

SL NO. 73

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 80/2024/EZ



In The Matter of:
Subhas Datta

... Applicant

Versus
The State of West Bengal & Ors.
... Respondents

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE RESPONDENT NUMBER
04, THE DEPARTMENT OF FOREST, GOVERNMENT OF WEST BENGAL.

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Filed by

Sibojyoti Chakrabarti

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

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(M): 9007035534





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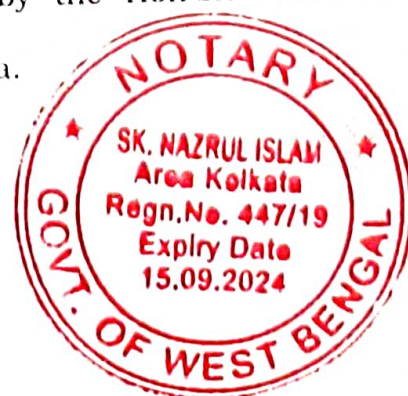
Versus

The State of West Bengal & Ors.
... Respondents

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE RESPONDENT
NUMBER 04, THE DEPARTMENT OF FOREST, GOVERNMENT OF WEST
BENGAL.

I, Sri Ranjan Kumar Das, S/o Bholanath Das, aged about 47 years, by faith-
Hindu, and presently working for gain as the Joint Secretary, Department of
Forest, Government of West Bengal having office at 'Arannya Bhawan', 10A,
Block-LA, Sector-III, Kolkata: 700106, do hereby solemnly affirm and submit
as follows:-

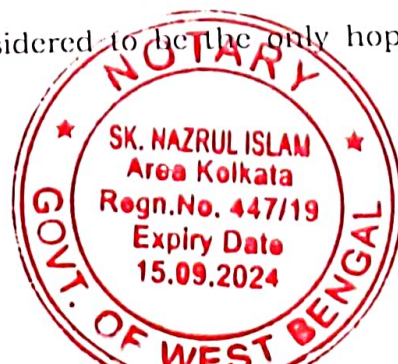
1. That I am presently posted as Joint Secretary in the department of
Forest, Government of West Bengal and I am duly authorised by the
Department of Forest, Government of West Bengal to swear this
Affidavit-in-Opposition on its behalf.
2. That this affidavit-In-Opposition is being filed in compliance to the
Solemn Order dated 10.04.2024, passed by the Hon'ble National
Green Tribunal, Eastern Zone Bench, Kolkata.



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3. That before dealing with the statements made in original application it is pertinent to mention and bring to the kind knowledge and judicial notice certain facts and aspects which are vital for adjudication of the instant original application.
4. That it is a fact that Senchal Wild Life Sanctuary was declared reserved forests comprising the sanctuary as Senchal Wildlife Sanctuary vide Govt. Notification No. 10699- For, dated 18.11.1940. It was redeclared as Senchal Wildlife Sanctuary under sub section (1) of section 18 of Wild Life (Protection) Act, 1972 vide Govt. Notification No 5380-For., dated: Calcutta 24th June, 1976. Subsequently it has been declared as Senchal Wildlife Sanctuary under clause(b) of sub section (1) of section 26 of Wild Life (Protection) Act, 1972 (53 of 1972), vide Govt. Notification No.2773-For. /11B-23/98 dated 19th August, 1998. It is located about 8 to 10 km south east of Darjeeling Town.
5. That Senchal falls a little North of Tropic of Cancer, between latitude $26^{\circ}56'N$ and $27^{\circ}00'N$ and longitude $88^{\circ} 18'E$ and $88^{\circ}20'E$ at an elevation of 1,500 mts to over 2600 mts. In the Civil District of Darjeeling. Senchal Wildlife Sanctuary has an area of 3,888 Ha (38.88sq.kms).
6. As such there is a very heavy amount of precipitation in this area. For its potential, Senchal is now considered to be the only hope for the



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source of drinking water to the township of Darjeeling. For its water supply Darjeeling township depends primarily on the three artificial lakes within the sanctuary which are fed by various natural sources and also through a number of pipelines from where the water reserved during monsoon rains is rationed to Darjeeling town.

7. That it is true that Senchal Wildlife sanctuary area is important not only for ecological and scientific reasons but it is the main stake for fresh water supply to the town and suburbs of Darjeeling. There is no snow fed streams in this area. The sanctuary acts as a giant rain water retainer which collects and reserves rain water it receives during the rainy season for gradual and sustained supply of water to rainfed streams which are in turn tapped for maintaining water supply to the inhabitants of Darjeeling.
8. That save and except those which are matters of record and which are specifically admitted by me herein below, each and every allegation, and/or contention, and/or submission, contained in the said Original Application, is denied and disputed as if the same is set out in seriatim herein and specifically traversed.
9. That with regard to the statements made in paragraphs 1 to 8 of the original application it is stated that the same are matters of fact and record.



