

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, AT KOLKATA  
MEMORANDUM OF APPLICATION**

(Under section 18(1) read with sections 14 & 15 of the National Green  
Tribunal Act, 2010)

**ORIGINAL APPLICATION NO.                      OF 2024**

**IN THE MATTER OF:**

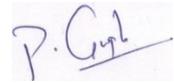
Rohit Choudhury...     ....     ....     ....     ....     .... Applicant

Versus

State of Assam & Ors...     ....     ....     ...     ...     ... Respondents

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**New Delhi  
Dated: 10.05.2024**

## LIST OF DATES AND SYNOPSIS

The present application is filed under section 14 (1) read with section 15 of the NGT Act, 2010 seeking directions from the Hon'ble Tribunal against the concerned official/officials of the Assam Forest Department for raising illegal construction for the establishment of second Commando Batallion by illegally diverting 28 hectares of reserve forest inside Geleky Reserve Forest located in Sibsagar district of Assam. The construction of the same is going on rapidly in violation of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, and the latest guidelines of the Central Government dated 29th December, 2023.

The said violation was reported in the English National daily, Hindustan Times on 25th April, 2024 with the title "A second commando battalion in Assam established without FC nod" The news article refers to a letter dated 15<sup>th</sup> November, 2022 wherein the then PCCF and HOFF, Shri M.K. Yadav has allowed for the said activity deliberately misinterpreting the same as an activity for conservation and protection of forest land under section 2 of the Van Adhiniyam, 1980 whereas under the provisions of the Van Adhiniyam the said activity is a "non-forest activity" which would require prior approval of the Central Government.

It is important to note that the present case is a similar case of violation committed by the same official/officials of the Assam Forest Department wherein 44 hectares of protected forest land has been illegally diverted for a Commando Batallion headquarters in Barak Valley inside the inner line of Reserve Forest in Hailakandi District. The said matter is pending adjudication before this Hon'ble Tribunal numbered as OA No. 61 of 2024. In the latest order dated 23.04.2024, the Hon'ble Tribunal on the basis of the site inspection report of the Regional office, Shillong MoEFCC, has recorded that the said construction activity is going on in utter violation of the statutory provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The Hon'ble Tribunal has also recorded the statement of the Advocate General appearing for the State of Assam that the said activity has been stopped.

The applicant is filing this application for appropriate directions from the Hon'ble Tribunal to immediately stop the illegal construction activity and direct the authorities to restore the damaged forest area in addition to holding the concerned official/officials liable to compensate for forest loss which includes payment for Compensatory Afforestation (CA) and recovery of Net Present Value (NPV).

23.01.2024            The Hon'ble Tribunal takes suo motu cognizance of illegal diversion of 44 hectares of protected forest for a Commando Batallion headquarter in Barak Valley inside the inner line of

Reserve Forest in Hailakandi District on the basis of a news article published in Northeast Now News dated 25.12.2023. The same has been numbered as OA No. 61 of 2024.

- 15.02.2024 The then PCCF and HOFF, Shri M.K.Yadav files false affidavit submitting that the said construction is only for the purpose of setting up tents for Commando Battalion and that the same is not a non-forest activity.
- 14.03.2024 The applicant files IA No. 124 of 2024 bringing to the notice of the Hon'ble Tribunal the photographs and satellite images indicating large permanent construction raised inside the forest without necessary permissions. The said IA is pending adjudication before the Hon'ble Tribunal.
- 23.04.2024 The Hon'ble Tribunal on the basis of the site inspection report of the Regional office, Shillong MoEFCC, records that the said construction activity is going on in violation of the statutory provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The Hon'ble Tribunal also records the statement of the Advocate General appearing for the State of Assam that the said activity has been stopped.
- 25.04.2024 A news article reporting similar incident of violation in the Geleky Reserve Forest of Sibsagar District, Assam is published in the english national daily Hindustan Times titled as "A second commando battalion in Assam established without FC nod. The news article refers to a letter dated 15<sup>th</sup> November,2022 wherein the then PCCF and HOFF, Shri M.K. Yadav has allowed for the said activity deliberately misinterpreting the same as an activity for conservation and protection of forest land under section 2 of the Van Adhiniyam, 1980 whereas under the provisions of the Van Adhiniyam the said activity is a "non-forest activity" which would require prior approval of the Central Government.
- 09.05.2024 Hence, the present application is filed before the Hon'ble Tribunal bringing to the notice the violation reported in the abovementioned news article.

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**EASTERN ZONE BENCH, AT KOLKATA**  
**MEMORANDUM OF APPLICATION**

(Under section 18(1) read with sections 14 & 15 of the National Green  
Tribunal Act, 2010)

**ORIGINAL APPLICATION NO.            OF 2024**

**IN THE MATTER OF:**

**Rohit Choudhury**

S/o Shri D.P.Agarwal

P.O- Lokhujan, Village – Garmur,  
Bokakhat-785612, Dist-Golaghat,

Assam ....            ....            ...            .....            .....            ....            .....            **Applicant**

Versus

**1. State Of Assam**

Through its Chief Secretary

Janata Bhawan, New CM Block, Third Floor

Dispur, Guwahati, Assam-781006

Email: [cs-assam@nic.in](mailto:cs-assam@nic.in)

**2. Department Of Environment and Forest, Assam**

Through Principal Chief Conservator of Forests & Head of Forest

Force Aranya Bhawan, Panjabari

Guwahati, Assam – 781037

Email: [hoff-assam@gov.in](mailto:hoff-assam@gov.in)

**3. Ministry Of Environment, Forest & Climate Change**

Through its Secretary,

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**4. District Commissioner**

Office of the District Commissioner

Sivasagar – 785640

District – Sivasagar, Assam

Email: [dc-sibsagar@nic.in](mailto:dc-sibsagar@nic.in)

**5. Divisional Forest Officer**

Sivasagar Division

Borpukhuripar, Near PWD Division

Sivasagar -785640

District – Sivasagar, Assam

Email: [dfot-sivasagar@gov.in](mailto:dfot-sivasagar@gov.in) ... .. **Respondents**

**MOST RESPECTFULLY SHOWETH:**

- I. The address of the counsel for the Applicants is given below for the service of notices of this Application.
- II. The addresses of the Respondents are given above for the service of notices of this Application.
- III. This present Application is being filed to bring to the notice of this Hon'ble Tribunal the environmental damage caused to the Geleky Reserve Forest due to the illegal establishment of second Commando Battalion, the construction of which is going on rapidly in violation of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980, hereinafter referred to as the "Van Adhinyam, 1980" and the latest guidelines of the Central Government dated 29th December, 2023.
- IV. The application is being filed under section 14 (1) of the NGT Act, 2010 since it raises substantial question related to environment as defined under section 2 m (i) and (ii) of the Act and also invokes jurisdiction of this Hon'ble Tribunal under section 15 seeking restitution of the damaged area and compensation commensurate to the damage done to the environment and ecology of the forest area.

