



THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 93 OF 2007

Lonavala Khandala Citizens
Forum & Anr.

....*Petitioners*

: *Versus* :

The Municipal Council of Lonavala
and Ors.

....*Respondents*

WITH
INTERIM APPLICATION NO. 2194 OF 2023
(FOR INTERVENTION)
IN
PUBLIC INTEREST LITIGATION NO. 93 OF 2007

Vinod Kumar Gangwal

.... *Applicant*

In the matter between :

Lonavala Khandala Citizens
Forum & Anr.

....*Petitioners*

: *Versus* :

The Municipal Council of Lonavala
and Ors.

.....*Respondents*

WITH
CIVIL APPLICATION NO. 90 OF 2011
(FOR INTERVENTION)
IN
PUBLIC INTEREST LITIGATION NO. 93 OF 2007

Arun Krishnaji Dharap

.... *Applicant*

In the matter between :

Lonavala Khandala Citizens
Forum & Anr.

....*Petitioners*

: Versus :

The Municipal Council of Lonavala
and Ors.

.....Respondents

WITH
CIVIL APPLICATION NO. 122 OF 2009
(FOR INTERVENTION)
IN
PUBLIC INTEREST LITIGATION NO. 93 OF 2007

Kiran Narottamdas Merchant

.... Applicant

In the matter between :

Lonavala Khandala Citizens
Forum & Anr.

.....Petitioners

: Versus :

The Municipal Council of Lonavala
and Ors.

.....Respondents

WITH
CIVIL APPLICATION NO. 42 OF 2009
(FOR INTERVENTION)
IN
PUBLIC INTEREST LITIGATION NO. 93 OF 2007

Mr. Shashikant Bhimrao
Jadhav and Ors.

.... Applicants

In the matter between :

Lonavala Khandala Citizens
Forum & Anr.

.....Petitioners

: Versus :

The Municipal Council of Lonavala
and Ors.

.....Respondents

WITH
CIVIL APPLICATION NO. 48 OF 2009
(FOR INTERVENTION)
IN
PUBLIC INTEREST LITIGATION NO.93 OF 2007

Mitesh Dhanaji Shah *....Applicant*

In the matter between :

Lonavala Khandala Citizens
Forum & Anr. *.....Petitioners*

: Versus :

The Municipal Council of Lonavala
and Ors. *.....Respondents*

WITH
CIVIL APPLICATION NO. 49 OF 2009
(FOR INTERVENTION)
IN
PUBLIC INTEREST LITIGATION NO. 93 OF 2007

Shree Kutchi Visa Oswal Stanakwasi
Jain Mahajan Trust and Ors. *.... Applicants*

: Versus :

Lonavala Khandala Citizens
Forum & Ors. *.....Respondents*

WITH
WRIT PETITION NO. 3840 OF 2009

Devendrakumar Manikchand Tatiya *.... Petitioner*

:Versus:

Saida Irgan Goriwala and Ors. *.... Respondents*

**WITH
CONTEMPT PETITION NO. 292 OF 2012**

Mr. Tilakdas Sudhakar Shetty

..... Petitioner

:Versus:

Yogesh Ramrao Godse and Ors.

..... Respondents

Mr. Fredun DeVitre, Senior Advocate with Mr. Nivit Srivastava, Ms. Sneha Patil and Mr. Bhavya R. Shah, for the Petitioner in Public Interest Litigation No.93 of 2007.

Ms. Gunjan Shah i/b Mr. P. B. Shah, for Petitioner in Writ Petition No. 3840 of 2009.

Mr. R.S. Apte, Senior Advocate with Mr. Aniruddha A. Garge, for Respondent No.1 in Public Interest Litigation No.93 of 2007.

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Mr. M.B. Pabale, AGP for Respondent-State in Public Interest Litigation No.93 of 2007.

Mrs. Neha S. Bhide, Government Pleader with Mrs. G. R. Raghuwanshi, AGP for Respondent-State in Writ Petition No. 3840 of 2009.

Ms. Anjali S. Shinde i/by. Mr. Nitin P. Deshpande, for Applicant in Civil Application No.122 of 2009.

**CORAM : ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

RESERVED ON : 17 JULY 2025.

PRONOUNCED ON : 23 JULY 2025.

JUDGMENT : (Per Sandeep V. Marne, J.)

1) For several years, the twin hill station of Lonavala-Khandala has been the most popular weekend getaway for residents of Mumbai and Pune, who look for quick breaks from the city chaos. Tucked away in Sahyadri Range, this twin hill stations- just 5 kms apart- attracts lakhs of tourists every year. During monsoon season, the region turns into misty paradise of waterfalls, cloud covered roads and lush green trails. However, this weekend paradise is fast losing its charm due to rapid urbanization and tourism. As the weekend getaway became more and more popular, with the number of tourists on a given monsoon weekend crossing two lakh, garbage heaps and blocked drainages became regular feature of the otherwise scenic paradise, which started getting marred by uncontrolled constructions and lack of basic civic amenities. This PIL Petition seeks to highlight the plight of the local residents of Lonavala-Khandala Region and is aimed at improving the civic amenities and regulating the construction activities in the region.

2) The Lonavala-Khandala Citizens Forum is an organisation formed by the residents of Lonavala-Khandala towns. The region of Lonavala-Khandala is a part of ecologically sensitive Western Ghats and used to receive annual rainfall of about 200 to 300 inches. The region has five dams and five lakes, numerous springs, waterfalls and ponds. The rivers Indrayani and Ulhas owe their origins to Lonavala-Khandala region. The hills around the twin hill stations are green and forested and provide catchments for the lakes and rivers. In addition to the local population, several residents of Mumbai and Pune own their villas, bungalows and houses in Lonavala-Khandala region. The petition filed *pro bono publico* seeks to highlight the uncontrolled development

activities occurring in Lonavala-Khandala region putting huge strain on infrastructural facilities like water supply, sewerage, solid waste management, roads, traffic etc. The association of residents has filed the present petition in the year 2007 seeking directions of this Court to regulate the construction activities, for demolition of illegal constructions and for augmentation of the infrastructure facilities in the region. The proactive citizens of Lonavala-Khandala region, who face civil problems, seek accountability from the civic officials and government departments complaining that they have abandoned duties of proper civic governance, which is in violation of Right to Life under Article 21 of the Constitution of India, which includes Right to Clean and Healthy Environment.

3) Municipal Council of Lonavala has been constituted under the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (**the Municipal Councils Act**) which is the second Respondent to the petition. The administrative control over the Municipal Council is exercised by the Directorate of Municipal Administration. The Municipal Council is entrusted with the duties of looking after civic administration and regulate the development activities. In addition to the Municipal Council of Lonavala being responsible for the civic facilities in the town of Lonavala, the Collector, Pune District is also responsible for maintaining and providing the necessary infrastructure facilities in the charming hill station of Lonavala-Khandala region. Petitioners complain that the favourite weekend getaway for Mumbaikars and Pune-kars is marred by crumbling infrastructure and suffers from problem of bad roads, flooding, vehicular pollution, felling of trees, unauthorized constructions, garbage management, lack of adequate drinking water etc.

4) The Lonavala-Khandala region comprises of approximately of an area of 120 sq.kms. At the time, when the petition was filed the region had population of 60,000 to 70,000. The region is located at a distance of 65 kms from Pune and about 100 kms from Mumbai. It is located at an altitude of about 2,800 ft above the sea level. On account of proximity from metropolitan cities of Mumbai and Pune, the region has become a popular weekend getaway for Mumbaikar and Pune-kars. At one point of time, Lonavala and Khandala were charming hill stations and according to the Petitioner, lack of apathy by the Respondents has resulted in loss of charm of the twin hill stations of Lonavala-Khandala. During weekends, the region is visited by approximately 10,000 cars and sometimes the total number of visitors during the weekends in monsoon season exceed 2,00,000. Petitioners believe that the Respondent-Authorities have failed to take effective steps to conserve the ecological balance of the region. The petition is filed seeking following prayers :-

a] That this Hon'ble Court be pleased to issue a Writ of Mandamus, or a Writ in the nature of Mandamus, or any other appropriate writ, order or direction, directing,

(i) Respondent No. 1,2,3 and 4 to implement all the provisions of the Solid Wastes Management Rules by 30th December 2007;

(ii) Ordering and Directing the Respondents 1, 2, 4 and 5 to forthwith prepare a sewerage plan and a waste treatment plan for the hill towns of Lonavla-Khandala before December 2007, and implement the same in a specified time frame;

(iii) Ordering and directing the Respondents Nos 1,2, 3, 4 and 5 to forthwith commission and make a hydrological / water survey map of Lonavla-Khandala and its adjoining areas and allow future constructions only after consulting the said maps.