10. That with regard to the statements made in paragraph 9 of the original application it is stated that it is true as a matter of fact and record that the Senehal Wild Life Sanctuary as a protected area.

11. That with regard to the statements made in paragraph 10 of the original application it is stated Tiger Hill (2,595 mts) is located inside Senehal Wildlife sanctuary and is famous for its viewpoint of majestic Kanchenjunga Mountain in the early morning.

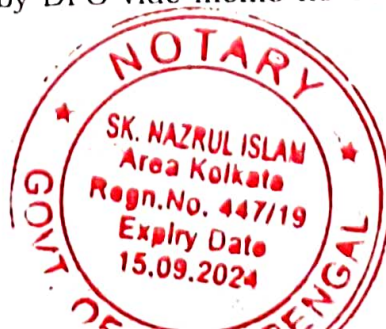
Major attraction of tourists in this Sanctuary is in the form of early morning visitors to Tiger Hill from where the tourists get a unique and magnificent view of enchanting and colourful plays of sunrays on Kanchenjunga and Mount Everest in the early mornings. The Pavilion on top of Tiger Hill comes under the Catchment Block, comp 1 of Senehal West Range Jorebunglow beat, but is maintained by the GTA (Gorkha Territorial Administration), Tourism Department earlier known as the Darjeeling Gorkha Hill Council (DGHC). The Pavilion dates back to the 1950's when it was under the Darjeeling Improvement Fund and in 1984 it was handed over to the West Bengal Tourism department. In 1993 it was handed over to the DGHC and the pavilion was later renovated from a two storeyed open roof structure to a three storeyed one to accommodate a capacity of Maximum number of people that could stand and view the sunrise. There was a Super deluxe lounge on the top floor with a capacity of 40 people, the middle deluxe lounge with a sitting arrangement of 100



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people and the ground floor with a capacity of 100 people. There was a long corridor in front from which the sunrise could be observed.

12. That with regard to the statements made in paragraphs 11 of the original application it is stated the pavilion was dismantled under the GTA (Gorkha Territorial Administration) to accommodate much more tourists and was being done under the GTA, Darjeeling Special Engineering Division.
13. That with regard to the statements made in paragraph 12 of the original application it is stated that as per letter No DE-MW/SLG/GENERAL/17-18 Dt May 11 2017 of BSNL that it was having microwave installation at Tiger Hill from 1961 to 1962. Earlier it was the property of P&T Department. Later it came under the possession of dept of Telecommunication. BSNL has informed that from 01-10-2000 it came under its possession. The communication towers existed on tiger hill since 1961. Darjeeling Wildlife Division Part of the area used to be managed by Tourism wing of Darjeeling Ghorkha Hill Council. DGHC has leased out open space for installation of cellular towers at Tiger Hill to Indus Towers for a five-year term vide an agreement with effect from 1st April 2010- 31st March 2015. DFO Darjeeling Wildlife Division had requested Secretary tourism, Gorkhaland Territorial Administration to cancel the lease vide his memo no 166/WL/13-5 dated 17-02-2015. It was also requested to remove the towers by DFO vide memo no 1279/WI/13-5



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dated 01-09-2015. With the expiry of the lease, given by DGHC, a letter was sent to the Secretary, Tourism Department by DFO, DWLD to cancel the lease to Indus Towers and to submit the proposal under FCA 1980 for utilization or transfer of land.

Photocopy of the Agreement dated 1st April 2010- 31st March 2015 and letters dated 17.02.2015 and 01.09.2015 written by the Divisional Forest Officer (DFO) Darjeeling Wildlife Division, to the Secretary tourism, Gorkhaland Territorial Administration, are collectively annexed herewith and marked with the letter 'R-1'.

