court in the context of judicial review of tenders. However, several O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

observations were made qua exercising judicial restraint in matters involving technical expertise.

12. We have already noticed that three expert committees have scrutinized Respondent No. 1s tender and found Respondent No. 1 to be ineligible. The impugned judgment of the Division Bench of the High Court expressly states that no malafides are involved in the present case. Equally, while setting aside the judgment of the learned Single Judge, the Division Bench does not state that the three expert committees have arrived at a perverse conclusion. To merely set aside the judgment of the learned Single Judge and then jump to the conclusion that Respondent No. 1s tender was clearly eligible, would be directly contrary to the judgments aforesaid. Not having found malafides or perversity in the technical expert reports, the principle of judicial restraint kicks in, and any appreciation by the Court itself of technical evaluation, best left to technical experts, would be outside its ken. As a result, we find that the learned Single Judge was correct in his reliance on the three expert committee reports. The Division Bench, in setting aside the aforesaid judgment, has clearly gone outside the bounds of judicial review. We, therefore, set aside the judgment of the Division Bench and restore that of the learned Single Judge.

D. Bombay Environmental Action Group vs State of Maharashtra [1990 SCC OnLine Bom 357]:

The Hon'ble High Court of Bombay made several observations discouraging judicial interference in technical matters pertaining to the environment. 16. The, petitioners, as public spirited organisations and citizens, have, through their respective Counsel, done their duty by invoking this Courts writ jurisdiction and placing before us all such facts and circumstances as considered best by them. We in our turn, have done our duty by carefully examining all the facts and circumstances in the context of the rival contentions advanced before us on either side. In the course of this elaborate exercise and at every stage of the judicial process, we have kept asking ourselves the question -- Have the authorities shown such lack of awareness or have they been so

oblivious of the needs of environment as to warrant Courts interference? We do not think O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

so. On the contrary, considerable though deliberation, consultation and application of mind by all concerned authorities and experts has gone into the decision making process. We find on the part of the authorities, and experts all the seriousness while considering and deciding upon the varied factors and circumstances including environment in relation to this project. The indepth analysis, the conditions imposed and the precautions taken inspire Courts confidence and, if, at the end of it all, the Court finds that a very conscious decision has been taken in the light of all possible pros and cons, it would then not interfere. The decision of the authorities cannot be said to be arbitrary or capricious or one not in good faith or actuated by improper motive or extraneous considerations.

17. Environmental issues are relevant and deserve serious consideration. But the needs of the environment require to be balanced with the needs of the community at large and the needs of a developing country. If one finds, as in this case, that all possible environmental safe-guards have been taken, the check and control by way of judicial review should then come to an end. Once an elaborate and extensive exercise by all concerned including the environmentalists, the State and the Central authorities and expert bodies is undertaken and effected and its end result judicially considered and reviewed, the matter thereafter should in all fairness stand concluded.

Endless arguments, endless reviews and endless litigation in a matter such as this, can carry one to no end and may as well turn counterproductive. While public interest litigation is a welcome development, there are nevertheless limits beyond which it may as well cease to be in public interest any further."

73. In view of the above facts and decision there are applications of mind by the technical experts and the alignment or the design cannot be interfered with by the tribunal unless and until there is any another technical report contradicting or raising the question on the validity and justification of the alignment and design prepared by the National Highway Authority of India or its technical body. O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

Accordingly, the contention as raised with regard to the design alternate route or alignment has no legs to stand and are not tenable in the eyes of law.

#### (7) SUSTAINABLE DEVELOPMENT:

74. The submission of the Learned Council for the respondents are that the National Highway Authority of India has been undertaking plantation drives from) time to time to develop eco-friendly National Highway and has constantly addressed ecological concern by adopting environment

friendly methods, and in the past, more than 2 crores plants have been planted. In various states of all over the country, consistent efforts have been undertaken by the authority under the guidelines the Green Highway Policy Plantation, Transplantation, Beautification and Maintenance 2015 issued by the Ministry of Road and Transport with the objective to evolve a policy framework to reduce the impact of air pollution, to provide much needed shade on glaring hot roads during summer, to reduce the impact of ever increasing noise pollution, soil erosion, to prevent a glare from the headlights of incoming vehicles and to moderate the effect of wind and incoming radiation. The local peoples also get employment and from 2015-2024-25, more than 468 lakhs plantation have been done by the authority and that plantation efforts have also played a crucial role in carbon sequestration, which significantly reduces greenhouse gas emissions-an essential contribution to India's Nationally Determined Contributions (NDCs) commitments made at COP26, aiming to reduce Emissions Intensity of its GDP by 45 percent by 2030, from 2005 level and to create an O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. additional carbon sink of 2.5 to 3 billion tonnes of CO<sub>2</sub> equivalent through additional forest and tree cover by 2030. That it is submitted that the plantations also support biodiversity, offering habitats for birds and other wildlife, while improving microclimatic conditions along highways. Enhanced air and soil quality, moderated temperatures, and increased biodiversity along the roadways contribute to a healthier environment for ecosystems and local communities. The Green Corridors created under the policy provide shade for travellers, reduce air, and noise pollution, and assist in groundwater recharge, which is critical for regions facing water scarcity. These green belts improve local environmental conditions, purify the air, and mitigate the adverse effects of Vehicular emissions, ultimately improving the health and well-being of citizens living along highways. On the aspect of the transparency and accountability towards the general public the answering respondent has also published the details of the Environmental, Social, and Governance (ESG) performance in its Sustainability Report of FY 2023-24.

