Crushed homes, lost lives:

The story of the demolitions in the Sanjay Gandhi National Park

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The Indian Peoples Human Rights Tribunal on Sanjay Gandhi National Park demolitions consisted of : Mr Justice Rajinder Sachar (Retd), Mr Justice Hosbet Suresh (Retd) and Mr Justice S M Daud (Retd)

Published By:

P A Sebastian,
Secretary—IPHRC,
R No.104, YMCA Hostel,
N. Parikh Marg,
Mumbai – 400 005

Tel No: 202-0079

INTRODUCTION

The Indian People's Human Rights Commission (IPHRC) conducted an inquiry into the recent demolitions carried out at the Sanjay Gandhi National Park (SGNP). Since 1997, there have been several waves of demolitions, and as per statements of the forest department officials, nearly 50,000 families have already been forcibly evicted from the Park without being provided with any alternative accommodation. Another 30,000 families whose homes are still standing continue to face the threat of immediate and sudden eviction by the state machinery. The significance of these events cannot be understated. This is one of the largest ever demolition conducted in urban India and attleast four persons have died due to alleged brutal actions of the police and demolition squads. More than four lakh people – equivalent to a middle-size township – have been rendered homeless in one fell swoop.

The Committee for Protection of Democratic Rights conducted a preliminary inquiry into the goings on at Sanjay Gandhi National Park. This inquiry revealed the brutal manner in which people's homes and belongings were destroyed by the state machinery in the name of saving the environment and 'public interest'.

The present inquiry was initiated after organisations such as the Nivara Hakk Suraksha Samiti (NHSS), Committee for Protection of Democratic Rights (CPDR), and the residents of Sanjay Gandhi National Park requested IPHRC to set up a Tribunal to Inquire into the demolitions and police actions. The IPHRC accepted the request. Consequently, the president of the IPHRC Tribunal and retired judge of the Supreme Court, Justice V R Krishna Iyer, constituted the Tribunal.

The Tribunal consisted of Justice Rajinder Sachar, former Chief Justice of the Delhi High Court, Justice S.M. Daud and Justice H. Suresh, former Judges of the Bombay High Court. They visited several demolition sites on 5th and 6th of August 2000, and actually observed one demolition operation at Kandivili. The judges held public hearings at Kandivili, Mulund, and Malad. The Commission also visited a tribal hamlet

inside the Sanjay Gandhi National Park (SNGP). The Commission visited the proposed alternative site at Kalyan on 30th August 2000. The forest officials and representatives of the state government were invited by the Commission to depose before them, which they did on 22nd August 2000.

About 550 residents adversely affected by the demolition deposed before the Commission. Mr. V.P. Singh, former Prime Minister, Dr. Indira Munshi, Professor in the Department of Sociology, University of Bombay, Mr. Gurbir Singh of Nivara Hakk Suraksha Samiti, and Mr. Vithal Lad of Shramik Mukti Andolan, Mr. Satish Tripathy, Secretary, Forest Department, Government of Maharashtra, and Mr. A.R. Bharathi, Dy. Conservator of Forests were some of the persons who deposed before the Commission.

The following Report is based on these depositions, and reflects what the Commission heard and saw during their visits.

BACKGROUND

The Sanjay Gandhi National Park measures 103.09 sq. kms. The park is divided into three parts, viz. (i) core area admeasuring 28.18 sq. kms., (ii) tourism zone admeasuring 8.66 sq. kms., and (iii) buffer zone admeasuring 66.25 sq. kms. The park spreads across the Western suburbs of Goregaon, Malad, Kandivilli and Borivilli, and includes parts of Mulund and Thane on the East.

The figures of the Forest Department indicate that in 1995 there were between 78,000 to 86,000 huts in the park, i.e. between 3,90,000 and 4,30,000 people. The Satellite Survey Report of Space Application Centre, Ahmedabad reflects that 7.73 sq. kms. of the park is encroached upon. About 1.87 sq. kms of such encroachment is hutments, the remaining encroachment includes land for quarrying and agriculture.

By Notification dated 4th February 1983, an area of 86.96 sq. kms. was intended to be declared a 'National Park', the final Notification under the Wildlife (Protection) Act

1972. The area supposedly within the National Park contains schools run by the Corporation, ration shops, dispensaries; structures having requisite facilities such as electricity, water, sanitation and telephone. Many of the homes are 'pucca' structures which have been provided with amenities by the concerned authorities. Mnay of the residents structures have been in existence prior to the area being declared a 'National Park'.

WRIT PETITION NO. 305 OF 1995 FILED BY BEAG BEFORE BOMBAY HIGH COURT

The Bombay Environmental Action Group (BEAG), has described itself as a society 'whose main aims and objects are inter alia, to look after the environment in all its aspects'. BEAG filed a petition in public interest before the Bombay high Court on 8th February 1995 against Mr. A.R. Bharati, Dy. Conservator of Forest, Mr. A.K. Nigam, Conservator of Forests, State Wildlife Advisory Board, Bombay Municipal Corporation, State of Maharashtra, Union of India, Ramchandra Kadam and Ramdas Dharmi Shirke. Ramchandra Kadam and Ramdas Dharmi Shirke have been joined as parites as they are 'some persons who have illegally encroached and created unauthorised structures on lands belonging to the Sanjay Gandhi National Park'.

The petition *inter alia* seeks a direction to the Respondents to forthwith remove encroachers from the National Park and relocate them in non-forest areas and to demolish and remove all unauthorised structures from within the National Park within a period of six months, prohibiting the Respondents from taking any steps to regularise the encroachments and/or unauthorised structures within the National Park, and prohibiting the Respondents from providing the encroachers any amenities which will serve to regularise their occupation of all or any areas within the National Park.

This petition alleges that 'encroachments into the area of the said National Park have begun to get larger and larger' and 'large areas of the park look like slum colonies' and the same could have 'ecologically disastrous effects'. The petition further states that local

politicians have been encouraging persons to encroach upon these lands with promises of future regularisation, and slum lords are selling and/or renting out shanties within the park.

The Conservator of Forests has filed Affidavits which state that,

> *'The problem of encroachment on forest areas and the consequent deforestation is a matter of grave complexity involving human, political, social and economic angles and cannot be looked at only form the limited point of view of removing such encroachments en masse, as is uggested by the Petitioners in the present petition.'*

> *'.....the cathcment areas of Tulsi and Vihar lakes do fall within the SGNP area. So far there does not appear to be any danger of water pollution of the two lakes.'*

> *'....because of the complexities involved and the human aspect of encroachment, a large number of people cannot be uprooted overnight by use of force.'*

It appears that the state machinery has conducted a physical verification which denotes that only 1.87 sq. kms. is under actual encroachment by hutments. Out of the 103.09 sq. kms., 66.25 sq. kms. is the buffer zone which surrounds the core zone and seperates the core zone from the thickly populated area of Bombay Suburban Distict and Thane city. The Affidavits detail the steps taken by the concerned authorities in the past to remove the encroachment and curtail the mushrooming of unauthorised structures.

The court intermittently passed certain directions with regards to construction of a wall and watch-towers to check the growth of slums within the park, establishment of a Committee to recommend short term measures for preventing encroachment and desturction of forest area, etc.

WRIT PETITION NO. 2333 OF 1996 FILED BY OM SHAHI SANGH WELFARE SOCIETY AND OTHER SLUM SOCIETIES SITUATE AT PIMPRI PADA, SGNP, BEFORE THE BOMBAY HIGH COURT

This petition was filed by six slum societies on behalf of 298 residents of Pimpri Pada, SGNP. The people were residing in these slums since 1986, and they possessed proof of residence such as ration cards, voters identity cards, and their names were included in the Electoral Roll. The main demand of the Petitioners was that the Housing Policy of the State government should be made applicable to slum dwellers residing within the boundaries of the National Park, and those residing therein prior to 1995 should be protected.

This petition was filed against the Bombay Municipal Corporation, the Collector of Bombay, the Chief Executive Officer - Slum Rehabilitation Authority, the State of Maharashtra, and Union of India.

The petition states that,

> *'The land on which the said hutment stands previously belongs to F.E. Dinshaw Trust but in or around 1978 the Third Respondent acquired about 850 hectares of land belonging to F.E. Dinshaw Trust. The F.E. Dinshaw Trust was permitted to retain and develop the remaining portion of the land of about 600 hectares. The F.E. Dinshaw Trust has constructed buildings on the plot of land that remained in their possession. The persons mentioned at Exhibit 'A' have constructed their respective structures on the plot of land acquired by the Third Respondent from F.E. Dinshaw Trust. About six months ago a wall was constructed around the boundary of Sanjay Gandhi National Park and the said structures of the persons mentioned at Exhibit 'A' hereto fall within the wall. The persons residing in the said hutment settlement belongs to the lower economic strata and the male residents are employed as labourers or are in public or private service or carry on small businesses and the women residents work as domestics or do household work. The meagre income of the residents of the said settlement are utilised for survival. The residents of the said settlement reside in such manner not out of choice but for means of livelihood and as they have nowhere else to*

reside.'

The Petitioner has also relied on the International Covenant on Economic Social and Cultural Rights, and Resolution on Forced Evictions 1991/12 and 1993/77 adopted by the UN Commission on Human Rights whereby the Government of India has committed itself to provide housing to its people and has condemned the act of forced evictions. The petition states that,

> *'the Government of India by signing the said resolutions has portrayed to the rest of the world that it recognises "that every woman, man and child has the right to a secure place in which to live in peace and dignity" and "that the ultimate responsibility for preventing evictions rests with the Government". The Petitioners say that despite the Government of India being a signatory to the said resolutions, forced evictions and demolitions are continuously planned by the State machinery in contravention of the said resolution.'*

The petition seeks *inter alia* to quash the order issued by the Respondents sanctioning demolition of the structures standing in Sanjay Gandhi National Park and more particularly those persons mentioned at Exhibit 'A' to the petition as bad in law and ultra vires Articles 14, 21 and 300A of the Constitution of India, direct the respondents to forthwith stay the demolition of structures belonging to persons mentioned at Exhibit 'A' to the petition, and direct the Respondents to provide suitable alternative accommodation prior to demolishing structures.

The court initially stayed the demolition of structures contained within the park, but ultimately this petition was disposed of in terms of order dated 7th May 1997 passed in Writ Petition No. 305 of 2000. Relocation and certain other demands of the slum dwellers were incorporated in the court's order.

ORDERS PASSED BY THE BOMBAY HIGH COURT IN WRIT PETITION NO. 305 OF 1995

Relevant portions of orders passed by the Bombay High Court which relate to removal of slum dwellers are summarised below.

Order dated 7th May 1997 passed by Chief Justice M.B. Shah and Justice Mr. F.I. Rebello

'10 (k) The authorities are directed to conduct a survey of the inhabitants of the National Park Division within a period of two months from today. Any person found to be in possession of a hut for which he himself does not have a valid photo pass must be evicted forthwith and the structure demolished subject to clause (o) hereinafter. It is further directed that no transfer of photo pass pertaining to structures within the National Park be permitted.'

(l) Authorities are directed to prosecute any person refusing to vacate the forest land under the provisions of the Forest Conservation Act, 1980, Indian Forest Act, 1977 and Wildlife (Protection) Act, 1972. On carrying on the above mentioned survey the authorities are directed to forth demolish all occupied huts, structures found within
the National Park Division. All material shall be confiscated so that thee same is not used to re-erect the structure.

(o) It is ordered that after carrying out the above mentioned survey all persons whose names are not found in the electoral rolls prepared with reference to 1st January, 1995 or any date prior thereto shall be forthwith removed from the National Park Division and structures inhabited by them shall be demolished. All material shall be confiscated so that the same is not used to re-erect the structures.

(m) With respect to the slum dwellers residing within the National Park

Division whose names appear on the electoral rolls prepared with reference to 1st January, 1995 or any date prior thereto and who continue to live in the same structure, it is directed that the State Government shall within 18 months from date, relocate these persons outside the boundaries of the National Park Division, in keeping with their present policies, and thereafter demolish the structures occupied by them. Until such time electricity and water supply to the structure will also be allowed to be continued.

(n) The State Government shall publish in at least 2 Marathi and 2 Hindi Newspapers with reference to their intentions of demolishing structures within the National Park Division. Such notice shall state that any person who is able to satisfy the Government that his name appears in the electoral rolls as on 1st January, 1995 or any date prior
thereto and that he continues to live in the same structure shall be given an opportunity of six weeks so as to satisfy the Government of the same before demolishing work progresses.

(q) BSES and BMC are directed to disconnect all electric and water supply connections in respect of hutments that will be demolished as per the above mentioned directions.

(r) The Food & Civil Supplies Department is directed not to issue further sanctions to any more ration shops in the National Park Division area. All ration shops, schools and dispensaries presently functioning must be demolished within eighteen months from today, provided the State Government relocates the persons covered by clause (o) above.'

A High Level Monitoring Committee was constituted under the Chairmanship of the Collector, Mumbai Suburban District with the following members :-

(i) Deputy Municipal Commissioner, Zone IV,

(ii) Deputy Municipal Commissioner, Zone VI,

(iii) Deputy Commissioners of Police of the respective Zones,

(iv) Deputy Director (Town Planning) SRA,

(v) Additional Collector, Encroachment,

(vi) Controller of Slums and Addl. Collector,

(vii) Commandant, SRP (to be created),

(viii) Deputy Conservator of Forests (Wildlife),

(ix) Deputy Conservator of Forests, SGNP-Secretary.

The main function of the Committee is to ensure that the forest area is kept free of any further encroachments and will also make sure that this order is implemented.

By this order several other directions were passed;

(a) BEST to stop bus services within the National Park Division, except for educational tours and to Kanheri Caves (or on Mahashivratri days),

(b) Public transport such as taxis and autos to be prohibited from entering the forest area,

(c) MTNL to disconnect all telephone lines within the National Park Division, except those given to public authorities,

(d) BMC directed not to issue any permissions in the National Park Division for any commercial or industrial activity, nor to grant registration under the Shops & Establishment Act, except in the case of public authorities,

(e) BMC directed to cancel all such sanctions and registrations and permissions granted within the National Park Division,

(f) Commercial establishments within the National Park Division to be demolished within one year, and all building material to be confiscated so that the same is not used to re-erect structures,

(g) The staff manning the National Park Division to be increased by 50 persons,

(h) JCB, 4 dumpers, helicopter, and at least one SRP battalion to be made available for the process of demolition and removal of encroachments from within the National Park Division, if necessary one more SRP battalion to be provided,

(i) Construction of boundary wall with watch towers to protect the National Park Division,

(j) Stopping all quarrying operations within the National Park Division forthwith and to cancel all permissions and sanctions granted for such activities.

Order dated 17th July 1999 passed by Chief Justice Mr. Y.K. Sabharwal and Justice Mr. A.P. Shah

'6. Reverting now to the problem of the removal of encroachers, who may be eligible for alternate site, and their shifting to such site, some apprehension has been expressed for re-location of the encroachers from the local villagers of Kalyan, though the affidavit states that all steps will be taken to remove the resistance and to see that the encroachers are peacefully re-located without any interruption. Learned Advocate-General states that the Government is duty bound to take all necessary steps to remove the resistance and it will act accordingly. We have no doubt that the Government will take all necessary steps to ensure the peaceful relocation of the large number of encroachers in the Kalyan land earmarked by it for the said purpose so that the actual process of re-location commences from 1st February, 2000.

7. In order to ensure compliance of order dated 7th May 1997, we issue the following further order and directions :-

(a) We hereby constitute a Committee consisting of the following persons :-

(i) The Collector, Thane District.

(ii) The Collector, Bombay Suburban District,

(iii) The Additional Collector (Encroachments) and

(iv) The Deputy Conservator of forest, Sanjay Gandhi

National Park.

(b) The aforesaid Committee (hereinafter called the Monitoring Committee) is to monitor and ensure that the slum dwellers within the Sanjay Gandhi National Park Division, who are eligible for alternate accommodation, will be re-located on the land identified in the Affidavit of the Chief Secretary dated 15th July, 1999.

(c) This Monitoring Committee will allot pitches of 15 ft. x 10 ft. to eligible encroachers in the above mentioned plots.

(d) The Monitoring Committee shall ensure that the structures of the encroachers within the Sanjay Gandhi national Park Division are demolished as soon as the aforesaid pitches are allotted in the plots mentioned above.

(e) It shall be the duty of the concerned Authorities under supervision of the Monitoring Committee, to ensure that the newly allotted sites are provided with basic amenities such as roads, rainage,electricity,water supply etc. However, it is clarified that none of the encroahcers shall be entitled to remain within the National Park after the allotment of pitches at the new site.

(f) The work of preparation of layout, its approval and actual marking roads/plots as per layout on site and preparation of estimates etc, as stipulated in the Order dated 28th April, 1999, will be completed by 30th September, 1999.

(g) The encroachers, as stated in the Affidavit of the Chief Secretary,

would first be re-located at land in Kalyan. The work of construction of pitches, roads, civic amenities etc. will be completed by 31st January, 2000.

(h) The vacant MHADA land will be placed at the disposal of the Government by the end of July, 1999, so that steps as aforesaid, for making the said land ready for re-location of the remaining may also be taken without any further delay.'

The High Court directed each family eligible for allotment of an alternative pitch to pay a sum of Rs. 7,000/- to the the Dy. Conservator of Forest for carrying out various works at the alternative site. The schedule for making the payment of the said amount is stated hereunder :-

(i) sum of Rs. 1,000/- on or before 31st August 1999;
(ii) sum of Rs. 2,000/- on or before 29th October 1999;
(iii) sum of Rs. 2,000/- on or before 28th January 2000; and
(iv) the remaining Rs. 2,000/- within two weeks of letter informing the encroacher about the pitch being available for allotment.

The High Court constituted three Committees, viz.,

(i) Grievance Redressal Committee, consisting of two judicial officers, and Additional Collector (Encroachments) to look into the grievances of the people with regards to implementation of the Order.

(ii) A Committee under the Chairmanship of a Retd. High Court Judge for the purpose of afforestation of the encroached area and preservation of the National Park. The others on this Committee to include, a representative of BEAG and the Dy. Conservator of Forest.

(iii) Monitoring Committee to ensure compliance of order dated 7th May 1997, and ensure that the slum dwellers within the National Park, who are eligible for relocation, will be relocated on the land identified, and will be alloted pitches of 15' X 10'.

The High Court furhter directed that,

1. MAFCO's factory which was within the National Park should be relocated by 28th April, 2001.
2. Demolish fresh constructions in the areas cleared of encroachments without prior notice, and no other Court or Tribunal to entertain any proceedings In this behalf.
3. List of eligible encroachers to be displayed in the office of the Dy. Conservator of Forest.

Order dated 13th March 2000 passed by Acting Chief Justice Mr. N.J. Pandya and Justice Mrs. Ranjana Desai.

By this Order the period of making payment of the sum for allotment of alternative pitches was extended to 22nd March 2000, and a 'propaganda campaign' was to be carried out by the Respondents to inform the people that if the said amount was not paid by 22nd March 2000, demolitions would commence irrespective of the structureholders having the relevant proof.

