

THIRU. ISARI VELAN MEMORIAL MOOT COURT COMPETITION, 2026

BEFORE THE HON'BLE SUPREME COURT OF INDIANA

WRIT PETITION (CIVIL) NO: 313 OF 2025

IN THE MATTER OF:

Ashima Bibi & 148 Others.....Petitioners

V.

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

UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIANA

**MOST HUMBLY SUBMITTED BEFORE THE HON'BLE CHIEF JUSTICE OF INDIANA AND
HIS LORDSHIPS'S COMPANION JUSTICES OF THE SUPREME COURT OFINDIANA
THE HUMBLE COUNTER AFFIDAVIT OF THE RESPONDENT ABOVENAMED.**

MEMORANDUM ON BEHALF OF RESPONDENT

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LIST OF ABBREVIATIONS

S.NO	ABBREVIATIONS	FULL FPRM
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	Honorable
10.	IPR	Intellectual Property Rights
11.	MoEFCC	Ministry of Environment, Forest and Climate Change
12.	NGT	National Green Tribunal
13.	PIL	Public Interest Litigation
14.	SC	Supreme Court
15.	SCC	Supreme Court Cases
16.	TEK	Traditional Ecological Knowledge
17.	UOI	Union of India
18.	V.	Versus
19.	WPA	Wildlife (Protection) Act, 1972

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STATEMENT OF JURISDICTION

THE RESPONDENTS HUMBLY SUBMIT THIS MEMORANDUM IN RESPONSE TO THE PETITION FILED BY THE PETITIONER BEFORE THIS HON'BLE SUPREME COURT OF INDICA UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIANA.

It is most respectfully submitted before the Hon'ble Supreme Court of Indiana that the present proceedings have been instituted under **Article 32 of the Constitution of Indiana** by the Petitioners alleging violation of fundamental rights. However, the Respondents submit that the extraordinary jurisdiction of this Hon'ble Court under Article 32 may be invoked only in cases of a clear and direct infringement of fundamental rights.

It is further submitted that matters relating to environmental clearances, administrative determinations, and questions of fact are ordinarily subject to examination before the competent statutory authorities and appropriate forums. Therefore, the invocation of the writ jurisdiction of this Hon'ble Court at the first instance is premature.

Accordingly, the Respondents submit that the maintainability of the present petition is questionable, and this Hon'ble Court may be pleased to examine the jurisdictional threshold before proceeding to adjudicate the merits of the case.

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 Soundarbari 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 Soundarbari community were displaced and migrated to mainland areas within the States of West Bangal 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 Soundarbari community who had migrated inland were detained by local authorities on suspicion of being illegal migrants from the neighbouring country of Soundarbaria, 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?

No. The present writ petition is not maintainable under Article 32 of the Constitution. Article 32 can be invoked only where there is a clear and direct violation of fundamental rights. The present petition raises complex factual questions relating to citizenship determination, immigration status and environmental policy, which require the examination by appropriate and authorized statutory authorities and High Courts under Article 226. The existence of an effective alternative remedy before the High Court's bars direct reference of Article 32. Further, issues concerning the climate displacement and citizenship verification fall primarily within the domain of executive and legislative policy. Therefore, the petition is premature and not maintainable before this Hon'ble Court.

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?

No. The actions of the Respondents do not violate Articles 14, 15, 21 or 29(1) of the Constitution. The State holds the sovereign authority to regulate citizenship, immigration and border security. Verification and cancellation of citizenship documents are administrative measures undertaken in compliance with statutory procedures to prevent the illegal migration. Detention of individuals whose citizenship status is under verification as it is a lawful regulatory measure coherent with the due process requirements. Deportation of citizen's found to be non-citizens falls within the legitimate sovereign powers of the State and does not violate Article 21. Moreover, the classification adopted by the State serves legitimate governmental framework and therefore satisfies the test of reasonable classification under Article 14.

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?

No. The Environmental Clearance and CRZ Clearance were granted in compliance with statutory environmental safeguards and are therefore it's valid. The Sagar Mega Port project underwent environmental scrutiny under the Environmental Impact Assessment Notification 2006 and the CRZ Notification 2019 before the approval was granted by the eligible authorities. Developmental projects of national economic importance must be balanced with environmental protection with infrastructure growth and development under the principle of sustainable development. The petitioners have failed to display any procedural illegality and violation of environmental framework. Judicial review of environmental clearances is limited and courts ordinarily refer to expert authorities in technical matters. Accordingly, the impugned clearances cannot be interfered with.

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?

No. The grant of the patent does not violate the Biological Diversity Act, 2002. The patent was permitted with the following examination under the Patents Act and there is no concluded evidence that the patented method constitutes exclusively traditional knowledge belonging to the Soundarbani community. Furthermore, regulatory compliance concerning the access to the biological resources and intellectual property as the application falls within the jurisdiction of specialized statutory authorities, including the National Biodiversity Authority. Any alleged procedural irregularities must be addressed through the mechanisms established under the Biological Diversity Act rather than through constitutional litigation. Consequently, the validity of the patent cannot be challenged in the present proceedings

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?

No. The reliefs sought by the Petitioners fall within the domain of legislative and executive policy and cannot be granted through judicial intervention. Matters such as recognition of climate-displaced persons, creation of rehabilitation funds and formulation of national climate displacement policies involve complex socio-economic considerations that are appropriately addressed by Parliament and the executive branch. While this Hon'ble Court possesses broad constitutional powers, the doctrine of separation of powers requires judicial restraint in areas of policy formulation. Therefore, the structural remedies sought by the Petitioners exceed the permissible scope of judicial review and ought to be declined.

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 most respectfully submitted that the present writ petition is not maintainable before this Hon'ble Court under Article 32 of the Constitution. The Petitioners have failed to indicate a direct and immediate violation of fundamental rights warranting the petition of this Hon'ble Court's with extraordinary jurisdiction. The grievances raised in the present petition fundamental concerning issues relating to citizenship verification, nationality determination, and environmental policy decisions, all of which requires a detailed factual inquiry and administrative examination by competent authorities.

It is well established that the jurisdiction of this Hon'ble Court under Article 32 is extraordinary in nature and is intended to provide a constitutional remedy only where there exists a clear infringement of fundamental rights. The Petitioners cannot invoke Article 32 merely to bypass statutory procedures or administrative mechanisms established for resolving disputes concerning citizenship status and regulatory decisions.

Furthermore, the Petitioners have failed to exhaust alternative remedies available under Article 226 before the High Courts, which possess broad jurisdiction to examine both questions of law and disputed questions of fact. It is therefore submitted that the present petition is premature and liable to be dismissed.

