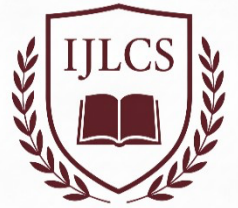


ARTICLE

MONETIZING THE COMMONS: A CONSTITUTIONAL CRITIQUE OF STATE-SPONSORED TREE FELLING AND THE DILUTION OF THE PUBLIC TRUST DOCTRINE

**Dr. Suruchi*****Abstract**

The Public Trust Doctrine was incorporated into Indian environmental jurisprudence to ensure that the State exercises its authority over natural resources as a constitutional trustee rather than their unrestricted owner. Despite the doctrine's continued judicial recognition, recent instances of state-authorised tree felling have exposed growing tensions between developmental governance and constitutional environmental obligations. The immediate inspiration for this study emerged from a widely discussed satirical remark made by actor and television host Shekhar Suman on Shekhar Tonite: "Don't worry, just go to sleep... When all the trees are cut and the forests are gone, the government will definitely give you subsidized masks and discounted oxygen cylinders." While expressed through humour, the statement reflects an emerging public perception that environmental governance increasingly responds to ecological degradation rather than preventing it. Existing scholarship has extensively examined the Public Trust Doctrine, environmental impact assessment, sustainable development and judicial intervention; however, comparatively little attention has been devoted to analysing state-authorised tree felling as a constitutional phenomenon through the lens of the Public Trust Doctrine. Addressing this gap, the present study adopts a mixed research design, combining doctrinal analysis of constitutional provisions, environmental statutes and judicial precedents with a qualitative examination of three contemporary case studies Hasdeo-Arand in Chhattisgarh, the Delhi Ridge tree-felling controversy and the Mumbai Coastal Road Project. The analysis draws upon official environmental clearances, government reports, statutory records and judicial proceedings to evaluate whether contemporary executive decision-making remains consistent with the fiduciary obligations imposed by Articles 21, 48A and 51A(g) of the Constitution. The article argues that environmental governance has increasingly shifted towards procedural compliance through statutory approvals and compensatory mechanisms, often at the expense of substantive constitutional accountability. It concludes that the continuing legitimacy of the Public Trust Doctrine depends upon its meaningful implementation in administrative decision-making rather than its repeated affirmation in judicial pronouncements alone.

Keywords:- Public Trust Doctrine; Environmental Constitutionalism; State-Authorised Tree Felling; Article 21; Ecological Commons; Forest Governance; Environmental Clearances; India.

I. INTRODUCTION

When the Supreme Court of India recognised the Public Trust Doctrine in *M.C. Mehta v. Kamal Nath*, it articulated a constitutional vision that fundamentally altered the legal relationship between

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the State and the environment. Rejecting the notion that natural resources could be treated as assets subject to unrestricted governmental control, the Court held that resources such as forests, rivers, lakes, wetlands and coastal ecosystems are held by the State in trust for the benefit of the public. The doctrine thus imposes a fiduciary obligation upon public authorities, requiring them to exercise their statutory powers in a manner that preserves ecological integrity while balancing legitimate developmental needs. Over time, this principle has become an integral component of Indian environmental jurisprudence and has informed judicial interpretation of Articles 21, 48A and 51A(g) of the Constitution.

Forests occupy a particularly significant position within this constitutional framework because their value extends far beyond questions of land ownership or commercial exploitation. They function as critical ecological infrastructure by regulating climatic conditions, conserving biodiversity, replenishing groundwater, protecting watersheds and sustaining the livelihoods of millions of forest-dependent communities.¹ The India State of Forest Report (ISFR) 2023 records that India's forest and tree cover together constitute approximately 25.17 per cent of the country's geographical area, while simultaneously acknowledging the growing pressure on ecologically sensitive landscapes arising from mining, transport infrastructure, urban expansion and other developmental activities.² The Forest Survey of India further observes that mature natural forests perform ecological functions including carbon sequestration, habitat conservation and ecosystem resilience which cannot be replicated merely through compensatory plantations.³ These findings reinforce the constitutional understanding that forests are ecological commons whose protection serves not only environmental interests but also broader constitutional values relating to public health, intergenerational equity and sustainable development.

The constitutional significance of forest governance has acquired greater urgency in recent years. Data published by the Ministry of Environment, Forest and Climate Change (MoEFCC) demonstrate that substantial areas of forest land continue to be diverted annually for non-forest purposes under the statutory approval mechanism established by the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.⁴ While such approvals are ordinarily accompanied by conditions relating to compensatory afforestation, environmental management plans and payment of Net Present Value, questions persist regarding whether procedural compliance alone adequately safeguards the ecological functions of mature natural forests. The continuing diversion of forest land has therefore

¹ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007 (India).

