

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 20 OF 2026**

Prashant Vasantrao Salunke and others

**VERSUS**

Union Of India Thr. Secretary Ministry Of Culture And Ors.

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Mr. Yuvraj Narvankar, a/w Ms Raufa Shaikh, a/w Rahul Patil, and Ms Shraddha Patil, Advocates for Petitioner.

Mr. D.R. Sutar, a/w Ms Reshma J. Adnaik, Advocates for Respondent No.3.

Mr. Vijay Killedar, a/w Mr. Shivra Jagadale, and Mr. Rahul Rote, Advocates for Respondent Nos. 1 to 4.

Mr. Kedar Lad, a/w Ms. Poonam Dhotre, a/w Ms. Indrayani Patil, Advocates for Respondent No. 10.

Mr. Manoj A. Patil, Advocate for proposed Intervenors.

Mr. S.B. Kalel, AGP for Respondent/State.

Mr. Gaikwad, Chairman of MSRDC present through Video Conferencing

**CORAM : MILIND N. JADHAV, &  
NANDESH S. DESHPANDE, JJ.**

**DATE : 6<sup>th</sup> JULY 2026.**

**P. C. :**

Heard Mr. Yuvraj Narvankar, learned Advocate for the Petitioners, Mr. D.R. Sutar, learned Advocate for Respondent No.3, Mr. Vijay Killedar, learned Advocate for Respondent Nos. 1 to 4, Mr. Kedar Lad, learned Advocate for respondent No. 10, Mr. Manoj A. Patil, learned Advocate for proposed 79 Intervenors and Mr. S.B.

Kalel, learned AGP for respondent/State and its functionaries. We have also heard Mr. Gaikwad through Video Conferencing.

2. Our attention is drawn to the previous order dated 18.06.2026, by virtue of which we had passed certain directions, *inter alia*, with regard to regulation of the further steps to be taken by the parties in the present PIL. Pursuant to those directions, the learned Advocates have taken instructions and have one by one apprised their respective positions and status of steps taken, suggestions and submissions to the Court. We deem it fit and necessary to delineate the submissions made by the learned Advocates in seriatim, so that it would be easier for us to consider passing further appropriate directions.

3. At the outset, all learned Advocates are *ad idem* on the aspect and applicability of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (for short “**the said Act**”) with regard to the heritage relic - temple at Khidrapur Conservation of which is the principal issue before the Court in the PIL. It also needs to be pointed out that along with the issue of conservation of the ancient heritage temple being the principal subject matter, in view of the averments made in the paragraph No.

23.4 of the Petition, the issue of encroachment in the regulated and prohibited area has also be agitated and dragged into it. Statutory provisions undoubtedly need to be checked, curbed and regulated by following the due process of law.

4. After hearing the learned Advocates, it is *prima facie* seen that under the said Act, there are two zones of regulation, the first being a prohibitory zone which extends upto a radius of 100 meters from the subject temple which requires conservation measures principally. This zone has *prima facie* very strict rules for construction and maintenance of structures which are existing and/or are existential in this prohibitory area. The rules get slightly relaxed for similarly placed existential structures in the regulated area which is beyond the prohibitory area to the extent of a further 200 meters radius around the subject temple. The structures are therefore regulated by virtue of the said Act and the Rules framed thereunder. We need not detain ourselves with those Rules as they will have to be followed *qua* the structures identified as unauthorized, which position is strongly refuted by the 79 structure owners. This needs adjudication in that case on a case to case basis and an omnibus action cannot be contemplated.

5. We are not maintaining any strict order of recording the submissions primarily because it would be easier for us to deal with the Advocates appearing before us in seriatim as they have addressed us today. At the outset, Mr Sutar, learned Advocate appearing for the Village Panchayat, Khidrapur would make two submissions. He would submit that the Gram Panchayat/Village Panchayat undoubtedly supports the larger question raised in the petition, viz., relating to the temple conservation and supports all conservation measures undertaken by the Archaeological Survey of India (ASI) with regard thereto, in terms of the said Act as also with regard to any direction that may be passed in the present PIL.

6. Next, he would submit that the Gram Panchayat would be ready and willing to cooperate with all stakeholders in the event if steps are taken for the purpose of ascertaining the unauthorized encroachments strictly in consonance with in the parameters of the provisions of the said Act by the Competent Authority namely Sections 20-A to Section 20-D and Rule 38 of the Rules framed thereunder so that there is no arbitrariness in carrying out any coercive action of demolition which is apprehended by the villagers.