Accordingly, the present writ petition is not maintainable for the following reasons.

[A]. Article 32 jurisdiction arises only where there is a direct violation of fundamental rights

It is respectfully submitted that Article 32 of the Constitution provides a remedy only where there exists a clear and direct infringement of fundamental rights. The Petitioners must show that the impugned actions of the State have resulted in an immediate and direct violation of constitutional frameworks.

In the present case, the Petitioners' claims arise from the ongoing process of verification of citizenship status and administrative examination of nationality records. Such processes are conducted in compliance to statutory frameworks governing citizenship determination and immigration regulation. The mere initiation of verification proceedings cannot be construed as a direct violation of fundamental rights.

It is respectfully submitted that even though Article 32 is a part of the basic structure of the Constitution, as recognized in case of *Kesavananda Bharati v. State of Kerala (1973)*,¹ the implementation of jurisdiction under Article 32 remains subject to established in judicial principles governing maintainability. The extraordinary jurisdiction of this Hon'ble Court is intended to remedy clear violations of fundamental rights and not to adjudicate complex factual disputes that fall within the competence of statutory authorities and High Courts

The Hon'ble Supreme Court has consistently held that the extraordinary jurisdiction under Article 32 cannot be invoked where the alleged violation is speculative or contingent upon factual determinations that remain unresolved.

In case of *State of Rajasthan v. Union of India (1977)*² The Court held that Article 32 cannot be invoked where the dispute requires extensive factual inquiry and investigation by competent authorities.

As in case of *S.P. Gupta v. Union of India (1981)*³ The Court emphasized that the jurisdiction of the Supreme Court under Article 32 should be exercised only where there exists a clear infringement of fundamental rights.

Similarly, in case of *Rashid Ahmad v. Municipal Board, Kairana (1950)*⁴ The Court observed that constitutional remedies should not be invoked where the dispute can be effectively resolved through ordinary legal mechanisms.

Accordingly, in the absence of a direct violation of fundamental rights, the present petition is not maintainable under Article 32.

[B]. The existence of an alternative remedy under Article 226 bars direct mention of Article 32

¹ Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225

² State of Rajasthan v. Union of India, (1977) 3 SCC 592

³ S.P. Gupta v. Union of India, 1981 Supp SCC 87

⁴ Rashid Ahmad v. Municipal Board, Kairana, AIR 1950 SC 163

It is respectfully submitted that the Petitioners have Passover the appropriate constitutional forum, namely the High Court's exercising jurisdiction under Article 226.

High Courts possess extensive powers to examine both questions of law and disputed questions of fact, including matters relating to citizenship verification, detention, and administrative action. The Petitioners ought to have approached the relevant High Court in the first instance.

The issues raised by the Petitioners involve policy questions concerning citizenship regulation, climate migration and environmental governance. These matters fall within the domain of the executive and legislative branches. Judicial intervention at this stage would risk disturbing the constitutional balance between the organs of the State.

The Supreme Court has consistently held that litigants should ordinarily exhaust available alternative remedies before invoking the extraordinary jurisdiction of this Court.

In case of *Thansingh Nathmal v. Superintendent of Taxes (1964)*⁵ The Court held that where an effective alternative remedy exists, the writ jurisdiction of higher courts should ordinarily not be invoked.

As in case of *P.N. Kumar v. Municipal Corporation of Delhi (1987)*⁶ The Court emphasized that plaintiff should approach appropriate statutory or constitutional assembly before invoking the extraordinary jurisdiction of the Supreme Court.

Similarly, in case of *Daryao v. State of Uttar Pradesh (1962)*⁷ while recognizing Article 32 as an important constitutional remedy, the Court emphasized the need for procedural discipline and orderly administration of justice.

Therefore, the Petitioner's failure to approach the High Court extends the present petition rash and not maintainable.

[C]. The present case involves disputed questions of fact unsuitable for adjudication under Article 32

It is submitted that the present petition raises several complex factual issues, including:

- determination of citizenship status
- verification of nationality records

⁵ Thansingh Nathmal v. Superintendent of Taxes, AIR 1964 SC 1419

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

⁷ Daryao v. State of Uttar Pradesh, AIR 1961 SC 1457

- identification of territorial origin
- examination of environmental submergence claims
- alleged climate displacement

These matters require detailed investigation, evidentiary analysis, and administrative determination by competent authorities.

The Supreme Court has repeatedly held that Article 32 jurisdiction should not be implemented where the resolution of the dispute depends upon extensive factual inquiry or disputed evidence.

In case of *Bishambhar Dayal Chandra Mohan v. State of Uttar Pradesh (1982)*⁸ The Court held that writ jurisdiction should not be implementing where judgement requires determination of disputed facts.

As in case of *Gunwant Kaur v. Municipal Committee, Bhatinda (1969)*⁹ The Court observed that argued questions of fact cannot ordinarily be resolved through writ proceedings.

Similarly, in case of *K.K. Kochunni v. State of Madras (1959)*¹⁰ The Court emphasized that constitutional remedies should not be used where disputes require detailed factual investigation.

According, to the Petitioner's claims it must first be examined by competent statutory authorities and High Courts.

[D]. Extraordinary powers under Articles 32 and 142 cannot be invoked in the absence of established constitutional violation

The Petitioners seek far reaching structural remedies, including:

- constitution of a climate displacement commission
- creation of a climate justice fund
- formulation of national guidelines on climate displacement

However, such remedies can only be considered after a clear violation of fundamental rights has been established.

⁸ Bishambhar Dayal Chandra Mohan v. State of Uttar Pradesh, (1982) 1 SCC 39

⁹ Gunwant Kaur v. Municipal Committee, Bhatinda, (1969) 3 SCC 769

¹⁰ K.K. Kochunni v. State of Madras, AIR 1959 SC 725

The powers of this Hon'ble Court under Article 142 are intended to ensure complete justice between parties, but they cannot be used to bypass statutory frameworks or create new policy regimes.

In case of *Supreme Court Bar Association v. Union of India (1998)*¹¹ The Court held that Article 142 cannot be exercised in a manner inconsistent with statutory provisions.

As in the case of *Union Carbide Corporation v. Union of India (1991)*¹² The Court clarified that Article 142 must be exercised only in exceptional circumstances to ensure complete justice.

Similarly, in case of *A.R. Antulay v. R.S. Nayak (1988)*¹³ The Court held that Article 142 cannot override substantive statutory rights.

