

THIRU. ISARI VELAN MEMORIAL MOOT COURT COMPETITION, 2026

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**BEFORE THE HON'BLE SUPREME COURT OF INDIANA**

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**WRIT PETITION (CIVIL) NO: 313 OF 2025**

**IN THE MATTER OF:**

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**Ashima Bibi & 148 Others.....Petitioners**

**V.**

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**Union of Indiana & 6 Others.....Respondents**

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**UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIANA**

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**MOST HUMBLY SUBMITTED BEFORE THE HON'BLE CHIEF JUSTICE OF INDIANA AND  
HIS LORDSHIPS'S COMPANION JUSTICES OF THE SUPREME COURT OF INDIANA  
THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED.**

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**MEMORANDUM ON BEHALF OF PETITIONER**

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<b>LIST OF ABBREVIATIONS</b>
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<b>S.NO</b>	<b>ABBREVIATIONS</b>	<b>FULL FPRM</b>
1.	ABS	Access and Benefit Sharing
2.	Art	Article
3.	BDA	Biological Diversity Act, 2002
4.	CAA	Citizenship (Amendment) Act, 2019
5.	CRZ	Coastal Regulation Zone
6.	DPSP	Directive Principles of State Policy
7.	EIA	Environmental Impact Assessment
8.	FCA	Forest (Conservation) Act, 1980
9.	Hon'ble	Honourable
10.	ICCPR	International Covenant on Civil and Political rights.
11.	IPR	Intellectual Property Rights
12.	MoEFCC	Ministry of Environment, Forest and Climate Change
13.	NGT	National Green Tribunal
14.	PIL	Public Interest Litigation
15.	SC	Supreme Court
16.	SCC	Supreme Court Cases
17.	TEK	Traditional Ecological Knowledge
18.	UOI	Union of India
19.	V.	Versus
20.	WPA	Wildlife (Protection) Act, 1972

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1. Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.....	16
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3. Centre for Environmental Law, WWF v. Union of India, (2013) 8 SCC 234.....	29
4. Chameli Singh v. State of Uttar Pradesh, (1996) 2 SCC 549.....	25
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**BOOK REFERRED:**

---

1. M.P. Jain, Indian Constitutional Law, 8th ed. (LexisNexis, 2018).
2. P. Leelakrishnan, Environmental Law in India, 5th ed. (LexisNexis, 2019).
3. Shyam Divan & Armin Rosencranz, Environmental Law and Policy in India, 3rd ed. (Oxford University Press, 2020).
4. Upendra Baxi, The Future of Human Rights, 3rd ed. (Oxford University Press, 2008).
5. S. Sivakumar, Biodiversity and Intellectual Property Rights: Legal Perspectives, (Oxford University Press, 2017).

**LEGISLATIONS AND REGULATIONS REFERRED:**

---

1. The Constitution of India, 1950.
2. The Environment (Protection) Act, 1986.
3. The Forest (Conservation) Act, 1980.
4. The Wildlife (Protection) Act, 1972.
5. The Biological Diversity Act, 2002.
6. The Patents Act, 1970.
7. The Citizenship Act, 1955.
8. The Foreigners Act, 1946.
9. The Environment Impact Assessment Notification, 2006.
10. The Coastal Regulation Zone Notification, 2019.

**REPORTS REFERRED:**

---

1. Ministry of Environment, Forest and Climate Change (MoEFCC), India State of Environment Report (Government of India).
2. Intergovernmental Panel on Climate Change (IPCC), Sixth Assessment Report on Climate Change (2021–2023).
3. National Biodiversity Authority, Guidelines on Access and Benefit Sharing under the Biological Diversity Act, 2002.
4. United Nations Development Programme (UNDP), Climate Change and Human Development Report.
5. World Bank, Groundswell: Preparing for Internal Climate Migration (2018).

**JOURNAL ARTICLES REFERRED:**

---

1. Lavanya Rajamani, “Human Rights and Climate Change: The Role of the Judiciary”, Journal of Environmental Law.
2. Philippe Cullet, “Protection of Traditional Knowledge under International Environmental Law”, Indian Journal of International Law.
3. Shyam Divan, “Environmental Rule of Law in India”, National Law School of India Review.
4. Armin Rosencranz, “The Precautionary Principle and Environmental Governance in India”, Environmental Policy and Law Journal.

**LIST OF DATABASES:**

---

1. [www.sconline.com](http://www.sconline.com)
2. [www.manupatra.com](http://www.manupatra.com)
3. [www.westlawindia.com](http://www.westlawindia.com)
4. [www.lexisnexis.com](http://www.lexisnexis.com)

**DICTIONARIES REFERRED:**

---

1. Black’s Law Dictionary (11th ed.)
2. Oxford English Dictionary (OED).
3. K.J. Aiyar’s Judicial Dictionary.
4. Cambridge Dictionary

**STATEMENT OF JURISDICTION**

THE PETITIONERS MOST HUMBLY APPROACHED THE HON'BLE SUPREME COURT OF INDIA UNDER ART.32 OF THE CONSTITUTION OF INDIANA.

It is most respectfully submitted before the Hon'ble Supreme Court of Indiana that the present Writ Petition is filed under Article 32 of the Constitution of Indiana for the enforcement of the fundamental rights provided under Articles 14, 15, 21, and 29(1), which are violated by the acts of the Respondents, including the illegal detention and threatened deportation of the Soundarbani community and the granting of environmental clearance that impacts the Sundarbans ecosystem.

This Hon'ble Court, being the protector of the fundamental rights provided under the Constitution of Indiana, has the power and authority to pass such writs, orders, and directions that are necessary for the enforcement of the fundamental rights provided under the Constitution of Indiana. Accordingly, this Hon'ble Court has original jurisdiction over the present petition.

**STATEMENT OF FACTS**

**Ashima Bibi & 148 Others V. Union of Indiana & 6 Others**

1. The Greater Sundarbans region, situated along the eastern coast of the Republic of Indica, constitutes the world's largest mangrove ecosystem and has been designated a UNESCO World Heritage Site owing to its ecological importance and biodiversity.
2. The region has historically been inhabited by the Soundarbani Scheduled Tribe, an indigenous fishing and aquaculture community that has depended on mangrove forests, estuarine fisheries, and traditional ecological practices for their livelihood.
3. Over the past two decades, the Sundarbans region has experienced significant climate-induced environmental changes, including rising sea levels, coastal erosion, increased salinity, and frequent cyclonic storms, resulting in the gradual submergence of several inhabited islands.
4. Due to these environmental conditions, many members of the Soundarbani community were displaced and migrated to mainland areas within the States of West Bangel and Odina in search of livelihood and shelter.
5. In 2023, the Union of Indica, through the Ministry of Ports, Shipping and Waterways, approved the Sagar Mega Deep-Sea Port and Industrial Corridor Project, intended to develop a major international maritime trade hub and associated industrial infrastructure near the Sundarbans delta.
6. The project subsequently obtained Environmental Clearance under the Environmental Impact Assessment Notification, 2006, and Coastal Regulation Zone (CRZ) Clearance from the Ministry of Environment, Forest and Climate Change.
7. Concerns were raised by environmental groups and local communities that the project may lead to destruction of mangrove forests, disruption of fragile coastal ecosystems, and increased vulnerability of the Sundarbans region to climate change impacts.
8. Around the same time, several members of the Soundarbani community who had migrated inland were detained by local authorities on suspicion of being illegal migrants from the neighbouring country of Soundarbania, despite possessing certain local identity documents.

9. The detained individuals were reportedly held in temporary detention facilities, and deportation proceedings were initiated against them pending verification of their citizenship status.
10. Separately, a foreign biotechnology company based in Germany obtained Indian Patent No. 478321 for a crab-fattening technique that allegedly originated from traditional practices long used by the Soundarbani community in the Sundarbans.
11. It was alleged that the patent had been granted without prior approval of the National Biodiversity Authority and without obtaining consent or benefit-sharing arrangements with the indigenous community, raising concerns regarding biopiracy and misappropriation of traditional knowledge.
12. Aggrieved by the detention and threatened deportation of their community members, the environmental implications of the Sagar Port Project, and the grant of the patent over their traditional knowledge, Ashima Bibi and 148 members of the Soundarbani Scheduled Tribe filed the present Writ Petition before the Hon'ble Supreme Court of India under Article 32 of the Constitution of India.
13. The Petitioners contend that the impugned actions of the Respondents violate their fundamental rights under Articles 14, 15, 21, and 29(1) of the Constitution of India, and seek appropriate reliefs including protection from deportation, review of environmental clearances, and revocation of the patent in question.