7. Mr. Sutar would fairly on instructions submit that any

information sought for and called for by the Competent Authority *qua* the existence and subsistence of the structures in the aforesaid two zones as available in the Village Record will be shared and co-operated with the Competent Authority or the Collector for the purpose of ascertainment and determination of any encroachment and it will be supplied by the Gram Panchayat/Village Panchayat and there shall be no delay whatsoever in that regard. All that he would submit is that there should not be any fear or apprehension in the minds of the villagers owning and residing in the structures which are identical, that they will be demolished without following the due process of law.

8. Next Mr. Killedar, learned Advocate appearing on behalf of the Union Government and more specifically the ASI in the present case, would persuade us to consider the provisions of the said Act and more specifically Sections 20-A to 20-D. We deem it necessary to reproduce the said provisions which pertain to the structures, their existence, their maintenance and repairs and / or construction in the prohibited and regulated area which is one of the incidental subject matter before us in the present PIL filed by the petitioner, being one of the conservation measure to be adopted *qua* the twin

prohibited and regulated areas. The said provisions read thus :

***“20-A. Declaration of prohibited area and carrying out public work or other works in prohibited area.*** - Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of one hundred metres in all directions shall be the prohibited area in respect of such protected area or protected monument:

*Provided that the Central Government may, on the recommendation of the Authority, by notification in the Official Gazette, specify an area more than one hundred metres to be the prohibited area having regard to the classification of any protected monument or protected area, as the case may be, under section 4-A.*

*(2) Save as otherwise provided in section 20-C, no person, other than an archaeological officer, shall carry out any construction in any prohibited area.*

*(3) In a case where the Central Government or the Director-General, as the case may be, is satisfied that-*

*(a) it is necessary or expedient for carrying out such public work or any project essential to the public; or*

*(b) such other work or project, in its opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or, access to, the monument or its immediate surrounding,*

*it or he may, notwithstanding anything contained in sub-section (2), in exceptional cases and having regard to the public interest, by order and for reasons to be recorded in writing, permit, such public work or project essential to the public or other constructions, to be carried out in a prohibited area:*

*Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a prohibited area in respect of such protected monument, shall be deemed to be the prohibited area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted by the Central Government or the Director-General, as the case may be, for the construction within the prohibited area on the basis of the recommendation of the Expert Advisory Committee, shall be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times:*

*Provided further that nothing contained in the first proviso shall apply to any permission granted, subsequent to the completion of construction or re-construction of any building or structure in any prohibited area in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O. 1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, or, without having obtained the recommendations of the Committee constituted in pursuance of the order of the Government of India number 24/22/2006-M, dated the 20th July, 2006 (subsequently referred to as the Expert Advisory Committee in*

orders dated the 27th August, 2008 and the 5th May, 2009).]

(4) No permission, referred to in sub-section (3), including carrying out any public work or project essential to the public or other constructions, shall be granted in any prohibited area on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010 receives the assent of the President.]

**[20-B. Declaration of regulated area in respect of every protected monument**

-(1) Every area, beginning at the limit of prohibited area in respect of every ancient monument and archaeological sites and remains, declared as of national importance under sections 3 and 4 and extending to a distance of two hundred metres in all directions shall be the regulated area in respect of every ancient monument and archaeological sites and remains:

Provided that the Central Government may, by notification in the Official Gazette, specify an area more than two hundred metres to be the regulated area having regard to the classification of any protected monument or protected area, as the case may be, under section 4-A:

Provided further that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a regulated area in respect of such protected monument, shall be deemed to be the regulated area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted for construction in such regulated area shall, be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times.]

**[20-C. Application for repair or renovation in prohibited area, or construction or reconstruction or repair or renovation in regulated area.- (1)**

Any person, who owns any building or structure, which existed in a prohibited area before the 16th day of June, 1992, or, which had been subsequently constructed with the approval of the Director-General and desires to carry out any repair or renovation of such building or structure, may make an application to the competent authority for carrying out such repair or renovation, as the case may be.

(2) Any person, who owns or possesses any building or structure or land in any regulated area, and desires to carry out any construction or re-construction or repair or renovation of such building or structure on such land, as the case may be, may make an application to the competent authority for carrying out construction or re-construction or repair or renovation, as the case may be.

**GRANT OF PERMISSION BY COMPETENT AUTHORITY**

**20-D. Grant of permission by competent authority within regulated area. -**

(1) Every application for grant of permission under section 20-C of this Act shall be made to the competent authority in such manner as may be prescribed.

