

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 24826/2025

Himmat Singh Gehlot S/o Shri Satyanarayan Gehlot, Aged About
32 Years, R/o Suliya Bera, Chhokha Road, Chopasani, Jodhpur
342001.

----Petitioner

Versus

1. State Of Rajasthan, Through Chief Secretary, Jaipur.
Home Department, Through Additional Chief Secretary,
Jaipur.
2. State Of Rajasthan, Through Principal Secretary, Mines
And Geology Department, Jaipur.
3. Secretary, Legal Metrology, (Weights And Measures)
Department, Rajasthan, Jaipur.
4. Director Of Mines And Geology, Department, Udaipur.
5. Legal Metrology Department, Jodhpur.
6. District Collector, Jodhpur.
7. Commissioner Of Police, Jodhpur
8. Commissioner, Jodhpur Development Authority, Jodhpur.
9. Regional Officer, National Highways Authority Of India,
Regional Office, Jaipur.
10. Project Director, National Highways Authority Of India.

----Respondents

For Petitioner(s)	:	Mr. Rajesh Joshi, Sr. Adv. Assisted by Mr. Rishi Soni & Ms. Kamini Joshi
For Respondent(s)	:	Mr. Mahaveer Bishnoi, AAG Dr. Sachin Acharya, Sr. Adv. Assisted by Mr. Chayan Bothra Mr. Deepak Chandak, AAAG Mr. Ankur Mathur Mr. Rajat Dave

REPORTABLE

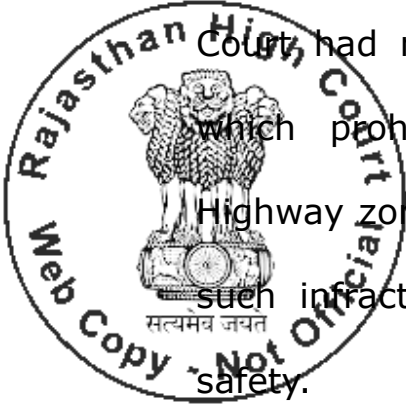
**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE SANDEEP SHAH**

Order

05/02/2026

1. This Court recalls its detailed order dated 22.01.2026, wherein judicial notice was taken of the communications issued by the PWD, JDA, NHAI and the Police authorities, as well as of the subsequent unfortunate accident in close proximity to the Dharmkanta in question, resulting in the loss of four lives. This

Court had recorded its concern regarding breach of the norms which prohibit construction or activity within the restricted Highway zones measured from the centreline, and had noted that such infractions have a direct and dangerous bearing on road safety.

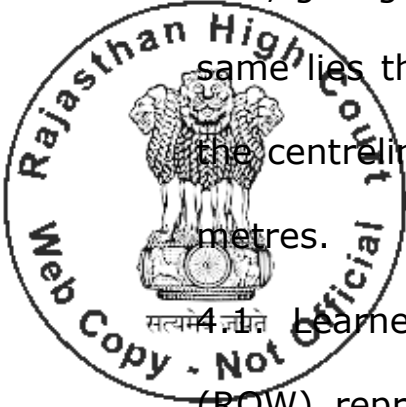


2. Dr. Sachin Acharya, learned counsel appearing for the applicant, submits that relocation of Dharmkanta/weighbridge is underway and seeks extension of time. The application (Inward No. 02/2026) is disposed of by granting 30 days' additional time. The date 06.02.2026 stands modified to 06.03.2026 for voluntary removal/relocation strictly in accordance with law.