**ISSUES RAISED**

**ISSUE – I**

WHETHER THE PRESENT WRIT PETITION IS MAINTAINABLE UNDER ARTICLE 32 OF THE CONSTITUTION FOR ENFORCEMENT OF THE PETITIONERS' FUNDAMENTAL RIGHTS?

**ISSUE – II**

WHETHER THE MASS AND RETROSPECTIVE CANCELLATION OF CITIZENSHIP DOCUMENTS, CONTINUED DETENTION AND PROPOSED DEPORTATION OF THE SOUNDARBANI SCHEDULED TRIBE VIOLATE ARTICLES 14, 15, 21 AND 29(1) OF THE CONSTITUTION?

**ISSUE – III**

WHETHER THE ENVIRONMENTAL CLEARANCE AND CRZ CLEARANCE GRANTED FOR THE SAGAR MEGA DEEP-SEA PORT & INDUSTRIAL CORRIDOR PROJECT ARE LIABLE TO BE QUASHED FOR VIOLATING STATUTORY SAFEGUARDS AND CONSTITUTIONAL ENVIRONMENTAL PRINCIPLES?

**ISSUE – VI**

WHETHER THE GRANT OF INDIANA PATENT NO. 478321 OVER THE TRADITIONAL CRAB-FATTENING TECHNIQUE WITHOUT PRIOR APPROVAL, DISCLOSURE OF ORIGIN OR BENEFIT-SHARING VIOLATES THE BIOLOGICAL DIVERSITY ACT, 2002 AND THE RIGHTS OF THE SOUNDARBANI COMMUNITY?

**ISSUE – V**

WHETHER THIS HON'BLE COURT MAY EXERCISE ITS CONSTITUTIONAL POWERS TO GRANT STRUCTURAL AND TRANSFORMATIVE REMEDIES IN THE ABSENCE OF A LEGISLATIVE FRAMEWORK GOVERNING CLIMATE-INDUCED DISPLACEMENT?

**SUMMARY OF ARGUMENTS**

**ISSUE – 1**

**WHETHER THE PRESENT WRIT PETITION IS MAINTAINABLE UNDER ARTICLE 32 OF THE CONSTITUTION FOR ENFORCEMENT OF THE PETITIONERS' FUNDAMENTAL RIGHTS?**

Yes. The present writ petition is maintainable under hon'ble supreme court as it seeks enforcement of fundamental rights under article 14, 15, 21 and 29(1) of the constitution. The members of the soundarbari scheduled tribe have been subjected to arbitrary cancellation of citizenship documents, unlawful detention and threat of deportation despite possessing valid records. These actions constitute a direct and continuing violation of fundamental rights. Further, this issue raises concern of citizenship, climate displacement and protection of indigenous communities. Therefore, the petition is fully maintainable.

**ISSUE – II**

**WHETHER THE MASS AND RETROSPECTIVE CANCELLATION OF CITIZENSHIP DOCUMENTS, CONTINUED DETENTION AND PROPOSED DEPORTATION OF THE SOUNDARBANI SCHEDULED TRIBE VIOLATE ARTICLES 14, 15, 21 AND 29(1) OF THE CONSTITUTION?**

Yes. The mass and retrospective cancellation of citizenship documents without any individual notice or hearing which violates the principles of natural justice and substantive due process under Article 21. The continued detention of the Petitioners without any proper resolution of their citizenship and Deportation of citizen permanently uninhabitable due to climate-induced submergence violates the right to life with dignity and determines the State's duty to protect its citizens. Additionally, considering the Soundarbari Scheduled Tribe as illegal migrants and accelerated citizenship to others under the Citizenship (Amendment) Act, 2019 amounts to discrimination under Articles 14 and 15. These actions also threaten the cultural identity of the community protected under Article 29(1).

**ISSUE – 1II**

**WHETHER THE ENVIRONMENTAL CLEARANCE AND CRZ CLEARANCE GRANTED FOR THE SAGAR MEGA DEEP-SEA PORT & INDUSTRIAL CORRIDOR PROJECT ARE LIABLE TO BE QUASHED FOR VIOLATING STATUTORY SAFEGUARDS AND CONSTITUTIONAL ENVIRONMENTAL PRINCIPLES?**

Yes. The Environmental Clearance and CRZ Clearance granted for the Sagar Mega Deep Sea Port project are illegal and should be quashed. The project permits large-scale reclamation and destruction of CRZ-IA mangrove forests. Such approval violates statutory safeguards under the CRZ Notification 2019 and the EIA Notification 2006, as well as protection under the Forest (Conservation) Act, 1980 and the Wildlife (Protection) Act, 1972. The clearance also overlooked the constitutional environmental principles including the public trust doctrine, precautionary principle and intergenerational equity. The State has acted arbitrarily and contrary to its constitutional duty to protect natural resources.

**ISSUE – VI**

**WHETHER THE GRANT OF INDIANA PATENT NO. 478321 OVER THE TRADITIONAL CRAB-FATTENING TECHNIQUE WITHOUT PRIOR APPROVAL, DISCLOSURE OF ORIGIN OR BENEFIT-SHARING VIOLATES THE BIOLOGICAL DIVERSITY ACT, 2002 AND THE RIGHTS OF THE SOUNDARBANI COMMUNITY?**

Yes. The grant of Indian Patent No. 478321 constitutes unlawful misappropriation of the traditional knowledge of the Soundarbani community. The patented method is a clone of crab-fattening technique which has been practiced by the community for centuries. Under Section 6 of the Biological Diversity Act, 2002, prior approval of the National Biodiversity Authority is mandatory before seeking intellectual property rights based on biological resources. In the present case, no such approval was obtained and the origin of the knowledge was not disclosed. So, the absence of prior informed consent and equitable benefit-sharing also violates India's obligations under the Nagoya Protocol. Consequently, the patent is invalid and liable to be revoked.

**ISSUE – V**

**WHETHER THIS HON'BLE COURT MAY EXERCISE ITS CONSTITUTIONAL POWERS TO GRANT STRUCTURAL AND TRANSFORMATIVE REMEDIES IN THE ABSENCE OF A LEGISLATIVE FRAMEWORK GOVERNING CLIMATE-INDUCED DISPLACEMENT?**

Yes. This Hon'ble Court possesses wide powers under Articles 32, 141 and 142 to grant effective remedies for the protection of fundamental rights. The present case raises serious issues like climate-induced displacement, environmental degradation and the rights of indigenous communities. In the absence of legislative framework governing climate displacement, the Court may issue appropriate decisions to safeguard constitutional rights. Such measures may include recognition and protection of climate-displaced indigenous persons, constitution of an independent commission to oversee rehabilitation and ecological restoration, and establishment of a climate justice fund based on the polluter-pays principle. The Court may also frame interim guidelines until the Parliament enacts the suitable legislation. These structural remedies are necessary to ensure complete justice and uphold the constitutional guarantees.

**ARGUMENTS ADVANCED**

**1. WHETHER THE PRESENT WRIT PETITION IS MAINTAINABLE UNDER ARTICLE 32 OF THE CONSTITUTION FOR ENFORCEMENT OF THE PETITIONERS' FUNDAMENTAL RIGHTS?**

It is humbly submitted that the present writ petition is fully maintainable before this Hon'ble Court under Article 32 of the Constitution as the Petitioners seek protection and enforcement of their fundamental rights which have been directly violated by the actions of the Respondents. The impugned actions, including mass cancellation of citizenship documents, arbitrary detention and threat of deportation of the Soundarbari Scheduled Tribe, constitute a direct violation, the constitutional framework under Articles 14, 15, 21 and 29(1). Article 32 which provide a guaranteed constitutional remedy against such violations and forms an essential part of the basic structure of the Constitution.

