IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
&
HON'BLE SHRI JUSTICE JAI KUMAR PILLAI
WRIT PETITION No. 954 of 2026
CNR No.: MPHC020010852026
PRIYANSHU JAIN
Versus
UNION OF INDIA AND OTHERS

Appearance:

Shri Lavesh Saraswat – Advocate with Shri Shivendra Singh Parihar – Advocate for the petitioner.

Shri Abhinav Dhanodkar – Advocate for the Intervenor.

Shri Pradyumna Kibe – G.A. for respondent Nos.2, 3, 4, 8 and 9/State.

Shri Amol Shrivastava – Advocate for the respondent No.6- M.P. Metro Rail Corporation Limited.

Ms. Kamakshi Singh – Advocate for the respondent No.7/IMC.

Reserved	on	:	08.10.2026
Pronounced	on	:	22.10.2026

….....

This petition having been heard and reserved for orders, coming on for pronouncement this day, the Court passed the following:

O R D E R

Per*: *Justice Subodh Abhyankar:-

1] Heard.

2] The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India, is in the nature of Public Interest Litigation (PIL), seeking the following reliefs :-

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"i. Issue any appropriate writ to direct the Respondent No.1 to 9 to not cut any trees from the said land.

ii. Issue any appropriate writ to direct the Respondents to pass a prohibitory order against the Respondent No. 6, at once to prevent cutting of the trees and destroying the nests and habitat of the birds from the Rani Sarai Land (S.P. Office Premises Indore) and further direct the respondent no. 6 to obey and implement provisions of The Wildlife (Protection) Act 1972 in the interest of justice.

iii. Direct the Respondents to frame policy and guidelines with regard to the Transplantation Policy of Trees.

iv. Direct the Respondents to maintain the trees in the city instead of attempting to make them fall or engage in deforestation.

v. Pass any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the interest of Justice."

3] Although, the petitioner is aggrieved of the proposed construction of the underground Metro Station at Rani Sarai land (S.P. Office Premises Indore), which would require the felling of more than 150 trees on which nests of 1000 birds would be destroyed, which is their only habitat left in the city of Indore, where they come to roost, would be destroyed. The petitioner is also joined by the intervener in his cause by the intervener, the Nature Volunteers' Society, through its president Padmshri Shri Bhalchandra Mondhe, by filing an application for intervention I.A.No.10209/2026.

4] Before hearing this petition finally, on 29.09.2026, we have also visited the site along with the parties and their respective counsel, in order to ascertain the claim of the petitioner. And we also directed the counsel for the respondent No.6 to come up with alternative plans, and today, a report has also been filed by the respondent No.6 giving details of the alternative plans in respect of the other adjacent lands, which, according to the petitioners and the intervener can be acquired for the purposes of construction of underground metro station.

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5] Counsel for the petitioner has submitted that cutting of the trees on which thousands of birds, including parrots or parakeets, which are protected under the Wild Life (Protection) Act, 1972 (hereinafter referred to as "the Act of 1972') come to roost, would certainly amount to an offence under the Act of 1972.

6] It is also submitted by the counsel for the petitioner as also the intervenor that if the trees are allowed to be cut, it would cause irreparable damage to the city of Indore, and this rich legacy would be lost forever. The details of the trees which are proposed to be cut are also given in the representation submitted by the petitioners. Counsel have also submitted that there are alternative lands available around the Rani Sarai, also including that of Regal Talkies, Gandhi Hall, and Pritamlal dua Sabhagrah, and thus, it is submitted that the lands available in and about the said areas can be used for construction of underground metro stations.

7] It is also submitted that even though there are hundreds of other trees already available in the vicinity, but still, those trees are of no use to the birds, as the majority of the birds come to the Rani Sarai premises only to roost, and thus, it is not merely a question of cutting of trees, but a question of saving the life of thousands birds who would lose their natural habitat because of Metro project.

8] Counsel for the petitioner has also submitted that a perusal of the metro route from Palasia to Railway Station would also reveal that it is curved, and it is not known as to what was the reason to not to directly come to the railway station when the lines are to be laid underground, as there was no requirement to curve the route.