Therefore, the Petitioners cannot invoke Article 32 and Article 142 simultaneously in the absence of a direct constitutional violation.

The Petitioners have failed to establish a direct violation of fundamental rights, have bypassed the appropriate constitutional framework under Article 226, and have raised complex factual disputes which are unsuitable for judgement in writ jurisdiction. Accordingly, this Hon'ble Court may be pleased to dismiss the present petition as it is not maintainable.

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 actions taken by the Respondents do not violate Articles 14, 15, 21 or 29(1) of the Constitution. The measures relating to the verification and cancellation of citizenship documentation, temporary detention of individuals pending verification, and initiation of deportation proceedings are lawful administrative actions undertaken according to the statutory authority and behalf of the State to regulate citizenship and immigration.

¹¹ Supreme Court Bar Association v. Union of India, (1998) 4 SCC 409

¹² Union Carbide Corporation v. Union of India, (1991) 4 SCC 584

¹³ A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602

The Constitution recognizes that every authority of the State possesses the authority to determine the composition of its citizen and regulate entry, residence and removal of persons within the territory. Where doubts and conflict arise regarding the validity of citizenship, the State is empowered to undertake the verification process and adopt interim administrative measures to ensure the integrity of its immigration framework.

The Petitioner's claim such measures violates the fundamental rights is therefore misunderstand in law and contradict to established constitutional jurisprudence.

[A]. Determination of citizenship is a sovereign function of the State

It is submitted that the determination of citizenship status falls within the exclusive sovereign authority of the State. Citizenship is not merely an administrative status but a legal relationship between an individual and the State governed by statutory provisions and constitutional principles.

The verification of citizenship records is therefore an essential function of governance. Where suspicion arises regarding nationality, the State is entitled to conduct systematic verification procedures to determine whether the individuals are lawfully entitled to citizenship status.

The possession of certain identity documents cannot conclude as established nationality where their existence credibility concerns regarding their validity or origin. Administrative authorities are therefore empowered to re-examine such documents and suspend their legal pending investigation.

The power of the State to regulate the presence and the removal of foreign nationals is recognized under the Foreigners Act, 1946, which authorizes the government to detect, detain and deport persons whose nationality is uncertain. The impugned measures undertaken by the Respondents are therefore consistent with statutory authority.

In case of *Sarbananda Sonowal v. Union of India (2005)*¹⁴ The Supreme Court held that uncontrolled migration and illegal entry can threaten national security and demographic stability too. The Court recognized the sovereign duty of the State to detect and deport illegal migrants.

In case of *Hans Muller of Nuremberg v. Superintendent, Presidency Jail (1955)*¹⁵ The Court held that the power to deport foreigners is an inherent sovereign power of the State, essential for protecting the national interests.

¹⁴ Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665

¹⁵ Hans Muller of Nuremberg v. Superintendent, Presidency Jail, AIR 1955 SC 367

Similarly, in this case *Louis De Raedt v. Union of India (1991)*¹⁶ The Supreme Court clarified that foreign nationals do not possess an absolute right to reside in India and may be regulated or deported in accordance with law.

Accordingly, the Respondent's actions relating to verification of nationality fall squarely within the lawful sovereign powers of the State.

[B]. Possession of identification documents does not conclusively establish citizenship

It is respectfully submitted that documents such as voter identification cards, ration cards, or similar administrative records do not constitute as a proof of citizenship. These documents are issued for administrative purposes and may be subject to review or cancellation if found to have been issued erroneously or fraudulently.

The verification of citizenship documentation is therefore a legitimate administrative exercise undertaken to ensure that only lawful citizens enjoy the rights and privileges associated with nationality.

The Petitioner's argument that cancellation of such documents automatically violates constitutional rights is therefore misplaced.

In matters concerning citizenship determination, the burden of proof lies upon the person asserting citizenship. Until such status is conclusively established, the State is entitled to undertake verification procedures to safeguard national sovereignty.

As India is not a signatory to the Refugee Convention of 1951, and therefore the principles governing refugee protection do not automatically apply within the domestic legal framework unless incorporated through legislation.

In case of State of *Arunachal Pradesh v. Khudiram Chakma (1994)*¹⁷ The Court recognized that individuals whose citizenship status remains uncertain may be subject to administrative verification and regulatory restrictions.

As in case of *Union of India v. Raghbir Singh (1989)*¹⁸ The Court emphasized that administrative decision relating to statutory rights must be examined within the framework of the relevant legal provisions.

Similarly, in case of *Sarbananda Sonowal (II) v. Union of India (2007)*¹⁹ The Court ensured the importance of effective mechanisms for identifying and regulating illegal migration.

¹⁶ *Louis De Raedt v. Union of India*, (1991) 3 SCC 554

¹⁷ *State of Arunachal Pradesh v. Khudiram Chakma*, 1994 Supp (1) SCC 615

¹⁸ *Union of India v. Raghbir Singh*, (1989) 2 SCC 754

¹⁹ *Sarbananda Sonowal (II) v. Union of India*, (2007) 1 SCC 174

Therefore, the cancellation of citizenship documents pending verification cannot be construed as a violation of constitutional rights.

[C]. Temporary detention pending citizenship verification does not violate Article 21

The Petitioner's contended that their detention violates the right to life and personal liberty under Article 21. However, Article 21 permits deprivation of liberty in conferring with procedure established by law.

Administrative detention pending nationality verification is a recognized legal mechanism adopted by sovereign states to prevent unlawful migration and ensure orderly immigration control.

In the present case, the detention centre's serve as temporary administrative facilities designed to ensure identification, documentation and verification of nationality status. Such detention is neither punitive nor arbitrary but is undertaken in accordance to lawful administrative procedures.

In case of *A.K. Gopalan v. State of Madras (1950)*²⁰ The Court held that personal liberty may be restricted where such restriction is authorized by law.

As in case of *Maneka Gandhi v. Union of India (1978)*²¹ while expanding the scope of Article 21, the Court recognized that liberty may still be restricted through a fair and reasonable procedure established by law.

Similarly, in case of *Khudiram Chakma Case (1994)*²² The Court recognized the authority of the State to regulate the movement and residence of persons whose citizenship status remains uncertain.

Thus, the temporary detention of individuals pending citizenship verification does not constitute a violation of Article 21.

[D]. The impugned measures does not violate the Articles 14 and 15

The Petitioner's argues that the State's actions violate the constitutional framework of equality under Article 14 and the prohibition of discrimination under Article 15.