75. It is further submitted that the present highway is necessary to ensure that decongestion of the highway which shall result into reduction in the vehicular air and noise pollution. And the respondents shall be responsible for the maintenance of the trees for a period of 15 years and the project shall involve maximum uses of pre-cast concreting, girders and reinforced earth walls which will be manufactured offsite to minimize construction related pollution and disruption in the urban area. It is further submitted that the project has undertaken to utilize fly ash and necessary orders have been issued to the thermal power project and further that the guideline O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. issued in the IRC guidelines (SP84.2019) has to be complied by the project proponent.

76. While economic development should not be allowed at the cost of ecology or by causing widespread environmental destruction, the necessity to preserve ecology and environment should not hamper economic and other development. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [Indian council for enviro-legal action v union of India [1996]5 SCC 281]. The traditional concept that development and ecology are opposed to each other is no longer acceptable [Vellore Citizens Welfare Forum v. Union of India [1996] 5 SCC 647].

77. In a constitutional framework which is intended to create, foster and protect a democracy committed to liberal values, the rule of law provides the cornerstone. The rule of law is to be distinguished from rule by the law. The former comprehends the setting up of a legal regime with clearly defined rules and principles of even application, a regime of law which maintains the fundamental postulates of liberty, equality and due process. The rule of law postulates a law which is answerable to constitutional norms. The law in that sense is accountable as much as it is capable of exacting compliance. Rule by the law on the other hand can mean rule by a despotic law. It is to maintain the just quality of the law and its observance of reason that rule of law precepts in constitutional democracies rest on constitutional foundations. A rule of law framework encompasses O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. rules of law but it does much more than that. It embodies matters of substance and process. It dwells on the institutions which provide the arc of governance. By focusing on the structural norms which guide institutional decision making, rule of law frameworks recognize the vital role played by institutions and the serious consequences of leaving undefined the norms and processes by which they are constituted, composed and governed. A modern rule of law framework is hence comprehensive in its sweep and ambit. It recognizes that liberty and equality are the focal point of a just system of governance and without which human dignity can be subverted by administrative discretion and absolute power. Rule of law then dwells beyond a compendium which sanctifies rules of law. Its elements comprise of substantive principles, processual guarantees and institutional safeguards that are designed to ensure responsive, accountable and sensitive governance.

78. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are sui generis. The environmental rule of law seeks to create essential tools - conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges - of how they have been shaped by humanity's interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity's actions have charted. The environmental rule of law seeks to facilitate a multi- disciplinary O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognizes that the 'law' element in the environmental rule of law does not make the concept peculiarly the preserve of lawyers and judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts. There are significant linkages between concepts such as sustainable development, the polluter pays principle and the trust doctrine. The universe of nature is indivisible and integrated. The state of the environment in one part of the earth affects and is fundamentally affected by what occurs in another part. Every element of the environment shares a symbiotic relationship with the others. It is this inseparable bond and connect which the environmental rule of law seeks to explore and understand in order to find solutions to the pressing problems which threaten the existence of humanity. The environmental rule of law is founded on the need to understand the consequences of our actions going beyond local, state and

national boundaries. The rise in the oceans threatens not just maritime communities. The rise in temperatures, dilution of glaciers and growing desertification have consequences which go beyond the communities and creatures whose habitats are threatened. They affect the future survival of the entire ecosystem. The environmental rule of law attempts to weave an understanding of the connections in the natural environment which make the issue of O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

survival a unified challenge which confronts human societies everywhere. It seeks to build on experiential learning's of the past to formulate principles which must become the building pillars of environmental regulation in the present and future. The environmental rule of law recognizes the overlap between and seeks to amalgamate scientific learning, legal principle and policy intervention. Significantly, it brings attention to the rules, processes and norms followed by institutions which provide regulatory governance on the environment. In doing so, it fosters a regime of open, accountable and transparent decision making on concerns of the environment. It fosters the importance of participatory governance - of the value in giving a voice to those who are most affected by environmental policies and public projects. The structural design of the environmental rule of law composes of substantive, procedural and institutional elements. The tools of analysis go beyond legal concepts. The result of the framework is more than just the sum total of its parts. Together, the elements which it embodies aspire to safeguard the bounties of nature against existential threats. For it is founded on the universal recognition that the future of human existence depends on how we conserve, protect and regenerate the environment today.

79. In its decision in Hanuman Laxman Aroskar vs Union of India, [2019] 15 SCC 401 the Court, recognized the importance of protecting the environmental rule of law. The court observed:-

"142. Fundamental to the outcome of this case is a quest for environmental governance within a rule of law paradigm. Environmental governance is founded on the need to promote O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

environmental sustainability as a crucial enabling factor which ensures the health of our ecosystem. "

143. Since the Stockholm Conference, there has been a dramatic expansion in environmental laws and institutions across the globe. In many instances, these laws and institutions have helped to slow down or reverse environmental degradation. However, this progress is also accompanied, by a growing understanding that there is a considerable implementation gap between the environmental laws and their requirements of implementation and enforcement both in developed and developing countries alike...

156. The rule of law requires a regime which has effective, accountable and transparent institutions. Responsive, inclusive, participatory and representative decision making are key ingredients to the rule of law. Public access to information is, in similar terms, fundamental to the preservation of the rule of law. In domestic context, environmental governance that is founded on the rule of law

emerges from the values of our Constitution. The health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution. Proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution."

80. In its first global report on environmental rule of law in January 2019, the United Nations Environment Programme ("UNEP") has presciently stated:-

"If human society is to stay within the bounds of critical ecological thresholds, it is imperative that environmental laws are widely understood, respected, and enforced and the benefits of environmental protection are enjoyed by people and the planet. Environmental rule of law offers a framework for addressing the gap between environmental laws on the books and in practice and is key to achieving the Sustainable Development Goals.