(iv) Ordering and Directing respondent No. 1,2, 4 and 5 to provide a comprehensive water storage and supply plan, supply adequate and safe water for domestic consumption to all its wards and residents;

(v) Ordering and directing the Respondent No. 1 to demolish all the illegal constructions in Lonavla-Khandala.

(B) Pending hearing and final disposal of this petition,

(1) The Respondents 1, 2, 3, 4, and 5 be directed to prepare a hydrological survey map of Lonavla;

(2) A committee of eminent experts be formed to investigate and report on the urgent and immediate requirements of Lonavla-Khandala viz a viz its solid waste management programme, supply of water for domestic consumption of its permanent residents, planned sewerage collection, treatment and disposal, and measures for prevention of flooding and water logging in the said two towns.

(3) The Respondent 1 be directed to stop supply of all water connections to areas outside the jurisdiction of the Lonavla-Khandala Municipal Council;

(4) No new large residential / commercial constructions be allowed to be permitted in Lonavla-Khandala, till the Respondents implement a sewerage plan, a garbage disposal plan, and a water supply plan in the townships of Lonavla and Khandala.

(5) The Respondent No 1 be directed to furnish a list of all the illegal constructions in Lonavla-Khandala.

(c) for ad interim reliefs in terms of prayer [B (1 to 5)] above.

(d) for costs of and incidental to this petition, and,

(e) for such further and other reliefs as the nature and circumstances of this case may require.

5) Taking note of the alarming situation which prevailed in the region when the PIL petition was filed in the year 2007, this Court has passed series of interlocutory orders from time to time to ensure curbing of rising problems in the region. We may make brief reference to some of the interlocutory orders passed in the present Public Interest Litigation.

6) As early as on 18 October 2007, a Bench of this Court directed holding of meetings by the Chief Officer of Lonavla Municipal Council for preparation of proposed plan to address urgent issues affecting day to day living of the residents. The Court directed filing of a report based on outcome of the meeting. On 31 January 2008, the report prepared by the Director, Municipal Administration was

placed before this Court, which pointed out lacunas on the part of the Municipal Council in respect of the infrastructural activities of water supply, sewerage, garbage collection etc. The requisite steps for addressing the issues were spelt out in the report. By order dated 31 January 2008, this Court directed that the Chief Officer of the Municipal Council, as well as the Secretary of the concerned Department to look into the report and take appropriate steps for implementation of the recommendations of the report. This Court directed that it would be the personal responsibility of the Chief Officer to comply with the order of the Court by taking all corrective measures for ensuring health of the residents.

7) On 24 April 2008, this Court took note of the Affidavit in Rejoinder filed by the Petitioner indicating complete inaction on the part of the concerned authorities. Personal presence of the Chief Officer was accordingly ordered. On 4 September 2008, the Bench of this Court passed a detailed interim order directing various interim measures. It would be appropriate to reproduce the order dated 4 September 2008 which reads thus :-

The learned Counsel appearing for the Respondent No.1 Municipal Council of Lonavala, upon instructions from (i) Sunil Lahane, Chief Officer, (ii) Nitin Anagal, Municipal Engineer and (ii) Sanjay Kumbhar, Junior Engineer, Water Works), who are present in Court, makes a statement that the infrastructure, like, sewerage, drainage, water supply, electric supply, development of roads and mechanism to treat domestic or other waste do not exist in the entire area of the said revenue estate. However, Ward "A" out of the revenue estate, is the Ward where major part of the facilities are available. There is a treatment plant where the entire domestic or other discharge is taken and is treated before it is discharged into the river. Further, it is stated that this treatment plant is presently not functioning and untreated waste is directly discharged into the river. However, for remaining Wards of the entire revenue estate, there are no facilities.

2. In regard to the forest area, it is stated that 32% of the revenue estate has been reserved as forest area. There is no encroachment or unauthorized construction in the forest area. No plans are being sanctioned for construction in the forest area and it remains unincorporated from any public activity.

3. It is also stated that there are number of unauthorized constructions in the entire revenue estate of Lonavala, but the Council is not able to check the same because of lack of man power and means at their disposal. Despite efforts of the Council occupants do not use dustbins and throw waste all over the place. The Council is proposing to take effective steps to control the same.

4. Contrary to this, on behalf of the Petitioners, it is stated that there is no proper cleanliness in the entire area, facilities are not available, unauthorized construction is going on free of any check and even the Council is sanctioning the plans without applying its mind to the consequences resulting from inadequate infrastructure. This is causing hazard, besides other diseases which are prevalent because of nonavailability of proper facilities. It is also contended by the Council that the hills are being cut for the purpose of construction despite restriction in law from doing any damage to the hills located in the area of Lonavala.

5. Be that as it may, it is not necessary for us to go into the merits or otherwise of these contentions at this stage. Admitted position before us is that there are unchecked, unauthorized constructions being raised in this area. Further, the area lacks facilities of all kind and there is great inconvenience and nuisance being created by loitering and throwing the waste every where particularly in front of the hospitals, public places, etc. Some of the photographs have also been placed on record. In view of this, as an interim measure, we issue the following directions :-

(a) No unauthorized construction would be permitted in any part of the revenue estate of Lonavala and the Council shall take proper action against the unauthorized structures which have already been constructed. All authorities including the police are directed to ensure that no unauthorized structure comes up in that area and the action taken by the Council is taken to its logical end in relation to the unauthorized construction.

(b) The Council shall keep due regard when considering sanction or decline sanction of the plans submitted to it for consideration of the lack of infrastructure. It shall also ensure that the impact on existing infrastructure shall also be considered and if, in the opinion of the experts, the infrastructure is incapable of taking the load, we expect the Council to defer such decision till infrastructure is provided.

(c) The treatment plan which is admittedly nonfunctional as of now, shall be made operative without fail within two weeks from today. The Council shall also take appropriate measures for proper maintenance of the plant and also take such steps so that in future atleast the only sewerage plant available is not put out of order.

(d) An affidavit shall be filed showing as to how they propose to treat the domestic or other waste which will be collected from other Wards except Ward "A". The affidavit shall also deal with the proposed plan of the Council for providing complete infrastructure, time required, finance required and its source.

(e) Due evidence shall be produced on record to show the status of the forest area as of today.

6. The Council, Departments of the Government and the Police shall ensure that all these directions are complied with without any default.

7. The State Government shall explain as to why it has not acquired and placed at the disposal or allotted land to the Council for construction of water tank, the demand for which was placed as alleged in the year 1999. We expect the Government to take final decision in this regard and inform the Court on the next date of hearing.

8) In pursuance of the order passed by this Court on 4 September 2008, it appears that steps were taken for demolition of unauthorized structures on the government land. Petitioners however complained that the Municipal Council was selectively taking action only against smaller constructions not touching the large unauthorized structures. When the petition came up on 29 January 2009, a Bench of this Court expressed anguish at the information provided by the Municipal Council about the action taken against unauthorized constructions. Upon a stand being taken by the Municipal Council that it did not have infrastructure and manpower to take action against all unauthorized constructions, this Court directed Principal Secretary, Urban Development Department to provide due assistance for demolition of unauthorized structures by providing full infrastructure and police aid to the Council. This Court again expressed dissatisfaction in respect of the action taken by the Municipal Council vide order dated 12 February 2009 observing that the demolition carried out by the Municipal Council was mere cosmetic. This Court imposed costs on the concerned Chief Secretary of the Government of Maharashtra, as well as the Chief Officer and Administrative Officer of the Municipal Council.