14. That with regard to the statements made in paragraph 13 of the original application it is stated that the human settlement began in Tiger Hill primarily due to the Devi Mandir and tourism to manage tourism and the installation of the Towers at the Pavilion. All the houses are connected to a septic tank. The waste is segregated and disposed accordingly. 1. i Hemu Dukpa (Employee of BSNL) ii Tenzing Dukpa iii Sonam Dukpa iv Alisha Rai v Leden Dukpa 2 i Dawa Sherpa (Employee of BSNL) ii Passang Diki Sherpa iii Wangel Sherpa Divisional Forest Officer Darjeeling Wildlife Division 3 i Deepak Chettri (Care taker of the Devi Temple living since the 1970 with his extended Family) Sandip Chettri ,Aruna Chettri,Kritika Rai,Aradhya Chettri,Atharva Chettri li Pranab Tamang ,Pooja Rai, Nirvaan Tamang. iii)Sanjay Chettri,Rita Rai iv)Pranesh Tamang 4. i Lokey Thakuri (Tourism caretaker) ii Shila Thakuri iii Binil Thakuri At the chalet



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there are two families both residing since 1974 who are employees of the Tourism Department. 1. Santey Tamang (Caretaker of the Chalet)
i Anju Tamang iv Mukesh Rai ii Tshegdel Tamang v Myra Rai iii Nima Lamu Tamang vi Tshoppel Tamang 2. Phurba Dukpa i Ranjita Dukpa
ii Wangchuk Dukpa iii Wangyal Dukpa

The Senchal Devi Mandir also known as the Singa Devi sthan stands as a symbol of reverence and fear. Going back to the history of the place mostly based on the accounts of the elders living for generations around the area, it was discovered by a "Jhakri " or Shaman much before the British force established their cantonment in 1844 atop the Senchal following which the Hill came to be considered the abode of the Devi. Tiger Hill in fact is a British construct, in the Hindu Mythology Singha (Tiger) is considered as Devi Durga's wahan, hence the hill came to be known as Singha Anchal or Senchal. In the early days, people used to worship the main sacred shrine by performing blood offerings of the animals like goats to appease the goddess but later, on the request of the renowned Zetah Rinpoche who advocated to end the blood offerings, the people agreed and only the animals were brought to the devi to show the face and later slaughtered away from the temple. Another narrative is that the British cantonment atop the hill used to eat meat and create a lot of disturbance to the sanctity of the place, so the Devi in her anger wiped out the entire platoon with disease and death ultimately forcing the British to change the place of their forces. Such interesting narratives are plenty. Much later after the agitation in 1987 the locals pooled



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together money and formed a Mandir Nirman Committee. This committee has transitioned to the Mandir Sanchalan Committee and continues to take care of every aspect related to the Singam Dham stan. Today people from different faiths from various parts of Darjeeling and abroad head to Senchal Devi Stan throughout the year with offerings to pay their respects and prayers for the safe keeping of their families and for the fulfilment of their wishes. Senchal Devi Sthan is not only a place of worship but the beliefs of the people, the mystical and spiritual stories, the reverence and veneration towards the place, deities and much more. In 2021 with the starting of the "Plastic Free Campaign" in Senchal, the Devi sthan started the campaign of no plastic offerings to the devi.

15. That with regard to the statements made paragraph 14 of the original application it is stated that Tourism in Sencahl wildlife sanctuary is solely based on Tiger hill. The Tiger hill has been used by tourist since 1960s to get a unique and magnificent view of enchanting and colourful plays of sunrays on Kanchenjunga and Mount Everest in the early mornings. Thousands of tourists visit the tiger hill during tourism season which is from November to May. In order to provide hygienic sanitary facilities for visiting tourists DGHC has constructed toilets and also Forest Department had provided toilets at Nature interpretation centre. The toilets have been provided with septic tanks, so that the waste is not discharged into sanctuary and pollute the watershed. Similarly, all the households have been



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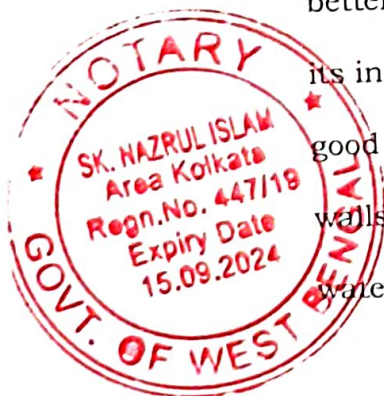
provided with septic tanks. Darjeeling wildlife division has requested the concerned authorities to fix any leakage in sewerage system. In order to address the issue Darjeeling Wildlife division, which manages the sanctuary is planning to install bio toilets to keep the sanctuary hygienic and safe from discharges.

