



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 15th MARCH, 2024

IN THE MATTER OF:

+ **W.P.(C) 12986/2021 & CM APPLs. 27304/2022, 38046/2023, 48055/2023, 48056/2023, 61834/2023 & 61835/2023**
KULDEEP SINGH SAHANI & ORS. Petitioners

Through: Mr. Sanjeev Ralli, Senior Advocate with Mr. Mohit Mudgal, Mr. Shubham Yadav, Mr. Chetanya Baweja and Mr. Ravi Kant Yadav, Advocates.
Mrs. Kajal Chandra, Ms. Perna Chopra and Ms. Sakshi Anand, Advocates.

versus

GOVERNMENT OF NCT & ORS. Respondents

Through: Ms. Monika Arora, CGSC with Mr. Subrodeep Saha, Advocate for UOI.
Ms. Aishwarya Bhati, ASG with Mr. Gudipati G. Kashyap, Ms. Apoorva Pandey, Mr. Ronvijay Gohain, Mr. Nishant Pandit, Ms. Manisha Chava and Mr. Deepak Kumar, Advocates for R-2.
Mr. Rishikesh Kumar, ASC for GNCTD with Mr. Atik Gill, Mr. Sudhir Kumar Shukla, Mr. Sudhir, Mr. Sumit Choudhary and Mr. Rishabh Kachhar, Advocates with Insp. Devender Singh, Parvi Officer.
Mr. Tushar Sannu, ASC for NDMC with Mr. Abhishek Singh, Mr. Shivansh Saxena, Advocates.
Mr. Sanjay Katyal, Standing Counsel for DDA with Mr. Nihal Singh, Advocate.
Mr. Ajay Kumar, J.E. (Civil).



+ **CONT.CAS(C) 1345/2023 & CM APPL. 48075/2023**

KULDEEP SINGH SAHANI & ORS.

..... Petitioners

Through: Mr. Sanjeev Ralli, Senior Advocate with Mr. Mohit Mudgal, Mr. Shubham Yadav, Mr. Chetanya Baweja and Mr. Ravi Kant Yadav, Advocates.

versus

P.K. GUPTA, CHAIRMAN AND MANAGING DIRECTOR, NBCC (INDIA) AND ANR.

..... Respondents

Through: Ms. Aishwarya Bhati, ASG with Mr. Gudipati G. Kashyap, Ms. Apoorva Pandey, Mr. Ronvijay Gohain, Mr. Nishant Pandit, Ms. Manisha Chava and Mr. Deepak Kumar, Advocates for R-2.

Mr. Sanjay Katyal, Standing Counsel for DDA with Mr. Nihal Singh, Advocate.

Mr. Rishikesh Kumar, ASC for GNCTD with Mr. Atik Gill, Mr. Sudhir Kumar Shukla, Mr. Sudhir, Mr. Sumit Choudhary and Mr. Rishabh Kachhar, Advocates with SI Devender Singh, Parvi Officer.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present writ petition being W.P.(C) 12986/2021 has been filed by various traders of the Sarojini Nagar Market, including the Sarojini Nagar Market Shop-Keepers Association with the following prayers:-

"(i) Allow the present petition;

(ii) Issue a Writ, order or directions in the nature of



prohibition thereby restraining the Respondents from permanently closing the public roads in the number being 16, as shown in the layout plan/map annexed herewith either temporarily or permanently

(iii) Declare that the closure of 16 collector roads by the respondents is illegal, arbitrary and unconstitutional since the permanent closure of Public Street is being processed without issuing any Public Notice and without obtaining NOC's from the UTTIPEC, ACP of Traffic Police, SHO, Sarojini Nagar, Chief Engineer, NDMC etc. and without passing of the Resolution of the Meeting of the Council Members of the NDMC, thus contrary to the provisions of the section 203,206 and section 209 of the NDMC Act.

(iv) Issue a writ of mandamus directing officials of NBCC i.e, Respondent No.2 to shift proposed retail mall which is to be built to Cross road No.2 as there are already enough shops to cater to the needs of residents and those visiting Sarojini Nagar from various parts of the town as well as from other parts of the country.

(v) Pass a writ of prohibition thereby restraining re-development of the project of GPRA Colony of Sarojini Nagar, till the present problems of Traffic congestion and Parking are not analysed and addressed by the authorities

(vi) Pass a writ of Mandamus thereby directing the Respondent No.6 and 7 to give reports confining the free access in case of emergencies in respect of width of the roads to carry out smooth evacuation and rescue operations by all kinds of fire tenders, cranes etc. "

2. It is stated also stated that the roads which have been closed are public roads and they have been closed without following the procedure under the



New Delhi Municipal Corporation Act, 1994.

3. The Petitioners herein are owners of commercial shops present in the Sarojini Nagar Market, New Delhi, and few of them also reside over the shops. Respondent No 1 is the Government of NCT, Delhi. Respondent No.2 is the National Building Construction Corporation Ltd and Respondent No.3 is the New Delhi Municipal Corporation. Respondent No. 4 is the Commissioner of Police, Delhi, Respondent No. 5 is the Ministry of Urban Development Government of India. Respondent No. 6 is the Delhi Fire Services. Respondent No. 7 is the Delhi Traffic Police, South District and Respondent No. 8 is the Delhi Development Authority.

4. The facts leading up to the present petition arise as a result of a policy introduced by the Ministry of Urban Development, Government of India, which is envisaged in the MPD-2021 for the redevelopment of seven General Pool Residential Colonies for Government Employees (GPRA). The said redevelopment project includes Netaji Nagar, Nauroji Nagar, Sarojini Nagar, Kasturba Nagar, Thyagraj Nagar, Srinivaspuri and Mohammadpur.

5. The residential flats in the vicinity of Sarojini Nagar were originally built in 1952 by CPWD to accommodate government employees. The colonies which developed as a result thereof had a network of various collector roads connected with three internal artery roads namely Brigadier Hoshiyar Singh Marg, Rajmata Vijayaraje Scindia ('I' Avenue) and Sri Vinayak Mandir Marg ('B' Avenue). The current redevelopment plan envisages the complete demolition of the pre-existing residential flats and the construction of Hi-Rise residential towers with commercial spaces for retail, offices and modern state of the art facilities.