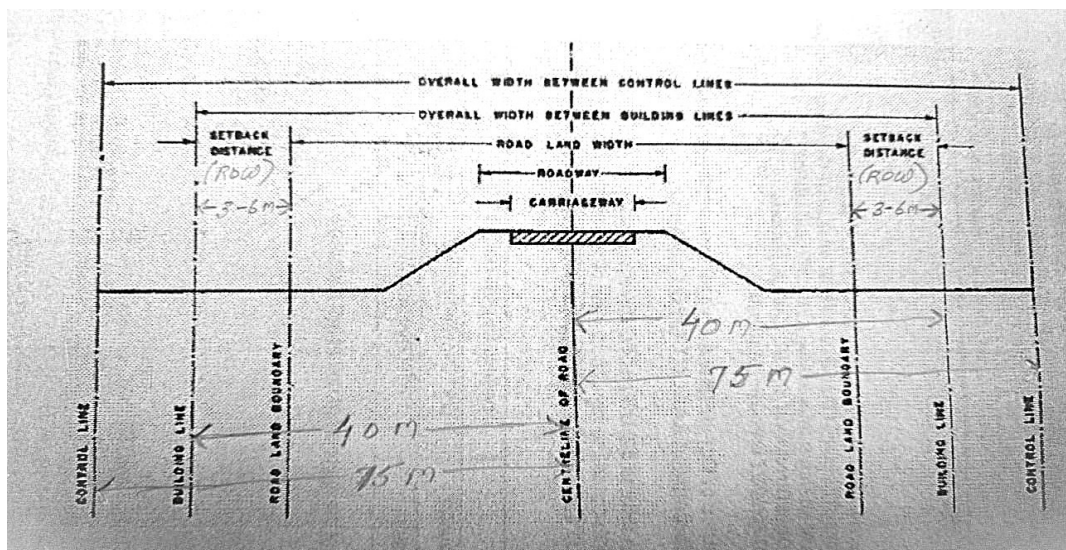
3. During the course of the present hearing, the material placed before this Court reveals that the issue is not confined to the solitary Dharmkanta, but discloses a wider and disturbing pattern of occupation within the Right of Way (ROW) of National Highways across several districts of the State, thereby posing a continuing threat to human life and public safety.

4. Upon query by this Court, Mr. Ankur Mathur, learned counsel for National Highways Authority of India, explained the technical demarcations recognised under the National Highways Act, 1956, the Control of National Highways (Land and Traffic) Act, 2002 and

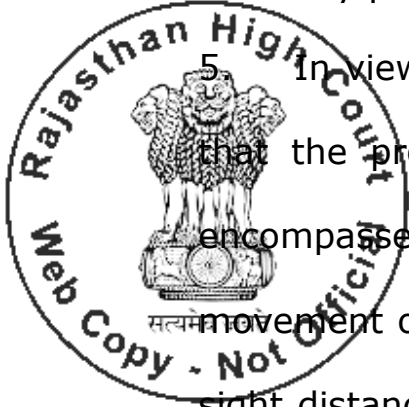
the standards prescribed by the Indian Roads Congress (IRC), namely the centreline, road land boundary, building line and control line. These demarcations are measured from the centreline of the Highway. Ordinarily, the road land boundary/building line lies at a distance of about 40 metres from the centreline on either side, giving an overall width of about 80 metres, and beyond the same lies the control line at a distance of about 75 metres from the centreline on either side, giving an overall width of about 150 metres.



4.1. Learned counsel further submits that the Right of Way (ROW) represents the operational corridor within the road land boundary, comprising the carriageway, shoulders, verges, drains, safety margins, sight distance and land reserved for emergency use and future widening. These zones are not mere technical classifications but are founded upon scientifically evolved safety principles to preserve visibility, regulate access points, ensure emergency manoeuvrability and provide space for future infrastructure expansion. Any occupation within these zones necessarily interferes with these safety parameters. He has also placed on record a chart delineating these parameters, which is reproduced hereunder:



4.2. Upon considering the explanation so furnished, this Court understands the legal effect of these demarcations to be that any occupation within the Right of Way or road land boundary is impermissible and liable to removal; no construction is permissible within the building line; and only regulated construction with due statutory permission is permissible within the control line.



5. In view of the settled position of law, this Court takes notice that the protection of life under Article 21 of the Constitution encompasses the State's positive obligation to ensure safe movement on public roads and highways. Occupations that impair sight distance, create uncontrolled access points, or interfere with traffic movements are thus not merely statutory infractions but constitutional wrongs impinging upon the right to life of road users.

6. This Court further takes judicial notice of widely reported national road safety data published on 24.08.2025 based on the report "Road Accidents in India – 2023" released by the Ministry of Road Transport and Highways. The report records 4,80,583 road accidents and 1,72,890 fatalities during the year 2023, of which approximately 20.4% were pedestrians. It further highlights that although National Highways constitute barely about 2% of the total road length in the country, nearly 30% of total road fatalities occur on these Highways, and more than 60% of fatalities occur on National and State Highways where vehicular speeds are high and roadside access is required to be strictly regulated.

