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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 182/2023/EZ

In The Matter of:
Sushovan Saw

... Applicant

Versus

Ministry of Environment, Forest &
Climate Change & Ors.

... Respondents

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE RESPONDENT NUMBER 02, THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS and HEAD OF FORESTS FORCES, DIRECTORATE OF FORESTS, GOVERNMENT OF WEST BENGAL.

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Filed by
Sibojyoti Chakrabarti
SIBOJYOTI CHAKRABARTI
Advocate
For The State of West Bengal
Email:
(M): 9007035534



20 FEB 2024

SL.No. 55

- 2 -



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I, Sri Sweata Rai, D/o Kishore Rai, aged about 41 years, by occupation- Service and presently posted as the Deputy Conservator of Forests (Legal), Department of Forest, Government of West Bengal, having office at 'Aranya Bhawan', Block-LA, 10A, Sector-III, Salt Lake, Kolkata: 700106, West Bengal, do hereby solemnly affirm and submit as follows:-

20 FEB 2024

1. That this affidavit is being filed in compliance and obedience to the Solemn Order dated 05.01.2024, as passed by the Hon'ble Tribunal.
2. That the Hon'ble National Green Tribunal, Eastern Zone Bench has been pleased to inter alia direct the respective respondents to file their counter affidavits, vide Solemn Order dated 05.01.2024.
3. That with regard to the statements made in paragraphs 5 (a) to 5 (g) of the Original Application, this deponent does not comment on the same being matters of fact and record.
4. That with regard to the statements made in paragraphs 5 (j) to 5 (h) of the Original Application, this deponent states that as found from the record that the Forest Range Officer Asansol (T) Range had lodged FIR against M/s Shayam Sel & Power Ltd the respondent number 3, herein for encroachment of land at Mouza- Mamudpur JL NO.-51 Plot No.-473 on 12.02.2023. On the basis of the F.I.R enquiry had been started by the Jamuria Police Station vide F.I.R No.159/23 on 13.04.2023 Under Sections 26/30/32/33/63 of Indian Forest Act, 1927.



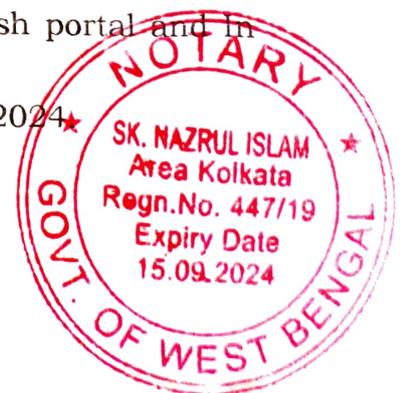
- 4 -

Photocopy of the Written Complaint and F.I.R is annexed herewith and marked with the letter 'R-1'.

It is also submitted that a Prosecution Offence Report was initiated by the Forest Range Officer, Asansol(T) Range on 22.05.2023 against the Respondent No. 3, before the Court Of Learned Chief Judicial Magistrate, Asansol Court, Paschim Bardhaman vide Memo No. 215/AL-15 dated 22.05.2023.

Photocopy of the Prosecution Offence Report issued vide Memo No. 215/AL-15 dated 22.05.2023 is annexed herewith and marked with the letter 'R-2'.

From office record it was found that the proposal of ex-post facto approval for regularization of encroachment over 0.47ha of forest in favour of respondent number 3, for expansion of existing Integrated Steel Plant in Durgapur Forest Division in West Bengal (proposal No. FP/WB/IND/442054/2023) was considered by Forest Conservation Division, Government of India through online Parivesh portal and In Principal stage I approval has been granted on 11.01.2024.



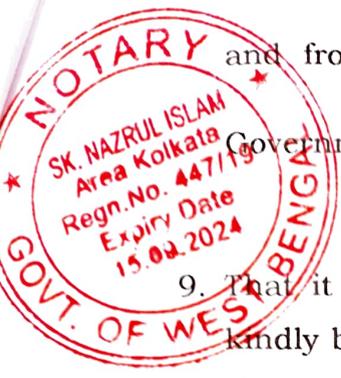
Copy of the approval for regularization of encroachment over 0.47ha of forest in favour of Respondent No. 3 by the Forest Conservation Division, Government of India is annexed herewith and marked with the letter 'R-3'.