The Humble Application of the Applicant named above:

**MOST RESPECTFULLY SHEWETH:**

1. That the applicant herein is an environmentalist and has been vigorously working on the environmental and ecological issues in the State of Assam. The applicant has filed various matters before the Hon'ble Tribunal for protection and conservation of the Kaziranga National Park and the forest areas of Assam wherein significant judgments and directions have been passed.
2. That the applicant has also filed Impleadment Application numbered as IA No. 124 of 2024 in OA No. 61 of 2024 which is pending adjudication before this Hon'ble Tribunal wherein 44 hectares of protected forest land has been illegally diverted for a Commando Battalion headquarters in Barak Valley inside the inner line of Reserve Forest in Hailakandi District in violation of the provisions Van Adhiniyam, 1980. In the latest order dated 23.04.2024 this Hon'ble Tribunal has recorded,

*2. In terms of the direction of the Tribunal, counter affidavit on behalf of MoEF&CC (respondent no.1) has been filed disclosing the status as under:-*

*"7. That the Regional Office Shillong of the Ministry vide its letter no. F.NO.- RONE/E/O.A.No.61/24/PB/S/4081 dated 12.03.2024 sent its detailed site inspection report vis-à-vis allegations of violation of statutory provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 by PCCF/HOFF, Assam. The said report has been examined in the Ministry and prima facie it has been observed that the use of forest land for non-forestry activities has been allowed without*

*prior permission of the Central Government which is in contravention of the statutory provisions and rules under 2 Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. (Copy of the site visit Report is annexed as Annexure-R-3). 8. That taking note of the aforesaid, the answering Ministry vide its letter dated 18.03.2024 directed the State Govt. to stop and discontinue the alleged construction activities forthwith. That vide letter dated 18.03.2024 the Ministry also requested its Regional Office Shillong to initiate action as prescribed under section 3A and 3B of the Evam Van (Sanrakshan Samvardhan) Adhiniyam. (Copy of the letters dated 18.03.2024 annexed as Annexure-R4.)”*

*3. Affidavit clearly reflects that the construction has been done in utter violation of the norms.”*

3. That the present application is based on another such incident of serious violation of law committed by the Forest Department of Assam wherein 28 hectares of reserve forest has been illegally diverted for establishment of second commando batallion in the Assam-Nagaland Interstate Border area of Geleky Reserve Forest located in Sibsagar district of Assam. It is important to note here that both the incidents of violations have been committed based upon the illegal permissions granted by the then Principal Chief Conservator of Forests and Head of Forest Force, Assam, Shri M.K. Yadava who is at present the Special Chief Secretary (Forest), Government of Assam. The concerned official has misused his power and position to illegally divert a large part of the forest area without fulfilling the requirements of Compensatory Afforestation and Net Present Value which makes him personally liable for compensating and restoring the damage done to the forest.

4. That a news article was published on 25<sup>th</sup> April, 2024 in the national daily Hindustan Times titled as “A second commando battalion in Assam established without FC nod” which covered the issue about the illegal activity carried out by the Forest Department in the concerned area. The news article refers to a letter dated 15<sup>th</sup> November, 2022 wherein the then PCCF and HOFF has allowed for the establishment of Commando Battalion Camp misinterpreting the same as an activity for conservation and protection of forest land under section 2 (b) of the Forest (Conservation) Act, 1980. The news article states the following about this letter,

“The letter from PCCF’s office signed off by Yadava states according to section 2 (b) of the FC Act 1980, non-forest purpose means: “any purpose other than reforestation: but does not include work relating or ancillary to conservation, development and management of forest and wildlife, namely, establishment of and Checkpost, firelines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

Since the proposal for 28 ha of forest land for establishment of commando battalion camp in the Assam-Nagaland interstate border area of Geleky RF is for protection and conservation of reserved forest land, it qualifies as an activity relating to conservation of forests mentioned under section (2) of the forest conservation act 1980. Therefore you are allowed

to go ahead with the establishment of the proposed second commando battalion unit in the interest of conservation and protection of forest land.”

Copy of the news article published on 25th April 2024 in the national daily Hindustan Times titled as “A second commando battalion in Assam established without FC nod” is attached and annexed herewith as **Annexure A-1**.

5. It is pertinent to note that the concerned official of the forest department deliberately misconstrued the provisions of the Van Adhiniyam, 1980 and has twisted the language of the given section to use the same as per his own convenience. The applicant wishes to point out that the activity for establishment of a Commando battalion inside the reserve forest is a non-forest activity and cannot be undertaken unless permitted or specified by the Central Government.
6. That section 2 of the Van Adhiniyam, 1980 is being reproduced herein for ready reference,

**“2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose – (1)** Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing -

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation subject to such terms and conditions, as the Central Government may, by order, specify;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation:

**‘Explanation**— For the purposes of this sub-section, “non-forest purpose” includes breaking up or clearing of any forest land or a portion thereof for—

(a) cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reforestation,

*but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—*

(i) *silvicultural operations including regeneration operations;*

(ii) *establishment of check-posts and infrastructure for the front line forest staff;*

(iii) *establishment and maintenance of fire lines;*

(iv) *wireless communications;*

(v) *construction of fencing, boundary marks or pillars, bridges and culverts, dams, waterholes, trenches and pipelines;*

(vi) *establishment of zoo and safaris, referred to in the Wild Life (Protection) Act, 1972, owned by the Government or an Authority, in forest areas other than Protected Areas;*

(vii) *eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area;*

(viii) *and any other like purposes, which the Central Government may, by order, specify.”*

7. That the explanation to section 2 provides for (i) to (viii) activities which are not covered in “non-forest purpose” and therefore does not require approval under the Van Adhiniyam. The reading of the section clearly shows that the said activities are only those which are ancillary to conservation, development and management of forest and wildlife. In addition to the same, clause (viii) makes it very clear that for any other purposes, which are not given under the abovementioned clauses, it would be upon the Central Government to specify the same. It is pertinent to note here that “establishment of commando batallion” does not fall under the said clauses. Moreover, there is no order of the Central Government which specifies such activity as an activity for conservation, management and development of forests and wildlife.