(2) The competent authority shall, within fifteen days of the receipt of the application, forward the same to the Authority to consider and intimate

*impact of such construction (including the impact of large-scale development project, public project and project essential to the public) having regard to the heritage bye-laws relating to the concerned protected monument or protected area, as the case may be:*

*Provided that the Central Government may prescribe the category of applications in respect of which the permission may be granted under this sub-section and the application which shall be referred to the Authority for its recommendations.*

*(3) The Authority shall, within two months from the date of receipt of application under sub-section (2), intimate to the competent authority impact of such construction (including the impact of large-scale development project, public project and project essential to the public).*

*(4) The competent authority shall, within one month of the receipt of intimation from the Authority under sub-section (3), either grant permission or refuse the same as so recommended by the Authority.*

*(5) The recommendations of the Authority shall be final.*

*(6) In case the competent authority refuses to grant permission under this section, it shall, by order in writing, after giving an opportunity to the concerned person, intimate such refusal within three months from the date of receipt of the application to the applicant, the Central Government and the Authority.*

*(7) If the competent authority, after grant of the permission under sub-section (4) and during the carrying out of the repair or renovation work or re-construction of building or construction referred to in that sub-section, is of the opinion (on basis of material in his possession or otherwise) that such repair or renovation work or reconstruction of building or construction is likely to have an adverse impact on the preservation, safety, security or access to the monument considerably, it may refer the same to the Authority for its recommendations and if so recommended, withdraw the permission granted under sub-section (4) if so required:*

*Provided that the competent authority may, in exceptional cases, with the approval of the Authority grant permission to the applicant referred to in sub-section (2) of section 20-C until the heritage bye-laws have been prepared under sub-section (1) of section 20-E and published under sub-section (7) of that section.*

*(8) The Central Government, or the Director-General, as the case may be, shall exhibit, on their website, all the permissions granted or refused under this Act.”*

9. From the above, it is *prima facie* seen that the aforesaid provisions have been inserted by an Amendment and Validation Act of 2010 by the Ancient Monuments and Archaeological Sites and



Remains (Amendment and Validation) Act, 2010 with effect from 23.01.2010. The aforesaid provisions are as widely worded as can be seen and *prima facie*, in our opinion are unambiguous and do not require any interpretation. Suffice to say that the regulation of structures existing and repairs and construction in the prohibited area as also in the regulated area will have to be undertaken and / or done by the ASI which is *prima facie* deemed to be the Planning Authority / Competent Authority under the aforesaid provisions.

10. We need to particularly draw attention to the fact that in the prohibited as well as the regulated area, if at all any public work is required to be undertaken, enough and wide powers are given to the ASI to undertake such construction subject to it not having any substantial adverse impact on the preservation, safety, security and/or access to the subject monument and/or its immediate surrounding. Thus, it is seen that the aforesaid provisions *prima facie* give a substantive right to the ASI. The provisions under Sections 20-C and 20-D in fact give the powers of a Planning Authority to the ASI which is akin to the Planning Authority contemplated under the Maharashtra Regional and Town Planning Act, 1966 (for short “**MRTPA Act**”). They contemplate that any repair

or renovation of any building or structure, and when it says so it does not mean only the subject heritage, but it also means any structure existing in the prohibited and regulated areas can be undertaken by making an appropriate application to the Competent Authority and in fact it further notifies that if any person owns or possess any building or structure in any regulated area and desires to carry out any construction or reconstruction or repair or renovation of such building or structure on such land, he may make an Application to the Competent Authority for carrying out such construction or reconstruction or repair or renovation as the case may be. Section 20-D relates to grant of permission by the Competent Authority with a specific time-frame to consider each case on a case to case basis as stated therein and contemplates reliance on the heritage by-laws which unfortunately are yet to be notified under the provisions of sub Section (1) of Section 20-E of the said Act and to be published by the Central Government.

11. A distinctive procedure is therefore contemplated by the aforesaid provisions and therefore we would impress upon the ASI represented by Mr. Killedar to comply with the said procedure rather Rule of Law in each of the cases of the 71 and / or 79

structure owners who are deemed to be encroachers strictly in accordance with law, rather than exhibiting an omnibus attempt to deal with unauthorized construction and structures and creating a law and order problem which is brought to our notice. We make it clear that this Court believes in the Rule of Law and not bulldozer justice so as to instill any fear in the minds of the citizenry at large.

