

Item No. 07

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)
Original Application No. 192/2023(CZ)

Anany Singh pawar & Anr.	Applicant(s)
Vs.	
State of Madhya Pradesh & Ors.	Respondent(s)

Date of Hearing: 27.05.2024

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

For Applicant(s):	Mr. Dharamvir Sharma, Adv. Dr. Anoop, Applicant/Complainant (with Mr. Shailander Pawar.
For Respondent(s):	Mr. Shantanoo Saxena, Adv. Ms. Amrita Mishra, Adv. Mr. Prashant M. Harne, Adv. (with Mr. Mehul Bhardwaj, Adv.)

ORDER

1. The grievance of the applicant in this application is encroachment on the two public parks in the Rajasva Colony, Gurunank Market Friganj, District Ujjan (M.P.), cutting of the trees which are properly grown up, violation of conditions of necessity of play grounds, parks for children as laid down by the Town and Country Planning Department, diversion of public park for building constructions in violation of Article 21, 48 (A) and Article 51 (g) of the Constitution of India. It is further alleged that open spaces are mandatory environmental safeguard, which are essential to be maintained as a green area or green belt and further construction of multi story buildings damaging the park and green belt area may cause environmental damage to the residents of the locality and also causes

excess traffic load on the residential area thereby creating noise pollution and air pollution.

2. The matter was taken up by this Tribunal on 02.01.2024 and a committee was constituted to visit the site and submit the factual and action taken report. In compliance thereof, the members of the committee visited the site and submitted the report as follows :-

1. *“M.P. Housing and Infrastructure Development Board is constructing 196 Residential Houses under the Re-densification Policy 2016 of Govt. of M.P. Preliminary meeting regarding the same was conducted on dated 07.11.2016 under the chairmanship of Collector Ujjain. The minutes of the meeting is enclosed as per Annexure 1. The meeting concluded that the Govt. quarters of Rajaswa Deptarment, Freeganj Ujjain have been dilapidated and old, so these houses needs to be dismantled to construct new residential houses by M.P.H.I.D.B. under the Re-densification Policy 2016 by the State Govt.”*

3. The copy of the minutes of the meeting held on 10.01.2017 with regard to the present project was held with Principal Secretary, Public Health, Country and Town Department, Revenue Department, Law Department, Finance Department, MP Housing Department, MP Public Health Department and it was resolved the proceedings of the project.
4. Again vide resolution dated 17.03.2021 all the departments noted above including department of Forest, Finance, Sports and other departments attended the meeting and resolved the proceed with the project.
5. It is argued that the learned counsel for the State that MP Housing and Infrastructure Department Board decided to Re-densification Policy, 2016 of Govt. of M.P. and resolved the proceed for construction of new residential houses at the place of dilapidated and old house after dismantling it.

6. The high level committee further resolve for construction to multi-storey building covering approximately 50 percent of the current area after replacing or cutting 90 trees against which proper permission has been taken from the competent authority and required amount of compensation is also been deposited. Notices were issued to the respondent no. 3 MP Housing and Infrastructure Board and in compliance of the notice the Board has filed the reply as follows :-

- i. *“That the said Park/Open Area does not belong to any existing colony. Further, the entire colony has been included in the re-densification scheme of Rajasva Colony. It is here pertinent to mention that the actions undertaken are not contrary to ecological concerns, as the area in question is undergoing the re-densification process. The land in question has indeed been integrated into the re-densification process, and the Preliminary Project Report (PPR) sanctioned by the authorities will notably enhance the green areas as part of their re-densification strategy. The number of parks and trees has been significantly increased, with seven new parks slated for development. This unequivocally demonstrates that the authorities have expanded the green spaces in line with the re-densification plan. Such measures are integral to fostering improved development and infrastructure in the area.”*
- ii. *The Respondent herein regulates its activities and functions under the “M.P. Housing Board and M.P. Grah Nirman Mandal Adhiniyam, 1972”. The Board is currently engaged in the construction of 196 residential houses under the Re-densification Policy 2016, as mandated by the State Government. A preliminary meeting regarding the same was convened on 07/11/2016 under the chairmanship of the Collector, Ujjain. During the meeting, it was determined that the government quarters of the Rajaswa department in Freeganj, Ujjain, had deteriorated and become obsolete, necessitating their dismantling to make way for new residential houses to be constructed by the Respondent herein under the Re-*

densification Policy 2016, as stipulated by the State Government.

