



**APPROPRIATE WRIT TO RESPONDENT NO. 1;**  
**UNION OF INDIA ORDERING, DIRECTING AND**  
**CALLING OF RECORDS FOR QUASHING**  
**NOTIFICATION SO 1192 (E) DATED 20<sup>TH</sup> MARCH 2020,**  
**WHICH SUPERSEDED PUBLIC NOTICE S.O. 4587 E**  
**DATED 21.12.2019, ISSUED BY RESPONDENT NO. 2**  
**DELHI DEVELOPMENT AUTHORITY (DDA). THE**  
**STATED NOTIFICATION HAS BROUGHT ABOUT**  
**CHANGE IN LAND USE (CLU) IN SPECIFIED LAND**  
**PARCELS MENTIONED IN THE NOTIFICATION IN**  
**ZONE D & ZONE C OF MASTER PLAN DELHI 2021,**  
**EVEN AS THE PUBLIC NOTICE SO 4587(E) WAS**  
**BEING HEARD BY THIS HON'BLE APEX COURT AND**  
**THE SAME IS SUB JUDICE BEFORE THIS HON'BLE**  
**COURT, IS IN COMPLETE DERROGATION OF**  
**ARTICLE 14 AND 21 OF THE CONSTITUTION OF**  
**INDIA, AND RULE OF LAW AND IN THE MATTER OF**  
**ARTICLE 21 OF THE CONSTITUTION OF INDIA TO**  
**PROTECT THE RIGHT TO PUBLIC, SEMI-PUBLIC,**  
**SOCIAL AND RECREATIONAL OPEN SPACES AS A**  
**COROLLARY TO THE RIGHT TO A WHOLESOME**  
**LIFE AND ENVIRONMENT FOR THE RESIDENTS OF**  
**DELHI, AND CITIZENS OF INDIA.**

To,  
THE HON'BLE THE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUDGES  
OF THE HON'BLE SUPREME COURT

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:**

1. This petition under Article 32 of the Constitution of India is being brought before this Hon'ble Court by Rajeev Suri, a citizen of India and a member of civil society, a resident of Defence Colony New Delhi, working on environmental and urban issues challenging the notification issued by the Respondent No.1 notifying the change in land use. Respondent No.1 notified change in land use vide Notification SO 1192 (E) dated 20<sup>th</sup> March 2020, superseding Public Notice S.O. 4587 E dated 21.12.2019, issued by Respondent No. 2 Delhi Development Authority (DDA), even though the stated Public Notice SO 4587(E) dated 21.12.2019 is under challenge and being heard by this Hon'ble Court.
2. Presently the Petitioner has the following petitions pending before the Hon'ble Supreme Court; *Right to Play*: wherein prayers are made out for dedicated recreational open spaces be made available for active sports for children; *Gumti of Shaikh Ali*: wherein prayers are made out to

preserve and protect a 14<sup>th</sup> century Lodhi era endangered historical structure; WSAS: implementation of Waste Segregation at Source. Concerned about the land use being changed in the most cherished and iconic Central Vista which lies in the heart of Lutyens Bungalow Zone and is governed by its own existing regulations from recreational, public and semi-public spaces; to that of government offices and residences, which has been available to the people of India; this Petition is filed before this Hon'ble Court under Article 32 of the Constitution of India.

3. This Petition challenges the entire process of subjugation of Rule of Law and judicial protocol, whereby Respondent No. 1 notified change in land use vide Notification SO 1192 (E) dated 20<sup>th</sup> March 2020, superseding Public Notice S.O. 4587 E dated 21.12.2019, issued by Respondent No. 2 Delhi Development Authority (DDA), even though the stated Public Notice SO 4587(E) dated 21.12.2019 is under challenge and being heard by this Hon'ble Apex Court. A copy of Public Notice dated 21.12.2019 is annexed hereto as **Annexure P-1** (Pg. 51)
4. The Petitioner filed Writ Petition (Civil) bearing W.P.(C) No. 1568 of 2020 dated 10.02.2020 in the Hon'ble High Court of Delhi, challenging the Public Notice S.O. 4587 E

dated 21.12.2019 issued by Respondent No. 2. The Ld. Single judge vide order dated 11.02.2020 inter alia ordered “... 20. In case, a decision is taken to notify the proposed changes in MPD 2020-2021, the DDA will approach the court before notifying such decision”. A copy of Public Notice dated 4.2.2020 and order dated 11.2.2020 passed by the Learned Single Judge is annexed as **Annexure P-2** (Pg. 52) and **Annexure P-3** (Pgs. 53 - 56)

5. Subsequently, Respondent No. 1 filed Letter Patent Appeal being LPA No. 119 of 2020 and before the Hon’ble Division Bench of the Hon’ble High Court of Delhi challenging the order of the Learned Single Judge 11.2.2020, whereby the Hon’ble Division Bench vide order dated 28.02.2020 proceeded *ex parte* and, ordered “Issue notice to the respondents, returnable on 6th May, 2020. In the meanwhile, as an *ex parte* ad interim order, the operation, implementation and execution of the order dated 11th February, 2020 passed by the learned Single Judge in W.P.(C) No.1568/2020 and W.P.(C) No.1575/2020, to the extent the direction issued in paragraph 20 is concerned, shall remain stayed till the next date of hearing.” A copy of the order dated 28.2.2020 passed by the Hon’ble Division Bench is annexed as **Annexure P-4** (Pgs. 57-58).