The Petitioners further submit that the present matter raises questions of grave constitutional importance involving citizenship rights, climate displacement, and protection of indigenous communities and unlawful deprivation of liberty. These issues require authoritative adjudication by this Hon'ble Court. Accordingly, the present petition is maintainable under Article 32 for the following reasons.

**[A]. The petition indicates a direct violation of fundamental rights under articles 14, 15, 21 and 29(1) of the constitution**

It is submitted that Article 32 may be invoked where a petitioner demonstrates a direct and substantial violation of fundamental rights. The Petitioners have been subjected to arbitrary cancellation of citizenship documents, detention in camps and imminent deportation despite possessing valid identification records and historical proof of residence. Such actions violate the guarantees of equality, personal liberty and protection of cultural identity under the Constitution.

In Dr. B.R. Ambedkar's Constituent Assembly speech, Article 32 was described as the "*heart and soul of the Constitution*", as it guarantees an effective remedy for enforcement of fundamental rights.

In case *Romesh Thappar v. State of Madras (1950)*,<sup>1</sup> the Supreme Court held that Article 32 provides a remedy for enforcement of fundamental rights and that citizens have the right to approach the Court directly where such rights are infringed. The Supreme Court has responsibility of protecting the fundamental rights of an individual.

In *S.P. Gupta v. Union of India (1981)*,<sup>2</sup> the Supreme Court recognized that where a large section of society suffers violation of fundamental rights and cannot approach the Court themselves, public interest litigation may be invoked under Article 32.

Similarly, in case of *Bandhua Mukti Morcha v. Union of India (1984)*,<sup>3</sup> the Court held that where the people in the society faces the violations of fundamental rights, the Court must exercise its power and jurisdiction under Article 32 to ensure protection of fundamental rights.

It is further submitted that under Article 141 of the Constitution, the law declared by this Hon'ble Court is binding on all courts and authorities in the country. The constitutional principles lay down in case such as *Romesh Thappar v. State of Madras*, *Bandhua Mukti Morcha v. Union of India*, and *Maneka Gandhi v. Union of India*<sup>4</sup> therefore constitute binding precedent governing the protection of fundamental rights. The Petitioners respectfully submit that the Respondents' actions are against to these framed constitutional principles and intervened by this Hon'ble Court under Article 32.

India is a signatory to the **International Covenant on Civil and Political Rights (ICCPR)**, which guarantees protection of life and liberty. **Article 9 of the ICCPR** provides that no person shall be subjected to **arbitrary arrest or detention**, and any deprivation of liberty must follow lawful and fair procedure. The Supreme Court has consistently held that international human rights norms can guide constitutional interpretation. The actions of the Respondents also violate Article 14, which ensures equality before law and prohibits arbitrary state action. The arbitrary grouping of the Soundarbari Scheduled Tribe as "illegal migrants" despite verified documents as a proof of their citizenship constitutes hostile discrimination. Further, As per Article 21 which ensures the right to life and personal liberty, this also includes the right to live with dignity. The arbitrary detention of the Petitioners without proper decision of citizenship status constitutes a grave violation of fundamental right.

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<sup>1</sup> Romesh Thappar v. State of Madras, AIR 1950 SC 124

<sup>2</sup> S.P. Gupta v. Union of India, 1981 Supp SCC 87.

<sup>3</sup> Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161

<sup>4</sup> Maneka Gandhi v. Union of India, (1978) 1 SCC 248

Additionally, the displacement and threatened deportation of the Soundarbani community and threaten to their cultural identity and traditional way of life, thereby infringe Article 29(1), which protects the cultural rights of distinct communities.

According, to the present petition it clearly discloses the direct violation of fundamental rights and enforcement of Article 32.

**[B]. The existence of an alternative remedy under article 226 does not bar maintainability under article 32**

It is respectfully submitted that the availability of an alternative remedy before the High Court under Article 226 does not bar the jurisdiction of this Hon'ble Court under Article 32 where fundamental rights are directly violated.

In case of *Kharak Singh v. State of Uttar Pradesh (1963)*,<sup>5</sup> the Supreme Court held that Article 32 is itself a fundamental right and cannot be denied merely on the ground that an alternative remedy exists. The Supreme Court guarantees that the right to move is for enforcement of fundamental rights which is guaranteed by the Constitution.

In the case of *P.N. Kumar v Municipal Corporation of Delhi (1987)*<sup>6</sup> the courts held that the Availability of alternate remedy does not bar Article 32 where fundamental rights are violated.

Similarly, in case of *Daryao v. State of Uttar Pradesh (1962)*,<sup>7</sup> the Court observed that Article 32 constitutes the heart and soul of the Constitution and provides a direct constitutional remedy against the violations of fundamental rights.

Furthermore, in *L. Chandra Kumar v. Union of India (1997)*,<sup>8</sup> the Supreme Court reaffirmed that judicial review by the Supreme Court under Article 32 forms a part of the basic structure of the Constitution. The Court held that access to the Supreme Court for enforcement of fundamental rights cannot be curtailed.

The Petitioners submit that the present case involves widespread violation of constitutional rights affecting an entire indigenous community. Given the scale and gravity of the violations, it is appropriate for this Hon'ble Court to exercise its jurisdiction under Article 32 rather than requiring the Petitioners to pursue fragmented remedies before multiple forums.

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<sup>5</sup> Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC 1295

<sup>6</sup> P.N. Kumar v. Municipal Corporation of Delhi, (1987) 4 SCC 609

<sup>7</sup> Daryao v. State of Uttar Pradesh, AIR 1961 SC 1457

<sup>8</sup> L. Chandra Kumar v. Union of India, (1997) 3 SCC 261

According, to the availability of an alternative remedy it does not surpass the maintainability of the present petition.

**[C]. The present case raises substantial constitutional questions justifying the exercise of this Hon'ble Court's jurisdiction under Article 32 of the Constitution.**

It is submitted that the present case raises serious constitutional questions relating to citizenship, homelessness and climate-induced displacement. These issues directly affect the Petitioner's fundamental rights and therefore squarely fall within the jurisdiction of this Hon'ble Court under Article 32.

In case of *Maneka Gandhi v. Union of India (1978)*,<sup>9</sup> the Supreme Court expanded the scope of Article 21 and held that any procedure denies a person of liberty must be fair, just and reasonable. The arbitrary cancellation of citizenship documents and detention of the Petitioners clearly fails this constitutional test.

Further, in case of *National Human Rights Commission v. State of Arunachal Pradesh (1996)*,<sup>10</sup> the Supreme Court intervened to protect the rights and security of displaced persons and held that the State is constitutionally obligated to safeguard the life and liberty of all individuals within its territory.

Similarly, in case of *Olga Tellis v. Bombay Municipal Corporation (1985)*,<sup>11</sup> the Court recognized that the right to livelihood forms an integral component of the right to life under Article 21. Forced displacement without rehabilitation therefore concludes violation of constitutional guarantees.

The Petitioners submit that the submergence of their homeland due to climate change has rendered them internally displaced persons. Such questions involve fundamental constitutional rights and therefore warrant adjudication by this Hon'ble Court under Article 32. The unprecedented nature of climate-induced displacement raises complex constitutional questions concerning citizenship, statelessness, and human dignity, which can only be effectively addressed by this Hon'ble Court in exercise of its jurisdiction under Article 32.

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<sup>9</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

<sup>10</sup> *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 SCC 742

<sup>11</sup> *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545

In case of *Justice K.S. Puttaswamy v. Union of India (2017)*,<sup>12</sup> the Supreme Court reaffirmed that dignity is the core of Article 21 and any State action threatening personal autonomy or security must satisfy the test of fairness and proportionality.

**[D]. This Hon'ble court may exercise its powers under articles 32 and 142 to grant effective constitutional remedies**

It is humbly submitted that this Hon'ble Court possesses wide powers under Articles 32 and 142 of the Constitution to issue appropriate directions, orders, or writs necessary for enforcement of fundamental rights and to ensure complete justice between the parties. While Article 32 guarantees a direct constitutional remedy for the enforcement of fundamental rights, Article 142 empowers this Hon'ble Court to pass any decree or order necessary for doing complete justice, particularly in situations where legislative gaps or extraordinary circumstances threaten constitutional guarantees.