- iii. That the Collector has forwarded the Preliminary Project Report bearing letter no. 2841/ह. षो./T.S/2016-17 dated 29/11/2016.*

The District Level Committee convened on 07/11/2016, under the Re-densification Policy 2016, deliberated on the re-densification of Rajaswa colony situated in Freeganj, Ujjain. It was decided to re-densify 104 government houses, utilizing 7257.00 sq. mt. of land to construct 285 new government flats. Further, the proposal encompasses furniture, interior decoration, air conditioning, and firefighting equipment in the proposed new Collectorate building. A Preliminary Project Report (PPR) has been submitted to the state-level empowered committee for approval.

- iv. The Re-densification Policy 2016 proposed the Preliminary Project Report (PPR) prepared by Respondent No.3, MPHIDB for the project. This report underwent approval by the Sadhikar Samiti (साधिकार समिति) under the Chairmanship of the Hon'ble Chief Secretary of the Government of M.P. on 10/01/2017. The proposal involves reclaiming 2.257 hectares of land, with 104 dilapidated government houses currently situated on the site. The committee approved the PPR with the condition to include additional works related to the revenue department's infrastructure in the Detailed Project Report (DPR). It authorized the change of land use from residential to commercial and emphasized the prompt appointment of a consultant for project implementation and Detail Project Report (DPR) submission to Sadhikar Samiti (साधिकार समिति) under the Re-densification Policy 2016. The PPR serves as a foundational document outlining the essential elements and initial planning stages of the project as per the guidelines set forth by the Re-densification Policy 2016.*

- v. On 26/11/2019 the District Level Committee, chaired by the Collector, Ujjain, approved the Detailed Project Report (DPR) for the construction and demolition works under the Re-*

densification Policy 2016. The plan involves demolishing 104 old government residential flats at Rajaswa Colony and constructing 214 new flats of various types. Interior decoration, air conditioning, and firefighting works for the proposed new Collectorate building are also included. Subsequently, the committee unanimously approved the proposal for submission to the State-Level Empowered Committee.

- vi. The Collector, Ujjain has issued a letter to the Commissioner, M.P Housing & Infrastructure Development Board, Paryavasbhan, Bhopal, bearing letter no. 233/हा. बो./ रीडर /2020-21 dated 25/01/2021 stating that the Action Report dated 07/11/2016 outlines the plan for construction work under the Re-densification Policy-2016 in Rajaswa Colony, Freeganj, Ujjain. The District Level Committee proposed re-densification of 104 old time worn residential flats and constructing 280 new ones, along with other development projects. The plan, initially proposed at Rs. 10973.51 lakh, includes land development, Ghas Mandi intersection work, and interior decoration for the new collector office. The plan was amended to exclude certain lands, and the Empowered Committee approved the Preliminary Project Report. The current proposal for 2.25 hectares of land and the construction of 192 Flats, totaling Rs. 5175.21 lakhs, has been forwarded for further action.*
- vii. On 17/03/2021 the Sadhikar Samiti (साधिकार समिति) chaired by the Hon'ble Chief Secretary, Government of Madhya Pradesh, approved Detailed Project Report (DPR) & tender document for the said project were prepared by answering Respondent in which it was discussed that the Infrastructure Development Board discussed the re-densification scheme for the land of Rajaswa Colony, Ujjain. The Preliminary Project Report (PPR) was approved on 10/01/2017, but due to changes proposed by the Collector, Ujjain, in the scheme, there was a delay in preparing the Detailed Project Report (DPR). The upset value was reduced, leading to the construction of 190 government houses instead of the initially planned 285 houses. The*

Collector proposed additional works like furniture and interior decoration for the new Collectorate building. The Infrastructure Development Board approved the DPR and instructed the Collector, Ujjain to estimate the upset price based on the guideline rate, advised removing certain works from the proposed government offices, recommended transfer of land on an owner basis instead of freehold basis, and ensured possession of the land for government construction as per the contract.

- viii. On 13/12/2021 the Sadhikar Samiti (साधिकार समिति) approved the tender, by passing an order bearing order no. एफ-23-03-2021/18-6, stating the action/proceeding under the Government's Ministry of Urban Development and Housing Department. A meeting convened on 26/10/2021, under the Re-densification Policy 2016, discussed the decision of the Empowered Committee regarding the highest offer received for the re-densification scheme of Rajaswa Colony in Ujjain.*

Subsequent to that the Sadhikar Samiti (साधिकार समिति) provided the following directions:

- 1) A meeting was held under the Re-densification Policy 2016 to discuss the highest offer for the Re-densification scheme in Rajaswa Colony, Ujjain.*
- 2) M/s Bansal Construction Works Pvt. Ltd., Bhopal, made the highest offer of Rs. 78.36 crores, 12.75 percent more than the upset value.*
- 3) The Empowered Committee approved the offer and instructed the Housing and Infrastructure Development Board to take advance action.*
- 4) The Collector, Ujjain, was directed to make the designated site vacant for the selected developer as per the contract.*