6. Thereafter, the Petitioner aggrieved by the order dated 28.02.2020 of the Hon'ble Division Bench of Hon'ble High Court of Delhi filed a Special Leave Petition before the Hon'ble Apex Court bearing SLP No. 8430 of 2020 dated 02.03.2020, whereby on the first date of hearing, the Hon'ble Apex Court vide order dated 6.03.2020, directed transfer of entire Writ Petition 1568 of 2020 from the Hon'ble High Court of Delhi to this Hon'ble Apex Court, stating that, "In our opinion, it is just and proper that writ petition itself is heard by this Court instead of examining the grievance about the manner in which the interim directions have been passed and then vacated by the High Court," and "in larger public interest, we deem it appropriate that the entire matter pertaining to challenge pending before the High Court is heard and decided by this court expeditiously." The Letter Patent Appeal No. 119 of 2020 before the Hon'ble High Court stood disposed of. The Registry was directed to forthwith call for the records of the Writ Petition and matter was posted to 18.3.2020. This Hon'ble Court also directed that any steps taken by the authorities, in the meantime, would be subject to the outcome of the proceedings. A copy of the order dated 6.3.2020 is annexed as **Annexure P-5** (Pgs. 59 - 60).

7. Public Notice S.O. 4587 E dated 21.12.2019, issued by Respondent No. 2, Delhi Development Authority (DDA), intended to bring about modifications to Zonal Development Plan of Zone 'D' (for plot nos. 1 to 7) and Zone 'C' (for plot no: 8). This notification was challenged by the Petitioner in the Hon'ble High Court of Delhi, (now transferred to the Hon'ble Supreme Court) as beyond the scope of Section 11A of the DDA and beyond the powers of Respondent No. 2 DDA, and as not being in conformity with the Master Plan Delhi 2021 (MPD2021) and larger laws of the country. However, Respondent No. 1 notified change in land use vide Notification SO 1192 (E) dated 20<sup>th</sup> March 2020, even though the matter pertaining to the challenge of the public notice dated 21.12. 2019 is pending before the Hon'ble Apex Court. A Copy of the Notification Dated 20.3.2020 is annexed as **Annexure P-6** (Pgs. 61 -64).
8. The proposed change in land usage of Central Vista, the historical boulevard of approximately 3.5 kms from Rashtrapati Bhawan to India Gate, and further to the National Stadium, is a symbol of India's historic past, its nationhood, its vibrant democracy; where living history breathes from every inch of this cherished stretch of land, where the 26<sup>th</sup> January Republic Day parade and Beating

Retreat are held every year. Central Vista is an essential ingredient of our sovereignty and pride, and also where Recreational Open Spaces and Public and Semi-Public Spaces are available for the enjoyment by the citizens, and is a major attraction for the tourists who visit the country. Being at heart of New Delhi, Central Vista houses Rashtrapati Bhawan, Parliament House, North and South Block, India Gate, Vice President Residence, National Museum, National Archives, Indira Gandhi National Centre for Arts, Nirman Bhawan, Udyog Bhawan, to name a few of the prominent buildings located here.

9. Article 49 of the Indian Constitution provides for *“Protection of monuments and places and objects of national importance”*. It reads as, *It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, [declared by or under law made by the Parliament] to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.*

#### **A. THE PUBLIC TRUST DOCTRINE**

10. The Public Trust Doctrine is a well-accepted Doctrine of public administration, which espouses certain resources are common and the shared property of all citizens, stewarded in perpetuity by the State. The doctrine enjoins



upon the State to protect such resources for the use of the general public, rather than to permit it only for use of a certain class or section of the people. The Doctrine commands the State to ensure public resources are protected and kept available not just for the present generation, but future generations to enjoy and utilise without being monopolised by a class, section or ownership.

11. The doctrine visualises the role of the State as a trustee. Article 48A of the Constitution states “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country”. The state's trusteeship duties have been expanded to include a right to a healthy environment. Thus, the question arises; are Public and Semi-Public Spaces, and Recreational Open Spaces and District Parks of the Central Vista placed with the State in Public Trust, being managed and protected by the State in a manner safeguarding it for future generations?
12. At this stage the term Sustainable Development assumes significance. Gro Harlem Brundtland coined what remains as the best definition of Sustainable Development; “Sustainable Development is the kind of development that

meets the needs of the present without compromising the ability of future generations to meet their own needs.”

13. When the Public Trust Doctrine and Sustainable Development are juxtaposed with each other, an extremely powerful dictum emerges, that of all development in the present should protect Public facilities in perpetuity for future generations, in consonance with Brundtland definition of Sustainable Development. The heart of the public trust doctrine is that it imposes limits and obligations upon government agencies and their administrators on behalf of all the people and especially future generations.
14. In the ‘Redevelopment’ of Central Vista, the entire matter has been clothed in secrecy and opacity. More sinister, is the murky dubious and suspicious events, leading up to the present-day events. Foremost is the malevolent and malicious manner in which Central Government decided in May 2015 to withdraw India’s nomination to attain a world heritage city tag for Delhi’s Imperial Capital Cities from UNESCO; a quest it had been pursuing over the last decade or so. A dossier meticulously and painstakingly created over the previous five years and placed before UNESCO’s World Heritage Committee, was abruptly withdrawn a month before a final decision was to be taken

by UNESCO, without any reasons being assigned by the Government.