² Forest Survey of India, India State of Forest Report 2023, Ministry of Environment, Forest and Climate Change, Government of India, vol. I (2023).

³ Id.; Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2020: Main Report (2020). Id.; Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2020: Main Report (2020). Id.; Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2020: Main Report (2020). Id.; Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2020: Main Report (2020). Id.; Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2020: Main Report (2020). Id.; Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2020: Main Report (2020).

⁴ Ministry of Environment, Forest and Climate Change, Annual Report 2023–2024, Government of India, ch. 6 (Forest Conservation Division); Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 (formerly the Forest (Conservation) Act, 1980).

generated increasing judicial scrutiny as well as wider public concern regarding the manner in which constitutional obligations are implemented in environmental governance.

These concerns are reflected in several recent controversies involving state-authorised tree felling. The environmental clearance granted for the Kente Extension Opencast Coal Mine in the Hasdeo-Arand forests of Chhattisgarh, the proceedings before the Supreme Court concerning tree felling in Delhi's Ridge, and the environmental approvals associated with the Mumbai Coastal Road Project collectively illustrate the constitutional tensions that arise when developmental priorities intersect with ecologically sensitive landscapes.⁵ Although each project is governed by a distinct statutory framework, they raise a common constitutional question: whether executive authorities, while exercising statutory powers to approve forest diversion and tree felling, continue to discharge the fiduciary obligations imposed by the Public Trust Doctrine or whether environmental governance has increasingly become centred upon facilitating development through procedural compliance.

The significance of this debate extends beyond constitutional litigation and academic discourse. Environmental governance has increasingly become a matter of public engagement, reflecting growing concern regarding the cumulative ecological consequences of developmental policies. During a recent episode of *Shekhar Tonite*, actor and television host *Shekhar Suman* remarked, "Don't worry, just go to sleep... When all the trees are cut and the forests are gone, the government will definitely give you subsidized masks and discounted oxygen cylinders."⁶ Although expressed satirically, the statement captures a wider public perception that environmental governance often responds to ecological degradation after it occurs rather than preventing it through effective constitutional and administrative safeguards. While the present study does not treat public commentary as a source of legal authority, this widely discussed observation served as the immediate intellectual impetus for examining the constitutional dimensions of contemporary state-authorised tree felling.

Existing scholarship has made significant contributions to understanding the Public Trust Doctrine, environmental impact assessment, sustainable development and the evolution of environmental rights in India. Works by Shyam Divan and Armin Rosencranz have comprehensively analysed India's environmental regulatory framework, while Lavanya Rajamani has explored the constitutional dimensions of environmental governance.⁷ At the international level, Joseph L. Sax's seminal articulation of the Public Trust Doctrine and the writings of Philippe Sands have shaped contemporary understanding of public trusteeship and environmental constitutionalism.⁸ Indian judicial scholarship has similarly focused on landmark decisions such as *M.C. Mehta v. Kamal Nath*, *Vellore Citizens' Welfare Forum v. Union of India* and *T.N. Godavarman Thirumulpad v. Union of*

⁵ Ministry of Environment, Forest and Climate Change, Impact Assessment Division, Environmental Clearance for the Kente Extension Opencast Coal Mine Project (11 MTPA) of M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited, F. No. J-11015/30/2019-IA.II(M) (June 24, 2026); In Re: Felling of Trees in the Delhi Ridge, *Suo Motu Contempt Petition (Civil) No. 2 of 2024* in Writ Petition (Civil) No. 4677 of 1985 (Sup. Ct. India); Ministry of Environment, Forest and Climate Change, Coastal Regulation Zone Clearance for the Mumbai Coastal Road Project, F. No. 11-83/2013-IA-III (May 11, 2017); Maharashtra Coastal Zone Management Authority, Minutes of the 84th Meeting (Sept. 30, 2015).

⁶ Shekhar Suman, *Shekhar Tonite: Khabaron Ka Mausam* (May 15, 2026), YouTube (official Shekhar Suman channel), <https://www.youtube.com/watch?> (last visited Aug. 8, 2026).

⁷ Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (3d ed. 2019).

⁸ Sax, *supra* note 1; Philippe Sands, Jacqueline Peel, Adriana Fabra & Ruth MacKenzie, *Principles of International Environmental Law* (4th ed. 2018).

