

Item No. 01 & 02

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

**Original Application No.119/2023(CZ)
(I.A.No.133/2023) (I.A.No.142/2023)**

Mr. Nitin Saxena Applicant(s)
Vs.

Urban Development and Housing Department & Ors. Respondent(s)

WITH

Original Application No.137/2023(CZ)

Bhopal Citizens Forum through its Member Shri Arun Gurtoo Applicant(s)
Vs.

State of M.P. & Ors. Respondent(s)

Date of completion of hearing and reserving of order : 24.09.2024

Date of uploading of order on website : 04.10.2024

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

For Applicant(s): Mr. Harshwardhan Tiwari, Adv.
Mr. Harpreet Singh Gupta, Adv.

For Respondent(s): Mr. Shantanoo Saxena, Adv.
(with Ms. Amrita Mishra, Adv.)
Mr. Ashwin Rastogi, Adv.
Ms. Parul Bhadoria, Adv.
Mr. Om Shankar Shrivastava, Adv.
Dr. Sapna Aggarwal, Adv.
Mr. Prashant M. Harne, Adv.
(with Mr. Mehul Bhardwaj, Adv.)

ORDER

1. Issue raised in this application as alleged is permission given by the Ministry of Environment, Forest & Climate Change issued by the SEIAA, M.P. allowing construction within 50 meters of Bhoj Wetland, a Ramsar site, of International Importance, Bhopal by suppressing the material facts

of lower lake and only discussing about the distance from upper lake. Subsequently Urban Development and Housing Department issued the Gazette Notification/Order dated 21st July, 2023 whereby no construction zone near FTL has been reduced from 50 meters to 33 meters. Further the respondents have given illegal permission for cutting of almost 390 trees, out of which many are heritage trees. Thus, the said notification reducing the no construction zone and allowing construction over Ramasr site, illegal felling of trees and contamination of water of Wetland is a gross violation of the provisions of the Environment (Protection) Act, 1986 and the Rules given under the Wetlands (Conservation and Management) Rules, 2017 and the Guidelines for management planning for Ramsar sites. Further, the Bhoj Wetland is rich in bio-diversity. It provides variety of habitats to the water birds and migratory and they occupy these habitats according to their niches.

2. It is submitted that the Member Secretary, Bhoj Wetland Authority vide letter dated 07.06.2023 has communicated the Municipal Corporation to comply Section 4 of Wetland Rules, 2017 strictly in letter and spirit. Further the communication dated 08.03.2022 issued by the MoEF&CC, Wetland Division in para 6 provides the minimum distance of 50 mtrs. to be observed and further that the green cover must be maintained and the trees should not be fell down unless exigencies demand. Old trees should be retained based on girth and age regulations as may be prescribed by the Forest Department and further that where the trees need to be cut, with the prior permission from the concerned local authority, compensatory plantation in the ratio of 1:10 must be maintained.

3. The matter was taken up by this Tribunal on 04.10.2023 and a committee was constituted on the terms as follows :-

- i. In light of the facts as narrated we deem it just and proper to constitute a committee consisting of:- i. One representative from integrated Office MoEF&CC at Bhopal. ii. One representative from State Wetland Authority, Bhopal. iii. One representative from Central Pollution Control Board iv. One representative from State Environment Impact Assessment Authority,(SEIAA) Bhopal.*
- ii. The Committee is directed to visit the place and submit the factual and action taken report within six weeks. The committee is further directed to ensure the compliance of the Wetland Rules 2017 and the orders issued by the Hon'ble Supreme Court of India in W.P. No. (C) 230 of 2001.*

4. In compliance of the order the members of the committee visited the site and submitted the report as follows :-

- i. Shri Avneesh Saxena, Project Architect, made a presentation on the entire Project for ready reference. The Committee was informed that no land development or construction work has been undertaken at site till date. During interaction, the Committee deliberated upon the applicability of Wetlands (Conservation and Management) Rules, 2017, in respect of said Project and decided to seek details of the proposed construction activity to be undertaken within 50 m of the High Flood Line of the Lower Lake. The Committee further deliberated on the criteria for grant of Environment Clearance viz-a-viz the proposed construction area.*

The Committee observed a deviation in the .kml file of the entire Project uploaded on the Parivesh Portal of MoEFCC and the actual built-up area mentioned in the proposal submitted before the SEAC/SEIAA for grant of Environment Clearance. The Committee decided to seek clarification in the matter through an interactive meeting with the Project Authorities and its EIA consultant and architects.

- ii. A Second Meeting of the Committee was held in the Regional Office of MoEFCC, Bhopal, on 14.11.2023 (Attendance Sheet). In addition, the Committee, also undertook a site visit and to areas adjoining Lower Lake on 14.11.2023. The Committee visited locations likely to fall within the 50 metres of the Lake FTL (Full Tank Level) of the proposed construction sites.*
- iii. During the deliberations on 14.11.2023, Representative of EPCO (representing MP State Wetland Authority) reported the non-availability of the actual .kml file of the Lower Lake with EPCO as the same was finalized under the supervision of T&CP. A letter dated 22.12.2022 was therefore, addressed to T&CP by MP State Wetland Authority to Environment Department, Govt. of MP, requesting T&CP to provide copies of 3 maps, .shp files of Wetland boundary, 50 m from FTL, Zone of Influence and digital elevation of the Bhoj Wetland, which was awaited at that time. Therefore, the Committee decided to obtain the .kml file of the Lower Lake during the third Meeting proposed in the first week of December, 2023. Meanwhile, the matter was adjourned to 23.01.2024 on the application of Shri Shantanu Saxena Learned Counsel for Respondent no. 2.*

iv. *To gain access to the .shp files from T&CP, Bhopal, the Third Meeting was held on 02.01.2024 at MoEFCC, Regional office. During this Meeting representative of T&CP Shri Hariom Maheshwari assured the Committee to provide the .shp files, finalized by MPCST, within 3 days' time.*

During the said Meeting, the Committee also discussed deviations in the .kml file submitted to SEIAA/SEAC. The actual project conceptualized by MP Housing and Infrastructure Development Board and desired to discuss the actual proposal submitted by the Environmental Consultant of the Project (i.e., M/s. In-situ enviro care) to the SEIAA/SEAC to seek grant of Environment clearance.

v. *Accordingly, the fourth Meeting was held on 09.01.2024, which was attended by all stakeholders including, representatives of In-situ enviro care, the Environmental Consultant of the Project. Representatives of In-situ enviro care presented a brief on the .kml file of the project furnished to the SEIAA/SEAC and the representative of T&CP provided the copies of .shp files to the Committee. The Committee, with the assistance of representative of EPCO, superimposed the .shp files of Lower Lake and the .kml files of the Project on Google Earth for further analysis. Based on the said superimposition and analysis, the distance of the boundaries of the Project from the FTL of the Lower Lake were earmarked and the same is enclosed. Based on the Google Earth imagery data and the deliberations held with representatives of MP Housing Board, their project architect ARCONS and their environmental consultant In-situ enviro care.*

- vi. *Section 3 (a) of Wetland (Management and Conservation) Rules, 2017 mentions that these rules shall apply to the following wetlands or wetlands complexes, namely, wetlands categorised as 'wetlands of international importance' under the Ramsar Convention. Bhoj Wetland, Bhopal comprising of Upper Lake and Lower Lake, is one of the internationally recognized Ramsar site.*

Further, Section 4 (2) (vi) of Wetland Rules, 2017 clearly indicate that “any construction of a permanent nature, except for boat jetties, within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,” is one of the “Prohibited activities in a notified wetland”. Accordingly, in the proposed Collectorate Complex building project, some parts of the proposed construction site falls within the 50 m distance from the mean HFL of Lower Lake of Bhoj Wetland, a Ramsar site and permanent construction of the same is a prohibited activity under Wetland Rules, 2017.

- vii. *So far, no land development work or construction in the Project, envisaged in the Environment Clearance letter dated 17.07.2023, has been started on site. General abstract for construction and development works on 6.90 hac. land of collectorate campus and 13.00 hac. land of professor colony Bhopal under reidentification scheme is enclosed.*
- viii. *Perusal of the 654th SEAC meeting minutes dated 16.06.2023 reveals a submission of non-applicability of Wetland Rules, 2017 by the project proponent of the said Project. However, the geographical survey map, khasra map, proposed road map and building map were submitted by the Madhya Pradesh Housing*

and Infrastructure Development Board (MPHIDB), Bhopal vide letter dated 10.01.2024 clearly indicate that “Re-densification of Collectorate Complex and Professor’s colony” developed by Madhya Pradesh Housing and Infrastructure Development Board (MPHIDB) proposed is being implemented within the 50-meter distance from High Flood Line of Lower Lake and is in contradiction with the clarification submitted by the project proponent on Parivesh Portal on 12.06.2023. Further, the Committee noted that the Project site 1 is 302.55 metres and Project site 2 is 281.38 metre from the Upper Lake and the distances from the lower lake were not mentioned.

- ix. The Committee opines that there is a big technical lapse at the end of EIA consultant namely, M/s. In-situ enviro care, Bhopal in not assessing the Project from an environmental angle, despite knowing the international importance of a Ramsar Site and the applicable Wetland Rules.*
- x. Thus, the Committee finds that the environment clearance to the Project was granted based on the false/fabricated data and as per Standard Condition no. 6 of the Environment clearance dated 17.07.2023, the Environment clearance for the Project needs to be revoked and a fresh appraisal be undertaken taking into consideration the Wetlands Rules, 2017 and ensuring the surface drainage of the area is not disturbed.*
- xi. The Committee recommends appropriate action against the EIA consultant M/s. In-situ Enviro Care, Bhopal for not being serious in evaluating the Project from the perspective of protection of Bhoj Wetland, which is an internationally renowned Ramsar Site and the lifeline of Bhopal. It appears that no study was conducted*

with regard to the impact on water-quality of the Lower Lake which is of vital importance.

- xii. The initial presentation made by the Project Architect envisaged a phase-wise development of the entire area around the Lower Lake, different from the project for which environmental clearance was sought. Taking into consideration the vital importance of Ramsar Site Lower Lake, the entire project needs to be comprehensively evaluated instead of piecemeal and the subsequent infrastructure development shall ensure compliance with the Wetland Rules, 2017 and the Zone of Influence.*
- xiii. Taking into consideration the vital importance of Bhoj Wetland and the enormous environmental impact from traffic and commercial activities generated around a public oriented Collectorate/Commissionerate/UAD Complex and changes in the surface drainage pattern from the concrete structures/roads to be created as a part of the re-densification project, the Committee is of the opinion that an alternative site away from the Bhoj Wetland may be explored by the project proponent (MPHIDC).*

During the site visit, the Committee observed a large number of very old trees present in the area, which are either to be felled or transplanted. The alternative site arrangement will also save these and avoid large scale deforestation as a result of the execution of the said re-densification project.

- xiv. The Committee also observed that the area known as the Professors' Colony where this Project is proposed has, besides Government quarters, private houses by hundreds, school, city forest, etc also. Having brought up as a residential colony,*

building such a project would affect their overall quality of life promised by the Government itself.

- xv. *During its site visit, the Committee also observed several government and religious structures of a permanent nature constructed within the 50 m buffer zone from the HFL of Lower Lake. As the .shp files are made available to the EPCO, which is the state nodal agency under State Wetland Authority, high resolution satellite imagery of the 50-metre buffer zone from the mean High Flood Line needs to be obtained and frozen. Any future construction activities in the buffer zone needs to be strictly prohibited by quarterly review of high-resolution satellite imagery to be obtained in consultation with agencies like NRSA/ISRO. Dedicated cell with qualified manpower to review the satellite imagery data and appropriate budgetary allocations to strengthening remote monitoring of 50 m buffer zone needs to be created under the aegis of EPCO. This action may be complemented by erecting sign boards (currently not seen during the site visit) regarding restriction of construction activity within 50 m distance from the HFL of Upper/ Lower Lake to bring awareness among the public. Necessary action in this respect needs to be undertaken by the local authorities.*

Recommendations:

Taking into consideration the observations noted above, the Committee recommends the following:

- i. *The Project, comprehensively examined, violates the Wetland Rules, 2017 leading to much environmental damage to a vital part of Bhoj Wetland, a Ramsar Site of International*

importance. Taking this into consideration, the entire Project around the lower lake, if needed, be comprehensively evaluated instead of piecemeal evaluation and the subsequent infrastructure development shall ensure compliance with the applicable Wetlands rules, 2017.