In case of *Vishaka v. State of Rajasthan (1997)*,<sup>13</sup> the Supreme Court issued guidelines to address workplace sexual harassment in the absence of legislation framework. The Court held that it is empowered to create binding guidelines to protect fundamental rights where legislative gaps exist.

Similarly, in case of *Union Carbide Corporation v. Union of India (1991)*,<sup>14</sup> the Court exercised its powers under Article 142 to ensure complete justice for victims of environmental disaster.

Further, in case of *People's Union for Democratic Rights v. Union of India (1982)*,<sup>15</sup> the Supreme Court held that it has both the authority and obligation to protect fundamental rights through creative remedies when systematic violations occur.

In this present case it involves large scale violations almost affecting an entire indigenous community displaced by climate change and state action. In such extraordinary circumstances, this Hon'ble Court may exercise its constitutional powers to provide effective remedies including protection of citizenship rights, release of detained peoples and initiating appropriate guidelines for climate-displaced persons. Article 32 exists precisely to address situations where the State itself becomes the violator of fundamental rights. In such circumstances, the

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<sup>12</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

<sup>13</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241

<sup>14</sup> Union Carbide Corporation v. Union of India, (1991) 4 SCC 584

<sup>15</sup> People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235

jurisdiction of this Hon'ble Court must be invoked to preserve the supremacy of the Constitution and the rule of law.

Therefore, the Petitioners respectfully submit that the present writ petition is fully maintainable under Article 32 and this Hon'ble Court may exercise its constitutional jurisdiction to protect the fundamental rights of the Petitioners.

**2. WHETHER THE MASS AND RETROSPECTIVE CANCELLATION OF CITIZENSHIP DOCUMENTS, CONTINUED DETENTION AND PROPOSED DEPORTATION OF THE SOUNDARBANI SCHEDULED TRIBE VIOLATE ARTICLES 14, 15, 21 AND 29(1) OF THE CONSTITUTION?**

It is most respectfully submitted that the impugned actions of the Respondents are unconstitutional and violate the fundamental rights guaranteed to the Petitioners under **Articles 14, 15, 21 and 29(1)** of the Constitution. The mass and retrospective cancellation of citizenship documents, the arbitrary detention of members of the Soundarbarani Scheduled Tribe, and their alleged deportation and uninhabitable due to climate induced submergence constitute grave violations of constitutional validity.

The Respondents have committed these actions without following the principles of natural justice, without regulate individual adjudication of citizenship status and without considering the historical ties of the Petitioners to the region. Such actions diminish the rule of law and violate the well-established constitutional principles including substantive due process, non-arbitrariness and protection of human dignity.

The Petitioners therefore submit that the impugned actions are unconstitutional for the following reasons.

**[A]. Blanket and retrospective cancellation of citizenship documents without notice or hearing violates principles of natural justice and substantive due process.**

It is submitted that the Respondents have retrospectively cancelled citizenship documents as such as Aadhaar cards, voter identification cards and other official records even though the citizen have proper documentation and somewhere migrants, Hence without issuing individual notices or providing the Petitioners an opportunity to be heard. Such actions violate the fundamental principles of natural justice, particularly the rule of **Audi alteram partem**, which mandates that no person shall be criticized unheard.

The Supreme Court has consistently held that administrative actions affecting fundamental rights must comply with principles of natural justice. In case of In *Mohinder Singh Gill v. Chief Election Commissioner (1978)*,<sup>16</sup> the Supreme Court held that administrative actions affecting rights must conform to the principles of fairness and natural justice.

Similarly, in case of *Maneka Gandhi v. Union of India (1978)*,<sup>17</sup> the Supreme Court expanded its scope of Article 21 and held that any procedure denies a person right of life or liberty must be just, fair and reasonable. The Court introduced the doctrine of substantive due process into Indian constitutional jurisprudence.

The retrospective cancellation of citizenship documents without individual inquiry is inherently arbitrary and failed to uphold the constitutional requirement of fairness under Article 21. It also violates Article 14, which prohibits the arbitrary state action.

Furthermore, the principle of rule of law, which forms a basic feature of the Constitution, requires that executive actions be transparent, reasoned and consistent with legal standards. Arbitrarily depriving individuals of citizenship status without due process undermines the rule of law.

Therefore, the blanket cancellation of citizenship documents is unconstitutional.

**[B]. Continued detention of the petitioners without proper adjudication of citizenship status is arbitrary and violation of article 21.**

It is respectfully submitted that the continued detention of the Petitioners in detention centers without any proper adjudication of their citizenship status constitutes an unlawful deprivation of personal liberty.

The right to personal liberty is one of the most fundamental guarantees under Article 21 of the Constitution. Any restriction on this right must be based on a fair, reasonable and lawful procedure.

In case of *Hussainara Khatoon v. State of Bihar (1980)*,<sup>18</sup> the Supreme Court held that detention without fair and expeditious legal process violates the constitutional guarantee of personal liberty.

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<sup>16</sup> Mohinder Singh Gill v. Chief Election Commissioner, (1978) 1 SCC 405

<sup>17</sup> Maneka Gandhi v. Union of India, (1978) 1 SCC 248

<sup>18</sup> Hussainara Khatoon v. State of Bihar, (1980) 1 SCC 81

In *Sunil Batra v. Delhi Administration (1978)*,<sup>19</sup> the Supreme Court held that prisoners and detainees continue to enjoy fundamental rights under Article 21.

Similarly, in case of *DK Basu v. State of West Bengal (1997)*,<sup>20</sup> the Court emphasized that the dignity and liberty of individuals must be protected during detention and that arbitrary detention is incompatible with constitutional safeguards.

Further, in case of *Justice K.S. Puttaswamy v. Union of India (2017)*,<sup>21</sup> the Supreme Court assured that the right to dignity asserts an essential component of the right to life under Article 21.

The Petitioners have been detained despite having proper documentation indicating their citizenship and despite the absence of a fair adjudicatory process determining their legal status. Such detention is arbitrary and misappropriate.

Therefore, the continued detention of the Petitioners violates Article 21 and must be declared unconstitutional.

**[C]. Deportation to territories rendered uninhabitable due to climate-induced submergence violates the right to life with dignity and engages the principle of non-refoulement.**

It is submitted that deporting the Petitioners to territories that have been permanently submerged due to climate-induced sea-level rise exposes them to conditions incompatible with human survival. Such deportation violates the right to life with dignity guaranteed under Article 21.

The Supreme Court has consistently interpreted Article 21 broadly to include the right to live with dignity and security. In case of *Francis Coralie Mullin v. Administrator, Union Territory of Delhi (1981)*,<sup>22</sup> the Court held that the right to life includes the right to live with human dignity and all that goes along with it.

Similarly, in case of *Olga Tellis v. Bombay Municipal Corporation (1985)*,<sup>23</sup> the Court recognized that the right to livelihood forms an integral component with the right to life.

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<sup>19</sup> *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494

<sup>20</sup> *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416

<sup>21</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1

<sup>22</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608

<sup>23</sup> *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545

Forcing individuals to return to their territories which no longer exist or cannot sustain human life effectively denies them from livelihood, shelter and security. Such actions violate the constitutional framework of dignity and survival.

In *National Human Rights Commission v. State of Arunachal Pradesh (1996)*,<sup>24</sup> the Supreme Court held that the State is constitutionally obligated to protect displaced persons and ensure their security and dignity.

Additionally, international human rights law recognizes the principle of **non-refoulement**, which prohibits returning individuals to territories where their life or freedom would be threatened.

Although primarily applied in refugee law, the principle has been recognized as a fundamental human rights norm under:

- **1951 Refugee Convention**
- **International Covenant on Civil and Political Rights (ICCPR)**
- **Universal Declaration of Human Rights (UDHR)**

Indian constitutional decision has repeatedly recognized that international human rights principles as a guide of interpretation of fundamental rights. In case of *Vishaka v. State of Rajasthan (1997)*,<sup>25</sup> the Supreme Court held that international conventions can be relied upon to interpret the constitutional framework in the absence of domestic law.

Accordingly, the principle of **non-refoulement** should be recognized as part of Article 21 in cases involving climate-induced displacement.