India, principally examining the expansion of environmental rights and judicial intervention.⁹ Comparatively less attention, however, has been devoted to analysing recent instances of state-authorized tree felling through the constitutional framework of the Public Trust Doctrine. Existing studies generally assess statutory compliance, environmental impact assessments or compensatory afforestation in isolation, without examining whether recurring executive approvals permitting forest diversion indicate a broader transformation in the constitutional role of the State—from trustee of ecological commons to facilitator of their commercial utilisation. It is this question that the present article seeks to address.

To examine this issue, the article adopts a mixed research design. Its principal framework is doctrinal, drawing upon constitutional provisions, environmental statutes, judicial precedents and official governmental records. This legal analysis is complemented by a qualitative examination of three contemporary case studies Hasdeo-Arand (Chhattisgarh), the Delhi Ridge tree-felling controversy and the Mumbai Coastal Road Project selected because they represent distinct regulatory contexts while presenting a common constitutional issue concerning the exercise of executive authority over ecologically significant landscapes. By combining doctrinal analysis with empirical examination of official records, environmental clearances and judicial proceedings, the article seeks to evaluate not merely the content of environmental law but also its operation in contemporary governance.

The discussion proceeds in four parts. The first examines the constitutional and statutory framework governing state-authorized tree felling in India. The second analyses selected case studies to assess whether recent executive approvals conform to the fiduciary obligations embodied in the Public Trust Doctrine. The third re-evaluates the doctrine in light of emerging patterns of environmental governance and identifies the constitutional implications of expanding executive discretion. The article concludes by proposing institutional and legal reforms aimed at strengthening fiduciary accountability, procedural transparency and constitutional protection of India's remaining ecological commons.

II. STATE-AUTHORISED TREE FELLING: A CONSTITUTIONAL ASSESSMENT OF CONTEMPORARY PRACTICE

The constitutional and statutory framework discussed above establishes that the diversion of forest land is permissible only where the State acts consistently with its fiduciary obligations and the procedural safeguards prescribed under environmental legislation. In practice, however, recent governmental approvals reveal an increasing divergence between the constitutional ideal of environmental trusteeship and the realities of administrative decision-making. Although each project is governed by its own statutory framework, recurring concerns relating to executive discretion, procedural compliance, public participation and ecological sustainability emerge across jurisdictions. The following case studies examine three recent instances of state-authorized tree felling to evaluate whether contemporary environmental governance reflects the constitutional obligations embodied in the Public Trust Doctrine.

⁹ M.C. Mehta v. Kamal Nath, MANU/SC/1007/1997; Vellore Citizens' Welfare Forum v. Union of India, MANU/SC/0686/1996; T.N. Godavarman Thirumulpad v. Union of India, MANU/SC/0278/1997.

Hasdeo-Arand Forest Diversion, Chhattisgarh

The Hasdeo-Arand landscape in northern Chhattisgarh is an ecologically significant forest region supporting biodiversity, forest-dependent communities and important elephant habitats. Its ecological importance has been documented in governmental and scientific assessments, including the Forest Survey of India and the Wildlife Institute of India.¹⁰

Despite its ecological significance, the region has increasingly become the focus of coal mining activities. In June 2026, the Ministry of Environment, Forest and Climate Change (MoEFCC) granted environmental clearance for the Kente Extension Opencast Coal Mine Project in favour of M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited (RRVUNL), permitting extraction of 11 million tonnes per annum over approximately 1,742.6 hectares of land.¹¹ The project followed the grant of Stage-I forest clearance under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, subject to compliance with statutory conditions relating to compensatory afforestation, wildlife conservation measures and payment of Net Present Value (NPV).¹²

From a statutory perspective, the approvals complied with the procedural framework prescribed under the Forest Conservation regime and the Environmental Impact Assessment process. Constitutionally, however, the controversy extended beyond procedural legality. Civil society organisations and representatives of affected Gram Sabhas alleged that the process of obtaining community consent under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 suffered from serious irregularities, including allegations that resolutions relied upon by the authorities did not accurately reflect the decisions of the concerned Gram Sabhas.¹³ These allegations subsequently formed part of proceedings before the Supreme Court in *Sudiep Shrivastava v. State of Chhattisgarh*, where issues concerning compliance with the Forest Rights Act and the legality of the approval process were placed under judicial consideration.¹⁴

