

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
EXECUTION APPLICATION NO. 2 OF 2024
IN
ORIGINAL APPLICATION NO. 154 OF 2022
(Under Section 25 of the National Green Tribunal Act, 2010)**

IN THE MATTER OF:

Yodh BDR. Thapa ...Applicant

Versus

Bharat Petroleum Corporation Limited and Ors. ...Respondents

INDEX

S.NO.	PARTICULAR	PG.NO.
1.	Counter Affidavit on Behalf of Respondent No. 4, District Collector Pakyong District, to the Execution Application Filed By The Applicant.	1-3
2.	Annexure R4/1. True copy of the sopt verification report prepared by Sub-Division Magistrate, Rangpo.	4-5
3.	Vakalatnama	6
4.	Proof of Service	7

Through

(SAMEER ABHYANKAR)
ADVOCATE FOR RESPONDENT NO.4
D-247, LGF, DEFENCE COLONY
NEW DELHI-110024
CC-2516
Email: contactadvsa@gmail.com
M-9953328394

PLACE: NEW DELHI
Dated: 16.08.2024



**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
EXECUTION APPLICATION NO. 2 OF 2024
IN**

**ORIGINAL APPLICATION NO. 154 OF 2022
(Under Section 25 of the National Green Tribunal Act, 2010)**

IN THE MATTER OF:

Yodh BDR. Thapa

...Applicant

Versus

Bharat Petroleum Corporation Limited and Ors.

...Respondents

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 4, DISTRICT
COLLECTOR, PAKYONG DISTRICT, TO THE EXECUTION APPLICATION
FILED BY THE APPLICANT**

MOST RESPECTFULLY SHOWETH

I, Agawane Rohan Ramesh S/O Ramesh Kisanrao Agawane, District Collector, Pakyong District, District Administrative Centre, Pakyong District, Sikkim – 737 106, do hereby solemnly affirm and most humbly and respectfully submit as under:

1. That I am the current District Collector of Pakyong District, State of Sikkim, the Respondent No. 4 herein, and as such am competent to depose to the contents of this affidavit. I have gone through the contents of the Application and have understood its contents.
2. That I am authorised to swear the present affidavit based on the record maintained by the Government of Sikkim.
3. That the present affidavit is being filed by the Respondent No. 4, District Collector, Pakyong District, in response to the Execution Application filed by the Applicant, Mr. Yodh BDR. Thapa. The present matter arises out of the O.A. No. 154 of 2022 which was filed by the Applicant in order to stop the construction of a petrol depot by Respondent No. 1, Bharat Petroleum


DISTRICT COLLECTOR
PAKYONG DISTRICT
GOVERNMENT OF SIKKIM



Corporation Ltd. at Plot No. 2242, Rangpo ("Plot") alleging that the said construction was being done without valid environmental permissions.

4. That in view of the present execution petition, the Sub-Divisional Magistrate, Rangpo Sub-Division, on the directions of Respondent No. 4, carried out a spot verification of the Plot on 01.08.2024.
5. That the said spot verification was conducted by the Sub-Divisional Magistrate in the present of following persons:
 - i. Y. B. Thapa – Applicant in the present petition,
 - ii. Neeraj Chhertri – Dealer, BPCL,
 - iii. Bimal Gurung – RO/AD, Rangpo SDM Office,
 - iv. Nima D. Tamang – Project Assistant, SPCB,
 - v. Tshering Bhutia – Field Assistant, SPCB,
 - vi. Deven Rai – Advocate, SDM Office,
 - vii. Deepa Khawas – HS, Rangpo SDM Office.
6. That after the spot verification, the Sub-Divisional Magistrate prepared a report regarding his observations along with photographs of the spot and submitted the same to Respondent No. 4.
7. A perusal of the above report and the photographs clearly suggest that no further construction has been carried out by BPCL and status quo has been maintained till date. True copy of the spot verification report prepared by Sub-Divisional Magistrate, Rangpo is attached herewith as **Annexure R4/1**.
8. In view of the above, the allegation by the Applicant in his application regarding apprehension of construction activities being carried out at Plot No. 2242, Rangpo is completely baseless and devoid of any truth. Respondent No. 4 is fully compliant with the directions given by the Hon'ble


 DISTRICT COLLECTOR
 PAKYONG DISTRICT
 GOVERNMENT OF SIKKIM



Tribunal in its Judgment dated 17.04.2024 rendered in O.A. No. 154 of 2022.

9. In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to Dismiss the captioned application with cost.

[Signature]

[Signature]
06/08/24
DEPONENT

DISTRICT COLLECTOR
PAKYONG DISTRICT
GOVERNMENT OF SIKKIM

VERIFICATION

Verified at Pakyong on this 6th day of August 2024 that the contents of aforesaid counter affidavit are true and correct to the best of my knowledge as derived from records of the Respondent Authority. No part of it is false and nothing material has been concealed therefrom.