12. Mr. Killedar has also submitted that it would now be the prerogative of the Collector to issue the statutory notices under Section 53 of the MRTP Act to take action, but this submission cannot be accepted by us primarily because such powers which can be exercised under Section 53 are in fact contained in the aforesaid provisions itself and the power of the Corporation or Council or the Collector cannot be invoked in the present case since the alleged subject encroached structures are lying in the prohibited and regulated areas under ASI control. We cannot fathom having two Planning Authorities. Needless to state that the ASI will get all incidental and ancillary support from the State and its functionaries as also machinery. Mr. Killedar has made one more submission which though appeals to the Court at first blush, but when the effect of the aforesaid provisions is seen to have come into effect w.e.f.

23.01.2010, the said submission would undoubtedly be in conflict and therefore how the said submission will have to be considered *qua* each case will be an exercise to be undertaken by the Competent Authority in accordance with law. This submission of Mr. Killedar pertains to the cut-off date which is to be considered *qua* the structures' datum line in the present case.

13. Mr. Killedar has referred to the cut off date dated 16.06.1992 as contemplated and envisaged in Section 20-A and 20-B of the said Act to contend that all structures existing as on that date would be covered under the provisions for grant of permission by the Competent Authority under the aforesaid provisions. In his usual fairness, he informs the Court that on an appropriate Application being made, undoubtedly, it will have to be taken to its logical end. Though he would submit that the initial notice, rather show cause notice has been issued by the ASI to all such 71 structures, we would impress upon the Competent Authority not to put all of the structures in one basket and treat them omnibusly, rather see to it that justice is done *qua* each of the structures on the basis of their respective documentary evidence corroborating their existence on the datum line because this is not a case where we would be

dealing with unauthorized constructions in the normal parlance but a case where existence of structures of the villagers / locals which have been there in existence since ancient times, which is the case pleaded before us.

14. Intervention is now sought by Advocate Mr. Manoj Patil appearing on behalf of 79 such structure holders in the prohibitory and regulated areas and therefore the Rule of Law will have to be followed strictly in consonance with the aforesaid provisions before labelling all of them as unauthorized structures. The extent of unauthorization needs adjudication on a case to case basis, if at all they fall in that category.

15. To support the submissions made by Mr. Killedar, learned AGP Mr. Kalel on behalf of the State and its functionaries i.e. the Collector and MSRDC, has drawn our attention to the previous order and would submit that insofar as the issue of financial status is concerned, an amount of Rs.44 crores has already been sanctioned by virtue of Government Resolution dated 30.09.2022 by the State to the MSRDC to undertake the preservation, conservation, augmentation and protection of the heritage structure in the present case.

16. Mr. Kalel would submit that Rs.10.25 crores has been deployed for repairs of the compound wall. However, save and except for these mere words, there is nothing else stated in the Affidavit filed today before us. We have *prima facie* questioned Mr. Kalel with regard to the extent of the repairs to the compound wall which he informs us is 280 meters in length and 4 meters in height and it shall be of some "stone". Still looking at the manner in which, rather shabby manner in which the Affidavit has been drafted and placed before us, we are unhappy to fathom the humongous expenditure of Rs.10.25 corers for repairs to a compound wall which *prima facie* is in existence but requires repairs and possibly fortification wherever it has ruptured. No details of the extent of work to the compound wall is placed before us. Even the Petitioners have questioned such an amount of Rs. 10.25 Crores for repairs of the compound wall.

17. Be that as it me, we direct Mr. Kalel to take appropriate instructions and file an additional Affidavit giving all such details transparently to the Court for incurring the expenditure of Rs. 10.25 Crores on repair of the compound wall. We expect the details to be given so that such expenditure is justified. Repairs and fortification

of the compound wall is the first step towards conservation of the heritage Temple. Also the details of works to be done, time frame and estimate of costs be placed on affidavit to justify such expenditure as to whether it will indeed require such expenses and how this decision has been taken. The next expenditure of Rs.12.24 crores is towards construction of new Ghat along the Krushna river. We will not say anything here because once again apart from the aforesaid words, there are no other details which are given in the affidavit which would inspire confidence of this Court.

18. Hence, we direct the learned AGP to file additional Affidavit giving all such necessary details. Though, Mr. Narwankar would persuade us to consider that these two works have been allotted without issuance of tenders and these being humongous amounts, the Court should step in. Mr. Kalel has informed us that some letter of acceptance has been issued to the Vendor on 01.07.2026 and they have followed the due process of law. We want the Collector to place on affidavit as to what due process of law has been followed for sanctioning these aforesaid expenditures and the status of such expenditure as these are substantial government funds.