**[D]. Treating the soundarbani community as “illegal immigrants” while granting accelerated citizenship to others violates articles 14 and 15**

It is respectfully submitted that the Respondents discriminated the Petitioners against the constitutional framework by treating them as illegal migrants while granting the citizenship to other migrants under the **Citizenship (Amendment) Act of 2019**.

Article 14 ensures equality before law and prohibits arbitrary classification. Any classification must satisfy the **test of reasonable classification**, which requires:

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<sup>24</sup> National Human Rights Commission v. State of Arunachal Pradesh, (1996) 1 SCC 742

<sup>25</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241

- An intelligible differentia
- A rational nexus with the objective sought to be achieved

This principle was established in case of *State of West Bengal v. Anwar Ali Sarkar (1952)*.<sup>26</sup>

This classification adopted by the Respondents fails this test. Members of the Soundarbari Scheduled Tribe possess documented historical ties to the region and have been recognized as citizens. Treating them as a illegal migrants while granting citizenship to other migrants from similar regions is arbitrary and discriminatory.

In *E.P. Royappa v. State of Tamil Nadu (1974)*,<sup>27</sup> the Supreme Court held that arbitrariness is antithetical to equality and therefore violates Article 14.

Furthermore, **Article 15** prohibits discrimination on the grounds of religion, race, caste or place of birth. The ill treatment of the Soundarbari community based on ethnic and regional identity violates this constitutional framework.

Therefore, the action violates the article 14 equality as rooted in the Constitution.

**[E]. The actions of the respondents violate the cultural rights of the soundarbari community guaranteed under article 29(1)**

It is submitted that the Soundarbari community represents a distinct indigenous group with unique cultural practices, linguistic identity and traditional ecological knowledge closely connected with the Sundarbans ecosystem. Article **29(1)** ensures that country's any part of citizens having a distinct language, script or culture has the right to amend the same.

The Supreme Court in case of *Bijoe Emmanuel v. State of Kerala (1986)*<sup>28</sup> held that cultural identity and minority rights must be protected by the Constitution for the people. Accordingly, the actions of the Respondents violate Article 29(1)

**[F]. The state has a positive constitutional obligation to rehabilitate citizens displaced by climate change**

It is submitted that the Constitution imposes not only negative obligations on the State to refrain from violating rights but also positive obligations to protect life and dignity.

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<sup>26</sup> State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75

<sup>27</sup> E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3

<sup>28</sup> Bijoe Emmanuel v. State of Kerala, (1986) 3 SCC 615

In case of *Chameli Singh v. State of Uttar Pradesh (1996)*,<sup>29</sup> the Supreme Court held that the right to shelter is a part of right to life under Article 21.

Modern constitutional jurisprudence increasingly recognizes the principle of climate justice, which requires that vulnerable communities disproportionately affected by climate change must receive protection and rehabilitation.

Further, the Directive Principles of State Policy reinforce this obligation. Article 38 mandates the State to promote social justice and minimize inequalities. Article 39(b) requires that the ownership and control of material resources of the community be distributed so as to serve the common good, while Article 39(c) directs the State to prevent concentration of wealth and resources to society. Additionally, Article 48A imposes a duty on the State to protect and improve the environment and safeguard the forests and wildlife, which is necessarily included to protect communities whose livelihoods are innate linked to hostile ecosystems.

The constitutional framework is further strengthened by Article 51A (g), which recognizes the duty of every citizen to protect and improve the natural environment. When read harmoniously with Articles 21 and 48A, it establishes a constitutional ethos that prioritizes ecological protection and the welfare of communities dependent on natural resources.

International frameworks also recognize these rights of indigenous and displaced persons, including:

- **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**
- **UN Guiding Principles on Internal Displacement**
- **Paris Agreement climate justice framework**

Climate-induced displacement has rendered the Petitioners internally displaced persons. Instead of criminalizing their displacement, the State has a constitutional duty to provide rehabilitation, protection and resettlement.

The Constitution does not permit the State to render its own citizens stateless or deny them dignity and protection merely because their homeland has been lost to climate change.

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<sup>29</sup> Chameli Singh v. State of Uttar Pradesh, (1996) 2 SCC 549

In light of the ongoing submissions, the Petitioners respectfully submit that the mass cancellation of citizenship documents, arbitrary detention and proposed deportation of the Soundarbani Scheduled Tribe violate **Articles 14, 15, 21 and 29(1)** of the Constitution.

These actions also contradict the principles of natural justice, the doctrine of substantive due process, international human rights rules and the constitutional obligation of the State to protect vulnerable communities. The impugned actions therefore deserve to be declared as unconstitutional by this Hon'ble Court.

**3. WHETHER THE ENVIRONMENTAL CLEARANCE AND CRZ CLEARANCE GRANTED FOR THE SAGAR MEGA DEEP-SEA PORT & INDUSTRIAL CORRIDOR PROJECT ARE LIABLE TO BE QUASHED FOR VIOLATING STATUTORY SAFEGUARDS AND CONSTITUTIONAL ENVIRONMENTAL PRINCIPLES?**

It is most respectfully submitted that the Environmental Clearance (EC) and CRZ Clearance granted for the Sagar Mega Deep-Sea Port & Industrial Corridor Project are illegal, unconstitutional and liable to be quashed. The project authorizes huge reclamation of ecological border and destruction of mangrove ecosystems located in the Sundarbans region, which constitutes one of the most fragile and ecologically significant coastal ecosystems in the world and as recognized internationally as a UNESCO World Heritage ecosystem.

The impugned clearances violate statutory environmental safeguards which established under the Environmental Impact Assessment Notification 2006, the Coastal Regulation Zone Notification 2019, the Forest (Conservation) Act 1980, and the Wildlife (Protection) Act 1972. Further, the clearances oversee the binding constitutional environmental principles recognized by this Hon'ble Court including the public trust doctrine, precautionary principle, sustainable development and intergenerational equity.

This Hon'ble Court has consistently held that environmental protection concluded as an integral component of the **right to life under Article 21** and that ecological preservation must be prioritized where the developmental or upliftment activities that threaten the fragile ecosystems.

The Petitioners therefore submit that the impugned environmental clearances must be set aside for the following reasons.

**[A]. The environmental clearance violates statutory safeguards under the EIA notification 2006 and CRZ notification 2019.**

It is submitted that the approval of environmental clearance for the impugned project fails to coordinate with the mandatory safeguards established under the **Environmental Impact Assessment (EIA) Notification 2006** and the **CRZ Notification 2019**.

The EIA Notification 2006 establishes a regulatory framework designed to ensure that projects with potential severe environmental consequences which should undergo complete environmental scrutiny for the approval. The process requires a detailed environmental impact assessment, public consultation and scientific evaluation of ecological risks.

Environmental governance requires adherence to the **environmental rule of law**, which ensures that development decisions comply with statutory safeguards and ecological sustainability.

The Supreme Court has constantly emphasized that compliance with the environmental clearance procedures is not a mere a formality but an essential and mandatory safeguard for environmental protection. In case of *Hanuman Laxman Aroskar v. Union of India (2019)*,<sup>30</sup> the Court held that environmental clearances granted without strict compliance with the EIA framework are liable to be invalid. The Court further emphasized that environmental decision-making must be transparent, reasoned and informed by scientific analysis and also held that environmental clearance procedures are not mere technicalities but substantive safeguards intended to protect ecological integrity.

Similarly, in case of *Lafarge Umiam Mining Pvt Ltd v Union of India (2011)*,<sup>31</sup> the Supreme Court held that environmental governance requires a strategic balancing between developmental needs and ecological preservation. The Court stressed that environmental clearance must be granted only after proper evaluation of environmental consequences.

In the present case, the project permits large scale reclamation and excavating activities within the Sundarbans region, which has been categorized as a **CRZ-IA zone** under the CRZ Notification 2019. CRZ-IA zones include ecologically sensitive areas such as mangroves, coral reefs and coastal wetlands that perform critical ecological functions.

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<sup>30</sup> Hanuman Laxman Aroskar v. Union of India, (2019) 15 SCC 401

<sup>31</sup> Lafarge Umiam Mining Pvt. Ltd. v. Union of India, (2011) 7 SCC 338

Mangroves serve as natural barriers against coastal erosion, cyclones and storm surges while also functioning as vital carbon sinks. The destruction of such ecosystems fundamentally overruns the protective objectives of the CRZ framework.

