

Sl. No. 2539  
Date 30/7/2024

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**IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH AT KOLKATA**

**IN**

**ORIGINAL APPLICATION NO. 168 OF 2023**

**IN THE MATTER OF:**

**Dilip Nath**

**..... Applicant**

**-Versus-**

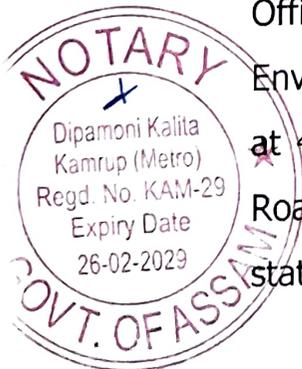
**Principal Chief Conservator of Forest (PCCF) & Ors.**

**..... Respondent**

**Reply Counter Affidavit on Behalf of the Respondent  
No. 6 Union of India, through Secretary, Ministry of  
Environment, Forest and Climate Change, New Delhi.**

**MOST RESPECTFULLY SHOWETH:**

I, Hemen Hazarika, son of Late Harakanta Hazarika, aged about 44 years, presently posted as Scientist "E" in the Sub-Office, Guwahati under Regional Office Shillong, Ministry of Environment, Forest & Climate Change, Government of India at 4<sup>th</sup> Floor Housefed Complex, Rukminigaon, Six Mile, G.S. Road, Guwahati-781022, do hereby solemnly affirm and state as under: -



*Dipamoni Kalita*  
30/7/2024  
(DIPAMONI KALITA)  
NOTARY, G  
KAMRUP (METRO)  
GUWAHATI  
Regd. No. KAM-29

1. That I am duly authorized to swear this affidavit and as such I am conversant with the facts of the present case and competent to swear the present affidavit.
2. That I have read and understood the contents of the accompanying reply and state that the same has been drafted under my instructions based on the official records.

**STATEMENT OF FACTS:**

3. Original Application has been registered on the basis of a complaint letter petition dated 20.09.2023 submitted by the Applicant with regard to allegations of violation of provisions of the Forest (Conservation) Act, 1980 with regard to Sonai Rupai Wildlife Sanctuary in Sonitpur district of Assam. The allegation is that illegal roads, bridges and schools have been constructed by the Government within the Sonai Rupai Wildlife Sanctuary and there is illegal encroachment and depletion of forest and that illegal encroachers may be evicted therefrom.

**REPLY ON MERIT:**

4. It is submitted that, Wild Life (Protection) Act, 1972 has been enacted with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country.

5. It is submitted that as per section 26A 1 (b) of the Wild Life (Protection) Act, 1972, when any area comprised within any reserve forest or any part of the territorial waters, which is

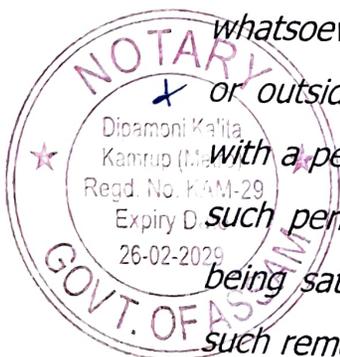


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considered by the State Government to be of adequate ecological fauna floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the **State Government** shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification.

6. It is submitted that the **State Government of Assam** has issued a notification dated 4<sup>th</sup> September, 1998 published in the official gazette of Assam dated 12<sup>th</sup> October, 1998 notifying 220 sq km comprised within the boundaries described in the notification as Wildlife Sanctuary in Sonitpur District of Assam Sonai Rupai. (**Annexure I**)
7. It is further submitted that, the provisions of Section 29 of the Wild Life (Protection) Act, 1972 as follows:

*No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the National Board that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary*



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*for the improvement and better management of wild life therein, authorises the issue of such permit."*

9. It is further submitted that Section 33 of the Wild Life (Protection) Act, 1972 provides that the **Chief Wild Life Warden** shall be the authority to control, manage and protect all Sanctuaries.