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9] A detailed reply to the petition has also been filed, and the prayer is opposed by Shri Amol Shrivastava, learned counsel for the respondent No.6/M.P. Metro Rail Corporation Limited. It is submitted that they are also aware of the birds roosting on the trees in the Rani Sarai premises, however, the alignment of the metro rail has already been sanctioned. Shri Shrivastava has also submitted that the route was already prepared in the head office at Delhi, and the route has been drawn after giving due consideration to all the minute details that for the construction of the underground metro stations. It is submitted that as substantial piece of government land would be required, causing minimal damage to the private buildings, and the area available in the Rani Sarai premises is best suited to the requirement of the respondent, as the total length of the Metro station would be 150 meters, although the standard size is 180 meters, but for Indore, to ensure that the minimum damage is done to the other private property, they have already squeezed the size to 150 meters which is the technical requirement of the project, and it is not possible to further squeeze it to relocate the Metro Station to some other even nearby place as no such free land is available.

10] Regarding the applicability of the Act of 1972 is concerned, it is submitted that the respondents have already taken all the due permissions from the Forest Department, which are already placed on record, and thus, the petitioner's claim that the construction would be made in violation of the Act of 1972 is unfounded.

11] It is further submitted that in view of the provisions contained in Metro Railways (Construction of Works) Act 1978, vide office memorandum dated 27.01.2015, Government of India, Ministry of Urban Development has held and approved that once a Metro Rail Project has

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been approved by the Cabinet, all Ministries/Departments may accord operational rights on the relevant land immediately, even during consultation between the concerned Ministries pending the actual transfer of the land so that work of the project does not suffer and people are not put to inconvenience. A copy of the office memorandum dated 27.01.2015 is also filed on record as Annexure R-6/1. It is also submitted that the Govt. of India, Ministry of Housing and Urban Affairs, had approved the Indore Metro Rail Project, vide approval letter dated 30.11.2018. The total completion cost of the project is Rs.7500.80 Crores. The Govt. of India has also prescribed terms and conditions of the sanctions. The photocopy of the approval letter dated 30.11.2018 is also filed on record as Annexure R-6/2 and the consent of the Government of M. P. in respect of the project is also given on 05.07.2021, which is also reproduced in the reply itself.

12] Counsel for the respondent No.6 has also submitted that even otherwise, the petition itself is not maintainable, as the alignment of the route has already been the subject matter of an earlier petition, ***W.P. No.10909 of 2024 (PIL)*** in the case of ***Raj Lakshmi Foundation Vs. The State of Madhya Pradesh & Ors.***, which was decided by the Coordinate Bench of this Court on ***03.05.2024***, rejecting the claim of the petitioner therein, and once the alignment has been approved by the order of this Court, the same cannot be challenged in a subsequent petition in the name of felling of the trees. Counsel for the respondent No.6 has also relied upon the decisions rendered by the Supreme Court in the case of ***Alok Kotahwala and others Vs. Jaipur Metro Rail Corporation Limited and others*** reported as ***2026 SCC OnLine SC 1324 paras 82-85.*** Counsel has also relied upon the orders passed by the Division Bench of this Court in

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the case of ***Raj Lakshmi Foundation (supra)*** and in the case of ***Santosh Kumar Singh and others Vs. The State of Madhya Pradesh and others*** passed in ***W.P. No.30818 of 2025 dated 12.08.2026***.

13] It is also submitted that despite all these aspects of the matter, which are in favor of the respondents, the respondents have already undertaken to ensure that the trees that would be cut in the process of construction would be replaced by 2500 trees. In this regard, a High Level Centrally Empowered Committee, vide its proceedings/minutes dated 23.03.2026 has already resolved to plant trees as compensatory plantation towards the 182 trees, which would be cut down. Thus, it is submitted that far more numbers of trees would be planted than the trees which would be cut down. It is also submitted that the birds which are presently coming to roost in the Rani Sarai premises, would certainly find a way to relocate in the adjacent areas. Counsel has also drawn the attention of this Court to the alternative lands, which have been suggested by the petitioner/intervenor, and has also tried to demonstrate by superimposition of the proposed buildings on the said lands to substantiate their claim that the other three sites are not at all suitable, which would also require the possession of the various private lands and buildings, hotels etc., as also a major part of the High Court's garden, along with Regal Talkies, Gandhi Hall and Pritamlal dua Sabhagrah, which would be in continuous use of the respondent for the next 2-3 years. It is also submitted that the metro station building cannot be squeezed any further to other lands, which are available as per the petitioner. Counsel has also submitted that so far as the Regal talkies is concerned, since a petition is already pending before this Court, hence at

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present, the same is also out of the consideration, and even otherwise, this place is not suitable.