- ii. An alternative site away from the Bhoj Wetland may be explored by the project proponent (MPHIDC) or the appropriate/concerned authority. This alternate site arrangement will also save very old trees and avoid large scale deforestation resulting from the execution of the said re-densification project.*
- iii. SEIAA/SEAC may take appropriate action against the EIA consultant M/s. In-situ enviro care, Bhopal for not being serious in evaluating the Project from the perspective of protection of Bhoj Wetland, an internationally renowned Ramsar site and the lifeline of Bhopal.*
- iv. Any construction activities in future in the buffer zone needs to be strictly prevented and monitored by quarterly reviews through high-resolution satellite imagery data, to be obtained in consultation with agencies like NRSA/ISRO. Dedicated cell with qualified manpower to review the satellite imagery data and appropriate budgetary allocations to strengthen the remote monitoring of 50 m buffer zone needs to be created under the aegis of SWA/EPCO.*
- v. Appropriate sign boards by concerned Urban Local Body be put up to ensure no construction activity of a permanent nature takes place within 50 m distance from the HFL of*

Upper/ Lower Lake and to bring awareness among the public of the importance of Bhoj Wetland.

- vi. Environment clearance for the project needs to be revoked by SEIAA/SEAC and a fresh appraisal of the project, if required, needs to be undertaken taking into consideration the Wetland Rules and ensuring the surface drainage of the area (Zone of Influence) is not disturbed.*
- vii. As per Section XIV (70) of Guidelines issued by MoEFCC for implementation of Wetland Rules, 2017, “A Management Plan should be in place which is duly endorsed by the Ministry for all Ramsar sites”. Accordingly, an Integrated Management plan should be in place for Bhoj Wetland as well and SWA/EPCO needs to take appropriate action in the matter.”*

5. The matter was taken up by this Tribunal on 11.03.2024 and after hearing the parties and perusal of the joint committee report the Tribunal observed as follows:-

“Through perusal of the report following irregularities have been found by the committee :-

- i. The .kml file of the entire project uploaded on the Parivesh Portal of MoEF&CC and the actual built-up area mentioned in the proposal submitted before the SEAC/SEIAA for grant of environmental compensation has various deviations on different angles.*
- ii. Some of the proposals are in violation of Section 4(2)(vi) of Wetland Rule, 2017 i.e. within the prohibited activities.*

- iii. *The proposed project is within the prohibited zone.*
- iv. *The developer has failed to clearly mention the exact location and distance from the lower lake.*
- v. *There are big technical lapses at the end of EIA consultant namely M/s In-situ Enviro Care, Bhopal for not assessing the project from an environmental angle, despite knowledge that the international importance of a Ramsar Site of the lake.*
- vi. *The committee has found that the environmental clearance to the project was granted based on the false and fabricated data and as per Standard Condition No. 6 of the environmental clearance dated 17.07.2023, the environmental clearance for the project needs should be revoked and fresh appraisal be undertaken immediately.*
- vii. *Appropriate action against the consultant. The EPCO and the State Wetland Authority is required to have a measurement by means of high resolution satellite imagery of the 50 mtr. buffer zone from the mean high flood level and it needs to be obtained and frozen. Any future construction activities in the buffer zone needs to be strictly prohibited and there must be quarterly review of high resolution satellite imagery to be obtained in consultation with agencies like NRSA/ISRO.*
- viii. *Dedicated cell with qualified manpower to review the satellite imagery data and appropriate budgetary allocation to strengthening remote a monitoring of 50*

mtr. buffer zone needs to be created under the aegis of EPCO.

ix. SEIAA and SEAC may take appropriate action against the consultant.

x. The State Authorities must follow the guidelines issued by the MoEF&CC for implementation of Wetland Rules, 2017 (as per Section XIV (70)).

6. The State of Madhya Pradesh vide Gazette Notification published on 21.07.2023 took a decision for Re-densification of Collectorate Complex and Professor's Colony developed by Madhya Pradesh Housing and Infrastructure Development Board (MPHIDB) and notified the decision taken by the State in Part 1 of the Gazette Notification which is as follows:-

नगरीय विकास एवं आवास विभाग

मंत्रालय, वल्लभ भवन, भोपाल

भोपाल, दिनांक 21 जुलाई 2023

सूचना

क्र. यूडीएच-3-0130-2023-अठारह-5.—मध्यप्रदेश नगर तथा ग्राम निवेश अधिनियम, (संशोधित) 1973 (क्रमांक 1 सन् 2012) की धारा 23 "क" की उपधारा (2) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, राज्य सरकार, एतद्द्वारा, वि. क. अ.-सह आयुक्त-सह-संचालक, नगर तथा ग्राम निवेश भोपाल की सूचना क्रमांक 2128-टी सी-15-भोपाल-उपां-नग्रां-2023, भोपाल दिनांक 27 अप्रैल 2023 द्वारा प्रस्तावित किये गये अनुसार प्रवर्तित भोपाल विकास योजना 2005 में निम्नानुसार उपांतरण की पुष्टि करती है. उपांतरण ब्यौरे एवं शर्तें निम्नानुसार हैं :-

अनुसूची

क्रमांक	ग्राम	नजूल बटांकन आदेश अनुसार खसरा क्रमांक	राजस्व अभिलेख में कुल रकबा (हेक्टे.)	आवेदित रकबा (हेक्टे.)	उपांतरण हेतु प्रस्तावित रकबा (हेक्टे में)	विकास योजना में निर्दिष्ट भू उपयोग	उपांतरण पश्चात् प्रस्तावित भू उपयोग
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	शहर भोपाल (प्रोफेसर कॉलोनी)	1382/2	2.091	1.350 0.741	1.350 0.741	आवासीय आमो द-प्रमोद के अंतर्गत नगरीय वन / वृक्षारोपण	वाणिज्यिक आमोद-प्रमोद के अंतर्गत नगरीय वन / वृक्षारोपण
2		1383/1	0.899	0.899	0.899	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
3		1383/3	0.127	0.127	0.127	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
4		1384	2.489	2.489	2.489	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
5		1385	0.474	0.474	0.474	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
6		1386/1	0.684	0.200	0.200	आवासीय	वाणिज्यिक
7		1386/3	0.977	0.977	0.977	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
8		1387/2	0.423	0.100	0.100	आवासीय	वाणिज्यिक
				0.323	0.323	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
9		1873/ 1383/1	0.632	0.632	0.632	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
10		1977/ 1383/2	0.025	0.025	0.025	आवासीय	सार्वजनिक एवं अर्द्धसार्वजनिक
योग : —			8.821	8.821	8.337		

नोट —

आवेदित रकबा 8.821 हेक्टेयर में से रकबा 0.484 हेक्टेयर का निर्दिष्ट भूमि उपयोग आवासीय होने के कारण शेष भूमि रकबा 8.337 हेक्टेयर में से रकबा 1.650 हेक्टेयर भूमि का वाणिज्यिक भूमि उपयोग रकबा 5.946 हेक्टेयर भूमि का सार्वजनिक एवं अर्द्धसार्वजनिक भूमि उपयोग में उपांतरण प्रस्तावित है एवं रकबा 0.741 हेक्टेयर भूमि का भूमि उपयोग आमोद-प्रमोद के अंतर्गत नगरीय वन / वृक्षारोपण यथावत रखा गया है।

शर्त —

1. प्रश्नाधीन भूमि के उत्तर एवं पूर्व दिशा में विद्यमान छोटे तालाब के अधिकतम जलभराव क्षेत्र (एफ. टी. एल.) से भोपाल विकास योजना, 2005 की कंडिका क्रमांक 4.47 ए में निहित प्रावधानों के अन्तर्गत 33.00 मीटर भूमि खुले क्षेत्र के रूप में रखी जाना अनिवार्य होगा, जिस पर किसी भी प्रकार का निर्माण कार्य मान्य नहीं होगा।
2. मध्यप्रदेश गृह निर्माण एवं अधोसंरचना विकास मण्डल, भोपाल के प्रस्ताव अनुसार रेतघाट से न्यू मार्केट मुख्य मार्ग के मध्य प्रस्तावित मार्ग की चौड़ाई 30.00 मीटर रखना अनिवार्य होगा।
3. प्रश्नाधीन भूमि भोपाल विकास योजना, 2005 के उपनगर दो के अन्तर्गत स्थित है अतः भवन की ऊंचाई के संबंध में भोपाल विकास योजना, 2005 एवं मध्यप्रदेश राजपत्र, दिनांक 25 जनवरी 2013 में ऊंचाई 18.00 मीटर संबंधी प्रावधान से परियोजना मुक्त रहेगी।
4. स्थल पर स्थित वृक्षों को यथासंभव यथास्थिति में रख जाना आवश्यक होगा एवं वृक्षों को हटाने की दशा में संबंधित विभाग से अनुमति अनिवार्य होगी।
5. पर्यावरणीय एवं प्रदूषण के संबंध में संबंधित विभाग के निर्धारित मानकों का पालन करना अनिवार्य होगा।
6. उपरोक्त उपांतरण भोपाल विकास योजना 2005 का एकीकृत भाग होगा।

सूचना

क्र. यूडीएच-3-0131-2023-अठारह-5.—मध्यप्रदेश नगर तथा ग्राम निवेश अधिनियम, (संशोधित) 1973 (क्रमांक 1 सन् 2012) की धारा 23 "क" की उपधारा (2) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, राज्य सरकार, एतद्द्वारा, वि. क. अ.-सह.-आयुक्त-सह-संचालक, नगर तथा ग्राम निवेश भोपाल की सूचना क्रमांक 2184-टी सी-14-भोपाल-उपा-नग्रा-2023, भोपाल, दिनांक 2 मई 2023 द्वारा प्रस्तावित किये गये अनुसार प्रवर्तित भोपाल विकास योजना 2005 में निम्नानुसार उपांतरण की पुष्टि करती है. उपांतरण ब्यौरे एवं शर्तें निम्नानुसार हैं :-

अनुसूची

क्रमांक	ग्राम	खसरा क्रमांक	राजस्व अभिलेख में कुल रकबा (हेक्टे. में)	आवेदित रकबा (हेक्टे. में)	उपांतरण हेतु प्रस्तावित रकबा (हेक्टे. में)	विकास योजना में निर्दिष्ट भू- उपयोग	उपांतरण पश्चात् प्रस्तावित भू उपयोग
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	शहर भोपाल तहसील हुजूर (कलेक्ट्रेट परिसर पुराना सचिवालय).	106	7.2480	2.913	2.913		मिश्रित एवं मार्ग
				0.420	0.420		वाणिज्यिक एवं मार्ग
		107	0.4820	0.4820	0.4820		मिश्रित एवं मार्ग
		108	0.2290	0.2290	0.2290		मिश्रित एवं मार्ग
		1531/108	0.7360	0.220	0.220	सार्वजनिक एवं अर्द्ध सार्वजनिक	वाणिज्यिक एवं मार्ग
				0.376	0.376	तथा मार्ग.	मिश्रित एवं मार्ग
		कुल रकबा	8.695	4.640	4.640		
2	ग्राम कोहेफिजा तह. हुजूर जिला भोपाल (अनुविभागीय अधिकारी कार्यालय बैरागढ़).	87/1	0.4170	0.4170	0.4170		
		60/1/1/2	0.2150	0.2150	0.2150		
		72/1/2	0.1010	0.1010	0.1010	आवासीय एवं मार्ग	मिश्रित एवं मार्ग
		146/87/ 1/ख/1 /1/2	0.2270	0.2270	0.2270		
		87/2	0.2590	0.2590	0.2590		
		146/87/ 1/ख/1 /1/3	0.4450	0.4450	0.4450	आवासीय एवं मार्ग	मिश्रित एवं मार्ग
			1.6640	1.6640	1.6640		

शर्तें —

1. ग्राम कोहेफिजा स्थित अनुविभागीय अधिकारी कार्यालय शहर भोपाल की भूमि पर राजस्व अभिलेख, खसरा मानचित्र पर दर्शित मार्ग की भूमि के राजस्व अभिलेख में संशोधन कराना आवश्यक होगा.
2. कलेक्ट्रेट कार्यालय (पुराना सचिवालय) एवं अनुविभागीय अधिकारियों के कार्यालयों के मध्य स्थित भोपाल-इन्दौर मार्ग की चौड़ाई भोपाल विकास योजना 2005 में 60.00 मीटर निर्दिष्ट है अतः मार्ग मध्य से दोनों ओर 30.00-30.00 मीटर भूमि मार्ग विस्तार हेतु सुरक्षित रखना अनिवार्य होगा.
3. प्रश्नाधीन भूमि भोपाल विकास योजना, 2005 के उपनगर दो के अन्तर्गत स्थित है अतः भवन की ऊंचाई के संबंध में भोपाल विकास योजना , 2005 एवं मध्यप्रदेश राजपत्र, दिनांक 25 जनवरी 2013 में ऊंचाई 18.00 मीटर संबंधी प्रावधान से परियोजना मुक्त रहेगी.
4. स्थल पर स्थित वृक्षों को यथासंभव यथास्थिति में रखा जाना आवश्यक होगा एवं वृक्षों को हटाने की दशा में संबंधित विभाग से अनुमति अनिवार्य होगी.
5. पर्यावरणीय एवं प्रदूषण के संबंध में संबंधित विभाग के निर्धारित मानकों का पालन करना अनिवार्य होगा.
6. उपरोक्त उपांतरण भोपाल विकास योजना 2005 का एकीकृत भाग होगा.