10. It is also submitted that as per section 34A of the Wild Life (Protection) Act, 1972,

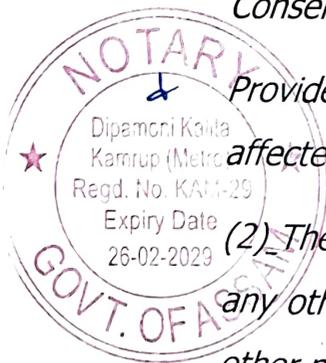
*(1) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an **Assistant Conservator of Forests** may,-*

*(a) evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;*

*(b) remove any unauthorised structures, buildings, or constructions erected on any Government land within any sanctuary or National Park and all the things, tools and effects belonging to such person shall be confiscated, by an order of an officer not below the rank of the Deputy Conservator of Forests:*

*Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.*

*(2) The provisions of this section shall apply notwithstanding any other penalty which may be inflicted for violation of any other provision of this Act.*



*Kalita*  
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10. It is submitted that as per section 51 (1) of the Wild Life (Protection) Act, 1972, any person who contravenes any provision of this Act (except Chapter VA and section 38J) or any rule or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both:

11. It is further submitted that in accordance with section 55 (b) of the Wild Life (Protection) Act, 1972, the Chief Wild Life Warden, or any other officer authorised in this behalf by the State Government subject to such conditions as may be specified by that Government may file complaints in the Court against the offences under the Act.

12. It is further submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter-alia, being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgments and directions of the Hon'ble Supreme Court.

It is submitted that prior approval of the Central Government under Section-2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is required for carrying



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out any non-forestry activity on forest land. That as per Sub Office Guwahati of Regional Office Shillong, no proposal seeking Forest Clearance with respect to the instant matter is available with them.

14. It is further submitted that in the case of unauthorised construction or illegal encroachments, the State Government is itself empowered to take action and initiate proceeding against the wrongdoers. In view of the aforesaid facts, it is respectfully prayed that the Hon'ble Tribunal may be pleased to pass orders as deemed fit in the circumstances of the case.

15. That the statements made in paragraphs 1 to 14 of this affidavit are true to the best of my knowledge, belief and information.

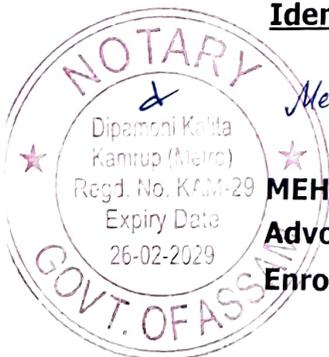
**O A T H**

"I swear that this declaration is true, that it conceals nothing and that no part of it is false, so help me God.

And I sign this affidavit on this 30<sup>th</sup> day of July, 2024 here at Guwahati.

**Identified by:**

*Mehboob Alam*



**MEHBOOB ALAM**  
**Advocate**  
**Enrolment No. 571 of 2017**

*Kalita*  
*30/7/2024*

(DIPAMONI KALITA)  
NOTARY, GOVT. OF ASSAM  
KAMRUP (METRO), GUWAHATI  
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*Dr. Hemon Hazarika, Sc.E*  
*(Signature)*  
**DEPONENT**

SOLEMNLY AFFIRMED AND DECLARED BEFORE ME BY  
THE DEPONENT / DEPONENTS WHO IS/ARE IDENTIFIED  
BY..... *M. Alam* .....  
ADVOCATE / ADVOCATE'S CLERK AT GUWAHATI  
DATED..... *30th July, 2024* .....

পঞ্জীকৃত নং-১৯৮/৯৭

Registered No.-768/97

অসম



বাহু পত্র

# THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

আৰু কৰ্তৃকৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

নং 172 দিশপুৰ, সোমবাৰ, 12 অক্টোবৰ 1998, 20 আশ্বিন, 1920 (শক)  
 No.172 Dispur, Monday, 12th October, 1998, 20th Asvina, 1920 (S.E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

FOREST DEPARTMENT

## NOTIFICATION

The 4th September, 1998

No.FRW-33/98/11.--In exercise of the powers conferred under Section 26 A(1) (b) of Wild Life (Protection) Act, 1972 as amended upto 1991, the Governor of Assam is pleased to declare the area as described in the Schedule below to be a Sanctuary with effect from the date of publication of this Notification in the Official Gazette.