One platoon of SRP was placed at the disposal of the Dy. Conservator of Forest, which was to be increased to two platoons once the demolitions commenced. The services of a retired army officer was to be availed of to facilitate the entire operation.

This Order directed the intelligence and police force of the state to find out about the antecedents of Mr. P.K. Das who is the convenor of an organisation attempting to 'throttle' the 'exercise which is being carried out with the cooperation of both the sides'.

Order dated 14th June 2000 passed by Chief Justice Mr. B.P. Singh and Justice Mr. N.J. Pandya, extended the date for making payment of the 'rehab fees' by two weeks till June 29. Another order in August 2000 passed by Chief Justice Mr. B.P. Singh and Justice Mr. Radhakrishnan again allowed another two weeks for making the payment for alternative pitches.

FIRST WAVE OF DEMOLITIONS AFTER THE MAY 7 COURT ORDERS

Days after the May 7th order was passed, on May 20th 1997 a Brihanmumbai Municipal Corporation (BMC) demolition squad razed the Pimpripada slum colony, in the Malad East division, though there were several pending cases in respect of whether it was on forest land at all. After around 200 huts were bulldozed, a fire was noticed on the West of the slum colony, which the residents said was started by the demolition squad to quicken the pace of clearing the land. In all, 700 huts were destroyed. About nine months before this demolition, an attempt was made to demolish this slum by the Forest Department. At that stage, six of the residents' societies filed an appeal – Writ Petition No 2333 of 1996 – before the Bombay High Court seeking protection under the 1995 Government Slum Policy. The Court stayed the demolition and the petition came to be clubbed with the main BEAG Writ Petition 305 of 1995. Ultimately, both the petitions were disposed off with the common order as outlined above.

However, despite the stay order in WP 2333/96 and despite the order to rehabilitate the slum-dwellers within 18 months before demolishing their hutments, the Pimpripada slums were destroyed. A contempt petition was filed, in which the Forest Department took the stand that it was not responsible for the demolition, though the basti was on forest land.

Soon after the monsoon, the Forest Department struck in the first week of October and demolished over 700 hut on the neighbouring hillside slopes of Matangarh. This phase of demolition was justified by the Forest department on the plea that they were only demolishing huts that had come up after January 1, 1995, and they were therefore to be removed as per the May 7 judgement of the Bombay High Court. However, in reality the heavy duty demolishing equipment like porclain cranes and earth movers could hardly distinguish between the pre and post 1995 residents, and by an large those protected under the May 7 order also were felled in the aggressive demolition drive. Later, when the forest department demolished on November 14, 1997 another 110 huts which were clearly as a cluster identified as of pre-1995 vintage, the NHSS moved the High Court. A bench consisting of Justice A C Aggarwal and Justice Vishnu Sahai pulled up the Forest Department for not providing rehabitation first, and stayed the demolition of another 166 huts in the area that had been given notice of demolition.

Despite these orders, the Forest Department continued its demolition drive. Within a month it razed over 2,000 huts covering Appapada, Savitribai Phule Nagar Ambedkar Nagar and Matangarh – most of whom were protected by the May 7, 1997 order by reason of having proof of residence prior to 1995. In a bizarre case, the Forest Department completely demolished on November 22, 1997 a slum colony consisting of 500 families called Azad Nagar, at Kurar Village, Malad (East). Ironically, the slum consisted mainly of 1992-93 Muslim riot victims who had been helped by NHSS to rebuild their houses after they had fled to the neighbouring Muslim locality of Pathanwadi. These residents had also been provided aid and material from the government as compensation for houses destroyed! In the demolition operations of November 22, the residents said the police and demolition personnel exulted hurling barbs that a "*basti* of criminals" was being destroyed.

The records and oral evidence shows that in these demolition operations, police violence on the people and their leaders was brutal and excessive. On November 6, when the Forest Department was demolishing huts situated in Savitribai Phule Nagar, a large group of persons lead by suspended Deputy Municipal Commissioner G R Khairnar and

a journalist of The Economic Times and secretary of NHSS, Gurbir Singh, went to the demolition site to protest against the operations. Without warning, two officers of the Dhindoshi Police Station – Senior Inspector D S Shinde and Assistant PI Shivaji Kolekar – ordered an unprovoked lathi-charge on the protestors. While the bulk of the people were caned and chased away, Khairnar was surrounded while SRP personnel surrounded Gurbir Singh and hammered him with lathis on his back, arm and head. Later X-Rays at the Bhagwati Hospital and KEM Hospital revealed that Gurbir Singh's elbow had been fractured, while there were numerous head injuries. Later, women from the neighbouring slums in Matangarh protested against this brutal treatment by blocking the path of the police vans and vehicles. These women too were brutally lathi-charged, and those interviewed said some of them were dragged out from their houses and beaten. Besides Khairnar and Gurbir Singh, around 60 persons were arrested after the police action.

Gurbir Singh subsequently filed a criminal case in the Borivali metropolitan court against the two police officials – Kolekar and Shinde – for assault causing grevious hurt. In a seperate civil writ petition claiming compensation, Singh has sought guidelines for the police for handling public protests. The petition was subsequently admitted in March 1998, and is pending final disposal.

Meanwhile, in the first week of December 1997, the Forest Department turned its wrath to the bastis to the North of Malad, in the Kandivili division. There was however stiff resistance from a slum colony called Gautam Nagar and the police tried to stamp it out with lathi-charge and teargas. Records show that more than 100 persons had to be hospitalized while scores were arrested by the Samata Nagar Police Station, at Kandivili (East). The same slum colony again faced the demolition squads from December 28. Again there was stiff resistance and police went on a rampage caning the people and bursting tear gas shells. In this round, more than 30 person were injured and over 40 arrested for rioting. One Suresh Mahadik suffered serious head injuries and had lost his speech. State Reserve Police personnel on December 29 went berserk and broke into peoples houses to cane them as far as one kilometre from the site of the demolition. For instance, one Kamal Singh Pawar residing in Kedar Nath Chawl, situated about 500

meters away from the demolition site, was hammered by police lathis while he was eating his food inside his house.

Even women and children were not spared by the police. For example, Gyanti Devi Yadav was injured on the head while her six-month old son – Lalikant – was hit on the head when the police broke open the door of her house in search of male members. In another incident, Majula Devi Chaudhaury, 35, was seriously injured with a deep gash on her back when an exploding canister of tear gas landed on a rice sack inside her house. The police and Forest officials claimed that they were only demolishing post-1995 hutments, and that the police violence was only a reaction in self-defence to massive stone-pelting by mobs of slum-dwellers. However, a Nivara Hakk Samiti delegation lead by Shabana Azmi has filed a report that most of the 600 huts razed on Tuesday December 29, 1997 had proof of existence before January 1, 1995. Further, contrary to police claims, the violence was not provoked by the people but by the police. According to eye-witness accounts, on Monday December 28, a large number of women had gathered and had conducted a dharna around Noon time to plead with the Forest and Police officials to postpone their eviction activities for three months as the children's mid-term examinations were in progress. This was brushed aside, and the people were brutally lathi-charged and tear-gassed to clear the path of the bulldozers and demolition squads.

These demolitions were carried out despite orders of the Bombay High Court passed on October 9 in a petition filed by the Gautam Nagar Vikas Sangh. The October 9 order required the Forest Department to give two weeks notice before beginning demolitions. Subsequently, in a notice of motion in the same petition, when these demolitions were brought to the notice of a vacation judge during the Christmas break, Justice J A Patil, besides ordering *status quo*, noted that *"the greivances made by the petitioners need an inquiry."* The large-scale protests and the considerable media coverage of the police action in Gautam Nagar as well as in the other hutment colonies created significant public outcry. Interestingly, the BJP-Shiv Sena state government with an eye on the impending Lok Sabha elections, announced a suspension of demolition operations. The then chief minister Manohar Joshi also announced that the government

was withdrawing the police force, and it would not be available for demolitions in the National Park.

At this stage, the state government and the forest department made one vain attempt to rehabilitate the slum dwellers. In December, following repeated protests from the evicted families. A 30-acre plot of land acquired from MHADA in Malwani was developed and marked with pitches to accomodate the first batch of around 3,000 families from Azad Nagar, Matangarh and other demolished bastis in the Malad division. The forest department even summoned its staff from Nagpur and other regions to help the process. However, the BEAG took objection in the High Court that the any rehabilitation on the designated creek-side land would amount to a violation of the CRZ Regulations. The Bombay High Court too supported the view and the state government did not press the case. Thus, ended the first rehab bid of the government.

EVIDENCE

Socio-economic Profile of the residents of Sanjay Gandhi National Park

The sample survey conducted by the Commission reflected certain significant features about the socio-economic profile of the residents. Males outnumbered the females; this indicates that the men had left their families in their ancestral villages and had come to the city to earn a living, or that families were sent back to ancestral villages due to apprehension of demolition and as they had nowhere else to reside in Mumbai. About 61% of the people were in the age group of 21 – 40 years, about 31% of the people were in the age group of 41 – 60 years, and 8% were above 60 years. This indicates that the residents constituted a predominantly working population. In 56% of the structures five persons or less resided; in the remaining structures more than five persons resided. About 30% of the residents were residing in the National Park for more than 20 years; 40% between 20 – 10 years; 30% between 6 – 10 years.

(a) Means of livelihood

Majority of the people said they had come to Mumbai in search of work and to support their families. People were working as dhobis, rag-pickers, autorickshaw and BEST bus drivers, jewellery makers, cobblers, vegetable vendors, watchman, wardboy with ESIS Hospital, MMC and Aarey employees, and had small businesses, such as ironing clothes and hawking wares. Approximately 56% of the people were daily wage earners, they did odd jobs or worked for contractors; 21% were masons, carpenters, plumbers, tailors, drivers; 12% were in the service sector; 7% were domestic workers – only 3% of the residents were unemployed.

Ms. Meena Radheram Nautiyal stated before the Commission,

> *'We resided at Pawan Chawl, Gautam Nagar. My father had a business of selling sand. Our home and shop has been demolished in 1998. Now my father drives an autorickshaw to support the family'.*

Meena is 21 years of age, and studying to be a pre-primary teacher.

(b) Reasons for coming to Mumbai

People have come to reside in Sanjay Gandhi National Park due to diverse reasons. The main reason was earning of livelihood, but there were other reasons which were out of their control and had compelled them to come to Mumbai.

Mr. Shivram Sakharam Suryavanshi is a resident of Bhim Nagar. He came to Mumbai in 1993 from Khillari as his village was devastated during the earthquake which ravaged Osmanabad and Latur districts in 1993.

Mr. Salim Sheikh Khatalsaab came to Bhim Nagar in 1974 from Gulbarga in

Karnataka as their ancestral land was submerged for the construction of a reservoir.

Ms. Geeta Rajkumar Vishwakarma has been residing in Damu Nagar, Kandivili, since last 7 years. She came to Damu Nagar from Santa Cruz (East); her home in Santa Cruz

was burnt during the Hindu-Muslim riots.

Mr. Gorak Shashirao Rakshi came to Mumbai from Jalna as the agricultural land owned by his family was sold to pay his mother's medical bills.

'I am residing in Jai bajrang Chawl, Gautam Nagar since the last 15 years. I purchased the structure for Rs. 3,500/-, and resided there with my wife and four minor children. I work as a casual labourer and earn Rs. 1,500/- per month. My home was initially demolished in 1998, and again in May/June 2000. I now reside in a rented structure in Hanuman Nagar for which I pay rent of Rs. 700/- per month. I did not pay Rs. 7,000/- as I did not have the amount.'

Many deponents said that they had come from Beed village to Mumbai due to drought in the Aurangabad region in 1972, and drought in the Jalgaon area.

Certain families owned agricultural land in the village, but the land was insufficient to feed the expanded family. Others worked as agricultural labourers in their ancestral villages, and were unable to find work due to drought or the income earned was insufficient.

(c) Mode of acquiring residential structure in SGNP

The residents who have been residing in the area since many years have built their homes on open plots of land. Those who have recently come to the area have purchased their structures from previous owners, and have converted 'kuccha

structures' into 'pucca structures'.

Ms. Indrani Bhimlesh Thakur of Sandesh Chawl, Gautam Nagar, Kandivilli (East)

purchased her structure in 1994 from the previous owner for a sum of Rs. 40,000/-.

'On 25th May 2000 the demolition squad visited the area. I was beaten by a lady police during the demolition. My home was not demolished as I showed them the receipt for payment made towards allotment of alternative site.'

Ms. Shraddha Ganpat Kubal, a member of Trimurti Seva Samiti, purchased her residential structure in Bhim Nagar from a havaldar who was previously residing there.

Mr. Mallapa Gundappa Matri of Bhim Nagar deposed before the Commission as follows :-

'I built my home on an open plot of land about 28 years ago. I have had to repeatedly pay money to forest officials and policemen to permit my family to continue staying there.'

Many of the residents were not aware that they fell within the National Park. Mr. Dadarao Ganpat Waghmare of Bhim Nagar stated,

'I have been residing here since 30 years. I did not know that my home fell within Sanjay Gandhi National Park.. Suddenly my one-storied structure was demolished.'

Ketkipada and Dharkhadi is situated on Survey No. 345A, and has been in existence since the last more than 60 years. About 1,30,000 persons reside there. The area contains 5 ration shops, 2 municipal schools. 3 BEST sub-stations, telephone lines and 12" pipe supplying water. Residents are paying non-agricultural (NA) Tax and Assessment Tax indicating that the land is designated for 'agricultural' use and not

'forest' by the revenue department. Certain residents possess 7/12 Extracts in their names. One of the schools was constructed by MMC in 1996 at a cost of Rs. 25,00,000/-, and about 4,228 students study in this school.

Ms. Kanchan Chand.akant Patode is a resident of Ketkipada. She produced before the Commission a Notice dated 18th April 1995 issued under section 44 of the Maharashtra Land Revenue Code, and permission granted by MMC for repair/reconstruction of her structure. Ms. Patode claims that the land upon which her home stands belongs to her and not to the Forest Department.

Brutality of Demolitions

The demolitions were conducted in the most brutal manner and ruthless manner. Bull-dozers were used to demolish homes, belongings and documents were destoryed along with the residential structures. At the end of the day belongings and construction material was gathered and burnt by the demolition squad. Lathi-charge and bursting of tear gas shells was resorted to if people protested the demolition.

Ms. Indubai Sudan Wawalk is a resident of Bhim Nagar since the last 34 years.

> 'I work as a vegetable vendor, and reside in Bhim Nagar with my husband and two children. One of my children is afflicted with polio. I came to Mumbai from Vadgaon in Beed district as my home was submerged for construction of a reservoir. When the demolition squad came to burn my home, I attempted to save my belongings and construction material. The police beat me with a wooden lathi and took me to Samata Nagar Police Station, Kandivili – my finger prints were taken on record and I was released at 8.00 p.m. I underment medical treatment at a private dispensary.'

The old husband of Ms. Subhadhra Dharmaji Shirodhkar was beaten during the demolition, and her daughter (Chhaya) was arrested and taken to Shambhaji Nagar Police Station. They reside at Savita Chawl, Bhim Nagar.

Mr. Tijope Shantaram Chavan is a resident of Damu Nagar. His home was recently demolished , i.e. on 3rd August 2000. The police barged into his home, assaulted them with a lathi, and then demolished their home. The lathi marks and cuts were visible on 5th August 2000 when Mr. Chavan deposed before the Commission.

Ms. Madhubala Digambar Mudgal of Bhim Nagar told the Commission that the demolition squad gathered her belongings and set them on fire, the fire was caused with the kerosene stored in her own home.

Ms. Jaipala Swamy Lingapatti of Bhim Nagar,

> 'My suitcase full of new clothes was thrown into the fire. My home and belongings were burnt. Three members of my family were beaten by the demolition squad; my brother Samel was badly beaten.'

The leg and hand of Mr. Pradeep Santharam Chavan was fractured due to beating by police. He is a resident of Bhim Nagar.

Ms. Kamala Ramkumar Khanna resides in Bhim Nagar, and her hand was in a bandage.

> 'The demolition squad burnt my home. They beat me and my son. My son's leg was fractured and I was badly bruised on my left elbow and right hand. We received medical treatment at Bhagwati Hospital'.

Ms. Radhika Pashamiya Sayyed is a resident of Bhim Nagar and a member of Jan Seva Vikas mandal;

> 'No notice was given. Bulldozers were used and our belongings were destroyed. Belongings and construction material was collected and burnt. My husband, myself and our children were beaten with lathis.'

Statement of Mr Vishnu T Sawant, Principal of Chandrabhaga Vidya Mandir School, Pimpripada, Malad (East), Mumbai 400 097:

He is the founder and Chairman of the Chandrabhaga Vidya Mandir School. This is a Marathi medium school, which started in June 1990. It has classes from Kg. To 10 Std. It has 1,000 students post demolitions. Prior to the demolitions there were 1,400 students. A total of 12 classrooms (Size20x25) were demolished. All the things namely benches, desks, cupboards, library instruments, office chairs, Tables, Sports equipment and library books were all destroyed. The management was not given any time for removing these precious and expensive articles. No notice was served giving any prior warning for the demolitions. The entrance boundary wall to the school was also demolished.

According to Mr. Sawant the land for the School originally belonged to the F E.Dinshaw Trust. This Land was in the name of a few adivasis from whom the school purchased the same. The school has Survey papers from the Land survey Dept. to prove the legality of its ownership. Besides the entire school comes under Survey No. 269 – Section No.6 and none of the land under Survey No.269 comes under the forests. So where is the question of illegal encroachments on forest land? Currently, 300 children are studying in the open after the demolitions, as there aren't enough classrooms to accommodate them.

Mr. Sawant claims that this is the only Marathi medium school in the locality, which caters to the education of the poorest sections of society namely the Dalits – the SC's, the SC's and the OBC's. There is no other Marathi medium school in a radius of 3 Kms of Pimpripada. Inspite of being a private school and not having accessed any Govt. grants the education is provided at subsidized rates. The students only pay Rs.40/- a month. Those who can't pay the fees (and the numbers are as high as 25%) are helped by Way of donations from 'Lions Club of Gokuldham' and an NGO called 'Caspian'. According to MR. Sawant this is a private school and yet is running at a loss. The total revenue generated is approx. Rs.40, 000/- per month as against a total expenditure of

Rs.1, 00,000/- a month. He says children who study at the school come from various areas which includes Sanjaynagar, Shivajinagar, Indiranagar, Mavdenagar, Santoshnagar, Khadakpada, Pimpripada 1 &2, Arun Kumar Vaidya Marg, Vageshwariagar, Matangad, Ekta Chawl Committee, Dr. Ambedkar Nagar and Vanjaripada. The only Marathi medium school in close vicinity is at Goregaon Stn. (Nandadeep School-upto 10th std.) which is 3-4 kms away from here and another one is at Shantaram Talao (Municipal School uptoVII Std.)