7. The contention of the learned counsel for the applicant in both the cases are that that the said re-densification will be blatantly violating the provisions of the Environment (Protection) Act, 1986, Water Air (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981, Wetlands (Conservation and Management) Rules, 2017 and Articles of Ramasar Convention and notifications issued there under. Also, it is the gross violation of Article 21 and Article 48-A of the Constitution of India. Hence, here is dire need of strict compliance of these statues and indulgence from this Tribunal so that the situation can be controlled before any irreparable harm and injury is caused to the Bhoj wetland a Ramsar Site and biodiversity's, its surroundings and temporary & permanent habitat of the species, Birds and the heritage trees.

8. It is further submitted that construction over the wetland site will disturb the floodwater, rainwater, drains, natural valley, buffer area, cutting of heritage trees will lead to disturbance in ecology and

environment. Re-densification over the Bhoj wetland and its surrounding will not only have a disastrous impact and deleterious effect on the Bhoj wetland but also on the ecology and environment of Bhopal.

9. It is further submitted that Re-densification near Bhoj wetland should not be allowed and other alternative and better space may be searched out which are available near the vicinity. In addition to that, it is further argued that huge quantity of sewage flows into the lake from as many as 27 nullahs, eutrophication leads to reduces dissolved oxygen in the water body and sees a rise in botanical growth like water hyacinth. The water of Lower lake drains into the Patra rivulet, which joins Halali River, a small tributary of the Betwa River, which a tributary of Yamuna.
10. That the construction over the Wetland site will also disturb the Flood water, Rain water drains, natural valleys, buffer area, etc which will be severely affected. It will also affect the natural sluicing matter and natural hydrology of the area. That the cutting and felling of trees and tempering of any kind over and near the wetland will increase the chances of flood as the rain water will not get its path and will enter into the near by places causing disturbance to life of the people.
11. That the primary effort should be made safeguard the environment and nature as Ecology and environment is need to be protected for future generations. Thus, for such projects unless a study is made

on the alternatives, such a project which requires felling of 390 heritage trees should not be permitted.

12. The matter of notification and its compliance and proposal for a project was considered by the State Environmental Impact Assessment Authority, M.P. (MPSEIAA) and the environmental clearance was granted to the project area as follows :-

“Government of India
Ministry of Environment, Forest and Climate Change
(Issued by the State Environment Impact Assessment
Authority (SEIAA), MADHYA PRADESH)

To

The -1

MADHYA PRADESH HOUSING & INFRASTRUCTURE
DEVELOPMENT BOARD BHOPAL

Amrapali Arcade, Bagmugaliya, Bhopal (M.P.) -462043

Subject: Grant of Environmental Clearance (EC) to the proposed Project Activity under the provision of EIA Notification 2006-regarding

Sir/Madam,

This is in reference to your application for Environmental Clearance (EC) in respect of project submitted to the SEIAA vide proposal number SIA/MP/INFRA2/422351/2023 dated 24 Mar 2023. The particulars of the environmental clearance granted to the project are as below:

1.	EC Identification No.	EC23B038MP128439
2.	File No.	9800/2023
3.	Project Type	New
4.	Category	B
5.	Project/Activity including Schedule No.	8(a) Building and Construction projects

6.	Name of Project	Re-densification of Collectorate Complex and Professor's colony developed by Madhya Pradesh Housing and Infrastructure Development Board (MPHIDB).
7.	Name of Company/Organization	MADHYA PRADESH HOUSING & INFRASTRUCTURE DEVELOPMENT BOARD BHOPAL
8.	Location of Project	MADHYA PRADESH
9.	TOR Date	N/A

The project details along with terms and conditions are appended herewith from page no 2 onwards.

Date: 17/07/2023

(e-signed)
Mujeebur Rehman Khan
Member Secretary
SEIAA - (MADHYA PRADESH)

Note: A valid environmental clearance shall be one that has EC identification number & E-Sign generated from PARIVESH. Please quote identification number in all future correspondence. This is a computer generated cover page.

Ref: SIA/MP/INFRA2/422351/2023, Case No 9800/2023:

Prior Environment Clearance for Re-densification of Collectorate Complex and Professor's colony at Khasra No. 106, 107, 108, 109, 1531/108, 1533/108, 1572/109, 1968/110, 110, 9, 1382/1, 1382/2, 1382/4, 1383/1, 1383/3, 1383/4, 1384, 1385, 1388/1, 1386/3, 1387/2, 1424/2, 1425/2, 1884/1424, 1885/1424, 1873/1383/1, 1873/1383/3, 1977/1383/2 Tehsil Huzur, District Bhopal, (MP) total Plot Area: 2,35,420.00 Sq.mt (Site 1+2) Total Built-up Area: 1.41.545.00 Sq.mt. (Site 1+2) by Executive Engineer Div. 3, Madhya Pradesh Housing & Infrastructure Development Board Bhopal, Amrapali Arcade, Bagmugaliya, Bhopal (MP)-462043 Email campusec2023@gmail.com Mob no 9406912100 Env't. Consultant: M/s. Insitu Enviro Care, Bhopal.

With reference to above the proposal has been appraised as per prescribed procedure & provisions under the EIA notification issued by the Ministry of Environment & Forests vide S.O. 1533 (E), dated 14 September 2006 and its amendment, on the basis of the mandatory documents uploaded with the online application viz., CAF, Part A & B. Form IA Conceptual Plan, drawings and subsequently submission of EMP report, PPT& the additional clarifications furnished in response to the observations of the State Expert Appraisal Committee (SEAC) and State Environment Impact Assessment Authority (SEIAA) constituted by the competent Authority.

- i. यह खसरा नंबर 106, 107,108,109,1531/108.1533 /108,1572 /109, 11088/110,110, 9,1382 पर/1. 1382/2, 1382/4,1383/4 1383/3. 1383/4. 1384 1385.1386/1,1386/3, 1387/2 1424/2, 1425/2 1884/1424 1885/1424, 1873/1383/11873/1383/3 1977/1383/2 तहसील हुजूर, जिला-गोपाल (मप्र) में स्थित कलक्ट्रेट परिसर और प्रोफेसर कॉलोनी के पुनर्धनत्वीकरण हेतु पूर्व पर्यावरण स्वीकृति का है।
- ii. परियोजना कुल निर्मित क्षेत्र 1,41,545.00 वर्ग मीटर (1,01,609.00 वर्ग मीटर 39.936.00 वर्ग मीटर साइट 2) है।
- iii. परियोजना का प्रस्तावित बिल्टअप एरिया 1.41.545.00 वर्गमीटर प्रस्तावित है. चूंकि परियोजना का बिल्टअप एरिया 1,50,000 वर्गमीटर से कम है. अतः EIA अधिसूचना 2006 एवं संशोधित के अनुसार प्रकरण 8(a) श्रेणी के अतर्गत विचार किया गया है।
- iv. परियोजना का विवरण निम्नानुसार है

1.	Total Plot Area	2:35,420.00 Somt. (Site 1+2)
2.	Built up area	1,41,545.00 Sq mt. (Site 1+2)
3.	Water Consumption	396 KLD (Site 1+2)
4.	Solid Waste Generation	2:31 TPD (Site 1+2)
5.	Power Requirement	217495.6 KVA (Site 1+2)
6.	Power Backup	800 KVA (2 X 400 KVA) For site 1

	Through DG Sets	
7.	Solar Provisions	1277/85 KW (Site 1+2)
8.	Connectivity Facilities	Project site is adjacent to Ploytechnic Kamla Park Road
9.	Parking Provided	1502 ECS (Site 1+2)

- v. परियोजना हेतु SEAC की 654वीं बैठक दिनांक 16.06.2023 को पर्यावरण स्वीकृति जारी किये जाने की अनुशंसा की गई है, जिसका कार्यवाही विवरण उक्त बैठक के पृष्ठ क्र.53 से 76 पर अंकित है।
- vi. प्रस्तुतिकरण के दौरान परियोजना प्रस्तावक द्वारा प्रस्तुत किया गया कि upper lake से परियोजना स्थल- 1 302.55 मीटर दूर है, और साइट 2 281.38 मीटर दूर है। भोपाल विकास योजना (बीडीपी) 2005 के अनुसार, परियोजना प्रस्तावक को upper lake से 50 मीटर की दूरी बनाए रखनी होगी।

Based on the information submitted at Para I to VI above, the State Level Environment Impact Assessment Authority (SEIAA) considered the case in its 794 meeting held on 28.06.23 and decided to accept the recommendations of 654th SEAC meeting & held on 16.06.23.

Hence, Prior Environmental Clearance is accorded under the provisions of EIA Notification dtd. 14th September 2006 & its amendments to the proposed" Redensification of Collectorate Complex and Professor's colony at Khasra No. 106, 107, 108, 109, 1531/108, 1533/108, 1572/109, 1968/110,110, 9, 1382/1, 1382/2, 1382/4, 1383/1, 1383/3, 1383/4, 1384, 1385, 1386/1, 1386/3, 1387/2, 1424/2, 1425/2, 1884/1424, 1885/1424, 1873/1383/1, 1873/1383/3, 1977/1383/2 Tehsil- Huzur, District Bhopal, (MP) total Plot Area: 2,35,420.00 Sq.mt. (Site 1+ 2) Total Built-up Area: 1,41,545.00 Sq.mt. (Site 1+ 2) by Executive Engineer Div.3, Madhya Pradesh Housing & Infrastructure Development Board Bhopal, Amrapali

Arcade, Bagmugaliya, Bhopal (MP)-462043 subject to the compliance of the Standard Conditions and the following additional Specific Conditions as recommended by SEIAA & SEAC in its meetings.

A. Specific Conditions as recommended by SEIAA

- i. भवन निर्माण का कार्य नगर एवं ग्राम नियोजन निदेशालय (T&CP) से स्वीकृत लेजाउट के अनुसार ही किया जाना सुनिश्चित करें।
- ii. स्वच्छ जल आपूर्ति की व्यवस्था नगर निगम के माध्यम से ही किया जाना सुनिश्चित करें।
- iii. परियोजना प्रस्तावक को अतिरिक्त उपचारित अपशिष्ट जल के निपटान के लिए नगर निगम की सीवर लाइन के साथ लिंकेज सुनिश्चित करें।
- iv. फ्लशिंग और अन्य उद्देश्यों के लिए उपचारित बहिसाव के पुनः उपयोग के लिए दोहरी प्लंबिंग प्रणाली अनिवार्य रूप से अपनाई जाये।
- v. परियोजना से निष्क्रिय अपशिष्ट को डंपिंग साइट पर गेजा जाये एवं परियोजना प्रस्तावक को नगर निगम से MSW के निष्पादन हेतु अनिवार्यरूप से अनुमति प्राप्त की जाना चाहिये।
- vi. MPSEIAA द्वारा जारी कार्यालयीन ज्ञापन दिनांक 19.06:23 के अनुसार यदि परियोजना में भू जल निकासी की जाती है तो निम्नानुसार निर्देशों का पालन किया जाना सुनिश्चित करे –
 - a) जिन मामलों में पानी की आपूर्ति पानी के टैंकरों के माध्यम से की जानी है, उन परियोजनाओं में परियोजना प्रस्तावक द्वारा पानी की आवश्यकता को केवल लाइसेंस प्राप्त टैंकर जल आपूर्तिकर्ताओं के माध्यम से पूरा किया जाना सुनिश्चित किया जाये।
 - b) सक्षम प्राधिकारी (सीजीडब्ल्यूबी / सीजीडब्ल्यूए) की पूर्व अनुमति के बिना मूजल निकासी की अनुमति नहीं दी जाएगी। तदनुसार, भूजल निकासी के लिए एन.ओ.सी की प्रति सभी नियामक प्राधिकरणों, अर्थात् प्राधिकरण (राज्य स्तरीय पर्यावरण समाधात निर्धारण प्राधिकरण),