16. That with regard to the statements made paragraph 15 of the original application it is stated The "Plastic Free Senchal" Campaign was launched in 2021 to beat the plastic pollution. In fact talks were held with various stake holders like drivers, travel agents, tea sellers and even vendors selling puja items to help implement this initiative. Drop boxes were set up at the check post to deposit plastic items or packaged food which could be collected on the way back. The first step taken was the ban of paper cups for drinking tea in the morning at Tiger Hill which was the main pollutant. The transition from Paper cups to Matkas was a smooth one. Various NGO'S, school students, Buddhist monks and self-help groups were involved in the clean-up drives organized by the Forest Department and till date these cleanliness drives are going on. Segregation of waste is done and recyclable materials are sent for recycling. Several NGOs, foundation such as Ticedi foundation assist the forest department, in plastic removal from sanctuary area and also in recycling the plastic waste. Recently plastic removal drive was taken up and all along the tourists places the plastic found inside the sanctuary limits was collected and handed over to Ticedi foundation for recycling. At the check post the



vehicles are checked for plastic and are collected and returned to visitors on their return journey. Divisional Forest Officer Darjeeling Wildlife Division Some Signboards have been placed to create awareness on "Plastic Free Senchal", Divisional Forest Officer Darjeeling Wildlife Division.

17. That with regard to the statements made paragraph 16 of the original application it is stated that the new construction as alleged is neither rest house nor museum. It does not have any rooms to house guest or tourists. It is a nature interpretation centre. The Nature Interpretation Centre is located in the Catchment Block complt 1 of Senchal Wildlife Sanctuary. It was not built during covid and dates back to 2004. It was constructed in 2003-2004. Senchal Wildlife sanctuary does not have an interpretation centre for visitors. A nature interpretation centre for both tourists and the sanctuary. It fosters a deeper connection with nature, promotes responsible tourism practices, generates revenue for conservation, and elevates the sanctuary's role as an environmental steward. The NIC interprets nature and provides information relating to the wilderness present in the sanctuary, the flora and fauna and the forest dwellers, enabling a better understanding of the intricacies associated with the forest and its inhabitants. Presently the structure of the building is strong and in good condition, but requires renovation like plastering of ceiling and walls with damp proof and repairing of roof to prevent seepage of water during the rainy seasons. Paintings, electrifications and other

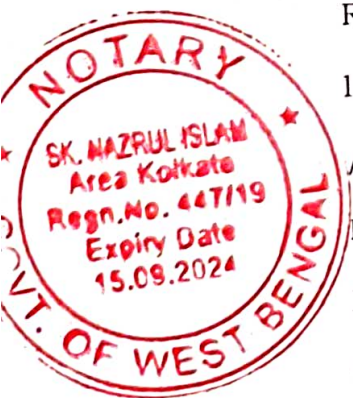


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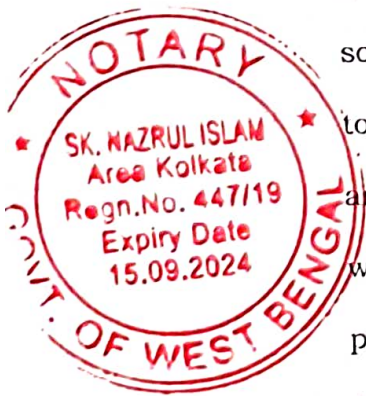
minor repair works needs to be done. The NIC Complex also holds a Rhododendron arboretum in which 12 varieties of Rhododendrons are planted. The main objective of this arboretum was to impart knowledge about the various rhododendron species found in our Darjeeling Hills. To facilitate the study of the different varieties in one place which is otherwise physically not feasible.

18. That with regard to the statements made paragraphs 17 to 19 of the original application it is stated in the year 1906 an area of 34 acres lying within the catchment area of the Darjeeling Municipality water works was leased to the Darjeeling Golf Course for a period of 20 years vide the letter from the Chief Secretary to the Government of Bengal, being Letter No. 1209 dated 06.03.1906, but the land in question would continue to be reserved forest. Only the management was transferred from the Forest Department to the Deputy Commissioner, Darjeeling. In 1927 vide letter No 2662 dated 19th Feb 1927, the lease of the land was extended for another twenty years on the same terms and conditions. In 1947 lease on the land lapsed and lease was not extended further and the status of land remained as Reserve Forest. A proposal for golf course and tourist hut on the said land was sent by the District Magistrate Darjeeling vide memo No 327 /1/3/DIF Date 03.05.2018 to the Principal Secretary Tourism Department and the same was forwarded to the Principal Secretary, Department of Forest, the PCCF Wildlife vide memo no 1134/WL/2W-665/2012 Date 11.05.2018 informed the concerned departments that