However, Article 14 allows reasonable classification, provided by such classifications satisfies the two tests laid down by the constitutional framework:

1. There must existence of an intelligible differentia distinguishing persons within the [classification] between groups is logical, clear, and based on objective differences.
2. The classification must bear a rational nexus with the objective sought to be achieved.

²⁰ A.K. Gopalan v. State of Madras, AIR 1950 SC 27

²¹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248

²² State of Arunachal Pradesh v. Khudiram Chakma, 1994 Supp (1) SCC 615

In the present case, the difference between verified citizens and individuals whose citizenship status remains uncertain constitutes a valid classification designed to protect the integrity of the nation's immigration system.

Further, Article 15 prohibits discrimination based on religion, race, caste, sex or place of birth. The Respondents' actions are based solely on citizenship verification procedures, not on any prohibited grounds.

In case of **Ram Krishna Dalmia v. Justice S.R. Tendolkar (1958)**²³ The Court held that Article 14 permits classification where it is reasonable and related to a legitimate governmental objective. Similarly, in case of **State of West Bengal v. Anwar Ali Sarkar (1952)**²⁴ The Court clarified that equality before the law does not prohibit the classification were justified by the public interest. Accordingly, the actions of the Respondents are consistent with Articles 14 and 15.

[E]. Climate displacement does not create a constitutional immunity from deportation

The Petitioner's further argue that climate-induced displacement entitles them to protection against deportation. However, Indian constitutional law does not recognize climate displacement as an independent legal ground conferring to automatic residence rights or citizenship protection.

Recognition of such a category would require the development of comprehensive policy frameworks addressing:

- environmental migration
- international climate law
- refugee protection mechanisms

These are complex policy decisions falling within the category of the legislature and executive, rather than judicial overlook.

Courts have repeatedly emphasized that policy decisions involving migration, environmental governance and national resources must be leaved to legislative judgment.

As of submissions, it is respectfully submitted that the impugned actions undertaken by the Respondents for citizenship verification, temporary detention, and deportation proceedings are lawful exercises of sovereign authority. The Petitioners have failed to establish any violation of Articles 14, 15, 21 or 29(1) of the Constitution.

²³ Ram Krishna Dalmia v. Justice S.R. Tendolkar, AIR 1958 SC 538

²⁴ State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75

Accordingly, this Hon'ble Court may be pleased to hold that the impugned measures do not violate the fundamental rights of the Petitioner's.

3. WHETHER THE ENVIRONMENTAL CLEARANCE NO. 217/2023 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 INCLUDING THE PUBLIC TRUST DOCTRINE, PRECAUTIONARY PRINCIPLE, AND INTERGENERATIONAL EQUITY?

It is most respectfully submitted that the Environmental Clearance No. 217/2023 and the Coastal Regulation Zone (CRZ) Clearance granted for the Sagar Mega Deep-Sea Port and Industrial Corridor Project are valid and legally sustainable. The approvals were granted after strict adherence with statutory procedures determined under the Environment (Protection) Act, 1986, the Environmental Impact Assessment (EIA) Notification, 2006, and the Coastal Regulation Zone (CRZ) Notification, 2019.

Environmental regulation in India operates through specialized expert bodies entrusted with estimated ecological impact and ensuring compliance with environmental safeguards. Once such expert authorities have assessed a project and granted approval in accordance with statutory procedures, as judicial review must remain limited and deferential.

The Petitioner's attempt to challenge the environmental clearance is therefore misinterpret in law, as it seeks to substitute judicial opinion for the scientific assessment of competent environmental authorities.

[A]. Environmental clearance was granted in accordance with statutory procedure

It is respectfully submitted that the Sagar Mega Deep-Sea Port Project underwent the mandatory environmental approval process required under Indian environmental law. The project was assessed through the Environmental Impact Assessment (EIA) process, which evaluates potential environmental consequences and proposes mitigation measures.

The approval process included:

- preparation of a comprehensive Environmental Impact Assessment report
- scrutiny by the Expert Appraisal Committee (EAC)
- evaluation by the Ministry of Environment, Forest and Climate Change
- compliance with the requirements under the CRZ Notification, 2019

The purpose of the EIA framework is to ensure that environmental decisions are made based on scientific data and technical expertise, rather than speculation or conjecture.

Relevant Statutes

- Environment (Protection) Act, 1986
- Environmental Impact Assessment Notification, 2006
- Coastal Regulation Zone Notification, 2019

Infrastructure development projects such as major ports play a crucial role in promoting national economic growth, maritime trade and regional development. The Constitution does not mandate environmental preservation at the cost of halting all developmental activities but instead requires a balanced approach under the doctrine of sustainable development.

Since the clearance was granted following statutory procedure and expert evaluation, the Petitioners cannot seek its quashing merely on the basis of generalized environmental concerns.

[B]. Courts exercise limited judicial review over environmental approvals

The Respondents submit that judicial review in environmental matters is limited to examining procedural legality and compliance with statutory requirements. Courts do not reassess the technical findings of expert regulatory authorities.

Environmental decision-making involves complex scientific assessments concerning biodiversity, ecological impact, and mitigation strategies. These determinations fall within the domain of specialized environmental institutions, not judicial forums.

Environmental regulation involves complex scientific and technical considerations best assessed by expert regulatory bodies. Courts have therefore recognized the need for judicial restraint in reviewing environmental approvals granted after expert evaluation.

In case of *Narmada Bachao Andolan v. Union of India (2000)*²⁵ The Supreme Court held that courts should not interfere with large development projects once environmental clearance has been granted after proper evaluation by expert authorities.

As in case of *Balco Employees' Union v. Union of India (2002)*²⁶ The Court observed that economic and policy decisions of the government should not be interfered with unless they are clearly unconstitutional.

Similarly, in case of *Lafarge Umiam Mining Pvt Ltd v. Union of India (2011)*²⁷ The Supreme Court emphasized the importance of expert regulatory bodies in environmental governance and held that courts must exercise restraint in interfering with environmental clearances granted by

²⁵ Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664

²⁶ BALCO Employees' Union v. Union of India, (2002) 2 SCC 333

²⁷ Lafarge Umiam Mining Pvt. Ltd. v. Union of India, (2011) 7 SCC 338

competent authorities. Even if environmental concerns exist, the appropriate remedy is regulatory oversight and mitigation measures rather than complete cancellation of the project. Accordingly, the Petitioner's challenge holds this Hon'ble Court to substitute its own assessment for that of expert environmental regulators, which is impermissible under established jurisprudence.

[C]. The doctrine of sustainable development permits regulated economic development

The Petitioner's rely on environmental doctrines such as the precautionary principle and intergenerational equity. However, these principles must be understood within the broader framework of sustainable development.