Granting clearance for extensive destruction of mangrove ecosystems within CRZ-IA areas therefore violates the statutory framework established for coastal protection and renders the impugned clearance legally unsustainable.

**[B]. Reclamation and destruction of mangrove forests violate the forest (conservation) act 1980 and the wildlife (protection) act 1972**

It is submitted that the proposed project authorizes large-scale destruction of mangrove forests that form part of the Sundarbans ecosystem. Mangroves are recognized as critical ecological resources that sustain biodiversity, protect coastlines and support local livelihoods.

Under the **Forest (Conservation) Act 1980**, diversion of forest land for non-forest purposes requires strict regulatory scrutiny and prior approval from the Central Government. The Act was enacted specifically to prevent indiscriminate diversion of forest land for commercial activities.

The Supreme Court has consistently interpreted the Forest (Conservation) Act broadly in order to strengthen forest protection. In the landmark case of *T.N. Godavarman Thirumulpad v Union of India (1997)*,<sup>32</sup> the Court held that the term “forest” must be interpreted expansively and that all forest ecosystems must be protected from exploitation.

In *Samaj Parivartana Samudaya v. State of Karnataka (2013)*,<sup>33</sup> the Supreme Court emphasised that ecological preservation must prevail over commercial exploitation of natural resources.

Further, the Sundarbans region serves as a critical habitat for numerous endangered species and forms part of an internationally recognized ecological reserve. Activities that threaten wildlife habitats are regulated under the **Wildlife (Protection) Act 1972**, which imposes strict restrictions on activities that may harm protected ecosystems.

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<sup>32</sup> T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267

<sup>33</sup> Samaj Parivartana Samudaya v. State of Karnataka, (2013) 8 SCC 154

In case of *Centre for Environmental Law, WWF v Union of India (2013)*,<sup>34</sup> the Supreme Court emphasized that protection of endangered species and fragile ecosystems is an essential component of environmental governance.

Allowing reclamation and destruction of mangrove forests within such a fragile ecosystem therefore violates statutory protections and threatens the ecological balance of the region.

**[C]. The impugned clearance breaches the public trust doctrine**

It is submitted that the State holds natural resources such as forests, rivers and coastal ecosystems in trust for the benefit of present and future generations. This principle, known as the **Public Trust Doctrine**, has been firmly recognized in Indian environmental jurisprudence.

The doctrine was adopted by the Supreme Court in case of *M.C. Mehta v Kamal Nath (1997)*,<sup>35</sup> where the Court held that the State acts as a trustee of natural resources and cannot permit their exploitation in a manner that harms the public interest.

The Court further emphasized that ecological resources such as forests and wetlands cannot be converted into commercial assets for private gain.

Similarly, in case of *Fomento Resorts and Hotels Ltd v Minguel Martins (2009)*,<sup>36</sup> the Supreme Court reaffirmed that beaches, forests and other natural resources belong to the public and must be preserved by the State as trustee.

The Sundarbans ecosystem represents a globally significant natural heritage and provides ecological services essential for the survival of coastal populations. By granting environmental clearance for a project that threatens the destruction of mangrove forests, the Respondents have breached their fiduciary duty as trustees of natural resources. Such actions undermine the constitutional obligation of the State to preserve ecological resources and therefore violate the public trust doctrine.

**[D].The clearance disregards the precautionary principle, sustainable development and intergenerational equity**

It is submitted that Indian environmental jurisprudence recognizes several fundamental principles that guide environmental decision-making. These include the **precautionary**

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<sup>34</sup> Centre for Environmental Law, WWF v. Union of India, (2013) 8 SCC 234

<sup>35</sup> M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388

<sup>36</sup> Fomento Resorts and Hotels Ltd. v. Minguel Martins, (2009) 3 SCC 571

**principle**, the principle of **sustainable development** and the doctrine of **intergenerational equity**.

The precautionary principle requires that where there is a risk of serious environmental harm, lack of full scientific certainty should not be used as a reason for postponing preventive measures.

This principle was recognized by the Supreme Court in *Vellore Citizens Welfare Forum v Union of India (1996)*,<sup>37</sup> where the Court held that the precautionary principle and sustainable development are integral parts of Indian environmental law.

In *Indian Council for Enviro-Legal Action v. Union of India (1996)*,<sup>38</sup> the Supreme Court recognized the **polluter pays principle**, requiring entities responsible for environmental harm to bear the cost of restoration.

Similarly, the principle of intergenerational equity requires that natural resources be preserved for future generations. In case of *State of Himachal Pradesh v Ganesh Wood Products (1995)*,<sup>39</sup> the Court emphasized that environmental protection must ensure that natural resources remain available for posterity.

Scientific evidence indicates that dredging and large-scale reclamation in the Sundarbans region may accelerate coastal erosion, increase salinity levels and destabilize fragile ecological systems. The destruction of mangrove forests may also weaken natural barriers against cyclones and flooding.

Approving such a project despite foreseeable ecological risks demonstrates a complete disregard for the precautionary principle and the doctrine of intergenerational equity.

**[E]. Environmental degradation caused by the project violates the fundamental right to life under article 21**

It is submitted that environmental protection forms an integral part of the right to life guaranteed under **Article 21 of the Constitution** In case of *Virender Gaur v. State of Haryana (1995)*,<sup>40</sup> the Supreme Court held that environmental protection is a constitutional obligation under Article 21.

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<sup>37</sup> Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647

<sup>38</sup> Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212

<sup>39</sup> State of Himachal Pradesh v. Ganesh Wood Products, (1995) 6 SCC 363

<sup>40</sup> Virender Gaur v. State of Haryana, (1995) 2 SCC 577

The Supreme Court has repeatedly held that the right to life includes the right to live in a clean and healthy environment. In case of *Subhash Kumar v State of Bihar (1991)*,<sup>41</sup> the Court recognized that the right to life includes the right to enjoy pollution free air and water.

Similarly, in case of *M.C. Mehta v Union of India (1987)*,<sup>42</sup> the Court emphasized that environmental protection is essential for safeguarding human life and ecological balance.

The destruction of mangrove ecosystems in the Sundarbans region threatens not only biodiversity but also the safety and livelihood of local communities who depend on these ecosystems for protection against coastal disasters.

The doctrine of **sustainable development**, recognized by this Hon'ble Court, requires that developmental activities must proceed without compromising ecological integrity. Approval of environmental clearance for such a project therefore constitutes arbitrary state action that ignores the constitutional guarantee of environmental protection.

In light of the foregoing submissions, it is respectfully submitted that the Environmental Clearance and CRZ Clearance granted for the Sagar Mega Deep-Sea Port & Industrial Corridor Project violate statutory environmental safeguards, constitutional environmental principles and the fundamental right to a healthy environment under Article 21.

Ecologically fragile regions such as the Sundarbans cannot be subjected to irreversible environmental degradation in the name of development. Thus impugned clearances therefore deserve to be **quashed by this Hon'ble Court**.

**4. WHETHER THE GRANT OF INDIAN PATENT NO. 478321 OVER THE TRADITIONAL CRAB-FATTENING TECHNIQUE WITHOUT PRIOR APPROVAL, DISCLOSURE OF ORIGIN OR BENEFIT-SHARING VIOLATES THE BIOLOGICAL DIVERSITY ACT, 2002 AND THE RIGHTS OF THE SOUNDARBANI COMMUNITY?**

The grant of Indian Patent No. 478321 over the traditional crab-fattening technique is illegal and violates the Biological Diversity Act, 2002 as well as the rights of the indigenous Soundarbani community. The patent was granted without obtaining prior approval of the National Biodiversity Authority under Section 6, which is mandatory when biological

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<sup>41</sup> Subhash Kumar v. State of Bihar, (1991) 1 SCC 598

<sup>42</sup> M.C. Mehta v. Union of India, (1987) 1 SCC 395

resources or associated traditional knowledge are used. Further, the patent application failed to disclose the source and origin of the traditional knowledge, which is a statutory requirement.