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as the lease on the land was not renewed and as it was declared as part of the Senchal Wildlife Sanctuary vide Notification No 2773-For 11 B-23/98 Dated 19.08.1998. so accordingly the area claimed to be recorded to be with DI Fund Darjeeling continues to be a Reserve Forest and stands declared as part of the Senchal Wildlife Sanctuary. Tiger Hill is famous worldwide for its sunrise. The blaze of rapidly changing colours of the snow peaks as the sun strikes the colossal Mt Everest and Kanchanjunga and the other eastern Himalaya peaks is a once in a life time experience. To view this captivating and mesmerising sight the cars with the tourists start arriving at 3 am by the time it is 4 am the road leading to the Pavilion is chock – a – block with vehicles. During peak season the number of cars arriving in the morning are around 500 Numbers. The cars are parked in a queue on the road both ways and there is always a traffic jam so in case of medical emergencies it becomes a nightmare to navigate down the hills. To mitigate these problems an area has been identified to park the cars. The areas designated for parking are open area or erstwhile golf course. To ease the movement of cars and to prevent them from getting stuck in the mud, it is just levelled and a single layer of stone soiling has been done. The parking area is just a small area out of total 34 acres of golf course. Plantation also been taken to reforest the area. Divisional Forest Officer Darjeeling Wildlife Division The place on which I LOVE SENCHAL has been placed was earlier a picnic spot, people from far and near used to come here and enjoy the nature and forest. With the establishment of the Check post at the entrance of the

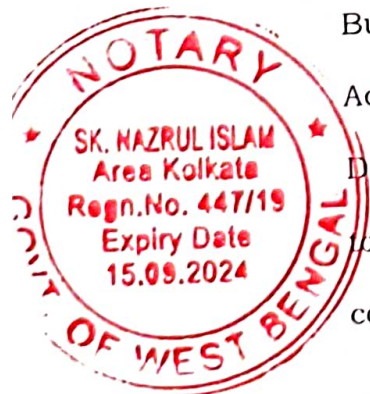


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sanctuary things started coming under control but littering was still a major problem in that place. With the help of the major stakeholders and NGOs cleanliness drives were conducted, it was at this point that the idea of I LOVE SENCHAL was conceived. This was to create a sense of belonging to the place so that the people would at least think once before littering and spoiling the beauty of the place. This became an ideal spot for eco-tourism and people from all over came not only to see the sunrise but also make and take back memories of I LOVE SENCHAL with the majestic Kanchanjanga in the backdrop. Slowly littering has reduced and people have identified with the place and is one of the most sought out place in Tiger Hill. This is to create sense of belongingness among visitors.

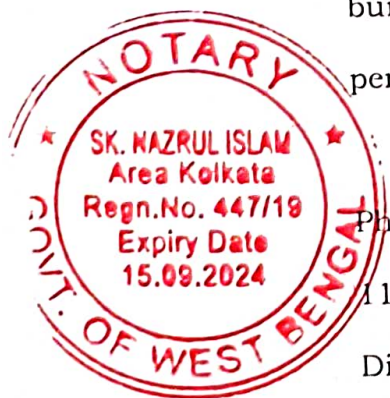
Photocopy of the Notification No 2773-For 11 B-23/98 Dated 19.08.1998 as above referred to is annexed herewith and marked with the letter "R-2".

19. That with regard to the statements made in paragraph 20 of the original application it is stated that vide Order No 17169 G.E Date 10.09.1968 from the Board of Revenue, wherein two DI Fund Bungalows at Senchal were transferred to the Directorate of Tourism. Accordingly, on 1.10.1968 the bungalows were handed over to the Deputy Director of Tourism, Darjeeling and formal transfer proposal together with the valuation of the structure and land was sent to the commissioner, Jalpaiguri under Additional Deputy Commissioner No



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1750 EA dt 17.10.1970. The chalet as it was known comprised of three rooms double bedded and two dormitories. This was under the DI Fund which was later handed over in the year 1986 to the West Bengal Tourism Development Corporation and later to the tourism department. During the 1986 there was agitation for a separate state for Darjeeling, the chalet was burnt down as Government property by the agitators and was never rebuilt. In a letter with reference to memo no 327(1)/(3)/DIF dated 03.05.2018 from the District Magistrate, Darjeeling to the Principal Secretary, Department of Tourism, West Bengal there was a proposal to rebuild the Tourist huts, a copy of which was sent to the Divisional Forest officer (DFO), Darjeeling Wildlife Division which was then forwarded to the PCCF, Wildlife & CWLW, who vide memo no 1134/WL/2W-665/2012 dated 11.05.2018 informed the concerned departments that as the lease on the land was not renewed and as it was declared as part of the Senchal Wildlife Sanctuary vide Notification No 2773-For 11 B-23/98 Dated 19.08.1998, so accordingly the area claimed to be recorded to be with DI Fund Darjeeling continues to be a Reserve Forest and stands declared as part of the Senchal Wildlife Sanctuary. The abandoned building is small structure to cause any impediment in rain water percolation.