[Signature]

[Signature]
06/08/24
DEPONENT

DISTRICT COLLECTOR
PAKYONG DISTRICT
GOVERNMENT OF SIKKIM

Solemnly affirmed before me on this the
06th day of Aug 2024 by Shri/Smt/Kri
Aganese Rohan
Barmeah of Gangtok
Verified by Shri/Smt/Kri Litan
Chellani of Gangtok

[Signature]
TSHERING UDEN SHERP,
Oath Commissioner
High Court of Sikkim
Vide Not No 17/HCS
Dated 21/10/2022



**GOVERNMENT OF SIKKIM
OFFICE OF THE SUB-DIVISIONAL MAGISTRATE,
RANGPO SUB-DIVISION, 737132
Email: sdmmining2021@gmail.com**

Memo No. 181/SDM/R

Dated 01/08/2024

To

**The District Collector,
District Administrative Centre,
Pakyong District.**

Sub: Spot verification to be conducted for non-compliance of the order dated 17/04/2023 passed by the Hon'ble National Green Tribunal Bench Kolkata in Mr.Y.B Thapa vs BPCL and Ors as alleged by the applicant in execution application no. 2 of 2024.

Sir,

In compliance to the letter ref No. 1022/DC/PKG/2024-25, dated 31/07/2024, on the above cited subject, a joint survey was carried out at Majhitar (West Pendam Circle), Rangpo Sub-Division, Pakyong District on 01/08/2024, headed by Thendup Lepcha, SCS, Sub-Divisional Magistrate, Rangpo along with the officials/representatives (attendance sheet copy enclosed) as under:

1. Y.B Thapa – Complainant, (contact no. – 9832051880)
2. Neeraj Chettri – Dealer, BPCL, (contact no. – 9933526060)
3. Shri Bimal Gurung – RO/AD, Rangpo SDM office, (contact no. – 7797288373)
4. Nima D. Tamang – Project Assistant -SPCB, (contact no. - 8768967993)
5. Tshering Bhutia – Field Assistant - SPCB, (contact no. – 9647870875)
6. Deven Rai – Advocate, SDM office, Rangpo, (contact no. – 9832611429)
7. Deepa Khawas – HS, Rangpo SDM office. (contact no. – 9635309980)

During the joint inspection, no further construction has been carried out by the BPCL and the status quo has been maintained till date.

The glimpses of the spot are submitted for reference:





Thanking You,

Yours Faithfully,



Thendup Lepcha, SCS,
Sub Divisional Magistrate,
Rangpo Sub-Division,
Pakyong District.

Sub-Divisional Magistrate
Rangpo, Pakyong District
Sikkim

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
Execution Application No.02/2024
IN
ORIGINAL APPLICATION No. 154 of 2022**



IN THE MATTER OF:-

Yodh Bdr. Thapa

.... Applicant

Versus

Bharat Petroleum Corp. Ltd. & Ors.

... Respondents

VAKALATNAMA

KNOW ALL to whom these present shall come that I, Agawane Rohan Ramesh, District Collector, Pakyong District, Sikkim, in the above case do hereby appoint:

Sameer Abhyankar, Amish Tandon, Ayush Beotra, Ayushi Bansal, Rahul Kumar, Aakash Thakur, Anushree Kulkarni, Kushagra Aman, Vaishnavi Advocates

D-247, LGF, Defence Colony, New Delhi- 110024

Mobile: 9953328394

Email: contactadvsa@gmail.com



(herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him:-

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.

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 and to admit and/or deny the documents of opposite party.

To take execution proceedings. To deposit, draw and receive money, cheques, cash and grant receipts thereof 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 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 undertake that I or my 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 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 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 hereby agree that once the fee is paid. I 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 additional three years or part thereof.

IN WITNESS WHEREOF I do hereunto set my hand to these presents the contents of which have been understood by me on this 14th day of August, 2024.

Accepted subject to the terms of fees.

Advocate[s]

Sarthak
D-11667/2023
SARTHAK DORA

Chapman
Client 16/08/24

D/1957/08

Sameer Abhyankar

Bansal
D-2947/2018

Ayush
D-11667/2023
AYUSH KULKARNI

Aakash
D-11667/2023
AKASH THAKUR

Rahul
D-11667/2023
RAHUL KUMAR

Amish
D-11667/2023
AMISH TANDON

Anushree
D-11667/2023
ANUSHREE KULKARNI

Amish
D/1106/09

**DISTRICT COLLECTOR
PAKYONG DISTRICT
GOVERNMENT OF SIKKIM**



Proof of Service ⁷

Office of Sameer Abhyankar <contactadvsa@gmail.com>

Advance Service Yodh Bdr. Thapa vs Bharat Petroleum Corp .Ltd & Ors EA/2/2024

1 message

Office of Sameer Abhyankar <contactadvsa@gmail.com>

Fri, Aug 16, 2024 at 7:36 PM

To: akshar@outlook.com

Dear sir

Please find attached a scanned copy of the Counter Affidavit on Behalf of Respondent No. 4, DistrictCollector Pakyong District, to the Execution Application Filed By The Applicant . in the captioned Matter.

Thanks
Prince kumar
For
Mr.Sameer Abhyankar

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Address for Correspondence:

D-247, LGF, Defence Colony,
New Delhi 110024
Ph. +91-11-49402169

 **Yodh Bdr - Affidavit R4.pdf**
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