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Successful implementation of environmental law depends on the ability to quickly and efficiently resolve environmental disputes and punish environmental violations. Providing environmental adjudicators and enforcers with the tools that allow them to respond to environmental matters flexibly, transparently, and meaningfully is a critical building block of environmental rule of law"

81. The need to adjudicate disputes over environmental harm within a rule of law framework is rooted in a principled commitment to ensure fidelity to the legal framework regulating environmental protection in a manner that transcends a case-by-case adjudication. Before this mode of analysis gained acceptance, we faced a situation in which, despite the existence of environmental legislation on the statute books, there was an absence of a set of overarching judicially recognized principles that could inform environmental adjudication in a manner that was stable, certain and predictable. In an article in the Asia-Pacific Journal of Environmental Law (2014), Bruce Pardy describes this conundrum in the following terms:-

"Environmental regulations and standards typically identify specific limits or prohibitions on detrimental activities or substances. They are created to reflect the principles and prohibitions contained in the statute under which they are promulgated. However, where the contents of the statute are themselves indeterminate, there is no concrete rule or set of criteria to apply to formulate the standards. Their development can therefore be highly political and potentially arbitrary. Instead of serving to protect citizens' environmental welfare, an indeterminate environmental law facilitates a utilitarian calculus that allows diffuse interests to be placed aside when they are judged to be less valuable than competing considerations."

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82. However, even while using the framework of an environmental rule of law, the difficulty we face is this when adjudicating bodies are called on to adjudicate on environmental infractions, the precise harm that has taken place is often not susceptible to concrete quantification. While the framework provides valuable guidance in relation to the principles to be kept in mind while adjudicating upon environmental disputes, it does not provide clear pathways to determine the harm caused in multifarious factual situations that fall for judicial consideration. The determination of such harm requires access to scientific data which is often times difficult to come by in individual situations.

83. In an article in the Georgetown Environmental Law Review (2020), Arnold Kreilhuber and Angela Kariuki explain the manner in which the environmental rule of law seeks to resolve this imbroglio:-

"One of the main distinctions between environmental rule of law and other areas of law is the need to make decisions to protect human health and the environment in the face of uncertainty and data gaps. Instead of being paralyzed into inaction, careful documentation of the state of knowledge and uncertainties allows the regulated community, stakeholders, and other institutions to more fully understand why certain decisions were made."

The point, therefore, is simply this the environmental rule of law calls on us, as judges, to marshal the knowledge emerging from the record, limited though it may sometimes be, to respond in a stern and decisive fashion to violations of environmental law. We cannot be stupefied into inaction by not having access to complete details about the manner in which an environmental law violation has occurred or its full implications. Instead, the framework, acknowledging the imperfect world that we inhabit, provides a roadmap to deal with environmental law." O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

84. In a recent decision of the Court in Bengaluru Development Authority vs. Sudhakar Hegde, 2020 SCC online SC 328, the Hon'ble Supreme Court held:-

"107. The adversarial system is, by its nature, rights based. In the quest for justice, it is not uncommon to postulate a winning side and a losing side. In matters of the environment and development however, there is no trade-off between the two. The protection of the environment is inherent component of development and growth... "

108. Professor Corker draws attention to the idea that the environmental protection goes beyond lawsuits. Where the state and statutory bodies fail in their duty to comply with the regulatory framework for the protection of the environment, the courts, acting on actions brought by public spirited individuals are called to invalidate such actions... "

109. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law

requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution, proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place."

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85. It cannot be disputed that no development is possible without some adverse effect on the ecology and environment, and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. A balance has to be struck between the two interests. Where the commercial venture or enterprise would bring in results which are far from for more useful for the people at large, difficulty of a small number of people has to be addressed by taking up mitigation measures in the larger interest of the nation. The comparative hardships have to be balanced and convenience and benefits to a larger section of the people has to get priority over comparatively lesser hardship.

86. This indicates that while applying the concept of sustainable development one has to keep in mind the principal of proportionality based on the concept of balance. It is an exercise in which we have to balance a priority of development on one hand and environmental protection on the other hand.

87. Hon'ble the Supreme Court of India in Civil Appeal Number 4035- 4037 of 2020, the National Highway Authority of India vs. Pandarinathan Govindarajulu & Anr. LL 2021 SC-26 (19.01.2021), considered the project under the National Highway Authority of India and discussed the matter in detail as follows:

"4. Section 3 of the Environment (Protection) Act, 1986 empowers the Central Government to take all such measures for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. One of the measures provided in Section 3 (2) (v) is restriction of areas in which any industries, operations or processes or class of industries shall not be O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

carried out or shall be carried out subject to certain safeguards. The Environment (Protection) Rules, 1986 were made in exercise of power conferred by Sections 6 and 25 of the Environment (Protection) Act, 1986. According to Rule 5, the Central Government may prohibit or restrict the location of industries and the carrying on of processes and operations in different areas.