15. While conservationists and heritage lovers were flummoxed at the Central Government's decision to pull out its nomination at the last moment, the bland answer from the Government was Development would suffer. It however conjectures that the Central Government belatedly came to realise it would lose its ability to mortgage the immense economic value of the Lutyens' Bungalow Zone for pecuniary gain and decided to withdraw India's nomination, thus depriving Delhi of the prestigious heritage tag of Imperial Capital Cities of the world. It thus becomes apparent the sinister design of the Central Government as Trustees of the Central Vista, betrayed Public Trust decided to use these lands for the benefit of a small class of people, depriving the citizens of the country and residents of Delhi of their most valued and cherished Recreational Open Spaces. Public and Semi-Public Spaces; the prime lands of Central Vista.

### **B. THE CONSPIRACY THEORY**

#### **CHANGE OF LAND USE OF CENTRAL VISTA**

16. Following the abrupt withdrawal of India's nomination on 21<sup>st</sup> May 2015 from UNESCO to attain a heritage tag for Central Vista and Lutyens Bungalow Zone in New Delhi,

the Central Government embarked on preparatory work to change the land use of select plots of land in Central Vista. The Letter Patent Appeal (LPA) No. 119 of 2020 filed by Respondent No 1 Union of India, in their Annexure C titled **AGENDA FOR THE TECHNICAL COMMITTEE MEETING** reveal the truth unwittingly. Serial 3.0 “Information as per MoUHA, GoI letter dated 07.04 2015 and 04.09.2015” sought detailed information from Land & Development Officer (L&DO) on wide ranging subjects related to Central Vista, such as background of Lutyens Delhi land ownership, site inspection, public purpose of CLU etc.

17. The unassailable inference that emerges from the enunciation above is that the Central Government had decided as early as in 2015 to convert usage of select parcels of land of Central Vista, and began preparatory work on appropriating it from year 2015. The year 2015 assumes greater significance as this was the year Central Government abruptly withdrew India’s nomination from UNESCO for Delhi’s heritage ‘Imperial Capital Cities’ tag, thereby providing clinching evidence the withdrawal was linked with exploiting Recreational Open Spaces and Public and Semi-Public Spaces of Central Vista in Lutyens Bungalow Zone. Such action cannot be deemed in the

interest of the country and the city of Delhi, and tantamount to a betrayal of public trust by the Central Government.

18. The Central Government then in 2017 again without revealing its intention issued Notification SO 3348 (E) dated 17.10.2017 amending Master plan (MPD 2021) permitting Public and Semi-Public facilities (PSP) land use zones to be used for Government offices. Such amendment to the Master Plan in isolation failed to arouse suspicion of the real intent and purpose of this amendment; and the gullible trusting citizens of Delhi were tricked by chicanery and sleight of the hand by conniving public authorities betraying Public Trust reposed with them.
19. Finally, after all the preparatory work had been completed Central Public Works Department (CPWD) issued a notice dated 2<sup>nd</sup> September, 2019 inviting bids for the “Development/ Redevelopment of Parliament Building, Common Central Secretariat and Central Vista at New Delhi”. The Tender Document asked for “A New Master Plan is to be drawn up for the entire Central Vista area that represents the values and aspirations of a New India – Good Governance, Efficiency, Transparency, Accountability and Equity and is rooted in the Indian Culture and social milieu”. However, most ironically, the

very tenets required in the tender New Master Plan was flouted in the tendering processes which was opaque, non-transparent, and completed within a period of 45 days, leaving the citizens of India and Delhi bewildered at the blitz of awarding a tender for Rs. 20,000 crores.

20. Hidden facts of the 'Redevelopment' of Central Vista which have not been revealed by either Respondent No.1 and Respondent No.2 is; MPD 2021 permits 10% commercialisation in Redevelopment Projects. Further, a footnote announcement stated Transit Oriented Development (TOD) would be applicable to Central Vista. TOD also permits a higher degree of commercialisation in the commercial hubs nominated in TOD areas. Hence it can be deduced that under the guise of Redeveloping Central Vista the real intention is to monetise the invaluable commercial component that will emerge as a result of 'Redevelopment'.

### **C. THE LEGAL ISSUES**

21. Public Notice S.O. 4587 E dated 21.12.2019 was published under Section 11A of the Delhi Development Act of 1957; at the first instance, the Public Notice as it is contemptuous of Section 11A is *Ultra Vires* the Act. Section 11 A of the DDA Act of 1957, which inter alia states;

#### *MODIFICATIONS TO THE MASTER PLAN*

AND  
THE ZONAL DEVELOPMENT PLAN

*11A. Modifications to plan*

(1) *The Authority may make any modifications to the master plan or the zonal development plan as it thinks fit, being modifications which, in its opinion, do not affect important alterations in the character of the plan and which do not relate to the extent of land-users or the standards of population density.*

(2) *The Central Government may make any modifications to the master plan or the zonal development plan whether such modifications are of the nature specified in sub-section (1) or otherwise.*