## SCHEDULE - 'A'

1. District (Civil)	-	Sonitpur
2. Forest Division	-	Sonitpur West Division
3. Sub-Division (Civil)	-	Tezpur
4. Circle - (Revenue)	-	Dhekiajuli
5. Mouza	-	Dhekiajuli & Missanari
6. Name of the Wildlife Sanctuary.	-	<u>Sonaj Rupai Wildlife Sanctuary.</u>
7. Area	-	220 Sq. Kms. (Approx.)

## SCHEDULE - 'B'

DESCRIPTION OF BOUNDARY -

1. EAST - The Eastern Boundary Starts from the left bank of Dolsiri Nalah on the boundary line between Assam - Arunachal boundary Pillar No. 5/2 and 5/3, and runs along the left bank of Dolsiri Nalah on the down stream upto the confluence of Gabhoru river, thence along the left bank of Jia-Gabhoru river it runs along down stream upto the Southern boundary of Charduar R. F., when it touches the old Political road.
2. SOUTH - From the above point the boundary runs west Ward along the old Political road upto the left bank of Belsiri river. Thence the boundary runs along an artificial line at a bearing of 270° till it touches the right bank of Pachnoi river.
3. WEST - From this point the boundary runs along the right bank of Pachnoi river upstream till it touches the Assam-Arunachal Pradesh boundary in between B. P. No. 3/3 and 3/4.
4. NORTH - From this point the boundary runs east Ward at a bearing 149° - 15' - 15" and meet boundary pillar No. 3/4 of Assam - Arunachal Pradesh Inter-State boundary. Thence the boundary runs as follows along the Inter-State boundary towards east -

<u>B. P. No.</u>	<u>B. P. No.</u>	<u>Bearing</u> <u>(F. B)</u>	<u>Distance in metres</u>
3/4	4/1	97° - 59' - 47"	3136.83
4/1	4/2	34° - 25' - 26"	2387.88
4/2	4/3	96° - 10' - 54"	1370.68
4/3	4/4	49° - 10' - 15"	2836.98

## THE ASSAM GAZETTE EXTRAORDINARY, OCT 12, 1998 1577

<u>R. P. No.</u>	<u>to R.P. No.</u>	<u>Bearing</u> <u>(E. B)</u>	<u>Distance in metres</u>
4/1	4/1/1	84° - 33' - 38"	2953.80
4/4/1	5/1	97° - 10' - 49"	3844.80
5/1	5/1/1	95° - 10' - 58"	3017.40
5/1/1	5/2	95° - 10' - 58"	1948.30
5/2	Left bank of Nalohi Nallah.	85° - 9' - 44"	2250.00

HARISH SONOWAL,  
Commissioner & Secy. to the Govt. of Assam,  
Forest Department, Dispur.



Amrita Pandey &lt;amritalegal@gmail.com&gt;

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**Re: Service : Affidavit - MOEF&CC Respondent no. 6 - OA 168/2023-DILIP NATH VS STATE OF ASSAM**

1 message

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**Amrita Pandey** <amritalegal@gmail.com>

Thu, Aug 1, 2024 at 9:56 AM

To: mrdey &lt;mrdey@rediffmail.com&gt;, Judicial Section &lt;ngtjudicial-kolkata@gov.in&gt;

Dear Sir/Madam,

Re: OA 168/2023-DILIP NATH VS STATE OF ASSAM

With reference to the subject mentioned above please find the e-copy of the notarized affidavit filed on behalf of MOEF&CC. The email id of the Applicant is not available with the undersigned as such the undersigned is providing a copy to the registry requesting the registry to provide the details of the Applicant so as the same can be served upon Mr. Dilip Nath as on the e-filing portal too, the email of the registry has been mentioned.

Warm Regards,

Amrita Pandey

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

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 **OA 168-2023 Affidavit dated 30-07-2024.pdf**

3754K



Amrita Pandey <amritalegal@gmail.com>

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Amrita Pandey <amritalegal@gmail.com>  
To: dilip nath <dilipnath98644@gmail.com>

Thu, Aug 1, 2024 at 10:06 AM

Dear Sir,  
Re: OA 168/2023-DILIP NATH VS STATE OF ASSAM

With reference to the subject mentioned above please find the e-copy of the notarized affidavit filed on behalf of MOEF&CC.

[Quoted text hidden]

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