8. That the Central Government has come out with the guidelines titled as “Consolidated Guidelines and Clarifications on Van (Sanrakshan

Evam Samvardhan) Adhiniyam, 1980 applicable from 29<sup>th</sup> December, 2023. It is submitted that nowhere in the guidelines the establishment of a commando batallion has been referred to as a forest activity. It further states that only the infrastructure essential for management of forest by forest personnel will not be a 'non-forest use' but the same would also be subject to the prior permission of the Central Government depending upon the extent of construction and its impact on the forests. The applicant is reproducing para 11.8 of the guidelines for ready reference,

“11.8 Infrastructure ancillary to Forest Management: According to the explanation in the Act, any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check- posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes, is not a non-forest use and therefore, taking up such work in the forest land does not require diversion under the Van (Sanrakshan Evam Samvardhan) Adhiniyam. As such all State Governments should ensure that the basic spirit and essence or the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is not to divert forest land for construction of residential buildings, Bungalows, quarters etc. Bare minimum (operational) buildings, which are essential for management of forest by forest personnel and conservation of bio-wealth such as forestguard hut, check posts, range offices, small inspection bungalow (2-3 room), un-tarred single lane roads etc., can be taken up in selected areas without causing damage/destruction to the forests thereon. But if the structures are large and would impact on conservation, prior

permission under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 would be required.” Copy of relevant pages of the said guidelines are attached and annexed herewith as Annexure A-2.

9. That the establishment of commando battalion in the Geleky Resrve Forest is a clear violation of the Van Adhiniyam, 1980 which invokes penalty against the concerned official/officials as stipulated in sections 3A and 3B. The section is reproduced herein for ready reference,

“3A. Penalty for contravention -

Whoever contravenes or abets the contravention of any of the provisions of section 2, shall be punishable with simple imprisonment for a period, which may extend to fifteen days.

3B. Offences by the Authorities and Government Departments— (1) Where any offence under this Act has been committed -

(a) by any department of Government, the head of the department; or

(b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

10. That in addition to the penalty provided under the Act, the concerned official/officials are also liable to compensate for forest loss

which includes payment for Compensatory Afforestation and recovery of Net Present value. The concerned official/officials must also be made liable for restoration of the forest ecosystem which has been damaged due to the illegal construction activity.

11. That the said illegal activity is continuing and rapid construction is going on to create a fait accompli. It is important to note here that the Hon'ble Tribunal and the Hon'ble Supreme Court have time and again observed that the provisions of environment and forest clearance cannot be applied post-facto as the same undermines the very essence of precautionary principle.
12. That the application is being filed before this Hon'ble National Green Tribunal on the following grounds:

#### **Grounds**

- A. Because the said activity is a non-forest activity which could not have been done without obtaining permission under Van Adhiniyam, 1980. Also, there has been large scale deforestation and clearing of the forest which has led to change of land use causing serious and irreversible damage to the forest ecosystem.
- B. Because massive construction in the forest area is being undertaken illegally which requires to be stopped immediately and necessary action against the forest officials may be taken for violation of the rules and regulations. The illegal construction allowed by the forest department is causing irreversible damage to the forest area.
- C. That it is the duty of the forest department to act as a custodian of forests and take decisions in accordance with the moral obligation

enshrined under the Public Trust Doctrine. However, in the present case, the forest department and its officials have misused their power and position to divert a large part of the forest area without fulfilling the necessary requirements provided in the Van Adhiniyam, 1980.

D. That the forest department and its officials must be held responsible for causing damage to the forest area and be held accountable to compensate for the loss done. The officials of the forest department should personally bear the cost of restoring the damaged forest area. The Hon'ble Supreme Court in I.A. No.20650 of 2023 in Writ Petition (Civil) No.202 of 1995 In Re: T.N Godavarman Thirumulpad versus Union of India & Ors. in Re: Gaurav Kumar Bansal in judgment dated 06.03.2024 has observed that the cost of restoring the damage should be borne by the persons responsible for the damage. The SC has held,

“155. In the case of S. Jagannath v. Union of India and others, this Court was considering the issue of pollution created by the industry which had caused harm to the villagers in the affected area, to the soil and to the underground water. This Court observed thus:

“49. (...) Consequently the polluting industries are ‘absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas’. The ‘Polluter Pays Principle’ as interpreted by this Court means that the

absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of 'Sustainable Development' and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology (...)." [emphasis supplied]

156. It could thus be seen that, worldwide as well as in our jurisprudence, the law has developed and evolved emphasizing on the restoration of the damaged ecological system. A reversal of environmental damage in conformity with the principle under Article 8(f) of the CBD is what is required. At times, the compensatory afforestation permits forestation at some other site. However, the principle of restoration of damaged ecosystem would require the States to promote the recovery of threatened species. We are of the considered view that the States would be required to take steps for the identification and effective implementation of active restoration measures that are localized to the particular ecosystem that was damaged. The focus has to be on restoration of the ecosystem as close and similar as possible to the specific one that was damaged.

158. We find that, bringing the culprits to face the proceedings is a different matter and restoration of the damage already done is a different matter. We are of the considered view that the State cannot run away from its responsibilities to restore the damage done to the forest. The

State, apart from preventing such acts in the future, should take immediate steps for restoration of the damage already done; undertake an exercise for determining the valuation of the damage done and recover it from the persons found responsible for causing such a damage.”

E. Because, the concerned official/officials of the forest department are liable for restitution of the damaged area in accordance with Section 15 (1) (b) and (c) of the NGT Act. The word ‘restitution’ has been defined as follows: “The word ‘restitution’ was used in the earlier common law to denote the return or restoration of a specific thing or condition. In modern legal usage, its meaning has frequently been extended to include not only the restoration or giving back of something to its rightful owner, but also compensation, reimbursement, indemnification, or reparation for benefits derived from, or for loss or injury caused to another. As a general principle, the obligation to do justice rests upon all persons, natural and artificial; if one obtains the money or property of others without authority, the law, independently of express contract, will compel restitution or compensation.” (American Jurisprudence 2d. Volume 66 Am Jur 2d).

F. Because, the Hon’ble Tribunal has the power under Section 19(4)(j) of the NGT Act, 2010 to pass any order requiring any person to cease and desist from committing or causing violation of any enactment specified in Schedule I, in the present case the Van Adhiniyam, 1980. Thus, in accordance with the powers vested under the NGT Act, 2010, the Hon’ble Tribunal may take stringent action against the concerned official/officials of the Forest

Department and pass necessary orders for recovery of payment for Compensatory Afforestation and Net Present Value and restoration of the damaged forest area.