5. That with regard to the statements made in paragraphs 5 (k) to 5 (m) of the Original Application, this deponent does not comment on the same.
6. That it is also submitted that proposal has been made to the MoEFF & CC, Government of India for ex-post facto approval (Stage I). Thereafter, the Forest Conservation Division, MoEF & CC, Government has granted the In-Principle (Stage I) approval in favour of M/s Shyam Sel & Power Limited. That it is also hereby submitted that the User Agencies are required to register themselves only once for submitting application for seeking Environmental, Forests and Wildlife Clearances.
7. That with regard to the statements made in paragraphs 5 (n) of the Original Application, this deponent states that F.I.R and Prosecution Offence Report has already been lodged.



8. That the statements made above are true to my knowledge and belief

and from the records as available in the Department of Forests,
Government of West Bengal.



9. That it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice.

Solely Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CrPC

Identified by me

[Signature]
Notary

Sibojyoti Chakrabarti

SK. Nazrul Islam
Notary, Govt. of W.B.
Regn. No. 447/19
City Civil Court, Calcutta

Smeeta Rai

Deponent
Deputy Conservator of Forests
Legal

Advocate
State of West Bengal

20.02.2024

20 FEB 2024



VERIFICATION:

I, the deponent above- named, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the ^{20th} Day of February, 2024.

Identified by me

Sibojyoti Chakrabarti

Advocate
State of West Bengal

20.02.2024

Smeeta Rai
Deponent
Deputy Conservator of Forests
Legal

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Annexure - R-1

To
The Officer In Charge
Jamuria PS
Under ADCP

Sub: FIR against illegal encroachment of government Forest land situated under Mouza Mamudpur, J.L.No-51, plot no 473 by M/S Shyam Sel & Power Ltd.

Respected Sir,

I being the Forest Range Officer, Sri Sanjoy Pati of Asansol (T) Range under Durgapur Division do hereby submit as follows:-

That on dt 19/02/2023 i am transferred and posted as Range officer of Asansol(T) Range and on dated 01/03/2023 I got a letter vide no 6248/8 from DFO Durgapur Division about the information and direction to enquiry about the illegal encroachment Of Forest land at Mamudpur J.L No 51, Plot No-473.

After that I enquire into the matter and also peruse the survey report submitted by surveyor Sanjiban Gorai and on spot enquiry came to know about the illegal encroachment of Forest Land by M/S Shyam Sel & Power Ltd at Mouza- Mamudpur, J.L. No: 51, Plot No: 473, encroached area of land 8.59 acre accordingly I have issued a notice to the said M/S Shyam Sel & Power Ltd. on dated 04.04.2023 for demolition and removing the structure if any over the encroached land and may also further directed to handover and return the Khas possession of the encroached forest land but till today they did not response.

That in the above mentioned facts and circumstances it is therefore requested before you and your good office to lodge an F.I.R against M/S Shyam Sel & Power Ltd U/S 26, 30, 32, 33 and 63 of I.F.A. 1927 for illegal encroachment of forest land.

Due to proper enquiry, collecting of survey reports and other necessary required formalities the F.I.R. could not be filed within time and praying for condone of delay.

Thanking you,

Date 12/04/23

Sincerely
Sanjoy Pati
Sanjoy Pati

S/o- Late Ashok Kumar Pati
Forest Range Officer
Asansol (T) Range
89188 20387

Enclosure :

1. Xerox copy of sketch map of Mamudpur Mouza, Plot No: 473.
2. Xerox copy of ROR.

RECEIVED
not verified
12/1/23
P.S.