The Hasdeo controversy illustrates an important constitutional concern. The Public Trust Doctrine does not prohibit developmental activities involving forest land. Rather, it requires that the State demonstrate that ecological preservation, statutory safeguards and the rights of affected communities have been meaningfully considered before irreversible environmental changes are authorised. Where statutory compliance is reduced to a procedural exercise without substantive engagement with ecological consequences or community participation, the constitutional distinction between the State as a trustee and the State as a regulator of commercial exploitation becomes increasingly blurred. The controversy therefore raises broader questions regarding whether existing environmental

¹⁰ Here's both sources combined into a single footnote, semicolon-separated as your original submission had them: Forest Survey of India, Ministry of Env't, Forest & Climate Change, Gov't of India, India State of Forest Report 2023 (2024); Wildlife Trust of India, Right of Passage: Elephant Corridors of India (2d ed. 2017).

¹¹ Forest Survey of India, Ministry of Env't, Forest & Climate Change, Gov't of India, India State of Forest Report 2023 (2024); Wildlife Trust of India, Right of Passage: Elephant Corridors of India (2d ed. 2017); Ministry of Env't, Forest & Climate Change, Impact Assessment Div., Environmental Clearance for the Kente Extension Opencast Coal Mine Project (11 MTPA) of M/s Rajasthan Rajya Vidyut Utpadan Nigam Ltd., F. No. J-11015/30/2019-IA.II(M) (June 24, 2026), available at PARIVESH, <https://parivesh.nic.in>.

¹² Ministry of Environment, Forest and Climate Change, Forest Conservation Division, Stage-I Forest Clearance for Diversion of 1,742.601 Hectares of Forest Land for the Kente Extension Coal Block, F. No. 8-32/2014-FC (India), available at <https://parivesh.nic.in>.

¹³ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007, §§ 3–5, 6 (India); Ministry of Tribal Affairs, Guidelines for the Implementation of the Forest Rights Act, 2006 (2012); *Sudiep Shrivastava v. State of Chhattisgarh*, Writ Petition (Civil) No. 364 of 2024 (Sup. Ct. India).

¹⁴ *Sudiep Shrivastava v. State of Chhattisgarh*, Writ Petition (Civil) No. 364 of 2024 (Sup. Ct. India).

clearance mechanisms adequately reflect the fiduciary obligations imposed upon public authorities under the Constitution.

Delhi Ridge Tree Felling: Executive Accountability and Judicial Oversight

Unlike the Hasdeo-Arand controversy, which concerns the diversion of forest land for mining, the Delhi Ridge controversy arose in the context of urban environmental governance. The Delhi Ridge, often described as the "green lungs" of the National Capital Territory, constitutes the northern extension of the Aravalli hill system and performs an indispensable ecological function by moderating air pollution, regulating micro-climatic conditions, conserving groundwater recharge, and preserving urban biodiversity. The Ridge is protected under multiple statutory and planning instruments, including the Delhi Preservation of Trees Act, 1994, the Indian Forest Act, 1927, and successive judicial directions issued in the long-running environmental litigation before the Supreme Court.¹⁵

In 2024, allegations emerged that hundreds of trees had been felled in the Southern Ridge area for a road-widening project undertaken by the Delhi Development Authority (DDA) without obtaining the mandatory permission required under the Delhi Preservation of Trees Act, 1994.¹⁶ During the proceedings, the Supreme Court observed prima facie irregularities in the decision-making process and initiated suo motu contempt proceedings against senior officials responsible for the project.¹⁷ The Court expressed concern that statutory safeguards intended to regulate tree felling had been bypassed despite earlier judicial directions protecting the Ridge ecosystem. It further emphasised that developmental projects undertaken by public authorities cannot proceed in disregard of environmental legislation merely because they are pursued in the name of public infrastructure. Official records filed before the Court demonstrated that the dispute extended beyond the legality of a single administrative approval. The controversy exposed deficiencies in institutional coordination between planning authorities, environmental regulators and statutory tree officers, thereby raising broader concerns regarding administrative accountability in urban environmental governance.¹⁸ The Supreme Court consequently directed the constitution of an expert committee to assess the ecological impact of the tree felling, examine the legality of the approvals granted, and recommend measures for ecological restoration.¹⁹

From a constitutional perspective, the Delhi Ridge controversy illustrates that the obligations arising under the Public Trust Doctrine are equally applicable to urban ecological assets. Public authorities exercising statutory powers over protected green spaces cannot rely solely upon administrative necessity or developmental urgency to justify irreversible ecological damage. The constitutional requirement is not merely that executive authorities obtain formal approvals, but that they exercise

¹⁵ Delhi Preservation of Trees Act, No. 11 of 1994 (Delhi); Indian Forest Act, No. 16 of 1927 (India); M.C. Mehta v. Union of India, Writ Petition (Civil) No. 4677 of 1985 (Sup. Ct. India); Delhi Development Authority, Master Plan for Delhi–2041, ch. 9 (Green-Blue Assets).