5. In exercise of the power conferred on the Central Government by Sub-Clause (i) and Clause (v) of SubSection (2) of Section 3 of the Environment (Protection) Act, 1986 read with Clause (b) of Sub rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, the Ministry of Environment and Forests, Government of India issued a Notification on 14.09.2006 directing construction of new projects or activities or the expansion or modernisation of existing projects or activities listed under the Schedule to the Notification shall be undertaken after prior environmental clearance from the Central Government or the State Level Environment Impact Assessment Authority. Clause 2 of the said Notification provides that new projects or expansion and modernisation of existing projects listed under the Schedule to the Notification require prior environmental clearance from the concerned regulatory authority. The Schedule to the Notification includes Highways at Item No.7 (f). New National Highways and expansion of National Highways greater than 30 kms involving additional right of way greater than 20 meters or land acquisition and passing through more than one State, require prior environmental clearance. A high-level Committee headed by Member (Environment and Forests, Science and Technology), Planning Commission was constituted by the Ministry of Environment and Forests to review the provisions of the Environmental Impact Assessment Notification dated 14.09.2006 pertaining to environmental clearance for roads, buildings and Special Economic Zone projects. One of the terms of the reference for the Committee was to review the requirement of environmental clearance for Highways expansion projects with a right of way up to 60 meters and length of 200 km. The Committee submitted its report recommending that expansion of National Highways projects up to 100 km involving additional right of way or land acquisition up to 40 meters on O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

existing alignments and 60 meters on realignments or by passes may be exempted from the purview of the Notification. The report of the Committee was accepted and Item 7 (f) in column (3) to the Notification dated 14.09.2006 was substituted as follows: "expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes".

19. Apart from providing smooth flow of public goods and services which contribute to the economic growth, highways also benefit regional development in the country. In the normal course, impediments should not be created in the matter of National Highways which provide the much-needed transportation infrastructure. At the same time, protection of environment is important. The Notification dated 22.08.2013 exempts a National Highway, the distance of which is less than 100 km from obtaining environmental clearance. If the project proponent is permitted to divide projects having a distance beyond 100 km into packages which are less than 100 km, the Notifications dated 14.09.2006 and 22.08.2013 will be rendered redundant. In that event, administrative exigencies and speedy completion will be a ground taken for justifying the segmentation of every project. Therefore, we are in agreement with the High Court that segmentation as a strategy is not permissible for evading environmental clearance as per

Notifications dated 14.09.2006 and 22.08.2013.

20. Having held that adoption of segmentation of a project cannot be adopted as a strategy to avoid environmental clearance impact assessment, the question that arises is whether segmentation of a National Highway beyond 100 kms is impermissible under any circumstance. As we lack the expertise of deciding upon this issue, we are of the considered view that an expert committee should examine the permissibility of segregation. After the issuance of a Notification dated 14.09.2006 requiring environmental clearance for new projects and expansion of the existing projects, a High-Level Committee was constituted by the Government of India to review the environmental clearances for Highway expansion projects. As O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

per the Notification dated 14.09.2006, environmental clearance was required for new National Highway and expansion of National Highways greater than 30 kms involving additional right of way greater than 20 meters and passing through more than one State. One of the terms of the reference to the High- Level Committee was to review the requirement of environmental clearance for Highway expansion projects beyond a distance of 200 kms up to the right of way of 60 meters. The High-Level Committee recommended that environmental clearance would be required for expansion of National Highway projects beyond a distance of 100 kms and if the additional right of way or land acquisition is more than 40 meters on existing alignments and 60 meters on realignments or by passes. The said recommendation was accepted by the Government of India and the Notification dated 22.08.2013 was issued, amending the Notification dated 14.09.2006. As the question of permissibility of the segmentation of a National Highway beyond a distance of 100 kms is a matter to be considered by experts, it would be necessary for a committee to be constituted by the Government of India to decide whether segmentation of a National Highway project beyond a distance of 100 kms is permissible. If it is permissible, the circumstances under which segmentation can be done also requires to be examined by the expert committee.

21. Mr. A. Yogeshwaran, learned counsel appearing for the first Respondent submitted that the toll plazas proposed to be erected on the National Highways should be within the permissible limits specified in the Notification dated 22.08.2013. In the note of submissions made by the learned Attorney General, reference has been made to the definition of "Right of way" placing reliance on Para 2.3 of the Manual of Specifications and Standards for Two-Laning of Highways through Public Private Partnership issued by the Planning Commission of India. Right of way as per the said Manual is the total land width required for the project Highway to accommodate road way (carriage way and shoulders) side drains, service roads, tree plantation, utilities etc. In the written submissions filed on behalf of the Appellant, it has been stated that the right of way not being greater than 40 meters on O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

existing alignments and 60 meters on realignments or by passes, applies only to construction of road and is not applicable for other road amenities or facilities such as toll plazas. However, the Appellant has also stated in the Written submissions that if this Court is not agreeable to the above proposition, it is willing to limit the construction of toll plazas and rest areas within the permissible

limits.

22. Section 10 of the Manual of Specifications & Standards for Two Laning of Highways through Public Private Partnership, issued by the Planning Commission of India deals with toll plazas. Figure 10.1 which shows the general lay out of a 2+2 lane toll plazas is as follows:

24. For the sake of clarity, we hold that the "right of way"

includes the existing National Highway and the additional right of way. To illustrate further, if the existing National Highway is 20 meters then the right of way will be that 20 meters and the land acquired for the additional right of way."

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and on the point of the tree cutting, the Hon'ble Court directed to fulfil the requirement of re-afforestation in accordance with the existing legal design.

88. In view of the facts, the maintenance of the ecology and the development and the principle of sustainable development maintaining the economy of the nation in the present scenario are required to be maintained and the project proponent has undertaken to complete the project in light of the principle of sustainable development.

(8) COMPLIANCE OF THE MADHYA PRADESH VRIKSHON KA PARIRAKSHAN NAGRIYA KSHETRA ADHINIYAM 2001 AND OTHER PROVISIONS:

89. Submission of the learned Counsel for the Applicant are that the rules with regard to the permissibility of the cutting of the trees in accordance with the law or the orders of the tribunal have not been complied with in letter and spirit it.

