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JUDICIAL REVIEW OF DEMOLITION PROCEEDINGS AND CONSTITUTIONAL DUE PROCESS: A CASE COMMENTARY ON IN RE: DIRECTIONS IN THE MATTER OF DEMOLITION OF STRUCTURES (2024)

~ *Ritu Mukhi*

INTRODUCTION

The Indian Constitution guarantees that state power must conform to the principles of legality, fairness and due process. In recent years however, the increasing practice of “bulldozer justice,” whereby properties of persons accused or suspected of criminal offences were demolished bypassing the statutory procedures, raised serious concerns regarding the executive overreach and constitutional governance. Such demolitions, raised questioned on the presumption of innocence, natural justice and the separation of powers in India’s criminal justice system.

Against this backdrop, The Supreme court decision in In Re: Directions in the matter of Demolition of structures (2024 INSC 866) marks a significant development in Indian constitutional jurisprudence. The court examined whether executive authorities could employ demolition proceedings as a punitive measure overriding the procedure established by law. It reaffirmed the centrality of the Rule of law, recognised the right to shelter as an integral facet of Article 21, and laid down binding nationwide guidelines to regulate demolition proceedings. The judgement strengthens constitutional protections against arbitrary state action while reinforcing administrative accountability, procedural fairness and limits of executive powers.

BACKGROUND AND FACTS OF THE CASE

The present case arose from a batch of writ petitions under Article 32 of the Constitution of India, challenging the disturbing pattern of “bulldozer Justice” across several states, particularly Uttar Pradesh, Madhya Pradesh, Delhi, Gujarat and Rajasthan. The authorities

demolished the homes and commercial properties of individuals accused or suspected of criminal offences. The petitions alleged that this extra judicial demolition was followed immediately after criminal proceedings were initiated and without issuing prior notice, which breached the procedural fairness. The petitioners argued that these actions violated Articles 14, 21 and 300A of the constitution, undermined due process, and amounted to collective punishment affecting entire families. The state defended the demolitions as routine action against illegal construction. Finding a prima facie pattern of selective and punitive demolitions, the Supreme court stayed such actions nationwide and, on 13 November 2024, declared punitive demolitions unconstitutional, reaffirmed that executive cannot punish individuals by bypassing due process of law.

ISSUES BEFORE THE COURT

1. Whether the demolition of properties belonging to accused or suspected persons (or even convicted) in criminal cases, without following the due process of law, violates the fundamental rights guaranteed under the constitution of India?
2. Whether such demolitions amount to arbitrary executive action and infringe the principle of natural justice, presumption of innocence and doctrine of separation of powers?
3. Whether the right to shelter, being an integral facet of the right to life under Article 21, can be taken away by executive action bypassing procedural fairness?
4. Whether executive authorities can use demolition proceedings as a punitive measure without following the procedure prescribed by law?
5. Whether the Supreme Court should, in exercise of powers under Article 142, lay down Pan india guidelines to regulate demolition proceedings to ensure due process and compliance with constitutional due process?

JUDGEMENT OF THE COURT

On 13 November 2024, a division bench comprising Justices **B. R. Gavai** and **K.V. Viswanathan** delivered a landmark judgement in the case of *In Re: Directions in the matters of Demolition of Structures*.¹ The Supreme Court held that the demolition of a Person's Property solely because they are an accused or suspected of committing an offence is

¹ *In Re: Directions in the matter of Demolition of Structures*, 2024 INSC 866; 2024 SCC OnLine SC 3291

“completely unconstitutional.” It is observed that “*the executive cannot become a judge and decide that a person accused is guilty and, therefore punish him by demolishing his property*”, reaffirmed that only courts may impose punishment through due process.²

The courts anchored its reasoning in the Rule of Law, recognised as part of the constitution’s Basic structure, and held that arbitrary executive action violates Article 14, 21 and 300A. It rendered that Equality before law entails the principles of natural justice and the presumption of innocence. It emphasised that even accused, undertrial and convicted persons retain constitutional rights, including the right to dignity, shelter and procedural fairness. It further warned that demolishing the homes of an accused person’s family amounts to impermissible collective punishment and undermines the separation of powers by allowing the executive to usurp judicial functions.