¹⁶ In Re: Felling of Trees in the Delhi Ridge, Suo Motu Contempt Petition (Civil) No. 2 of 2024 in Writ Petition (Civil) No. 4677 of 1985 (Sup. Ct. India).

¹⁷ In Re: Felling of Trees in the Delhi Ridge, Order dated July 3, 2024, Suo Motu Contempt Petition (Civil) No. 2 of 2024 in W.P. (C) No. 4677 of 1985 (Sup. Ct. India).

¹⁸ Delhi Development Authority, Affidavit filed in In Re: Felling of Trees in the Delhi Ridge, Suo Motu Contempt Petition (Civil) No. 2 of 2024 in W.P. (C) No. 4677 of 1985 (Sup. Ct. India); Delhi Preservation of Trees Act, 1994, §§ 8–10.

¹⁹ In Re: Felling of Trees in the Delhi Ridge, Orders dated July 3 & July 24, 2024, Suo Motu Contempt Petition (Civil) No. 2 of 2024 in W.P. (C) No. 4677 of 1985 (Sup. Ct. India).

their powers consistently with the fiduciary obligations imposed by Articles 21, 48A and 51A(g) of the Constitution.²⁰ The controversy therefore demonstrates that procedural compliance, if divorced from ecological assessment and statutory accountability, is insufficient to satisfy the constitutional standards governing environmental decision-making.

The Delhi Ridge proceedings also reveal an emerging judicial willingness to subject executive environmental decision-making to closer constitutional scrutiny. Rather than limiting its inquiry to questions of statutory interpretation, the Supreme Court examined whether the conduct of public authorities reflected the broader constitutional duty to preserve ecologically significant landscapes held in trust for the public. This approach reinforces the central argument of the present study: that contemporary environmental governance must be evaluated not merely by the existence of administrative approvals but by the extent to which those approvals remain faithful to the State's fiduciary obligations under the Public Trust Doctrine.

Mumbai Coastal Road Project: Development, Mangrove Conservation and the Public Trust Doctrine

The constitutional dilemmas surrounding environmental governance are not confined to forests. They are equally evident in coastal ecosystems, where developmental projects frequently intersect with fragile ecological landscapes. The Mumbai Coastal Road Project, conceived as a major urban transport initiative to reduce traffic congestion and improve connectivity along the city's western coastline, represents one of the most significant infrastructure projects undertaken in Maharashtra in recent years. While the project has been justified on grounds of public infrastructure and economic efficiency, its implementation has generated sustained concerns regarding the diversion of coastal resources, destruction of mangrove habitats and the adequacy of environmental safeguards prescribed under the Coastal Regulation Zone (CRZ) framework.²¹

Mangrove ecosystems occupy a distinctive position within India's environmental jurisprudence. Apart from functioning as natural barriers against coastal erosion and storm surges, they support marine biodiversity, improve water quality and contribute significantly to climate resilience through carbon sequestration. Recognising their ecological importance, the Forest Survey of India has consistently classified mangroves as ecologically sensitive ecosystems requiring enhanced conservation measures. According to the India State of Forest Report 2023, Maharashtra continues to possess one of the largest mangroves covers in the country, although these ecosystems remain under increasing pressure from urban expansion and infrastructure development.²²

The Mumbai Coastal Road Project received Coastal Regulation Zone (CRZ) Clearance from the Ministry of Environment, Forest and Climate Change (MoEFCC) after recommendations made by

²⁰ INDIA CONST. arts. 21, 48A, 51A(g); *M.C. Mehta v. Kamal Nath*, MANU/SC/1007/1997; *Vellore Citizens' Welfare Forum v. Union of India*, MANU/SC/0686/1996.

²¹ Ministry of Environment, Forest and Climate Change, Coastal Regulation Zone (CRZ) Clearance for the Mumbai Coastal Road Project, F. No. 11-83/2013-IA-III (May 11, 2017), available through the PARIVESH Portal, <https://parivesh.nic.in>; Brihanmumbai Municipal Corporation, Mumbai Coastal Road Project: Project Overview, <https://coastalroad.mcgm.gov.in> (last visited Aug. 6, 2026).