- ix. *The proposed layout plan was submitted to T&CP and was approved on 13/01/2022. The land in question has indeed been integrated into the re-densification process, and the Detailed Project Report (DPR) sanctioned by the authorities will notably enhance the green areas as part of their re-densification strategy. The number of parks and trees has been significantly increased, with seven new parks slated for development, as delineated on the accompanying map.*
- x. *The layout map of the project which was prepared and proposed by answering Respondent and after being approved by Collector, Ujjain, the No Objection Certificate (NOC) on the said layout plan in Re-densification Policy 2016 was granted by the Department of Town and Country Planning department Ujjain vide letter no. 84/नग्नन/01/2022 dated 13/01/2022.*
- xi. *The Tenders were invited by the Respondent Department for the said project. It is submitted that Bansal Pathways, Ujjain Pvt. Ltd. offered the highest bid therefore and it was selected as the contractor for the construction and development of various Govt. facilities at Rajaswa Colony Ujjain under the re-densification policy 2016. The tender order bearing letter no. 794/TS/Circle/2021-22 dated 11/03/2022.*
- xii. *The permission to cut/shift trees of the said project has been given by Ujjain Municipal Corporation vide their letter bearing no. ३.नि./2022/985 dated 02/11/2022 for the removal of trees obstructing the site under the Rajaswa Colony Re-densification Scheme. The permission is granted based on the deposit of Rs. 25,500 for which 170 plants and trees should be deposited in the corporation nursery. The cutting process must be video graphed in the presence of the Zone 4 Inspector. Copies of the permission were sent to the Commissioner and other relevant authorities for information. All the executions at the site have been performed as per the approvals by the competent authority.*

xiii. As per the approved layout, the total land area is 2.257 hectares, of which 0.3805 hectares have been designated for open spaces and gardens. Previously, two gardens existed within the designated area. However, the approved layout plan incorporates the establishment of seven parks, gardens, and green belts within this project. At the location identified as Public Park I in the petition, two "I-Type" multi-storeyed buildings are proposed, which will occupy not more than 50% of the current park area. Presently, this park is adorned with 19 trees out of which 8 trees are marked for cutting. The area marked as public park 2 in the petition (Existing Park) will not be affected by the construction rather the total area of the proposed park will be enhanced by approx. 1000 m². The new proposed park is approx. two times bigger than the present park and not a single tree will be removed/cut at this location."

7. Learned counsel for the applicant has filed the rejoinder to the reply submitted by the respondent no. 3 and argued that open space are mandatory environmental safeguard which are essential to be maintained as a green area or green belt and further construction of multi-storey building may damage the green belt area in violation of Article 21 and Article 48(a) or Article 51(g) of the Constitution of India. It is further submitted that it is the duty of every citizen to maintain environmental safeguard.

8. Learned counsel for the State has submitted that the citizens may maintained the green belt by planting minimum trees 5 to 10 in own housing area (inside). The present project have been initiated by the Government to provide the residential accommodation by way of constructing the multi-storey building after demolishing the old and dilapidated houses/residences with sufficient number of parks and green area to the residents as well as the proposed housing projects.

9. Learned counsel for the MP Housing Board Sh. Shantanoo Saxena has submitted that proposal has been made for plantation of minimum 10 times of plants at the area to maintain the green area and permission to cut or shift the trees has been taken from the competent authorities.
10. It is further submitted that shifting of trees may be taken by the authorities concerned if possible within the limited resources of available technology, subject to possibility of survival of the trees. Learned counsel for the State has further submitted that the recently the Hon'ble Supreme Court of India has directed the Delhi Municipal Corporation for plantation of approximate 100 trees in place of cutting of one (1) tree to meet out the standard of environment and green belt area.
11. The Learned Counsel for the applicant has taken reliance of the matter reported as *T.N. Godavarman Thirumulpad Vs. Union of India*, (1997) 2 SCC 267 at page 269, the Hon'ble Supreme Court has held that"-

"The Forest Conservation Act, 1980 was enacted with a view to further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be

understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.”