14] In rebuttal, counsel for the petitioner has submitted that so far as W.P. No.10909 of 2024 is concerned, they have no knowledge of the same and even otherwise, it was for the alignment of the Metro line whereas, the present petition is in respect of saving the trees and the birds who come to roost.

15] Heard. Having considered the rival submissions and on perusal of the record, we find that so far as W.P. No.10909 of 2024 is concerned, it was decided vide order dated 03.05.2024, which reads as under :-

> "Heard on the question of admission.
> Instant petition has been filed by the petitioner under Article 226 of the Constitution of India in the shape of Public Interest Litigation praying for the following reliefs:
>
> > (I) That, a writ, direction or order in the nature of mandamus or certiorari or as deemed fit be issued directing the Respondents to change the present rail route/ line of the metro railways and lay it in a fashion which is been mentioned in the writ petition.
> > The change should be that no right turn from the Bengali square should be permitted so as to bring the rail line from Bengali square to Palasia square and further onto Regal square, INSTEAD the rail line should continue from Bengali square till Pipliyahana square (also called as the World Cup Chouraha) and then take a right turn there so as to join the square of Agriculture College and then go underground to meet the Regal square and then continue on the same path which is presently prescribed.
> > (ii) That, in case any permission/ sanction/approval is required by the State Government from any Department of the Central Government, the State Government should be immediately asked and directed to seek such approval/consent/sanction from the said department of the Central Government and till that happens, no further action in pursuance of the present rail line be taken by the Metro Rail Corporation.
> > (III) Any other relief which this Hon'ble Court deems fit in the interest of the public at large of the town of Indore, be passed.
> > (IV) That, a writ, direction or order in the nature of mandamus or as deemed fit be issued directing the constitution and forming of a committee of technical experts coming from the relevant departments with requisite expertise in the field, to consider the viability, feasibility and advisability of the present route and the proposed route(in this petition) and submit a report before this Hon'ble Court based on their enquiry, testing and conclusion in the matter.
> > This committee can be constituted of the following:

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(1) Present or retired Professor from the stream of traffic engineering, which is a post graduate course with specialization in traffic problem and management.
(2) Head of the Department (HOD) from the stream of Civil Engineering, which is a graduate and post graduate course.
(3) 1 or 2 Town Planners from the Indore Municipal Corporation or Town and Country Planning Department.
(4) Present or Retired City Engineer from the Indore Municipal Corporation.
(5) A social worker with impeccable reputation and credentials.
It is also prayed that a direction be issued to the respondents to assist these technical experts in any manner, so as to enable them in carrying out their task and abiding by the directions of this Hon'ble Court.

2. The present petition has been filed by the society through its joint-secretary and not by or at the instance of anyone. The cost of the litigation which includes the advocate's fees and the traveling expenses of the lawyers if any, are borne by and by the petitioner society exclusively.

3. The respondents State of Madhya Pradesh is represented through Principal Secretary, Madhya Pradesh Metro Rail Corporation Limited through its Managing Director, Traffic Department, Indore through its Deputy Commissioner Traffic, Indore Municipal Corporation through Commissioner. All the aforesaid are fall within the purview of State as defined under Article 12 of the Constitution of India, therefore, amenable to the writ jurisdiction of this Court.

4. Learned counsel for the petitioner submitted that the grievance of the petitioner is that the Respondent No. 3 is laying down metro rail lines throughout the city of Indore. The routes laid down for the metro train has been designed by the State Government without realizing that as far as laying a track for the metro train till Bengali Chouraha is concerned, there is no major problem. Once the metro line is laid from Bengali Chouraha to Palasia Sqaure, thereafter, it goes underground by creating a tunnel and passes through the High Court till the airport, which would cause complete disruption of traffic and stopping of the lives of individuals who are living and working in that area. Laying of such tracks is of no benefit or advantage to the town of Indore, as very few people living in this area will be connected through metro.