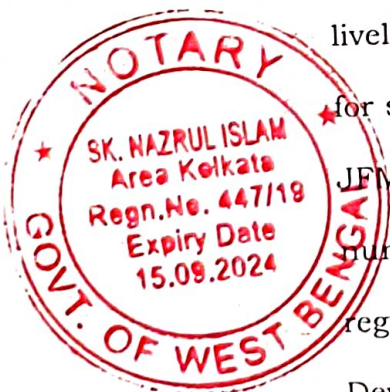


Photocopy of the memo no 1134/WL/2W-665/2012 Dated 11.05.2018, memo no 327(1)/(3)/DIF dated 03.05.2018 from the District Magistrate, Darjeeling to the Principal Secretary, Department

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of Tourism, West Bengal are collectively annexed herewith and marked with the letter "R-3".

20. That with regard to the statements made in paragraph 21 of the original application it is stated that there are no burnt trees near the parking or near supposed Nature interpretation centre. These are old trees which have died and are still standing. They are acting as snags and can be seen on the way down from the parking lot which the common people may mistake it as burnt trees. These snags offer a perfect roosting place for the Raptors, other birds and are often sighted there. They serve as habitat for birds etc. A high volume of tourists visiting a natural sanctuary presents both opportunities and challenges. While tourism can boost the local economy, it can also strain the ecosystem and leave visitors with a limited understanding of the sanctuary's unique features. Establishing a nature interpretation center offers a win-win solution by enhancing the visitor experience while promoting environmental protection. Tourist fees directly contribute to the local economy, supporting businesses, shops, and service providers. This increased income can improve livelihoods and reduce poverty. The revenue from tourist entry is used for sanctuary conservation efforts and some percentage is shared with JFMCS (Joint Forests Management Committees). Approximately 12 number of people employed from local areas to manage entry, regulation, enforcement and collection of fees Infrastructure Development: Tourism revenue can be directed towards improving



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infrastructure in the surrounding areas, such as roads, sanitation, and waste management. This not only benefits tourists but also enhances the quality of life for residents.

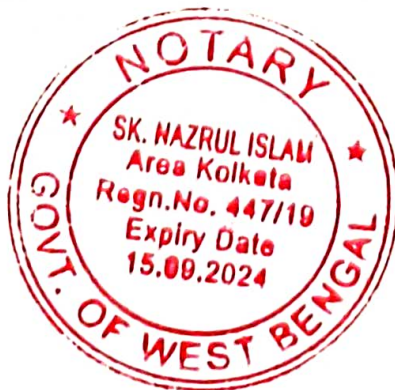
21. That with regard to the statements made in paragraph 22 of the original application it is stated that by limiting the number of tourists visiting the viewpoint per day reduces the overall environmental impact. Usage of an advance pass/ ticket may help in controlling the number of tourists. This allows for better management of waste and minimizes disruption to the natural habitat.
22. That with regard to the statements made in paragraph 23 of the original application it is stated that there are variety of factors including participation from local persons required for formulating such schemes. Moreover, Forests is a matter of the Concurrent List of the Constitution, whereby the recommendations of Central Government is an advisory in nature and the State Government along with various stake holders is required to take action.
23. Tourist spending has a ripple effect, benefiting various sectors like transportation, local farms, and handicraft artisans. Curtailing tourism would have a devastating impact on the entire community, the hillock is not just a scenic vista; it's the lifeblood of town's economy. Responsible tourism that prioritizes both economic well-



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being and environmental protection is the key to a sustainable future. By working together, at-least it may be ensured that the hillock continues to be a source of pride and prosperity for generations to come. The centre can provide interactive exhibits, educational programs, and guided tours that explain the sanctuary's ecological significance, flora and fauna, and ongoing conservation efforts. A nature interpretation centre is a strategic investment that benefits both tourists and the sanctuary. It fosters a deeper connection with nature, promotes responsible tourism practices, generates revenue for conservation, and elevates the sanctuary's role as an environmental steward. By investing in education and awareness, a sustainable future can be ensured for this valuable natural treasure.

24. That with regard to the statements made in paragraph 24 to 27 of the original application it is stated that decision in this regard is required to be taken by the State Government in consultation with the District Administration and other stake holders.
25. That with regard to the statements made in paragraph 28 of the original application it is stated that this deponent does not comment on the same.
26. That with regard to the statements made in paragraph 29 of the original application it is stated that the same are matters of record.