### **LIMITATION**

That the present Application is filed against the damage caused by the illegal establishment of second Commando batallion in the Assam-Nagaland Interstate Border area of Geleky Reserve Forest located in Sibsagar district of Assam. The same has been evidenced in the news article published on 25<sup>th</sup> April,2024 in the national daily Hindustan Times titled as “A second commando battalion in Assam established without FC nod”. The application is filed based upon the news article and is within the limitation period prescribed under section 14 of the NGT Act, 2010. The violation is continuing as the construction is going on without necessary permissions under the Van Adhiniyam, 1980. The application has also been filed for restitution of the forest area and is within the period of five years as prescribed under section 15 of the NGT Act, 2010.

### **PRAYER**

That in view of the above, it is most respectfully submitted that this Hon’ble Tribunal may be pleased to:

- i. Direct Respondent No. 2 to immediately stop the construction of the second commando battalion in the Geleky Reserve Forest located in Sivasagar district of Assam.
- ii. Direct Respondent No. 3 to undertake a site inspection and assess the damage done to the forest area and to recover payment for CA and NPV by the concerned official/officials of the Forest Department, Respondent No. 2 who are responsible for the illegal activity.

- iii. Direct that the concerned official/officials of the Respondent No.2 be made personally liable for the damage caused to the forest area and pay compensation for the loss to ecology and environment in view of the recent landmark judgment of the Hon'ble Supreme Court passed in IA. No.20650 of 2023 in Writ Petition (Civil) No.202 of 1995 In Re: T.N Godavarman Thirumulpad versus Union of India & Ors. in Re: Gaurav Kumar Bansal, judgment dated 06.03.2024.
- iv. Direct punishment of the concerned official/officials of the Forest Department under sections 3A and 3B for committing offence under the Van Adhinyam, 1980.
- v. Pass such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

*Rohit Choudhury*

**Applicant**

**Through**

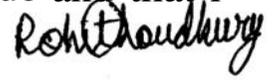
*P. Gupta*

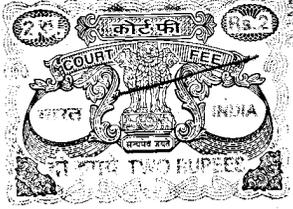
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ADVOCATE FOR THE APPLICANT  
A-63, THIRD FLOOR, DEFENCE COLONY, NEW DELHI-110024  
Email ID: parul.lawyer@gmail.com Phone: 91-9891656928**

**Place: New Delhi  
Dated: 10.05.2024**

**VERIFICATION**

I, Rohit Choudhury, S/o Shri Debi Prasad Agarwal, aged about 42 years, R/O village Gormur, P.O Lokhujan, Bokakhat -785612, District Golaghat, Assam do verify that the contents of the application are true and that I have not suppressed any material fact.

**Applicant****Place:- Bokakhat****Dated:- 06.05.2024**



SL. No. 3980/19  
2024

BEFORE THE NATIONAL GREEN TRIBUNAL

ORIGINAL APPLICATION NO. .... OF 2024



**IN THE MATTER OF;**

**Rohit Choudhury... .. Applicant**

**Versus**

**State of Assam & Ors.... .. Respondents**

**AFFIDAVIT**

I, Rohit Choudhury, S/O Shri Debi Prasad Agarwal, aged about 42 years, R/o village Gormur, P.O Lokhujan, Bokakhat-785612, District Golaghat, Assam, do hereby solemnly affirm and state as under:

1. That I am the Applicant in the abovementioned Original Application and am well conversant with the facts and circumstances of the case, hence, I am competent to swear this affidavit.
2. That I have read and understood the contents of the Original Application and I say that the same are true to the best of my knowledge and belief. No part of it is false and nothing material is concealed.

*Rohit Choudhury*  
DEPONENT

**VERIFICATION:**

I do hereby verify that the contents of my above said affidavit are true and correct to my knowledge and no part of it is false and nothing material is concealed therefrom.

Verified at **BOKAKHAT** on this ...<sup>6<sup>th</sup></sup>... day of... May.....2024.

*Rohit Choudhury*  
DEPONENT

Identified by  
*Nandika Begum*  
*Advocate, Bokakhat*

**NOTARY**  
*05/05/24*

## A second commando battalion in Assam established without FC nod

By Jayashree Nandi, New Delhi  
Apr 25, 2024 05:28 AM IST

Former Assam PCCF MK Yadava approved forest diversions for commando battalions on Assam-Mizoram and Assam-Nagaland borders, criticized by Union environment ministry.

A former Assam principal chief conservator of forests (PCCF), MK Yadava, who made the news for approving the construction of a commando battalion unit on the Assam-Mizoram border through the diversion of around 44 ha of forests in 2023, a decision criticised by the Union environment ministry, also approved at least one more project of this nature, documents seen by HT show.



The Centre took notice of the illegal diversion of forests in 2023 at Hailakandi and directed the state to halt construction. (HT Photo)

Yadava, who was also the head of forest force, approved the diversion of another 28 ha at the Assam-Nagaland border in Geleky reserve forest in 2022 for a police battalion camp, the documents show.

HT reported on April 10 that the Union environment ministry took notice of the illegal diversion of forests in 2023 at Hailakandi (Assam-Mizoram border) and directed the state government, in March this year, to immediately halt construction.

Environmentalists are now pointing at the Geleky violation also approved by Yadava. The documents show that on November 15, 2022, Yadava wrote to the officer in charge, Eastern Assam Circle stating that the construction of a police battalion can be approved “in the interest of conservation and protection of forest land” at Geleky.

The letter from PCCF’s office signed off by Yadava states according to section 2 (b) of the FC Act 1980, non-forest purpose means: “any purpose other than reforestation: but does not include work relating or ancillary to conservation, development and management of forest and wildlife, namely, establishment of and Checkpost, firelines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.”

“Since the proposal for 28 ha of forest land for establishment of commando battalion camp in the Assam-Nagaland interstate border area of Geleky RF is for protection and conservation of reserved forest land, it qualifies as an activity relating to conservation of forests mentioned under section (2) of the forest conservation act 1980. Therefore you are allowed to go ahead with the establishment

of the proposed second commando battalion unit in the interest of conservation and protection of forest land,” the letter added.

The language is similar to the one Yadava would go on to use in the approval of the diversion of 44 ha on September 28, 2023 in Hailakandi forest division.

HT reported on April 10 that the Hailakandi violation created a furore among local conservationists, compelling the Union environment ministry to take notice. In a letter, seen by HT, the Union environment ministry on March 18, said: “The report of the Regional Office has been examined in the Ministry and prima facie it has been observed that the use of forest land for non forestry activities has been allowed without prior approval of the Central Government which is in contravention of the statutory provisions and rules under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. Taking into account the aforesaid, the State Government is urged to stop all construction activities in the aforementioned area/land in question, with immediate effect, till further orders or decision in the matter.”