क्षेत्रीय कार्यालय, पर्यावरण वन एवं जलवायु परिवर्तन
भारत सरकार, भोपाल, मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड
और केंद्रीय प्रदूषण नियंत्रण बोर्ड को प्रस्तुत की जाएगी।

- c) परियोजना प्रस्तावक भूजल निकासी के लिए एन.ओ.सी में किए गए अनुबंधों का अनिवार्य रूप से अनुपालन सुनिश्चित करेंगे और इसकी स्थिति छह मासिक अनुपालन रिपोर्ट के एक भाग के रूप में प्रस्तुत करेंगे।
- vii. परियोजना स्थल 1 एवं 2 पर मौजूद पेड़ों प्रत्यारोपित किये जाने का प्रयास किया जाये अंकित करे। को काटने की बजाय अधिक से अधिक बचाने एवं तथा बचाये हुए पेड़ों की संख्या अनुपालन प्रतिवेदन में अंकित करे
- viii. परियोजना स्थल 1 एवं 2 पर मौजूद पेड़ सक्षम अधिकारी के अनुमति से ही काटा जाये और प्रतिपूरक वृक्षारोपण (compensatory plantation) अनिवार्य रूप से की जावे।
- ix. SEAC में परियोजना प्रस्तावक द्वारा किये गये लिखित प्रतिबद्धताओं का पालन अनिवार्य रूप से निशिल्च समय सीमा में करना होगा।
- x. उपरोक्त पर्यावरण स्वीकृति माननीय उच्च न्यायालय, माननीय राष्ट्रीय हरित अधिकरण एवं अन्य व्यायालयों के सभी निर्णयों एवं निर्देशों के अधीन रहेगी।
- xi. *The fresh water supply arrangement should be met through Municipal Corporation and there should no extraction of ground water.*
- xii. *The inlet and outlet point of natural drain system should be maintained with adequate size of channel for ensuring unrestricted flow of water.*
- xiii. *The storm water from roof top, paved surfaces and landscaped surfaces should be properly channelized to the rain water harvesting sumps through efficient storm water network.*

- xiv. PP should ensure road width, front MOS and side/rear as per MPBVR 2012.*
- xv. The building shall be designed for compliance with earth quake resistance and resisting other natural hazardous.*
- xvi. The height, Construction built up area of proposed construction shall be in accordance with the existing FSI/FAR norms of the urban local body/T&CP & it should ensure the same along with survey number before approving layout plan & before according commencement certificate to proposed work.*
- xvii. Wet Garbage shall be composted in Organic waste convertor Adequate area shall be provided for solid waste management within the premises which will include area for segregation, composting. The Inert waste from the project will be sent to dumping site.”*

13. A precaution has been taken by the SEIAA and directed to maintain and control the noise pollution and waste management in addition to plantation of approximately 4000 trees in the area as open park/green belt area and proposal for 390 trees to be felled and 05 trees to be planted was term of the reference. There are further conditions that a minimum of 01 tree for every 80 sq. mtr. of land should be planted and maintained. Compensatory plantation must be in the ratio of 1.10. Planting of 10 trees for every 01 tree i.e. cut shall be maintained by the project proponent.

14. The matter was previously reconsidered by the SEAC in its meeting by agenda no. 22 which has been already discussed by the SEAC.

15. Contention of the learned counsel for the applicant is that the climate change is inherently an international issue on the present date. Climate change is the single biggest health threat facing humanity. Climate impacts are already harming health, through air pollution, disease and extreme weather events. The pivotal policy document in India on climate change is the National Action Plan on Climate Change (NAPCC) formulated by Union Government in 2008, which recognizes that the country is committed to increasing tree cover from 23% to 33%. Under the Paris Agreement, India has committed itself to Nationally Determined Contributions in 2015, wherein one of the stated objectives is to create an additional carbon sink of 2.5 to 3 billion tonnes of CO₂ equivalent through additional forest and tree cover by 2030. That the deforestation and climate was also discussed in the G20 held in New Delhi on 9th -10th of September, 2023, Green Development Pact for a Sustainable Future and in the summit the India has also given a commitment to tackle climate change by strengthening the full and effective implementation of the Paris Agreement and its temperature goal, reflecting equity and the principle of common but differentiated responsibilities and respective capabilities. India has also given commitment for limiting global warming to 1.5°C, which requires rapid, deep and sustained reductions in cutting trees and planting new trees.
16. The deforestation is continuously causing the ecological disorder and having regard to ecological services of the trees, all efforts have to be made to protect every tree. It is submitted that there is no

such need in the present case that the ecological services of the trees shall be disturbed. The re-densification can be done some other alternate place or at the place where it is currently located without disturbing the ecological services of the trees and the major concern of the applicant is that this is being done for commercial purposes.

17. Learned Counsel for the Urban Development and Housing Department Mr. Shantanoo Saxena has filed the objection and submitted that :-

- i. The committee in para 4 has brought on record the presentation on the entire project made by the project architect. In the said paragraph the committee further deliberated the criteria for the grant environment clearance vis a vis of the proposed construction area. The grant of the environment clearance is not in the scope of the said committee which was constituted with a direction to visit the place and submit a factual and action-taken report. The committee surpassed its mandate to get into question which was beyond its scope, and that the committee in para-4 have mentioned having observed deviation in the .kml file but has not mentioned any specific deviation that has been observed.
- ii. The committee in para 8 based its observation and recommendation on the superimposition of .kml files and .shp files on Google Earth while the said superimposition of files of different formats without

bringing both files to the same format cannot be relied upon. Moreover, the said para is incomplete as it fails to mention what emerged from the said analysis.

- iii. The committee in Para 9 wrongly says that some part of the proposed construction falls within a distance 50 meters from the mean HFL of the lower lake in an abstract manner. The said statement has been made without identifying which parts of the proposed project are false within the 50 meters whereas the fact is that the committee evaluated the project in a piece meal manner. The project does not violate the Wetland Rules 2017. All the buildings are very much away from the FTL of the lower lake. The least distance from FTL to building nose is 50.30 m away.
- iv. That the committee in Para 11 has wrongly stated that the project is covered under Wetland Rules 2017. The applicability of Wetland Rules, 2017 and 50 meters is only for permanent construction so cannot be assessed by geographical survey map, Khasra map, proposed road and building map, the report has alleged the violation in an arbitrary manner. It is further wrongly stated in the said paragraph that Re-densification of the Collectorate complex and professor colony developed by the

Madhya Pradesh Housing and Infrastructure Development Board (MPHIDB) proposed is being implemented within the 50-meter distance from the high flood line of Lower Lake. Whereas, the fact is that no such construction is being undertaken in the project in question in this original application.

18. The argument in both the cases are that the respondent may be directed to explore other options available in the city or direct them to carry out the re-densification at the same place where the current Collectorate Complex situated or any proposed other site for these purposes and in reply thereof the learned counsel for the respondent - Urban Development and Housing Department has submitted that :-

a) The suggestion that the project should be shifted to an alternate site away from the Bhoj Wetland is an arbitrary suggestion. The project in question is a re-densification project in this re- densification scheme, the specified area is allocated for PSP, characterized by a considerably lower density compared to the current usage. Moreover, the tree plan is already approved as the initial proposal submitted to EC was 390 trees to be cut down, but after re-evaluation of project and redesigning of road width only 100 trees will be cut down and 80 trees will be shifted to appropriate place. We are also making city forest in

same vicinity. The present proposed site has already been approved by a high-power committee. So, it will not be possible to shift the site. It is also be noted that MPHIDB has successfully transferred big trees form the site of Tulsi Green to Link Road number 3 in Bhopal. The transfer of trees is done in the area of Thatipur of the city of Gwalior. MPHIDB has a very good experience of shifting of trees and the survival rate is almost 75%. That no reason has been given for suggesting exploring an alternate site for the project and the only reason being given is the proximity to the Bhoj Wetland and the existence of some trees. The zone of influence of the Bhoj Wetland has not been designated yet and the said area is an already habited area and the project in question is a re densification project and not a greenfield project so as to impact the Bhoj Wetland, moreover the project is not raising any construction within 50 mts. For saving old trees, a specific tree plan has already been provided and accordingly being adhered to in the implementation of the project including saving the old trees by replantation and plantation of new trees as well.

b)The recommendations of the committee report is firstly beyond the scope and mandates of the committee, moreover the recommendation is in the

nature of a review of the decision of the expert body duly constituted for the purpose of the grant of Environment Clearance. The recommendations of the committee report is firstly beyond the scope and mandates of the committee, moreover the recommendation is in the nature of a review of the decision of the expert body duly constituted for the purpose of the grant of Environment Clearance. The current project is not constituted within the 50-meter buffer zone. As regards the general suggestions made in the said recommendation the same needs to be reviewed by the Wetland Authority.

- c) The recommendation for revoking the Environment Clearance for the project is clearly beyond the scope and mandates of the committee. Moreover, no reason has been given in the report for the said recommendation and the data on the basis of which such a recommendation has been made is a comparison of a superimposition of different maps in different formats on a google map, the same cannot be the basis for the determination of any distance. Such a recommendation being made without appropriate scrutiny cannot be relied upon, when the facts have been actually scrutinised by the SEIAA and SEAC.

19. It is further argued that the EC granted by the competent authority cannot be challenged by way of original application and for the purpose the appeal lies against the EC.
20. It is further submitted the grant of Environment Clearance is not the action of a consultant, rather under the provisions of the EIA Notification 2006 various experts in the SEAC scrutinize the proposals and recommend the grant of Environment Clearance by SEIAA on being satisfied about the project. The entire exercise has been adhered to in the case of the present project as well. The committee constituted to visit the place and submit a factual and action taken report, cannot be said to have the mandate to make such recommendations without giving any reasonable basis.
21. The SEAC has duly considered the green cover and plantation of the trees which was discussed in 654th meeting on 16.06.2023 and discussed as follows :-
- i. "Total 4000 trees shall be planted in the area of 73318 Sq.mt. m2 (66311 Sq.mt + 7007 Sq.mt.) as open park/greenbelt Area and we have proposed approx. 4000 trees of native species on site and available space. (31.14 % of total plot area) which is developed as greenbelt development.*
 - ii. As proposed 390 trees are proposed for felled and 05 trees are transplant unless exigencies demand. tree felling shall be with prior permission from the concerned regulatory authority. Old trees should be retained based on girth and age regulations as may be prescribed by the*

Forest Department. Plantations to be ensured species (cut) to species (Planted).

- iii. A minimum of 1 tree for every 80 sqm of land should be planted and maintained. The existing trees will be counted for this purpose. The landscape planning should included plantation of native species. The species with heavy foliage, broad leaves and wide canopy cover are desirable. Water intensive and/or invasive species should not be used for landscaping.*
- iv. Where the trees need to be cut with prior permission from the concerned local Authority, Compensatory plantation in the ratio of 1:10 (i.e. planting of 10 trees for every 1 tree that is cut) shall be done and maintained. Plantations to be ensured species (cut) to species (planted). Area for green belt development shall be provided as per the details provided in the project document.*
- v. Topsoil should be stripped to depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stack plied appropriately in designated areas and reapplied during plantation of the proposed vegetations on site.”*

22. The learned counsel for the MP Housing and Infrastructure Development Board has filed a copy of the application submitted by the Executive Engineer to the Member Secretary MPSEIAA where it has been discussed and reconsidered the proposal of cutting up trees and submitted that the proposal or project does not violate the Wetland (Conservation and Management) Rules, 2017 and the distance of FTL to the building norms is 50.30 meter and minimum distance has been always maintained and no permanent

construction can be raised within the 50 meter area as assessed by Geographical Survey Map, Khasra Map, Proposed Road and Building Map.