6. That the project for redevelopment was to be carried out on a parcel of 258.186 acres land including roads, and the same was entrusted with



Respondent No. 2/NBCC as the executing / implementing agency on behalf of the Ministry of Urban Development, Government of India via an agreement between them. That the NBCC for the abovementioned project has closed a majority of the 21 total collector roads in the Sarojini Nagar Colony area, and their decision to do so is what is contended in the present writ petition being W.P.(C) 12986/2021 and contempt petition being CONT.CAS(C) 1345/2023.

7. It is submitted by the learned Counsel for the Petitioner that roads have been closed in the Sarojini Nagar area. It is further submitted that the closed roads are in the nature of 'public' roads falling within the ambit of public streets defined under section 2(39) read with section 2(51) of the New Delhi Municipal Corporation Act, 1974 as they have been in existence for over 70 years and have been regularly used by the general public visitors to the market area. It is submitted that the closure of public streets must follow the mandatory procedure as per the provisions of Section 203 of the NDMC Act which provides for the chairman of NDMC to close the whole or any part of a public street only after the previous sanction of the NDMC Council. It is submitted that such a sanction was not obtained in the present case. It is submitted that layout plans under the redevelopment project were submitted by NBCC to NDMC for approval and the said approval was granted on 28.11.2021. It is pointed out that the NDMC approval dated 28.11.2021 does not lay out its decision/stand/approval regarding the closure of any of the 16 collector and internal roads around the Sarojini Nagar Market Area and therefore the said decision cannot be read as a resolution of the NDMC Council as required under Section 203. It is stated that such a resolution by the Council ought to have been passed before giving any approval for closure of the 16 roads in and around the market area and that



the closure of roads in the present case are illegal and arbitrary inasmuch as having been done without following the mandatory procedure under Section 203 of the NDMC Act. It is also stated that the closure has occurred without obtaining the requisite NOC's from UTTIPEC, ACP of Traffic Police, DMRC, NDMC, Sarojini Nagar etc. Reliance is placed by the Petitioners on National Building Construction Corporation Limited & Ors. v. Khosmendir Singh Gahunia & Ors., (2016) 16 SCC 36, Central Service Station & Ors. v. NDMC, 2006 SCC OnLine Del 1461 and Central Service Station & Ors. v. NDMC & Ors., 2007 SCC Online Del 1270 to buttress their arguments.

8. It is further submitted that NBCC has also initiated the re-development of Netaji Nagar GPRA in lieu of which a legal resolution dated 26.12.2020 was passed by the NDMC council complying with Section 203 of the NDMC Act for the temporary and permanent closure of certain roads in the Netaji Nagar Area. That however, the same procedure as mandated was not followed in the present case pertaining to the Sarojini Nagar. It is further stated that that the decision taken by NDMC on 28.11.21 approving the re-development proposal for Sarojini Nagar, does not contain any deliberations, discussions or materials on which reliance is placed on the issue of closure of 16 collector and internal roads around the Sarojini Nagar Market Area which are public roads. It is pointed out that despite Netaji Nagar and Sarojini Nagar forming a part of the same redevelopment plan for the seven GPRA colonies, the NDMC cannot have opted for two different procedures of giving approvals for closing public on these two occasions, and the same is arbitrary.

9. It is further submitted that the closure of the 16 roads suffers from Gross Non-Application of Mind and follows an arbitrary approach in so far as no traffic impact assessment survey / study has been conducted by the



NBCC or NDMC before their closure. It is pointed out that no planning as to handle the traffic situation during and after the completion of the re-development project has been carried out since with the closure of 16 roads, only the remaining 5 out of 21 will be operational. It is additionally submitted that contrary to the requirement under Section 3 of the Delhi Maintenance & Management of Parking Rules, 2019 (“Management Parking Rules”) as notified on 23.09.19 for NDMC to prepare a parking plan, no such plan has been prepared nor have the factors or norms mentioned in the above management rules been complied with by the NDMC.

10. It is also submitted that the closure of Roads have been carried out without due consultation with any of the residents or shopkeepers of the area who are members being directly affected by the implementation of the said project. It is submitted that that Section 203 of the NDMC Act mandates that notice and a reasonable opportunity of being heard be given to the residents likely who are likely to be affected in cases of road closure. It is submitted that the same has not been followed in the case at hand. The said decision also discourages visitors from visiting the shops and aids in traffic congestion of the roads leading to the market area giving rise to practical difficulties such as insufficient connectivity of lesser connector roads between such a large commercial hub and arterial roads. It is pointedly stated that Closure of G Avenue, H Avenue and Second Cross Road has a significant impact on the accessibility to both the DLF Parking and the Keshav Park Parking and that the closure of First Cross Road will significantly impact the connectivity between Sarojini Nagar Market and the Pılanji Village.

11. It is further submitted that Sarojini Nagar market under Clause 5.5 of the MPD-2021 has been proposed to be re-developed as a Non-Hierarchal



Commercial Centre and that the re-development project for the market is about to be shortly approved, if the project is approved, it would increase the commercial activities in the area to nearly four times the current rate. It is therefore submitted that the remaining internal roads being only 5 in total after closure of the contended 16 roads would be grossly insufficient to accommodate the footfall, both present and future.

12. *Per contra*, it is submitted by the learned Counsel for Respondent No.3, the NDMC, that the redevelopment plan as approved by them does not sanction any permanent closure of any zonal or master plan roads in the said area. It is submitted that the approval of the layout plan for redevelopment was submitted by NBCC to the NDMC vide scheme no. NDMC/ BPI 0075/ 18-19 on 11.03.2019, was resubmitted on 04.12.2019 and was finally approved via Council meeting held on 28.11.2021. It is submitted that the role of NDMC was limited to approval of the layout plan submitted to them under section 217 of the NDMC Act 1994. Since the L&DO has already allocated the land parcel including roads / streets to NBCC for redevelopment as per the terms of the MOU signed between MoHUA, Government of India and NBCC the said land allocated would be treated as a private land and not 'public streets'. It is submitted that private land does not attract the requirement for compliance under section 203 of the Act.

13. In continuation, the learner Counsel appearing for the Respondent No.2/NBCC submits that a revised plan for the Re-development of Sarojini Nagar Area was prepared as per the Order dated 03.10.2018 passed by this Court in **W.P.(C) 6680/2018** and was submitted to various statutory authorities and the requisite examinations and approvals have been duly obtained. It is further stated that the redevelopment scheme required high-rise buildings and provisions of basement parking's thereby necessitating the



need for internal roads to be re-planned. It is submitted that all required procedures and statutory approvals have been followed including scrutiny and due diligence from Fire Department, NDMC, Environmental Clearance, UTTIPEC, Traffic Department etc. That a detailed traffic augmentation plan had been carried out by specialized agencies, further vetted by two independent agencies and their reports had been submitted to UTTIPEC. It is submitted that a report was also referred to Delhi Traffic Police prior or the final approval for the said plan from the UTTIPEC. It is further reiterated that all attentions have been given to widen and optimise the existing and proposed roads. It is submitted that that the roads concerning the present writ petition are non-public roads under Section 2(39) of the NDMC Act and are internal roads in nature.