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Annexure - R - 2

West Bengal Form No-1660

APPLICATION FOR ISSUE OF PROCESSFrom Forest Range Officer
Asansol (T) RangeIn
The Court of Chief Judicial Magistrate, Asansol Court, Paschim Bardhaman

Dated- 22-05-2023

Memo No- 215 /AI-15

Ref: P.O.R No- 10 of 2023-24

Honourable Sir,

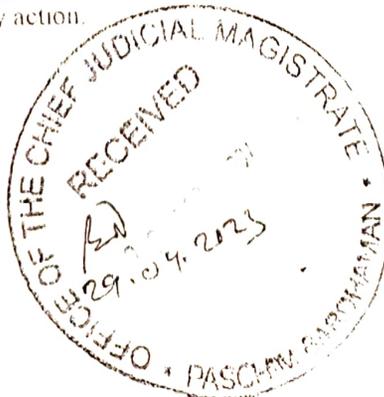
Whereas the marginally noted person have committed the offences specified in the accompanying offence report of this station, and whereas named therein, I have the honor to request the Court will issue process against the accused, and try the case under such Indian Forest Act 1927, Prevention of Damage to Public Property Act, 1984 Forest Conservation Act 1980 as it may deem applicable.

Name & Address of the accused person :

NAME	FATHER'S NAME	ADDRESS
M/S Shyam Sel & Power Ltd. [Shyam Metalics] Mouza - Mamudpur , JI. No-51 ; Plot No-473 ; District- Paschim Bardhaman ; West Bengal	-	Mouza - Mamudpur , JI. No- 51 ; Plot No-473 , District- Paschim Bardhaman West Bengal

Memo No -215 (1) /AI-15

Copy forwarded through the Divisional Forest Officer , Durgapur Division for his kind information & necessary action.



Sanjay Patra
Forest Range Officer 22/5/23
Asansol (T) Range
Forest Range Officer
Asansol (T) Range
Dated- 22-05-2023

Sanjay Patra
Forest Range Officer 22/5/23
Asansol (T) Range
Forest Range Officer
Asansol (T) Range

9
Annexure - R - 3

सत्यमेव जयते

Government of India

...

(Forest Conservation Division)



Online Proposal No.: FP/WB/IND/442054/2023



Dated: 11/01/2024

To:

Additional Chief Secretary (Forest)
Department of Forests, Government of West Bengal,
Kolkata

Subject:

Proposal for ex-post facto approval for regularization of encroachment over 0.47 ha of forest land in favour of M/s Shyam Sel and Power Limited for expansion of existing Integrated Steel Plant in Durgapur Forest Division in West Bengal (Proposal No. FP/WB/IND/442054/2023) – reg.

Sir/Madam,

I am directed to refer to the online proposal no. FP/WB/IND/442054/2023, dated 27/08/2023, on the above-mentioned subject seeking prior approval of the Central Government under section 2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the constituted by the Central Government under section 3 of the aforesaid Act.

After careful consideration of the proposal of the Government of WEST BENGAL and on the basis of the recommendations of the FAC and approval of the same by the competent authority of MoEFCC, New Delhi, the Central Government hereby grant **"In-Principle"** approval under section-2 of Forest (Conservation) Act, 1980 for Proposal for non-forestry use of 0.47 ha of forest land under the Forest (Conservation) Act, 1980 in favour of M/s SHYAM SEL & POWER LIMITED, for Durgapur Division in Forest Division, District PASCHIM BARDHAMAN, WEST BENGAL subject to the fulfillment of the following conditions:

1. General Conditions

S. No	Conditions
1.1	Legal status of the diverted forest land shall remain unchanged
1.2	The land identified for the purpose of CA shall be clearly depicted on a Survey of India toposheet of 1:50,000 scale
1.3	The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation, at the current wage rate, to the State Forest Department. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years