23. It is further submitted that the initial proposal submitted to EC was 390 trees to be cut down, but after re-evaluation of project and redesigning of road width only 110 trees will be cut down and around 90 trees will be shifted to appropriate location. Project proponent is also making a city forest in same vicinity. The present proposed site is already approved by the high empowered committee, therefore, it will not possible to shift the site. MPHIDB has successfully transplanted big trees from the site of Tulsi green to link road no. 3 in Bhopal and in the area of Thatipur in the city of Gwalior. MPHIDB has a very good experience of shifting of trees and the survival rate is almost 75%.
24. An affidavit has been filed by the project proponent with the fact that the minimum distance shall be maintained and the built-up area is within the purview of 8A of the Environment (Protection) Act, 1986 and below the required area which comes within the jurisdiction of SEAC and the SEAC and has issued permission for the project.
25. Bhopal Wetland is a recognized Ramsar site, a wetland of International significance. Upper Lake is an important source of potable water to the city, spread over about 31 km² and fulfils the need of drinking water of people of Bhopal City, numbered more than 12 lakhs. Upper Lake also has a great importance to address

local climate, vegetation, ground water depletion and ground water contamination of the surrounding area. It has more than 15 kinds of fishes and several vulnerable animals like turtles, amphibians and aquatic invertebrates. More than 2500 migratory birds across the world used to come regularly to this Wetland for breeding and dispersal of seeds, leading to maintenance of biodiversity along their routes. Spill way of Upper Lake is known as 'Kaliasot dam' which is again an alternate drinking water source for the city. Water of 'Kaliasot Dam' is used for agricultural purposes i.e., irrigation of around 4,588 hectares of land. Catchment of Upper Lake is extended in 361 km² area while water spread area is restricted to 31 km². In Bhopal Master Plan, 2005, Clause 2.55 – page 39, it is said that no recreational activities should be permitted in the water of Upper Lake since it is fundamentally used for drinking purposes and recreational activities may result adversely on the quality of water of Upper Lake.

26. Government of Madhya Pradesh issued a Notification dated 16.03.2022 which refers to Wetland (Conservation and Management) Rules, 2017 issued by Government of India, Ministry of Environment, Forest and Climate Change in exercise of powers under Section 3(1) and (2)(v) and (3) read with Sections 25 and 23 of Environment (Protection) Act, 1986. The said Notification dated 16.03.2022 appended maps showing 'Bhoj Wetland' and its 'Zone of Influence' area by way of maps no. 1, 2 and 3 in appendix 'A' which were approved by Madhya Pradesh State Wetland Authority in its

meeting dated 01.02.2022. In view of the aforesaid maps, recommendations were made with regard to 'Prohibited', 'Regulated' and 'Permitted' activities in the wetland, within 50 meters of the wetland boundary and in the Zone of Influence.

27. Notification dated 16.03.2022 says that State Government has granted administrative approval to the Full Tank Level boundary of wetland and therefrom the area of 50 meters and Zone of Influence is shown in maps A-1, 2 and 3. On the basis of the said maps, area of Bhoj Wetland, as per FTL, is determined as 3946.33 hectares (Upper Lake 3872.43 hectares + Lower Lake 73.90 hectares) and the said determination is approved by State Government. Notification dated 16.03.2022 also prescribes the protected distances of urban, rural and Kolans River as also the streams and drains (major and minor streams) meeting Bhoj Wetland and Zone of Influence as under:

- i. "शहरी क्षेत्र की ओर BWL के FTL के आसपास 50मी का बफर - मानचित्र क्र. 1
- ii. ग्रामीण क्षेत्र की ओर BWL के FTL के आसपास 250मी. बफर - मानचित्र क्र. 2
- iii. कोलांस नदी के आसपास 250मी. बफर - मानचित्र क्र.3
- iv. कैचमेंट प्रमुख स्ट्रीम के आसपास 50मी बफर - मानचित्र क्र.3
- v. कैचमेंट के माइनर स्ट्रीम के आसपास 09मी बफर - मानचित्र क्र.3"

English Translation by Tribunal:

- i. 50m buffer around FTL of BWL towards urban area – Map no. 1

- ii. 250m buffer around FTL of BWL towards rural area – Map no. 2
- iii. 250m buffer around Kolans River – Map no. 3
- iv. 50m buffer around the catchment main stream – Map No. 3
- v. 09m buffer around minor stream of catchment – Map No. 3”

28. The prohibited, regulated and permitted activities mentioned in para 4 – A, B and C, respectively, of Notification dated 16.03.2022 are made effective as under:

“प्रतिबन्धित गतिविधिया (Prohibited Activities)

वेटलैण्ड नियम 2017 का पालन सुनिश्चित करि हेतु भोज वेटलैण्ड एवं उसके ZoI में Prohibited गतिविधियों का निम्नानुसार निवारण किया जाता है। भोज वेटलैण्ड के Full Tank level (FTL) से 50 मी. तक निर्माण व अन्य गतिविधिया निम्नानुसार पूणता : प्रतिबन्धित की जाती हैं-

Prohibited activities in Bhoj Wetland and its ZoI are determined to ensure compliance with the Wetland Rules 2017 as follows: 50 meters from the Full Tank Level (FTL) of Bhoj Wetland and construction & other activities are completely restricted as follows –

(English Translation by Tribunal)

i. Conversion for non-wetland uses including encroachment of any kind; ii. Setting up of any industry and expansion of existing industries; iii. Manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste	i. किसी भी किस्म के अतिक्रमण सहित गैर वेटलैण्ड उपयोग हेतु परिवर्तन ii. किसी भी उद्योग को स्थापित करना एवं विद्यमान उद्योगों का विस्तार करना iii. निर्माण एवं अपशिष्ट प्रबंधन नियम 2016 के अंतर्गत आने वाले निर्माण और अपशिष्ट का विनिर्माण या निपटान, परिसंकटमय रसायन के विनिर्माण, भण्डारण और आयात । निर्माण नियम, 1989 या परिसंकटमय सूक्ष्म जीवों, आनुवंशिक रूप से निर्मित जीवों या कोशिकाओं का उपयोग, आयात, निर्यात, और भण्डारण संबंधी नियम, 1989 या परिसंकटमय अपशिष्ट (प्रबंधन, और सीमा पार संचालन) नियम 2008 के अंतर्गत आने वाले परिसंकटमय पदार्थ, ई अपशिष्ट (प्रबंधन) नियम, 2016 के अंतर्गत आने वाले ई अपशिष्ट
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(Management) Rules, 2016; iv. Solid waste dumping; v. Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements; vi. Any construction of a permanent nature except for boat jetties within fifty metres (50) from the mean high flood level observed in the past ten years calculated from the date of Commencement of these rules; and, vii. Poaching.	iv. ठोस अपशिष्ट का निष्पादन; v. उद्योगों, शहरों, कस्बों, गांवों और अन्य मानव बस्तियों, से अशोधित अपशिष्ट और बहिस्रावों का निष्पादन vi. किसी भी स्थायी प्रकृति का निर्माण सिवाय नाव घाटों के, तालाब के 50 मीटर के भीतर प्रतिबंधित रहेंगे। vii. अवैध शिकार
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B. विनियमित गतिविधियां (Regulated Activities) -

नगर निगम, भोपाल द्वारा भोज वेटलैण्ड एवं उसके Zone of Influence में मलजल उपचार संयंत्र / सीवेज पंप हाउस (STP/SPH) स्थापित किये जाने के प्रस्ताव को विनियमित गतिविधियों में सम्मिलित किया जाता है। वेटलैण्ड नियम 2017 का पालन सुनिश्चित करने हेतु भोज वेटलैण्ड एवं उसके Zol में Regulated गतिविधियों का निम्नानुसार निर्धारण किया जाता है-

The proposal to establish Sewage Treatment Plant/Sewage Pump House (STP/SPH) in Bhoj Wetland and its Zone of Influence by Municipal Corporation, Bhopal is included in the regulated activities. The regulated activities in Bhoj Wetland

and its ZoI are determined as follows to ensure compliance of the Wetland Rules 2017, –

(English Translation by Tribunal)

i. Subsistence level biomass harvesting (including traditional practices)	i. जीवन निर्वाह योग्य मात्रा में बायोमास निकालना (परंपरागत तरीकों सहित)
ii. Sustainable culture fisheries practices (in private lands);	ii. संधारित मछलीपालन
iii. Plying of non-motorized boats;	iii. गैर- मोटर चालित नावों का संचालन
iv. Desilting, in case where wetlands inflow regimes and water-holding capacity are impacted by siltation (note that ‘deepening’ activities are not the same as ‘desilting’); &	iv. डीसिल्टिंग डिवीडिंग करते समय यह ध्यान रखा जाए कि वेटलैण्ड के जल स्रोत एवं जल ग्रहण क्षमता में कोई प्रभाव न हो (नोट- तालाब गहरीकरण एवं डीसिल्टिंग दो अलग-अलग क्रियाकलाप हैं)
v. Construction of temporary nature.	v. अस्थाई प्रकृति के निर्माण
vi. Construction of STP/SPH by Municipal Corporation, Bhopal	vi. नगर निगम, भोपाल द्वारा मलजल उपचार संयंत्र/सिवेज पम्प हाउस का निर्माण।

C. अनुज्ञात गतिविधियां (Permitted Activities)-

वेटलैण्ड नियम 2017 का पालन सुनिश्चित करने हेतु भोज वेटलैण्ड एवं उसके ZoI में Permitted गतिविधियों का निम्नानुसार निर्धारण किया जाता है।

The permitted activities in Bhoj Wetland and its ZoI are determined to ensure compliance with Wetland Rules 2017, as follows.

(English Translation by Tribunal)

भारत सरकार द्वारा जारी वेटलैण्ड नियम क्रियान्वयन मार्गदर्शिका (15.क्र. पृ) 2020 अनुसार ऐसी गतिविधियां जिनके कारण वेटलैण्ड के Wise Use की परिकल्पना साकार होती है, वेटलैण्ड एवं Zol में Permit की जा सकती हैं। उपरोक्त मार्गदर्शिका अनुसार निम्नलिखित गतिविधियां भोज वेटलैण्ड और उसके Zol में Permitted Activities की श्रेणी में होंगी -

According to the Wetland Rules Implementation Guide (15 No. Page) 2020 issued by the Government of India, such activities which fulfill the concept of Wise Use of Wetland can be permitted in Wetland and Zol. According to the above guide, the following activities will be in the category of Permitted Activities – research work in Bhoj Wetland and its Zol.
(English Translation by Tribunal)

- i. Ecological rehabilitation and rewilding of nature;
- ii. Wetlands inventory, assessment and monitoring;
- iii. Research;
- iv. Communication, environmental education

- i. पारिस्थितिक पुनर्वास एवं प्रकृति का पुनर्निर्माण
- ii. वेटलैण्ड इन्वेन्ट्री मूल्यांकन एवं मॉनीटरिंग
- iii. शोध कार्य
- iv. संप्रेषण, पर्यावरण शिक्षा और जन-भागीदारी कार्यक्रमलाप

<i>and participation activities;</i> <i>v.Management planning;</i> <i>vi.Habitat management and conservation of wetland-dependent specie</i> <i>vii.Community-based ecotourism (with minimum construction activities);</i> <i>viii.Harvesting of wetlands products within regenerative capacity; and,</i> <i>ix.Integrating wetlands as nature- based solutions for climate change mitigation and adaptation</i>	<i>v. प्रबंधन नियोजन</i> <i>vi. वेटलैण्ड आधारित पक्षियों का संरक्षण एवं उनके प्राकृतिक रहवास का प्रबंधन</i> <i>vii. समुदाय आधारित ईको- टूरिज्म (कम से कम निर्माण गतिविधियां सहित) ।</i> <i>viii. पुनर्योजी क्षमता अनुसार वेटलैण्ड के प्राकृतिक उत्पादों का संतुलित दोहन</i> <i>ix. जलवायु परिवर्तन समस्या के निदान के लिए प्राकृतिक संसाधन आधारित अनुकूलन एवं शमन हेतु वेटलैण्ड का एकीकरण</i>
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29. Relying on Apex Court’s decision in Hinchlal Tiwari vs. Kamala Devi and others, (2001) 6 SCC 496, M.K. Balakrishnan (1) and others vs. Union of India and others, (2009) 5 SCC 507, State of Orissa vs. Government of India & Another (2009) 5 SCC 492, Indian Council for Enviro-Legal Action etc. vs Union of India and Others AIR 1996 SC 1446 and Vellore Citizen Welfare Forum v Union of India, 1996(5)SCC647, applicant has pleaded that clean environment including river water is a fundamental right of citizen under Article 21 of Constitution of India and State is under an obligation to protect and improve the environment, safeguard forest and wildlife as per the directive principles stated in Article 48-A part IV of the Constitution and also under fundamental duty to protect and

improve natural environment including forests, lakes, rivers and wildlife as provided in Article 51-A(g) of the Constitution.