14. It is submitted that to regulate the traffic requirements, apart from the existing DLF Parking, a dedicated Multi-Level parking near Metro Station at Vinayak Mandir Marg has been proposed to decongest traffic on existing roads that the proposed redevelopment of Sarojini Nagar has been meticulously planned to cater to the needs of everyone with adequate connectivity and that the NBCC has designed the plan within the permissible limits of various parameters such as Floor Area Ratio, ground coverage, parking etc.

15. It is submitted by the Respondent No.8/DDA, Unified Traffic and Transportation Infrastructure (Planning and Engineering) Centre (UTTIPEC), that the feasibility reports and conceptual drawings of 'Integrated Transit Corridor Development and Street Network Connectivity Plan for the corridor/influence zone along with the detailed design of all intersections and mid-section based on the traffic and feasibility studies for the corridor/network Sarai Kale Khan to IGI Airport including areas



covering "Re-development of General Pool Residential Accommodation (GPRA) Colonies at Kidwai Nagar, Nauroji Nagar, Netaji Nagar, Sarojini Nagar, Mohammaddpur, Thyagraj Nagar, Kasturba Nagar and Srinivasपुरi and AIIMS Trauma Centre in Delhi' was received by them from the Public Works Department and that the above-mentioned proposal was approved in the Governing Body Meeting of UTTIPEC on 19.03.2021. It is submitted that the 16 roads being the point of contention in the present writ petition are all collector roads falling within the proposed redevelopment plan of GPRA colonies and not 'public streets' and therefore the internal layout of the said colonies were not approved by the UTTIPEC. It is also the stand of the Delhi Traffic Police as Respondent No 8 that no new roads were closed in the Sarojini Nagar by the NBCC and that only certain internal roads (Lane C, Lane F, Lane G, Cross Road 2 from Scindia Marg to Lane H, Cross Road 4, 5, 6 from Scindia Marg among others) were closed as per sanctioned plan by the NDMC, which can be seen from the status reports filed by them. It is also observed that for smooth access, adequate options from BHS Marg, Scindia Marg and Vinayak Mandir Marg have been provided for as per the proposed layout plan as per their report.

16. Opposing the submissions of the Respondents, the learned Counsel for the Petitioner contend that the reliance placed on approval under Section 217 of NDMC Act is misplaced and arbitrary as it is only applicable to private land / streets. It is submitted that the 16 collector and internal roads are public streets under Section 2(39) of the Act. The Petitioners buttress their arguments by submitting that the 16 roads have been in existence for more than 70 years being used by public at large as their right of way and that they have been maintained by NDMC using public funds as is evident from the sign boards installed at the entry points of the said roads.



This makes making them ‘public streets’ that require the procedure under Section 203 of the NDMC Act to be followed for such closure. It is also averred that the approval of the layout plan suffers from sheer non-application of mind insofar as NBCC not providing the details of the pre-existing internal roads around the Sarojini Nagar area to the NDMC at the time of approval and the NDMC not seeking / inquiring about the same before sanctioning the proposed plan. It is further denied that the approval for the redevelopment plan of Sarojini Nagar market area has been given by NDMC after taking into account all the NOC’s from different departments and authorities since the said NOC’s have not been placed on record, nor does the NDMC approval order dated 28.11.2021 reflect the same.

17. It is further submitted that judicial review of decisions and functions exercised by an Administrative or Quasi Administrative Authority ought to be exercised in matters of arbitrary exercise of power and violation of mandatory statutory provisions. In such cases, court can exercise control over the decision making process when public interest is involved, as is in the present case. Reliance is placed on the following cases to buttress their arguments namely R.K. Mittal & Ors v. State of Uttar Pradesh and Ors., (2012) 2 SCC 232, S.N. Chandrashekar and Anr. v. State of Karnataka & Ors., (2006) 3 SCC 208 and Jacob Puliyel v. Union of India & Ors., (2022) SCC OnLine SC 533.

18. Heard learned Counsel for the Parties and perused the material on record.

19. For the planned development of Delhi, the Ministry of Housing & Urban Affairs, Government of India has brought out a comprehensive roadmap and plan for redevelopment of the Seven General Pool Residential Colonies for government employees.



20. After India gained Independence, government accommodations were provided to government employees in colonies like Kidwai Nagar, Nauroji Nagar, Netaji Nagar, Sarojini Nagar, Mohammaddpur, Thyagraj Nagar, Kasturba Nagar and Srinivaspuri etc. These flats were built somewhere in 1960s and more than 50 years have passed. The pressure on government accommodation is increasing by the progression of time because these flats primarily consisted of two floors, ground floor and first floor. A plan has been now envisaged after taking into consideration the increase in the requirement of government houses to provide accommodation to the ever increasing government staff and also for comprehensive development of these colonies. The project for the redevelopment plan was recommended by the Expenditure Finance Committee (EFC) and approval is obtained way back in the year 2016. In furtherance of the above-mentioned, a Memorandum of Understanding (MoU) was entered into between the Ministry of Housing & Urban Affairs on 25.10.2016 wherein NBCC was appointed as the implementing agency on behalf of the Ministry which was the land-owning agency.

21. The said redevelopment plan composed of government flats in Nauroji Nagar, Sarojini Nagar which were to be redeveloped by the National Buildings Construction Corporation (NBCC) and other colonies such as Mohammaddpur, Thyagraj Nagar, Kasturba Nagar and Srinivaspuri were to be developed by the CPWD.

22. Massive exercise has been undertaken by the various Departments of the Government and approvals have been taken and the project is already underway. This Court can take judicial notice that the projects in East Kidwai Nagar has been successfully completed by the NBCC and the flats have been allotted to government servants.



23. The main thrust of the arguments of the Petitioners is that the public roads from Brigadiar Hoshiyar Singh Marg, Rajmata Vijayaraje Scindia ('I' Avenue) and Sri Vinayak Mandir Marg ('B' Avenue) which are 16 in number have been closed.