The doctrine of sustainable development recognizes that environmental protection must be balanced with economic development and infrastructure growth.

Large scale infrastructure projects such as ports are essential for:

- national economic development
- trade and marine connectivity
- employment generation
- regional development

The law therefore requires that development be undertaken with appropriate environmental safeguards, rather than prohibiting development altogether.

In case of *Vellore Citizens Welfare Forum v. Union of India (1996)*²⁸ The Supreme Court recognized the doctrines of precautionary principle; polluter pays principle, and sustainable development as a part of Indian environmental law. However, the Court emphasized that environmental protection must be balanced with development needs.

Similarly, in both the cases *Indian Council for Enviro-Legal Action v. Union of India (1996)*²⁹ and *N.D. Jayal v. Union of India (2004)*,³⁰ held that The Court recognized environmental protection as a constitutional obligation but acknowledged the need for regulatory frameworks that allow development and The Court held that sustainable development requires a balance between ecological preservation and developmental progress. Therefore, the mere existence of environmental concerns does not justify the cancellation of a project that has already undergone environmental scrutiny.

[D]. Public trust doctrine does not prohibit regulated use of natural resources

²⁸ Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647

²⁹ Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212

³⁰ N.D. Jayal v. Union of India, (2004) 9 SCC 362

The Petitioner's argue that the environmental clearance violates the public trust doctrine. While it is true that natural resources are held by the State in trust for the benefit of the public, this doctrine does not prohibit their regulated use for public benefit.

The State, acting as trustee of natural resources, is empowered to utilize such resources for projects that advance public welfare and national development, provided environmental safeguards are observed.

In case of *M.C. Mehta v. Kamal Nath (1997)*³¹ The Supreme Court recognized the public trust doctrine but clarified that the State may allow regulated use of natural resources where it serves the public interest.

In case of *Fomento Resorts v. Minguel Martins (2009)*³² The Court reiterated that public resources may be utilized for development purposes provided the State acts within the framework of environmental law.

Similarly, in case of *Centre for Public Interest Litigation v. Union of India (2012)*³³ The Court emphasized that allocation and use of natural resources must be guided by principles of transparency and public interest.

Thus, the development of infrastructure projects such as the Sagar Mega Port does not violate the public trust doctrine where environmental safeguards have been observed.

[E]. Precautionary principle and intergenerational equity were duly considered

The precautionary principle requires environmental authorities to evaluate potential ecological risks before granting approval for development projects.

In the present case, environmental authorities conducted a comprehensive impact assessment before granting clearance. Mitigation measures and environmental safeguards were incorporated into the project design to minimize the ecological harm. Similarly, the principle of intergenerational equity requires that natural resources can be managed responsibly so that future generations can also be benefitted from them. Infrastructure development that promotes economic stability and sustainable resource management contributes to this objective.

Therefore, the environmental clearance granted for the project reflects a balanced application of environmental principles within the framework of sustainable development.

As of submissions, it is respectfully submitted that the Environmental Clearance No. 217/2023 and the CRZ Clearance granted for the Sagar Mega Deep-Sea Port and Industrial Corridor

³¹ M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388

³² Fomento Resorts and Hotels Ltd. v. Minguel Martins, (2009) 3 SCC 571

³³ Centre for Public Interest Litigation v. Union of India, (2012) 3 SCC 1

Project were issued in accordance with statutory requirements and after expert environmental evaluation.

The Petitioners have failed to establish any procedural illegality, arbitrariness, or violation of environmental principles. Accordingly, the environmental approvals are valid and not liable to be quashed.

4. 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?

The Respondents respectfully contend that the grant of Indian Patent No. 478321 does not violate the provisions of the Biological Diversity Act, 2002 and it does not violate the rights of the Soundarbani community. The patent describes the scientific method for growing crustaceans which has been developed through the scientific research to thrive in high-salinity environments. The patent system protects inventions that show both novelty and inventive step and industrial applicability while traditional knowledge protection needs to meet specific criteria before it can be granted protection. The patent system permits scientists to patent their technological improvements which enhance existing crab cultivation methods through scientific advances.

The Biological Diversity Act controls how people can access biological resources together with their traditional knowledge especially when foreign companies want to use such resources for commercial purposes after they have been taken from India. The Soundarbani community patent involves a technological process which has been developed through research and does not involve direct biological resource extraction that belongs to the Soundarbani community. The patent does not violate statutory provisions or unlawfully appropriate community knowledge according to the Respondents who declare that the patent has been lawfully granted through existing intellectual property regulations.

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

The Respondents submit that prior approval of the National Biodiversity Authority under Section 6 of the Biological Diversity Act, 2002 was not mandatory in the present case. Section 6 applies primarily where an applicant seeks intellectual property rights based directly on

biological resources the obtained from India or on associated traditional knowledge accessed from a local community. The patent in question relates to a scientifically developed aquaculture technique intended to enhance crustacean growth in saline environments. The requirement for obtaining prior approval under Section 6 emerges only when a patented method shows resemblance to traditional ecological methods.

The Biological Diversity Act establishes regulations for biological resource access while ensuring fair benefits which prevent scientific research progress through original discovery efforts. The impugned patent concerns a modified technological process developed through scientific experimentation and aquaculture research, which may the incorporate general ecological observations but does not amount to direct appropriation of traditional knowledge belonging to the Soundarbarani community. The National Biodiversity Authority requires organizations to obtain explicit approval only when organizations use biological materials or traditional knowledge that originates from India which does not apply to this case.

In the case of *Monsanto Technology LLC v. Nuziveedu Seeds Ltd.*,³⁴ the Court held that disputes involving patents relating to biological materials require careful examination within the statutory framework governing intellectual property and biodiversity laws. The Court emphasized that complex scientific innovations must be evaluated through detailed evidence and cannot be presumed to violate statutory provisions without clear proof of misuse of biological resources or traditional knowledge. Applying this reasoning, the Respondents submit that the absence of prior approval from the National Biodiversity Authority cannot automatically invalidate the impugned patent unless it is demonstrated that the invention directly relies upon biological resources or traditional knowledge accessed in violation of the Biological Diversity Act.