The Union ministry hasn't done anything concerning Geleky yet, activists say.

“The ministry has chosen to remain silent on that instance, and no site inspection has been carried out yet,” a Guwahati-based environmentalist said on condition of anonymity. He also presented satellite images showing forests cleared in Geleky for the battalion camp.

The environment ministry did not respond immediately to HT's queries. A senior environment ministry official however said: “We have already explained in our letter on the Hailakandi violation that

the interpretation of the Forest Conservation Amendment Act provisions is incorrect and it is in violation of the law. The same would be applicable to this violation also.”

HT tried reaching Yadava repeatedly to seek his response on these illegal forest diversions but he did not answer calls or reply to messages.

Yadava has since been appointed as special chief secretary (forest) by the Assam government following his retirement in February. Yadava is close to the current dispensation in Assam, which is why he has been given a position after his retirement, local environmentalists have alleged.

“Special Chief Secretary (Forests) has been allowed to be a judge in his own cause. He takes decisions on reports containing details of violations committed by himself. Government of Assam does not seem to care about conflict of interest,” another Jorhat based activist said.

While there was no response from the Assam chief minister’s office, state advocate general Debajit Saikia said: “The union environment and forest ministry had submitted an affidavit in connection with the issue on Monday. On Tuesday, we sought four weeks’ time from NGT to file our response. The tribunal has agreed to it and the next hearing for it has been fixed on August 2.”

NGT had suo moto taken up the Hailakandi diversion case in January this year. On March 28, the Union environment ministry submitted an affidavit in the matter which states that the construction of the battalion is in contravention of the Forest Conservation Amendment Act.

The Assam government on Tuesday informed the National Green Tribunal (NGT) that it has stopped the construction of a commando camp on 44 hectares at Hailakandi after the Union environment ministry's intervention.



# **CONSOLIDATED GUIDELINES AND CLARIFICATIONS**

issued under

**VAN (SANRAKSHAN EVAM  
SAMVARDHAN) ADHINIYAM, 1980**

and

**VAN (SANRAKSHAN EVAM  
SAMVARDHAN) RULES, 2023**



**Government of India**

**Ministry of Environment, Forest and Climate Change**

Government of India  
Ministry of Environment, Forests and Climate Change  
(Forest Conservation Division)

Indira Paryavaran Bhawan,  
Aliganj, Jor Bag Road,  
New Delhi - 110003.

**Dated: 29th December, 2023**

**ORDER**

In exercise of the powers conferred under section 3 C of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, the Central Government, in suppression to all previous guidelines, hereby issue a Consolidated Guidelines and Clarifications on Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, Van (Sanrakshan Evam Samvardhan) Rules, 2023, including the guidelines issued under sub-section (3) of section 1A, clause (iii) of sub-section (1) of section 2 and sub-section (2) of section 2 of the Adhiniyam for effective and transparent implementation of the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. All the provisions enshrined in these guidelines will be applicable from 1st December, 2023.

This issues with the approval of the competent authority.

Yours faithfully,

  
29.12.23  
(Ramesh Kumar Pandey)  
Inspector General of Forest

**Distribution to:**

1. All concerned
2. Director (Technical), NIC with a request to upload the same on the website of the Ministry

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**ABBREVIATIONS**

ABC	Aerial Bunched Cable
AC	Advisory Committee
ACA	Accredited Compensatory Afforestation
ACF	Assistant Conservator of Forest
AONBs	Areas of Outstanding Natural Beauty
APCCF	Additional Principal Chief Conservator of Forests
BRO	Border Road Organisation
CA	Compensatory Afforestation
CA	Competent Authority
CAF	Common Application Form
CAMPA	Compensatory Afforestation Fund Management and Planning Authority
CAT	Catchment Area Treatment
CBA	Cost Benefit Analysis
CBA	Coal Bearing Areas (Acquisition and Development) Act, 1957
CCF	Chief Conservator of Forests
CEA	Central Electricity Authority
CF	Conservator of Forest
CNG	Compressed Natural Gas
CPCB	Central Pollution Control Board
CZA	Central Zoo Authority
DCF	Deputy Conservator of Forests
DDA	Delhi Development Authority
DFO	Divisional Forest Officer
DGPS	Differential Geographical Positioning System
DoT	Department of Telecommunications
DPIIT	Department for Promotion of Industry and Internal Trade
DSS	Decision Support System
DWPR	Draft Working Plan Report
EDS	Essential Details Sought
EPA	Environment Protection Act
ESZ	Ecologically Sensitive Zone
FAC	Forest Advisory Committee
FFR	Field Firing Range
FRCM	Fortnightly Regional Coordination Meeting
FRL	Full Reservoir Level
GIS	Geographical Information System
GOI	Government of India
HEP	Hydro Electric Project
HoFF	Head of Forest Force
ICMC	Inter-Ministerial coordination and Monitoring Committee
IFA	Indian Forest Act, 1927
KYA	Know Your Approval
LAC	Line of Actual Control
LoI	Letter of Intent
LWE	Left Wing Extremism
MDDA	Mussoorie Dehradun Development Authority

MHA	Ministry of Home Affairs
MMDR	Mines and Minerals (Development and Regulation) Act, 1957
MoEFCC	Ministry of Environment, Forest and Climate Change
MoRTH	Ministry of Road Transport and Highways
NBWL	National Board for Wildlife
NDC	Nationally Determined Contributions
NGO	Non-Government Organisation
NGT	National Green Tribunal
NHAI	National Highway Authority of India
NHIDCL	National Highways and Infrastructure Development Corporation Ltd.
NOC	No Objection Certificate
NPV	Net Present Value
NTCA	National Tiger Conservation Authority
OFC	Optical Fibre Cable
OISD	Oil Industry Safety Directorate
PA	Protected Areas
PAN	Protected Area Network
PCCF	Principal Chief Conservator of Forests
PESO	Petroleum and Explosive Safety Organisation
PF	Protected Forest
PLPA	Punjab Land Preservation Act, 1900
PMGSY	Pradhan Mantri Gramya Sadak Yojna
PNG	Piped Natural Gas
PNGRB	Petroleum and Natural Gas Regulatory Board
PSC	Project Screening Committee
PSU	Public Sector Undertakings
PWD	Public Works Department
RCCF	Regional Chief Conservator of Forest
REC	Regional Empowered Committee
RF	Reserved Forest
RO	Regional Office
ROHQ	Regional Office Head Quarter
RoW	Right of Way
SBWL	State Board for Wildlife
SFD	State Forest Department
SLC	State Level Committee
SMC	Soil Moisture Content
TOF	Trees Outside Forest
TR	Tiger Reserved
UA	User Agency
UA	User Agency
USF	Un-classed Forest
WII	Wildlife Institute of India
WLMP	Wildlife Management Plan
WLPA	Wild Life (Protection) Act, 1972