24. It is the categorical stand of the NDMC uncontroverted by the Union of India is that what has been closed are only internal roads which are private roads and not public roads.

25. The categorical stand is that Section 203 of the NDMC Act has not been violated for the reason that they are not public streets at all. The categorical stand of the government is that an area of about 286 acres belonging to the L&DO was allocated for construction of government flats and the land has been transferred to NBCC for the purposes of redevelopment. The roads which were constructed was for the internal purposes of the colony and were not public streets. An approval of the layout plan was applied under Section 217 of the NDMC Act and the same has been sanctioned.

26. It is categorical stand of the NDMC and uncontroverted by the Government that the agenda of the layout plan was placed before the Council vide Item No. 31(V-03) in its Meeting held on 28.11.2021, which has been approved. The said decision taken reads as under:-

<i>Item No</i>	<i>Item</i>	<i>Decision</i>
31 (V-03)	<i>Layout Plan in r/o Redevelopment of Sarojini Nagar, New Delhi-As per section 217 of NDMC Act, 1994, the proposal of Layout Plan in r/o Redevelopment of Sarojini Nagar, New Delhi requires sanction of the</i>	<i>Resolved by the Council to accord approval of Layout Plan in r/o Redevelopment of Sarojini Nagar comprising of construction of residential buildings, social infrastructures, commercial building, local shopping centres, ESS etc. as submitted by NBCC vide scheme</i>



	<i>Council.</i>	<i>no. NDMC/BP/0075/18-19 dt. 11.03.2019 Resubmitted on 04.12.2019) as the requirement of Section-217 of the NDMC Act, 1994 has been complied with. The Architecture Department is further directed to organize presentation by NBCC on the project for kind information of the members of the Council.</i>
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27. Pursuant to the meeting dated 27.04.2022, the Department of Architecture & Environs has released the layout plan for development of GPRA at Sarojini Nagar.

28. The Delhi Police has categorically stated in its affidavit that no public roads have been closed by the NBCC.

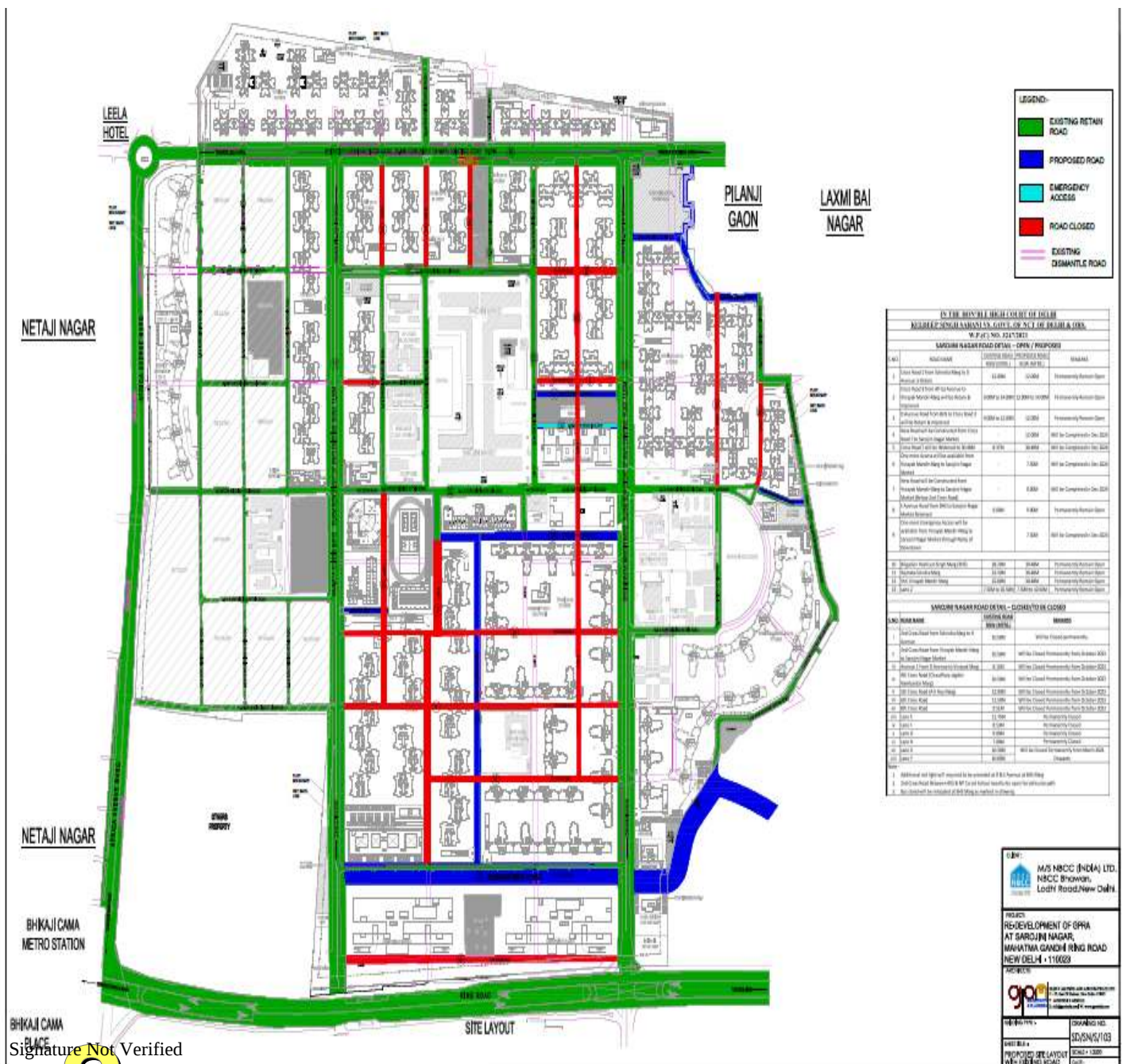
29. As per the layout map submitted by the NBCC, out of the internal roads with footfall in the Sarojini Nagar area, the following roads are proposed to be shut permanently as a part of the re-development project namely:-

- i. 2nd Cross Road from Schindia Marg to H Avenue,
- ii. 2nd Cross Road from Vinayak Mandir Marg to Sarojini Nagar Market
- iii. Avenue 1 from D Avenue to Vinayak Marg
- iv. 4th Cross Road (Chaudhary Jagdev Nambardar Marg)
- v. 5th Cross Road (A K Roy Marg)
- vi. 6th Cross Road
- vii. 8th Cross Road
- viii. Lane C



- ix. Lane F
- x. Lane G
- xi. Lane H
- xii. Lane X and
- xiii. Lane Y.