²² Forest Survey of India, India State of Forest Report 2023, Ministry of Environment, Forest and Climate Change, Government of India, vol. I, ch. 6 (Mangrove Cover).

the Maharashtra Coastal Zone Management Authority (MCZMA).²³ The approvals required compliance with environmental conditions relating to mangrove conservation, ecological monitoring, marine biodiversity protection and compensatory measures. Nevertheless, the project became the subject of litigation before the Bombay High Court, where environmental organisations questioned the legality of certain approvals and alleged inadequate consideration of ecological consequences associated with reclamation activities and the loss of coastal vegetation.²⁴ Although the litigation ultimately permitted the project to proceed subject to specified safeguards, it highlighted the continuing tension between infrastructure development and environmental protection within India's coastal regulatory regime.

From a constitutional perspective, the controversy extends beyond compliance with the procedural requirements of the CRZ Notification, 2011 or the Environment (Protection) Act, 1986. The Public Trust Doctrine requires that coastal ecosystems be treated as ecological commons held by the State for public benefit rather than as resources available for unrestricted developmental conversion. In *Fomento Resorts & Hotels Ltd. v. Minguel Martins*, the Supreme Court reaffirmed that natural resources possessing a public character cannot be managed solely according to proprietary considerations and that governmental discretion remains subject to fiduciary obligations grounded in constitutional principles.²⁵ This reasoning assumes particular significance where environmental approvals authorise permanent alteration of ecologically sensitive landscapes whose ecological functions cannot easily be restored through compensatory measures.

The Mumbai Coastal Road Project also demonstrates the limitations of relying exclusively upon regulatory compliance as the measure of environmental legitimacy. Environmental clearances, expert committee reports and compensatory conditions undoubtedly constitute important statutory safeguards. However, the constitutional question is broader. The Public Trust Doctrine requires decision-makers to evaluate whether developmental benefits justify the irreversible ecological costs associated with the degradation of natural commons. Where environmental decision-making prioritises procedural compliance without adequately addressing long-term ecological consequences, the constitutional role of the State risks shifting from trustee of environmental resources to facilitator of their commercial and infrastructural utilisation.

Viewed alongside the Hasdeo-Arand and Delhi Ridge controversies, the Mumbai Coastal Road Project reveals a recurring pattern within contemporary environmental governance. Although the projects arise under different statutory regimes the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, the Delhi Preservation of Trees Act, 1994, and the Coastal Regulation Zone Notification each demonstrates the expanding role of executive discretion in authorising ecological alteration through administrative approvals. The common constitutional issue is therefore not the legality of development itself, but whether existing regulatory mechanisms sufficiently protect the fiduciary obligations that the Public Trust Doctrine imposes upon the State.

²³ Ministry of Environment, Forest and Climate Change, Coastal Regulation Zone Clearance for the Mumbai Coastal Road Project, F. No. 11-83/2013-IA-III (May 11, 2017); Maharashtra Coastal Zone Management Authority, Minutes of the 84th Meeting (Sept. 30, 2015).

²⁴ *Bombay Environmental Action Group v. Brihanmumbai Municipal Corporation*, Writ Petition No. 3246 of 2019 (Bom. H.C.); see also National Green Tribunal (Western Zone), relevant proceedings concerning environmental compliance for the Mumbai Coastal Road Project, where applicable.

²⁵ *Fomento Resorts & Hotels Ltd. v. Minguel Martins*, MANU/SC/0063/2009.

III. REASSESSING THE PUBLIC TRUST DOCTRINE: FROM CONSTITUTIONAL TRUSTEESHIP TO PROCEDURAL ENVIRONMENTALISM

The three case studies discussed in the preceding section reveal that the contemporary challenge to environmental governance in India does not arise from the absence of legal protection. On the contrary, the constitutional framework, statutory safeguards and judicial precedents governing forests and other ecological resources are among the most developed in the Global South. Articles 21, 48A and 51A(g) of the Constitution, together with the Public Trust Doctrine, the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, the Environment (Protection) Act, 1986 and the Forest Rights Act, 2006, collectively establish a comprehensive legal framework intended to regulate developmental activities affecting natural resources.²⁶ The constitutional concern therefore lies elsewhere: whether these legal safeguards are being implemented in a manner that preserves the State's fiduciary obligations or whether they increasingly function as procedural mechanisms legitimising ecological diversion.