**VAN (SANRAKSHAN EVAM SAMVARDHAN) ADHINIYAM, 1980 WITH  
AMENDMENTS MADE IN 1988 AND 2023**

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

*“WHEREAS, the importance of forests is to be realised to enable achievement of national targets of Net Zero Emission by 2070 and maintain or enhance the forest carbon stocks through ecologically balanced sustainable development;*

*AND WHEREAS, Nationally Determined Contribution (NDC) targets of the country envisage creating carbon sink of additional 2.5 to 3.0 billion tons of CO<sub>2</sub> equivalent by 2030;*

*AND WHEREAS, the country envisages an increase in the forest and tree cover to one third of its land area, which has to be given impetus with an enhanced growth trajectory;*

*AND WHEREAS, India has a rich tradition of preserving forests and their bio-diversity, and therefore enhancing forest based economic, social and environmental benefits, including improvement of livelihoods for forest dependent communities is envisaged;*

*AND WHEREAS it is necessary to provide for provisions relating to conservation management and restoration of forests, maintaining ecological security, sustaining cultural and traditional values of forests and facilitating economic needs, carbon neutrality .”.*

Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

**1. Short title, extent and commencement.**— (1) This Act may be called the *Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980*.

(2) It shall be deemed to have come into force on the 1<sup>st</sup> day of December, 2023.

**1A. Act to cover certain land.**— (1) The following land shall be covered under the provisions of this Act, namely:-

(a) that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;

(b) that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25<sup>th</sup> October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12<sup>th</sup> December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.

**Explanation.-** (i) For the purposes of this sub-section, the expression ‘Government record’ means record held by Revenue Department or Forest Department of the State Government or Union territory Administration or any authority, local body, community or council recognised by the State Government or Union territory Administration;

(2) The following categories of land shall not be covered under the provisions of this Act, namely:—

(a) such forest land situated alongside a rail line or a public road maintained by government, which provides access to a habitation, or to such rail, and roadside amenity up to a maximum size of 0.10 hectare in each case;

(b) such tree, tree plantation or reforestation raised on lands that are not specified in clause (a) or clause (b) of sub-section (1); and

(c) such forest land, —

(i) as is situated within a distance of hundred kilometres along international borders or Line of Control or Line of Actual Control, as the case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or

(ii) up to ten hectares, proposed to be used for construction of security related infrastructure; or

(iii) as is proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed five hectares in a Left Wing Extremism affected area as may be notified by the Central Government.

(3) The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.

## **2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose—**

– (1) Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing -

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation subject to such terms and conditions, as the Central Government may, by order, specify;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation:

**‘Explanation—** For the purposes of this sub-section, “non-forest purpose” includes breaking up or clearing of any forest land or a portion thereof for—

(a) cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reforestation,

*but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—*

- (i) *silvicultural operations including regeneration operations;*
- (ii) *establishment of check-posts and infrastructure for the front line forest staff;*
- (iii) *establishment and maintenance of fire lines;*
- (iv) *wireless communications;*
- (v) *construction of fencing, boundary marks or pillars, bridges and culverts, dams, waterholes, trenches and pipelines;*
- (vi) *establishment of zoo and safaris, referred to in the Wild Life (Protection) Act, 1972, owned by the Government or an Authority, in forest areas other than Protected Areas;*
- (vii) *eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and*
- (viii) *any other like purposes, which the Central Government may, by order, specify. ’;*

(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose.

**3. Constitution of Advisory Committee** — The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to

- (i) the grant of approval under section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

**3A. Penalty for contravention -**

Whoever contravenes or abets the contravention of any of the provisions of section 2, shall be punishable with simple imprisonment for a period, which may extend to fifteen days.

**3B. Offences by the Authorities and Government Departments**— (1) Where any offence under this Act has been committed -

- (a) by any department of Government, the head of the department; or
- (b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was

committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**3C. Power of Central Government to issue directions**— The Central Government may, from time to time, issue such directions, to any authority under the Central Government, State Government or Union territory or any organization, entity or body recognized by the Central Government, State Government or Union territory Administration, as may be necessary for the implementation of this Act.

**4. Power to make rules** — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**5. Repeal and saving -**

(1) The Forest (Conservation) Ordinance, 1980 is hereby replaced.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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## CHAPTER -11

**INFRASTRUCTURAL PROJECTS INCL. ROADS, RAILWAY LINES, BORDER  
ROADS, CRITICAL UTILITY INFRASTRUCTURE DEVELOPMENT/  
RESIDENTIAL / BUILDING CONSTRUCTION**

- 11.1** Any proposal for linear projects such as roads, railway line, transmission lines, etc. need to be processed in their entirety for comprehensive assessment of requirement of forest land and consequences if approval for any forest land is not granted. Project proponents should not align such projects towards forest land for sake of logistic convenience. No work on forest land shall be taken up unless diversion of forest land is ordered by the concerned State /UT Government after obtaining approval of the Central Government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980:

Provided that consequent to grant of Stage I approval in respect of linear projects such as laying of new roads, widening of existing highways, transmission lines, water supply lines, optic fiber cabling, railway lines etc. by the Central Government under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 the State Government or a Senior Officer not below the Rank of a Divisional Forest Officer, having jurisdiction over the forest land proposed to be diverted, duly authorized in this behalf by the State Government can pass an order for tree cutting and commencement of work not involving black topping, concretization, laying of railway tracks, charging of transmission lines, or as specified in the 'in-principle' approval granted to a linear project in forest land for a period of one year:

Provided that no other proposal of the user agency for which 'in-principle' approval under the Adhiniyam has been granted before a period of two years or more and is still pending for final approval for want of submission of compliance or complete compliance of 'in-principle' approval. An undertaking to this effect shall be submitted by the user agency.

The special provisions allowing the State Governments/Union territory Administrations for tree cutting and commencement of work of linear projects after payment of compensatory levies, can be extended for a further period of one more year, if the Advisory Committee or the Regional Empowered Committee, as the case may be, is satisfied that user agency had made serious efforts to comply with the compliance in "In-Principle" approval and the user agency has submitted an undertaking to obtain 'Final' approval within the period of 2 years from the date of issue of 'in-principle' approval.