30. The map with the marked lanes is reproduced below:





IN THE HON'BLE HIGH COURT OF DELHI				
<u>KULDEEP SINGH SAHANI VS. GOVT. OF NCT OF DELHI & ORS.</u>				
W.P.(C) NO. 3247/2021				
SAROJINI NAGAR ROAD DETAIL – OPEN / PROPOSED				
S.NO.	ROAD NAME	EXISTING ROAD	PROPOSED ROAD	REMARKS
		ROW (MTRS.)	ROW (MTRS.)	
1	Cross Road 1 from Schindia Marg to D Avenue is Retain	12.00M	12.00M	Permanently Remain Open
2	Cross Road 3 from Africa Avenue to Vinayak Mandir Marg will be Retain & Improved	9.00M to 14.00M	12.00M to 14.00M	Permanently Remain Open
3	D Avenue Road from BHS to Cross Road 3 will be Retain & Improved	9.00M to 12.00M	12.00M	Permanently Remain Open
4	New Road will be Constructed from Cross Road 7 to Sarojini Nagar Market	-	12.00M	Will be Completed in Dec 2025
5	Cross Road 7 will be Widened to 30.48M	8.37M	30.48M	Will be Completed in Dec 2024
6	One more Access will be available from Vinayak Mandir Marg to Sarojini Nagar Market	-	7.50M	Will be Completed in Dec 2024
7	New Road will be Constructed from Vinayak Mandir Marg to Sarojini Nagar Market (Below 2nd Cross Road)	-	9.00M	Will be Completed in Dec 2025
8	E Avenue Road from BHS to Sarojini Nagar Market Retained	9.00M	9.00M	Permanently Remain Open
9	One more Emergency Access will be available from Vinayak Mandir Marg to Sarojini Nagar Market through Ramp of Downtown		7.50M	Will be Completed in Dec 2023
10	Brigadier Hoshiyar Singh Marg (BHS)	28.20M	30.48M	Permanently Remain Open
11	Rajmata Scindia Marg	22.50M	30.48M	Permanently Remain Open
12	Shri Vinayak Mandir Marg	22.80M	30.48M	Permanently Remain Open
13	Lane Z	7.50M to 10.50M	7.50M to 10.50M	Permanently Remain Open

**SAROJINI NAGAR ROAD DETAIL – CLOSED/TO BE CLOSED**

S.NO.	ROAD NAME	EXISTING ROAD	REMARKS
		ROW (MTRS.)	
i	2nd Cross Road from Schindia Marg to H Avenue	10.50M	Will be Closed permanently
ii	2nd Cross Road from Vinayak Mandir Marg to Sarojini Nagar Market	10.50M	Will be Closed Permanently from October 2023
iii	Avenue 1 From D Avenue to Vinayak Marg	8.12M	Will be Closed Permanently from October 2023
iv	4th Cross Road (Chaudhary Jagdev Nambardar Marg)	10.50M	Will be Closed Permanently from October 2023
v	5th Cross Road (A K Roy Marg)	12.00M	Will be Closed Permanently from October 2023
vi	6th Cross Road	11.59M	Will be Closed Permanently from October 2023
vii	8th Cross Road	9.51M	Will be Closed Permanently from October 2023
viii	Lane C	11.75M	Permanently Closed
ix	Lane F	8.53M	Permanently Closed
x	Lane G	9.00M	Permanently Closed
xi	Lane H	7.00M	Permanently Closed
xii	Lane X	10.50M	Will be Closed Permanently from March 2024 Onwards
xiii	Lane Y	10.00M	

Note:-

- 1 Additional red light will required to be provided at D & E Avenue at BHS Marg
- 2 2nd Cross Road Between BSS & NP Co-ed School need to be open for vehicular path
- 3 Bus stand will be relocated at BHS Marg as marked in drawing



31. The map indicates that 13 roads will be closed and about 13 roads are proposed to be opened and will be completed between 2024-2026. Though some roads would be closed pending the completion of the project but the material on record indicates that the authorities have arrived at a subjective satisfaction that it will not hinder traffic and this Court has no reason to doubt at the decision arrived at by the administrative bodies that adequate precautions had been taken to ensure proper egress and ingress to the market.

32. Materials on record indicate that a land parcel of 258.186 acres including roads, was entrusted to NBCC as the executing agency for the said project. A No Objection Certificate (hereinafter, NOC) was issued to the NBCC by the Land and Development Office under Ministry of Urban Development to proceed further with the Redevelopment of GPRA Colonies at Netaji Nagar, Nauroji Nagar and Sarojini Nagar, new Delhi on 04.01.17. An NOC for the Re-development of GPRA Colony at Sarojini Nagar specifically was also issued by the Delhi Transport Corporation dated 23.08.2017. Furthermore, on 15.10.2018, feasibility reports and conceptual drawings for "Re-development of General Pool Residential Accommodation (GPRA) Colonies at Kidwai Nagar, Nauroji Nagar, Netaji Nagar, Sarojini Nagar, Mohammaddpur, Thyagraj Nagar, Kasturba Nagar and Srinivaspuri and AIIMS Trauma Centre in Delhi was submitted by the Central Public Works Department to UTTIPEC and that the said feasibility report was vetted by two institutions namely Urban Mass Transit Company Pvt. Ltd. (UMTC) and Institute of Urban Transport (IUT). In the meantime, a traffic augmentation plan was also carried out by specialised agency, i.e., CRAPHTS, facilitating by the PWD, NCT Delhi. That a revised proposal



was submitted on 27.05.2019 to the UTTIPEC and the same was vetted for approval on the website for feedback. The revised report as per the requirements of the UTTIPEC was sent to the Delhi Traffic Police for their comments. That suggestions were accepted by the UTTIPEC on 12.04.2021 by confirming and incorporating the observations received from the joint commissioner of Police Traffic (HQ) Delhi and a final proposal was approved on 19.03.2021 by the 62nd governing body meeting and on 14.06.21, the approved drawings were released to the PWD for the overall project layout.