He speaks indignantly about the high-handedness and the arrogance of the forest officials and the Police. 1000's of police officers and 100's of vans and jeeps had arrived to assist the forest guards in their demolition efforts. "It was an extremely terrifying scene" avers Mr. Sawant. He says emphatically, "Politicians along with builder lobbies, pseudo environment groups and other goonda elements are responsible for these demolitions. The builders keeping the environment groups at the forefront petitioned the Courts to demolish the homes of the underprivileged and these poor people have become the helpless and hapless victims in this entire drama as their (that of the builders) high rise buildings in close vicinity don't sell as they overlook the slums. He cites the example of 'Valentine Towers' made by Salim builders, which is unable to find customers. 'Tikekar' builders is another such example. 'Raheja' builders want to acquire the land in the adjoining areas so that he can make access roads and other conveniences that will add to the market value of his apartments.

"These very environmental groups do not oppose the building projects of the Rahejas, which is of a much larger size and therefore is a bigger threat to the existence of the lake. Further the quarrying activity of the Rahejas also goes unnoticed although it is happening everyday in broad daylight. So it all boils down to how powerful and influential you are in safeguarding your interests," concludes Mr. Sawant in disgust.

Deaths during demolition in Sanjay Gandhi National Park

Mrs. Shashikala Swaminath Gupta died due to injury sustained during the demolition. Shashikala resided in a rented room at Savitribai Phule Nagar, Appapada, Malad (E) along with her husband Swaminath. The demolition squad visited Savitribai Phule Nagar on 26th April 2000 at about 12.00 noon. Shashikala was packing her belongings to save them from the wrath of the demolition squad when the bulldozer bulldozed her home; the bulldozer injured her forehead, she was covered with blood and fell unconcious. Shashikala's neighbours took her to a private doctor for treatment. Shashikala's condition was not good, she was in pain and could barely walk. Her husband carried her to the doctor for dressing on 27th and 28th December. On 28th December she collapsed and was taken to the S.K. Patil Hospital where her husband was told that her condition was serious and she should be admitted to K.E.M. Hospital. Shashikala was unconcious and was frothing at the mouth. Shashikala was admitted to K.E.M. Hospital at 5.30 p.m. on the same day. K.E.M. Hospital did not have C.T. Scan facilities so her husband took Shashikala by ambulance to L.T.M.G. Hospital for a C.T. Scan. Shashikala died on 29th Decmber 2000 at K.E.M. Hospital. The Post Mortem was conducted at K.E.M. Hospital on 30th April 2000. The Memorandum of Post Mortem denotes the probable cause of death as "Traumatic fracture spine at C6 – C7 level with cord compression associated with brain stem haemhorrage". Mr. Swaminath Gupta, the husband of Shashikala deposed before the Commission.

Mrs. Asha Sunil Pande died due to bursting of tear gas shell during the demolition. Asha resided at Hanuman Nagar, Damu Nagar, Kandivilli (E) along with her husabnd and three minor children aged between 15 years and 6 years. On 23rd July 2000 the demolition squad along with six bulldozers visited Damu Nagar at about 11.00 a.m. The people peacefully protested the demolition as many of them had the relevant proof to denote that they had been residing there since prior to 1.1.1995 and had also paid Rs. 7,000/- for allottment of an alternative site. The demolition squad which consisted of forest officials and police personnel, resorted to a lathi-charge and burst tear gas shells. The demolition squad set structures on fire. Asha's strucure was also torched. The demolition squad burst a tear gas shell right in front of Asha, the smoke got into Asha's face and she fell unconcious. The demolition squad permitted Asha's mother to take her to hospital only

after two hours. Asha died prior to admission at Saibaba Hospital, Kandivilli. The Post Mortem has been conducted at Cooper Hospital, but despite requests her family has not been provided with a copy of the same. Mrs. Kesarbai Rambhau Makrand, the mother of Asha who resided in an adjoining structure deposed before the Commission. Mrs. Kesarbai Makrand's structure was also torched on 23rd July 2000.

Mr. Chandrakant Siddappa Konale died due to police beating during the demolition. Chandrakant resided with his widowed mother and three brothers at Patel Chawl, Damu Nagar, Kandivili (E). Chandrakant was married about a year ago. The Konale's had the relevant proof of residence. The demolition squad visited Hanuman Nagar on 23rd July 2000 and went on a rampage as stated above. The demolition squad kicked open the Konale's residence and hit Malesh, the 14 year old brother of Chandrakant with a lathi. Then they beat and kicked Chandrakant in his stomach. The police arrested Suresh, the 17 year old brother of Chandrakant whilst he was returning home. The mother of Chandrakant ran around to release Suresh from the lock-up. Chandrakant who was in pain slept the entire day on 24th July, and was admitted to Bhagwati Hospital on 25th July. Chandrakant died at Bhagwati Hospital on the same day. No Post Mortem was conducted, the Konale's have not filed a complaint with the police station due to fear. Chandrakant was 22 years old and worked in a marriage hall, he financially supported his family. Mrs. Mahadevi Siddappa Konhale, the mother of Chandrakant deposed before the Commission.

Mr. Babu Rathod died due to shock during the demolition. Babu rathod was residing with his wife at Ambedkar Nagar, Appapada, Malad (E) since the last twelve years. They were working a domestic workers in nearby homes. On 1st May 2000 the demolition squad visited Ambedkar Nagar along with bulldozers. The home of Mr. Rahtod was bulldozed and most of their belongings were destroyed. Mr. Rathod died of shock. A Post Mortem was conducted at Cooper Hospital but his wife has not been given a copy of the Report. Mrs. Parvati Babu Rathod, the widow of the late Babu Rathod deposed before the Commission. She told the Commission that she was now all alone in Bombay as her son Raju had died two years ago in train accident and her duaghters were married in Gujarat.

Demolition in violation of Court's order dated 7th May 1997

Demolitions started in Sanjay Gandhi National Park since November 1997. Many of the residential structures demolished were those having relevant proof of 1.1.1995. Nivara Hakk Welfare Centre brought this to the notice of the Bombay High Court in Petition No. 2031 of 1997. The Bombay High Court in its order dated 17th November 1997 stated as follows'

> '.....*we reiterate that it will be impermissible for the government to carry out demolitions in violations of the directions contained in the aforesaid order. We reiterate that in case of violation of the order, a serious view of the matter will be taken.*'

Demolitions continued and residential structures eligible for allotment of alternative pitches were demolished. The dispensary of Nivara Hakk Welfare Centre was demolished on 6th May 1998 despite paragraph 10 (r) of Order dated 7th May 1997 which protected dispensaries till relocation of the residents to an alternative site. This was brought to the notice of the Dy. Conservator of Forest by letter dated 7th May 1998 addressed by Advocate for Nivara Hakk Welfare Centre but to no avail.

Large scale demolitions were carried out in January/February 1999 at Kranti Nagar in Kandivilli, and at Pimpripada, Azad Nagar, Ambedkar Nagar, Jambrosie Nagar in Malad. Many of the residential structures that were demolished had relevant proof; the forest officials refused to pay heed to the proof. The debris was thrown into a well which was the drinking water source for Azad Nagar. Nivara Hakk Welfare Centre has filed a contempt petition with regards to the highhanded conduct of the Dy. Conservator of Forest, this petition is pending before the Bombay High Court.

This repeated demolitions have resulted in many families having the relevant proof being rendered homeless, and destitute. Mr. Maruti Bhaguji Vavalkar of Bhim Nagar,

'My family never expected that our home would be demolished as we

have all the documents to prove our residence. The demolition was a shock.'

Ms. Mewati Devi Yadav resides in Pimpripada, her home was demolished once and burnt twice, she has spent Rs. 1,000/- each time to rebuild her home with plastic.

The more than 50,000 families who are 'not eligible' have left the area without any alternative accommodation being provided. Ms. Padma Digambar Wankhede of Bhim Nagar told the Commission the following;

'Many persons who did not have the relevant proof have left the area after demolitions. They were told that they were not eligible for alternative accommodation, and therefore left during the monsoon as they had no roof over their heads.'

Alternative Site

Location

Lands in five villages have been identified for relocation. These villages are Khoni, Antarli, Shirdhon, Wadhavli Khurd and ghesar in Kalyan taluka. Four of these villages were in the Green Zone in the Regional Plan and require to be converted to Residential Zone. Ghesar is situated within Kalyan Municipal Corporation – there is stiff resistance from the locals and the Kalyan Municipal Corporation to relocation in Ghesar.The Learned Advocate General made a statement before the Bombay High Court that the government was 'duty-bound to take all necessary steps to remove the resistance'.

Those whose homes have been demolished are continuing to reside in the National Park under plastic sheets or are residing with relatives or have rented structures in the vicinity as the relocations site has not been developed.

Payment for allotment of alternative pitch

The slum dwellers are to be provided with a pitch admeasuring 10'X15' in Kalyan for which they are required to pay a sum of Rs. 7,000/-. Many of the people do not have the financial means to pay the said amount, and due to poverty are being rendered homeless.

Mr. Gorak Shashirao Rakshi stated before the Commission that he had been rendered homeless despite having the relevant documents. He did not pay the amount as he did not have Rs. 7,000/-. He said that he is willing to borrow the money and pay it if the time for making payment is extended.

Ms. Kamal Sudhakar Khandagale resides in Jai Bhavani Chawl, Bhim Nagar;

> 'My home was surveyed and numbered as eligible by the forest offcials. Our family income is Rs. 3,000/- per month and there are five mouths to feed so we were unable to pay Rs. 7,000/-. My home was demolished in May 2000 and burnt 15 days ago.'

The income levels varied – 22% of the residents earned less than Rs. 1,000/-; 50% of the residents earned between Rs. 1,000/- to Rs. 2,000/-; 8% earned between Rs. 3,000/- to Rs. 5,000/-; 0.36% earned more than Rs. 5,000/-.

Unwillingness to shift to alternative site

41% of the residents said they would not agree to shift from SGNP, 58% agreed to shift if they were relocated in the vicinity of SGNP, and 0.73% agreed to shift ot the relocation site at Kalyan.

The main reason for refusing to shift to Kalyan was that they would be severed from their means of livelihood as many of them work close by, and it would be uneconomical to travel to work from Kalyan. People through the years are acquainted with earning opportunities in the area, e.g., the women have been working as domestic workers in the neighbourhood and fear that they will not get suitable jobs in the new place, rag-pickers are familiar with scrap dealers in this area who give them a good deal.

Another reason is that children's education will be disturbed; children are studying in nearby schools. Sunil Yadav (13 years) resides in Sandesh Chawl, Gautam Nagar, his father has not admitted him to a school as they apprehend demolition any day.

Boundaries of Sanjay Gandhi National Park

The Bombay High Court has by order dated 17th July 1999 closed the doors on any dispute with regards to the boundaries of SGNP.

> *'In case of any dispute regarding the boundary of Sanjay Gandhi National Park, it is clarified that the map prepared and survey carried out by the Forest Department, pursuant to the Order dated 7th May 1997 of this Court, shall be final.'*

Many of the settlements, such as Ketkipada and Dharkhadi claim they do not fall within the boundaries of SGNP, and have been provided with facilities by the concerned authorities.

A representation made before the Commission by representatives of the Janta Dal denote that the demarcation of the boundary was made only in 1999, and the area was notified as a National Park under the Wildlife (Protection) Act 1972 by Notification dated 16th January 1996.

Petitions have been filed by different societies on this aspect, viz. that their settlements fall outside SGNP, before the Bombay High Court, and the Supreme Court.

DEMANDS OF THE PEOPLE

Conducting of Joint Survey : The residents of SGNP and Nivara Hakk Suraksh Sammitti have been demanding that a joint survey be conducted by the forest officials and the residents so that there is no dispute in future. The survey was conducted in a most

improper manner, many structures having relevant proof were rendered 'not eligible' and many areas were not surveyed. The residents have made several oral and written representations to the Dy. Conservator of Forest in this respect, and requested that their homes be re-surveyed/surveyed. Requests for a joint survey were made by Nivara Hakk Suraksha Sammitti since 23rd June 1997 but to no effect.

Relocation on periphery of SGNP : Sanjay Gandhi National Park admeasures about 103 sq. kms. Many settlements are situated along the periphery, and large portions of the periphery are wasted due to quarrying, therefore the relocation should be done along the periphery in a manner whereby they have no mode of entry into the National Park. A portion of the periphery should be dereserved to relocate the residents. The area should be protected from further encroachments. Mr. D.T. Joseph, the then Chief Executive Officer, Slum Rehabilitation Auithority had in November 1996 suggested relocation on periphery, and in had stated the following in a letter addressed to the then Chief Secretary,

> *'It would be necessary for Forest Department to agree to the stand that the eligible slumdwellers on forest land would be accommodated on forest land near the periphery so that the remaining land can be freed from encroachments and handed over back to the forest Department.'*

In the absence of any relocation site for the slum-dwellers, the Nivara Hakk Suraksha Samiti (NHSS) had submitted to the special High-Power Committee appointed on February 12, 1997 by the High Court that the wasted quarries on the periphery of the National Park could be dereserved and used to rehabilitate the people. This would cause minimum dislocation, and create a natural boundary preventing further encroachments. The Committee headed by the Slum Rehabilitation Authority CEO, D T Joseph, noted in its final recommendations dt March 13, 1997, that

> *"It would be necessary for the SNGP authorities to consider identifying adequate land at the rate of 500 tenements per hectare from within its boundaries and offer it for rehabilitation of these slum-dwellers."*

This proposal created a howl of protest from the environmentalists and BEAG, who managed to get the court to reject this practical solution. Interestingly, the Court virtually adopted the consent terms filed by the BEAG and accepted by the Shiv Sena-BJP government as its final order!

Interestingly, the government by the end of 1998 had still not located any alternative land for the rehabilitation of the National Park slum-dwellers, and was forced to accept the view of the D T Joseph committee once again. In an affidavit filed on November 11, 1998 before the Bomaby High Court by Chief Secretary of the Government of Maharashtra, Mr P Subramanium, it was pleaded that:

> *"On scrutiny, it was found that no suitable lands were available to relocate and resettle about 33,000 families...therefore, it was considered to see the possibility of resettlement of the encroachers at the very site encroached upon them ie. The Sanjay Gandhi National Park...The land which will be required for resettlement of these 33,000 families would be about 320 acres out of 25,000 acres of the SNGP. The percentage of the area required for resettlement would be very negligible. It was also considered that after having identified the area of resettlement, it will be possible to segregate, restrict and control these areas used for resettlement, and any further encroachment in the SNGP could be effectively controlled and checked." (Italics ours)*

This affidavit was never considered by the court, nor was any order passed on it. Neither did the state government press it. In the meanwhile, by the process of enumeration and survey by the Forest Department, the effective number of those qualifying for rehabilitation was cut by half – from the 78,000/86,000 hutments estimated by the Satellite Surveys to 33,000 families who passed the January 1, 1995 qualification. Despite numerous complaints of corruption and arbitrariness, this figure was accepted by the Bombay High Court without demur. As we will see later, by clever sleight of hand,

the forest department and the government have been able to knock off another 20,000 from this list.

Once the identification of the families eligible for rehabilitation was complete, the Forest Department and the police ran amuck in the name of removing post-1995 encroachers. According to the Chief Secretary's affidavit, as many as 15,000 huts were felled and 70 acres of land reclaimed by the forest department soon after the may 1997 order was passed. Beyond the statistics, on the ground it was a pathetic tale of woe for the urban poor as detailed above.

Relocation in the vicinity : One vain bid was made to relocate the people in the vicinity of the park. People were willing to shift when land had been identified in Malwani, in Malad. Malwani is close to their present place of abode. Nivara Hakk Suraksha Sammitti had assisted the Dy. Conservator of Forest in preparing the site plan, and people had been shown the site and a few of them had been issued tokens. BEAG had taken objection to this iste on the ground that it violated the Coastal Regulation Zone Notification as it was marshy land and required reclamation. Nivara Hakk Suraksha Sammitti has identified vacant land in the vicinity and brought it to the notice of the Chief Secretary, State of Maharashtra vide letter dated 24th August 1999. A vacant plot admeasuring 96 acres and 32 gunthas, and situated at Survey No. 120, Village Versova, Bombay Suburban District has been reserved for housing for weaker sections / lower income groups has been identified for relocation. If the residents are relocated in the vicinity they will not be severed from their means of livelihood, and their children can continue with their education.

Relocation prior to demolition : The orders of the Bombay High Court envisaged demolition after the slum dwellers eligible for relocation were shifted to the alternative site. The orders laid down too that that basic amenities like schools and amenities would be dismantled only only after the residents were relocated. Unforunately large scale demolitions were conducted without the authorities having identified the relocation site, or before the relocation site was developed and the slum dwellers were shifted thereto.

Many of those whose structures are demolished have paid the sum of Rs. 7,000/- but are still forced to live under plastic sheets/with relatives/in rented structures as the relocation site has not been developed. In direct violation of the court orders, the schools and dispensaries were demolished before the people were relocated. So far, the court has been indifferent to the violation of its own orders. From the demolition operations, it seems the priorities have been set by the BEAG. The demand of the people is that the ongoing demolitions be stopped till the relocation site has been developed, and people are shifted thereto. The site must be provided with amenities, such as water and electricity supply, sanitation and drainage facility, transport, health and educational facilities, etc.

Waiver of the amount of payment of Rs. 7,000/-, or payment of the amount by installments : Due to paucity of funds many of the eligible residents have not paid the amount of Rs. 7,000/-, and have therefore been rendered 'not eligible'. Those families not able to pay the requisite amount should not be rendered 'not eligible'; the payment of the amount should be waived or they should be granted easy installments to enable them to pay such amount.

Tribals:

There are 53 tribal hamlets in SGNP; 20 of these hamlets fall within Thane district, and the remaining 33 fall within MMC. The total population of these hamlets is 50,000. The tribes residing in SGNP are warlis, kokanas, katkaris, malhar kohlis, dhodis and dublas, and mahadeo kohlis. Tribals have been residing in SGNP since time immemorial, i.e. prior to the rule of the Moghuls, Marathas, and British.

Ms. Venu Soma Pagi, 70 years of age, a warli resident of Navapada deposed before the Commission. Ms. Pagi resides in Navapada along with her daughter, son-in-law and two grand-children. Ms. Pagi said that as far as she is aware her family has been residing in SGNP since four generations prior to her generation.

Her land was acquired in or about 1973, and they were alloted barren rocky land at Kuthal. This land was 8 miles from the Bazaar, had no amenities such as health and educational facilities, etc. Her family was farming at their land in the Sanjay Gandhi

than 200 including female staffers. Only 70 to 75 of the staff are tribals. Occassionally the forest department requires services of casual labour, but this is mostly brought from outside and resides under the trees with or without kutcha enclosures. I will not be in a position to adjust with non-tribals though I have been working with them for long. There are differences in diet, culture, language, etc. My fellow tribals who are accustomed with non-tribals will find it even more difficult to cohabit in a non-tribal environment. In the forest we have wells and springs which provide us with water. The site where Tulsi lake is situated was acquired by the British from an adivasi lady called Tulsi Thakar. Records with the revenue and forest department will show several places of tribal origin in SGNP. The dead amongst us are buried in SGNP. There is burial ground for four to five hamlets. Though we no temples we have deities everywhere in the forest. Amongst us, Ravana is revered and his effigy is not burnt. Burning a Ravana effigy is considered is considered inauspicious. Our main fetivals are Holi and Dassera, and we celebrate the same in a tribal manner. We speak tribal dialects and perform and perform rituals that are peculiar to us.