To restrict arbitrary demolitions, the court framed eleven binding nationwide directions mandating prior notice, Personal hearing, reasoned orders, adequate time to seek judicial remedies, videography of demolitions, and personal accountability of erring officials. It also clarified that these safeguards do not apply to encroachments on public land or demolitions ordered by a competent court.

COMMENT ON THE JUDGEMENT

By rendering the arbitrary demolition as unconstitutional, the supreme court reiterated that the executive action cannot bypass the procedural due process. The judgement significantly strengthens constitutional safeguards against arbitrary executive action by holding that demolition proceedings must conform to the procedural fairness and cannot be used as a substitute for criminal punishment. The judgement cited A V Dicey’s *Rule of law*³, public trust doctrine, Principles of criminal law, and doctrine of “full faith and credit” holding that the State and officers discharging the public duties are bound by Principles of public accountability and Public Trust doctrine and they must faithfully discharge their duties to elongate public purpose.⁴ It observed that allowing the executive to demolish the property of an accused would amount

² *In Re: Directions in the matter of Demolition of Structures*, 2024 INSC 866, ¶¶ 53–54, 71.

³ Dicey, A. V. (1959). *Introduction to the Study of the Law of the Constitution* (10th ed.). London: Macmillan Education Ltd.

⁴ *In Re: Directions in the matter of Demolition of Structures*, 2024 INSC 866, ¶¶ 45–54, citing *Centre for Public Interest Litigation v. Union of India*, (2005) 8 SCC 202.

to assuming judicial functions, thereby disturbing the constitutional balance among the judiciary, executive and legislature.

The decision also expands procedural safeguards in administrative law by mandating prior notice, personal hearing, reasoned orders, adequate time to seek judicial remedies and time to respond to the notice served, videography of demolitions, and personal accountability of erring officials. The bench observed the suggestions made to declare the accountability extends personally, by deducting the compensation from the salaries of the authorities involved in illegal demolition. The court emphasised on institutional accountability and the doctrine of public trust further reinforces that public officials must exercise statutory powers in good faith and remain answerable for arbitrary actions. The directions laid by the court harmonise municipal laws with constitutional guarantees under Article 14, 21 and 300A, ensuring the executive action remains transparent, proportionate and subject to judicial review.

From a societal perspective, the judgement protects families from the consequences of punitive demolitions. The bulldozer justice assumes collective punishment; often affecting women, children and elderly persons who have no involvement in the commission of the alleged offense, rejecting this the court recognised that even accused undertrials and convicted persons retain the right to dignity and constitutional protections, the court reinforces the human rights-based approach. The court traces the constitutional protection of shelter to Article 21 and reiterates the principle established in *Olga Tellis* that the right to life encompasses right to livelihood and shelter.⁵

The judgement will strengthen and likely influence future public law litigation by strengthening judicial scrutiny of administrative actions involving property rights and procedural fairness. Its effective implementation will require uniformity and consistent compliance by state authorities adequate training of municipal officials, and strict enforcement of the court's directions. It may require the states to revise demolition procedures and administrative practices; it ultimately reinforces constitutional governance by ensuring that executive power operates within the limits imposed rather than administrative expediency.

CONCLUSION

⁵ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

The judgment marks a significant reaffirmation of constitutionalism and Rule of law in India. The Supreme court reinforced the principles of due process, presumption of innocence, natural justice and separation of powers. While declaring that India does not follow rigid separation of power, it becomes however impediment to prevent concentration of power for effective administration. The judgement also strengthens the constitutional protection of the right to shelter under Article 21 while ensuring that property rights under Article 300A cannot be curtailed through arbitrary executive action.

The binding guidelines issued by the Court establish a uniform procedural framework that promotes transparency, accountability, and fairness in demolition proceedings. While the effectiveness of the judgment will depend upon its faithful implementation by State authorities, municipal bodies, and law enforcement agencies, it lays down an important constitutional safeguard against the misuse of executive power. Ultimately, the decision serves as a reminder that governance in a constitutional democracy must be guided by law rather than expediency, ensuring that individual rights are protected without compromising the legitimate exercise of State authority.