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

The Respondents argue that the current case does not breach the Biological Diversity Act 2002 because there has been no proof of traditional knowledge source and origin disclosure. The requirement of disclosure arises only when an invention is demonstrably derived from identified biological resources or traditional knowledge accessed from local communities. The disputed patent protects an advanced aquaculture method which scientists created through their

³⁴ Monsanto Technology LLC v. Nuziveedu Seeds Ltd (2019) 3 SCC 381

studies of how crustaceans grow in salty water environments. The presence of comparable environmental methods in the Soundarbans region does not prove that the patented invention directly stems from Soundarbani traditional knowledge. The submitted evidence shows that patent law permits scientific research to develop methods which resemble traditional knowledge systems across multiple domains including aquaculture and environmental resource management. In the absence of concrete evidence demonstrating that the patented process was obtained from the Soundarbani community or that their knowledge was formally accessed during the research process, the statutory disclosure requirement cannot be invoked.

Moreover, the patent system aims to encourage innovation by protecting novel improvements and technological advancements developed through research. The Respondents contend that the patented method constitutes a distinct scientific improvement intended to optimize crustacean growth under controlled aquaculture conditions, rather than a direct replication of community practices. Therefore, the allegation that the patent represents misappropriation of traditional knowledge is speculative and unsupported by clear evidence demonstrating that the invention is solely based on indigenous knowledge systems.

In the case of *Dimminaco AG v. Controller of Patents and Designs*,³⁵ the Court held that a process resulting in a vendible product may qualify as a patentable invention even if the end product contains living organisms. The Court emphasized that the expression “manufacture” in patent law should not be interpreted narrowly and that biotechnology processes producing commercially useful results may be protected under patent law. The judgment recognized that patent protection encourages scientific innovation and technological advancement.

Additionally, it is respectfully submitted that the burden of proving misappropriation of traditional knowledge lies upon the Petitioners. The mere assertion that a community has historically practiced certain aquaculture techniques is insufficient to invalidate a patent unless it is demonstrated that the patented process is identical to or substantially derived from such traditional knowledge. In the absence of documented evidence showing that the Respondents accessed or utilized the community’s knowledge during the research and development process, the allegation of biopiracy remains unsubstantiated. Therefore, the impugned patent represents a scientifically developed innovation rather than unlawful appropriation of indigenous knowledge, and the requirements of disclosure under the Biological Diversity Act cannot be invoked without proof of direct reliance on traditional knowledge.

³⁵ *Dimminaco A.G. v. Controller of Patents & Designs*, 2001 SCC OnLine Cal 901

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

The Respondents respectfully contend that the alleged absence of prior informed consent and benefit-sharing does not automatically constitute a breach of India's obligations under the Nagoya Protocol in the present case. International agreements such as the Nagoya Protocol primarily operate at the level of state obligations and do not create directly enforceable rights against private entities unless their provisions are expressly incorporated into domestic legislation. While India has adopted the objectives of the Nagoya Protocol through the Biological Diversity Act, 2002, the application of **benefit-sharing** mechanisms arises only where biological resources or traditional knowledge are demonstrably accessed from indigenous communities. In the present case, there is no conclusive evidence establishing that the patented aquaculture technique was obtained from the Soundarbani community or that their traditional knowledge was formally accessed in the development of the patented process.

It is further submitted that the Nagoya Protocol regulates access to genetic resources and associated traditional knowledge, and its provisions are triggered only when such resources are utilized through identifiable access procedures. The mere existence of community practices relating to crab cultivation within the Sundarbans region does not establish that the patented process directly appropriates indigenous knowledge. Consequently, the requirement of benefit-sharing under the Nagoya Protocol cannot be invoked in the absence of proof that the invention relied upon specific traditional knowledge obtained through access from the community.

The Respondents further rely on the Doctrine of Transformation, which recognizes that international treaties become enforceable within domestic legal systems only when they are transformed into municipal law through legislative enactment. While India supports the objectives of the Nagoya Protocol, the enforcement of its provisions must therefore occur through the statutory mechanisms provided under the Biological Diversity Act, and not through direct invocation of treaty obligations in the absence of clear statutory violation. In the case of **Jolly George Varghese v. Bank of Cochin**,³⁶ the Court held that international treaties and conventions do not automatically become enforceable domestic law unless they are incorporated through legislation enacted by Parliament. Applying this principle, the Respondents submit that the alleged violation of the Nagoya Protocol cannot independently invalidate the impugned patent unless it is shown that the requirements of the Biological

³⁶ Jolly George Varghese v. Bank of Cochin, (1980) 2 SCC 360

Diversity Act, 2002 the domestic statute implementing such principles have been specifically violated.

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

The Respondents respectfully submit that the impugned patent does not amount to misappropriation of traditional ecological knowledge of the Soundarbani community. Patent protection is granted only where an invention satisfies the statutory requirements of novelty, inventive step, and industrial applicability under the Patents Act, 1970. The patented aquaculture technique represents a scientifically developed process intended to enhance crustacean growth under controlled saline conditions, achieved through research, experimentation, and technological refinement.

It is further submitted that traditional ecological practices often evolve through collective observation of natural ecosystems, and scientific researchers may independently develop improved techniques based on widely available ecological information. In the present case, the impugned patent concerns a refined aquaculture technique designed to optimize crustacean growth through controlled environmental parameters, which constitutes a technological improvement rather than a direct replication of indigenous practices.

Moreover, allegations of misappropriation must be supported by clear and demonstrable evidence showing that the patented invention was derived from specific traditional knowledge accessed from the community. In the absence of such evidence, the claim that the patent represents unlawful appropriation of traditional ecological knowledge remains speculative and cannot form a valid basis for revocation of the patent.

In the case of **Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries**,³⁷ the Court held that a patentable invention must demonstrate novelty and inventive step beyond existing knowledge or prior practices. The Court emphasized that patent law aims to encourage technological progress by protecting genuine innovations developed through human ingenuity. Applying this principle, the Respondents submit that the impugned patent represents a distinct technological advancement in aquaculture practices and cannot be invalidated merely because similar ecological practices may have existed within traditional communities.

³⁷ Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries, (1979) 2 SCC 511

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 Respondents respectfully submit that this Hon'ble Court ought not to exercise its constitutional powers to create structural and transformative remedies in the absence of a legislative framework governing climate-induced displacement. The formulation of policies relating to environmental governance, rehabilitation of displaced populations, and allocation of public resources falls primarily within the domain of the legislature and executive, which possess the institutional competence and technical expertise required to address complex socio-economic and environmental challenges. Judicial intervention to create large-scale institutional frameworks or policy mechanisms would risk encroaching upon the constitutional principle of separation of powers, which forms a fundamental feature of the Indian constitutional structure. It is further submitted that climate-induced displacement involves multifaceted policy considerations, including environmental regulation, disaster management, international climate obligations, land rehabilitation, and economic planning. These matters require comprehensive legislative assessment and administrative planning rather than judicially crafted frameworks. While this Hon'ble Court undoubtedly possesses wide powers under Articles 32 and 142, such powers are intended to ensure enforcement of existing legal rights rather than to substitute the role of the legislature by formulating extensive policy mechanisms.