Mr Vithal Govind Lad, of Shramik Mukti Andolan also deposed us. He is Master in Social Work, and works with Tribals including htose residing in SNGP. He deposed before the tribunal that every tribal family has a house of its own made of mud and thatch with Mangalore tiles for the roof. No non-tribal resides in the hamlets. A new home can be established in a tribal hamlet only after ascertaining the consensus of the tribal elders. The tribals raise different types of vegetables and foodgrains for consumption, and they also collect and pluck forest produce. The forest produce is taken without taking permission from any authority but in consultation and agreement with fellow tribals. In about 1973-74, the forest department evicted residents of four hamlets namely Ravana pada, Keldaya, Manjarvihir, Phanaspada; only the tillers of farms were evicted while those who depended on forest produce for a livelihood were allowed to stay on. An attempt was to settle those evicted in Kunthal village, Palghar taluka. As there no facilities available in Kunthal, 70 families who were evicted returned to the SNGP within two months.

It was only last year that SNGP tribals were threatened with eviction. Notices were displayed at certainspots informing the tribal residents that ehey would have to leave their homes and farms and shift to some place in Kalyan and Ambernath. Mr Vijay Sathe, Indavni Tulpule and Vivek Pandit wo are activists working with tribals in Thane district for last 20 years, have informed that the the alternative site is inappropriate for relocation of tribals. If the tribals are allwoed to remain in the SNGP, there is going to be no damage or destructionof any forest resource. The tribal till vacant lands close to their homes and grow foodgrains like nachni, jowari, paddy and consume forest produce such as *kantul, takda, sewri,* etc. Some part of this forest produce is sold by the tribals to procure salt, tea and clothes. Tribals are not known to have sold their homes and land to non-tribals or even amongst themselves. Tribals are not responsible for any offense committed in the SNGP. On the other hand, they assist the authorities put out forest fires.

I say it is not possible for tribals to raise the sum of Rs 7,000 to purchase sites for their homes. They have just enough to meet their daily needs. The tribals are sent to live outside the forest, whether in a village, town or metropolitan area will not survive. They just do not have the ability to survive in non-tribal areas or in new habitations.

Dr Indira Munshi, professor in the department of sociology, Bombay University, has been working among tribals in Thane district since 1976. She reaffirs what is stated above. She states that the extraction by the tribals does not adversely affect the ecology. Tribals are more sensitive to environment protection than urbanites, their needs are limited and they do not require resources form outside. Technology availbale for destruction of natural resources is not availble to them. The Park can co-exist in the desired manner with the continuance of adivasis residing in hamlets. The Park will gain considerably with their active involvement and employment as their knowledge and skill can be utilised for the conservation and maintenance of the forest. It will be very difficult for the tribals to survive if evicted for forest area. Their eviction is neither necessary nor desirable. Removing them from a place which can sustain a particular material and cultural life is absolutely unnecessary. Their knowledge, skills and culture will be destroyed once removed from the forest. Tribals in Dhanu and other areas of Thane

district are currently engaged in regeneration of forest areas. The adivasis have protected the forests from timber merchants. The tribals do not have the knowldege and skills to survive ina city, and this will result in a further deterioration of their lives.

FINDINGS OF THE TRIBUNAL:

The BEAG petition and the Bombay High Court orders:

The Writ Petition No 305 of 1995 filed in February 1995, by the Bombay Environmental Action Group (BEAG) is eloquent about ecological balance. However, a close examination of the petition will show that the ecological balance which the raves about is unbalanced and misconceived. The very term "ecology" is derived from the Greek word meaning 'house'. It refers to the study of the totality of human beings and the environment or to the whole or the 'environmental house', as it were. Any sensible definition of ecology must be anthropocentric or human-centered – humans as the center of, not apart of, a life support system composed of air, water, minerals, soils, plants, animals and micro-organisms, all of which function together to maintaining the whole. It is in our interest that this 'house' should be clean, hygienic and comfortable. But it should be for all of us, not for few fortunate ones alone. The burden of BEAG's petition substantiates that its vision of environment excludes the vast sections of the population from its purview. For instance, there were about four lakh people in SGNP. The petition in effect treated them as dirt, which must be wiped out from the environment house, so that the rich and the powerful could breathe clean air. This is a dangerous ideology behind this concept of environment.

The reasons which the petition cites for the emergence and existence of slums are strange and fraught with false assumptions. Para 3 of the petition says that: "After the election dates were announced in December 1994 there has been a sudden spurt in the number of encroachments with the covert and overt encouragement of certain politician parties." The people in the slums lead a wretched life. Nobody will come to such places because some politicians call them. They come to the city because of an irresistible urge to

survive and because of the possibility of finding out some means of livelihood in the city. What drives them to the city is the abject poverty in the hinterlands of India. The petition characteristically refuses to acknowledge this reality.

Para 17 of the petition states that certain slumlords sell and / or rent out shanties in the SGNP. There are more than seven million living in the slums of Mumbai. The unscrupulous elements take advantage of this situation, and make money. They are worms in a dung hill created by an exploitative society. This society will keep on generating such worms as long as it exists. The organisations such as the BEAG are hypocritical and dishonest when they trace the reality of slums to slumlords. The slumlords do not create slums; on the contrary, slums create the slumlords.

The media and the opinion makers repeat axiomatically that the politicians encourage slums because they constitute vote banks. This terminology is intended to deprive the people in the slums of their humanity. The people in high rise buildings are not called vote banks. The statistical analysis of the income of SGNP residents given above established that they could not acquire any accommodation either on rent or ownership. The residents left their ancestral villages because they could not make both ends meet, whereas in Mumbai they could discover or invent some means of livelihood. There are also reasons such as natural calamities and displacement by so-called development projects.

The fate of the slum dwellers was sealed by the Order passed by the Bombay High Court on 7th May, 1997. *Prima facie* our reaction is that the order is such and can be considered as fraud on the Court.

The records show that the petition was filed sometime in February, 1995. The respondents to the petition are Shri A.R. Bharati, Dy. Conservator of Forest, Shri A.N. Nigam, Conservator of Forests (Wildlife), State Wildlife Advisory Board, Bombay Municipal Corporation, State of Mahrashtra, Union of India and particularly respondents 7 & 8 one Ramachandra Kadam and one Ramdas Dhami Shirke. The address of these

two respondents has been kept vague. Kadam is supposed to be part of the Saraswati Chawl encroachment and Shirke is supposed to be at the Dr Ambedkar Nagar encroachment, and these two encroachments are supposed to be in the Borivali National Park. In the body of the petition, the petitioner BEAG have stated that respondents 7 & 8 are joined in their individual and representative capacity. During the course of our inquiry we tried to ascertain identities of these two persons. Nobody could give their whereabouts. Obviously, they have been enjoined just to show that the slum dwellers are also represented as parties to this petition.

We are informed that these respondents 7 & 8 were not served any writ of summons and notice by the petitioners. If they were sued in a representative capacity, certainly they do not represent any of the slum dwellers as they are obviously not leaders or office bearers of any slum group or association. When a party is included in a suit or in a legal proceedings in representative capacity, the petitioner should obtain the order under Order 1, Rule 8 of the Civil Procedure Code. The Court would normally give direction as to how the order should be carried out. We have been informed that no such order was obtained from the Court. There is nothing to indicate that any publication of the petitioners having filed such a suit against respondents 7 & 8 in their representative capacity was issued in any of the newspaper. In other words, though the petition was filed as against the respondents 7 & 8, the slum dwellers were never informed that they were being sued in any representative capacity and that any order that is passed would be binding on them.

We have scrutinised some of the papers that are placed before us that clearly shows that the order dated 7th May 1997 was passed by way of "Minutes of the Order taken on record and marked X and following order is passed."

The appearance list of lawyers also show that nobody had appeared either on behalf of respondents 7 & 8 or on behalf of slum dwellers. It was an order between petitioners and the government. Our reaction is that the order dated 7th May, 1997 is *per se* not binding on the slum dwellers at all. Petitioner, having chosen to file the petition against

the slum dwellers, should have taken steps to serve them according to law and then only they should have obtained an order against the slum dwellers. Petitioners, on the other hand, joined hands with the government and got an order, in all probability by misleading the Court, as if the representative of respondents 7 & 8 have been served and they had remained absent. It is in this sense the order is a fraud on the Court itself. It is equally interesting to note that the basis of the petition appears to be that in December 1994, there has been a sudden spurt in the number of encroachment with the overt and covert encouragement of certain political parties. The petition proceeds to say that 200 hectares of land worth Rs. 1000 cr have been swallowed up by encroachers and about 50,000 illegal and unauthorised structures existed within the said National Park.

We find that the entire statement made in para 3 of the petition as false and as much as the respondent No. 7, Mr A.K.Nigam has filed his affidavit reply where he has categorically denied this statement. His affidavit dated 7th April, 1995 shows that there is nothing on record to indicate that there was a sudden spurt in encroachment in December, 1994 as alleged by the petitioners. The affidavit further gives some detailed information which is relevant. Firstly, it says "most of the National Park barring some areas are free from encroachment". Secondly, because of the concerted efforts of various departments and State of Maharashtra, it has been possible to keep most of the areas of SGNP free form encroachment. However, encroachment problems still exists in a few patches along the periphery of the eastern and western boundaries of SGNP. Thirdly, the affidavit refers to a Satellite Survey Report of the Space Application Centre, Ahmedabad and that the hitment encroachment of 511.8 hectares showed in the said report includes unauthorised structures, existing for a long period of time including Adivasi padas. It further says that out of 103.09 sq. kms of the total area, only 7.73 sq. kms is encroached upon by various types of encroachments including quarrying, agricultural.

The affidavit further says that the State of Maharashtra is planning to do the following in a phased manner for the purpose of prevention/removal of encroachments:

i) Construction of boundary wall in sensitive area of SGNP;

ii) Demarcation of boundary of SGNP by erecting pucca pillars along the periphery;

iii) Erection of watch tower along the boundary to be manned round the clock to keep watch over the area;

iv) Provisions of improved roads along the boundary so that patrolling by staff could be intensified;

v) Improved communications facilities viz. Wireless sets/vehicles and strengthening of staff for protection work.

The affidavit sets out that because of the tremendous magnitude of pressure on land, which is so scarce in thickly populated urban cities like Mumbai, the problems of encroachments has to be faced and dealt with despite all efforts made by the respondents to prevent it from rising.

In view of these statements made in the affidavit, the Court should have felt that nothing had survived in the petition itself because the very basis of the petition has been demonstrated by this affidavit to be totally false. The affidavit of Nigam also shows the total number of hutments in that area was between 78,000 to 86,000 approximately, which would indicate that the number of people to be affected would be within the vicinity of 4 to 5 lakhs.

The records show that after about a year or so, the petitioners had taken out a Notice of Motion in which the said Mr. Nigam filed an affidavit some time in April, 1996. In that affidavit, he has set out the steps taken for removal/prevention of encroachment from April, 1995. It particularly mentions the work of construction of RCC wall along 338 meters of periphery of the park area in Malad has been initiated and the work is completed in about 200 metres. It also shows that the government has proposed to construct RCC wall/Chainlink fence to prevent further encroachments in the park area. This shows that the core areas of National Park have been protected and that there has been no encroachment in the said area. No hutments are found in the core areas of the

National Park. Therefore, the entire basis of their petition would not have survived at all if only the Court had applied its mind to the facts of the case. It is in the light of this background, and despite the affidavits filed by Mr Nigam, the conservator of the forests, the government seems to have changed its attitude overnight and agreed to become parties to the Minutes of the Order passed on 7th May, 1997.

It is significant that the slum dwellers were never a party to this order. The order refers to a report dated 13th March, 19997 furnished by a committee consisting of officers of the state government constituted pursuant to an order dated 12th February, 1997. There is nothing indicates that this committee had heard the slum dwellers at any time. The committee was headed by the Slum Rehabilitation Authority, Mr. D.T. Joseph. The committee had recommended that it would be necessary for SGNP authorities to consider identifying adequate land admeasuring 500 hectares from within its boundaries, and offer it for rehabilitation to these slum dwellers. What Mr Joseph suggested made considerable sense in is much more practicable in as much as out of 103.09 sq. km of the area of the SGNP, only 1.87 sq km was under encroachment by hutments. Another 66.25 sq km surrounds the core zone and separates the core zone from the thickly populated area of Mumbai suburban district and Thane city. In other words, even if the hutments were to be removed from the existing areas, they could be accommodated in the buffer zone itself. It would not have dislocated any lives of lakhs of slum dwellers and would not have caused such hardship as we have seen today. Unfortunately, the petitioner BEAG rejected this practical solution and surprisingly the government agreed to the Minutes of the Order.

Some of the paragraphs of the Order dated 7th May, 1997 are *per se* indicative of violation of right to life which includes right to shelter as defined by the Supreme Court itself. If one reads the order it gives impression as if the encroachments were within core area of the National Park and that therefore the same should be removed. For example, para 10b of the order purports to direct bus services only upto the boundary of the National Park Division and and not to permit bus services or bus routes to either run through or enter the National Park Division. In fact, the hutment dwellers are not

concerned with the bus passing through the National Park. The hutments were mostly in the buffer zone, for example Bhim Nagar, in Kandivili Division, is on the slope of a hill of any bus route passing through that area. In para 10 (c) again the order indicates that buses going on educational tours and to Kanheri Caves should be allowed, which again shows it does not relate to the area where the hutments are situated.

If one looks at the general tenor of the order, the order pertains to structures which are all within the core area of the National Park and it has nothing to do with the areas situated outside the core zone. If that is so, the entire demolition of large number of hutments mostly situated in the buffer zone and outside the core zone of National Park is without authority of law. It is interesting to see the direction given by High Court under the Minutes of the Order. One of the directions is to the General Manager, MTNL. He is directed to forthwith issue seven days notice to all persons having telephone connections within the boundaries of the National Park Division and to disconnect all such telephone lines. This presupposes the existence of telephone connections. The order itself contemplates some period of time for demolition of the slum structures and for the rehabilitation of the slum dwellers. Yet the Court directs telephone disconnection within 7 days. Telephones are not only instruments of commerce but also very often become necessary in case of emergency.

The order again proceeds to restrain the Municipal Corporation from giving any permission for repair or reconstruction of the structures. It directs to conduct a survey of the inhabitants of the National Park within a period of 2 months from the date of the order and any person found to be in possession of a hut for which he does not have a valid photo pass must be evicted forthwith and the structure demolished. This shows that people were evicted from their homes without even hearing them and without even giving them an opportunity to show how they could have resided in that area for several years and how they could obtain a photo pass. The order further proceeds to direct the authorities to prosecute the persons refusing to vacate the forest land under the provisions of the Forest Conservation Act 1980, Indian Forests Act, 1977 and Wildlife (Protection) Act, 1972. It sounds so strange that all these acts are invoked when a visit to

these hutment areas revealed that there is neither a forest, nor a shrub or bush; needless to say, that no question of any wild life in this area.

One of the terms of the order is that all persons whose names are not found in the electoral rolls prepared with reference to 1st January, 1995, or prior that shall be forthwith removed from the National Park Division and that their structure demolished and all the materials shall be confiscated. Needless to say that these orders are plainly violative of basic human rights of the people.

The order further contemplates that BSES and BMC disconnect all electric and water supply connections in respect of hutments that would be demolished as per the order. The Food and Civil Supplies department is directed not to issue further sanctions to any more ration shops in this area. All ration shops, schools and dispensaries presently functioning must be demolished within 18 months from the date of the order. We have pointed out some parts of the order only to indicate that the order was a convenient tool to serve the interest of the petitioners and the government.

The various orders and judgements passed by the Bombay High Court in this matter were of a piece with the Petition. The emphasis was not on the four lakh people who inhabited the SGNP. It was on the battalions of SRP, watch towers, helicopters for surveillance, and retired army colonels for overall supervision of the demolition. Was it appropriate for one of the highest judicial bodies in the country to constitute a repressive machinery against the poorest of the poor? This raises a crucial question. What had predominance – the implementation of an anti-poor order or the mandate of Article 21 which guarantees the inviolability of life? It is often said in the media and middle class circles that the citizens cannot walk on pavements because people stay on them. The people in the slums urinate and defecate in public and offend the moral susceptibilities of citizens. Slums adversely affect the prestige of India and so on... The assumption underlying this line of thought is that those who stay in the slums and on the pavements are not the citizens of India. This reminds us of the US Supreme Court in the Dred Scott case that stated that the founders of the United States of America never thought that the Blacks were human

beings. This judgement triggered off the American Civil War. Probably we are left behind in history by 150 years.

We would like to indicate particularly the questions of basic human rights involved in this episode of slum demolition. The most important aspect in this episode is the denial of the right to shelter to large number of slum dwellers, and it is recorded that neither the Court nor the government understood the most basic aspect of human rights. We therefore proposed to set out briefly the following :

Right to Shelter :

Right to shelter has been recognised as a part of Right to life as guaranteed under Article 21 of the Constitution of India. In Francis Coracli Mallia V/s Union Territory of Delhi (A.I.R. 1981 8C 746), The Supreme Court had observed *"We think that the right to life includes the right to live with human dignity and all that goes with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter over the head."*

In Shantistar Builders v/s N.K. Totami A.I.R. 1990 8C630, the Supreme Court said *"Basic needs of man have traditionally been accepted to he three – food, clothing and shelter ... The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body, for a human being it has to be a suitable accommodation"*. It is unfortunate that the High Court ignored these binding observations of the Supreme Court when it denied the right to shelter to the occupants of over 80,000 structures all situated much outside the core areas of the Sanjay Gandhi National Park.

Internationally, with the adoption of the Universal Declaration of Human Rights in 1948, the right to housing joined the body of international, universally applicable and universally accepted human rights law. Article 25.1 of the Universal Declaration of Human Rights proclaims: *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services...."*. The International Covenant on

Economic, Social and Cultural Rights 1966, which India has signed and ratified, expressly says (Art 11.1): *"The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvment of living conditions. The States Parties will take appropriate steps to insure realisation of this right..."* . Under Art. 51 of the Constitution of India, the State has a duty to foster respect for international law and treaty obligations. Under Art. 2.1 of the Covenant says: *"Each State Party to the present Covenent undertakes to take steps, individually and through international assistance and co-operation, espeially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."* The term "by all appropriate means" has been broadly inerpreted to include all legislative, administrative, judicial, economic and social measures. It is regretted that both the state and the judiciary failed in these obligations and thus acted in violation of both national and international human rights law.