9) When the petition came up on 12 March 2009, few practical difficulties were highlighted by the Municipal Council in the areas of lack of infrastructure and adequate staff to deal with some legal matters, as well as pressure put on the Council by different authorities and limited co-operation extended by other departments of the State. This

Court therefore directed further interim measures by the order dated 12 March 2009 which read thus :-

We have heard learned Counsel appearing for the respective parties. The affidavit on behalf of Lonavala Municipal Council has been filed. From the said affidavit, it appears that the Council is making sincere effort to comply with the orders of the Court and has actually demolished certain unauthorised constructions. Learned Counsel appearing for the Council has brought to our notice some practical difficulties which the Council is facing. Inter alia, it is stated that there is a problem of infrastructure, lack of adequate staff to deal with legal matters, pressure which is being put upon the Council by different authorities and limited cooperation being extended by other departments of the State.

2. In this affidavit, it has also been stated that 45 cases are pending in the Courts wherein certain orders of injunction have been passed which are of preventive nature and as such the Council is prevented from acting in accordance with law. 152 cases are stated to be pending where the applications have been made for regularisation of the constructions and 150 cases are pending where demolition is to be effected by the Council. These statistics clearly show that there is lack of coordination in the governmental functionaries and the Council is not properly pursuing its cases before the Court of Competent jurisdiction. Two cases have been brought to our notice, one being Regular Civil Suit No.91 of 2005 and the other being Regular Civil Suit No.115 of 2006 where injunction orders were passed by the Court on 16th June, 2005 and 14th July, 2006 and these injunction orders are ex parte and are in force till today. It is averred that the Council has not even filed its reply till date. However, the learned Counsel appearing for the Council submits that he does not have clear instructions in this regard. There are number of other cases of the same kind. Certain glaring examples of unauthorised constructions and violation of DC Regulations have been brought to our notice. A case of Kumar Hotel is a glaring example of this kind where unauthorised constructions have been raised and secondly the stilt portion which admittedly can only be used for the purpose of parking is being used for commercial purposes, i.e. for running of shops and/or games. This, even according to the Council, is unauthorised use and we see no reason why the Council should not take steps to stop such type of mis-user forthwith. All other buildings which fall in the same class or mis-user of stilt portion should also be looked into by the Council and action in that regard in accordance with law be taken without any further delay. Faced with the above factual matrix, it is necessary for this Court to issue certain directions which are to be complied with by all the concerned authorities/Courts without any further delay. Directions being ;

(a) The State Government shall sanction one post of Law Officer/Legal Assistant for the Council forthwith. Even if the process of selection takes certain time, the CEO should be permitted to make an ad hoc appointment (purely temporary appointment) to meet emergency created in the present case.

(b) The Council shall file its reply and written statements in all the cases pending before the Civil Judge, Junior Division, Vadgaon, Pune, immediately.

(c) The learned concerned Court is requested to take up all the 45 cases mentioned in the affidavit of the Council with utmost expedition and ensure that appropriate orders in accordance with law are passed within a period of three months from today, at least finally disposing of Exhibit-5 (i.e. Applications for temporary injunction).

(d) Regular Civil Suit No.91 of 2005 and Regular Civil Suit No.115 of 2006 shall be heard by the concerned Court within a period of two weeks from today and the order on temporary injunction applications shall be passed by the concerned Court expeditiously. Copies of this order be sent to the Registrar General of this Court immediately thereafter.

(e) We make it clear that various objections that are being raised before us including maintainability of the suit are kept open to be dealt with by the Court of Competent jurisdiction. The learned Civil Judge, Junior Division, Pune, shall ensure compliance of order of this Court.

(f) The Municipal Council is hereby directed to dispose of 150 applications filed by the concerned parties for regularisation of the unauthorised constructions. This shall be divided into two groups. Firstly, unauthorised constructions which have been raised on the Government land, while the other being unauthorised constructions on the own land of the persons concerned. All these applications shall be dealt with and disposed of in accordance with law within a period of three weeks from today.

(g) As far as 150 cases where the Council has to effect demolition, the Council shall carry out demolition of the unauthorised constructions fully and in accordance with law without any further delay and report compliance thereof to this Court on the next date of hearing.

(h) As all these cases are subject matter of the present Writ Petition, we are hopeful that the learned Civil Judge, Junior Division, Vadgaon, would take note of the pendency of this Writ Petition while dealing with the cases, if filed before it, out of a list of 150 cases.

(i) The CEO as well as the Divisional Commissioner and Collector, Pune, shall ensure that the cases of Council are properly represented before the Courts of Competent jurisdiction.

(j) The Superintendent of Police of Pune (Rural) and all other concerned authorities including the Divisional Commissioner, Collector of Pune and the S. D. O. of Lonavala shall ensure that wherever Council has demolished unauthorised structures, they are not permitted to reconstruct under any circumstances or occupy without specific order of this Court.

(k) The learned Counsel appearing for the Council states that they will have no objection if any of the Petitioners or their Counsel are duly represented at the time of demolition on proper notice.

(l) These directions shall be complied with by all the concerned Authorities, Departments of State, Council and the Police Authorities.

(m) We make it clear that in the event of due compliance on the directions of the Court, we grant liberty to the Secretary concerned to move for variation or imposition of costs personally upon him. (n) We further make it clear that in the event of default by any concerned Authority, the Court will be compelled to impose personal costs on the defaulting officers/officials in future. Let the Secretary concerned issue a circular in this regard as well as send a copy of this order to all the concerned Authorities. Copy of this order be sent to all the Civil Judges, Junior Division, Vadgaon, by the Registry itself. The Registry to inform this order on fax, E-mail and on telephone to the concerned learned Civil Judge, Junior Division, Vadgaon.

10) The monitoring by this Court of actions taken by the Municipal Council for demolition of unauthorized constructions in Lonavala-Khandala region continued and on account of intervention by this Court, it appears that several unauthorized constructions in Lonavala-Khandala region have been demolished from time to time.

11) In the meantime, Petitioners also highlighted the position that several large sized authorized constructions were coming up on Lonavala-Khandala regions putting a strain on infrastructure. Such constructions were not *per-se* unauthorized but grant of permissions by the Planning Authority for large scale constructions was putting constraint on the then existing infrastructure facilities in the region. A Bench of this Court passed order dated 28 February 2014 directing that the Municipal Council sanctioning the development permissions must have due regard not only to the planning norms in the Development Control Regulations but also the availability of adequate infrastructure facilities. Thus, apart from ensuring demolition of unauthorised constructions, this Court also took up the issue of regulation of authorised new constructions so as to ensure that new authorised constructions are commensurate to the available infrastructure. It would be apposite to reproduce the order dated 28 February 2014, which reads thus :-

1. Respondent No.1 seeks time till 14.03.2014.
2. Mr.DeVitre, the learned senior counsel appearing on behalf of the petitioners and the petitioners in certain connected writ petitions state that permissions are being granted for large scale construction activities contrary to the previous orders of this Court. They seek a blanket stay on further construction till the infrastructure is in place.
3. It is not necessary for us to even consider Mr.DeVitre's application as the previous orders are sufficient at this stage to take care of any unauthorized construction or in fact any construction, which is detrimental to the Lonawala & Khandala corporation. For instance by an order dated 04.09.2008, the Division Bench inter-alia passed the following directions :-
“(b) The Council shall keep due regard when considering sanction or decline sanction of the plans submitted to it for consideration of the lack of infrastructure. It shall also ensure that the impact on existing infrastructure shall also be considered and if, in the opinion of the experts, the infrastructure is incapable of taking the load, we expect the Council to defer such decision till infrastructure is provided.”
4. It is necessary therefore, for the Council not merely to check whether the plans for construction submitted by any party comply with the building norms and regulations but also to ensure that the same are sanctioned only after the previous orders of this Court have been complied with. **Thus for instance, the Council can sanction plans after having due regard to the availability of adequate infrastructure.** In the event of the Council sanctioning any further plans, they shall also certify that they have done so having considered all the orders passed in the writ petitions, including the said order dated 04.09.2008. Such sanction shall for instance certify that the Council considers the infrastructure to be adequate for the proposed construction. Such an opinion in turn must also take into account the impact on the existing infrastructure and the opinion of experts.
5. In the event of the Council sanctioning any further plans, they shall inform the petitioner's advocates and the advocates in Writ Petition No.214 of 2013 of their having do so forthwith. Liberty to apply.
6. We are informed that the experts have not been appointed to date. The parties are at liberty to suggest the names of the experts, which shall be considered at the next hearing.
7. Needless to say that the infrastructure projects undertaken by the Council must proceed.
8. The pendency of these writ petitions will not prevent the Council from taking any steps in respect of any plans that have been sanctioned contrary to the previous orders of this Court. Respondent No.1 is also directed to file a further affidavit, stating whether the previous orders of this Court have been taken into consideration while approving the plans after the dates of the respective orders.