19. We are impelled to pass the aforesaid order only because the

subject aggregate costs for the two works is a humongous i.e. Rs. 22.5 corers and we need appropriate believable answers from the Collector for incurring such expenditure. We would also appreciate if the timeline for completion of the work is also disclosed and when it will commence. We make it clear that if we are not satisfied with the additional affidavit filed by the Collector, we will have to appoint a Monitoring Committee after taking a joint inspection of the aforesaid works with all stakeholders considering expenditure of such humongous amount of Rs. 22.5 Crores.

20. That apart, Mr. Kalel would next inform us that Rs. 22 corers has been kept as balance for carrying out the structural audit of the subject temple. He would apprise the Court that on 01.07.2026 pursuant to the previous order, letter of acceptance has been issued to the concerned Vendor by following the due process of law.

21. However, the amount that is required to be spent on the structural audit is not clear in the affidavit filed. We do not want a situation where the entire Rs. 22 Croers is spent for the structural audit and thereafter in order to carry out the actual works, we are once again left at the mercy of the State Government and the work is stalled. At this stage, we have not even considered the heritage



temple. Work on conservation of the temple needs to be undertaken and started simultaneously or quickly.

22. In that view of the matter, we direct that the ASI being the Competent Authority to take steps in accordance with law, rather than the Collector requiring to take law into his hands. We make it very clear that all parties before us will not take an adversarial stand in the present Public Interest Litigation rather the various arms of the State as well as Central Government are directed by this Court to cooperate with each other in order to take the issue of conservation of the temple forward.

23. Mr. Narwankar would submit that even though the Government Resolution dated 30.09.2022 has sanctioned Rs. 44 Crores, the same being tax payers' money sanctioned by the Government, it will have to be spent by the Respondents appropriately and in accordance with law. He would submit that there are several grey areas which this Court has already deliberated in today's hearing and which may form part of this order. He would, therefore, rest his case and contend that after the Affidavits are filed, an opportunity be given to the Petitioner to counter the same, if required in public interest.

24. Mr. Kedar Lad, learned Advocate appears on behalf of Zilla Parishad, Kolhapur. We direct the said Zilla Parishad, Kolhapur, to cooperate with all the Government Agencies in accordance with law as required.

25. Mr. Patil learned Advocate appearing on behalf of the 79 structure owners/holders/occupants in the prohibited as well as the regulated area has tried to persuade the Court to allow him to intervene.

26. This is a Public Interest Litigation, we will not pass any order for any structure owner's intervention at present as the predominant purpose is conservation of the temple and that needs to be started. However, if any Intervenor wants to be heard, this Court will undoubtedly hear the said Intervenor in accordance with law. If any proceedings are required to be filed, they shall be filed forthwith without any delay and shall be served upon all the parties by the Intervenor, so that every party will get an opportunity to respond to the same.

27. What we find in the present case is that the existential structures of the holders are *prima facie* protected by the provisions of the said Act. The grievance or rather the lis regarding this

incidental issue emanates from the complaint probably with regard to the ancient relic temple structure which has now transmitted into the issue of the structure holders and occupants of the prohibited and the regulatory area. Be that as it may, we would like to hear all the authorities before us to ensure that Rule of law is followed and applied.

28. We make it clear and make an appeal to all the parties not to take law into their hands and liberty is given to all parties to knock the doors of the Court, if they require any clarification whatsoever of our orders. The predominant purpose is undoubtedly conservation and resurrection of the heritage temple especially when the State Government has shown a positive attitude and sanctioned funds but also the incidental issue of structures being regulated which will also be monitored by Court in accordance with law after the Competent Authority carries out its functions.

29. Considering the aforesaid directions and the statutory procedure prescribed under the said Act which is alluded to hereinabove, instead of monitoring the present case after fifteen days, we now list the matter after four weeks to enable the parties to apprise the Court accordingly by filing appropriate affidavits and

pleadings.

30. We once again request and direct the parties that pleadings that will be filed in this Court shall be such that they should be transparent, clear and no attempt should be made to circumvent the provisions of law. We direct parties to serve the pleadings on all the opposite parties, if so filed, before the next date.

31. We direct the ASI and the Collector to file comprehensive Affidavits on the issue of structural Audit and furnish all details regarding expenditure to be incurred on the compound wall and River Ghat with all necessary details and take immediate steps to preserve the heritage structure which is the temple, in the present case which is the real subject matter of the present Public Interest Litigation before us.

32. List the matter on **03.08.2026 at 2:30 p.m.**

**[NANDESH S. DESHPANDE, J.]**

**[MILIND N. JADHAV, J.]**