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27. That with regard to the statements made in paragraph 30 of the original application it is stated that this deponent does not comment on the same.
28. That as per the provisions of chapter IV of the Wildlife Protection Act, 1972 section 18 and the subsequent sections provide for declaration and protection of sanctuaries. The Forest department, Government of West Bengal, along with it's parastatal bodies are carrying out its functions towards securing the protection of the Senchel Wildlife sanctuary.
29. That it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice.

Identified by me

Libojyoti Chakrabarti
Advocate *05/09/2024*

State of West Bengal

Ranjan Kumar Das
Deponent

RANJAN KUMAR DAS, WBCS (Exe.)
Joint Secretary
Deptt. of Forests
Govt. of West Bengal



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

SK
Notary

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

05 SEP 2024



VERIFICATION:

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

Verified at *Kolkata* on the *05th* day of September, 2024.

Identified by me

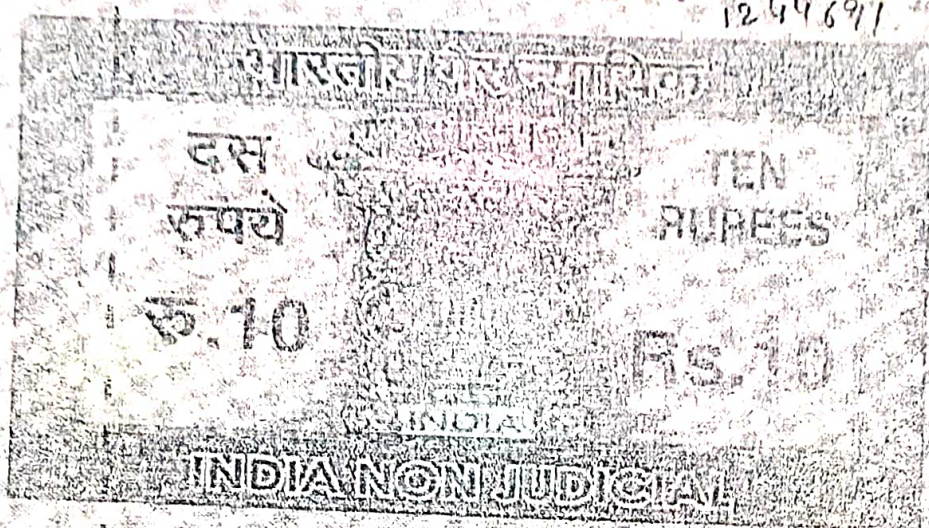
Sibojyoti Chakrabarti
Advocate *05.09.2024*

State of West Bengal

Ranjan Kumar Das
Deponent

RANJAN KUMAR DAS, WBCS (Exe.)
Joint Secretary
Deptt. of Forests
Govt. of West Bengal





AGREEMENT TO BE EXECUTED BY LESSEE-INDUS TOWERS LIMITED, KOLKATA UNDER TOURISM DEPARTMENT, DARJEELING GORKHA HILL COUNCIL (DGHC)

This agreement is being entered on this day of 01 April, 2010 (Thursday) by & between Indus Towers Limited, DLF-II, Park, 5th floor, Tower A, 8 Major Aerial Road, Block AE, New Town, Kolkata, 700 070, herein after called the lessee of opened spaces for installation of cellular tower at Tiger Hill, Darjeeling & the Eagle's Crack, Kurseong.

AND

The Secretary, Tourism Department, DGHC, Darjeeling called the lessee of opened spaces for installation of cellular tower at Tiger Hill, Darjeeling & the Eagle's Crack, Kurseong.

That the petition of the Indus Towers Limited, Kolkata has been accepted for the period of 05 five years regarding leasing of opened spaces situated at Tiger Hill, Darjeeling & Eagle's Crack, Kurseong under this department with effect from 1st April, 2010 to March 31, 2015 (05 five years) on the following terms & conditions.



The lease amount of the opened spaces of tiger hill, Darjeeling & eagle's crack, Kurseong are fixed at Rs. 2,00,000/- (Rupees two lakhs & forty thousand) only per annum i.e. Rs. 10,000/- (Rupees ten thousand) only for each space. The lessee will pay this amount in 02 two equal instalment. As an advance, the 30 (thirty) month's lease amount i.e. Rs. 6,00,000/- (Rupees six lakhs) only have to be deposited at the CRR account of DGHC (Tourism department) after execution of the final agreement between the department & the lessee. After completing the 06 (six) months as mentioned above, the lessee will pay regular 2nd instalments within 15 (fifteen) days of the following month i.e. September, 2010. If failed, Rs. 300/- (Rupees five hundred) only per month will be charged as an interest of the lease amount.