(emphasis added)

12) By order dated 29 April 2014, the Bench of this Court admitted the PIL petition and continued various ad-interim orders passed by the Court. However, this Court thought it appropriate to issue further interim orders after perusal of the Affidavits filed by the Municipal Council of Lonavala. After perusal of the affidavit filed on 22 February 2014, this Court concluded that (i) the Solid Waste Management Rules, 2000 were not being implemented, (ii) there were no proper underground drainage system, (iii) there was no proper storm water drainage system, (iv) the water supply schemes proposed to be undertaken were at a preliminary stage and (v) the scheme to provide, develop, maintain and repair roads in the City of Lonavala were not implemented as sanctioned funds had lapsed. This Court observed that the Municipal Council was sanctioning large scale projects in the region having enormous adverse impact on the infrastructure which was largely inadequate. A suggestion was made by the Petitioners for constitution of an Expert Committee for looking into the proposals submitted to the Municipal Council for grant of development permissions. The suggestion was opposed by the Municipal Council raising a plea that it has the exclusive power under the provisions of the Maharashtra Regional and Town Planning Act, 1966 (**MRTTP Act**) to grant development permissions. This Court, however observed that the Municipal Council had miserably failed to perform its primary duties to provide basic infrastructure in the City and directed constitution of Expert Committee comprising of three members. It would be apposite to reproduce order dated 29 April 2014 passed by this Court :-

Heard learned senior counsel appearing for the Petitioners, the learned senior counsel appearing for the first Respondent the Municipal Council of Lonavala and the learned counsel appearing for the fifth Respondent.

2. This Petition raises important issues regarding the infrastructures available in the City of Lonavala which is a well known Hill Town. In fact, the need for entertaining this Public Interest Litigation is substantiated

by the statements made in the affidavit dated 22nd February 2014 filed by Shri Ganesh Shete, the Chief Officer of the first Respondent Municipal Council of Lonavala. **Hence, we issue Rule.** The Advocates on record for the first Respondent Municipal Council of Lonavala and for the fifth Respondent-the Maharashtra Jeevan Pradhikarn waive service. The learned AGP waives service for the second to fourth Respondents.

3. There are various adinterim orders passed by this Court on various aspects. The said adinterim orders will have to be continued. However, it will be necessary to issue further directions by way of interim relief. The prayer clause (a) of this Petition reads thus:

“(a) That this Hon'ble Court be pleased to issue a Writ of Mandamus, or a Writ in the nature of Mandamus, or any other appropriate writ, order or direction, directing,

- (i) Respondent Nos.1, 2, 3 and 4 to implement all the provisions of the Solid Wastes Management Rules by 30th December 2007;
- (ii) Ordering and Directing the Respondents 1, 2, 4 and 5 to forthwith prepare a sewerage plan and a waste treatment plan for the hill towns of LonavlaKhandala before December 2007, and implement the same in a specified time frame;
- (iii) Ordering and directing the Respondents Nos.1, 2, 3, 4 and 5 to forthwith commission and make a hydrological/water survey map of LonavlaKhandala and its adjoining areas and allow future constructions only after consulting the said maps;
- (iv) Ordering and Directing respondent Nos.1, 2, 4 and 5 to provide a comprehensive water storage and supply plan, and supply adequate and safe water for domestic consumption to all its wards and residents;
- (v) Ordering and directing the Respondent No.1 to demolish all the illegal constructions in LonavlaKhandala.”

4. We have perused the affidavit dated 22nd February 2014 of Shri Ganesh Shete, the Chief Officer of the Municipal Council of Lonavala. Clause (A) of the said affidavit deals with the Plan of Implementation of Solid Waste Management Rules, 2000 and the provisions of Drainage and Sewerage System in the Town of Lonavala. As far as the underground sewerage system is concerned, a tender which was earlier invited has been cancelled. It is stated that now the revised estimate is submitted to the Maharashtra Jeevan Pradhikaran for technical sanction. The said project has been sanctioned by the State Government under the Maharashtra Suvarnajayanti Nagaruthan Abhiyan. Thus, it is apparent that there is no proper underground sewerage system which is in existence in the city. As regards the solid waste management, it is stated that the Lonavala Municipal Council has only three garbage compactors, five ghanta gadis, two tippers and one vacuum loader. It also records that the Municipal Council does not have its own land fill site. A proposal has been sent to the Collector of Pune for getting ownership of the existing compost depot. After the ownership is conferred on the Municipal Council, it will take steps for implementing the Solid Waste Management Rules, 2000. Thus, as of today, it can be safely said that there is no implementation of the Solid Waste Management Rules, 2000. Clause 4 of the affidavit records that a DPR of storm water drainage has been submitted to the State Government for getting the funds. Thus, even a

proper storm water drainage scheme is not in place. Part B of the affidavit of the Chief Officer deals with water supply schemes. Paragraph Nos.6 and 7 of the affidavit indicate that even the water supply projects proposed to be undertaken have made no progress. The Paragraph Nos.6 and 7 record that the lands which are earmarked are not in possession of the Municipal Council. Part C deals with development and maintenance of roads. Paragraph Nos.8 to 15 of the said affidavit show very sad state of affairs. The funds which were sanctioned for the work have lapsed and, therefore, as of today, there is no comprehensive scheme to provide, maintain, develop and repair roads in and around the City of Lonavala. The affidavit shows that some progress has been made in the work of demolition of the illegal structures.

5. Thus, from the affidavit of the Chief Officer of the Municipal Council of Lonavala, it can be concluded that; (a) the Solid Waste Management Rules, 2000 are not being implemented; (b) there is no proper underground drainage system; (c) there is no proper storm water drainage system; (d) the water supply schemes proposed to be undertaken are at a preliminary stage; (e) the scheme to provide, develop, maintain and repair roads in the City of Lonavala is not implemented as the sanctioned funds have lapsed.

6. The first effective order in this Petition was passed by this Court on 4th September 2008 which is quoted in the order dated 28th February 2014. The paragraph Nos.4 to 6 of the order dated 28th February 2014 read thus:

“4. It is necessary therefore, for the Council not merely to check whether the plans for construction submitted by any party comply with the building norms and regulations but also to ensure that the same are sanctioned only after the previous orders of this Court have been complied with. Thus for instance, the Council can sanction plans after having due regard to the availability of adequate infrastructure. In the event of the Council sanctioning any further plans, they shall also certify that they have done so having considered all the orders passed in the writ petitions, including the said order dated 04.09.2008. Such sanction shall for instance certify that the Council considers the infrastructure to be adequate for the proposed construction. Such an opinion in turn must also take into account the impact on the existing infrastructure and the opinion of experts.

5. In the event of the Council sanctioning any further plans, they shall inform the petitioner's advocates and the advocates in Writ Petition No.214 of 2013 of their having do so forthwith. Liberty to apply.

6. We are informed that the experts have not been appointed to date. The parties are at liberty to suggest the names of the experts, which shall be considered at the next hearing.”

7. The main grievance of the Petitioners is that though there is a complete absence of basic infrastructure in the City of Lonavala, still the Municipal Council has been sanctioning large scale commercial/housing projects in the City of Lonavala.