Such orders shall be passed only after full realization of funds for compensatory afforestation, Net Present Value (NPV), wildlife conservation plan, plantation of dwarf species of medicinal plants, and all such other compensatory levies, specified in the Stage I (in-principle) approval from the UA, and where ever applicable, transfer and mutation of non-forest/ revenue forest land in favour of State Forest Department.

- 11.2** Linear project may involve more than one Forest Division or State. To avoid *fait accompli* situations and for holistic evaluation of the project, PARVIESH 2.0 provides the facility for the user agency to file single application for projects involving multiple Forest Divisions. Project proponents may make the application Section/Package-wise as per their Administrative and Technical sanctions but in that case also they should submit along with the proposal salient feature of the entire project and details of status of approvals sought under the Act for other Sections/Packages of the project.

To facilitate phased preparation and processing, the proposals for such projects may be prepared Forest Division/ State-wise subject to submission of a map indicating alignment of the entire project, highlighting the portions passing through forest land, along with salient features of the entire project and details of approvals already obtained and/or sought under the Act for other sections of the project.

Moreover, in case of linear projects involving both forest as well as non-forest land, work on non-forest land may be executed subject to submission of details of all stretches involving forest lands along with alternate alignments identified to bypass the forest land. To prevent occurrence of *fait accompli* situations, User Agency needs to undertake that in case diversion of forest land is denied, project shall be executed along alternate alignment and work on non- forest land shall not be cited as a reason for grant of approval of diversion of forest land under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. Work on non-forest land will not confer any right on the User Agency with regard to grant of approval under the Act. Further, in case approval under the Act is declined for widening of road, width of the portion of road falling in the forest land will be maintained at its existing level.

The above facilitation is not applicable to the roads falling in the Protected Areas and the Eco-sensitive zones around the Protected Areas where impact on wildlife is to be considered.

**11.3 Roads/Railways/Canals:** Non-forest lands which were acquired by the concerned Government departments for construction of roads/railways/canals and the vacant areas in the Right of Way (RoW) were subsequently planted and notified as Protected Forests for management purposes will attract the provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. Similarly, breaking of any land, recorded as forest, for conversion of meter gauge railway line to broad gauge railway line or road widening even if such forest land falls within the existing RoW will require prior approval of the Central Government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. But if the RoW, which essentially is the area falling within the limits of Road/Railway/Canal's concerned department owned land for executing or maintaining the same, has no land as 'Forest' as per Government records and as per Hon. Supreme Court's order dated 12.12.1996 in WP no. 202/1995 and the same land is under non-forest use since before 25<sup>th</sup> October 1980 then the provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 would not apply and Tree felling on such land shall be governed by relevant local Acts. As far as ownership of the land is concerned, the same shall be decided by the State Government.

**11.4** Railway projects passing through the notified ESZ or located within 10 km radius of PAs (Protected Areas) or Tiger Reserves(TR) are not required to obtain Wildlife Clearance from the NBWL as these projects do not need Environment Clearance but advice of the concerned Wildlife Authorities in the State Government shall be obtained to incorporate mitigation measures in the project such as crossings or pathways to be used by wild animals. However, railway projects passing through the areas linking one TR with another PA or TR diversion cannot be allowed for ecologically unsustainable use, except in public interest with the approval of NBWL on the advice of NTCA as provided under section 38 (O) (1) (g) of WLPA 1972

**11.5 Repair and maintenance as well as upgradation/widening of roads constructed in forest lands:** The up-gradation of roads, without widening, constructed in forest areas prior to 25<sup>th</sup> October 1980, from 'Kutchra to Pucca' is permissible without attracting the provisions of Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 and black topping and bituminous work of forest roads (management works) which have been brought under Pradhan Mantri Gramin Sadak Yojana (PMGSY) is permitted subject to fulfillment of the following conditions:

- (a) No breaking up of forest land or felling of tree shall be allowed;
- (b) While black topping, adequate precautions should be undertaken by the User Agency to avoid any damage to flora and fauna. Fire for melting of coal tar and mixing shall be lit at a safe distance from the trees/vegetation and avoiding dry/hot seasons. Fuelwood, if required, shall be purchased in advance from the Depot of Forest Development Corporations;
- (c) No crushing/breaking of stones shall be allowed inside forest areas. Readymade materials shall be used for up-gradation of such roads. No labour camp shall be allowed on the forest land.
- (d) Bitumen cold mix for black topping should be prepared outside the forest or at a site approved by the Divisional Forest Officer.
- (e) The user agency shall maintain the curves of the roads, inside the forest, and will not straighten the same.
- (f) The user agency shall install speed breakers and speed control signage at regular intervals to avoid accident with wild animals.
- (g) The user agency shall try to maintain the road surface as rough as possible to act as regular speed governor, even if it means going below the standards prescribed for the particular class of roads, the intention being only to make it an all-weather road.
- (h) The user agency shall provide side drains for proper drainage
- (i) No widening of road should be undertaken without prior approval of the Central Government under the Adhinyam. Both sides of sides of the upgraded road shall be reinforced with brick/stone works, and vegetative measures to check soil erosion at the project cost in consultation with the Divisional Forest Officer. Further in case of widening of such roads, while seeking prior approval under the Adhinyam for use of additional forest land required for widening/upgradation/strengthening, the detail of existing forest land involved in the carriageway of road constructed prior to 1980 should also be included in the application for diversion of forest land without insisting for corresponding NPV and CA provisions.
- (j) Any other condition the Divisional Forest Officer may impose from time to time in the interest of forest conservation and protection.

**11.6 Pipeline/OFC/ Electrical cable laying and their maintenance:** Any fresh proposal for laying of pipeline/OFC/Electrical cable in forest areas shall attract the provisions Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980. Even for pipelines/ Cables laid in forest areas prior to 1980, it has been noticed that with the passage of time, natural vegetation grows over the land covering the pipelines and the vegetation/ tree growth becomes similar to that of surrounding forests. The repair and maintenance of such lines

may not be possible without breaking of forest land and, accordingly, during the repair and maintenance of such pipelines, disturbance would be caused to the surrounding vegetation and fauna due to breaking of forest land and clearing of vegetation/trees. Therefore, such works should be undertaken with the prior approval of the central government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.