33. That meanwhile, NBCC through its officials and project architects submitted a laid-out Plan for redevelopment pertaining to the Sarojini Nagar Area to the NDMC on 12.03.2019 wherein in principle approval was provided subject to obtaining requisite NOCs as laid out which was further revised and resubmitted on 04.12.2019. Furthermore, as per Clause 2.3.3(a) of the Unified Building By-Laws 2016, approvals/NOCs' from external agencies was required. The requisite NOCs for the Redevelopment at Sarojini Nagar has been approved and obtained by the NBCC a NOC from the Ministry of Environment, Forest and Climate Change was sought for on 18.02.2019 via online proposal for redevelopment of General Pool Residential Accommodation (GPRA) Colony at Sarojini Nagar by M/s NBCC India Limited-Amendment in Environmental clearance and was granted on 24.06.2019. A NOC from the Delhi Pollution Control Committee was sought for Via Application ID 1719030 on 09.08.2019 and was granted on 25.10.2019. A NOC by the Delhi Urban Arts Commission was provided on 23.01.2020 and on 05.02.2020, an NOC from the Fire Department on building projects was also granted along with the requisite approval on 05.02.2020. It can be seen that various NOC's were also approved by the



Delhi Traffic Police starting from 09.08.2017 till 06.01.2021 for a period ranging a few months which got sequentially renewed. The final NOC was granted by the Delhi Traffic Police for a period of 3 months and henceforth, no new NOCs were issued by them. It is also submitted on affidavit by the Respondent No.3/ NDMC that further requisite NOCs from Delhi Jal Board, Central Grown Water Authority, Executive Engineer (Sewerage Maintenance), MTNL, DMRC, Tree Cutting Officer, CFO and Electrical Department were duly taken and considered. That finally the NDMC Council, after the NOCs as stated above had been obtained, approved the zonal plan as laid before it by the NBCC on 28.11.2021 vide Item No.31(V-03) as per Section 217 of the NDMC Act 1994 read with MPD 2021 and Unified Building By-Laws 2016.

34. This Court has perused the file of the NDMC and finds that all the necessary permissions had been taken. This Court has also perused the following documents which have been annexed with the writ petition:-

- i. Convey letter dated 12.03.2019 bearing No.NDMC/BP/0075/18-19 issued by NDMC, Building Section.
- ii. Approval Letter dated 23.01.2020 bearing No.OL-20121924039 issued with respect to Redevelopment of GPRA Colony, Sarojini Nagar.
- iii. Letter bearing No. No. F.6/DFS/MS/2020/BP/44 issued by the Delhi Fire Service with regard to clearance of building plans in respect of revised plans for redevelopment of GPRA at Sarojini Nagar, New Delhi.
- iv. Letter dated 24.06.2019 bearing F.No.21-338/2017-IA-III issued by the Ministry of Environment, Forest and Climate Change with regard to the amendment in environmental clearance.



- v. Letter dated 04.01.2017 bearing No. L&DO/L-II-A-1(1915)/2016/2 issued by the Ministry of Urban Development, Land & Development Office granting NOC for the redevelopment of GPRA colonies at Nauroji Nagar, Netaji Nagar and Sarojini Nagar.
 - vi. Letter dated 23.08.2017 bearing No.Sr.Mgr.(C)PMC/334 D/F/17/416 issued by the Delhi Transport Corporation.
 - vii. Letter dated 12.04.2021 bearing No. F.1 (2)2020/UTTIPEC/62nd/D-87 issued by the Delhi Development Authority.
 - viii. Certificate No.G-3755 dated 25.10.2019 issued by the Delhi Pollution Control Committee.
 - ix. Letter dated 27.04.2022 bearing No.CA/BP/G.P.R.A at Sarojini Nagar /D-217-222 issued by the Department of Architecture & Environs with regard to release of layout plan for redevelopment of the GPRA at Sarojini Nagar.
35. It can also be observed that a letter was issued by the Petitioners to the Ministry of Home Affairs dated 15.03.2021 expressing their grievance with respect to the unresolved issued with the NBCC and the NBCC in response to the said letter had held a meeting with the petitioners and the Sarojini Nagar Market Association on 12.03.2021. It can also be seen that a traffic stimulation was shown to them by the petitioner on 22.03.2021 to bring to their attention that the points of entry in the internal roads towards the parking sites are not blocked. Moreover, a meeting was also held between the officials of the NDMC and the NBCC dated 31.05.2023 wherein further objections raised by the petitioner associations were discussed and it was agreed that two more roads apart from the ones already planned for connectivity in the area would be provided for. Material on record also indicate that five roads or accesses shall be constructed/ restructured as



under the redevelopment plan to manage as a part of the project to ease access and towards adequate provisioning for footfall. As per the layout plan submitted by the NBCC, an emergency access road from Vinayak Mandir Marg to Sarojini Nagar through the ramp of downtown is scheduled to have been completed in the month of December 2023. Furthermore, the following roads works:-

- i. Widening of 7th Cross Road from 8.37 meters to 30.48 meters
- ii. Construction of a new access road from Vinayak Mandir Marg to Sarojini Nagar Market will be completed by December of 2024 and
- iii. Construction of a new road from Vinayak Mandir Marg to Sarjini Nagar Market (Below 2nd Cross Road) and
- iv. another new road from Cross Road 7 to Sarojini Nagar market is to be completed by December 2025.

36. The jurisdiction under Article 226 of the Constitution of India while examining administrative actions has also been well defined. The Apex Court in Municipal Council, Neemuch v. Mahadeo Real Estate & Ors., (2019) 10 SCC 738, has observed as under:-

"14. It could thus be seen that the scope of judicial review of an administrative action is very limited. Unless the Court comes to a conclusion that the decision-maker has not understood the law correctly that regulates his decision-making power or when it is found that the decision of the decision-maker is vitiated by irrationality and that too on the principle of "Wednesbury unreasonableness" or unless it is found that there has been a procedural impropriety in the decision-making process, it would not be permissible for the High Court to interfere in the decision-making process. It is also equally well settled that it is not



permissible for the Court to examine the validity of the decision but this Court can examine only the correctness of the decision-making process.

15. *This Court recently in W.B. Central School Service Commission v. Abdul Halim [W.B. Central School Service Commission v. Abdul Halim, (2019) 18 SCC 39 : 2019 SCC OnLine SC 902] had again an occasion to consider the scope of interference under Article 226 in an administrative action:*

“31. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . If the provision of a statutory rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ court by issuance of writ of certiorari.

32. *The sweep of power under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no*



reasonable person could have ever arrived at it, the same is liable to be struck down by a writ court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse.

33. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ court does not interfere, because a decision is not perfect.