6.1. The report also notes that 54,568 two-wheeler riders lost their lives due to non-use of helmets and 16,025 vehicle

occupants died due to non-use of seatbelts in the same year. The most affected age group is 18 to 45 years, representing the most economically productive segment of the population, and road accidents impose an economic burden estimated at over 3% of the national GDP annually.

6.2. These figures demonstrate that even minor safety deviations on Highways can have fatal consequences. When such risks are compounded by unauthorised roadside activities, commercial establishments, weighbridges, royalty nakas and other occupations within Highway safety zones, the probability of fatal accidents increases manifold due to obstruction of sight distance, sudden entry and exit points, pedestrian spillover, and interference with the free flow of traffic.

6.3. It is in this context that the Government of India has identified more than 8,500 accident 'black spots' across the country and mandated road safety audits, GIS mapping and structural interventions. The present case, involving the Dharmkanta situated within the prohibited Highway zone and the tragic accident occurring in its proximity, is a clear illustration of how encroachment within the ROW converts a Highway stretch into a potential black spot.

7. This Court also takes judicial notice of the recent directions issued by the Hon'ble Supreme Court in **S. Rajaseekaran v. Union of India (Writ Petition (C) No. 295 of 2012**, decided on 07.10.2025) wherein, upon noticing alarming road fatality data, the Hon'ble Supreme Court mandated identification and removal of encroachments affecting pedestrian and highway safety, GIS



and photographic mapping of hazardous road stretches and encroachment hotspots, coordinated action by NHAI, PWD, Municipal and Police authorities, and formulation of statutory rules regulating roadside activities and access to National and State Highways. The Hon'ble Supreme Court emphasised that roadside obstructions and unregulated access points are significant contributors to fatalities on highways and that authorities are under a time-bound constitutional obligation to address the same.



7.1 The Hon'ble Supreme Court further adverted to the statutory framework under Sections 138(1A) and 210D of the Motor Vehicles Act, 1988, underscoring that road safety is not merely an administrative concern but one backed by enforceable statutory duties, including the power to frame rules to regulate road use in the interest of safety and the constitution of specialised agencies for coordinated road safety enforcement.

8. The preliminary data placed before this Court by the learned counsel for the respondent, further indicates that within the ROW of National Highways across Rajasthan there are 103 religious, 881 residential, and 1,232 commercial encroachments including hotels and dhabas. The distribution of these encroachments across districts reveals that the issue is systemic and not confined to the present site. The details are as under:

Encroachment details					
S. No.	Name of District	Total no. of Encroachment within ROW			Remarks
		Religious	Residential	Commercial (Hotel / Dhaba)	

1	Jodhpur	3	5	24	
2	Beawar	8	38	0	
3	Pali	10	14	139	
4	Sirohi	9	17	177	
5	Phalodi	0	0	4	
6	Jaisalmer	0	0	10	
7	Bikaner	0	0	0	
8	Jaipur	13	56	206	
9	Ajmer	2	0	22	
10	Bhilwara	0	8	4	
11	Churu	2	1	28	
12	Dausa	8	70	242	
13	Sikar	0	0	88	
14	Kotputli-Behrur	4	25	30	
15	Tonk	9	10	17	
16	Sri Ganganagar	2	0	0	
17	Barmer	0	0	12	
18	Balotra	0	0	15	
19	Jalore	1	0	3	
20	Bharatpur	25	212	100	
21	Bundi	0	0	0	
22	Dholpur	0	324	29	
23	Karauli	0	59	6	
24	Sawaimadhopur	0	0	0	
25	Kota	0	0	0	
26	Arvalli	0	0	3	
27	Bhilwara	1	4	23	
28	Bundi	0	0	2	
29	Chittorgarh	4	0	2	
30	Dungarpur	0	0	8	
31	Rajsamand	0	3	8	
32	Salumber	1	0	3	
33	Udaipur	1	1	27	
34	Nagaur	0	34	0	
	Total	103	881	1232	

8.1. Learned counsel for the respondent has further invited the attention of this Hon'ble Court to Table-2 of the IRC norms

pertaining to the prescription of building lines and control lines for rural and urban areas, which is reproduced hereunder:

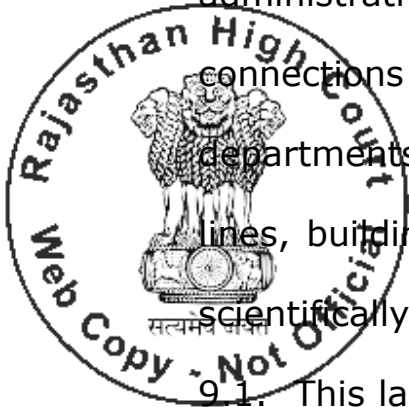
"TABLE 2. STANDARDS FOR BUILDING LINES AND CONTROL LINES

	Plain and rolling terrain			Mountainous and steep terrain-Distance between bldg. line & road boundary (metres)			
	Rural areas		Urban & industrial areas				
				Rural areas		Urban areas	
	Width between Building Lines (Overall width) (metres)	Width between Control Lines (Overall width) (metres)	Distance between Building Lines & Road boundary (set-back distance) (metres)	Normal	Exceptional	Normal	Exceptional
1. National and State Highways	80	150	3-6	5	3	5	3
2. Major District Roads	50	100	3	5	3	5	3
3. Other District Roads	25/30*	35	-	5	3	5	3
4. Village Roads	25	30	-	5	3	5	3

87.2.The above data, placed by the respondents, prima facie indicates occupations falling within the ROW as per the technical norms recorded herein.

9. From the material placed before this Court, including the district-wise data, the IRC norms, the statutory framework

governing National Highways, and the absence of any consistent demarcation-based clearance mechanism across departments, this Court finds that the proliferation of occupations within the Highway safety zones is not merely the result of individual encroachments but is substantially attributable to systemic administrative fragmentation. Permissions, licences and utility connections appear to have been granted by different departments in isolation, without any reference to Highway control lines, building lines, road land boundaries or the Right of Way as scientifically and statutorily recognised.



9.1. This lack of inter-departmental coordination has resulted in a situation where activities impermissible under Highway safety norms have, over time, acquired an appearance of legitimacy by virtue of departmental permissions, trade licences, electricity connections, mining clearances, weighbridge approvals, or local body sanctions. Such fragmented decision-making has directly contributed to the creation of hazardous access points, obstruction of sight distance, pedestrian spillover and interference with the safe operational corridor of Highways, thereby aggravating the risk to human life noted hereinabove.

10. This Court clarifies that permissions granted by the Mining Department, Legal Metrology authorities, local bodies, electricity or water authorities, or trade licensing authorities cannot operate as a defence if a structure falls within the prohibited Highway zone. There can be no estoppel against statute and certainly none against public safety. The material further reveals absence of inter-departmental coordination, where permissions are granted in

isolation without reference to Highway control norms, thereby aggravating the hazard.

10.1. Insofar as certain religious structures are reflected in the data placed before this Court, it is clarified that no structure, religious or otherwise, can claim any immunity from removal if it falls within the Right of Way (ROW) of a Highway. The position of

law in this regard stands authoritatively settled by the Hon'ble Supreme Court in ***Union of India v. State of Gujarat (Special***

Leave to Appeal (Civil) No (s). 8519/2006, decided on 29.09.2009), wherein it was categorically directed that

encroachments in the nature of temples, mosques, churches, gurudwaras or other religious constructions situated on public roads, streets, pavements or other public utility spaces cannot be permitted to remain, and that the State authorities are under a positive obligation to remove such encroachments in the interest of public safety, free movement of traffic, and maintenance of public order.

11. From the material placed before it, this Court is satisfied that the issue transcends the individual Dharmkanta and discloses a State-wide pattern of illegal occupation of Highway land within the ROW, posing a direct threat to human life and offending the guarantee under Article 21 of the Constitution of India.

12. In view of the grave road accidents that have occurred and the material placed before this Court demonstrating large-scale encroachments within the Right of Way (ROW) of National Highways across the State of Rajasthan, comprising 103 religious structures, 881 residential structures, and 1,232 commercial structures, as reflected in the list furnished by the respondent



National Highways Authority of India and referred to in paragraph 7 herein, this Court, in the interest of public safety and justice, directs that all such encroachments falling within the prohibited ROW shall be removed or suitably relocated within a period of **two months** from today.



12.1. For the said purpose, Respondent Nos. 1, 2, and 3 shall undertake coordinated action, in consultation with and with the assistance of the concerned District Collector and the Commissioner of Police/Superintendent of Police. The Respondent No. 10 and Respondent No. 11 shall extend necessary technical, logistical, and site-specific assistance to ensure effective compliance of this direction.