A common feature emerging from the Hasdeo-Arand, Delhi Ridge and Mumbai Coastal Road controversies is the growing reliance upon procedural environmentalism. In each instance, governmental authorities relied upon statutory approvals, environmental clearances or administrative permissions to justify decisions involving irreversible ecological consequences. The legality of these projects was therefore defended primarily on the basis of compliance with prescribed procedures rather than on a substantive demonstration that ecological integrity had been adequately protected. While procedural compliance undoubtedly remains an essential requirement of environmental governance, it cannot by itself satisfy the constitutional obligations flowing from the Public Trust Doctrine. A trustee is expected not merely to follow procedure but to act affirmatively in the best interests of the trust.²⁷

This distinction is particularly significant because the ecological resources involved in the present case studies are not fungible assets capable of simple replacement. Mature forests in Hasdeo-Arand, the urban forest ecosystem of the Delhi Ridge and Mumbai's mangrove habitats perform ecological functions that develop over decades and, in some instances, centuries. According to the India State of Forest Report 2023, dense natural forests provide significantly greater biodiversity support, carbon sequestration and ecosystem resilience than newly established plantations.²⁸ Similarly, the Intergovernmental Panel on Climate Change (IPCC) has repeatedly emphasised that conserving existing natural ecosystems is considerably more effective for climate mitigation and adaptation than attempting to recreate comparable ecological functions through compensatory afforestation after degradation has occurred.²⁹ These scientific findings reinforce the constitutional premise that

²⁶ INDIA CONST. arts. 21, 48A & 51A(g); Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980; Environment (Protection) Act, No. 29 of 1986 (India); Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007 (India).

²⁷ *M.C. Mehta v. Kamal Nath*, MANU/SC/1007/1997; *Fomento Resorts & Hotels Ltd. v. Minguel Martins*, MANU/SC/0063/2009.

²⁸ Forest Survey of India, India State of Forest Report 2023, Ministry of Environment, Forest and Climate Change, Government of India, vol. I.

²⁹ Intergovernmental Panel on Climate Change, Climate Change 2022: Mitigation of Climate Change, Working Group III Contribution to the Sixth Assessment Report (2022).

environmental governance must prioritise conservation of existing ecological commons rather than relying exclusively upon post-diversion mitigation.

The limitations of the existing regulatory model become evident when compensatory afforestation is examined more closely. The statutory framework governing forest diversion ordinarily requires project proponents to undertake compensatory afforestation and contribute funds under the Compensatory Afforestation Fund Act, 2016.³⁰ Although these measures are intended to offset ecological loss, several institutional assessments have questioned whether compensatory plantations are capable of replacing the ecological complexity of mature natural forests. The Comptroller and Auditor General of India, in its performance audit on compensatory afforestation, identified deficiencies in plantation monitoring, utilisation of funds and achievement of ecological objectives across several States.³¹ Similar concerns have been expressed in academic literature, which distinguishes between the restoration of tree cover and the restoration of functioning forest ecosystems.³² Consequently, while compensatory afforestation may satisfy statutory conditions attached to environmental clearances, it cannot automatically be regarded as constitutional compliance with the State's fiduciary obligations under the Public Trust Doctrine.

The case studies further demonstrate that participatory governance remains an indispensable element of constitutional environmentalism. In Hasdeo-Arand, allegations concerning the process of obtaining Gram Sabha consent raised questions regarding the effective implementation of the Forest Rights Act. In Delhi, judicial intervention highlighted deficiencies in institutional accountability among public authorities entrusted with the protection of urban green spaces. In Mumbai, the litigation surrounding coastal regulation reflected continuing concerns regarding public participation in large infrastructure projects affecting ecologically sensitive coastal areas. Although these controversies differ in their factual circumstances, they collectively indicate that procedural participation must be meaningful rather than symbolic if constitutional environmental governance is to retain public legitimacy.

The Public Trust Doctrine therefore requires reconsideration not as an abstract legal principle but as an operational constitutional standard governing executive decision-making. Judicial recognition of the doctrine in *M.C. Mehta v. Kamal Nath* established that governmental authority over natural resources is fiduciary rather than proprietary.³³ Contemporary environmental governance, however, increasingly tests the practical content of that fiduciary obligation. Where environmental approvals become routine administrative exercises focused primarily upon procedural regularity, the constitutional distinction between trustee and regulator becomes progressively less meaningful. The doctrine must therefore be understood as imposing substantive duties of ecological stewardship, transparency, scientific decision-making and public accountability rather than merely procedural obligations.

The foregoing analysis does not suggest that developmental projects involving forest diversion should be prohibited altogether. Infrastructure development, energy security and economic growth

³⁰ Compensatory Afforestation Fund Act, No. 38 of 2016 (India).