Forced evictions, a violation of human rights:

The jurisprudence of various International human rights instruments reflects the position that forced evictions constitute a violation of a broad range of human rights. The practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing. (Commission on Human rights Resolution (U.N.) 1993/77).

When forced evictions take place apart from the right to adequate housing, a number of other rights are affected. Forced evictions dismantle what people have built over months, years and sometimes decades, destroying the livelihood, culture community, families and their neighbourhood . It violates the rights to freedom of movement, the rights to the security of person, the rights to life, to freedom of expression. When children are unable to attend school due to forced eviction, the right to education is sacrificed. When people lose their source of employment, the right to work is breached.

That is why U.N. Commission on Human Rights passed a resolution 1993/77 on 10th March, 1993, affirming that the practice of forced evictions constitutes a gross violation of human rights. The Resolution urges all Governments to confer legal tenure to all persons threatened with forced eviction and to adopt *"all necessary measures giving full proteciton against forced evictions based upon effective participation, consultation, and negotiation with affected persons or groups"*. It further recommends *"that all governments provide immediate restitution, compensation, and/or land, consistent with their wishes or needs, to persons and communities which have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups."*

One of the important principles to be observed by the State and the Governmnet is that evictions should not result in inviduals being rendered homeless or vulnerable to the violation of other human rights.

We regret to say that all these rights and salient principles were wholly ignored by the High Court and the Government resulting in patent and unpardonable injustice to lakhs of people. Ordinarily, as it happens very often, it is the government that violates human rights and it is the judiciary that gives protection. In the present case, we are sad to say, that the government conveniently takes shelter under the orders of the Court absolving its liability in such large-scale violation of human rights.

The concept of landless/homeless people and the concept of "encroachment":

The concept of encroachment in so far as it relates to landless/homeless people should be understood in the light of these people having the basic human rights which guarantees them right to live with human dignity. Firstly, when we say landless/homeless peole, we would like to point out that it applies to such people who are incapable of having land or owning a home of their own. In other words, they are so poor that they there are unable to acquire land or a home. In such circumstances, it becomes the duty of the government to see that they are provided homes or plots where they can build a home. It does not mean that it should be a charity on the part of the government. It only means it is the duty of the government to see that these persons are not thrown in the Arabian sea.

Obviously, these persons cannot be accommodated on private land in as much as the owner of the private land will not permit such persons to occupy his land. It is therefore necessary that such persons can only be accommodated on public land. Initially, such homeless/landless people squat where land is available. However, if the government requires it for a public project, it is for the government to find a suitable alternative place to accommodate them. When a person occupies public land because he is landless or homeless, he cannot be described as an *encroacher*. Even if he is allowed to remain on public land since he cannot occupy private land, such persons will have the right to shelter and if the government fails to provide with such accommodation, the government fails in its duty.

The cut off date of January 1, 1995:

We have gone through the order of High Court and the order proceeds on the assumption that those persons whose names are in the electoral rolls prior to 1st January, 1995 will be entitled to alternate accommodation. Those whose names are not in the rolls or those who have come after 1st January, 1995 into the city will have no right to accommodation or right to alternative accomodation. It only means that the right to reside in any part of the country as provided in the Article 19 of the Constitution of India will not be applicable to persons who have come to the city after 1st January 1995. This also means that the government can fix any arbitrary date and say that those persons after the cut off date will have no right to live in the city. Further, it enforces a class division in society without any justification or object of such division. The aim of the BEAG petition is to reduce the pressure of population on the city's land and services. However, this pressure will go on increasing as the rich continue to annex more and more land for development of their housing complexes. This acquisition is legal because it is paid for. However, government policy eliminates the poor man who comes to the city after 1st January 1995.

THE IMPACT OF THE DEMOLITIONS

There was a hiatus during 1998 and part of 1999, even as the environmental group BEAG kept pressing the court for action against the slums. The state government pleaded helplessness in rehabilitating the pre-January 1995 slum families claiming it could not locate appropriate alternative land. Finally, in August 1999, the state government submitted to the High Court that it had located rehabilitation land in the talukas of Kalyan and Ambarnath of about 125 hectares, and that it would suffice for all the eligible National Park slum-dwellers numbering around 33,000 families. The state government however bowled a googly by insisting that the slum dwellers also contribute to their own rehabilitation by paying Rs 10,000 per family as a precondition to the allotment of the rehabilitation plots. This was accepted by the High Court, but the court reduced the 'rehab fees' to Rs 7,000. In its detailed order of July 1999, the court also laid down a detailed rehab programme wherein slumdwellers were required to pay the rehab fees in four installments starting from October 1999 with the final installment being paid in February 2000 at the time of taking possession of the alternative plots. The court also accepted the state government's undertaking that the alternative sites in Kalyan and Ambernath would be ready by February 2000.

This scheme was derisively rejected by the slum-dwellers. For the first time, the government was enforcing a 'rehab fees' and most slumdwellers were outraged by what they considered a double imposition – forced relocation as well as a monetary penalty for being forced to relocate! Those who went to investigate the areas earmarked for rehabilitation were also appalled by the fact that it was nearly 60 kms from their existing locations and 15-20 kms from the nearest railhead. They also said the rural land was not even worth what they were paying as 'rehab fees' and questioned why they should not buy better land at closer locations. Also, a large number could not afford the fees or simply believed that in fact despite all these court orders they would never be evicted in the near future. Politicians of both Congress and the BJP-Shiv Sena persuasion also helped spread that false hope.

The result of this scenario was that by February 2000 hardly 450 eligible slum-dwellers had paid their rehab fees. This also gave a convenient excuse to the government

from shirking the development at Kalyan and Ambarnath sites on the plea that there was no point in spending valuable resources since the people were not interested in shifting to these areas. Some groups like Nivara Hakk Suraksha Samiti working among the slum-dwellers felt the institution of the rehab fees was a deliberate ploy by the state government to exclude as many as possible from the rehabilitation agenda. In monetary terms, it did not make sense, as even if all the families paid the money, the government would collet only Rs 21 crores. This is against the budgeted rehabiltation expenditure of around Rs 125 crore for the developing the Kalyan and Ambernath sites. Strangely, the cue was adopted by the Bombay High Court too, which subsequently linked its eviction orders to the payment of these rehab fees.

The fate of the slum-dwellers was sealed when the matter came to be heard by the Bombay High Court bench of Chief Justice B N Singh and N J Pandya in March this year. Through two orders dated March 2 and March 13, the court deprecated that the slum-dwellers had not paid their rehab fees. As a last opportunity it extended the date from March 13 to March 21 to pay the amount, but laid down in no uncertain terms that those who did not pay by that date would be evicted forthwith with no rights to rehabilitation even if they had were part of the eligible 33,000, pre-1995 families. The March 13 order also laid down detailed directions on the eviction process, including sanction for a police battalion for the forest department, additional recruitment of forces and directions to provide funds for construction of a wall. For good measure, since the court viewed the government's intentions with suspicion, it proposed that a retired major or colonel be recruited to supervise the demolition process. In a strange twist to the issue, the court also ordered an investigation and contempt proceedings into the Nivara Hakk Samiti"s office-bearer and practicing architect P K Das for daring to convene a meeting to discuss possibilities for rehabilitating the slum families on the periphery of the National Park.

Around 5,000 families took advantage of this extension and paid the initial Rs 5,000 as fixed by the court. For most of the families, it had not sunk in that the court had linked their future to the payment of the rehab fees. Some simply did not have the money.

The counters closed on March 21, and the month of April saw one of the largest demolition and eviction process urban India has ever seen.

Bulldozers and eviction for Mumbai's slumdwellers

Initially there was some resistance. On April 23, a large rally of slumdwellers convened by the Nivara Hakk Suraksha Samiti, and addressed by among other former Prime Minister V P Singh and Shabana Azmi, resolved to oppose the wholesale demolition ordered by the courts. On Tuesday, April 25, as the bulldozers began their operations, Mr V P Singh lead thousands of slum-dwellers to squat in front of the numerous earthmovers and JCBs that were being used to mow down the peoples houses in the Malad division. The resistance stopped the demolition operations on Tuesday, April 25 till the evening, but once V P Singh and other leaders left the scene, the bulldozing operations were started once again. There was heavy resistance on the following day April 26 too with spontaneous stone-throwing as well as some organised resistance from the Shiv Sena MLA Gajanand Kirtikar and units of the Nivara Hakk Suraksha Samiti. This lead to lathi charge and arrests.

The police arrested over 40 activists including Gajanand Kirtikar and Gurbir Singh. The BEAG raised the issue in the Bombay High Court on April26, claiming that the police was not providing sufficient protection and that the demolition drive was being obstructed. The High Court in its wisdom ordered additional police force to be deployed and banned the assembly and holding of rallies within a one kilometer radius around the Park. Thereafter, the resistance cracked.

By the first week of June, the deputy conservator of forests, Shri A R Bharti, was proudly declaring that around 49,000 structures had been demolished and cleared. The drive, supported by the orders of the Bombay High Court, continued with brutal precision with around a 1,000 homes being smashed under the treads of bulldozers everyday in what has become the largest eviction operation Independent India has ever seen. The first

phase of the demolition drive from April 20 to June 14 saw around four schools catering to over 20,000 children being removed, and at least two persons dead - one Sasikala Gupta who was killed when a bulldozer hit her in Savitribai Phule Nagar slum; and Manilal Rathod of Ambedkar Nagar slums who seems to have died from heart seizure. The initial resistance - people squatting in front of excavators and bulldozers and some stone-throwing - was brutally crushed by huge contingents of police with cane charges, tear gas and massive arrests.

On June 7, the police and forest department turned their attention to the eastern side of the park at Mulund. Shankar Tekdi, Hanuman Pada and several other slums were demolished in the teeth of opposition. Police entered the houses of those who resisted and dragged them out beating them all the way. Women too were not spared. The record shows that Kasturi, Nanda, Mangal, Jumrah and Chandrakala are some of the women who have lodged complaints of being beaten up. Dudhiran Jogdand, Shesh Rao and Mangal Borde were dragged to the Mulund Police station and faced continous police beating till 6.00 in the evening.

From the depositions of the people, it is also apparent that in the post demolition phase, the forest officials had set up gangs of casual workers who have been assigned the task to drive the people out and burn and destroy the people's belongings. That the construction material and some belongings were burnt by the forest squads was admitted by deputy conservator of forests, A R Bharti, who deposed before us on August 22, 2000. Following each day of demolitions, the residents said the sky would be filled with a haze of smoke as building material and the belongings of people would be thrown into the pyres dotting the national park hillsides. It seems the demolition sites became a haven for *'Kabadiwallas'* who flocked to pick up goods and building material cheap. The burning of the peoples belongings and construction material is an illegal act, and cannot be supported by any provision of law. The Forest Department also maintained no record of the material and belongings that they confiscated as required under law. Some of it was sold on the spot to these 'Kabadiwallas'

In their enthusiasm to ensure that people did not return to the old sites to take refuge, the gangs of casual workers were ordered to hound and beat the people after the demolition drive was over. For example, the depositions by NHSS and Khairunisa Mohd of Azad Nagar slum shows that on June 5, Environmental Day, when the people of Azad Nagar at Kurar Village, Malad (East) had gone in a protest march to the Tehshildar's office. A large posse of casual workers entered the Azad Nagar slum area, near Kurar Village in Malad division, and beat up and looted the belongings of all those who were still squatting on the land. Amena Begum Ansari, 50, Ram Das Gupta (50), Ramguti Prasad (35), Shaheeda Begum Mohd. Isa (60), Zahira Wahid Khan (28), Loisa Menezes (60) and Mohd. Akbar Ansari (45) said they had been beaten up and their belongings looted.

Second phase of demolitions and clearing operations after June 14:

The wide-scale of demolitions and brutality created a fear and terror in the minds of slum-dwellers. It seems that a widespread opinion was created that if they paid the 'rehab fees' of Rs 7,000 they would somehow be saved from the wrath of the state machinery. However, attempts by groups of slum-dwellers to pay the 'rehab' fees were repeatedly turned down by the government and the courts and the demolitions continued unabated. A petition moved by the NHSS in the Supreme Court praying for more time to be given to pay the 'rehab fees' and stay on demolition was thrown out by the Supreme Court in May. Government officials openly exulted since now the only task before them was the resettlement of just 5,000 odd families who managed to pay the rehab fees of Rs 5,000 before the court deadline expired on March 22. Even for these 5,000 families who paid this fee and whose houses were not demolished, no alternative was offered.

Finally, when the High Court reviewed the demolition work on June 14, the government under pressure from a large number of slum-dweller representations, moved an application pleading for suspension of demolition operations during the period of the monsoons. The government said it had adopted a policy measure suspending slum demolitions till September 30, and the same concession should be extended to the

national park slums. This was accepted by the court, which ordered that an additional two weeks time should be given for the payment of Rs 7,000 'rehab fees'. The condition attached was that those who were paying at this stage would have no protection against demolition; nor could they rebuild their houses in case they had been demolished.

It was in terms of this order, that the Forest Department continued to evict and hound the slum-dwellers even after having demolished their houses earlier. One of the most brutal eviction and police action was carried out at Bhimnagar slums on July23 and 24 at Damopada, in Kandivili division, which had been demolished earlier in April and May. The record shows that at least two persons died and scores injured in this round of clearing and demolition operations. The deposition of Mahadevi Sidappa Konhale revealed that Chandappa Siddappa Konhale, aged 35, succumbed to his injuries on July 25 in the Bhagwati Hospital, Borivali. These injuries on the head and other parts of his body were sustained through lathi blows and physical beatings by the police during demolition operations in the Bhimnagar basti on July 23, 2000. Her deposition is corroborated by several other local residents of Bhim Nagar and Hanuman Nagar.

Another victim of the demolition has been Asha Sunil Pandey, who died on July 22 after she had a stroke during the demolitions on Saturday, July 22 in Bhimnagar slums. She was rushed to the Bhagwati Hospital but could not be saved. She leaves behind three small children – Darshana, Ranjit and Ravi – with only her 75-year old mother Kesharambai Makram to fend for them.

Bhimnagar is a large basti of over 5,000 households claimed by the forest department to be on the land of the Sanjay Gandhi National Park. It borders the Otis Company and the Mahindra and Mahindra factory. The old slum is supposedly protected by the 1995 policy of the Maharashtra Government. The state government has also passed an order – vide a notification of the Housing Department dated June 5, 2000 signed by Deputy Secretary R D Salvi – staying demolitions till September 30, 2000. But the forest department, armed with a High Court order, claims that a majority of the people had not paid the 'rehab' fees of Rs 7,000 and were thus not eligible for

protection. The slum was demolished in the months of April and May this year, after which a majority of the people paid the Rs 7,000 fixed by the High Court. However, no alternative rehab sites have been given to the people as yet, and most Bhimnagar families were forced to eke out a living at the old demolished sites.

It is in this background that the forest department officials, accompanied by a company of policemen of the Samata Nagar Police Station came for a second round of demolitions on Saturday, July 22 at around noon. Pleadings by the people that the government itself had passed an order stating that demolitions would be suspended during the monsoon fell on deaf ears. Thereafter there was stiff resistance to the demolition operation. The police fired two rounds in the air and tear gas was freely used. In retaliation, several local boys used the rubble on the site to throw missiles at the police. Ultimately, the police and the forest department officials together with the demolition labour beat a retreat without being able to conduct much demolition. It was in this melee and chaos that Asha Pandey had a stroke and died, residents reported.

Almost acting in revenge, the police and forest department wrecked havoc on the residents of the basti the next day – Sunday, July 23. The local police reinforced by a battalion of the SRP first surrounded the basti at about 11.00 am. In order not to alert the people they left their vehicles near the highway and entered the area through the compound of the neighbouring Mahindra & Mahindra company. After cordoning off the slum, the forest department officials entered the basti demolishing existing houses and beating all those they could lay their hands on. The brutality of the police was unprecedented. Old women, small children and even pleading women were not spared the lathi blows. Simultaneously, the demolition workers along with two bulldozers pushed the peoples household goods and building material into neat mounds and set them on fire so that they could not build again. The burning and beating operation continued till 6.00 pm in the evening. Around 45 people were arrested including the local corporator Ms Bharti Pandagale. Atleast a dozen people suffered broken limbs and were admitted in serious condtion to the local municipal hospital at Borivali. Many were turned away despite serious injuries, residents complained.

Some case studies. Namdeo Laxman Bhogte, aged 45, and a casual construction worker, had paid his rehab fees vide receipt No 0034131 on 22-03-2000, and hence his house was not demolished. Yet the police surrounded his house suspecting some people were hiding inside and banged the door demanding it be opened. When Bhogte opened the door, over a dozen policemen entered the house, surrounded him and thrashed him mercilessly with lathis till he fainted. His wife Urmilla was also beaten when she tried to plead to stop the lathi blows. A young boy of the neighbouring Khanna family – Anil Kumar Khanna – tried to give water to the fainted Bhogte, and was also given a thrashing for his pains. His little sister Rinki, who was hiding inside the house, was flung outside by the policemen. As evidence, Bhogte has showed the buckle of one of the policeman which had dropped inside his house during the beating operations. The buckle read: 'Constable Vikas Sawant – No.32085 – Mumbai Police'.

Mrs Kamala Khanna, age 35 years, a neighbour of Namdeo Bhogte. She and her husband Ram Kumar Khanna hail from Rohtak, in Haryana, and her husband ekes out a living by working as a bootpolish hand on Borivali Station. When interviewed soon after the demolition drive by IPHRC volunteers, Mrs Khanna was lying in a cot and could not get up because of serious injuries on her arm, back and hands sustained from police beating. One of her fingers was swollen and seemed to be fractured. She said the Bhagwati Hospital at Borivali refused to admit her and gave her a couple of painkillers and told her to go. She said there were no women police and she was surrounded by 10-12 SRP jawans and beaten black and blue without reason.

We were shown a small girl child of one-and-a-half years age – Asik – who was brought by her father Omprakash Pandey. The small Asik had a fresh head injury and was crying uncontrollably. The father said his other daughter Urmilla, age 13 years, was trying to flee with the little child when a lathi blow struck little Asik. Bulbai Yede, an old lady of 75, was beaten despite pleading on her knees for mercy, while a 85 year old infirm man – Tukaram Magde – who could barely speak indicated with gestures that he was dragged, kicked on the groin and fisticuffed when he refused to leave his house.

Anusaya Sukhram Ransipi, aged 55, said on July 23 she was beaten, thrown out of the house, and ironically her own stock of kerosene was used to burn her house down! Incidentally, Anusaya and her neighbours say they live in a private plot belonging to the Gorakshak Mandal which does not belong to the Sanjay Gandhi National Park.

Gangubai Arjun Patekar showed us the empty teargas cannister which landed inside her house and burnt part of her belongings. She along with all her children are still suffering from the after-effects of concentrated inhalation of tear gas. The team also met Masah Sitaram Shirsat, aged 26, with several head injuries who was beaten within inches of death. He in fact fainted and many people in the basti assumed he had died. Abdul Razak and his 13 year-old daughter Asha were beaten inside their house. They were having their lunch and the food was scattered. One Sitaram Punaji Mahdev, a municipal worker in the maintenance department at the BMC's 'B' ward, showed the team his identity card. "Even this did not work with the police who rained blows on me," he said in his deposition.