90. In response to the above contention, the submission of the Learned Council for the respondent are that, undertaking of any development activity certain changes are bound to happen in the ecology and environment of the area, however the same cannot put a complete ban on development. In this regards the answering respondent relies on the recent order dated 29.07.2025 passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition(Civil) No. 2/2019 "In Re:

Felling of Trees in Aarey Forest (Maharashtra)" wherein the Hon'ble Supreme Court of India had made following significant observation:

"13. No doubt that the protection of environment is important, as has been consistently held by us that the environmental O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

resources are held in trust for the future generations. However, at the same time, the necessity for carrying out development activities, cannot be ignored.

If a country has to progress, the development of infrastructure is also necessary. Unless proper infrastructure is put in place, a country cannot progress. No doubt that while permitting such development, a caution has to be taken that the least damage is caused to the environment. Further, compensatory measures, so as to compensate the loss caused to the environment have to be undertaken. It has always been necessitated that the number of trees to be planted has to be in multiples of trees felled."

91. It is further submitted that the tree felling exercise in the present project shall be in complete consonance with the Adhiniyam and the necessary application has been submitted to the competent authority and in light of the order of the tribunal centrally empowered committee headed by the Additional Chief Secretary considered the matter in light of the DPR and called a detailed report and decided the matter in accordance with law. The National Highway Authority of India through the Project Director addressed a letter to the Divisional Forest Officer Bhopal vide, later dated 9th of July, 2025 for permission of the cutting of the trees and the commissioner Nagar Nigam has also addressed the letter to the Forest Department and the Department of Forest in another communication addressed the detailed report with regard to the number of trees and its cost which is required to be submitted to the Competent Authority, Centrally Empowered Committee. The forest department has further submitted the report with regard to the number of trees which is having more than 30 centimetre width approximately 4906 and less than 30 centimetre approximately 552, total number of trees O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. approximately 5458 and the total amount which comes approximately Rs.3,00,55,600.

92. It was further reported that the recommendation for payment of the amount against the above trees was approximately Rs.66010800 having reported to the competent authority. The matter was referred to the High Level Committee and the High Level Committee vide order dated 12-12-2025 discussed above and permitted the above project on the conditions laid down above and in compliance of the above order the competent officer under the Madhya Pradesh Vrakshon Ka Parirakshan Adhiniyam permitted the cutting of the tree/felling of the trees after the payment of the amount mentioned in the letter dated 17-12-2025. The centrally empowered committee has directed that under compensatory plantation the authority will plant more than 10 times the number of trees cut and will plant 10,000 trees on both sides of the project road from Asharam Tiraha to Ratnagiri square and 70,000 trees in nearby areas Jhiraniya and Jhagariya khods and for the above work NOC for 85 hectares of land has been obtained from the revenue department.

93. Learned council for the respondent has submitted that the interim order passed by the order dated by 22-12-2025 have been duly considered Hon'ble the High Court and it was recalled for the reasons that the Centrally Empowered Committee has duly considered it and that competent tree officer has permitted it.

94. Hon'ble the High Court of Madhya Pradesh at Jabalpur, while considering the WP No. 17144 of 2024 vide order dated 26.11.2025 has directed that the said process shall be initiated only after the permission of the Committee constituted by the Green Tribunal called O.A. No.53/2026-PB Nitin

Saxena Vs. National Highway Authority of India & Ors. as Centrally Empowered Committee. Further, the Application IA No.23468 of 2025 was withdrawn and disposed and again in Writ Petition No. 42565 of 2025, vide Order dated 17.12.2025, Hon'ble the Bench headed by Hon'ble the Chief Justice of Madhya Pradesh clarified that the pruning and cutting of trees shall be strictly in accordance without any prior permission granted by the Committee constituted by the Tribunal and the matter was finally disposed of.

95. Hon'ble the Supreme Court of India in Suo Moto Writ Petition Civil No.02 of 2019, In Re. felling of trees in AAREY Forest (Maharashtra), vide order dated 29th of July 2025, permitted the project and felling of the trees and held as follows:

"13. No doubt that the protection of environment is important, as has been consistently held by us that the environmental resources are held in trust for the future generations. However, at the same time, the necessity for carrying out development activities, cannot be ignored.

If a country has to progress, the development of infrastructure is also necessary. Unless proper infrastructure is put in place, a country cannot progress. No doubt that while permitting such development, a caution has to be taken that the least damage is caused to the environment. Further, compensatory measures, so as to compensate the loss caused to the environment have to be undertaken. It has always been necessitated that the number of trees to be planted has to be in multiples of trees felled."

14. Taking into consideration this aspect of the matter, we are inclined to allow the application. We permit the Tree Authority to proceed further with the application of the Project Proponent seeking permission for felling of the trees. However, we clarify that no trees shall be actually felled without permission of this.

16. We direct the Project Proponent to place on record the report of the Experts showing that no other alternative other than felling of 95 trees for launching shaft to lower the TBM is available. The Project Proponent shall also place on record the plan for compensatory O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

afforestation so as to compensate for the loss of trees that would be felled for digging the shaft."