8. Going by the aforesaid affidavit of the Chief Officer himself, the action of the Municipal Council of sanctioning such large scale projects in the hill town of Lonavala will have enormous adverse impact on the City. It will put heavy burden on the basic infrastructure in the City which is very inadequate. Therefore, a suggestion has been made of constituting an expert committee which will look into the proposals submitted to the Municipal Council of Lonavala for grant of development permissions and which will also look into the large scale projects sanctioned after 4th September 2008 where the construction has made no progress. On the last date, the learned counsel appearing for the Municipal Council of Lonavala had taken time to take instructions. Today, he states that only the general body of the Municipal Council can take appropriate decision.

9. The submission of the learned counsel appearing for the first Respondent Municipal Council is that the first Respondent being the Planning Authority has the exclusive power under the Maharashtra Regional and Town Planning Act, 1966 to grant development permissions. On one hand, as we have noticed earlier, the Municipal Council has miserably failed to perform its primary duty to provide basic infrastructure in the City. On the other hand, the Municipal Council wants to grant development permissions though the basic infrastructure is not available in the City. Therefore, as suggested by the Petitioners, we propose to constitute an expert committee consisting of the following three members:

- (i) Dr. S. Radhakrishnan, a Retired Judge of the High Court of Judicature at Bombay;
- (ii) Shri Vidyadhar Deshpande, Retired Director of Town Planning, Pune; and
- (iii) Shri Jagdish Joshi, Additional Chief Secretary, State of Maharashtra.

10. The learned senior counsel appearing for the Petitioners states that the Petitioners have obtained informal consent of all the three members of the Committee which we propose to constitute. There is already a direction issued in Clause (4) of the order dated 28th February 2014 that while granting any further development permission, the Municipal Council of Lonavala will have to certify that it has done so after having considered all the orders passed in the writ petition including the order dated 4th September 2008. It is provided that such sanction for development shall certify that the Municipal Council considers the infrastructure to be adequate for the proposed construction. The order also records that such an opinion must also take into account the impact on the existing infrastructure and the opinion of the experts. We propose to issue directions to the Municipal Council that if after scrutiny of the application for development, the Municipal Council decides to grant development permissions after certifying as aforesaid, before the commencement certificate is issued, the Council will have to submit the proposal along with its certification to the Committee of Experts. Only after the Committee of Experts records its opinion that the development can be carried out considering the existing infrastructure in the City, commencement certificate can be issued by the Municipal Council. If the Committee of Experts is of the view that the development permissions cannot be granted on account of lack of infrastructure or likely to have adverse impact on the

available infrastructure, the Municipal Council will not be entitled to issue commencement certificate without seeking prior approval of this Court. The Municipal Council of Lonavala will have to make available adequate infrastructure/facilities to enable the members of the Committee of Experts to discharge their duties.

11. The Municipal Council will have to identify the large scale commercial projects like malls, housing complexes and bungalows, which were sanctioned after the 4th September 2008 where no progress has been made in the work of development. Even the files of the said proposals will have to be submitted to the Committee of Experts. On the basis of the opinion of the Committee of Experts, the Municipal Council will have to take action in accordance with law.

12. The Committee of Experts shall be provided with a copy of this Petition and all affidavits on record along with the copies of the orders passed by this Court. It is obvious that the Committee of Experts will have to consider whether the proposed projects will have any adverse impact on the existing infrastructure in the City of Lonavala and whether proper infrastructure such as roads, water supply, sewerage disposal, storm water drainage and parking is available to the proposed project. It is obvious that the Committee of Experts will take into consideration all these aspects and, therefore, it is not necessary to issue detailed directions to the Committee of the experts.

13. The affidavit dated 22nd April 2014 refers to the proposal submitted by the Municipal Council to the District Collector for making available a land for establishing a land fill site. We propose to direct the Municipal Council to submit a fresh proposal. We also propose to direct the Collector to take appropriate decision within a timebound schedule.

14. We have already extensively referred to the affidavit of the Chief Officer of the first Respondent as regards the infrastructure. The Chief Officer will have to file an affidavit in this Court after every three months setting out the progress made in the matter of providing infrastructure. We must note here that there is an inordinate delay on the part of the Municipal Council of Lonavala in taking steps. The Municipal Council will have to take expeditious steps for the implementation of the Solid Waste Management Rules, 2000, for providing underground drainage and sewerage system and storm water drainage system. The Municipal Council also will have to implement the scheme of development, maintenance and the repairs of the existing roads. Even the issue of widening of the existing roads will have to be considered.

15. We are informed that the hydrological survey map for Lonavala Region has been already prepared. The Municipal Council will have to take steps for modification of the development plan on the basis of the hydrological survey map which is already prepared.

16. We make it clear that the directions which we propose to issue shall apply to the area falling in the jurisdiction of the Lonavala Municipal Council.

17. Hence, we issue the following interim directions.

(a) The adinterim orders which are already passed and which are not inconsistent with this order shall continue to operate till further orders;

(b) We constitute a Committee of following Experts:

- (i) Dr. S. Radhakrishnan, a Retired Judge of the High Court of Judicature at Mumbai;**
- (ii) Shri Vidyadhar Deshpande, Retired Director of Town Planning, Pune; and**
- (iii) Shri Jagdish Joshi, Retired Additional Chief Secretary of the State of Maharashtra.**

(c) We direct the Municipal Council of Lonavala to make available all the infrastructure/facilities to the Committee at Lonavala such as an office premises, computers, secretarial and other necessary staff. It is obvious that the Municipal Council will have to make all arrangements for transport of the members of the Committee and for stay of the members of the Expert Committee at Lonavala. It is obvious that all arrangements will be made by the Municipal Council of Lonavala considering the status of the Members of the Committee;

(d) If on the basis of the applications for development which are pending and which will be submitted hereafter, the Municipal Council proposes to grant development permissions after recording certification as provided in Clause 4 of the order dated 28th February 2014, the proposal along with the certification and necessary documents shall be submitted by the Municipal Council to the Committee of Experts. The Committee of Experts will examine the proposals and will submit its opinion in writing to the Municipal Council. Only if a favourable opinion is expressed by the Committee that the Municipal Council will be entitled to issue a commencement certificate. It will be also open for the Committee to suggest modifications in the permission proposes to be granted by Municipal Council and also to suggest incorporation of the additional terms and conditions. If the committee disapproves the proposal, the Municipal Council shall not grant commencement certificate without the prior approval of this Court.

(e) If the Municipal Council does not agree with the opinion expressed by the Committee of Experts, no action shall be taken by the Municipal Council contrary to the opinion expressed by the Committee without seeking prior approval of this Court.

(f) For the time being, as an interim arrangement, we direct the Municipal Council to pay remuneration to each members of the Committee at the rate of Rs.15,000/ per meeting. As stated earlier, all arrangements will have to be made by the Municipal Council.

(g) The Municipal Council shall identify large scale commercial/housing projects sanctioned by it after 4th September 2008 where there is no substantial progress made in the development. The files of such approved projects shall be submitted by the Municipal Council to the Committee of Experts.

(h) The Committee of Experts shall examine the said proposals submitted by the Municipal Council and shall submit its opinion to

the Municipal Council. The Municipal Council shall take necessary action on the basis of the said opinion submitted by the committee of Experts.

(i) We direct the Municipal Council to furnish copies of the Petition and all affidavits on record of the Petition as well as copies of all the orders passed by this Court to the members of the Committee of Experts.