**[A]. The prior approval of the National Biodiversity Authority is mandatory under Section 6 of the Biological Diversity Act, 2002**

The Petitioner submits that it is respectfully submitted that prior approval from the National Biodiversity Authority is a mandatory requirement as per Section 6 of the Biological Diversity Act, 2002, if a person desires to obtain intellectual property rights over biological resources or associated traditional knowledge originating from India. In the present case, the patent has already been granted to the German company in the name of Indian Patent No. 478321 for the crab fattening technique that has already been practiced by the Soundarbani community for centuries without seeking prior approval from the NBA.

The requirement of seeking prior approval also fulfills a significant purpose, which is to ensure fair and equitable sharing of benefits as well as the indigenous communities whose knowledge has contributed to such innovations.

In the case of *Divya Pharmacy v. Union of India (2018)*,<sup>43</sup> the Uttarakhand High Court held that the provisions of the Biological Diversity Act, 2002, including the requirement of Fair and Equitable Benefit Sharing, apply to all the entities that use biological resources for the commercial purposes. The Court held that biological resources, along with traditional knowledge, are a part of the country's natural wealth, and the local population should benefit equally from the use of biological resources.

**[B]. The non-disclosure of the source and origin of traditional knowledge violates the Biological Diversity Act, 2002**

The Petitioners respectfully submit that failure to disclose the source and origin of traditional knowledge constitutes a clear violation of the statutory framework of the Biological Diversity Act, 2002. The Act was enacted to conserve biological diversity and to ensure fair and equitable benefit sharing arising from the use of biological resources and associated traditional knowledge. When a patent application relies on knowledge derived from indigenous

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<sup>43</sup> Divya Pharmacy v. Union of India, 2018 SCC OnLine Utt 1035

communities, disclosure of the source and origin becomes essential to ensure transparency and accountability

The Madras High Court in *Shamnad Basheer v. Union of India*,<sup>44</sup> held that the structure and functioning of intellectual property adjudicatory bodies must conform to constitutional principles and statutory safeguards governing intellectual property rights. The Court emphasized that intellectual property regimes must operate within the framework of statutory compliance and public interest. Therefore, when statutory requirements governing intellectual property rights are ignored or bypassed, such actions become legally unsustainable and liable to judicial scrutiny.

The principle supporting this protection is the Intergenerational Equity Doctrine, which requires that natural resources and associated knowledge be preserved and protected for both present and future generations. Therefore, the failure to disclose the source and origin of the traditional crab-fattening technique constitutes a serious statutory violation and renders the patent liable to revocation.

**[C]. The absence of prior informed consent and benefit-sharing violates the Nagoya Protocol**

The Petitioners point out that the current situation lacks both prior informed consent and equitable benefit-sharing which together create an unlawful situation that violates India's obligations under the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits which came into effect in 2010. The Soundarbani indigenous community has used the crab-fattening technique for centuries yet the patent office granted a patent without acquiring their approval or establishing a benefit-sharing arrangement. India which ratified the Nagoya Protocol and implemented its guidelines through the Biological Diversity Act of 2002 must protect against this type of misappropriation while providing fair share of benefits.

In *Council of Scientific and Industrial Research v. United States Patent and Trademark Office (Turmeric Patent Case, 1997)*,<sup>45</sup> the patent granted for the wound-healing properties of

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<sup>44</sup> Shamnad Basheer v. Union of India, AIR 2015 Mad 250

<sup>45</sup> Council of Scientific and Industrial Research v. United States Patent and Trademark Office (Turmeric Patent Case), USPTO Re-examination No. 90/003,888 (1997)

turmeric was revoked after it was shown that the knowledge already existed in traditional Indian practices. The case highlighted that patents cannot be granted over knowledge that has long been part of a community's traditional heritage.

Similarly, in the *Neem Patent Case (European Patent Office, 2000)*,<sup>46</sup> the European Patent Office revoked a patent relating to neem-based fungicide on the ground that the claimed invention lacked novelty and was based on traditional knowledge already used in India. These cases demonstrate that the international legal framework strongly discourages the private monopolization of traditional knowledge, thereby supporting the Petitioners' claim that the patent in the present case violates the principles of the Nagoya Protocol and must be revoked.

**[D]. The impugned patent amounts to misappropriation of the Soundarbani community's traditional knowledge**

The Petitioners respectfully submit that the grant of the patent over the crab-fattening technique of constitutes misappropriation of traditional ecological knowledge belonging to the Soundarbani community. The community has maintained its traditional livelihood practices within the Sundarbans ecosystem through oral transmission of this technique which they have practiced for many centuries. Indigenous communities developed traditional ecological knowledge which forms their cultural identity and heritage that Article 29(1) of the Indian Constitution protects as a right for minorities to maintain their unique cultural heritage.

The patent application in this case used the Soundarbani community traditional crab-fattening technique without providing details about its origin, obtaining prior informed consent, or arranging benefit distribution.

In *Monsanto Technology LLC v. Nuziveedu Seeds Ltd. (2019)*,<sup>47</sup> the Supreme Court of India held that intellectual property rights must operate within the framework of statutory protections and public interest, particularly in matters involving biological resources and agricultural knowledge. The Court observed that intellectual property regimes cannot be used to create monopolies over biological resources in a manner that undermines the rights of farmers and traditional knowledge holders.

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<sup>46</sup> European Patent Office v. W.R. Grace & Co. (Neem Patent Case), European Patent No. 0436257 (EPO Opposition Division, 2000)

<sup>47</sup> Monsanto Technology LLC v. Nuziveedu Seeds Ltd., (2019) 3 SCC 381

The present case also attracts the application of the Public Trust Doctrine and the principle of Intergenerational Equity, which require the State to protect natural resources and associated traditional knowledge for the benefit of present and future generations. Therefore, the grant of the patent amounts to misappropriation of traditional ecological knowledge, and the patent is liable to be revoked to protect the cultural and ecological rights of the Soundarbani community.

**5. WHETHER THIS HON'BLE COURT MAY EXERCISE ITS CONSTITUTIONAL POWERS TO GRANT STRUCTURAL AND TRANSFORMATIVE REMEDIES IN THE ABSENCE OF A LEGISLATIVE FRAMEWORK GOVERNING CLIMATE-INDUCED DISPLACEMENT?**

The Petitioners respectfully submit that this Hon'ble Court possesses wide constitutional powers under Articles 32, 141 and 142 of the Constitution of India to grant effective and transformative remedies when fundamental rights are threatened and no legislative framework exists to address the situation. The displacement of the Soundarbani community due to climate-induced submergence of their ancestral homeland presents an unprecedented constitutional crisis affecting their right to life with dignity under Article 21, equality under Article 14, and protection of cultural identity under Article 29(1). As the guardian of fundamental rights, this Hon'ble Court is empowered to fashion appropriate remedies to protect vulnerable communities whose rights are endangered by emerging challenges such as climate-induced displacement.

In case of *Vishaka v. State of Rajasthan (1997)*,<sup>48</sup> where the Supreme Court, in the absence of specific legislation addressing workplace sexual harassment, framed binding guidelines to protect fundamental rights under Articles 14, 19 and 21. The Court held that where legislative gaps exist and fundamental rights are at stake, the judiciary may formulate guidelines and structural remedies that operate until appropriate legislation is enacted. Similarly, in the present case, this Hon'ble Court may exercise its constitutional authority to establish remedial mechanisms and guidelines to protect the rights of climate-displaced persons and ensure justice in the absence of a statutory framework governing climate-induced displacement.

**[A]. The climate-displaced indigenous persons are entitled to constitutional protection under Articles 14, 21 and 29(1)**

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<sup>48</sup> *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241

The Soundarbani community faces displacement because of climate-related flooding which creates constitutional issues that demand protection under Articles 14 and 21 and Article 29(1) of the Constitution of India. The constitutional courts have interpreted Article 21 to establish the right of people to live with dignity and to have access to a safe and sustainable environment. When an indigenous community experiences complete displacement because of environmental damage and climate change, constitutional protection becomes essential to protect their fundamental right to exist and preserve their cultural heritage.