(3) *Before making any modifications to the plan, the Authority or, as the case may be, the Central Government shall publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the Central Government.*

(4) *Every modification made under the provisions of this section shall be published in such manner as the Authority or the Central Government, as the case may be, may specify and the modifications shall come into operation either on the date of the publication or on such other date as the Authority or the Central Government may fix.*

(5) *When the Authority makes any modifications to the plan under sub-section (1) it shall report to the Central Government the full particulars of such modifications within thirty days of the date on which such modifications come into operation.*

(6) *If any question arises whether the modifications proposed to be made by the Authority are modifications which affect important alterations in the character of the plan or whether they relate to the extent of land-uses or the standards of population density, it shall be referred to the Central Government whose decision thereon shall be final.*

(7) *Any reference in any other chapter, except Chapter III, to the master plan or the zonal development plan shall be construed as reference to the master plan or the zonal development plan as modified under the provisions of this section.]*

22. The stated Public Notice proceeds to make a bald statement,

*“The following modification which DDA / Central Government proposes to make to the Master Plan 2021 / Zonal Development Plan of Zone D (for Plot No. 1 to 7) and Zone C (Plot No. 8) under section 11A of the DD Act 1957 is hereby published for public information.”*

23. Section 11 A of the DDA Act of 1957 lists out a step by step process, whereby Notification must be issued under 11A (1) *‘being modifications which, in its opinion, do not affect important alterations in the character of the plan and which do not relate to the extent of land-users or the standards of population density’*. On the contrary, the proposed CLU seeks to make fundamental change in land-



users and increase population density; which is strictly forbidden under Section 11 A (1). Respondent No. 1 (DDA) has not updated Zone D Zonal Plans since MPD 2001, no zone plan has been drawn after MPD 2021 was notified in 2007. Hence Respondent No.1 does not possess updated information on extent of land users or the standards of population density, it is proceeding without empirical data and updated studies, hence the decision to change in land usage and population density is arbitrary and whimsical.

24. Section 11A (2) states *The Central Government may make any modifications to the master plan or the zonal development plan whether such modifications are of the nature specified in sub-section (1) or otherwise.* However, such action is in direct conflict with Article 14 of the Constitution of India, which envisages Rule of Law, and abjures arbitrariness. Any decision taken by Government to exercise its power must be in accordance with well-established and clearly written rules, regulations, and legal principles. When government acts in contradiction to an express provision of written law, without the imprimatur of law, it stands against the Rule of law.

25. Section 11A (3) states *Before making any modifications to the plan, the Authority or, as the case may be, the Central*

*Government shall publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the Central Government. However Respondent No. 1 has not exercised due diligence before issuing the Public Notice, without updated information on extent of land users or the standards of population density.*

26. The Stated Public Notice proposes Change in Land Use from recreational open spaces to government offices. The Notice proposes CLU for 105 acres off which over 90 acres which are classified as Public / semi Public / District Park / Neighbourhood Play areas and less than 15 acres as Government office. This will now become 80.5 acres of Government Office; Land for public use will reduce from over 86% to less than 9%.

**D. MPD 2021: PUBLIC NOTICE CONTRADICTIONS**

27. The stated Public Notice contradicts the master plan at many levels, specifically it contradicts Chapters, 8,9, 10, 11, 16 & 17.
28. Chapter 8 MPD 2021 titled Decentralization of Offices:  
Public Notice contradict Chapter 8 as follows:

8.1 *As per NCR Plan, no new Central Government and Public Sector Undertaking offices should be located in NCTD. However, the issue of shifting existing Government / PSU offices from Delhi as well as restricting the setting up of new offices would only be possible after a time bound action plan is prepared together with suitable incentives and disincentives.*

8.2 *Optimum Utilization of Government*

*Land: states*

*Government of India, Govt. of NCTD and local bodies are occupying prime land in Delhi for their offices. Most of the offices have been setup immediately after Independence. Large areas are underutilized and have completed their economic life. Due to downsizing of government employment and need for generation of resources by the ministries, optimum utilization of existing government offices / land could be achieved by the following measures:*

*i) Intensive utilization of existing government offices / land.*

*ii) Utilization of Surplus land by the government for residential development.*

Thus, Respondent No.1 is being irresponsible and legally disrespectful to its own statutory document, the Master Plan Delhi MPD 2021.

29. Chapter 10.0 MPD 2021 Conservation of Built Heritage:

Public Notice contradicts the inherent guidelines of this chapter, wherein a special place for heritage and heritage buildings has been clearly articulated;

*Built heritage of Delhi needs to be protected, nourished and nurtured by all citizens and passed on to the coming generations. It is suggested that with the aim of framing policies and strategies for conservation, appropriate action plans may be prepared by all the agencies. These should include promotion of conservation of the civic and urban heritage, architecturally significant historical landmarks, living monuments, memorials and historical gardens, riverfront, city wall, gates,*

*bridges, vistas, public places, edicts and the ridge.*

*It is recommended that these should be suitably incorporated while preparing layout plans / schemes. In case of major monuments, it is necessary that the surrounding area should be identified in the layout / detail plan, and should have building controls in relation to height, material and spread of the monuments.*

*It will also be necessary to maintain close interaction and coordination between all these agencies keeping in view the following objectives and requirements.*