16. It could thus be seen that an interference by the High Court would be warranted only when the decision impugned is vitiated by an apparent error of law i.e. when the error is apparent on the face of the record and is self-evident. The High Court would be empowered to exercise the powers when it finds that the decision impugned is so arbitrary and capricious that no reasonable person would have ever arrived at. It has been reiterated that the test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken. Not only this but such a decision must have led to manifest injustice.

17. In the light of the aforesaid principles, let us examine the facts of the present case. Undisputedly, in the present case, before inviting the bids, prior approval of the State Government, as is required under Section 109 of the said Act, was not taken. It appears that only after the tender process was finalised and the Municipal Council had taken a decision to accept the



bid of Respondent 1, two municipal counsellors raised objection under the provisions of Section 323 of the said Act, before the Collector, Neemuch. The Collector, Neemuch on 18-7-2008 had granted stay to the proceedings. Finally, the Collector, vide order dated 23-12-2008 held that for granting the said land on lease for a period of 30 years, the approval of the State Government is necessary. Pursuant to the said order by the Collector, the matter was sent to Respondent 2 State Government. The Principal Secretary to the Government of Madhya Pradesh addressed a communication to the Commissioner, Ujjain Division, Ujjain (hereinafter referred to as "the Commissioner") thereby authorising him to transfer the land in question. While doing so, the State Government also directed the Commissioner to inspect that the utilisation of the land was for the purposes as provided under Neemuch Development Plan 2011."

37. It is well settled that Courts do not run Governments and they also cannot act as an Appellate Authority over the policy decisions taken by the government. The Apex Court in Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664, has specifically held that courts should not be called to undertake government duties or functions. The Apex Court observed as under:-

"233. At the same time, in exercise of its enormous power the court should not be called upon to or undertake governmental duties or functions. The courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under the Constitution casts on it a great obligation as the sentinel to defend the values of the Constitution and the rights of Indians. The courts must, therefore, act within their judicially permissible



limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the court will not interfere. When there is a valid law requiring the Government to act in a particular manner the court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words the court itself is not above the law.

234. In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the court to go into and investigate those areas which are the function of the executive. For any project which is approved after due deliberation the court should refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government, is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision. "

38. Similarly, the Apex Court in State of U.P. & Anr. v. Johri Mal, (2004) 4 SCC 714, has observed as under:-

"28. The scope and extent of power of the judicial review of the High Court contained in Article 226 of the Constitution of India would vary from case to case,



the nature of the order, the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether the power is statutory, quasi-judicial or administrative. The power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The power is not intended either to review governance under the rule of law nor do the courts step into the areas exclusively reserved by the suprema lex to the other organs of the State. Decisions and actions which do not have adjudicative disposition may not strictly fall for consideration before a judicial review court. The limited scope of judicial review, succinctly put, is:

(i) Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies.

(ii) A petition for a judicial review would lie only on certain well-defined grounds.

(iii) An order passed by an administrative authority exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal.

(iv) A mere wrong decision without anything more is not enough to attract the power of judicial review; the supervisory jurisdiction conferred on a court is limited to seeing that the Tribunal functions within the limits of its authority and that its decisions do not occasion miscarriage of justice.

*(v) The courts cannot be called upon to undertake the government duties and functions. The court shall not ordinarily interfere with a policy decision of the State. Social and economic belief of a judge should not be invoked as a substitute for the judgment of the legislative bodies. (See *Ira Munn v. State of Illinois* [94 US 113 : 24 L Ed 77 (1876)] .)"*



39. In Vasavi Engg. College Parents Assn. v. State of Telangana, (2019) 7 SCC 172, the Apex Court has observed as under:-

"16. Judicial review, as is well known, lies against the decision-making process and not the merits of the decision itself. If the decision-making process is flawed inter alia by violation of the basic principles of natural justice, is ultra vires the powers of the decision maker, takes into consideration irrelevant materials or excludes relevant materials, admits materials behind the back of the person to be affected or is such that no reasonable person would have taken such a decision in the circumstances, the court may step in to correct the error by setting aside such decision and requiring the decision maker to take a fresh decision in accordance with the law. The Court, in the garb of judicial review, cannot usurp the jurisdiction of the decision-maker and make the decision itself. Neither can it act as an appellate authority of TAFRC."

40. Undoubtedly as stated earlier, there may be some difficulties in movement of traffic pending construction but that cannot be reason for closing down the entire process. This Court *vide* Judgment dated 31.08.2023 in Ramesh Jadwani & Anr. v. Union of India & Ors., **W.P.(C) 1330/2023** has observed as under:-

"1. The instant writ petition has been filed for issuance of a writ of mandamus directing Respondent No.2 to remove the blockages and barricades from all the roads to and from the Sewa Nagar Market area and for opening of the public roads. The Petitioners have also prayed for issuance of mandamus directing Respondent No.2 to provide an appropriate alternate access route to the Sewa Nagar Market and Sewa Nagar Colony."

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19. A perusal of the above shows that while exercising jurisdiction under Article 226 of the Constitution of India judicial review in governmental decisions, the Courts must only see whether the decision taken is vitiated by an apparent error of law which is self evident on the face of the record. Even if there are two opinions possible, Courts must desist from interfering with the administrative decisions taken by the government and Courts do not interfere with such decisions unless the decision is so arbitrary and capricious that no reasonable person could arrive at such decision. Court do not substitute its own conclusions to the decisions arrived at by the administrative authorities. It is well settled that Court do not run governments and the government must be permitted to function smoothly.

20. The facts of the present case reveal that the residents of the area are being put to some difficulty and their movement is being restricted but this Court also cannot lose sight of the fact that the entire area is being redeveloped and excavations are going on for the purpose of construction. Opening of roads to the general public will lead to delay in the progress of the project and from movement of people/vehicle it can also lead to accidents on account of excavation which has taken place in the area. "

41. The Ministry of Housing & Urban Affairs has filed an affidavit which shows the satisfaction of the Union of India on the implementation of the scheme. The relevant portion of the affidavit reads as under:-

" 6. That Writ Petition bearing WP (C) No. 6680/2018 was filed before this Hon'ble Court, whereby the scheme for re-development of the 7 GPRA colonies was challenged. That as per the judgment dated 03.10.2018 passed by this Hon'ble Court in the said Writ Petition, NBCC revisited its earlier plan and submitted the same



to various statutory authorities and received approvals from various authorities including UTTIPEC, DUAC, Environmental Clearance, Fire Department, etc. That NDMC Council has approved the layout plan submitted by NBCC, as per the provisions of the NDMC Act, 1994 on 28.11.2021 and NDMC has released duly signed & stamped layout/building plan on 27.04.2022.