30. While considering the issue raised before us in the matter, we have to keep in mind that we are dealing with the water bodies and rivers in State of Madhya Pradesh which is full of water resources, forest assets and wildlife. The State is part of Central Province in Central India. It is the largest Indian State by area and fifth largest State by population; it borders State of Uttar Pradesh to North-East, Chhattisgarh to East, Maharashtra to South, Gujarat to West and Rajasthan to North-West and total area of State of Madhya Pradesh is 308,252 km² (119,017 sq mile); length and width wise, its dimension is 605 KM in length and 870 Km in width. Its historical importance went back to ancient emporium; the area covered by present day State of Madhya Pradesh includes the area of ancient Avanti Mahajanapada, whose capital, well known to the people, was Ujjain (also known as 'Avantika'; it was a major city during Indian urbanization in Sixth century BCE; subsequently, region was ruled by major dynasties of India; in nineteenth century, majority of area of Madhya Pradesh was dominated by Maratha Empire; after Anglo-Maratha War in 19th century, the region was divided into several Princely States under British regime and incorporated into Central Provinces and Berar and Central Indian Agency. After independence, Central Provinces and Berar was renamed as 'Madhya Bharat' with Nagpur as its capital; this State included Southern parts of present-day Madhya Pradesh and North- Eastern portion of

present-day Maharashtra; in 1956, there was reorganization of States and certain parts of Maharashtra were combined with States of Madhya Bharat, Vindhya Pradesh and Bhopal to form new State of Madhya Pradesh; Marathi speaking Vidarbha region was removed and merged with Bombay State.

31. State of Madhya Pradesh was the largest State in India by area until 2000, when South-Eastern part of this State was separated with the creation of Chhattisgarh State region, designated a separate State. State of Madhya Pradesh has distinction of rich mineral resources, forest reserve and water resources. It has distinction of having a large river running from East to West i.e., Narmada which runs between Vindhya and Satpura ranges. Narmada is the longest river in State of Madhya Pradesh, flows through a rift valley. It has several tributaries including Banjar, Tawa, Machna, Shalkar, Denwa and Sonbhadra. Other major rivers of Madhya Pradesh are Rivers Son, Shipra, Tapti, Mahanadi, Chambal etc. Godawari Basin also finds small part of State of Madhya Pradesh.
32. State of Madhya Pradesh is also known for lakes and other water bodies. It has 04 Ramsar Wetland Sites under Ramsar Convention i.e., Bhoj Wetland (Bhopal Lake or Bhoj Taal or Upper Lake or Lower Lake; Sirpur Lake, Yashwant Sagar and Sankhya Sagar). Bhoj Wetland i.e., Bhopal Lake got the status of Wetland of International importance under Ramsar Convention on 19.08.2002 comprising 02 water bodies i.e., Upper Lake and Lower Lake. Its total area is about 31 km². It is located at Bhopal. With regard to Bhoj Taal (Upper Lake), as per old records, the

Lake was made by Paramara Raja Bhoj, Ruler of Malwa. The Lake is surrounded by Van Vihar National Park on the South, agricultural fields on the West and human settlement on the East and North. By making an Earthen dam across Kolans River (tributary of Halali river), the lake was built. Upper Lake drains into Kaliasot River. Another dam called Bhadbhada was constructed in 1965 on Upper Lake to control outflow of Kaliasot river. Catchment area of Lake is about 361 km² and it has maximum length and width of 31.5 km and 5 km respectively.

33. Lower Lake which is also part of Bhoj Wetland, is said to have been built by Nawab Chhote Khan in 1794 to beautify the city; it drains into Halali River via lower reach of Kolans River; has a catchment area of about 9.6 km² and surface area of 1.29 km²; average depth of Lake is 6.2 meters and maximum depth is about 10.7 meter; a 'Pul Pukhta' or Lower Lake Bridge separates Lower Lake from Upper Lake. Sirpur Lake has a total area of about 800 acres (around 3.6 km²), got the status of wetland of international importance under Ramsar Convention on 07.01.2022. It was built by Holkars of Indore State in early 20th century and is one of the 19 important bird areas of Madhya Pradesh recognized by Bird Life International in 2015 Sirpur Lake is located at Indore.

34. Yashwant Sagar (Lake) also located in District Indore, got the status of Wetland of International importance on 07.01.2022 under Ramsar Convention; it is a dam reservoir on Gambhir River and supplies water to Indore City; area of reservoir is about 2650 hectares; created in 1939 and also known as 'Gulawat Lotus Lake Valley'; it is one of the 19 important bird areas of Madhya Pradesh recognized by Bird Life International on 2015. Sankhya

Sagar (Lake) got the status of international importance under Ramsar Convention on 26.07.2022 located at Shivpuri inside Madhav National Park; it was created in 1918 from Manier River.

35. Besides above, there are other famous Lakes of Madhya Pradesh i.e., Shahpura Lake located at Bhopal, Rangun Lake in District Chhatarpur, Beni Sagar Lake near Khajuraho and Lakha Banjara Lake at District Sagar. There are some lakes which are either called Lakes or Reservoirs, which are also in the list of Lakes of State of Madhya Pradesh and the same are as under:

Sl. No.	Name of the Lake	City/Location
1	Sangram Sagar Lake	Jabalpur
2	Jalpari Lake	Jabalpur
3	Tawa Reservoir	Hoshangabad
4	Halali Reservoir	Vidisha (it also span over Bhopal and Raisen)
5	Rani Lake	Rewa
6	Teliya Lake	Mandsaur
7	Morwan Reservoir	Neemuch
8	Nagchoon Lake	Khandwa
9	Munshi Hussain Khan Talab	Bhopal
10	Lendiya Lake	Bhopal
11	Motia Lake	Bhopal
12	Nawab Siddique Hasan Talab	Bhopal
13	Munj Sagar Lake	Dhar
14	Dharam Sagar Lake	Panna

36. In fact, State of Madhya Pradesh is heavily loaded with forest area, water bodies and precious wildlife. Its geographical area is characterized by plateaus, mountain ranges, rivers, valleys and

dense forest. The terrain assists rivers and seasonal streams to form various beautiful and breath-taking waterfalls. State of Madhya Pradesh is also known for several beautiful and important waterfalls like Dhuadhar, Kapildhara, Dugdha-Dhara, Shahastra Dhara, Mandhar, Dardi, Satdhar, Chachai, Purwa, Bahuti, Keoti, Belauhi, Piyavan, Patalpani, Chuliya, Jhadi-daha, Tinchha, Jogi- Bhadak, Gidiya-Khoh, Rajat, Bee, Dutchess, Apsara, Irene, Sankua, Sultangarh, Bhoora Khon, Pawa, etc. There are some seasonal waterfalls also like Raneh, Pandav, Bhalkund, Gatha, Dhanora, Kukdi, Shambhudhara, Taxakeshwar, Sitalmata, Gangulpara, Dagona, Kakrakhoh, Maldhar, Anthoni, Shankar Kho and Dhara-Khoh etc. The waterfalls are on various rivers like Narmada, Sindh, Tons, Chambal and their tributaries. Some waterfalls, we find in Panchmarhi Region, which is a hill station situated on Satpura Mountain Range and a source of various seasonal streams creating beautiful waterfalls.

37. In other words, it will not be exaggerated to say that State of Madhya Pradesh is full of natural resources, and water resources in various forms are in plenty. Perhaps that is the reason of having a huge forest area in the State. Protection of natural resources is prime responsibility of State. In *M.C. Mehta vs. Kamal Nath & Others* (1998) 1 SCC 388, Supreme Court said that State is Trustee of all natural resources which, by nature, are meant for public use and enjoyment. Public at large is beneficiary of the sea-shore, running waters, airs, forests and ecologically fragile lands. State as a trustee, is under a legal duty to protect natural resources. These resources meant for public use cannot

be converted into private ownership. Executive, acting under Doctrine of Public Trust, cannot abdicate natural resources and convert them into private ownership or for commercial use.

38. Water bodies in State of Madhya Pradesh are for the benefit of the people of Madhya Pradesh in general and State of Madhya Pradesh is under the obligation to protect and maintain them so that the same are not polluted, damaged and no harm is caused to aquatic flora and fauna of these resources. Mere terminology by using the words 'Dam' and 'Reservoir', etc. will not change the nature of aqua-resource which is obviously available due to natural activities and if for use of the water resources in one or the other form, some developmental activities like construction of dam or reservoir etc. has been undertaken, the same would not change the very basic nature and concept of natural water resources available to the State. The mere fact that some lakes have their origin to the efforts of man called man-made Lakes will not change the concept of the Lake and water bodies in as much as even Ramsar Sites in State of M.P. include Lakes which are man-made.
39. We have to look into the wider and broad perspective of water body as such and the regulation relating to wetland has to be construed accordingly. Before us, there is large man-made Lake i.e., Bhopal Lake which is admittedly a Wetland of International importance having being declared as 'Ramsar Site'. Similarly, there are other water bodies whether called 'Reservoir' or 'Lake' but the basic attitude of both is same. For the purpose of construing what constitute wetland, we need not to go elsewhere but straight away fall upon the definition of 'Wetland' in Rule 2(g)

of Wetland Rules, 2017 which reads as under:

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

40. A perusal of definition of wetland shows that area of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary is included within the definition of Wetland. Whether water is static or flowing, fresh, brackish or salt, all are included within the term ‘Wetland’. The river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes are excluded. A river channel is not synonymous to river. A river is a natural watercourse while a channel can be part of the structure of a river. In geography, a river channel refers to the path or course through which a river flows. Further, here human-made water bodies/tanks specifically constructed for drinking water purpose does not include the dams or Reservoirs which are not only for drinking water purposes but have multifarious purposes. Here the term ‘water bodies’ has to read with the term ‘tanks’. It is for this reason that most Ramsar Sites in State of Madhya Pradesh are man-made still they are Ramsar

Sites Wetlands.

41. Nature of water bodies which are referred to in OA are not river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes. They are clearly covered by the definition of the term 'Wetland,' constitute wetland and attract provisions of Wetland Rules, 2017.
42. Besides the provisions of Water Act, 1974, we find that the definition of 'Stream' in Section 2(j) is very wide. It is not exhaustive but inclusive meaning thereby, what is mentioned therein would come within the definition of Stream but what is not mentioned therein but have the characteristics or indicia of the items mentioned in the definition, the same would also be in the ambit of the term 'Stream'. This is evident from definition of 'Stream' which reads as under:

"2.(j) "stream" includes-

- (i) river;*
- (ii) water course (whether flowing or for the time being dry);*
- (iii) inland water (whether natural or artificial);*
- (iv) sub-terranean waters;*
- (v) sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf;"*

43. Prohibition and restraint under Section 24 of Water Act, 1974 is applicable to every 'Stream' which is defined in Section 2(j) or

well. Meaning thereby, stagnated ground water is also covered by mis-chief, sought to be prohibited by Section 24 of Water Act, 1974. In fact, definition of Stream under Section 2(j) is very wide which includes 'inland water' whether natural or artificial. General definition of inland water is permanent water bodies inland from the coastal zone and areas whose properties and use are dominated by permanent, seasonal, or intermittent occurrence of flooded conditions. Inland water includes rivers, lakes, flood plains, reservoirs, wetlands and inland saline systems. Inland waters are aquatic-influenced environments located within land boundaries. Inland water system can be fresh, saline or mix of two (brackish water).

44. In other words, any of the waters as lakes, canals, rivers, water courses, inlands and bays within the territory of a State as contrasted with the open seas or marginal waters, bordering another State subject to various sovereign rights of the bordering State is within the term 'Inland Water'. The purpose of Water Act, 1974 and Wetland Rules, 2017, in general, is to protect water resources from being polluted in any manner whatsoever. Subject to the provisions of the said Statutes, developmental and other activities can be undertaken but the water resources indiscreetly cannot be tempered with, adversely affected and damaged by any kind of activities which would include running of Motor propelled Vessels/Boats wherein organic fuel is used which is a hazardous substance governed by the provisions of HOWMTM Rules, 2016. The extent and ambit of environmental laws, unless has inbuilt restriction or shows an express exclusion, should be given beneficial wider interpretation since it is for the benefit of the

mankind and nature.

45. City of Bhopal is known as a city of lakes and we are witnessing that large scale degradation of the environment in general and water resource in particular due to multiple anthropogenic factors such as unprecedented population growth, consequent urbanization, industrialization and chemical intensive agriculture are directly or indirectly influencing the lake. The negative manifestations are –

- i. Loss of water spread area because of siltation and construction activities.
- ii. Continuous algal blooms
- iii. Excessive growth of microphytes and loss of biodiversity
- iv. Water quality degradation.

46. The process has been further aggravated by encroachments and unauthorized construction activities in the catchment and on the lake bed.