- i. Maintain and update a database.*
- ii. Develop organizational capacity for heritage management.*
- iii. Define all the applicable terms.*
- iv. Listing of Heritage Buildings based on the following criteria:*
  - (a) The age of the building;*
  - (b) Its special value for architectural or cultural reasons or historical periods;*
  - (c) Its relevance to history;*
  - (d) Its association with a well-known character or event;*
  - (e) Its value as part of a group of buildings;*
  - (f) The uniqueness of the building or any object or structures fixed to the*

*building or forming part of the land and comprised within the curtilage of the building.*

*v. Prepare guidelines for development, redevelopment, additions alterations, repairs, renovations and reuse of the heritage buildings.*

*vi. Implementing programmes for education and awareness.*

30. Chapter 10.3 MPD 2021 Heritage Zones Conservation of

Built Heritage: Public Notice contradicts the inherent guidelines of a Heritage Zone;

*Heritage Zone is an area, which has significant concentration, linkage or continuity of buildings, structures, groups or complexes united historically or aesthetically by plan or physical development. The following areas have been identified as Heritage Zones as indicated in the Zonal Plan:*

- i. Specific heritage complex within Walled City of Delhi, Shahjahanabad.*
- ii. Specific heritage complex within Lutyens Bungalow Zone.*
- iii. Specific heritage complex within Nizamuddin and Humayun's Tomb Complex.*
- iv. Specific heritage complex within Mehrauli area.*
- v. Specific heritage complex within Vijay Mandal - Begumpur - Sarai Shahji - Lal Gumbad.*
- vi. Specific heritage complex within Chirag Delhi.*

*However, more areas can be added to this list based on studies by concerned agencies.*

31. Quite clearly, MPD 2021 has made adequate provisions for substantial protection of both Heritage Buildings and Heritage Zones; the Public Notice disregards the extensive vigilance and forethought the MPD has articulated in this Chapter, and considers changing Land use of open spaces in contiguity and proximity of such heritage buildings.
32. Chapter 11.0 MPD 2021 titled Urban Design: Public Notice contradict Chapter 11 as follows:

*“In the planning of New Delhi in 1916, the Central Vista was conceived as a landscaped stretch to form continuity between the ridge and the river Yamuna. The stretch with the Rashtrapati Bhawan and the India Gate at two ends has tremendous visual quality and is one of the finest examples of Urban Design and monumentality in planning in the world. The Jama Masjid was visually linked with Parliament House and Connaught Place.”*

33. Chapter 11.1.3 MPD 2021 Other Areas: Public Notice contradictions to Chapter 11 as follows:

*“Other areas of Urban Design importance are as follows: a. Central Vista and the areas in its North and South, Lutyen's Bungalow Zone. b. Ancient settlements. c. Historical Monuments and Gardens. d. Exhibition grounds, Zoo etc. e. Areas along entry routes and other important routes in Delhi. f. Republic day parade route. g. Road and Rail, MRTS corridors, entries, and terminals. h. City as a whole for aerial view.”*

34. Quite clearly, Master Plan 2021 as also earlier Master Plans envisage Central Vista as an area of significance in Urban Design and monumentality, and have incorporated the same in the Master Plan. Therefore, Change in Land Use cannot be a matter of routine by issuance of a Public Notice, without taking into consideration the special status of Central Vista.

35. Chapter 16.0 of MPD 2021 Land Use plans clearly enunciates Zonal Plans must be prepared within 12 months of approval of MPD 2021;

*The Zonal plans shall detail out the policies of the Master Plan 2021 and act as link between the Layout Plan and Master Plan. The development schemes*



*and layout plans indicating various use premises shall conform to the Master Plan / Zonal Plans. The Zonal Plans of the areas shall be prepared under Section 8 and processed under Section 10 and simultaneously the modifications of land uses shall be processed under Section 11(A) of the Delhi Development Act, 1957. Already approved Sub Zonal (earlier Zonal) Plans in conformity with the Master Plan shall continue for the areas where the Zonal Plans have not been approved. The Zonal Plans in the form of structure plans shall be prepared within 12 months of the approval of the MPD-2021.*

36. Chapter 16 of MPD 2021 Land Use Plan continues to states the following:

*The Land Use Plan-2021 has been prepared based on*

- i) The policies enunciated for different urban activities,*
- ii) Requirement of additional social and physical infrastructure,*
- iii) Transportation and work centres,*

*iv) Already approved Zonal Development Plans and land use modifications.*

*In order to control the development, the areas have been designated as one of the 27 use zones identified in the Development Code. These use zones have been classified broadly in nine categories of land uses namely Residential, Commercial, Industrial, Recreational, Transportation, Utility, Government, Public & Semi - Public Facilities and Agriculture & Water Body. The development in these use zones would be carried out in accordance with the regulations as laid down in the Development Code and respective chapters.*

37. Since Zonal Development Plans for Zone D has not been drawn up for MPD 2021, Public Notice S.O. 4587 E dated 21.12.2019, by Respondent No. 2 (DDA), proposing Change in Land Use (CLU) in Zone D is based on Zonal Plan MPD 2001, which is over 20 years old and hence a completely outdated documented. The Land Use for (a) different urban activities, (b) requirement for additional social and physical infrastructure, (c) transportation and work centres have not been reassessed in view of the massive change in Delhi's demographics. More specifically demographics, population density land uses in

Central Vista is not supported by a Zonal Plan; MPD 2021 required Zonal Development Plans to be drawn within 12 months of MPD 2021 being notified. Respondent No. 1 has not prepared Zonal plans for Zone D from 2001 to present day, effectively negating their power to affect such a change.