7. That the detailed traffic augmentation plan for 7 GPRA colonies including Sarojini Nagar have been carried out by specialized agencies i.e. CRAPHTS Consultant through PWD, NCT Delhi. The same was vetted by two independent agencies i.e. IUT and UMTC after incorporating their recommendation and the final report was accepted by the Respondent No.5 on 20.05.2019, which was submitted to UTTIPEC on 27.05.2019. Further, as per the requirement of UTTIPEC, the report was referred to Delhi Traffic Police for their comments and after examination, they provided suggestions vide letter dated 17.12.2019 which were incorporated by CRAPHTS Consultant vide letter dated 26.12.2019 and their acceptance of incorporation is recorded in minutes of meeting dated 16.06.2020. Thereafter, the proposal was recommended / passed by core committee and final approval by governing body of UTTIPEC on 19.03.2021.

8. That in so far as closure of roads is concerned, as per Section 203 of the NDMC Act, 1994 express permission from NDMC is required to be taken for closure of any public road. Hence, it is for the NDMC to state the current status with regard to the closure of the road. However, a perusal of the lay-out plan, duly approved by NDMC, makes it clear that there is no permanent closure of any zonal plan/master plan roads in the said area. "



42. After perusing the material on record, this Court is of the opinion that the minor inconveniences being faced by the shopkeepers or by the market goers at this juncture cannot derail the comprehensive plan for the redevelopment of the colonies. The Apex Court in National Building Construction Corporation Limited & Ors. v. Khosmendir Singh Gahunia & Ors., (2016) 16 SCC 36, has observed as under:-

"18. The original petitioners before the High Court have expressed apprehensions during the course of the hearing about whether the road would be restored in a manner as is required under the sanctions issued by NDMC. On their behalf, it has been urged that necessary safeguards may be instituted by this Court so that these apprehensions are duly allayed. On the other hand, the learned Attorney General submitted that as a result of the judgment of the Delhi High Court, the execution of the project, which involves an outlay of Rs 5300 crores, has been stalled and it is necessary for the earlier completion of the project that this state of impasse should end. Moreover, it has been urged that the original petitioners before the High Court are not residents of Kidwai Nagar (East) which was a colony for government servants but are residents of nearby localities. It was urged that a temporary closure of the road to facilitate the progress of the work would not cause any prejudice to the residents of colonies in the vicinity who have alternative means of ingress and egress. Moreover, it was urged that since the appellants have now stated clearly that they shall restore the road by December 2018 in accordance with the terms of the approved layout plan, the apprehensions of the residents' associations would be duly met.

19. We have adverted to the affidavit which has been filed on behalf of the appellants during the course of



the hearing and to the undertaking that the appellants would by December 2018 restore the road in accordance with the terms of the approved layout plan. In other words, the closure of the road is not of a permanent nature but is of a temporary character to facilitate the completion of the work. Presently, it has been stated that Veer Chandra Singh Garhwali Marg has been excavated to a depth of 35 to 40 ft for facilitating the construction of basements which will be interconnected at points which would fall under the road. A temporary closure of ingress and egress has been necessitated to avoid any mishaps. That being the position, we see merit in the grievance of the appellants that at this stage, the balance of convenience would lie in allowing the completion of the project. We accept the assurance furnished by the appellants on affidavit and through the learned Attorney General in Court. The project for redevelopment having received the statutory approvals, it is necessary to facilitate the completion of the project on schedule. The statements which have been made on behalf of the appellants in the further affidavit as well as the undertaking would adequately protect the concerns of the petitioners who had moved the Delhi High Court. At the same time, we deem it appropriate and proper in the interests of justice to remit the proceedings to the High Court to consider whether any additional safeguards should be introduced so as to allay the genuine apprehensions of the petitioners before it. For that purpose, the proceedings shall stand remitted back to the High Court for the limited purpose of considering whether any such additional safeguards are required and if deemed necessary to provide for them. In the meantime, we clarify that in view of the statements made before this Court on affidavit by the appellants and the undertaking before this Court as noted earlier, the project for redevelopment shall proceed unhindered. However, we leave it to open the High Court to impose suitable safeguards in pursuance of the present judgment, to allay the apprehensions of



the original petitioners."

(emphasis supplied)

43. The judgments relied on by learned Senior Counsel for the Petitioners to establish that the mandatory requirement under Section 203 and 204 of the NDMC Act are of no relevance as the roads are not public roads. The land of about 286 acres was handed over by the L&DO and the land of L&DO was used for the purpose of construction and now the entire land has been given to NBCC. When the Government of India had NBCC has taken a stand that these are public roads, this Court is not inclined to and those judgments are irrelevant and for places like Netaji Nagar different yardstick has been applied for the reason that each colony has to be seen in the facts of that case and equal yardsticks cannot be applied to these colonies.

44. The Petitioners have also filed a contempt petition being CONT.CAS(C) 1345/2023 on the allegation of wilful and deliberate disobedience of the observations of this Court in the Order dated 27.07.2023 passed in W.P.(C) 12986/2021. The said Order dated 27.07.2023 reads as under:

"CM APPL. 38046/2023

Issue Notice.

List on 23.08.2023 at 04:00 PM.

In the meantime, the Respondents are directed to ensure that the issue pending before this Court is not over-reached.

Let pleadings be completed before the next date of hearing.



It is made clear that the Writ Petition will be heard on the next date of hearing and no adjournments shall be granted on that day.

The date already fixed in the matter, i.e. 15.09.2023, stands cancelled.”

45. It is observed that the Redevelopment Project at Sarojini Nagar is being carried out after due compliance with all procedural requirements prescribed, and no procedural irregularity is made out. It has also obtained a No Objection clearance from various departments and bodies prior to the commencement of the project. This Court is of the opinion that the Respondents have not taken any steps which would have rendered the petition infructuous and the issue pending in the Court has not been overreached. It is not the case of the Petitioners that the Respondents have taken any step which is irreversible or the writ petition would have to be disposed of as a *fait accompli*. At this juncture, this Court does not deem it necessary to pass orders against the conduct of the Respondents for undertaking the works which form a part of the said project.

46. With these observations, the writ petition along with contempt petition and pending applications are dismissed.

SUBRAMONIUM PRASAD, J

MARCH 15, 2024

hsk/am