Our first hand observations of the clearing operation on August 5:

The site on which Bhimnagar once existed is today a hillside of smoking rubble. People crouch under makeshift plastic tents and can be seen trying to scavenge whatever they can of their belongings from amidst the ruins of what was once their homes. We visited the area to record peoples depositions on Saturday, August 5. While we were conducting the hearing in the Buddha Mandir, at about 12 noon a demolition squad made its appearance along with one large earth mover and a couple of bulldozers. They moved into what remained of the Bhim Nagar slums. In front of our very eyes, casual workers carrying cans of kerosene set fire to the broken homes and few personal objects of the slum dwellers. Many of the slum dwellers pleaded that they were taking temporary refuge since their houses had already been demolished, and they had nowhere to go. These pleas fell on deaf ears. We were so moved by the plight of the people that we stopped our hearing and climbed up the hill.

We asked the assistant conservator of forests, Mr R P Pakade, who was heading the demolition operations, why the bulldozing and burning of the peoples houses and belongings was going on? We asked him why the belongings were not physically taken away and later returned to the people? Instead Mr Pakade told us we were not allowed to bring a morcha to the National Park, and continued the burning operations. We felt totally helpless, and to register our protest, our brother judge Rajinder Sacher took some water and doused one such fire which was blazing all over the hillside.

"It was like a war of attrition by the government against its own people. Even the British were not so cruel," one resident told us.

Deaths as a direct or indirect consequence of the demolitions

The abject negligence and brutality of the demolition squads of the Forest Department was exemplified when they bulldozed the hutment in which Swaminath and Shashikala Gupta were staying as tenants in the slum colony Savitribai Phule Nagar, at Appapada, Malad (East). On April 26, 2000 while Swaminath was away at work, the demolition squad began razing hutments. Even as Sasikala Gupta desperately put her belongings together to salvage what she could, the bulldozers teeth hit her inside her house. She also sustained injuries with the debris falling on her. Sashikala was rushed to a doctor and later to S K Patil Hospital in Malad with multiple injuries, but the doctors in the hospital advised she should be moved to the larger KEM Hospital at Parel. However, she succumbed to her injuries on April 29. Here we see an instance of the total disregard of the demolition squads, supervised by the Deputy Conservator of Forests A R Bharti, who went about mowing down the hutments without regard for life or property. In this case, they had not even bothered to check whether the hutments were cleared of their inhabitants before felling them.

In a notarised affidavit filed by Mr Swaminath Gupta before the Collector (Mumbai – Suburban), Mr C S Sangeetrao, on September 29, Mr Gupta has said that he worked in an industrial unit manufacturing socks. He said he had gone to work on April

26, but during his absence at about 12 noon on that day his house was demolished and his wife Shashikala was hit by a bulldozer while she was collecting her belongings inside the hut. Gupta said that his wife was covered with blood and took shelter in his sister's house nearby. Since he came only at 10pm, he could only take her to the doctor the next day. She had multiple injuries on the back and was subsequently admitted to S K Hospital and later shifted to KEM Hospital on April 28 at 5.30 pm. She died on April 29 at 3.00pm and was cremated the next day.

The post-mortem report showed conducted by KEM Hospital said: "The deceased was admitted unconscious following head injuries due to fall of bamboo sticks." The report admitted congestion in brain and haemerroage in the brain stem too. On the spinal cord, the report said there was "Linear fracture seen at C6-C7 level with contusion and compression of cord." The probable cause of death was given as: **"Traumatic fracture of spine at C6- C7 level with cord compression associated with brain stem haemorrage."**

The post-mortem report is a clear indictment that the demolition squad were directly responsible for Shashikala's death. The total callousness of the demolition authorities was exhibited by the fact that even after Shashikala lay in a helpless state, they did not bother to lend a hand to carry her to the hospital. That task was performed by the husband when he cam home at 10pm that day. Neither was any FIR filed by the Dhindoshi Police, who were on the site assisting the demolitions, against the forest officials responsible for the negligence. Shashikala's death has become a medico-legal issue only after the KEM Hospital recorded the damning post-mortem report.

In another case in Damu Nagar, at Kandivili East, Chandrakant Siddappa Konale, was brutally assaulted on July 23, 2000 by policemen accompanying the demolition squad after they broke open the door of his house in Patel Chawl. Chandrakant Konale was subsequently admitted to Bhagvati Hospital in Borivali, and he succumbed to his injuries on July 25. Chandrakant was working in a marriage hall and was the only breadwinner of the family.

In the affidavit filed by Mrs Mahadevi Siddappa Konale, the mother of Chandrakant, before the Collector – Suburban C S Sangeetrao on September 29, a copy which is provided to us, it is stated that Chandrakant was 22 years old, recently married and the eldest among four children. The Konale family had paid the 'rehab' fees of Rs 7,000 and hence their house in Patel Chawl in Damu Nagar, was not slated for demolition. Mrs Konale further said that during the demolition operations in Damu Nagar, the police entered the chawl and began beating the neighbour Saiba, and in a state of fright, the entire Konale family locked themselves up in their room. However, the policemen broke open the door and beat Chandrakant and her other son Malesh with lathi blows. Chandrakant was fisted and kicked in the stomach too. Chandrakant lay in pain the whole day on July 25, but when it became unbearable, Mrs Konale's other son Suresh, carried Chandrakant to the Bhagwati Hospital on July 25 at 10 am. However, by 4.00 pm the same day Chandrakant had been declared dead.

Mrs Mahadevi Konale has said in her affidavit that her son died due to the excessive beating of the police and that the latter tried to cover their tracks ensuring no post-mortem was carried out. On the date of first hearing by the Collector – Suburban on August -__, 2000 the Nivara Hakk Suraksha Samiti (NHSS) office-bearers who were present complained that the police could not produce the post-mortem report when pressed for by the Collector. However, they produced a station diary which recoded that Chandrakant Konhale had died of 'excessive consumption of alcohol'. Mr Sangeetrao then asked the officers to produce the post-mortem report. On the second date of hearing at the Collector's office on September 30, Mrs Konhale appeared personally and while filing her affidavit stated that despite several requests from her side the Bhagwati Hospital had refused to furnish her a copy of the affidavit. While it is evident that the police is trying to cover its tracks, the evidence on record points to Chandrakant having been killed due to excessive beating on the stomach and head by the police.

Another fatality in the same area of Damu Nagar and on the same day of July 23 was that of a 30-year old lady Asha Sunil Pandey, who suffered from a stroke during the

demolition and police action on the hutment colonies on that day. The police statement before the Collector has claimed that Asha Pandey suffered a fatal heart attack and there was no relation to the demolition operations. However, statements of neighbours and by Asha Pandey's mother Kesarbai Rambhau Makrand reveal that Asha Pandey fell unconscious and suffered a stroke during the peak of the demolition operations during which lathi assaults and tear-gassing of the basti was being conducted.

According to the affidavit of Mrs Kesarbai Rambhau Makrand, dated September 28, 2000 filed on September 29, 2000 before the Collector, Mr C S Sangeetrao, (a copy which is furnished to us) Asha Pandey and her husband Sunil Bhagwan Pandey were residing in the Samarth Chawl, Damu Nagar, Kandivili since 30 years along with Mrs Makrand. The couple had three children between 6 and 15 years of age. Their houses had been demolished in the May 2000 drive, but since they had nowhere to go they continued to reside under make-shift plastic sheets on the same site. Mrs Makrand further deposed that on July 23rd, 2000 the demolitions quads along with heavy police bundobust reappeared and again began demolition operations, There were protests of the people as many of them had paid the 'rehab' fees of Rs 7,000 by then. This was met by policemen going on the rampage with lathi-charge and bursting of teargas shells. Mrs Makrand said they set many structures on fire and assaulted people. Her own structure too was set on fire and most of her belongings were destroyed.

In her affidavit, Mrs Makrand has said her daughter Asha fell unconscious after tear-gas fumes enveloped the area. However, police prevented her from rushing the injured daughter to hospital. She finally carried her at in an auto-rickshaw at 5.30 pm to Saibaba hospital at Kandivili but Asha Pandey was declared dead before admission. Her Post-Mortem was conducted at Cooper Hospital at Andheri West. However, despite two written applications, Mrs Makrand has not been supplied a copy of the Post-Mortem report till September 30, she has alleged.

The brutality and the havoc wrought by the demolitions created such an uproar, that even the state government was forced to take note of it. On August 7, when the chief

minister Vilasrao Deshmukh was informed of the widespread burnings and destruction of peoples properties and the numerous deaths by a delegation lead by Mr V P Singh, he ordered an enquiry against A R Bharti, deputy conservator of forests, who was directly supervising the demolition operations. The inquiry is currently being conducted by Mr C S Sangeetrao, Collector-Mumbai Suburban.

Ill-defined boundaries:

From the evidence before it is clear that the Forest Department did not take adequate care to define clearly the boundaries of the National Park. There is also sufficient evidence to show that some of the demolitions have been without jurisdiction and of houses which are outside the boundaries of the Park. The state government's revenue department has not also conducted joint survey to ensure that the Forest Department's boundary claims are correct. The Bombay High Court too has not taken sufficient care to ensure that slums outside the park are not demolished. For instance, in a letter dt. June 22, 2000, addressed to Mr Satish Tripathi, Secretary-Forests, Government of Maharashtra, former Prime Minister V P Singh pointed out that the forest officials had demolished the houses of Shrimati Sajrabai Pagare and 11 other persons living in Suryodaya Vikas Chawl, Kandivili East, on the border of the National Park. Earlier, when the residents had written to the Forest Department, inquiring about the location of their houses, in a letter (Sr No 1548 dt.13-08-1998) addressed to Shrimati Pagare and 11 others of Suryodaya Vikas Chawl, Shri A R Bharti, deputy conservator of forests, had stated that that the chawl and their residences fall outside the boundaries of the park. A copy of Mr Bharti's letter has been produced before us. The houses of these persons have not been restored despite their representations.

As the litigation on the National Park issues unfolded, the Bombay High Court was forced to recognise that the boundaries were a contentious issue and some stay orders were obtained. For instance, in the case of Carvalho Nagar slums, in the eastern Thane side of the Park, some 300 huts were demolished in the initial demolition drive in April. However, evidence produced by residents of Carvalho Nagar in a writ petition made out a *prima facie* case that they were outside the Park, and demolitions have been stayed so far.

Similarly, demolitions in Ketkipada in Borivali and Janu Pada in Kandivili – both very old slum colonies on the border of the National Park – have been stayed by the Bombay High Court as there is confusion about the exact location of the boundaries of the park. The absence of physical markings on the ground has compounded the confusion and the High Court accepting the Forest Department's interpretations without ground surveys have elevated the forest officials to the status of both judge and executioners. Two other writ petitions – one by the residents of Hanum pada in Mulund, and the other by Jambrosi nagar residents of Malad division – have been admitted pending final hearing but no stay orders have been issued.

The state government finally recognised that there was a major problem regarding the boundaries of the Park, and orders were issued to the revenue department to conduct a joint survey with the forest department in respect of Survey No 42 A in Kandivili East division, and Survey No 239(1) in the Malad division. The survey is currently in progress. Survey No 42A in Kandivili covers Bhim Nagar and Damupada, while Survey No239(1) covers Ambedkarnagar area, both of which have been reduced to rubble by demolition squads. It is ironical that the government should choose to begin boundary measurements *after* the demolitions have already been carried out. The government could have easily pointed out the confusion to the court and pleaded for more time to carry out the joint surveys. Will the government rebuild the houses and award compensation to those people whose houses are found to be outside the park after the completion of the survey?

Baba ashrams and dargas in the Park:

It has come to notice from the depositions of the residents and several journalists that several hundred acres of forest land has been grabbed by land sharks and ashrams and babas posing to be godmen. These dargas and ashrams are situated in both Goregaon and Borivali side of the Park. In Matangarh, one Deepak Baba has built a dargah only last year in full view of the forest officials covering over four acres of the hillside. On Fridays, hundreds of devotees are known to flock to this ashram. Similarly, the Vageshwari Mandir and Dutt Mandir ashrams covering several acres continue to thrive

even today and have never faced any demolitions. On the Borivali side of the park, several babas and ashrams are prospering in the Kanheri caves area, and are said to be patronised by the local BJP MLA. Reports by journalists indicate that many of these godmen have air-conditioned apartments and mobile phones at their disposal. No notices of eviction or any demolition operations have been conducted against these ashrams. Nor has this issue been pressed in court by the BEAG.

The Question of Rehabilitation:

The order of July 1999 proceeds to outline steps for the rehabilitation of the eligible slum dwellers outside the city. It requires an initial contribution of Rs. 7000/- by the slum dwellers to be eligible for the alternate place. The alternative areas are in far away places like Ambernath and Kalyan. This has been found to be not acceptable both by the slum dwellers and the local inhabitants at Kalyan. We visited some of the proposed alternative sites at Khoni and Shirdon villages, in Kalyan taluka, on August 30 (See annexture). The local tehshildar and other government officials showed us a hillock on which some levelling work had been carried out. They also said the PWD Department had recently carried out some work for 8 to 10 days and then it was suspended because of the resistance of the local people. The tehshildar also said that the PWD Department had pleaded it had no funds and could not continue the work unless the state government sanctioned additional funds. The local residents of Khoni village, located close to the rehabilitation site, also made it clear that they were opposed to the rehabilitation of slum dwellers at these sites as they are the common grazing grounds of the village. They were also concerned about the change in the demography of the local population, as well as the negative social and cultural impact the movement of such large numbers would have on the area.

As far as we could see, there was no serious rehabilitation work taking place in these sites. This is a violation of the Bombay High Court order of May 7, 1997 which laid out that the rehabilitation process of the eligible slum dwellers should be completed before beginning the demolition operations. Further, rehabilitation does not mean providing displaced people with 15'-by-10' plots as envisaged in the High Court order.

Rehabilitation must mean the creation of an alternative *home*, ie. as it existed before the demolition took place and with all the necessary civic amenities and infrastructure. We have observed the displacement of a large number of people on account of developmental projects, including the eviction during the construction of the Sardar Sarovar Dam on the Narmada River. In all these cases people have just been dumped on small patches of land and left to fend for themselves. This is not rehabilitation.

RECOMMENDATIONS:

1. We recommend that as a first step all demolitions should be stopped forthwith, especially since no alternative accomodation has been yet provided to those whose houses have been so far demolished.
2. All rehabilitation must be done with the consent of the slum dwellers. For the immediate, transit accomodation with all civic amenities and infrastructure be provided to those whose houses have been demolished till the final relocation sites are developed.
3. The government reconsider granting rehabilitation sites on the periphery of the Park along wasted quarries and non-forested lands, and compensate the loss of National Park land by adding a similar acreage to the north of the Park from the Vasai Division forest land. This proposal can be pressed with the environment ministry and the Bombay High Court as well.
4. The Court should reconsider its orders in light of the fact that when the orders were passed the slum dwellers were not a party of the said order and that the order affects the lives of nearly 4.5 lakh people.
5. We urge upon the government to include the rights of slum dwellers as a part of the Right to Shelter as mandated in Article 21 of the Constitution of India and also in international law.
6. The forest and police officials who have transgressed their powers and have carried out burning and other illegal operations should be meted out exemplary punishment. Those responsible for the deaths of Shashikala Gupta and three others should be identified, dismissed from service and prosecuted. The government should award adequate compensation to their families.

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Chief Justice R. Sachar (Retd) | Justice H Suresh (Retd) | Justice S M Daud (Retd)

Mumbai,
Dated: October 30, 2000

ANNEXTURE

Depositions of some select witnesses before the Tribunal

I. Recording of depositions at Kandivili (East) on August 5, 2000

Witness No 1: Vilas Asaram Rohimal.
Tailor by profession.
Resident of Bhimnagar, Kandivli (E).

"My parents and their family came to Bhimnagar in 1977. We are natives of Village Pimpalgaon, Dist. Jalna. Having no source of livelihood there in the village we migrated to Mumbai. Our district is drought prone and scarcity of foodgrains and employment is a recurring phenomenon. Quite a number of people from Jalna district were already residing here and we built our structures here as had been built by several others.

Initially we put up a hut of bamboos, mud and chatai. All of us were engaged in tailoring and after having acquired a little bit of money we started improving our dwellings. It was in 1986 that my structure was made permanent with 2 storeys. Later because of the increase in the number of family members I separated from my parents. I constructed a structure for running a tailoring establishment and along with it a residence. The residence portion was admeasuring 10x12 ft. and the shop area was 7x16 ft. The shop could take in 3 sewing machines. Under a slum improvement scheme Bhimnagar was declared a recognized slum. The structure within the colony number around 1803.

With this declaration the slum received certain facilities like electricity, water, toilets (between 10 and 15) and internal roads covering the entire area. In 1990, the collector invited applications for the issue of Photo Passes. Applications were made by practically everyone. For getting these Photo passes a certain amount of money was to be paid. The residents were not properly guided as to the amount of money to be paid and the instalments for the said payments. I still have not been able to figure out the total amount to be paid by me. The amount to be paid was based upon the area of the site in occupation and the number of years when the site had been under one's occupation.

I am told only 3-4 person had paid the necessary amount for regularisation. The matter was not taken up further and the implementation of the scheme was given up. As the colony expanded, more huts came up and practically 2,500 people applied for and secured electric connections. These who had applied for electric connections also obtained water connections. The residents took quite a number of steps collectively. Lavatories were repaired. And water connections, which had undergone wear and tear, were replaced. About 18 months ago the entire area was cobbled with funds made available to individual corporators. The concerned Corporator was Bharti Pandagale. The MLA who also was a minister Gajanand Kirtikar had some 6 lavatories constructed from out of his MLA funds. This happened between 1990 and 1993.

In 1997, the officers from the Forest dept. launched a demolition drive. From enquiries made by us we learnt that this was not part of the forest area. Some organisations of public minded citizens approached the high Court on our behalf. The Courts gave a decision that those who had come to the colony prior to 1995 were entitled to rehabilitation subject of course they were going to pay up the prescribed charges. This decision was given 3 years ago. Approval

marks were placed on structures belonging to adivasis. No such protection marks were placed on our habitations in Bhimnagar.

We learnt from outside sources and the newspapers that payments had to be made to the Forest dept. Some of us went with the money to the dept. officers. They asked us if our structures had been assessed. When we replied in the negative they assumed that our houses were on forestland. And for this reason they said we did not come under the scheme.

In May 2000, between 12th and 25th May demolitions began. Out of 1,803 structures only 400 remained. These 400 are still in existence. The Forest dept. officials said that these 1403 houses fall within the forest area and hence had to be demolished while the remaining 400 houses being part of a private Panjarapole was not to be touched by them. Presently a ding dong battle has been going on between those evicted and the forest officials. Our womenfolk along with the others were beaten up. Some of our people have been beaten up so badly that they have lost the use of their limbs. 2 persons died due to the demolitions. Asha Pandey is one of them who has left behind 3 children. The other victim was a young boy named Chandu Siddappa Konnare. Even children had not been spared. And a large number of people suffered fractures. Our contention is if we had unlawfully occupied forestland, why did the Forest dept. keep silent for such a long time? Again if it was forestland then how could roads have been constructed and how was electricity provided? Our demand is that the demolished hutment is restored and the concerned sites are handed over to us.