5. Learned counsel for the petitioner further contended that the petitioner therefore is seeking a direction to the State to consider the idea of extending the metro line from Bengali Chouraha to Pipliyahana Chouraha (commonly called as World Cup Chouraha) and thereafter take a right turn till the Agriculture College Square from where it will go beneath the earth covering future District Court, M.Y. Hospital and AICTSL Bus Station and subsequently will meet the original Regal Square and then proceed to the airport according to the existing layout plan.

6. He further submitted that the aforesaid proposition is necessitated because of the suggested new route would be advantageous in three manners:

(A) The traffic of the main road from Bengali Chouraha to Palasia square shall not be disrupted and not be troubled as the speed at which the metro

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path is laid has always been under questions and doubts and scrutiny by the authorities and the public at large in any town.

(B) The vehicular moment problem and the problem of the commuter will increase many folds if this metro line is to be laid from Bengali Chouraha upto Palasia Chouraha and then the metro rail goes down in a 30 ft wide tunnel 60 ft below the ground from 80 ft above the ground at Palasia Square as the same shall entail digging up of the road in a huge manner and the whole traffic of the MG Road shall stand disrupted for a period of more than two years. It is unimaginable to even think about the town of Indore where no movement on the MG Road from Palasia Chouraha till Regal Chouraha is permitted in as much as there is no alternate vehicular movement plan or traffic plan while fixing and planning the movement of this metro rail project.

(C) That if the State Government slightly changes the metro plan so as to take a right turn from the Pipliyahana Chouraha (World Cup Chouraha) to the agricultural college, not only will the MG Road stand undisturbed and unperturbed but more people will be benefited by this line as that road has lesser amount of traffic and therefore will entail lesser time to construct and lay the metro line and as it covers the newly developed 140 Scheme, District Court, AICTSL Bus Station and MY Hospital, in the process more persons shall be benefited by the newly laid metro line.

Hence this petition.

7. On the other hand, learned counsel for the respondents/State opposed the prayer and submitted that the petitioner has not given his complete antecedents and have also not disclosed as to what public interest work he has performed for the Society. Learned counsel for the respondents has brought to the notice of this Court the judgment of the Coordinate Bench of this Court in the case of **Surendra Pratap Singh Vs.State of M.P. and Others[2019 (1) M.P.L.J. 75]** to contend that the petitioner has failed to produce on record to satisfaction of the Court such social work in last couple of years in the area in respect of which Public Interest Litigation is involved. Merely spending money like lawyer's fees from their own pocket does not satisfy test of locus standi. Therefore, this writ petition is not maintainable.

8. The Division Bench of this Court in **Surendra Pratap Singh (supra),** has referred to the judgment of the Apex Court involving Public Interest Litigation in the case of **State of Uttaranchal Vs. Balwant Singh Chaufal and others[(2010) 3 SCC 402]** wherein the Apex Court has laid down certain guidelines to be followed before exercising jurisdiction of Public Interest Litigation. The guidelines are as under :-

(1) The courts must encourage genuine and bonafide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for me each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy

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of the RP 638/2017 Rules prepared by the High Court is sent to the Secretary General of this court immediately thereafter.

(3) The courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The court should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations."

9. Learned counsel for the respondents submitted that in the present petition as well none of the aforesaid guidelines are satisfied as laid down in the case of **State of Uttaranchal Vs. Balwant Singh Chaufal and others (supra).** Therefore, this writ petition is not maintainable. Accordingly, the same is liable to be dismissed.

10. Heard learned counsel for both the parties and perused the record.

11. This Court while exercising the jurisdiction under Article 226 of the Constitution of India is not in a position to act as an expert body, sitting in the armchair of technical experts as to what should be the route of the metro line and therefore the same cannot be the subject matter of judicial scrutiny. We are of the considered view that the conclusion reached by the experts particularly in the field of construction of metro line, Traffic Engineering, Traffic Management, Urban Planning cannot be substituted with our views. The interference in such matters, in writ jurisdiction would be called for unless it is demonstrably perverse or illegal or contrary to admitted facts. If the impugned decision is tested on the touchstone of reasonable experts who have already planned the metro line after taking into consideration various parameters and several factors. Even directing constitution of the committee as proposed by the petitioner cannot be passed. The decision taken by the consortium of experts cannot be substituted with the view of this Court by examining the same or directing the respondents to constitute a fresh committee.