In the case of *Divisional Manager, Aravali Golf Club v. Chander Hass*,³⁸ the Court held that courts must exercise judicial restraint and should not encroach upon matters that fall within the policy-making domain of the executive and legislature. The Court cautioned that the judiciary must not assume the role of administrators or lawmakers, as doing so would disturb the constitutional balance among the three branches of government. Applying this principle, the Respondents submit that the formulation of structural remedies to address climate displacement must be undertaken by Parliament through appropriate legislation and policy frameworks, rather than through judicial intervention in the present proceedings.

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

³⁸ *Divisional Manager, Aravali Golf Club v. Chander Hass*, (2008) 1 SCC 683

The Respondents respectfully contend that climate-displaced persons do not constitute a distinct constitutional category warranting separate recognition under Articles 14, 21, and 29(1) of the Constitution. While the Constitution guarantees equality, life, and protection of cultural identity, these rights already apply uniformly to all citizens without the need to create additional judicially recognized categories. The petitioners' request for constitutional recognition of "climate-displaced persons" essentially seeks the creation of a new class of rights and entitlements, which falls within the domain of legislative policymaking rather than judicial interpretation. Constitutional courts interpret existing rights but do not ordinarily create entirely new classifications requiring detailed regulatory frameworks.

It is further submitted that Article 14 guarantees equality before the law and equal protection of laws, but it does not mandate special constitutional status for groups based solely on environmental or climatic circumstances. Similarly, Article 21 protects the right to life and dignity, which already extends to all persons irrespective of whether displacement arises from environmental, economic, or social causes. The Constitution does not presently recognize climate displacement as a distinct legal category requiring separate constitutional safeguards. Any such recognition would involve complex considerations relating to environmental governance, migration policy, rehabilitation schemes, and international obligations, which are better addressed through legislative and executive policy frameworks rather than judicial declaration.

With respect to Article 29(1), which protects the cultural and linguistic identity of minorities, the Respondents submit that the provision safeguards the right to conserve culture but does not guarantee protection against every form of social or environmental change that may affect a community's traditional way of life.

In the case of *State of Himachal Pradesh v. Umed Ram Sharma*,³⁹ the Court held that while fundamental rights must be interpreted in a manner that promotes welfare and development, the creation of new socio-economic rights requiring extensive policy implementation lies primarily within the competence of the legislature and executive authorities. The judgment emphasized that courts must remain mindful of institutional limitations when addressing issues involving large-scale governance and policy design. Applying this reasoning, the Respondents submit that the recognition of climate-displaced persons as a distinct constitutional category should be addressed through comprehensive legislative measures rather than judicial intervention.

³⁹ State of Himachal Pradesh v. Umed Ram Sharma, AIR 1986 SC 847

[B]. This Hon’ble Court may constitute a “Sundarbans Climate Displacement and Mangrove Restoration Commission” under Article 142

The Respondents respectfully submit that this Hon’ble Court should refrain from constituting an independent “Sundarbans Climate Displacement and Mangrove Restoration Commission” under Article 142, as such an exercise would amount to entering into the domain of policy formulation and administrative governance, which is constitutionally entrusted to the executive and legislature. Article 142 empowers this Hon’ble Court to pass orders necessary to do complete justice in a particular case; however, this power must be exercised within the framework of the Constitution and existing laws. The establishment of a permanent institutional mechanism involving environmental regulation, climate governance, rehabilitation policy and financial allocation would require extensive administrative planning and legislative authorization, which fall beyond the scope of judicial powers.

It is further submitted that environmental protection and coastal ecosystem management in India are already governed by a detailed statutory framework, including the Environment (Protection) Act, 1986, the Coastal Regulation Zone Notification, and other regulatory mechanisms administered by competent authorities. The creation of an entirely new commission through judicial order would risk duplicating or interfering with these existing institutional structures.

The Respondents rely on the Doctrine of Separation of Powers, which forms a basic feature of the Constitution and mandates that each branch of government must function within its designated constitutional sphere. Under this doctrine, courts must exercise restraint in matters involving policy decisions and administrative governance

In the case of *Supreme Court Bar Association v. Union of India*,⁴⁰ the Court held that although Article 142 confers wide powers to do complete justice, such powers cannot be exercised in contravention of statutory provisions or to supplant existing legal frameworks. The Court clarified that Article 142 is supplementary in nature and cannot be used to assume functions that properly belong to the legislature or executive.

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

The Respondents respectfully submit that the Polluter Pays and Beneficiary Pays principles cannot be invoked to justify the creation of a Climate Justice and Rehabilitation Fund by

⁴⁰ Supreme Court Bar Association v. Union of India, (1998) 4 SCC 409

judicial direction in the present case. These environmental principles are primarily applied to impose liability on entities responsible for specific and identifiable environmental damage. In the present case, the displacement of the Soundarbani community is attributed largely to climate change, rising sea levels and natural ecological processes, which are global phenomena involving numerous contributing factors. Therefore, attributing direct liability to the respondents or the Sagar Port project without clear scientific evidence establishing a causal nexus between the project and the alleged displacement would be legally unsustainable.

It is further submitted that the application of the Polluter Pays principle requires a clear demonstration that a particular entity has caused environmental harm through unlawful or negligent activities. The petitioners have not established that the respondents have violated any statutory environmental norms or that the alleged damage to the Sundarbans ecosystem can be directly attributed to the project proponents. In the absence of such evidence, directing the creation of a rehabilitation fund would effectively impose financial liability without a determination of responsibility, which would be contrary to settled principles of environmental liability and natural justice.

In the case of *Indian Council for Enviro-Legal Action v. Union of India*,⁴¹ the Court held that the Polluter Pays principle applies where industries are clearly responsible for environmental pollution and must bear the cost of remedial measures and compensation. The principle was applied only after establishing that the industries in question had caused substantial ecological damage through hazardous chemical discharges. The judgment therefore makes it clear that the imposition of environmental liability must be based on proven responsibility for environmental harm.

Similarly, in *Vellore Citizens Welfare Forum v. Union of India*,⁴² the Court held that while the Polluter Pays principle forms part of environmental law in India, its application must occur within the framework of statutory environmental regulation and after identifying the entities responsible for pollution. The Court emphasized that environmental principles must be implemented through appropriate regulatory mechanisms and factual determination of liability. Applying these principles to the present case, the Respondents submit that the creation of a Climate Justice and Rehabilitation Fund through judicial direction would be premature and unjustified in the absence of clear evidence establishing environmental liability.