The entire land was of private ownership and the forest dept. had no authority to carry out demolitions, I am making these statements on behalf of the residents of Bhimnagar.

Witness No 2: Mahadevi Siddappa Konhale (Age 50 yrs.)
Manual labourer by profession.
Resident of Bhimnagar.

"My husband died 3 years ago and I was living in a hut at Bhimnagar with my 4 sons. One of my sons, Chandrakant, died in the demolitions that happened some 14 days ago. The demolition squad came on one Sunday and the time was noon. Four policemen trespassed into my hut and 4 other stood outside. They rushed into our homes with sticks in their hands. They broke the door of my house and with their sticks they struck my sons on the head and different parts of the body. Chandu who was first beaten up was my eldest son. Later the police locked up my second son. Chandu went to get my second son released from the lock up. I told my children on seeing their wounds that they should go to a doctor or a hospital and get medication. A private doctor who was treating them said that an X-ray was necessary. Suresh came back saying that Chandu was hospitalised at the Bhagwati hospital. I took a loan of Rs.500/- from my neighbour and went to the hospital. But before I could leave my colony Suresh came running back to me with the news that Chandu had passed away. The neighbours went and brought the corpse.
Chandu was a victim of police brutality.

We have been residing here since the last 25 years. We came here from Village Agarkheda. Taluka Indu, District Bijapur. We had no land in the village and work was not available. To earn a livelihood we came to Mumbai. From the very beginning we stayed at Bhimnagar. Our residence consisted of 2 rooms: one used by my husband and me and the other shared by my children. My husband was working as an assistant to a mason. We had an electric connection

and also a water connection. Our hut was not demolished but my sons got beaten up. The policemen without reason entered our house although they did not have instructions to demolish my hut.

After my husband's demise the family was surviving on the earnings of Chandu and Suresh. Chandu was working as a caterer and Suresh was a manual labourer.

Witness No 3: Mrs.Kesarbai Rambhau Makran. (Age 45 yrs.)
Resident of Bhimnagar,
Kandivli.

"I am a native of village Govardhan in Taluka Manjalgaon, District Beed. I came here to Bhimnagar in 1984 along with my family. We came here to earn a living, as sustenance was difficult in our village due to absence of industries and lack of property and land. Our huts, which were demolished with the help of bulldozers, were made of mud and bamboos. We had spent around Rs.70, 000/- over the construction. 12 days ago my structure was demolished. Today I am homeless. The demolition squad set the household articles and other belongings on fire. They said they wanted to teach us a lesson. We were in Bhimnagar and not on forestland. My husband expired in 1984. My son and me both work and fend for us. We are all manual labourers and we earn measly wages.

The deceased Asha Pandey was my daughter. She had gone to pick up our belongings after the demolitions. She was gassed by the demolition squad and eventually succumbed. Asha was around 30 years of age.

Witness No 4: Mrs. Vidya Ajit Chavan (Social worker)
Resident of Vile Parle.

"I am a member of Jhopdi Bachao Parishad. The Parishad was formed to protect the rights of the hutment dwellers. Th e Chief Minister had given a promise that every squatter of the period prior to 1995 would be protected. An appeal was made to all political parties to come together and help the Govt. in locating the deserving persons.

"I came to Bhimnagar on learning that the demolitions were taking place in the area. From enquiries made by me I learnt that all the structures including a number of Pucca structures had been constructed between 1969 and 1975. The S.G.N.P. came into existence in 1981.
I spoke to the demolition squad members as to how they could carry out the demolitions in the face of the promise made by the Chief Minister. The reply was that they had orders from the High Court to demolish structures irrespective of the year of construction. From the documents scrutinized by me it was clear that Bhimnagar was not a part of the National Park area. The proof we had has been submitted in the Court.

"On 23/7/2000 I had come to Bhimnagar in res onse to a telephonic message that the demolition squad was here and that they were accompanied by a posse of policemen. I went to the spot where the bulldozers were being used. A number of fires were burning and the articles being consumed by the fire were the belongings of the hutment dwellers. The demolition squad and the police had set these belongings on fire.

"I protested to the forest officers saying that the Court orders were to demolish the structures only and not to burn the belongings of the dwellers. Tear gas had been used and one of the victims severely hurt and later died was Ms. Asha Pandey. A number of people were affected by the tear gas. But the demolition squad went ahead with their task unmindful of the injured and the protesters.

"I wanted to secure a documentary evidence of this episode so I went in the direction of a Photographer's studio. But I was intercepted in the way. I pleaded with the police not to continue with the demolitions and aggravate matters as Mumbai was already tense due to apprehensions of Mr. Bal Thackerey's imminent arrest. Instead the police arrested my companions and me. We have been booked on the charge of committing offences including rioting. Eleven women in all were arrested.

"I have worked amongst hutment dwellers for the past 15 years. These are hard working people and it is a fallacy to say that they are lawbreakers and or have an anti social character. I condemn such accusations in the strongest possible terms.

"There is no question of their breaking any laws, as they are extremely timid in nature. Theirs is a daily fight for survival, which brings them to the cities as in their districts and villages there is neither adequate land or employment opportunities. Except for a pair of hands with which they can labour, do some semi skilled or unskilled work they possess no other asset."

Witness No 5: Mrs.Vandana Sudam Randhavi (Age 40 yrs).
Resident of Bhimnagar,
Kandivli.

"We are natives of village Avalgaon, Taluka Ghansamji, Dist. Jalna. Difficult economic conditions in our village forced us to migrate. We have been residing here in Bhimnagar since the past 20 years. The hut, in which we lived cost us around Rs.60, 000/- It was our lifetime savings and all that we owned. We are manual labourers. I paid up Rs. 7, 000/- to purchase the site on which my house was built.

Inspite of all the hardship and trauma that we went through we could not save our house."

Witness No 6: Mrs. Sosarbai Shashikant Magre (Age 45 yrs)
Resident of Bhimnagar,
Kandivli.

"I came with my family to Bhimnagar 25 years ago. We hail from a village in District Jalna. It is the instinct to survive and earn a living that drew us to Mumbai.

We were given a No objection certificate by the forest dept. that we were not encroaching upon forestland. I am submitting a copy of that N.O.C. with this statement. This N.O.C was obtained to end the harassment that we were being subjected to.

Inspite of this N.O.C. issued by the forest dept. and inspite of the same being shown to the demolition squad my house was demolished. Who will get us justice?"

Witness No 7: Mr. Manek Ramaji Gordhan (Age 50 yrs)
Resident of Bhimnagar.

Kandivli.

"I had a pucca house in Bhimnagar. We were living here since 1992.The demolition took place in May 2000. The demolition squad accompanied with the State Reserve Police Force beat me up. Due to the terrible beating I sustained a fracture on my left arm. This hand has become non functional and I can't do any work with it."

Witness No 8: Mrs. Jaya Jayram (Age 50 yrs)
Resident of Bhimnagar.
Kandivli.

"We came to Bhimnagar about 20 years back. In May 2000, our hut was demolished. I was dragged out of my hut, not allowed to remove my belongings and struck with a lathi on my left leg and private parts. My husband was also struck on the head, back and chest."

Witness No 9: Damu Kondiba Parmu
Resident of Bhimnagar.
Kandivli.

"I had a *pucca* structure at Bhimnagar. I wanted to remove my belongings before the demolition was about to begin. I was not allowed to do so. And I was badly beaten up. The middle finger of my right hand has been damaged and I cannot bend my palm. Except for the clothes I couldn't save any of my other belongings. These belongings were my lifetime investments."

II. Statements recorded on August 6, 2000 at Jijamata School, Kurar Village, Malad (East)

Witness No1: Mahadev Suryavanshi. Age 41 years.
Resident of Jamrushi Nagar,
Malad (W), Kurar Village,
Mumbai - 97.

"I am a native of Udgir, District Latur. Not having any land or occupation at Udgir I came to Bombay 25 years ago. I was working as a labourer at Udgir and somehow barely able to keep alive. After I came to Mumbai I built a house here at Jamrushi Nagar. There are about 1,200 families residing in this colony. All the structures were pucca. We were getting water from the Corporation. There were some 2 or 3 Public Television sets and one community centre.

The 1st demolition took place in the year 1991. About 700 structures were demolished in that drive. After that demolition we again came back and reoccupied old sites and put up structures. The 2nd demolitions took place in 1993. A B.M.C. emplo e was killed in the aftermath of the demolition that was followed by incidents of stone throwing. The victim was crushed between 2 trucks, leading to his death. 28 persons from the colony were arrested on the charges of having allegedly committed various offences including stoning of the

Municipal employees. We were released on bail later but the case is still pending for hearing. After the demolitions were over we again returned to our old sites and rebuilt on those sites.

A particular person owns the land on which our structures stand. But the forest department maintains that the land belongs to them. And on the basis of these assertions they go on demolishing our structures. The entire land where we reside actually belongs to the F.E. Dinshaw trust. The name Jamrushi Nagar has been kept after a deity worshipped by the Matang community who originally occupied the land. The land continues to be Trust land. Till date neither the Forest department nor the Revenue dept. has taken possession of the land.

We have filed a writ petition on the basis of which an interim order was passed that we cannot be dispossessed until a proper survey is carried out. Despite this the Forest dept. goes on making efforts to dispossess us. The Forest dept. wants the land for the S.G.N.P. The S.G.N.P.is about 6-10 miles from our land. In between there are no trees or animals, which can be said to be from the S.G.N.P. The interim Order is still in force but the Forest Dept. pays no heed to it.

The demolitions that were carried out in 1991 and 1993 were undertaken jointly by the Corporation and the Forest dept. The next date of hearing is 9th August 2000 when we will be heard along with 26 other identical petitions.

Next to Jamrushi Nagar, several other slum colonies exist. These are Ambedkar Nagar, Satguru society, Sidddharth nagar, Vageshwari nagar, Siddhivinayak nagar, Prema Nagar and Trimurti nagar. These nagars have nearly 5,000 structures and these are all pucca (permanent) in nature. The Satguru society is in existence since 1974. Even the national park was not in existence then. Which means the existence of Satguru society precedes the existence of the Park. No notices were given to us before the demolitions until 8th May 2000. Satguru society was said to be not a target for demolitions. Despite this, between the 4th and the 8th of May they suddenly commenced demolitions at Satguru Nagar.

In 1985, the Forest dept. had sent us a letter saying that we were outside the forest area and we must make no attempt to encroach upon the forestland. We reside in old Survey No.163, new Survey No. 239 (Part 1) and hence not inside the forests. All the other societies mentioned above are also outside the forests. Satguru society has purchased the land from F.E. Dinshaw Trust Watchman, which had been given to him by his masters (his employers.)

Witness No2: P.B.Samant (Age 78)
Resident of Goregaon and
Office-bearer of Janata Dal

We have given a memorandum to the tribunal and the same bears the signature of Ms. Vidya Chavan Mr. Lotlikar and myself. The contents appearing in the memorandum are correct.
Ms. Vidya Chavan and Mr. Lotlikar are present and they say that they do not want to supplement whatever is set out in the representation.

In the case of the National Park Mr. P.B. Samant states that physical demarcation of the site was not effected. As a result of which the subsequent developments took place.
Annexure 'E' to our petition relates to a subsequent acquisition and is not covered by the notification mentioned in Annexure 'A'. The land mentioned in Annexure B (1) was surveyed

and demarcated by officers of the Forest dept. but not those belonging to land reforms. This deprived the people of pointing out that their land was not acquired and showing cause to the proposed acquisition. The map referred to in Annexure D is prepared by the Forest dept. The correctness of that map has not been accepted by the people and in any case Annexure A does not cover Survey No 345A. Therefore the observation of the Grievances Redressal committee that survey No. 345A is within the boundaries of the acquired area is not correct. Survey No 239/1 of Malad comprised of 1492 acres. In this annexure A. Only 848 acres has been specified to be acquired by the Forest dept. The boundaries of the acquired portion have not been set out.

The error in respect of Survey No 239/1 Malad is detailed in para 14 and 15 of our petition. In the island of Mumbai and Kurla, the land occupied by mills whether working or otherwise totals 1,200 acres. That land can be utilised for the resettlement of evictees as also for the weaker sections of the society. And in this way the evicted people can be kept within the city precincts. If this is done then their link to their source of livelihood will not be severed. Status quo will be maintained.

Witness No 3: Vishwanath Pratap Singh,
Former Prime Minister of India

"I received information from Shabana Azmi about the demolitions. I took an appointment with the Chief Minister and the deputy Chief minister and I requested him that the people should be given more time to pay the requisite Rs.7, 000/- and instruct his officials to support them. The Govt. agreed to this. When the application was move in the Courts the Govt. kept quiet. The entitlement cannot be disputed. Even during monsoons the demolitions went on. The Chief Minister gave an assurance that the Grievance Redressal Bill would be converted into a law. He also said that a Committee was to be constituted for the purpose.

In response to the Public Interest litigations and the Court orders that followed 33,000 families were eligible for rehabilitation. Technically if they are unable to pay up the said amount within the stipulated time then it does not mean their right should be forfeited. On petitioning the Courts 14 days extension was granted. But the Forest dept. officials sat for collections for only 5-6 days. In the meeting with the Chief Minister it was promised that in the rains the demolitions would not take place. This promise was made in the presence of 20 other organisations. It was also agreed that a Grievances Redressal act would be formed.

The Chief Minister conceded that the Kalyan site was not suitable and that alternate accommodation would be provided. For this purpose a fresh Survey was proposed. Till such time that the ordinance was passed and something permanent was arranged the displaced people would be shifted to transit camps.

It was also promised that Photo passes would be issued to the slumdwellers everywhere. But at Sanjay Gandhi National Park the residents were evicted and no photo passes were issued. A Second Survey for those not included in the list of 33,000 families would be carried out and it was accepted that those who had proof of Ration Cards or other proofs would be accommodated.

Large numbers of houses have been demolished. Besides the belongings of the people have been burnt; there is no such law and nobody has the power to burn peoples belongings. The

Govt. itself should do what it can to extend the time for paying the necessary amount. Population growth, poverty, lack of planning, unconcern for the poor, absence of employment, oppression in the villages has led to migration from villages. Those who reside in slums do so out of compulsion. It is for food, shelter and earning a livelihood that he comes to the city. In the villages there are no industries; traditional handicrafts which were a major source of livelihood are dying. There are no land reforms. All kinds of professionals and workmen come from the slums right from Shopkeepers, vendors, labourers, taxi drivers and so on. Planning should provide for housing for every strata of society.

For the elite there is all kinds of provisions: health clubs, gardens, theatres, shopping malls and they have ministers to represent their interests. They have access to subsidised education. But the middle and the lower classes are the biggest sufferers, who lead a very hard life. The elite and upper classes argue that they are the biggest taxpayers and that the middle and lower classes do not pay taxes is a big lie, a myth that has to be quashed. These people don't have enough incomes to pay direct taxes. But they are the biggest indirect tax payers, which is a larger component of the total tax structure. Hence the middle classes and the poor should get the attention they require and deserve.

Forests are being cut and in their place we have allowed the construction of golf courses, entertainment parks – Esselworld is a classic example of this phenomenon. But no one questions them how land is being used and for what purpose. No questions are raised about the environmental damage caused since those involved in these projects are the big guns. All this is shown to be legal. But when it comes to the poor everyone is up in arms because these people constitute a soft target.

Land is a scarce and a fixed resource and we cannot import land. The market should not govern its distribution. The poor cannot be deprived of a share in this asset and this facility just because they are poor. Taking a purely legalistic approach in this regard is not correct. The laws should be utilised to attain the desired social objectives. Habitat is and should be a fundamental right."

"They say 50% of the people who live in the slums and form the backbone of the metropolis should not be cared for, and should be thrown into the water. These are the double standards of the Upper and the middle classes in this country. If you are rich you are a citizen of this country. If you are poor you are not a citizen.

We had the system of Privy Purse, which once upon a time was legal but was later abolished. So was the zamindari system, which was once legal but in course of time abolished. With the passage of time we must change in our thinking and perceptions. That is to say different social needs of different times cannot be brought or seen under the purview of the present laws.

It is a fundamental right mentioned in he Constitution that every citizen must have a house. It is time we come up with a serious and elaborate 'National Slum Policy.' Right from Amravati to Nasik, Pune, Delhi, Nagpur, and so on slums are a No-No. Nobody wants them around their houses but these very people want the services of those dwelling in the slums.

If the middle classes continue to adopt an aggressive stance towards these underprivileged sections then these cities will turn into centres of crime because apart from a house there is also lack of education. It is our duty and responsibility to look after them and to provide for them.

Life and habitat are intimately interconnected. Where there is life, there is the voice of the people –individual and collective. It is wishful to expect them to remain silent and not revolt when they are being pushed to the wall.

Since these are the poor, they cannot afford to work far away; hence they they should be given accommodation near their place of work and livelihood. The rich can afford so they can travel long distances. We must establish satellite townships like the Navi Mumbai Township. We must also develop industries in the villages and focus on creating employment opportunities in the villages, which will not necessitate migration. The Govt. should concentrate on developing housing facilities and not just office space in the cities because developing business and commercial establishments will create requirement for employees and naturally then they should be given accommodation. Otherwise where do we expect them to stay?

We constantly talk of beautification of the city. Why should then there not be beautification of the slums? We have signed various International covenants for just housing but within the country we have not bothered to provide for the underclass nor do we take a look at possible solutions. This indifference, this apathy, these double standards is going to cost us heavily. The time has come for us to abide by these International covenants accepted by us."

Witness No 4: Khaironisa Mohamed Asim Sayed.
Azad Nagar slum,
Dr.Ambedkar Nagar, Malad (E).

"We are 5 of a family and all are from Dr. Ambedkar Nagar. We are residing at Dr.Ambedkar Nagar since 1987. The demolition began on 6th May 2000 and on and off the process has continued. After the demolitions on the 6th of May they came searching for 6 women against whom they filed a case for pelting stones at an A.C.P. These 6 women accused including me are: Sushma Gupta, Amina Begum, Sayeeda Begum, Kamru Nissa and Sharda. We were taken to the Dindoshi Police station and beaten up. They alleged at the Police station that we had stoned an A.C.P. They even told us that we were nothing but anti social elements and thieves. At that time I was ailing. We were later taken to Court and released on bail of Rs.950/- each. They warned us that if we complained to anyone we would be re-arrested and locked up in Nasik jail. There are about 3,000 huts at Dr.Ambedkar Nagar. Today we are in a miserable state as in the rains we are living in the open. Our belongings have either been burnt, damaged or carried away."