96. The matter was again considered in Writ Petition Civil 202 of 1995, Order Dated 16.03.2026, in Re: T.N. Godavarman Thirumulpad v. Union of India & Ors. and Hon'ble the Supreme Court permitted of cutting & felling of the trees for the project and held as follows: -

15. This application has been moved by the State of Tamil Nadu through the Divisional Engineer, Highways and Minor Posts Department, seeking the following directions:

(a) Grant permission for cutting 1878 trees of spontaneous growth standing on 24.09 hectares of forest land proposed to be diverted for the widening and improvement of the existing single-lane road to an intermediate lane, from Paramanandal to Athipattu (chainage 0/0 km to 38/377 km) in Tiruvannamalai District, Tamil Nadu; and

(b) Pass such other Order or Orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

16. The permission to cut 1878 trees from Parmanandal to Athipattu has been sought for the purpose of widening the existing single lane road.

17. For the purpose of Compensatory Afforestation, the applicant has submitted that:

(A) 24.09 hectares of non-forest Government land in Survey Field No.44/3 of Kalladavi Village, Tiruvannamalai District has been identified.

(B) The identified land has been certified through suitable forestry purposes by the District Forest Officer and the Revenue Divisional Officer has issued a consent letter for transfer and mutation of the said land in favour of the Forest Department.

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(C) The Compensatory Afforestation scheme provides for the planting of 24090 saplings, at a project cost of Rs.5,20,89,978, which includes: (i) A 10-year maintenance period; (ii) Chain link 23 fencing; and (iii) Soil and water conservation measures, including one percolation pond, one check dam, and five deer ponds.

(D) The applicant - State has undertaken to pay the net present value, Compensatory Afforestation cost and annual lease rent through the CAMPA e-portal as required by the Ministry of Environment, Forest & Climate Change.

We have heard learned amicus curiae as well as Mr. P. Wilson, learned Senior Counsel, in support of the prayer made in this application.

19. We find that the prayer as contained in the application can be granted in terms of the order dated 11.01.2023 passed by this Court in respect of the State of Tamil Nadu only, the operative part of which has been reproduced by learned amicus curiae in para 10.6 of his note. This Court had granted permission in similar circumstances, subject to the following conditions:

1. Such felling shall be done only after necessary approval under the Forest Conservation Act, 1980, Forest Conservation Rules, 2022, Compensatory Afforestation Fund Act, 2016 and Compensatory Afforestation Fund Rules, 2018 are obtained from the Competent Authority under the said enactments.

2. The projects would be permitted only after the concurrence of the Integrated Regional Office (IRO), Chennai.

3. While granting such permissions, the authorities also should provide for necessary mitigation measures for ensuring free flow of the wildlife from one part of the forest to the other whenever such forest is divided by roads.

However, such modification shall not apply in respect of the roads which are required to be constructed or upgraded inside wildlife sanctuaries, national parks, tiger reserves and O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

elephant corridors. The applications are, accordingly, disposed of.

20. Consequently, we direct that, subject to compliance with the 24 above-stated condition and also subject to honoring by the State, the undertaking regarding the Compensatory Afforestation, a brief to which has already been made, this application is allowed, and necessary permission is accorded.

21. The Divisional Forest Officer of the concerned area is directed to submit a proposal re: afforestation within four weeks, which shall be first considered by CEC and the learned amicus curiae.

Item 11 - In Re: The Divisional Engineer, Highways and Minor Posts Department

22. This application has been moved by the State of Tamil Nadu through the Divisional Engineer, Highways and Minor Posts Department seeking the following directions:

a. Grant permission for cutting 1,071 (792 +279) trees of spontaneous growth standing on forest land proposed to be diverted for the widening and improvement of the existing single-lane road to an intermediate lane, from Jamunamarathur to Amirthi in Tiruvannamalai District, Tamil Nadu in Tiruvannamalai District, Tamil Nadu.

b. Pass such other Order or Orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

23. The permission to cut 1071 trees from Jamunamarathur to Amirthi in Tiruvannamalai District, Tamil Nadu has been sought for the purpose of widening the existing single land road.

24. For the purpose of Compensatory Afforestation, the applicant has submitted that:

(A) 25.11 hectares of non-forest Government land in Survey Field 25 No.44/3 of Kalladavi Village, Tiruvannamalai District has been identified.

(B) Due to the availability of tree growth in the identified area, planting of 1000 saplings has been proposed only in 25.11 O.A. No.53/2026-PB Nitin Saxena Vs.

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hectares of non-forest compensatory land. Further planting of 24600 seedlings is proposed in 41 hectares of degraded forest area (@ 600 seedlings per hectare) identified in Munnurmangalam RF in Pudupalayam Range of Tiruvannamalai Division.

(C) The Compensatory Afforestation Scheme provides for the planting of 25,110 saplings, at a project cost of Rs.4,71,08,614, which includes: (i) A 10-year maintenance period; (ii) Construction of percolation pond; (iii) Construction of Check Dam; (iv) Construction of Deer Ponds; and (v) Construction of Check post at the entrance of the road at Amirdhi including arch, gate, communication facilities etc. (D) The applicant - State has undertaken to pay the net present value, Compensatory Afforestation cost and annual lease rent through the CAMPA e-portal as required by the Ministry of Environment, Forest & Climate Change. "

97. A question was raised with the planning of the project proponent with regard to the plantation and in reply thereof, the submission of the respondents are that the respondent has planned to plant the trees in collaboration with district administration as directed by the high-level CEC and all the pits for planting trees will be completed by June 2026, before the start of the monsoon period, and as soon as the monsoon starts, all these saplings and plants will be planted and will be continuously maintained during monsoon and after monsoon season for maximum survival.

98. Accordingly, the rules with regard to Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001, have been completely complied with and it was, duly considered by the Centrally Empowered Committee.