(j) We direct the Municipal Council to submit a fresh proposal to the Collector for a grant of land to establish a land fill site. Such fresh proposal shall be submitted within a period of four weeks from today;

(k) After a fresh proposal is received by the Collector, he shall process the said proposal and take appropriate action on the said proposal within a period of eight weeks from the date on which the proposal is received;

(l) The Municipal Council shall take all possible steps to implement the Solid Waste Management Rules, 2000, to provide proper underground drainage system, to provide a proper storm water drainage system, to establish the proposed Water Supply Schemes and to implement scheme of development, maintenance, repairs as well as widening of the existing roads. Expeditious steps shall be taken in that behalf;

(m) In the light of what we have observed above, the Chief Officer of the first Respondent Municipal Council shall file an affidavit setting out the progress made in respect of the infrastructural work along with the necessary supporting documents. First of such affidavit shall be filed on or before 30th June 2014; Thereafter, the Chief Officer of the first Respondent shall keep on filing further affidavits after expiry of period of every three months;

(n) We direct the Municipal Council to nominate an officer or more than one officers for the purposes of ascertaining whether any illegal constructions are being carried out in the City of Lonavala; It will be responsibility of the said officer or officers to keep a track of illegal constructions and to ensure that necessary statutory action is initiated for demolition of the illegal constructions;

(o) In the event the General Body of the first Respondent Municipal Council of Lonavala has some reservations about any of the members of the Expert Committee, it will be open for the Municipal Council to make an application to this Court for modification of this order in relation to the constitution of the Committee;

(p) We direct the Chief Officer to place the names of the Committee of Experts before the General Body of the first Respondent Municipal Council within a period of two months from today;

(q) Place this Public Interest Litigation under the caption of "Directions" on 14th July 2014 for the purposes of considering compliance;

(r) The Petitioner will serve an authenticated copy of this order to the Members of the Committee of Experts constituted by this Court.

13) Thus, by virtue of order dated 29 April 2014, a new mechanism was created under which all proposals received by the Municipal Council in respect of large scale/housing developments were directed to be examined by the Committee. The Committee would then submit its opinion in writing to the Municipal Council after considering the issue as to whether grant of development permission for a particular project would be compliant to the available infrastructure in the region. Only if a favourable opinion is expressed by the Committee, the Municipal Council has been empowered to issue Commencement Certificate for the new projects. Even in respect of those projects which were sanctioned after 4 September 2009 and where no substantial construction progress was made, files of such approved projects were also directed to be scrutinized by the Expert Committee for safety measures to ensure that completion of such projects would not mar the available infrastructure. Additionally, directions were also issued to take all possible steps for implementation of Solid Waste Management Rules, 2000, for provision of underground drainage system, proper storm water drainage system, establishment of proposed water supply scheme, as well as to implement the scheme of development, maintenance, repairs and widening of the existing roads. Thus, passing of order dated 29 April 2014 by this Court marked an important development where the powers of the Municipal Council as Planning Authority to issue development permissions was made subject to the opinion expressed by the Expert Committee appointed by this Court.

14) By further order dated 14 August 2014, the order dated 29 April 2014 was modified and a three member Expert Committee was

expanded to Five Member Committee by including President of the Association of Practicing Engineers and Architects of Lonavala, as well as a member of the Petitioner-Association as Members thereof. By order dated 27 October 2016, the composition of the Expert Committee was changed by replacing some of the members. Additionally, this Court directed the Lonavala Municipal Council to create Grievance Redressal Mechanism to enable the members of public to lodge complaints regarding illegal constructions.

15) During pendency of the petition, the Chairman of the Expert Committee, Dr. Justice S. Radhakrishnan passed away and by order dated 30 April 2025, this Court has appointed Smt. Justice Mridula Bhatkar, former Judge of this Court as Chairperson of the Expert Committee. The petition is called out for final hearing.

16) We have heard Mr. DeVitre the learned Senior Advocate appearing for the Petitioner. At the outset, he has fairly submitted that the Expert Committee appointed by this Court and the Municipal Council have been working in tandem to ensure that all large projects are permitted only after ensuring that adequate infrastructure is available in the region. He would also submit that some progress has been made on the infrastructural front in the region. That the Solid Waste Management Rules, 2000 are now being implemented by the Municipal Council. So far as preparation of sewerage plant and waste treatment plan is concerned, some steps are taken for implementation of the same and there has been a partial implementation and a substantial progress. Demolition of illegal constructions, which existed at the time of filing of the petition, has largely been completed on account of various interim orders passed by this Court. He would submit that on account of appointment of Expert Committee by this Court, the development activities in the region are largely controlled. He would therefore pray

that the arrangement of processing of all development permissions after obtaining opinion of the Expert Committee be continued in future so as to ensure that the Municipal Council does not issue uncontrolled permissions putting strain on the available infrastructure. He would invite our attention to the provisions of the Municipal Councils Act, particularly Section 49 thereof, in support of his contention that it is the statutory duty of the Municipal Council to construct and maintain public streets, drains, sewers etc. to provide for adequate water supply. He would then invite our attention to the Notification dated 26 November 1996 issued by the Urban Development Department sanctioning Special Regulations for development of Tourists Resorts, Hotels /Townships in Hill Station Type Areas (**Special Regulations**). He would submit that the said Special Regulations are formulated with the aim of ensuring that the development activities in hill station areas are controlled in such a manner that the ecology of the region is preserved. He would complain that the State Government has not included Lonavala-Khandala region in the list of hill stations, on account of which the Special Regulations are not made applicable to the region of Lonavala-Khandala. He would therefore submit that the State Government be directed to include Lonavala-Khandala regions in the list of hill stations for the purpose of applicability of the Special Regulations. That regulating development in Lonavala-Khandala region in accordance with the Special Regulations would lead to lot of improvement in the region. He would submit that Lonavala-Khandala region needs to be declared as an eco-sensitive zone. He would further submit that the Unified Development Control Promotion Regulations applicable to Pune Region exclude Lonavala-Khandala region and that the development activities in the said region continues to be governed by the building by-laws and Development Control Regulations formulated at the time of preparation of development plan for Lonavala of 1996. He would therefore submit that urgent steps are required to be taken to

revise the development plan, as well as the Development Control Regulations in such a manner that uncontrolled development activities in the region are curbed and development permissions are granted strictly having regard to the available infrastructure in the region. Mr. DeVitre would accordingly pray for continuation of mechanism of passing of every proposal for development permission for large scale projects by the Expert Committee constituted by this Court.

17) Mr. Apte, the learned Senior Advocate appearing for Respondent No.1-Lonavala Municipal Council would submit that the Council has never treated the present petition as adversarial litigation. That the Council has acted on various orders passed by this Court from time to time and that lot of progress has been made at the ground level though few problems still continue to persist. He would submit that the Expert Committee appointed by way of judicial orders cannot be a permanent solution to the problem and that the development activities in the region must be allowed to be carried out in accordance with the statutory scheme envisaged under the provisions of the MRTP Act. That though the Municipal Council and the Committee have worked hand in hand for the last over ten years, at the same point of time, the Municipal Council must be permitted to issue development permissions in accordance with the Development Control Regulations. That the Municipal Council will have due regard to the available infrastructure in the region before issuing any development permission. That all suggestions made by the Petitioner-Association would always be kept in mind and the Municipal Council is willing to take necessary assistance from the Petitioner-Association in improving the infrastructure of Lonavala-Khandala region. Lastly, Mr. Apte would submit that the Municipal Council is contemplating preparation of a new development plan and the work therefor is likely to commence in September 2025 and by the next year, it is proposed that the new development plan and the

modified Development Control Regulations would govern the development activities in Lonavala-Khandala region. He would therefore submit that the mechanism of processing all development permission through opinion of Expert Committee needs to be discontinued as there is substantial change in the fact situation. He would therefore pray that the Committee constituted by the Court be dissolved and the Municipal Council be permitted to process and issue development permissions in accordance with the applicable Development Control Regulations after having due regard to the available infrastructure in the region.

18) We have also heard Mrs. Bhide, the learned Government Pleader appearing for State who would submit that the State Government has provided and would continue to provide the necessary paraphernalia to the Municipal Council for the purpose of maintaining the ecological balance while carrying out the development activities in Lonavala-Khandala region. She would submit that all suggestions given by the Petitioner-Association would be taken into consideration as and when the Municipal Council prepares the new draft development plan for regulating the development activities in the region.

19) We have given anxious consideration to the submissions canvassed by the learned counsel appearing for the parties and have gone through the various orders passed by this Court from time to time.