III.) Statements of the residents of Pimpripada slums, Matangad, Malad (E)

1. **Witness No1: Statement of Mr. Vishnu T. Sawant,**
Principal of Chandrabhaga Vidya Mandir School,
Pimpripada, Malad (East).

He is the founder and Chairman of the Chandrabhaga Vidya Mandir School.
This is a Marathi medium school, which started in June 1990. It has classes from Kg. To 10 Std. It has 1,000 students post demolitions. Prior to the demolitions there were 1,400

students. A total of 12 classrooms (size20x25) were demolished. All the things namely benches, desks, cupboards, library instruments, office chairs, Tables, Sports equipment and library books were all destroyed. The management was not given any time for removing these precious and expensive articles. No notice was served giving any prior warning for the demolitions.

Fans, tubelights and other electrical fittings were also destroyed. (Each classroom had 4 tubelights and 4 fans.) The construction was solid and extremely strong. Wall clocks were shattered to pieces. The entrance boundary wall to the school was also demolished. According to Mr. Sawant the land for the School originally belonged to the F.E.Dinshaw Trust. This land was in the name of a few adivasis from whom the school purchased the same. The school has Survey papers from the Land survey Dept. to prove the legality of its ownership. Besides the entire school comes under Survey No. 269 – Section No.6 and none of the land under Survey No.269 comes under the forests. So where is the question of illegal encroachments on forest land?

Around 300 children study in the open after the demolitions, as there aren't enough classrooms to accommodate them. Mr. Sawant claims that several acres of land (approx. 70 is the figure quoted by him) has been reclaimed by destroying the mountains with dynamites. Raheja builders are likely to construct high rise apartments and bungalows on them. (The fact-finding team visited the site and saw that workmen were indeed clearing the mountains.) "How is it that this land obtained by the Raheja's is not on forest land while our school land is within the forests?" quips Mr. Sawant. "Besides when the Raheja's construct buildings here it does not affect the environment; the presence of our school does!" He says this is nothing but the double standards of the Govt., the environment groups and the forest officials.

And the reasons are quite obvious. Mr. Sawant claims that this is the only Marathi medium school in the locality, which caters to the education of the poorest sections of society namely the Dalits – the SC's, the ST's and the OBC's. There is no other Marathi medium school in a radius of 3 Kms of Pimpripada. Inspite of being a private school and not having accessed any Govt. grants the education is provided at subsidized rates. The students only pay Rs.40/- a month. Those who can't pay the fees (and the numbers are as high as 25%) are helped by way of donations from 'Lions Club of Gokuldham' and an NGO called 'Casplan'. According to Mr.Sawant schools at Gokuldham charge a fee as high as Rs.500/- a month and the medium is English. It is unthinkable that the adivasis and the Dalits can pay such rates. Besides they levy separate charges for extra curricular activities.

"There is so much apathy and indifference in this country" he says," that the Govt. does not set up any new schools, does not provide Grants nor any other support is extended to us. The same Govt. on the contrary, sends bulldozers to demolish these schools." Mr. Sawant further adds "When I approached the education department for help for the school, they asked me to raise the fees if the school cannot afford to run on the existing terms. Can the adivasis and the Dalits afford such fee hikes?"

According to Mr. Sawant this is a private school and yet is running at a loss. The total revenue generated is approx. Rs.40, 000/- per month as against a total expenditure of Rs.1, 00,000/- a month. The shortfall is arranged for by way of donations and loans from various sources and help from sympathisers. When asked why he does not close down the

school when he has to undergo so many hardships, he said that he has an emotional attachment and a moral commitment to running this school as it is named after his mother 'Mrs. Chandrabhaga' who passed away when he was only 2 years old.

The Chandrabhaga Vidya Mandir School has extremely qualified teachers- most of them having degrees in B.A.B.Ed., M.A.B.Ed., M.Sc.B.Ed. These qualifications are no less than that of teachers from other neighbouring schools. The average salary of each teacher is around 1,600/- p.m. to 2,000/- p.m. More than 50% of students passed with 1st Class results in the last SSC examinations.

Children who study at the school come from various areas which includes Sanjaynagar, Shivajinagar, Indiranagar, Mavdenagar, Santoshnagar, Khadakpada, Pimpripada 1 &2, Arun Kumar Vaidya Marg, Vageshwarinagar, Matangad, Ekta Chawl Committee, Dr. Ambedkar Nagar and Vanjaripada. The only Marathi medium school in close vicinity is at Goregaon Stn. (Nandadeep School-upto 10th std.) which is 3-4 kms away from here and another one is at Shantaram Talao at Malad (Municipal School upto VII Std.)
Due to the demolitions, during the rains the school gets completely flooded with rain water as the outer portion has no roofs or walls to prevent the water from coming in.

He speaks indignantly about the highhandedness and the arrogance of the forest officials and the police. More than 1000 police officers and more than 100 vans and jeeps had arrived to assist the forest guards in their demolition efforts. "It was an extremely terrifying scene" avers Mr. Sawant. He says emphatically "Politicians along with builder lobbies, pseudo environment groups and other goonda elements are responsible for these demolitions. The builders keeping the environment groups at the forefront petitioned the Courts to demolish the homes of the underprivileged and these poor people have become the helpless and hapless victims in this entire drama as their (that of the builders) high rise buildings in close vicinity don't sell as they overlook the slums. He cites the example of 'Valentine Towers' made by Salim builders, which is unable to find customers. 'Tikekar' builders are another such example. 'Raheja' builders' wants to acquire the land in the adjoining areas so that he can make access roads and other conveniences that will add to the market value of his apartments.

Mr. Sawant further throws light on Mrinal Gore's Nagri Nivara Mrinal Gore Scheme where houses have been constructed for the less privileged sections of the society. He says this scheme also faced stiff opposition from the environment groups and others on the grounds that the residents will pollute and defile the lake, which is in close proximity. But they fought hard battles in the Courts and won.

"These very environmental groups do not oppose the building projects of the Rahejas, which is of a much larger size and therefore is a bigger threat to the existence of the lake. Further the quarrying activity of the Raheja's also goes unnoticed although it is happening everyday in broad daylight. So it all boils down to how powerful and influential you are in safeguarding your interests," concludes Mr. Sawant in disgust.

2. **Witness No.2: Bhanudutt Ramnaresh Dubey,**
Resident of Pimpripada, and a driver by profession.

"I am here since 1978. I have a Voter's Identity Card since 1995. And a ration card since 1993. I have come from Amethi-Sultanpur in U.P. My family has 2 acres of land in the village. I have 4 brothers with their wives and children. Keeping in mind the large size of the family, the available land is not enough for earning a livelihood for all of us. I work as a 3-wheeler tempo driver for Prakash Packers and Movers.

I have 5 children. Since my house is demolished we all live in a make shift tent. My eldest son studies at Queens Mary School and the fee is Rs.140/- a month. Apart from this I also have to shell out Rs.200/- as tuition fees. 2 of my other children study at the Municipal school where the quality of education is sub-standard but I have to pay no fees. If I could afford it I would love to send them to Queen's Mary School. My other 2 children don't go to school.

Even when we had our house- prior to the demolitions, life wasn't a bed of roses. But now life has become hell. I have no choice but to stay on in Mumbai, no matter what the conditions. After the forest guards demolished my house they did not let me remove my belongings. I lost everything that I had. It is a very big tragedy for my family and me. Politicians promised us help, the local Corporator assured us that nothing will happen to my house but today the reality is me and my family is on the streets. If I have to go to Kalyan what will happen to my children's education? How will I earn a living? It is with great difficulty that we find employment? Jobs are not available on trees."

3. **Witness No 3: Sital Ramling Kamble,**
Woman resident of Pimpripada, and a small vendor

"I hail from Osmanabad in Maharashtra. I have no land in the village. I am a spinster and I have an adopted son. I had a small shop selling bidis. Cigarettes, biscuits, chocolates. I.e. a small provision store. I used to live outside the shop itself and earn Rs.30-40/- per day. I have never been to school because my parents couldn't afford to send me to school. My adopted son goes to the nearby Chandrabhaga VidyaMandir School. He is in Std VI –Age 12. I have a ration card since 1980. I have a voter's card since 1994.

No matter what happens I am going to stay on here even if the authorities kill me. What will I do in the village? The forest guards demolished and took away all my belongings leaving me homeless and completely penniless."

4. **Witness No 4: Prakash Giri,**
Resident of Pimpripada, Truck driver

"I have come from Nepal around 20 years back. My parents are still in Nepal. I am a truck driver with Amar Shipping Co drawing a salary of Rs.3, 000/- My house was demolished by the forest officials recently and I lost all my belongings. Besides I was also threatened that if I don't leave permanently I shall be thrashed. My house was on Survey No239 Part (2) and nobody knows the true owner of this land. It is a very painful time for us as the demolitions have happened just before the rains.
I have 3 children who study at Queen's Mary High School and the fee is Rs.140/- per month. My children go for group tuition's for which I have to pay an additional Rs.80/- per month.I have a Voter's card since 1994. The local Nagar Sevak-Congress Corporator

Tara Shankar Chobe told me that the Raheja land is inside the forests but nothing still happens to them. On that fateful day the bulldozers came at 6 o'clock and my house along with other valuables was completely destroyed. Nothing could be retrieved."

5. **Witness No 5: Bechand Ram Yadav,**
Resident of Pimpripada, Ice-cream vendor

"I am 55 years old. I am in Bombay since 1972. I am at Pimpripada since 1992. My daily income is 30-35/- per day. I have a family of 5 children and a wife. I have 1 son and 4 daughters. My son studies in the village Kunna Mau, Zilla Jaunpur. I have only ¾ acres of land in the village – so how can I earn a living there?
If there were industries in the village, then why would I come here? I can't set up a small shop in the village. That is why I am compelled to stay here."

6. **Witness No 6: Naval Bhandari,**
Resident of Pimpripada, driver by profession.

"I was born here and now I am 25 years old. I am 10th Std fail. I couldn't complete my studies because of family problems. My father is a watchman in a society earning a paltry 1,200/-p.m. I have 5 members in my family. We paid the slumlords Rs.16, 000/- for the house in which we lived. Around 8 times our house was demolished. Thrice the demolition was done by the BMC and 5 times by the forest department. The last demolitions that took place a few months back was the worst as we lost all our belongings including all our clothes. I also lost my job due to the present turmoil. Now I work as a part time driver as and when I am called. When I had a regular job I used to earn Rs.3, 000/- Now I don't even earn that much.
It is impossible to buy a room in a Chawl or a proper house with our present level of income. My father and my uncles and their families all live in Mumbai. Come what may I am not going to leave Mumbai. If I had some alternative opportunity I would have asked my family to leave. But nothing of that sort exists."

7. **Witness No 7: Devki Rukji Vanshe,**
Resident of Appapada, doing manual labour work for a living.

" We are adivasis. This is our third generation that is residing in the forests. My father in law lived here since the 1940's. But on 10-5-2000 the forest officials along with the police came in with their machinery- their bulldozers and destroyed our entire structure. This is my ancestral property and it is shocking that they could have come and broken down my house and that too without giving any prior notice. All our belongings were destroyed. (The fact-finding team saw the last remaining utensils in dented and mutilated condition.) My jewellery including my mangalsutra and gold bangles worth more than Rs.50, 000/- were all taken away by the forest officials. We requested them to give us some time so that we could retrieve whatever that was left but they would have none of it.
We, the adivasis belong to the forest. We have no village elsewhere. I am born and brought up here and so are my children. I refuse to leave. I have filed a petition in the Courts, which is coming up for hearing on 9th August 2000.

I make artificial jewellery on job work basis and perform labour work (as a begari). From all this I manage to earn a petty 80-90/- a day. I have 7 children. My eldest daughter -20 years old is married but the others are very young. I am quite worried for our future, as I have lost my husband. I had an electricity connection and also a telephone connection, which were all, cut off due to the demolitions.
This land belongs to my father in law and I have legal documents to prove my bonafides. It is sad to be born here in this country."

8. Witness No 8: Basraj (Basve) Pamukuntla,
Resident of Appapada, Excavation contract labour with the BSES.

" I work for the BSES – the company that provides electricity to the city. I have to dig the ground for laying down cables and I earn Rs.115/- per day. My house was demolished on 10-5-2000 and my family's belongings were taken away by the forest officials. No notice was issued for the demolitions.
Since 1994 my family and me lived here. Now we live in the open.
I hail from Hyderabad, A.P. and we have only 1 acre of land. Besides I have studied only upto 10th Std. The police officials beat me up badly when I tried to fill my utensils and other things in a sack. They carried everything with them."

9. Witness No 9: Lalji Gupta,
Resident of Appapada, rickshaw driver now, earlier small groceries shop owner

"I have been giving votes to the political parties in different elections and these votes are valid and legal and acceptable but our staying here is illegal and unacceptable. What kind of a law is this? How hypocritical are our politicians? Is this what is written in the Constitution of India?
I did not get my house for free, which was demolished on 10-5-2000 by the forest department. I had paid Rs.60, 000/- for my shop cum house. Now I operate a rented rickshaw and earn Rs.50-100/- per day. I have 5 children and hail form Azamgarh in U.P. I came here in 1982 as we have no land in the village."

IV.) Statements of state government officials – viz. Secretary (Forests), Government of Maharashtra, Satish Tripathi, and deputy conservator of forests, A R Bharati, recorded on August 22.

Mr. Satish Tripathi.
Principal Secretary (Forests)
R&F. Govt. of Maharashtra.

"I am aware of the subject under consideration. The S.G.N.P. measures 86.95 sq.kms. The S.G.N.P. division measures 103 sq.kms. The division includes apart from the park, a reserved forest and also a Protected forest. The public has no right whatsoever in a reserved forest. A protected forest is one where people have some rights, which are traditional in nature. The

traditional rights are those such as grazing and right to collect firewood. Eventually a protected forest becomes a reserved forest. Today due to procedural delays a few protected forests retain that status.

"At the request of the Tribunal I make available a map of Sanjay Gandhi National Park division which gives a more detailed explanation of the said division. It is marked Exhibit O (1). Over a period of time some portions of the division have been encroached upon and the said encroachments have been shown in Exhibit O (1).

"In 1995, there was a Public Interest Litigation filed by BEAG in the High Courts. It came up for hearing sometime in 1997. The High Court constituted a committee in February 1997 to ascertain the exact position in relation to the encroachments and how to remedy the situation. The then Secretary, Housing (Slum Rehabilitation Authority) D.T. Joseph was the Chairman of the Committee. It submitted a report to the High Courts recommending steps to be taken by the authorities. The Committee divided the encroachers into 2 categories: viz. Pre 1995 and Post 1995. The Pre 1995 amounted to 33,000 and the Post 1995 numbers amounted to 28,000. The committee came to the conclusion that the pre '95 encroachers had the right to seek relocation whereas the post 1995 encroachers had to be resettled elsewhere. Apart from these 2 categories there were other types / classifications:

Encroachers who were occupying certain areas for commercial purposes. And these numbered 2,200. These had to be removed without right to rehabilitation or compensation.

The Committee also suggested that those entitled to rehabilitation should be settled along the periphery /fringes of the division. The BEAG objected contending that resettlement on the fringes will not solve the problem for the real solution lay in clearing the division as a whole. The BEAG did not oppose relocation of the slum dwellers in accordance with Govt. policy on the subject but it wanted the relocation to be done outside the division.

On 7 May 1997, the High Court passed a detailed Order.

The Park authorities (Forest Dept.) to ascertain the identity of the encroachers carried out an exercise and then a list was prepared on the basis of the information collected.
In 1998, the park officers and servants began demolition work starting with the commercial establishments. This was in Malad, Kandivli and B rivli. Around ,000 commercial establishments were demolished. The ineligibles among the residents were then touched. About 25,000 such structures have been removed. About 3,000 of these still remain and this was because of the mix up between the eligible and the ineligibles. Amongst the eligible 25,000 of the 33,000 identified for rehabilitation have been removed. This is at the insistence and orders of the Courts.

The Govt. informed the Courts that rehabilitation would require massive investment and that the Govt. was not in a position to bear the financial burden. The Govt. proposed that those who are to be relocated should pay up Rs.10, 000/- per family. The Court stated that this was on the higher side and it reduced the figure to Rs.7, 000/- It further stated that the amount need not be paid in lumpsum but in 4 instalments. We throw open the Forest Dept. office for collection of the monies. Wide publicity was given to the High Court orders and the eligibles were invited to tender the 1st instalments. Out of 33,000 potential evictees only 45 came forth to make the initial instalment.

By the time it became necessary to pay the 2nd instalment 600 had paid the instalment.
Due to lack of an adequate response the matter had again to be taken to the High Courts and they extended the time for paying up. More time was allocated with a severe warning that failure to pay the requisite amounts would lead to forfeiture of their right to rehabilitation.
This order was passed on 17/7/1997. This brought forth a trickle of about 5,000 people.
For those amongst the eligibles who had not made the payment the demolitions were directed to begin.

Before this the Govt had constituted 3 other Committees:

i. The Collector of Thane headed the 1st Committee who is concerned with rehabilitation of oustees.
ii. The 2nd Committee was constituted under the Chairmanship of Justice Sinkar and Justice Gorwalkar who were to look into the grievances and suggest redressal.
iii. The 3rd Committee was constituted under the Chairmanship of Justice Pratap who was to look into Forestation and Preservation.

For the benefit of the tribunal we are submitting the following documents:
1. Justice Pratap Committee Report.
2. Justice Gairola's affidavit.
3. Order of the High Court dated 7/8/2000.

One Lt. Colonel Mr. Nambiar was appointed to prepare a report after supervising the progress of demolitions. The demolitions continued. Those who had made payments for rehabilitation but had not shifted had been given protection marks. An SLP was filed by Nivara Haqq Suraksha Samiti after the time for payment expired which was dismissed by the Courts.
The BEAG complained of delay in the demolitions and the Court gave direction to expedite the matter. About a 1,000 evictees returned. This evoked another protest by the BEAG and we were asked to take action but we pointed Govt. policy that we could not carry out the demolitions in the monsoons. But the Court directed to remove the returned evictees. About 300-400 of these evictees still remained.

Still to be removed are: 10,000 of the eligibles from amongst the 33,000 who are eligible. A sizeable number of these are to be found in Ketkipada, Damupada and small numbers in Mulund and Yeour.Tribals inside the S.G.N.P. area are 'encroachers' and not 'original inhabitants.' There are a number of tribal families in the park area – approx. 850. In 1977 there were only 45 tribal families in the Park area. They were working with Aarey. These persons are from the tehsils of Dahanu and Palghar. And these persons were relocated in village Khutal in Palghar district.

Most of the other tribals are mixed up with the encroachers. There are tribal villages recognised as Revenue villages but inside the S.G.N.P. there are no Revenue villages –no Gaothan- no tribal village.
The proposed relocation sites are at Badlapur and Ambernath. These sites will accommodate 650 families each. Each family will be entitled to an area of 200 sq.ft. These sites are developed sites – so developed by MHADA. Having drinking water facilities, roads, toilets, drainage, etc. Transportation and Conveyance have not been provided near the sites yet.