12. The National Forest Policy, 1988 stood enunciated pursuant to Resolution No. 13/52-F, dated 12-05-1952 of Government of India to be followed in the management of State forests in India. The said Policy stood enunciated because over the years forests in India had suffered serious depletion due to relentless pressures arising from ever increasing demand for fuel wood, fodder and timber; inadequacy of protection measures; diversion of forest lands to non-forest uses without ensuring compensatory afforestation and essential environmental safeguards; and the tendency to look upon forests as revenue earning resource. Thus, there was a need to review the situation and to evolve, for the future, a strategy of forest conservation including preservation, maintenance, sustainable utilization, restoration and enhancement of the natural environment. It is this need which led to the enunciation of the National Forest Policy dated 07/12/1988.
13. The principal aim of the Policy was to ensure environmental stability and maintenance of ecological balance. The derivation of direct economic benefit was to be subordinate to the principal aim of the Policy. Under essentials of forest management it is stipulated that exiting forests and forest lands should be fully protected and their productivity improved. It is further stipulated that forest cover should be increased rapidly on hill slopes, in catchment areas and ocean shores. It is further stipulated that diversion of good and productive agricultural lands to forestry should be discouraged in view of the need for increased food Production.

14. Under the Policy a strategy was prescribed vide Para 4. The goal is to have a minimum of one-third of the total land area under forest or tree cover. In the hills and in mountains the aim is to maintain two-third of the area under forest or tree cover in order to prevent erosion and land degradation and to ensure the stability of the fragile ecosystem. Under Para 4.2.3, village and community lands, which is the common feature in north-east regions, not required for other productive uses, should be taken up for development of tree crop and fodder resources and the revenue generated through such programmes should belong to the panchayats where lands are vested in them and in other cases such revenues should be shared with local communities to provide an incentive to them and accordingly land laws should be so modified wherever necessary so as to facilitate and motivate individuals and institutions to undertake tree farming.
15. Para 4.4 deals with diversion of forest lands for non-forest purposes. Under the said para it is stipulated that forest land or land with tree cover should not be treated merely as a resource readily available to be utilised for various projects, but as national asset which requires to be properly safeguarded for providing sustained benefits to the community. Diversion of forest land for non-forest purpose therefore should be subject to most careful examination by experts from the standpoint of social and environmental costs and benefits and further submitted that trees play a very important role in maintaining the ecological balance in the biosphere. Since the beginning, trees have furnished us with two of life's essentials, food and oxygen. On an average, one tree produces nearly 260 pounds of oxygen and absorbs up to 48 lbs of carbon dioxide a year. With the evolution of human civilization contribution of trees in making our life comfortable increased several fold, i.e., they provide such us necessities such as clothing, shelter, medicine, and tools. Today, their value

continues to increase and more benefits of trees are being discovered as their role expands to satisfy the needs created by our modern lifestyles.

Trees contribute to our environment by providing oxygen, improving air quality, climate amelioration, conserving water, preserving soil, and supporting wildlife. During the process of photosynthesis, trees take in carbon dioxide and produce oxygen we breathe. They provide us with fresh air to breathe, shade in summers, food, and other benefits without which we cannot even think of living. Trees control climate by moderating the effects of the sun, rain and wind. Leaves absorb and filter the sun's radiant energy, keeping things cool in summer. Trees also preserve warmth by providing a screen from harsh wind. In addition to influencing wind speed and direction, they shield us from the downfall of rain, sleet and hail.

Trees lower air temperature and reduce the heat intensity of the greenhouse effect by maintaining low levels of carbon dioxide. Both above and below ground, trees are essential to the ecosystems in which they occur. Far reaching roots hold soil in place and fight erosion. Trees absorb and store rain water which reduce runoff and sediment deposit after storms. This helps the ground water supply recharge, prevent the transport of chemicals into streams and prevents flooding. Fallen leaves make excellent compost that enriches soil. In the present day scenario trees in Urban Environment help in muffling the urban noise. In Suburban Environment's they help in providing shade canopy and noise buffers and also congenial habitat for suburban wildlife, while in the rural environment they protect the crops from wind, control erosion and create diverse plant and animal habitats. Despite knowing the importance of trees, human beings are still cutting down the trees and forests have started depleting from this beautiful earth.

16. After perusal of the record as submitted by the learned counsel for the State as well as MP Housing Board we are of the view that State/respondent has taken all precautions for constructing the new residential houses under the Re-densification Policy, 2016 of Govt. of M.P. The high level committee meeting was held with all the departments and the matter has been finalised and work is in progress. No personal right or right of property has been violated by the respondents.
17. The actions are being taken in accordance with the decision taken by the Government, as per rules. So far as, the grievances of the applicant to maintain the green belt area is concerned, learned counsel for MP Housing Board has further submitted that there are approximately seven parks and greenery may be developed accordingly.
18. The State as well as Madhya Pradesh Housing Board, concerned Collector and Municipal Commissioner are directed to maintain the plantation of the trees at the ratio of more than 10 in place of one(1) and to ensure the survival of the trees in future.
19. With these observations **Original Application No. 192/2023** stands **disposed of.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

27th May, 2024
O.A No. 192/2023(CZ)
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