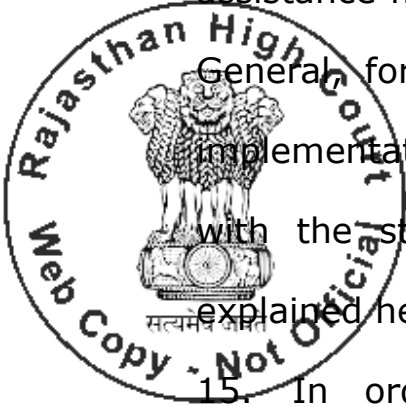
12.2. The exercise shall be carried out strictly in accordance with law, after due demarcation, issuance of notice and affording opportunity of hearing to the encroachers.

13. Furthermore, it is directed that the State shall file before this Court a district-wise status report within a period of **two months** from today, detailing the encroachments identified within the Right of Way (ROW) and the control line of National and State Highways, along with the action taken or proposed for their removal. The said report shall be filed by Respondent Nos. 1, 2, and 3 after obtaining necessary inputs from Respondent Nos. 10 and 11, in tandem with the district authorities.

13.1. It is also directed that the State shall clarify, in the aforesaid status report within a period of **two months** from today, whether rules regulating roadside activities and access to Highways under Sections 138(1A) and 210-D of the Motor Vehicles Act, 1988 have been framed or are proposed to be framed, in compliance with the

directions issued by the Hon'ble Supreme Court in **S. Rajaseekaran (supra)**. The status report shall, as far as practicable, be supported by GIS mapping, site demarcation records, and relevant photographic material.

14. The respondents are permitted to seek appropriate legal assistance from Mr. Deepak Chandak, learned Additional Advocate General, for the purpose of proper understanding and effective implementation of this order, so as to ensure strict compliance with the statutory framework and the Highway safety norms explained herein.



15. In order to operationalise the above directions in a structured, accountable and preventive manner across the State, this Court further directs as under:

A. Declaration of Legal Position:

- All occupations within the ROW/road land boundary of National and State Highways shall be treated as *per se* illegal and incapable of regularisation.

B. Administrative Supervision and Institutional Mechanism:

- Respondent Nos. 1, 2, and 3 along with the respective District Collector and the Commissioner of Police/Superintendent of Police shall bear overall responsibility of execution, and shall, within **seven days**, constitute a District Highway Safety Task Force comprising officers of the District Administration, Police, NHAI, PWD and concerned local bodies for coordinated demarcation and removal action.

- The District Collector shall maintain minutes of all meetings and proceedings undertaken by the Task Force at district level.

C. Scientific Demarcation and Identification Process :

- Demarcation of the ROW/road land boundary/building line/control line shall be carried out with videography, GPS coordinates and GIS mapping.

- A district-wise Encroachment Register shall be maintained containing photographs, geo-coordinates and particulars of each identified occupation.

- Accident-prone and identified blackspot stretches shall be prioritised for immediate demarcation and action.

D. Regulatory and Preventive Measures:

- No department, authority or local body shall grant or renew any licence, NOC, permission, utility connection or trade approval for any site falling within Highway safety zones without prior clearance from NHAI/PWD, as the case may be.
- Existing licences, NOCs or permissions in respect of such sites shall be reviewed within 15 days and kept in abeyance upon detection of violation.
- After removal of encroachments, permanent boundary markers and caution boards shall be installed to prevent future occupation.
- Police authorities shall provide necessary protection during the removal process and shall take preventive measures to



ensure that re-encroachment does not occur on the demarcated Highway safety zones.

E. Accountability, Reporting and Future Compliance :

- Responsibility of officers for compliance of these directions shall be specifically indicated in the status report to be filed before this Court.

• Compliance affidavits shall be filed by Respondent Nos. 1, 2, and 3 after completion of the exercise.

The State shall indicate a definite timeline for framing rules under Sections 138(1A) and 210-D of the Motor Vehicles Act, 1988 regulating roadside activities and access control.

- Periodic Highway safety audits, in coordination with NHAI/PWD, shall be institutionalised and reflected in the status report.

16. List the matter on **10.03.2026** for further monitoring of compliance.

(SANDEEP SHAH),J

(DR.PUSHPENDRA SINGH BHATI),J

57-Sudheer/-