47. The Bhopal Municipal Corporation is the custodian of the lakes and also has the authority to control the land use in the fringe area of the lakes since it issues building permission sanctions. The various regulatory provisions for the protection of the Bhopal Lake as well as other water bodies as narrated and described below :-

“The Bhopal Development Plan 2005, prepared by the Directorate of Town and Country of Madhya Pradesh, provides for the following regulatory measures for the

protection and management of lakes:

- *Fringe areas of the lakes have been declared as sensitive zones. No construction and development activities in 50 m space from the Full Tank Level (FTL) of the Upper Lake and 33 m space from the edge of the Lower Lake is allowed. The space is to be kept open. The lake fringe of the Upper Lake is to be kept free from any further construction except passive recreation;*
- *The areas of the Upper Lake, including slopes, are to be planted to the extent of 50-100 m from the maximum tank level with appropriate indigenous trees and shrubs to arrest the pollution and silt entering into the lake;*
- *The Upper Lake water, which is basically used for drinking purposes, shall not be allowed to be used for such water-based recreational activities that adversely affect the water quality; and*
- *The practice of agriculture right along the lake fringe areas is to be discouraged so that water is not polluted due to the addition of chemical fertilizer, pesticide and insecticides.*

Provisions in other national-level acts include the following:

- *The Water (Prevention and Control of Pollution) Act, 1974, amended in 1994 empowers the Madhya Pradesh Pollution Control Board to take action against the polluters of the water resources;*
- *The Environmental Protection Act, 1986 also empowers the Madhya Pradesh Pollution Control Board to take*

action against the polluters of the water resources; and

- *The Madhya Pradesh Municipal Corporation Act, 1956 (as Amended in 1995) empowers the Municipal Corporation to take appropriate measures to prevent pollution of the water resources.*
- *The Wetland Rules, 2017 protects the lakes the lakes in a better way and defines the wetland under Section 2(1)(g) as under:-*

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

That, before the enactment of the ‘The Wetland Rules 2017’, the Wetland Rules, 2010 provided for the definition of Wetland under Section 2(g) is as under:

"wetland" means an area or of marsh, fen, peatland or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six meters

and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, cracks, estuaries and manmade wetland and the zone of direct influence on wetlands that is to say the drainage area or catchment region of the wetlands as determined by the authority but does not include main river channels, paddy fields and the coastal wetland covered under the notification of the Government of India in the Ministry of Environment and Forest, S.O. number 114 (E) dated the 19th February, 1991 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) of dated the 20th February, 1991.

That, as can be seen from the above the river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes; are not to be considered as a wetland under the wetland rules 2017, contrary to the definition of Wetland as defined under The Wetland Rules 2010, when such areas can be considered as wetland.”

48. On the point of the discharge of sewage, the learned counsel for the respondent Mr. Shantanoo Saxena has argued that this is a separate matter and the discharge of untreated water to the water bodies has been taken in other matters which is pending before this Tribunal and necessary directions have been issued by the Principal Bench of this Tribunal in O.A. No. 606/2018 and Paryavaran

Suraksha Samiti vs. Union of India, matter and the environmental compensation has been assessed and has been deposited by the State of Madhya Pradesh and further that necessary provisions are being made for the construction of the STP for treatment of the water.

49. It is further argued that the upper lake water is fresh water and is beyond the comprehension of the Answering Respondent as to how the seepage of the fresh water into a water body contained the sewage water is contaminating and polluting the sewage water body, such kind of averments cast serious doubt on the bonafide and capabilities of the Applicant. It is further argued that following the implementation of the Re-densification plan, no sewage water will be discharged into the lake. Instead, a proper sewage treatment plant (STP) is being installed to handle all sewage discharge appropriately.
50. It has further been contended that the notification dated 21.07.2023 pertains to the modification of the Development Plan by the State government and procedure as enumerated under section 23-A (2) has been adhered. Moreover, the Applicant has wrongly alleged that the no construction zone near FTL has been reduced from 50 meters to 33 meters relying upon the condition number no 1 of the said notification, on the contrary a condition has been imposed making the compliance with the provisions contained in Bhopal Development Plan 2005 applicable even after the change in land use and that there has been no change in the no construction zone as

per the Bhopal Development Plan-2005, by way of the said change in land use.

51. In another matter in Original Application No. 137/2023 titled *Bhopal Citizens Forum through its Member Shri Arun Gurtoo vs. State of M.P.* the matter of compliance of the wetland rules and the protection of trees has been raised. In reply thereof, the learned counsel for the State and the housing board has submitted that the entire scrutiny with respect to the cutting of trees has already been undertaken during the SEAC and part VII of the Specific Conditions as recommended by the SEAC as part of the Environment Clearance granted to the project wherein after a detailed analysis it has been decided that a total of 4000 trees shall be planted in the area of latest species on site which shall be developed as a green belt. It has also been decided that old trees would be retained based on the girth and age regulations as prescribed by the Forest Department and that tree felling shall be with the prior permission of the regulatory authorities and where the trees need to be cut with prior permissions compensatory plantation with the ratio 1:10 shall be done and maintained and further that while granting the Environment Clearance dated 17.07.2023 the SEAC considered the project in its meeting dated 13.04.2023 and the Project Proponent was asked to submit its response on various issues including the trees to which the project proponent submitted its clarification on 12.06.2023 and the case was presented before the SEAC during its meeting dated 16.06.2023 wherein the project proponents submitted

the existing tree inventory with girth details, height and species, the details of which are provided in the 654th meeting.

52. It is further argued that the Respondent No 2, while executing re-densification projects, makes efforts to save as many trees as possible. The transplantation process involved careful timing, proper root ball preparation, matching soil conditions, adequate watering, correct planting depth, and post-care. The survival rate of these transplanted trees has been 70 to 80 percent successful to date and that all necessary care and caution shall be undertaken by the Answering Respondent during the execution of the said project so as to ensure the waste generated from the construction does not end up in the water body. As regards the flow of water being restricted the development maps for the project have been prepared keeping in mind the topography of the area and have been duly appraised by the SEAC and SEIAA and Environmental clearance have been granted thereupon.
53. It is further argued that the re-densification project, which is being undertaken is not in violation of any of the Environmental laws and all necessary permissions have been duly obtained for the same.
54. Learnd Counsel for the Respondent Madhya Pradesh Housing and Infrastructure Development Board has submitted that this application has been filed with the prayer to cancel the Gazette Notification dated 21.07.2023, quoted above, and to cancel the environmental clearance and direct the Respondent for rejuvenation of Lower Lake and to restrain all kinds of activities which is not

maintainable in accordance with the Schedule of the National Green Tribunal Act, 2010. It is further submitted that the aforesaid notification pertains to the modification of the Development Plan by the State Government and procedure as enumerated under Section 23A (2), and that the said notification is for the purpose of the change of land use and as is clear from the column 7 of the table contained in the said notification that the land use prior to the said notification was reserved for residential for land mentioned at serial no 2 to 10 of the said table and for residential and recreational as city forest/plantation for the land situated at the serial no.1. By way of the notification the land use as reflected in column 8 of the table has been changed to public and semi-public for entries at serial no 2, 3, 4, 5, 7, 9 and 10 and to commercial for entries at serial no 6 and 8 and to commercial with recreational as city forest/plantation for entries at serial no. 1. However, the said notification has very categorically noted that the land use for 0.741-hectare land which was recreational as city forest/plantation shall be kept as it is and there is no modification in the same. The said notification does not raise any substantial question related to environment and the challenge to the said notification by way of the prayer at clause '9 a)' is clearly beyond the scope of interference by this Hon'ble Tribunal.

55. With regard to the cancellation of environmental clearance it has been argued that the prayer 9-C is not maintainable and alternate remedy available to the applicant is for filing the appeal against the order if anyone is aggrieved. For other reliefs, the respondent has

raised following objections with regard to maintainability of the application –

- i. That, as regards the prayer ('9 d)' *"To direct the Respondents to properly earmark the Zone of Influence of Lower Lake."*, it is pertinent to mention that the demarcation exercise is undertaken under the provisions of the Madhya Pradesh Land Revenue Code 1959 and the said enactment is not a scheduled act under the provisions of the NGT Act, 2010 and in absence of the said enactment being a scheduled act under the provisions of the NGT Act, 2010 the relief cannot be granted by this Tribunal. Appropriate procedure for the grant of the said relief has been duly provided for under the Madhya Pradesh Land Revenue Code and if any demarcation is essential the same needs to be undertaken by adhering to the procedure established by law and this Tribunal cannot be used to bypass the provisions of the law of the land.
- ii. That prayer ('9 e)' *"a direction to the respondents for rejuvenation of the lower lake and restraining the flow of untreated sewage water in it"*, no evidence has been placed on record by the applicant by way of which any discharge of untreated sewage water in the lower lake can be proved. If redevelopment of the

area takes place it shall result in proper management of the untreated sewage flowing into the water bodies and is only going to assist in the process of rejuvenation of the water body. The relief parade at paragraph ('9 f)' *"regarding a direction to the Respondents to restrain all kinds of activities in and near lower lake which are causing pollution in it"* is vague as it does not mention the activities which are causing pollution in the lower lake.

56. In view of the above arguments, the learned counsel for the State and Housing Board have submitted that the application is not maintainable for the relief as prayed.

57. Learned counsel for the Respondent No. 4, Bhopal Municipal Corporation has submitted that the respondents are complying the wetland rules and so far as the solid waste and liquid waste are concerned, the respondents are complying the rules of The Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 according to rules. It is further submitted that the challenging Gazette Notification dated 21.07.2023 is beyond the scope of this original application and not within the schedule act under the NGT Act, 2010.

58. Learned counsel for the State has submitted the background of the project and the re-densification policy which is narrated as below :-.

- *The strong and weak points of cities and their districts by analyzing the current situation.*

- *Defining practical development objectives for the urban area within a city-vision.*
- *Co-ordinating policies and sectorial and technical projects for the various districts and by ensuring that investment programs help promote a balanced development of the urban area as well as having funds from public and private actors converge upon the various urban spaces.*

In order to achieve urban restoration, the involvement of all citizens and partners in order to contribute towards enhancing the economic, social, cultural and environmental quality of each area.

Re-densification is the term used to densify the area which is:

- *Badly planned*
- *Developed with incompatible land-uses with reference to the Development plan*
- *Re-develop the low density area in the core of city on valuable land.*

The Government of Madhya Pradesh introduced the Re-densification policy in the year 2005 to densify and use the land occupied by various Govt complexes/buildings with old construction or under utilisation of valuable land for housing, office or/and commercial complexes.

The policy is well elaborated for functional utilisation of land for various purposes as per need and re-development of area in accordance with the respective Development Plan of the city.

Various Re-densification schemes has been launched successfully by the nodal agencies prescribed in the policy.

The policy has identified the re- densification works which can be undertaken:

- Additional construction on adjoining land with Govt offices with reference to Development plan and Bhumi Vikas Niyam 2012.*
- Financially inviable Govt building and premises.*
- Re-development of incompatible Govt building and premises in dense area of the city.*
- New construction or extension of Govt offices/institutes with inadequate resources.*

Salient features of the Policy:

- The list of the Govt Buildings/premises shall be maintained by the PWD and respective HOD.*
- Housing and Urban development Deptt. of State Govt. shall be nodal department. MPHIDB shall be the supervising agency where as MPRDC shall be supervising agency for PWD Buildings/premises.*
- The shall be approved by the Authorised Committee as constituted.*
- The committee constituted at district and state level shall decide Buildings/ premises for re-densification.*
- Upset value of the property shall be decided on the basis of current collector guideline rates.*
- After the technical sanction tender shall be invited.*
- MoU shall be executed after financial approval of the tender by committee with reference to the upset value.*

- *The Govt. land shall be handed over to the bidder as per condition laid in the MoU.*
- *The Construction agency shall not use the land other than as prescribed in the MoU without prior permission.*
- *The primary objective of this project is to provide functional and sustainable design keeping in mind major guiding principles such as solutions to congestion in traffic, land use regulations and green cover.*
- *Keeping in mind the importance of the main road from Vivekananda square to Retghat, the new office complex in Professor's colony will bring in more traffic to the already busy area and needs to be re engineered through the process of Re-densification. Through this project, many issues such as overcrowding and rush hour traffic have been addressed by introducing various solutions such as provision of a grade separator, road widening, and provision of rotaries.*
- *Through this project, a newer perspective of the lower lake will also be achieved by the opening up of the entire vista of the office buildings and the main connecting road to the same.*
- *The design of the entire project has been done keeping in mind sustainable and green building features and basic characteristics of the site have been retained to a great extent by not disturbing the natural slope and trees. In case of the major existing tree cover, transplantation has been proposed to preserve the local flora/fauna wherever need be. Other than this, green roofs have been proposed for covered parking slots especially the*

office building complex, to maintain the microclimate of the site.