38. Chapter 17.0 of MPD 2021 'Development Code' Public

Notice contradictions to Chapter 17 as follows:

*The purpose of the code is to promote quality of built environment by organising the most appropriate development of land in accordance with the development policies and land use proposals contained in the Plan.*

*It is a systematic code to ascertain the use activity (use) at two levels:*

*i) Conversion of Use Zone into Use Premises (layout);*

*And*

*ii) Permission of Use Activities on Use Premises. The code differentiates between the Use Zone and Use Premises.*

39. Chapter 17.2.0 'Definitions': Public Notice contradicts this clause as follows:

2(1) *Land use Plan means the plan indicating Use Zones as defined in Clause 4.0. (use zone designated)*

2(2) *Zonal Development Plan means a plan for one of the zones (divisions) of the National Capital Territory of Delhi containing detailed information regarding provision of social infrastructure, parks and open spaces, circulation system, etc.*

40. Consequently, the imperatives of Zonal Planning, Land Use Plans must be articulated, to achieve *most appropriate development of land in accordance with the development policies and land use proposals contained in the Plan.*

#### **E. THE DOCTRINE OF FAIT ACCOMPLI**

41. *The term often used 'Fait accompli' is a French term which literally means "an accomplished fact". It is used to describe a situation where a decision, act or an incident has taken place, and since it is accomplished, it cannot be reversed. Fait Accompli therefore suggests an irreversible situation, and the affected parties including the Courts of law are forced to accept the reality of the situation, and*

pick up threads of the legal proceedings in light of the *fait accompli* circumstances.

42. Historically, Government, Public Authorities, Judicial bodies and other instrumentalities of State were presented with seemingly irreversibly situations and compelled to accept the situation by compounding or condoning the situation. The *fait accompli* situation of was usually by industry, private bodies, builders or individuals, who transgressed existing laws rule and regulations by over extending beyond sanctioned areas, capacities, usage, over abstraction, land grab and building thereupon.
43. However, of recent origin, an inversion in roles is visible, the State and instrumentalities of State have begun to undo the mantle of offenders. In a gradual but definite turn of events, public authorities are assuming the role of subverting Rule of Law, taking arbitrary decisions without imprimatur, proceeding when the matter is *sub-judice*, thereby presenting the Hon'ble Courts with *fait accompli* situations. Such contemptuous attitudes to the Hon'ble Courts and hence the Rule of Law, must be condemned vociferously.
44. This Hon'ble Court has displayed firm conviction refusing *fait accompli* presented before yourselves; pronounced landmark judgements, wherein coercive

remedial action has been ordered and implemented; the most recent being the demolitions apartments blocks in Maradu, Kerala for violating the Costal Regulation Zone (CRZ) Guidelines.

45. In the present situation, the Central Government has shown its disdain towards this Hon'ble Apex Court, by proceeding to issue Notification SO 1192 (E) dated 20<sup>th</sup> March 2020, notifying Change in Land Use, when the very same matter is being heard by this Hon'ble Court and is subjudice, thereby creating a *fait accompli* situation.
46. An ongoing sequence of events in which Government has assumed powers beyond its jurisdiction.
47. Aggrieved by the order of the Hon'ble Division Bench, the Petitioner moved this Apex Court, by filing Special Leave Petition bearing SLP No. 8430 of 2020; wherein on the first date of hearing the Hon'ble Supreme Court vide order dtd. 06.03.2020 thought it 'just and proper' that the matter is in 'larger public interest' and be heard by themselves, and transferred the entire case from the Hon'ble High Court to this Hon'ble Apex Court. However, once again the Central Government has acted of its own accord, overwhelming judicial propriety; brashly and issued Notification No. SO 1192 (E) dated

20<sup>th</sup> March 2020, superseding Public Notice S.O. 4587 E dated 21.12.2019, changing land use of Central Vista, despite many legal infirmities and the matter being sub judice before this Hon'ble Apex Court.

### **GROUND**

- A. Because the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 is issued by the Respondent No. 1 is violative of Article 21 of Constitution of India and, violates the extended version of Article 21, the *Right to life*, guaranteed by the Constitution of India. That Respondent No. 1 brashly issued Notification No. SO 1192 (E) dated 20<sup>th</sup> March 2020, changing land use, which will deprive residents of Delhi and citizens of India a vast chunk of highly treasured open and green space in the Central Vista area, available for public, semi-public, social and recreational activity, stands against Article 21, *Right to Life* the right to enjoyment of a wholesome life.