99. The submission of the learned Counsel for the Ministry of Environment, Forest and Climate Change are that the felling of the O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. trees on non-forest land is regulated by the respective state government and necessary guidelines have been issued and implementation is being supervised by the state government. In this regard, the necessary permission has been taken by the National Highway Authority of India from the competent authority. It is further submitted that prior environmental clearance would be required only if the proposed expansion of the road involves more than 100 km of length and additional right-of-way (RoW) or land acquisition greater than 4 meter on existing alignment and 60 meter on re-alignment or bypasses.

100. It is further that as per EIA Notification 2006, only such subjects that meets both the conditions, threshold, length of the highway and envisaged expansion with right of way or land acquisition of the highway would require a prior involved clearance from the answering respondent. Since the present project is less than the required length, thus, this is not required as submitted by the national highway authority of India (9) BHOPAL TEMPERATURE AND ENVIRONMENT:

101. Learned Counsel for the applicant has highlighted the increasing temperature of the Bhopal city, and highlighted the observation of this Tribunal Passed in O.A. No. 68 of 2025, Dated 23rd of May 2025 in para 9 to 11 as follows:

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

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

10. Another Case Study from Bhopal City on Carbon Sequestration Potential of Trees Planted Along Roadsides narrated that "India is the seventh-largest country in the world. The country is one of the 17 mega bio-diverse countries (Mittermeier and Mittermeier, 2005) occupying just 2.5% of the world's geographical area but supporting 16% of the world's human population and 17% of the livestock population (Mukerji, 2003). Per capita availability of forest and productivity are among the lowest when compared to the world's average, and the immense biotic pressure on the country's forests, making biodiversity conservation a very challenging task (Maan and Chaudhry, 2019). Forest and tree cover in the country is less than one-fourth of the geographical area of the country, which is far behind the national target that strives to have one-third of the total geographical area under forest and tree cover." Due to urbanization, the condition in the cities as per the environment point of view is at the risk and alarming. However, the roadside plantations/tree avenues in the urban cities play a role not only for improving climatic conditions but significantly contributing to increase area under vegetation in the country. Trees growing along the roadside, either planted or grown naturally, are performing the ecological function not O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.

only to reduce the pollution load but also sequester carbon and help mitigate climate change (Da Silva et al., 2010; Singh and Singh, 2015). Additionally, the trees in the urban environment are contributing toward many benefits, e.g. social benefits (recreational opportunities, improving

physical/mental health); aesthetic benefits (landscape variations through different colors/textures/forms and densities of plants); climatic benefits (cooling, wind control, air pollution reduction, atmospheric carbon storage, impact on climate) and economic benefits (increased property values, tourism, providing fruits and small timber). In accordance with the 74th amendment of the Indian Constitution in 1992, the municipal and urban development authorities are responsible for creating and maintaining parks and other recreational spaces in city areas (Granville, 2009). But, the Urban Local Bodies (ULB) in India have little mandate to combat climate change (Sami, 2017; 2018; Khosla and Bhardwaj, 2018), the climate change rarely features in the development plans of these bodies as per study undertaken by Khosla and Bhardwaj (2018). An effort has been made in the present article to quantify one of the benefits from the trees for mitigating climate change consequences, i.e. the amount of carbon and atmospheric carbon dioxide equivalent stored in the trees planted on roadside in the campus of Indian Institute of Forest Management (IIFM) Bhopal, Madhya Pradesh, India. Nationwide implementation of Green India Mission (GIM) of Government of India as a part of National action plan tackling climate change since last one decade, is supposed to increase above and belowground biomass in 10 million ha of forests (including urban forest ecosystems) resulting in increased carbon sequestration of 43 million tons of CO<sub>2</sub> equivalent annually by the end of the year 2020 (Ravindranath and Murthy, 2010). The present study is an attempt to analyze carbon sequestration potential of the trees planted along roadsides and suggest the potential species for high biomass and high efficiency of carbon fixation in urban areas.

11. On the Above Ground Biomass (AGB), Carbon Stock and CO<sub>2</sub> per ha. study reveals as follows :-

"It is observed that *Leucaena leucocephala*, *Schleichera oleosa*, *Dalbergia paniculata*, *Acacia catechu* and *Ficus religiosa* are the top five plant species which are responsible for maximum carbon storage along the roadsides (Table - 3).

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*Dendrocalmus strictus* is also a very useful species (a solid bamboo) as it is found to sequester CO<sub>2</sub> equivalent as 26.92 Mg C ha. - 1, which is higher than other tree species. Due to its fast growth, it has the potential to store carbon more efficiently which makes it a viable option for mitigating climate change (Kaushik et al., 2015). *D. strictus* is also a better option, compared to a few other tropical and temperate plantation species as far as the magnitude of carbon storage in a given time was concerned (Singh et al., 2006). Therefore, institute management has laid more emphasis on a bamboo plantation along roadsides of the campus during the last five years. *Leucaena leucocephala* (Subabul) is a very fast - growing tree species coming naturally in the institute. The species produces large number of pods and seeds in the months of January/February, which requires minimum amount of moisture and quality soil for the regeneration and survival. The major disadvantage of this species includes its suppressing nature of seedlings of other species to thrive. Hence, due precautions have to be taken for further proliferation of this species along roadsides in the campus. However, the health of *Samanea saman* trees are a matter of concern

as dead, dying, and diseased trees are visible on roadsides. A detailed examination by a team of foresters, pathologists and entomologists are required for underlining the causes of its poor survival. Actually, this species requires deep loamy soil and high rainfall, whereas available soil is too shallow and rocky to support healthy trees of this particular species. This seems to be the most probable reason for the failure of this particular species and future plantation of this species should be avoided on the campus."