- The office complex has been designed to be a zero discharge campus, with ample natural light and ventilation. The indoor environment of the offices will mostly be through natural ventilation as only 50% of the spaces in the building will have a controlled environment through Air conditioning. The ventilation of common areas such as corridors is through the concept of 'Wind tunnels', especially in the atrium areas. All the common areas have been designed to have ample natural light by using light harvesting through skylights, throughout the day.*
- The entire campus is designed to be a compact composite campus with common amenities such as Power backup, Water Supply, Fire tanks and other amenities under one roof for easy maintenance.”*

59. A notice was also issued to the Respondent No. 3, Madhya Pradesh State Environmental Impact Assessment Authority to clarify the position and the reply has been filed on behalf of the SEIAA.

60. Learned counsel for the SEIAA, Ms. Parul Bhadoria has submitted that the answering respondent has issued Environmental Clearance dated 17.07.2023 in favor of re-densification of Collectorate Complex and Professor's colony developed by Respondent No. 2 under the provisions laid down by Environment Impact Assessment Notification, 2006. It is stated that the EC granted was for ≥ 20000 m² and $< 1,50,000$ m² of built-up area under 8(a) of the Schedule of

EIA Notification. It is further pertinent to state that the EC is solely granted under the head of building construction.

61. That the distance of the buildings for which the aforementioned EC is granted, from the Lake is more than 50 meters and in compliance of Wetland Rules. The application for EC of re-densification of Collectorate Complex and Professor's colony was adjudicated upon by State Environment Assessment Committee in its Meeting dated 13.04.2023 and 16.06.2023 respectively. That SEAC while adjudicating upon the same considered all the relevant issues including but not limited to felling of trees and thereafter recommended to the answering respondent incorporate necessary conditions in EC to stipulate the compliance of the same.
62. Thereafter, the answering respondent in its Meeting dated 28.06.2023, taking into account the recommendations of SEAC, approved the grant of EC for re-densification of Collectorate Complex and Professor's colony with specific terms and conditions including but not limited to compensatory plantation, project proponent to obtain all necessary permissions / clearances from various authorities like Town and Country Planning, Bhopal Municipal Corporation, Wetland Authority, etc., and construction activities shall be carried out in compliance of local building laws.
63. That the Project Proponent personally appeared before the answering respondent in its Meeting dated 07.03.2024, wherein explanation was sought from the Project Proponent regarding the distance of aforementioned project from Lower Lake. Further the

Project Proponent was directed to file an affidavit regarding the distance of the project from Lower Lake along with an explanation to the seven-point recommendations enumerated by Joint Committee in Report Dated 24.01.2024. Thereafter, the Project Proponent in compliance of directions of the answering respondent, filed a detailed explanation vide letter dated 07.03.2024 to the seven-point recommendations of Joint Committee along with an affidavit stating that no construction will be undertaken within 50 meters from the FTL of Lower Lake.

64. The submission of the learned counsel for the State of M.P., Directorate of Towning Country Planning, Govt. of M.P. are that no application for approval of the impugned project has been placed before the authority and if and when an application of approval is made by the project proponent before the answering respondent, the same will be adjudicated and decided upon in consonance of Wetland (Conservation and Management) Rules, 2017 and order dated 16.03.2022 of the Environmental Department, Govt. of M.P.
65. A report was called from the State PCB and the Members of Madhya Pradesh Housing and Infrastructure Development Board, Bhopal with regard to present status and the report submitted by the committee are as under:-

- *The project is at planning level.*
- *No construction was found at the site.*

In reference to the present status, the agency responsible for the development of the project is informed regarding

compliance of the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, along with the EIA Notification, 2006 as well as Wetlands (Conservation and Management) Rules, 2017 and MP Government, Environment Department notification dated 16.03.2022 regarding the protection of Bhoj Wetlands and biodiversity.

A letter is issued to the MP Housing and Infrastructure Development Board vide letter no. 1714 dated 25/07/2024 to obtain Consent to Establish under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 before the start of construction. Obtain Environmental Clearance under EIA Notification 2006 if the built up area is more than 20000 sq meters. also it is intimated that as per the MP Government, Environment Department notification dated 16.03.2022, no construction is allowed within the 50 meters distance from the full tank level (FTL) of the lower lake.

66. Learned counsel for the MoEF&CC has submitted that EIA Notification, 2006 covers 38 projects/activities in its Schedule which inter alia include different types of infrastructure projects viz. Airports, Ports, Highways, and Building & Construction Projects etc. as specified and classified in the schedule of the said notification. All such projects/activities shall require prior environmental clearance from the concerned regulatory authority, e.g., MoEF&CC in the Central Government for matters falling under Category 'A' in the Schedule and the State Environment Impact Assessment Authority (SEIAA) at State level for matters falling under Category 'B' in the

said Schedule, before starting any construction work, or preparation of land by the project management except for securing the land. Broadly following categories projects/activities are covered under the ambit of EIA Notification, 2006:

- I. All new projects or activities listed in the Schedule to the said notification;
- II. Expansion and modernization of existing projects or activities listed in the Schedule to the notification with addition of capacity beyond the threshold limits given in the Schedule, after expansion or modernization; and
- III. Any change in product mix in an existing manufacturing unit included in Schedule beyond the specified range. That under the provisions of the EIA Notification, 2006, Environment Clearance for Building & Construction Projects and Township & Area Development Projects are covered under entry 8 (a) & (b) of the Schedule to the EIA Notification, 2006. The entry 8(a) and 8(b) of the Schedule of EIA Notification 2006 provides as follows:

“8(a): Building and Construction projects - >20000 sq. mtr. and <150000 sq. mtr. of built-up area require EC.

8(b): Townships and Area Development projects -Covering an area >50 ha. and or built up area >150000sq. m. - require EC.”

and that the aforementioned entries under item 8(a) and 8(b) are qualified as category 'B' projects under the EIA Notification, 2006 and requires appraisal by the State Level Expert Appraisal Committees (SEACs) and followed by approval of the State Level Environment Impact Assessment Authorities (SEIAAs). It is further submitted that under the provisions of the EIA Notification, 2006 as amended time to time, if the total built up area is more than 20,000 sq. m prior Environmental Clearance is required to be obtained from concerned SEIAA. Further, as per the EIA Notification, 2006, in the absence of a duly constituted SEIAA/SEAC, a category 'B' project shall be considered at the Central Level as category 'B' project.

67. It is further submitted that the wetlands are a vital part of the hydrological cycle and MoEF&CC has notified Wetland (Conservation and Management) Rules, 2017 to be complied by the state authorities. Coming to the Bhoj wetland, the study which is in public domain discloses following issues facing the Bhoj wetland –

Sr. No.	Problems	Causes
1.	Reduction of water storage capacity of the lakes	Inflow of silt and organic materials from urban and rural catchments, along with monsoon runoff and dry weather flows; Addition of clay and non-biodegradable materials through immersion of idols

2.	Obstructions to smooth waterflow through the Upper Lake's spill channel, resulting in a threat to the stability of the earthen dam	Constriction of the spill channel, due to deposition of silt
3.	Deterioration of water quality	Inflow of untreated sewage from habitations; Dumping of municipal wastes not collected by the Municipal Corporation; Dissolving of paints in water during immersion of idols; Chemical fertilizer runoff from the catchment; Activity of washing of clothes by washermen, resulting in release of detergents; Leakage of oil during motor boating
4.	Flourishing growth of invasive aquatic plants	High nutrient load to lakes from inflow of sewage and agricultural wastes
5.	Reduction of water spread area	Encroachment on the lake fringe area, which becomes exposed when the lake water level drops after rains end

68. In addition to that followings are also issues which require special consideration and remedial measures –

- a. Desilting and dredging.
- b. Catchment Area Treatment.
- c. Prevention of Pollution (Sewerage Schemes).
- d. Shoreline and Fringe Area Management.
- e. Improvement and Management of Water Quality.
- f. Creation of Buffer Zone between the Lake and Human Settlement.
- g. Catchment Area Treatment.
- h. Sewerage System.
- i. Solid Waste Management.

- j. Prevention of Pollution due to Washing Activities.
- k. Deepening and Widening of Spill Channel.
- l. Restoration of Takia Island.
- m. Weed Removal.
- n. Installation of Water Oxygenation System.
- o. Aquaculture to Control Submerged Weeds.
- p. Public Awareness Campaign.

69. Intensive cropping with inorganic fertilizers is being done in the rural watershed and significant part of these nutrients find their way into the lake via monsoon runoff, causing the growth of aquatic vegetation in the lake. A drive to promote the use of organic manure is required to be done in the catchment area of the lake. In addition to that, the state is required to establish Lake Conservation Authority for Conservation and Management of Lakes for the entire State of Madhya Pradesh and local Lake Management Committee constituted for each conservation area for taking responsibility of the following subjects:-

- i. Preparing an Inventory for Lakes and Other Water Bodies in the State.
- ii. Identifying critical water sources and formulating conservation and management plans to prevent anthropogenic activities;
- iii. Regulating and controlling incompatible activities which adversely affect the water sources;
- iv. Formulating policy guidelines for managing water resources;
- v. Preparing basin management plans;

- vi. Identifying and facilitating declaration of conservation areas; and,
 - vii. Preparing status reports of water resources.
70. Considering all above facts to the state and wetland authority have to take remedial measures. The points which have been raised in this original application with regard to cutting of the trees and compliance of the Wetland Rule, 2017 it has been submitted in writing by the project proponents and respondents, MP Housing and Infrastructure Development Board, State Government and the State Pollution Control Board that though initially a proposal was submitted for cutting of the 390 trees but it was reconsidered and redesigned and now a decision has been taken only to cut 110 trees, with undertaking that a proportionate number of trees in the ratio of 1.10 shall be planted by the respondent.
71. It is further submitted that the distance of 50 mtr. as provided in the Wetland Rules, 2017 must be maintained. State PCB has also undertaken that the project is at planning level and no construction was found at the site and necessary approval for the authorities which are required must be taken by the respondent and the M.P. Housing and Infrastructure Development Board will comply the rules with regard to the distance and the protection of the trees.
72. In view of above discussion and undertaking submitted by the respondents, we direct as follows :-
- i. The respondents are directed to comply with the provisions of the Wetland (Conservation and Management) Rules, 2017 and maintain the minimum distance as contained in the rules which prohibits the

permanent construction/constructions within a specified area.

- ii. The undertaking submitted by the MP Housing and Infrastructure Development Board that only 110 trees will be cut down and 90 trees will be shifted to appropriate locations must be complied with and no trees should be damaged and cut down without the approval and sanction from the competent authority, subject to compulsory afforestation @ ratio of 10 times of the trees damaged.
- iii. Any construction activities in the buffer zone needs to be strictly prevented and monitored by quarterly review through high-resolution satellite imagery data to be obtained in consultation with agencies like NRSA/ISRO, etc.
- iv. Dedicated cell with qualified manpower to review the satellite imagery data and appropriate budgetary allocation to strengthen the remote monitoring of 50 meters buffer zone needs to be created under the aegis of SWA/EPCO.
- v. Appropriate sign boards by concerned Urban Local Body be put up to ensure no construction activity of a permanent nature takes place within 50 m distance from the HFL of Upper/ Lower Lake and to bring awareness among the public of the importance of Bhoj Wetland.
- vi. As per Section XIV (70) of Guidelines issued by MoEFCC for implementation of Wetland Rules, 2017, “A

Management Plan should be in place which is duly endorsed by the Ministry for all Ramsar sites". Accordingly, an Integrated Management plan should be in place for Bhoj Wetland as well and SWA/EPCO needs to take appropriate action in the matter.

- vii. The prayer for cancellation of Gazette Notification dated 21.07.2023 and cancellation of order dated 28.07.2023 or cancellation of the environmental clearance issued from the SEIAA is without basis and not maintainable and thus, dismissed.

73. A copy of the order be sent to the Chief Secretary, M.P., Executive Director, State Wetland Authority (EPCO), M.P., Principal Secretary (Environment), M.P., Principal Secretary, Urban Development and Housing Department, M.P., Principal Secretary, Madhya Pradesh Housing & Infrastructure Development Board, M.P. and Collector, Bhopal, M.P. on available e-mail for compliance.

74. **Original Application Nos. 119/2023(CZ) and 137/2023(CZ)** alongwith **I.A. Nos. 133/2023 and 142/2023** are **disposed of** accordingly.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

04th October, 2024
O.A. No. 119/2023(CZ)
O.A. No. 137/2023(CZ)
PN