⁴¹ Indian Council for Enviro-Legal Action v. Union of India (1996) 3 SCC 212

⁴² Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC 647

The creation and administration of a Climate Justice and Rehabilitation Fund involve complex fiscal, administrative, and policy considerations that fall within the exclusive domain of the legislature and executive. The establishment of such a fund would require determination of funding sources, mechanisms for distribution, eligibility criteria for beneficiaries, and long-term institutional oversight. These matters involve allocation of public financial resources and policy prioritization, which are functions constitutionally entrusted to elected bodies and governmental agencies. In the absence of a statutory framework authorizing such a mechanism, directing the creation of a Climate Justice and Rehabilitation Fund through judicial intervention would amount to judicial overreach into fiscal and policy matters, thereby disturbing the constitutional balance between the three organs of the State.

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

The Respondents respectfully submit that this Hon'ble Court ought not to frame interim Climate Displacement Guidelines in the absence of legislation, as such an exercise would effectively amount to judicial legislation and encroach upon the constitutional domain of the legislature and executive. Articles 32, 141 and 142 empower this Court to enforce fundamental rights and ensure complete justice in individual cases; however, these powers must be exercised within the limits of the constitutional framework. The formulation of nationwide guidelines governing climate displacement would involve complex policy considerations including environmental governance, migration management, rehabilitation planning, and allocation of state resources. These matters require detailed legislative deliberation and institutional expertise that fall beyond the proper scope of judicial intervention.

It is further submitted that climate-induced displacement is a multifaceted socio-economic and environmental issue requiring comprehensive regulatory mechanisms and coordinated action by various governmental agencies. The establishment of guidelines addressing identification of climate-displaced persons, rehabilitation policies, compensation mechanisms, and environmental restoration would involve long-term administrative planning and financial commitments. In such circumstances, the judiciary must exercise restraint and allow the legislature and executive authorities to develop an appropriate statutory framework rather than substituting their functions through judicially framed guidelines.

In the case of “*Divisional Manager, Aravali Golf Club v. Chander Hass*”,⁴³ the Court held that courts must refrain from encroaching upon areas that fall within the domain of policy-making by the legislature and executive. The Court emphasized that judges must not assume the role of administrators or lawmakers, as doing so would disturb the constitutional balance among the three branches of government. The judgment underscored the importance of judicial restraint in matters involving governance and policy formulation.

Similarly, in “*Common Cause v. Union of India*”,⁴⁴ the Court held that courts cannot direct the government to frame policies or legislation in a particular manner; as such directions would violate the doctrine of separation of powers. The Court clarified that while judicial review ensures legality of governmental action, it does not authorize the judiciary to design policy frameworks in areas requiring legislative competence. Applying these principles, the Respondents submit that framing interim Climate Displacement Guidelines under Articles 32, 141 and 142 would exceed the constitutional limits of judicial power, and such matters must instead be addressed through appropriate legislative and executive action.

Additionally, it is respectfully submitted that the creation of interim Climate Displacement Guidelines requires detailed study, expert consultation, and coordination between multiple government departments, including environmental authorities, disaster management agencies, and rehabilitation authorities. Courts are primarily institutions for adjudicating disputes and interpreting laws, not for designing complex regulatory frameworks that involve long-term planning and administrative implementation. Therefore, in the absence of a clear legislative mandate, it would be more appropriate for the Parliament or competent executive authorities to examine the issue of climate-induced displacement and formulate comprehensive policies through democratic and institutional processes.

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

The Respondents respectfully submit that the present case does not raise a substantial question of constitutional interpretation warranting reference to a Constitution Bench under Article 145(3) of the Constitution. The issues raised by the Petitioners largely concern environmental regulation, displacement, and rehabilitation arising from ecological changes in the Sundarbans region. These matters involve the application of already settled constitutional principles under Articles 14 and 21, rather than the interpretation of any new or ambiguous constitutional

⁴³ *Divisional Manager, Aravali Golf Club v. Chander Hass*, (2008) 1 SCC 683

⁴⁴ *Common Cause v. Union of India*, AIR 2018 SC 1665

provision. Therefore, the present dispute can be effectively adjudicated by the existing Bench without invoking the extraordinary mechanism of constitutional reference.

It is further submitted that Article 145(3) mandates reference to a Constitution Bench only where a case involves a substantial question relating to the interpretation of the Constitution. The petitioners have not demonstrated any conflict between constitutional provisions or any uncertainty requiring authoritative interpretation by a larger Bench. Instead, the issues raised primarily involve policy considerations relating to climate change, environmental governance, and rehabilitation mechanisms, which fall within the legislative and executive domain rather than constitutional interpretation.

The Respondents rely upon the Doctrine of Constitutional Avoidance, which requires courts to decide disputes on narrower statutory or factual grounds wherever possible rather than expanding constitutional adjudication unnecessarily. Under this doctrine, courts should refrain from addressing broad constitutional questions when the matter can be resolved through existing legal principles or statutory frameworks.

In *Central Board of Dawoodi Bohra Community v. State of Maharashtra*,⁴⁵ the Court held that a Constitution Bench reference is required only when a case involves a substantial question of constitutional interpretation or when reconsideration of an earlier Constitution Bench decision is necessary. Similarly, in *Ashoka Marketing Ltd. v. Punjab National Bank*,⁴⁶ the Court observed that Article 145(3) is attracted only when the Court must determine a significant constitutional question affecting the interpretation of the Constitution itself. Applying these principles, the Respondents submit that the present dispute does not raise any such substantial constitutional question and therefore does not warrant reference to a Constitution Bench.

⁴⁵ Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673

⁴⁶ Ashoka Marketing Ltd. v. Punjab National Bank, (1990) 4 SCC 406

PRAYER

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

1. **Dismiss** the present Writ Petition as not maintainable under Article 32 of the Constitution of India.
2. **Hold** that the actions relating to citizenship verification, detention, and deportation do not violate Articles 14, 15, 21, or 29(1) of the Constitution.
3. **Uphold** the validity of Environmental Clearance No. 217/2023 and the CRZ Clearance granted for the Sagar Mega Deep-Sea Port & Industrial Corridor Project.
4. Declare that Indian Patent No. 478321 is valid and does not violate the Biological Diversity Act, 2002.

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 Respondent shall duty bound forever pray.

Place:

S/d-

Date:

COUNSELS for RESPONDENT