102. In response to the above contention, the submissions of the Respondents/ State Government and the National Highway Authority are that the matter has been duly considered by the National Highway Authority of India and further it was referred to the High Level Central Empowered Committee consisting highly Technical O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. Forest Officials and experts of the environment and the number of trees which was considered for felling has been reduced. A provision has been made for plantation of trees 10 times to the number of trees, which are required to be fell and its maintenance for 15 years.

103. In view of the above facts, we are of the view that the matter was duly considered by the expert committee, again reconsidered by the EIA and Central Empowered Committee and necessary precautions have been taken while constructing or widening the road, which is in public interest.

(10) CONCLUSIONS:

104. In view of the discussion and facts, our conclusions are as follows:-

1. Considering the traffic, the Administration has decided for the constructions and widening of the 16 km. road project extending from Asharam Tiraha, Karond Road to Ratnagiri Tiraha, Ayodhya by-pass Bhopal to be constructed by the National Highway Authority of India and it cannot be challenged unless and until it violates any provisions of the law or constitutional mandates. Nothing has been shown by the applicant at any point while widening the road, the rule or laws have been violated by the respondents.

2. Ministry of Road and Transport, Government of India referred the matter for preparation of Detailed Project Report (DPR) and again the matter referred for Environmental Impact Assessment and Members of the both the committees or the bodies duly considered the matter and these are the expert report which was discussed and considered on every environmental points and expert opinion unless and until not controverted by the cogent evidence is not required to be interfered with by this Tribunal.

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3. The project was reconsidered by the High Level Committee constituted by the State Government headed by the Addl.

Chief Secretary and Members of the Forest and Environment and re-examined and found to be suitable on certain conditions.

4. The length of the entire project is less than 100 km. and in term of the MoEF&CC notification dated 14.07.2022 the project has been exempted from the requirement of the environmental clearance.

5. The matter of alignment, alternate route, road design and heavy traffic was duly considered by the pre-feasibility scientific study for assessment of development project and was prepared in light of the high urban influx and road load in the Bhopal city and the matter was also re-examined by the Centrally Empowered Committee and EIA and DPR level and requires no interference.

6. Green highway policy, plantation, transplantation, beautification and maintenance, guidelines of 2015 will be maintained by the respondents in light of the fact that while plantation, the criteria for maximum survival of the plants taking local species be taken care.

7. The Respondents have undertaken to comply the Madhya Pradesh Vrakshon Ka Parirakshan Nagriya Kshetera Adhiniyam, 2001, compulsory afforestation, deposition of the CAMPA fund and other regulatory regime while completing the development project. The undertaking has been submitted by the respondent/National Highway Authority of India for disposal of the legacy waste of the city and compliance of the IRC guidelines.

8. In view of the congestion and increasing population of the city, taking in account increasing cost of the project, it is need of the day that the project must be completed within a timeframe after due compliance of the environmental laws and other relevant rules.

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DIRECTIONS:

105. In view of the above discussion and analysis, our directions are as follows:-

A. Respondents are directed to comply the Madhya Pradesh Vrakshon Ka Parirakshan Nagriya Kshetra Adhiniyam 2001 and if the number of trees for any development projects are required to be fell are more than the prescribed in the notification issued by the State Government then in that case the matter may be referred to the High Level Centrally Empowered Committee constituted by the State of Madhya Pradesh noted above.

B. Rules with regard to the compensatory planation, compulsory afforestation, maintenance, green highway policy, plantation, transplantation, beautification and maintenance policy 2015 must be complied with ensuring the survival of the trees.

C. The work of the compensatory plantation will be monitored for 15 years by the technical committee including the members of the Forest Department, Municipal

Corporation, Horticulture Department and State PCB periodically.

D. We accept the report submitted by the Centrally Empowered Committee and direct that the recommendations must be strictly observed with by the respondents within a time frame.

E. Since the project is of National importance having inter State connecting National Highway thus the respondents are directed to complete the project within a timeframe after due compliance of the environmental rules and local laws in accordance with the NHAI guidelines. Since the permission of the felling of the trees have been taken by the competent authority which was duly approved by the Centrally Empowered Committee thus, there are no illegality in permission granted by the respondent/competent authority.

O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors. F. National Highway Authority of India is directed to submit the report with regard to the total amount deposited to a particular authority/Department of Forest or the Municipal Corporation or the Tree Officers in the State of Madhya Pradesh during last five years with year wise details and if possible and if records are available with its utilization.

G. Member Secretary, State Pollution Control Board, Madhya Pradesh is directed to collect the information with regard to the utilization of this fund, which is deposited against the plantation or re-afforestation under the CAMPA fund or felling of trees deposited with the Municipal Corporation or Social Forestry Department and its utilisation with survival of the trees year-wise of last five years.

106. The above information will be submitted to the Ld. Registrar, National Green Tribunal, Central Zone Bench, Bhopal, within three months and the Registrar will place the matter before the Bench for appropriate directions.

107. With these observations, the Original Application No.53/2026-PB with pending I.As. stand disposed of in light of the above order.

Prakash Shrivastava, CP Sheo Kumar Singh, JM Dr. A. Senthil Vel, EM Sudhir Kumar Chaturvedi, EM 20th May, 2026, O.A. No.53/2026-PB (Earlier O.A. No.100/2025(CZ) □□ □. 52/2026, □□ No. 53/2026, □□ □. 54/2026 □□ □. 55/2026, □□ No. 56/2026, □□ No. 57/2026 □□ No. 264/2026, □□ No. 294/2026, & □□ No. 298/2026) AK, KG & AR O.A. No.53/2026-PB Nitin Saxena Vs. National Highway Authority of India & Ors.