In *Olga Tellis v. Bombay Municipal Corporation*,<sup>49</sup> the Supreme Court held that the right to livelihood forms an integral part of the right to life under Article 21, recognizing that deprivation of livelihood directly affects the ability of individuals to live with dignity. The Court observed that eviction or displacement without adequate safeguards would violate the constitutional guarantee of life and dignity. The reasoning in this case strongly supports the proposition that climate-induced displacement, which destroys both livelihood and habitat, must attract constitutional protection.

Similarly, in *Subhash Kumar v. State of Bihar*,<sup>50</sup> the Supreme Court held that the right to a healthy environment and pollution-free water and air is an essential component of the right to life under Article 21. This judgment expanded the scope of environmental rights within constitutional jurisprudence and recognized that environmental degradation directly affects human survival and dignity. Applying this reasoning, climate-induced destruction of the Soundarbans ecosystem and the resulting displacement of the Soundarbani community clearly engages the constitutional guarantees under Articles 14, 21 and 29(1). Therefore, climate-displaced indigenous persons must be recognized as a vulnerable category entitled to constitutional protection and remedial safeguards from this Hon'ble Court.

**[B]. This Hon'ble Court may constitute a "Sundarbans Climate Displacement and Mangrove Restoration Commission" under Article 142**

The Supreme Court under Article 142 of the Constitution of India empowers this Hon'ble Court to pass necessary orders or directions which are required to achieve complete justice in all cases which it hears. The Court has established institutional mechanisms and monitoring bodies to execute constitutional rights because existing administrative systems fail to address environmental and humanitarian disasters which require advanced administrative solutions.

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<sup>49</sup> *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545

<sup>50</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598

In *M. C. Mehta v. Union of India*,<sup>51</sup> the Supreme Court exercised its constitutional powers to establish monitoring authorities and committees to oversee environmental protection measures and ensure compliance with its directions. Applying the same reasoning, the constitution of a Sundarbans Climate Displacement and Mangrove Restoration Commission under Article 142 would be an appropriate and constitutionally valid step to protect both the displaced Soundarbani community and the fragile mangrove ecosystem for present and future generations.

In *Supreme Court Bar Association v. Union of India (1998)*,<sup>52</sup> the Court held that Article 142 confers wide and plenary powers upon the Supreme Court to pass any order necessary to ensure complete justice between the parties before it. The Court clarified that these powers enable the judiciary to craft effective remedies in extraordinary situations where existing statutory mechanisms are inadequate or where strict adherence to ordinary procedures would defeat the ends of justice. It further observed that Article 142 serves as a constitutional tool allowing the Court to fashion appropriate institutional or structural remedies to protect fundamental rights.

**[C]. The principles of polluter-pays and beneficiary-pays justify the creation of a Climate Justice and Rehabilitation Fund**

The principles of Polluter Pays and Beneficiary Pays establish the foundation for Indian environmental law which supports the development of a Climate Justice and Rehabilitation Fund for this case. The principles establish that organizations which create environmental damage and those who make profits from activities that harm the environment must pay for both environmental restoration and community compensation. The Soundarbani community has lost its land and livelihood and cultural heritage because of environmental changes which resulted from the development activities that the respondents implemented.

In the case of *Indian Council for Enviro-Legal Action v. Union of India (1996)*,<sup>53</sup> the Court held that the “Polluter Pays Principle” is an essential part of environmental law and that industries responsible for environmental damage are absolutely liable to compensate for the harm caused and to bear the cost of restoring the degraded environment. The Court further held that environmental remediation and compensation are integral to environmental justice and that polluting entities cannot escape liability for ecological harm caused by their activities.

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<sup>51</sup> M.C. Mehta v. Union of India, (1987) 1 SCC 395

<sup>52</sup> Supreme Court Bar Association v. Union of India, (1998) 4 SCC 409

<sup>53</sup> Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212

In the case of *Vellore Citizens Welfare Forum v. Union of India (1996)*,<sup>54</sup> the Court held that the “Polluter Pays Principle” and the “Precautionary Principle” form part of the law of the land and are essential elements of sustainable development under Indian environmental jurisprudence. to the present case, the establishment of a Climate Justice and Rehabilitation Fund, financed by those responsible for environmental degradation and those benefiting from the Sagar Port project, is a legally justified mechanism to ensure rehabilitation of the displaced Soundarbani community and restoration of the Sundarbans ecosystem.

**[D]. This Hon’ble Court may frame interim Climate Displacement Guidelines under Articles 32, 141 and 142 in the absence of legislation**

The Hon'ble Court has constitutional authority to protect fundamental rights because there is no existing law that governs climate-related displacement cases. The Constitution of India grants this Court the power to protect constitutional rights through Articles 32 and 141 and 142 by issuing necessary orders for their enforcement. The Soundarbani community's climate displacement has resulted in loss of their home territory and their ability to work and their traditions which directly impacts their right to live with dignity according to Article 21 and their right to equality under Article 14 and their right to protect their culture according to Article 29(1).

In the case of *M. C. Mehta v. Union of India*,<sup>55</sup> the Court held that when environmental harm threatens public health and fundamental rights, the judiciary may issue continuing directions and institutional guidelines to ensure compliance with constitutional principles. The Court adopted the method of continuing mandamus to monitor environmental protection measures and enforce fundamental rights over time. this Hon’ble Court may frame interim Climate Displacement Guidelines under Articles 32, 141 and 142 to ensure protection, rehabilitation and dignity of climate-displaced persons until a proper statutory framework is enacted.

**[E]. The present case raises substantial constitutional questions warranting reference to a Constitution Bench**

The fundamental constitutional rights because it seeks to define how Articles 14 and 21 and Article 29(1) apply to climate change-related displacement and indigenous community rights. The Soundarbani community members who lost their territory through climate change face a constitutional crisis because they lost their land, their identity, their means of making a living,

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<sup>54</sup> *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647

<sup>55</sup> *M.C. Mehta v. Union of India*, (1987) 1 SCC 395

and their cultural traditions. The questions at hand require the court to decide constitutional matters because they relate to state obligations that protect life and equality and cultural identity.

In the case of *Kesavananda Bharati v. State of Kerala*,<sup>56</sup> the Court held that the Constitution is a living document whose interpretation must preserve its fundamental values and protect the rights of citizens against evolving threats. The judgment recognized that constitutional interpretation must adapt to changing social realities while safeguarding the basic structure of the Constitution. The present case raises substantial constitutional questions relating to climate justice, environmental protection, and the rights of indigenous communities, which warrant consideration by a Constitution Bench of this Hon'ble Court for authoritative determination.

The issues raised in the present petition demonstrate that climate-induced displacement of the Soundarbani community is not merely an environmental concern but a serious constitutional crisis affecting fundamental rights under Articles 14, 21 and 29(1). The absence of a legislative framework governing climate displacement cannot justify denial of constitutional protection to vulnerable indigenous communities whose homeland, livelihood and cultural identity are under imminent threat. This Hon'ble Court, as the guardian of fundamental rights, possesses wide powers under Articles 32, 141 and 142 to craft structural and transformative remedies to address such unprecedented challenges. The present case therefore warrants urgent judicial intervention to uphold constitutional guarantees, protect environmental justice and secure the dignity and survival of the Soundarbani people.

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<sup>56</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225

**PRAYER**

Wherefore in the light of facts presented, issues raised, arguments advanced and authorities cited, the Counsel on behalf of the Petitioners humbly prays before this Hon'ble Court to adjudge and declare that:

1. **Declare** that the cancellation of citizenship documents, detention, and proposed deportation of the Soundarbari Scheduled Tribe are unconstitutional and violative of Articles 14, 15, 21 and 29(1) of the Constitution.
2. **Quash** the Environmental Clearance and CRZ Clearance granted for the Sagar Mega Deep-Sea Port & Industrial Corridor Project.
3. **Revoke** Indian Patent No. 478321 for violating the Biological Diversity Act, 2002 and the rights of the Soundarbari community.
4. **Issue** appropriate directions for protection and rehabilitation of climate-displaced persons.

*and/or*

*Pass any other order, direction, or relief that it may deem fit in the interest of justice and equity.*

*For this act of kindness of your lordship, the Petitioners shall duty bound forever pray.*

**Place:**

S/d-

**Date:**

COUNSELS for PETITIONERS