20) Lonavala-Khandala is a popular weekend getaway for cities of Mumbai and Pune and the number of tourists visiting the same is increasing with the passage of each day. If the ecology of the region is not protected, the whole charm of Lonavala-Khandala region would be lost. Therefore, necessary measures are required to be adopted to ensure

that the ecology of the hill towns is maintained and is not destroyed by uncontrolled development coupled with lack of requisite infrastructure.

21) At the time when the petition was filed, the region was facing several problems of infrastructure which were repeatedly highlighted in the newspapers. There was no proper system of garbage collection and the Municipal Council had not implemented the Solid Waste Management Rules. Rampant unauthorized constructions were occurring thereby putting strain on sewerage and water supply facilities. Non-collection of garbage was resulting in blockage of storm water drains and leading to flooding. There is no dispute now, and in fact Mr. DeVitre fairly concedes, that some progress has occurred in these areas on account of various interim orders passed by this Court. However, the petition cannot be kept pending forever monitoring the activities of the Municipal Council. At some stage, the Municipal Council and the State Government need to put a proper infrastructural framework in place so as to ensure maintenance of ecology of the region.

22) In our view, there are four broad issues which need to be addressed in the petition while finally disposing off the same in view of the developments that have occurred during pendency of the petition :-

- (i) Making provisions for the requisite infrastructure for Lonavala-Khandala region for water supply, sewerage, solid waste management, roads etc.;
- (ii) Taking action against unauthorized constructions in the region.
- (iii) Controlling and regulating the new constructions that would occur henceforth in the region;

- (iv) Framing of Regulations which would govern the development in the region.

23) So far as the first aspect of provision of necessary infrastructure for residents and visiting tourists is concerned, it is the statutory duty of the Municipal Council under Section 49 of the Municipal Councils Act to provide, within its jurisdiction, the matters enumerated therein. For facility of reference, provisions of Section 49 (1) and (2) of the Municipal Councils Act are extracted below :-

49. Duties and functions of the Council

(1) Except as otherwise provided in this Act, the municipal Government of a municipal area shall vest in the Council.

(2) In addition to the duties imposed upon it by or under this Act or any other law for the time being in force, it shall be the duty of every Council to undertake and to make reasonable provision for the following matters within the limits of the municipal area, and when effective measures cannot otherwise be made then even outside the said limits, namely:-

(a) lighting public streets, places and buildings;

(aa) planning for social and economic development;

(ab) urban forestry, protection of the environment and promotion of ecological aspects;

(b) watering public streets and places;

(c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or not removing noxious vegetation and abating all public nuisances;

(d) maintenance of a fire-brigade equipped with suitable appliances for extinguishing fires, and protection of life and property when fire occurs;

(e) regulating or abating offensive or dangerous trades or practices;

(f) removing obstructions and protections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or in Government;

- (g) securing or removing dangerous buildings or places and reclaiming unhealthy localities;
- (h) acquiring and maintaining, changing and regulating places for the disposal of the dead;
- (i) constructing, altering and maintaining public streets, culverts municipal boundary marks, markets, slaughter-houses, laterines, privies, urinals, drains, sewers, drainage works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;**
- (j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at reasonable cost;
- (k) naming streets and numbering of premises;
- (l) registering births and deaths;
- (m) public vaccination;
- (n) suitable accommodation for any calves, cows, or buffaloes required within the municipal area for the supply of animal lymph;
- (o) establishing and maintaining public dispensaries, and providing public medical relief and organising [family planning centres and promoting population control, family welfare and small family normal;
- (p) establishing and maintaining primary schools;
- (q) printing such annual reports on the municipal administration of the municipal area as the State Government by general or special orders requires the Council to submit;
- (r) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal area;
- (ra) converting dry latrines in the municipal area into wet latrines;
- (s) disposing of night-soil and rubbish and if so required by the State Government, preparation of compost manure from such night-soil and rubbish;
- (s-1a) ensuring that no person shall require or compel any other person to carry, and no person shall carry, night-soil as a head-load for removing it from one premises or place to any other premises or place, or for disposal, in any part of the municipal area;

(sa) taking such measures as the State Government may, from time to time, direct for improvement of the living and working conditions of the sanitary staff of the Council;

(sb) Welfare measures for the Scheduled Castes, Scheduled Tribes, Vimukta Jatis and Nomadic Tribes who are residing within the limits of the municipal area, and in particular taking such measures for the amelioration of the conditions of these classes as the State Government may, from time to time, direct;

(t) providing special medical aid and accommodation for the sick in time of dangerous or communicable disease and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of such disease:

(u) giving relief and establishing and maintaining relief works in time of scarcity or for destitute persons within the limits of the municipal area;

(v) imposing compulsory taxes which are specified in section 105.

(emphasis added)

24) It is thus a statutory duty of the Municipal Council to provide for facilities of water supply, sewerage, drainage, roads, solid waste management etc. The Municipal Council is therefore bound to make a provision for requisite infrastructure for the region. This Court has already passed interim orders from time-to-time mandating provision of requisite infrastructure in the region. The Municipal Council has also been directed to implement Municipal Solid Waste (Management and Handling) Rules, 2000 which again are binding on the Municipal Council. We therefore trust and hope that Lonavala-Khandala Municipal Council shall discharge its statutory obligations by making available requisite infrastructure in the region.

25) So far as the second aspect of taking action against the unauthorized construction in the region is concerned, the Municipal Council apparently conducted special drives for demolition of unauthorized constructions in the region in pursuance of various interim orders passed by this Court during 2007 to 2009. By order dated

27 October 2016, this Court has directed Lonavala Municipal Council to create Grievance Redressal Mechanism to enable the public to lodge complaints against illegal constructions. The Municipal Council has been directed to take action even on anonymous complaints. After receipt of complaints, the same are directed to be entered in a Register and the Municipal Council has been directed to take prompt action against the unauthorized constructions. We are informed that the Grievance Redressal Mechanism has accordingly been set up in accordance with interim directions issued by the Court on 27 October 2016. We accordingly hope and trust that the Municipal Council shall take prompt steps in ensuring that unauthorized construction are not effected and if carried out, prompt action is taken for their demolitions.

26) So far as the third aspect of regulating the new constructions in the region is concerned, both Mr. DeVitre and Mr. Apte are *ad idem* that constitution of Expert Committee by this Court has by and large achieved the object of controlling the constructions in the region. The Expert Committee has ensured that the constructions occurring in the region do not outweigh the existing infrastructural facilities. Mr. DeVitre has strenuously pleaded for continuation of mechanism of development proposals passing the muster of the Expert Committee so as to ensure that future constructions in the region are controlled. On the other hand, Mr. Apte has opposed the suggestion submitting that the statutory framework does not permit control of powers of the Planning Authority by any external Committee. There can be no debate about the position that construction activities need to be regulated by the Planning Authority in accordance with the provisions of Regulations formulated under the MRTP Act. Ordinarily, every Planning Authority is assisted by town planning experts, architects and engineers to ensure that a city, town or a

region is developed in a planned manner. The broad objective behind proper town planning is to satisfy the need of future generations and to prevent haphazard growth of urban agglomerations. While making a development plan in respect of a city, town or a region, a balancing act is performed to ensure that aspirations of residents for better housing is balanced with the available infrastructure. When it comes to ecologically sensitive areas, the town planning norms must have regard to the special environmental needs of the region.

27) The scheme of the MRTP Act is such that it invests in the Planning Authority necessary jurisdiction, power and authority to permit, regulate and control development in a city, town or region. In that sense, putting any restrictions on the powers of the Planning Authority in the form of opinion of Court appointed Expert Committee may fall outside the statutory framework of the MRTP Act. In the present case, this Court was required to take extraordinary measure of appointment of Expert Committee for examination of proposals for new constructions in Lonavala-Khandala region after noticing that the Municipal Council was issuing construction permissions in such a manner that it was putting a strain on the available infrastructure. Both sides agree that the Committee has done an excellent job in guiding the Municipal Council in regulating the construction activity by having due consideration to the available infrastructure. Thus, the planning function of Municipal Council of ensuring growth of the region corresponding to the available infrastructure was required to be partly performed by the Court appointed Expert Committee during past 11 years. This extraordinary measure was necessary to curb uncontrolled development in the region.