- B. Because the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 is issued by the Respondent No. 1 is contrary to the Master Plan 2021.
- C. Because the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 contradicts Chapter 8 of MPD 2021, 'Government Offices' which seeks to decentralize government offices in the NCR region, whereby no new Central Government and Public Sector Undertaking offices would be located in NCTD, and a time bound action plan was to be prepared for achieving this objective. On the contrary it seeks to increase government office, and cramp it up in the limited space of Central Vista by diverting public and semi-public and recreational open spaces for such offices, in stark contrast to the vision and mandate of Chapter 8 of MPD 2021.
- D. Because the stated Notification SO 1192 dated 20<sup>th</sup> March 2020 contradicts Chapter 10 of MPD 2021, 'Conservation of Built Heritage'; wherein the chapter



clearly alludes to ‘Specific heritage complex within Lutyens Bungalow Zone’; and that built heritage of Delhi needs to be protected, nourished and nurtured, and the aim of all the agencies must frame policies and strategies for conservation, with appropriate action plans. The said notification is negligent and disregarding of this crucial aspect while considering change of land use in the precincts of living heritage of New Delhi and India.

- E. Because Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 ignores Chapter 11 of MPD 2021, ‘Urban Design’; as ‘*one of the finest examples of Urban Design and monumentality in planning in the world*’ and seeks to change land use of the most iconic Central Vista; where land usage patterns cannot be carried out in a cavalier manner.
- F. Because the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 ignores Chapter 16 of MPD 2021 ‘Land Use Plan’; seeks to

change land use in Zone D where Zonal Development Plans for Zone D has not been drawn since MPD 2001. No current Data for Land Use for (a) different urban activities, (b) requirement for additional social and physical infrastructure, (c) transportation and work centres have been provided in view of the massive changes in Delhi's demographics.

- G. Because the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020, has been published without a Zonal Development Plan for Zone D as a corollary to MPD 2021, hence the said notification is arbitrary, capricious, whimsical, unjustifiable and bad in law.
- H. Because Respondent No. I Union of India by issuing Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 and notifying change in land use when the challenge to Public Notice S.O. 4587 E dated 21.12.2019 is being heard by this Hon'ble Apex Court, has overreached this Hon'ble Court, acted

prematurely, with haste, displaying derogation of Rule of Law and scant regard of orders of this Hon'ble Court.

- I. Because the Respondent No. 1 ought not to have issued the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 when the challenge Public Notice S.O. 4587 E dated 21.12.2019 was pending adjudication and examination before this Hon'ble Court.
- J. Because the Public Notice S.O. 4587 (E) dated 21.12.2019, which preceded the Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 and is under challenge before this Hon'ble Court ignored the first and most basic criteria of Section 11A (1) which states *The Authority may make any modifications to the master plan or the zonal development plan as it thinks fit, being modifications which, in its opinion, do not affect important alterations in the character of the plan and which do not relate to the extent of land-users or the standards of population density.* The

Public Notice and Notification SO 1192 dated 20<sup>th</sup> March 2020 does just the opposite as it proceeds to effect major change land usage and increase population density, when specifically restrained by Section 11A(1).

- K. Because Respondent No. 2 Delhi Development Authority did not possess the requisite powers to issue the aforesaid Public Notice or to effect the Change in Land Use as contemplated by the above said Public Notice.
- L. Because the alterations which are proposed will involve change of land use and/or standards of population density.
- M. Because the Public Hearings were conducted in a most arbitrary and cavalier manner by the Board of Enquiry Hearing of Respondent No 2, DDA, for which a Writ Petition (Civil) bearing W.P.(C) No. 1575 of 2020 was filed in the Hon'ble High Court of Delhi, which is transferred

to the Hon'ble Supreme Court along with the Petition W.P. (C)1568 of 2020 which was pending hearing by this Hon'ble Court.

- N. Because Public Notice S.O. 4587 E dated 21.12.2019, issued by Respondent No. 1 (DDA), has been published without a Zonal Development Plan for Zone D as a corollary to MPD 2021, hence the Public Notice is arbitrary, capricious, whimsical, unjustifiable and bad in law.
- O. Because the Respondent No. 1 has relied upon 2001 Zonal Development Plan in respect of the proposed changes.
- P. Because the Public Notice contradicts Chapter 8 of MPD 2021, 'Government Offices' which seeks to decentralize government offices in the NCR region, whereby no new Central Government and Public Sector Undertaking offices would be located in NCTD, and a time bound action plan was to be prepared for

achieving this objective. The stated Public Notice on the contrary seeks to increase government office, and cramp it up in the limited space of Central Vista by diverting public and semi-public and recreational open spaces for such offices, in stark contrast to the vision and mandate of MPD 201Chapter 8 of MPD 2021.

- Q. Because the stated Public Notice contradicts Chapter 10 of MPD 2021, 'Conservation of Built Heritage'; wherein the chapter clearly alludes to 'Specific heritage complex within Lutyens Bungalow Zone'; and that built heritage of Delhi needs to be protected, nourished and nurtured, and the aim of all the agencies must frame policies and strategies for conservation, with appropriate action plans. The Public Notice is negligent and disregardful of this crucial aspect while considering change of land use in the precincts of living heritage of New Delhi and India.