Accordingly, this petition being bereft of merit and substance, is hereby, dismissed at the admission stage itself."

(emphasis supplied)

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16] It is apparent from the aforesaid order that this Court has already taken into consideration the route, which has already been sanctioned for the metro rail project, and apparently the aforesaid order has already attained the finality and is also binding on this court.

17] It is pithy saying that what cannot be done directly can also not be done indirectly. In such circumstances, when the change in the place of proposed Metro Station would automatically result in the change in the alignment of the Metro rail route, which, in the light of the order as aforesaid in the case of ***Raj Lakshmi Foundation*** (supra) cannot be deviated in any manner, for whatsoever be the reasons, and in doing so we would be transgressing the said order already passed by the co-ordinate bench of this Court, accordingly, no case for interference is made out.

18] We are also of the considered opinion that it was the duty of the respondent to apprise this court about the said decision in the case of ***Raj Lakshmi Foundation*** (supra) which has a direct bearing on the present case, at the earliest, after the present petition was entertained by this court, as it would have saved valuable time of this court and would have saved the parties from nurturing a false hope because after the disclosure of the said decision we find that the petitioners had already lost this petition even before it was filed. In such circumstances, no case for interference is made out.

19] On the other hand, as per our site visit to Rani Sarai, we have also seen thousands of birds, the majority of which were parrots, flocking on the trees but admittedly, most of the birds come there only to roost in the evening and only few have nested on them. There is no denying the fact that if the trees are cut, the birds would certainly lose their place to

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rest, which we also do not want in any manner, however, for the foregoing reasons, we are unable to interfere in the matter on the principle of ***Stare Decisis***.

20] Having said so, as we are also conscious of the plight of the birds and are also duty bound to make our best efforts to alleviate their sufferings, thus, in order to ensure that the least amount of inconvenience is caused to the birds, it is directed as follows:-

(i) We hereby direct the respondents not to cut all the trees at once or in any random manner, but they should do so only under the supervision and consultation with at least two ornithologist/bird experts who would advise them how to cut the trees or prune branches in a phased manner, over a period of time, because if all the trees are cut at once, it would certainly cause extreme distress and shock to the birds, from which they may never recover, however, by adopting a slow and systematic method of cutting trees and branches, the birds who come to roost may at least try to settle on to some other trees adjacent to the present site/area, which, even according to the petitioner, are still not inhabited by the birds.

(ii) It is also directed that the bird experts shall also take into account the birds' nest, eggs, or baby birds in the nest on the branches while pruning the same. At the time of pruning the branches or cutting the trees, the wide life rescue team shall also be present on the site with nets and medical kits to help any injured birds or fallen babies.

(iii) It is also directed that the respondents shall also ensure that the same type of trees is planted in the nearby area also, if the space is available, so that subsequently, by the time the project comes to completion, the trees may be available for the birds to roost.

(iv) The respondents are also directed to comply with the undertaking given by them of planting 2500 trees. A report in this regard may also be submitted with the Registry of this court, within one year from today. The respondents are also directed to ensure that the trees so planted are also taken care of in the subsequent years, and the report of which along with the Google images be also filed in the Registry of this Court every year in the month of April.

21] Since the intervener Shri Bhalchandra Mondhe, who himself is a recipient of Padma Shri award, and is a renowned environmentalist, he may also suggest the names of such bird experts, who can advise the

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respondent(s) about the method pruning the branches or which branch to be pruned first so that some breathing time may be allowed to the birds to relocate to some other nearby trees with minimal distress. Indeed, it would be a painful process for all the parties concerned, especially the bird lovers, but this is the best that we can think of under the circumstances to safeguard the interest of the birds.

22] The respondents are also directed to ensure that a remuneration of Rs.10,000/- each be paid to the bird experts for the services to be provided by them.

23] Accordingly, the petition stands dismissed and ***disposed of with the aforesaid directions***.

(SUBODH ABHYANKAR)
JUDGE

(JAI KUMAR PILLAI)
JUDGE

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