28) Now that new constructions in the region have been carried out corresponding to the available infrastructure, the time has come

when the Municipal Council will have to take over the responsibility which the Court appointed Expert Committee has performed during the past 11 years. We are therefore not inclined to accept the suggestion made by Mr. DeVitre that the Court appointed Expert Committee must continue to function forever thereby monitoring the statutory planning powers of the Municipal Council. At the same time, we do hope and trust that the outdated development plan and the Development Control Regulations governing constructions in Lonavala-Khandala region are suitably modified so as to ensure that the future development in the region corresponds to the existing infrastructural facilities. This aspect is being dealt with in the latter part of the judgment. However, till the new development plan is prepared and a new set of Development Control Regulations are in place, the Court appointed Expert Committee must be permitted to continue so as to ensure that the Municipal Council does not issue construction permissions in accordance with the existing Development Control Regulations without having any regard to the available infrastructure in the region.

29) Coming to the last aspect of the DCRs which would regulate new construction in the Lonavala-Khandala region, a suggestion is given by Mr. DeVitre that the region needs to be included in the list of hill stations for the purpose of application of Special Regulations. In exercise of powers vested under the MRTP Act, the State Government has formulated Special Regulations for development of tourist resorts, holiday homes/township situated in hill station type areas. The said Special Regulations are formulated taking into consideration the realities in hilly terrains which are flocked by tourists and where hotels, resorts, villas etc. are built on a large scale to meet the requirement of the visiting tourists. The salient features of the Special Regulations are that they mandate the owner of the land to provide for the necessary infrastructure facilities such as water supply, sewerage etc.

within the concerned site. Extra care is taken under the Special Regulations to ensure that the development activities do not damage the ecology and therefore land owners are mandated to submit Environment Impact Assessment Report to the Government under the provisions of the Environment Protection Act, 1986.

30) Mr. DeVitre has submitted that as of now, Lonavala-Khandala region is not included in the list of hill stations and in that sense the Special Regulations do not apply to the said region. This is why he has urged that the State Government be directed to include Lonavala-Khandala region in the list of hill stations so as to ensure that the development activities in the region do not destroy its ecology. In our view, this would lie in the realm of policy decision, in which this Court would be loathe to enter. At the same time the State Government needs to ensure that the ecology of Lonavala-Khandala region is not marred by uncontrolled development activities. The State Government has already ensured that the provisions of Unified Development Control Permission Regulations (**UDCPR**) applicable to Pune Metropolitan Region do not apply to Lonavala-Khandala region even though the said region falls within the geographical limits of Pune Metropolitan Region Development Authority (PMRDA). This conscious exclusion of Lonavala-Khandala region from the application of UDPCR is an important step to ensure that the town planning norms applicable to Pune Metropolitan Region do not apply to Lonavala-Khandala region so that the development activities in the region are controlled and regulated in such a manner that the ecology of the hilly terrain is not disturbed. However, the policy decision of inclusion of Lonavala-Khandala region in the list of hill stations will have to be taken by the State Government. This Court cannot issue any directions to the State Government to include Lonavala-Khandala region in the list of hill stations. However, it shall be open to the State Government to consider

the suggestions made by the Petitioners and for that purpose, we consider it appropriate to grant liberty to the Petitioners to make a representation to the State Government for inclusion of Lonavala-Khandala region in the list of hill stations for applicability of the Special Regulations.

31) Since we are not issuing any directions for inclusion of Lonavala-Khandala region in the list of hill stations for applicability of Special Regulations, the next issue for consideration is about regulating the development activities in the region. As of now, the construction activities in the towns are regulated by the development plan prepared in the year 1996 and the building by-laws and Development Control Regulations made thereunder. Thus, the dated development plan and Building By-laws continue to govern and regulate the development activities of the region. As observed above, this Court was required to step in by appointing Expert Committee so as to ensure that the constructions in the region are carried out corresponding to the available infrastructure. The very fact that this Court was required to appoint such Expert Committee would clearly imply the current Building By-laws and Development Control Regulations permit constructions in far excess of the available infrastructure. With each new development project passing through the scrutiny of Court appointed Expert Committee headed by a retired Judge of this Court, it is ensured that the new constructions do not put a strain on the existing infrastructural facilities. We have already expressed view that the Court appointed Expert Committee cannot regulate the construction activities in the region forever and someday the State Government and the Municipal Council must ensure that the Development Control Regulations updated in such a manner that new developments are carried out corresponding to the available infrastructural facilities. Since this Court is proposing to discontinue the mechanism of Court appointed Expert Committee monitoring the

construction activities in Lonavala-Khandala region, it needs to be ensured that the existing DCRs are modified in such a manner that what has been achieved during the past 11 years through the Court appointed Expert Committee is now achieved in the form of the modified DCRs.

32) Appreciating the concern expressed by the Petitioner and by this Court, Mr. Apte has fairly submitted that the Municipal Council is already in the process of taking steps for preparation of a fresh development plan for the region and that the process of preparation of new development plan shall commence in September 2025. Preparation of a new development plan involves a long process involving various steps commencing from declaration of intention under Section 23 of the MRTP Act, carrying out survey and existing land use map by the Town Planning Officer under Section 25, preparation and publication of draft development plan under Section 26, inviting suggestions and objections to the draft development plan and grant of opportunity of hearing by the Town Planning Committee, submission of draft development plan alongwith the modifications and submission of report of the Town Planning Committee to the State Government. It is only after these steps are completed that the development plan finally gets sanctioned by the State Government. It would thus take some time for preparation of new development plan applicable to Lonavala Municipal Council. We hope and trust that the Municipal Council as well as the State Government shall have due regard to the concerns expressed in the present petition, as well as to various interim orders passed by this Court and to the present judgment while preparing the new development plan. The Petitioners shall get an opportunity to give their suggestions and objections during the preparation of the new development plan.

33) Since Lonavala Municipal Council is in the process of preparation of new development plan, in our view, the existing mechanism of processing of development proposals through Court appointed Expert Committee can continue to operate till the new development plan and the new Development Control Regulations are sanctioned by the State Government. This would ensure that an uncontrolled development based on existing dated DCRs does not occur during the gap period.

34) In the light of the above discussion, we proceed to pass the following order :-

- (i) Lonavala Municipal Council and the State Government shall take prompt steps to augment and improve the infrastructural facilities in the Lonavala-Khandala region relating to provision of water supply, solid waste management, sewerage, storm water drainage system, maintenance, repairs and widening of roads, etc.
- (ii) Lonavala Municipal Council shall take action against unauthorized constructions within its jurisdiction in accordance with law both by identifying such constructions, as well as by acting on complaints received on Grievance Redressal Mechanism created vide order dated 27 October 2016.
- (iii) Lonavala Municipal Council shall give wide publicity to the Grievance Redressal Mechanism by publishing the same once every quarter in local newspapers having wide circulation.

- (iv) Lonavala Municipal Council and the State Government shall take prompt steps in preparing new development plan applicable to the jurisdiction of a Municipal Council and formulate a fresh set of Development Control Regulations. While doing so, the Municipal Council and the State Government shall ensure that the new constructions in the region are carried out strictly commensurate to the infrastructural facilities.
- (v) It would also be open to the State Government to consider inclusion of Lonavala-Khandala region in list of hill stations for the purpose of applicability of Special Regulations. The Petitioner would be at liberty to make a representation to the State Government for that purpose.
- (vi) Until finalization of new development plan for Lonavala Municipal Council, the existing mechanism created vide order dated 29 April 2014 further modified vide order dated 14 August 2014 of seeking opinion of the Expert Committee shall continue to operate.
- (vii) The Expert Committee shall stand dissolved on the date of finalization of the new development plan and formulation of new Development Control Regulations.

35) With the above directions, the PIL petition is **disposed of**.

36) With disposal of the main Petition nothing would survive in the Contempt Petition and Interim Applications and the same are accordingly disposed of. Writ Petition No. 3840 of 2009 does not survive in view of disposal of the PIL No. 93 of 2007 and the same is also disposed of.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]

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