- R. Because Public Notice ignores Chapter 11 of MPD 2021, 'Urban Design'; as '*one of the finest examples of Urban Design and monumentality in planning in the world*' and seeks to change land use of the most iconic Central Vista; where land usage patterns cannot be carried out in a cavalier manner.
- S. Because the Public Notice ignores Chapter 16 of MPD 2021 'Land Use Plan'; seeks to change land use in Zone D where Zonal Development Plans for Zone D has not been drawn since MPD 2001. No current Data for Land Use for (a) different urban activities, (b) requirement for additional social and physical infrastructure, (c) transportation and work centres have been provided in view of the massive changes in in Delhi's demographics.
- T. Because MPD 2021 required Zonal Development Plans to be drawn within 12 months of MPD 2021 being notified, and

by not doing so from 2007 to present day displays a complete lack of coherence by Respondent No. 1. The stated Public Notice continues to attempt change in Land Use without relevant Zonal Plan will further aggravate the already unplanned ad hoc development of the city.

- U. Because Public Notice does not consider Chapter 17.0 of MPD 2021 'Development Code' which provides to promote quality of built environment by organising the most appropriate development of land in accordance with the development policies and land use proposals contained in the Plan. A Zonal Development Plan means a plan for one of the zones, contains detailed information regarding provision of social infrastructure, parks and open spaces, circulation system, etc. which is not available for Zone D in MPD 2021.
- V. Because the Central Government engaged in clandestine mechanisms to capture the most valued and cherished prime land of



New Delhi, by withdrawing in May 2015, India's nomination to attain a world heritage city tag for Delhi's Imperial Capital Cities from UNESCO; a quest it had been pursuing over the decade before year 2015.

- W. Because a sinister plot was hatched in year 2015 whereby in the first instance, the nomination for heritage status was withdrawn, and next, the process of change in land use of Central Vista was started despite Central Vista being located in Lutyens Bungalow Zone (LBZ), being governed by LBZ guidelines and Central Vista by existing Regulations.
- X. Because in continuation of the same sinister plan, DDA proceeded to amend Master Plan Delhi 2021 (MPD 2021) in year 2017 to change land use of Public and Semi-Public (PSP) areas to permit Government Offices to be located on such PSP areas, without the gullible and trusting population of Delhi knowing the real reason for such change in land use of PSP areas.

- Y. Because it is conjectured the real aim is to monetise the priceless lands of Central Vista as MPD 2021 in 'Redevelopment' of areas permits 10% commercial usage of Built Up Area (BUA), as the real reason for redevelopment of Central Vista. Further, the fine print also declares Transit Oriented Development (TOD) will be permitted in Central Vista, which allows a higher degree of commercialisation in TOD hubs, and with the two put together (10% redevelopment and TOD) the ultimate aim emerges to unlock value of the priceless lands of Central Vista New Delhi.
- Z. Because Central Government has betrayed Public Trust reposed by the people by usurping Central Vista open Spaces, as the Doctrine of Public Trust enjoins upon the government to protect resources for the use of the general public in perpetuity, rather than to permit appropriation by/for a class of people, for

ownership or commercial use. That Central Vista is the most cherished open space in New Delhi and perhaps India, and the publicness of this cherished open spaces land is being compromised which is a great betrayal of the Public Trust Doctrine.

AA. Because Public Notice S.O. 4587 E dated 21.12.2019, and Notification SO 1192 (E) dated 20<sup>th</sup> March 2020 issued by Respondent No. 1, violates Article 14 of the Constitution; *Rule of Law*. Since the Public Notice and the said Notification is based on the whims and caprice of Respondent No.1 and Respondent No.2, the Public Notice and said Notification are irrational and unreasonable. *Bhagwati J* on the principle of reasonableness in Article 14:

*“Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which logically as well as philosophically, is an essential element of equality or non-*

*arbitrariness pervades Article 14 like a brooding omnipresence."*

BB. Because the Public Notice S.O. 4587 E dated 21.12.2019, violates the extended version of Article 21 the *Right to life*, guaranteed by the Constitution of India. That Respondent No. 1 brashly issued Notification No. SO 1192 (E) dated 20<sup>th</sup> March 2020, changing land use, will deprive residents of Delhi and citizens of India a vast chunk of highly treasured open space in the Central Vista area, available for public, semi-public, social and recreational activity, stands against Article 21, *Right to Life* the right to enjoyment of a wholesome life.

48. That against the said notification dated 20.03.2020, which has been challenged in the present Writ Petition, has not been challenged in any other petition before this Hon'ble Court or any other court/Tribunal.

### **PRAYER**

In view of the given facts and circumstances of the present matter, it is

most respectfully prayed that this Hon'ble Court may be pleased to:

- I. Issue an appropriate writ, order or direction calling for records quashing Notification No. SO. 1192 (E) Dated 20<sup>th</sup> March 2020 issued by Ministry of Housing and Urban Affairs,
- II. Issue a writ of mandamus in the nature of order or/and directions restraining the Respondent Nos 1 & 2 not allow alterations / modifications/ changes or any other changes whatsoever pursuant to the aforesaid notification dated 20<sup>th</sup> March 2020, and to maintain status quo.
- III. Prevent loss of equities by staying activities such as demolishing of buildings, cutting of trees, excavation of land and other such action that may be irreversible at a later date, presenting this Hon'ble Court with *fait accompli* at a later date.

IV. Pass such other further order(s) as this Hon'ble  
Court may deem fit in the interest of justice.

THROUGH:

SHIV KUMAR SURI

Advocate for the Petitioner

Drawn on: 27.03.2020

Filed on: 27.03.2020



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