³¹ Ministry of Environment, Forest and Climate Change, Annual Report 2023–2024, Government of India, ch. VI (Forest Conservation & Compensatory Afforestation), <https://moef.gov.in>.

³² Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (3d ed. 2019); Philippe Sands, Jacqueline Peel, Adriana Fabra & Ruth MacKenzie, *Principles of International Environmental Law* (4th ed. 2018).

³³ *M.C. Mehta v. Kamal Nath*, MANU/SC/1007/1997.

remain legitimate constitutional objectives. Nevertheless, constitutional governance requires that these objectives be pursued within a framework that genuinely protects ecological commons and respects the rights of present and future generations. The Public Trust Doctrine does not compel judicial preference for conservation in every case; rather, it requires that environmental decisions be supported by rigorous ecological assessment, meaningful public participation and transparent administrative reasoning capable of demonstrating that irreversible ecological loss is justified by compelling public interest. It is only through such an approach that the constitutional promise underlying the doctrine can retain practical significance in contemporary environmental governance.

IV. CONCLUSION

The Public Trust Doctrine entered Indian constitutional jurisprudence with a simple yet profound premise: the State is not the owner of the nation's natural resources but their trustee. Through *M.C. Mehta v. Kamal Nath* and subsequent decisions, the Supreme Court transformed this premise into a constitutional limitation upon executive discretion, requiring that forests, rivers, wetlands and other ecological resources be managed for the benefit of present and future generations. Yet the contemporary experiences of Hasdeo-Arand, the Delhi Ridge and the Mumbai Coastal Road Project reveal a growing disconnect between this constitutional ideal and administrative practice. Although environmental governance is now supported by an extensive network of constitutional provisions, environmental statutes and regulatory mechanisms, the recurring controversies surrounding state-authorised tree felling suggest that procedural compliance is increasingly being treated as a substitute for substantive environmental accountability.

The analysis undertaken in this article demonstrates that the challenge confronting Indian environmental law is not the absence of legal norms but the manner in which those norms are implemented. Environmental clearances, compensatory afforestation, statutory approvals and regulatory conditions undoubtedly serve important administrative purposes. However, they cannot, by themselves, answer the constitutional question whether the State has discharged its fiduciary obligation as trustee of the ecological commons. A constitutional trustee is expected to preserve what is irreplaceable, not merely compensate for its destruction after approval has been granted. Where mature forests, biodiversity-rich ecosystems and coastal habitats are treated as resources capable of routine substitution through plantation schemes or financial mitigation, the constitutional content of the Public Trust Doctrine risks becoming increasingly procedural rather than substantive.

This study has sought to contribute to the existing scholarship by combining doctrinal analysis with contemporary empirical evidence drawn from governmental records, judicial proceedings and environmental approvals. The case studies demonstrate that constitutional principles governing environmental protection cannot be meaningfully evaluated in isolation from administrative practice. If the Public Trust Doctrine is to retain its normative force, environmental governance must move beyond formal statutory compliance and embrace a more transparent, scientifically informed and participatory model of decision-making in which ecological preservation is treated as a constitutional obligation rather than an administrative inconvenience.

Ultimately, the future of the Public Trust Doctrine in India may not depend upon the formulation of new legal principles, but upon the willingness of constitutional institutions to insist that existing principles are meaningfully enforced. Environmental constitutionalism cannot be measured solely

by the number of statutes enacted, judicial precedents delivered or conditions imposed in environmental clearances. Its true measure lies in whether those legal instruments are capable of preventing irreversible ecological loss before it occurs.

The public satire that inspired this study—*"Don't worry, just go to sleep... When all the trees are cut and the forests are gone, the government will definitely give you subsidized masks and discounted oxygen cylinders"*—was intended as humour. Yet constitutional history repeatedly demonstrates that satire often exposes institutional failures long before formal legal reform begins. If environmental governance reaches a stage where forests are routinely replaced by compensatory plantations, ecological loss by financial mitigation, and constitutional trusteeship by administrative paperwork, *can the State still legitimately claim to be a trustee of the ecological commons, or has the Public Trust Doctrine been reduced to a constitutional promise that survives more in judicial rhetoric than in governmental practice?*

That question extends beyond the three case studies examined in this article. It goes to the heart of India's environmental constitutionalism and will ultimately determine whether the Public Trust Doctrine remains a living constitutional guarantee or becomes merely an aspirational principle in an era of accelerating developmental change.