S. No	Conditions
1.4	At the time of payment of the Net Present Value (NPV) at the then prevailing rate, the User Agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India
1.5	All the funds received from the user agency under the project, except the funds realized for regeneration/ demarcation of safety zone, shall be transferred to Ad-hoc CAMPA in the Savings Bank Account pertaining to the State concerned
1.6	The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required
1.7	The boundary of the diverted forest land, shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, forward and back bearing and distance from pillar to pillar
1.8	The User agency, if required, will undertake comprehensive soil conservation measures in the area being diverted at the project cost in consultation with the State Forest Department. A scheme of the same may be submitted along with the compliance report
1.9	No labour camp shall be established on the forest land
1.10	The User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas
1.11	The forest land shall not be used for any purpose other than that specified in the proposal
1.12	The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government
1.13	No damage to the flora and fauna of the adjoining area shall be caused
1.14	Any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department
1.15	The User Agency shall submit six monthly self-compliance reports as on 1st January and 1st July of every year to this office as well as to the Nodal Officer of the State
1.16	The State Government shall monitor compliance of conditions of Forest Clearance and shall submit in this regard yearly report as on 31st December of every year
1.17	Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife
1.18	The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations and Guidelines, for the time being in force, as applicable to the project, including compliance of Scheduled tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 before handing over the forest land to the user agency.

2. Standard conditions

S. No	Conditions
2.1	At the time of payment of the Net Present Value (NPV) at the present rate, the user agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
2.2	The User Agency shall transfer the funds towards the cost of Net Present Value (NPV) of the forest land being diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 06.01.2022 read with 22.03.2022 through online portal of CAMPA account of the State Concerned;
2.3	Cost of plantation of ten times the number of trees likely to be felled or specified number of trees as may be specified in the order for diversion of forest land (subject to a minimum no. of 100 plants), shall be levied from the user agency towards compensatory afforestation.
2.4	The non-forest land transferred and mutated in favour of the State Forest Department shall be notified by the State Government as RF under Section-4 or PF under Section-29 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act, 1927 before issue of Stage-II approval. The Nodal Officer shall report compliance in this regard along with a copy of the original notification declaring the non-forest land under Section 4 or Section 29 of the Indian Forest Act, 1927, as the case may be, within the stipulated period to the Central Government for information and record.
2.5	The non-forest land identified for raising penal compensatory afforestation shall be transferred and mutated in favour of the State Forest Department before issue of the Stage-II clearance.

3. Specific Conditions

S. No	Conditions
3.1	The user agency shall pay the 5 times penal NPV plus 12% simple interest till the deposit is made by the user agency.
3.2	The user agency shall provide penal compensatory afforestation i.e. non-forest land equivalent to five times the forest land being diverted for the purpose of CA.
3.3	UA should pay cost of NPV, penal NPV, CA, penal CA along with cost of maintenance for 10 years
3.4	The user agency shall bear all costs of restoring the entire encroached forest land to fully stocked forest status (crown density > 0.7).
3.5	Appropriate Wildlife Conservation Plan should be prepared by the DFO Durgapur at the cost of user agency and a copy of the approved Plan shall be submitted along with the compliance of 'in-principle' approval.
3.6	The State Government shall take action against the erring official failed to stop the encroachment of forest land.

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After receipt of a report on the compliance of conditions stipulated in the extant 'in-principle' approval as mentioned above, from the State Government, the proposal shall be considered for final approval under clause (ii) of subsection (1) of section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. Transfer of forest land to user agency shall not be affected till final approval is granted by the Government in this regard.

Copy To

1. PCCF (HoFF), Government of West Bengal; Kolkata
2. DDGF (Central), Regional Office of MoEF&CC at Bhubaneswar.
3. Sub Office. of RO Bhubaneswar at Kolkata.
4. Nodal Officer (FCA), Forest Department, Government of West Bengal, Kolkata.
5. User Agency.
6. Monitoring Cell, FC Division, MoEF & CC, New Delhi, for uploading.
7. Guard File.

Your's faithfully

(Charan Jeet Singh)
Scientist 'D'

BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL EASTERN ZONE
BENCH, KOLKATA

O. A. NO. 182/2023/EZ

In The Matter of:

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... APPLICANT



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... RESPONDENT(S)

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SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

Email:

(M): 9007035534.