To deal with emergency situations, which may arise due to leakages, damage due to accident or other such reasons, quick action and remedial measures for repairing the damaged pipelines may be undertaken, where no felling of trees is involved and with the prior permission of the DCF concerned subject to following:

1. The permission shall be granted for a short period only which will not exceed the period of three months.
2. The damage caused to flora, fauna of the surrounding forest will be compensated by the user agency, and the forest land will be restored to its original state at the cost of user agency.
3. To ensure minimum disturbance to the wildlife, the repair work shall be done during the day time only.
4. All infrastructural facilities, including setting up of labour camps, shall be established out the forest area.
5. Relevant rules, regulations, standards and guidelines issued by OISD (Oil Industry Safety Directorate) and PNGRB (Petroleum and Natural Gas Regulatory Board) under Ministry of Petroleum & Natural Gas; and PESO (Petroleum and Explosive Safety Organisation) under DPIIT shall be strictly followed and monitored at the appropriate level.
6. Any other condition, which the local Forest Department may stipulate in the interest of conservation and protection of flora and fauna of the area.

#### **11.7 Approach/Exit Roads to Fuel stations for distribution of petrol, diesel, LPG, CNG etc.:**

- (i) Fuel stations should generally be part of rest area complex having other amenities like place for parking, toilets, restaurants, rest rooms, shops, etc. Proper planning should be done by the User Agencies, in advance, for construction of such complexes along the highways so that destruction of road side forests is minimized.
- (ii) In such cases where the forest area proposed for providing access is more than 0.1 ha i.e. not covered under the exemptions, provided under sub section (2) of section 1A of the Adhiniyam, the prior approval of the Central Government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam shall be obtained by the State Government or the Union territory Administrations.
- (iii) Requirement for diversion of forest land for construction of acceleration/de-acceleration lane and exit/entry opening shall be based on the approved layout plan provided in the extant guidelines issued by the Ministry of Road Transport and Highways in this regard.
- (iv) However, if approach/exit road for a fuel station involves forest land already diverted for construction/widening of a road, fresh approval for re-diversion of such forest land for construction of approach/exit for fuel station will be required only if it involves clearing of or felling of any tree.

- (v) If two or more fuel station are to be constructed in close proximity or adjacent to each other for some reasons, diversion of forest land for a common access/exit shall only be approved.
- (vi) Further, for process of examination of such proposals, NOC issued by State PWD/NHAI or other similar agencies for setting up of retail outlets under RoWs should not be insisted as prerequisite at the beginning of the submission of the application and the same may be considered at any level on PARIVESH 2.0 portal. The undertaking along with acknowledgment of the agencies owning RoW from the User Agency stating that they have initiated the process of obtaining NOC may be considered for initial submission of proposal on PARIVESH. It is also clarified that the process of obtaining NOC and its submission must be completed before the submission of such proposals to Integrated Regional Office, provided that no such proposals in any case give rise to a situation of fate accompli or involved in violations of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 or other related Central or State Acts.

**11.8 Infrastructure ancillary to Forest Management:** According to the explanation in the Act, any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check- posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes, is not a non-forest use and therefore, taking up such work in the forest land does not require diversion under the Van (Sanrakshan Evam Samvardhan) Adhiniyam. As such all State Governments should ensure that the basic spirit and essence or the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is not to divert forest land for construction of residential buildings, Bungalows, quarters etc. Bare minimum (operational) buildings, which are essential for management of forest by forest personnel and conservation of bio-wealth such as forest guard hut, check posts, range offices, small inspection bungalow (2-3 room), un-tarred single lane roads etc., can be taken up in selected areas without causing damage/destruction to the forests thereon. But if the structures are large and would impact on conservation, prior permission under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 would be required.

**11.9 Residential Projects:** The Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses. However, the Central Government has accorded permission for construction of residential houses in their private forests land for construction of residential or dwelling houses in the Mussoorie Dehradun Development Authority (MDDA) areas of Uttarakhand as well as Private area (Deemed Forest) of Goa subject to fulfilment of following conditions:

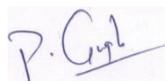
- (i) Construction activity for residential purpose in private forest shall be allowed only for domestic purpose and shall not be extended to any institutional buildings or commercial development.
- (ii) The construction activities shall be restricted to a maximum of 250 square meter of built-up area in each case.
- (iii) The construction of residential building in private forest is permitted in MDDA areas and other parts of Uttarakhand State and Goa only in order to alleviate hardship of homestead owners for constructing/completing their bonafide residential buildings.

- (iv) For deciding the status of the homestead, the cut of date shall be 11.02.2011 and the limit of 250 square meter as in (ii) above will be applicable to such owner. In case of any sub division of ownership of the forest land post 11.02.2011, the construction activities shall be restricted in such a way that the total of all construction activities in such subdivided portions post 11.02.2011 should not exceed a maximum of 250 square meter of built-up area.
- (v) The permission will be subject to:
  - a) Tree felling should be minimum.
  - b) Sufficient soil conservation measures should be taken.
  - c) Permission of MDDA and other regulatory bodies for construction in hill areas shall be obtained.
- (vi) All other standard conditions required for such projects including planting of tree species and NPV.
- (vii) Above stipulation is strictly restricted to construction of residential or dwelling houses in private forest land in MDDA areas of Uttarakhand and Goa, where non-forest land is not available.

**11.10 Construction of schools in hilly areas:** The Central Government has conveyed approval for construction of Government schools in hilly areas, over an area of 4 acres or 1.62 ha, where non-forests land is not available with the following conditions:

- (i) A certificate from the district Magistrate that non-forest land is not available for the school building/other building construction in the area.
- (ii) Reserve forest land with density more than 0.4 shall not be allowed.
- (iii) Felling more than 75 trees per hectare shall not be considered in any kind of forest.
- (iv) Besides Compensatory Afforestation as per the Guidelines, the concerned authority should ensure plantation in vacant areas, wherever available within the school premises.

**11.11 Compensatory Afforestation (CA) and Net Present Value (NPV)** will be regulated as per the relevant provisions of Van (Sanrakshan Evam Samvardhan) Rules, 2023 and guidelines issued by the Central Government from time to time.



True copy

**BEFORE THE NATIONAL GREEN TRIBUNAL**

Original Application No. \_\_\_\_\_ Jurisdiction of 2024

In re: Rohit Choudhury \_\_\_\_\_ Applicant

**VERSUS**

State of Assam & Ors \_\_\_\_\_ Defendant/Respondent

I, Rohit Choudhury the above-named Applicant do hereby appoint **PARUL GUPTA** to be my/our Advocate in the above noted case.

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereon and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 6th day of May 2024.  
Accepted subject to the terms of fees.

*P. Gupta*

Parul Gupta (Enrolment No. D/3228/09)

Advocate

*Rohit Choudhury*

Client

Client