Terms of lease of opened space shall be for five years, renewable at the discretion of the Tourism department, DGHC, Darjeeling.

Contd. on page 2

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- 3. The lease is not transferable. In case of lease is transferred in the third party, the same shall stand cancelled forthwith. The lessee shall apply to the removal of lease at least one month before the date of expiry of the said lease.
- 4. The Tourism Department, DGHC reserves the rights to cancel the lease in case of failure to deposit the lease amount after giving a notice of 01 (one) month.
- 5. The lessee shall always maintain cleanliness by inside & surrounding area and will also be responsible for the security of the property of the Tourism Department, DGHC, Situated in Tiger Hill Darjeeling & Eagle Cracks, Kurseong.
- 6. The lessee shall not sell provide alcoholic drinks within the Tiger Hill & Eagle Cracks premises. In case sale of alcoholic beverages is detected, the lease shall be cancelled forthwith without giving notice.
- 7. The above terms & conditions are not exhaustive, and any additional terms and conditions as required and considered applicable shall be referred to the lessee and enforced.
- 8. The lessee will not be allowed to construct any further additional works inside of the allotted spaces of the Tiger Hill Darjeeling & Eagle Cracks. For same shall be allowed the lessee will require the written permission from the Secretary, Tourism Department, DGHC, Darjeeling.
- 9. In case of non-compliance of any one of the terms & conditions as stated above, the tourism department, DGHC shall cancel the lease after notifying the same to the lessee.
- 10. The India Liners Limited will be responsible for maintaining the environment of the proposed sites. The India Liners Limited is also responsible for legal & technical clearance, if needed.
- 11. In acceptance of the above terms & conditions, the lessor and the lessee have set their hands to this agreement of lease on the date & year first written above.



Signature of lessee
 India Liners Limited
 Kalyan Rajarhat
 Kurseong

Signature of lessor

[Signature]
 J. D. SHEPPA
 Secretary
 Tourism Department
 Darjeeling Gorkha Hill Council
 Darjeeling

WITNESS

[Signature]
[Signature]

Memo No. 562(3)SFC/3TRM/DGHC/DARJ Dated: December 20, 2019

Copy for information:

- 1) The Administrator, DGHC, Council House, Lalkuthi, Darjeeling.
- 2) The Principal Secretary, DGHC, Council House, Lalkuthi, Darjeeling.
- 3) The Secretary, Finance Department, DGHC, Council House, Lalkuthi, Darjeeling.
- 4) The Secretary, Establishment Department, DGHC, Council House, Lalkuthi, Darjeeling.
- 5) The Secretary, Kurseong Branch Secretariat, DGHC, Kurseong.
- 6) The Executive Engineer, Darjeeling Engineering Division, DGHC, Darjeeling.
- 7) The Executive Engineer, Kurseong Engineering Division, DGHC, Kurseong.
- 8) The Associate Director of Tourism, Tourism Department, DGHC, Darjeeling.

J. D. SHEPPA

Secretary
 Tourism Department
 Darjeeling Gorkha Hill Council
 Darjeeling

Typed copy -XI-

INDIAN NON JUDICIAL MAGISTRATE OF
RS 10/-

AGREEMENT TO BE EXECUTED BY LEESEE-INDUS TOWERS LIMITED,
KOLKATA UNDER TOURISM DEPARTMENT, DARJEELING GORKHA HILL
COUNCIL (DGHC)

This agreement is being entered on this day of 01 April 2010 (Thursday) by & between Indus Towers Limited DLF II, Park, 3rd Floor, Tower-A, 8- Major Arterial Road, Block-AF, New Town, Rajarhat, Kolkata 700070 herein after called the Lessee of opened spaces for installation of cellular Tower at Tiger Hill, Darjeeling & the Eagle's Crack, Kurseong

AND

The Secretary, Tourism Department, DGHC, Darjeeling called the Lesser of opened spaces for installation of cellular tower at Tiger Hill, Darjeeling & the Eagle's Crack, Kurseong

That the petition of the Indus Towers Limited Kolkata has been accepted for the period of 05 five years regarding leasing of opened spaces situated Tiger Hill, Darjeeling & Eagle's Crack, Kurseong under this department with effect from 1st April, 2010 to March 31, 2015 05 five years on the following terms & conditions.

1. The lease agreement of the opened spaces of tiger hill, Darjeeling & Eagle's Crack, Kurseong are fixed at Rs 2,40,000/- (Rupees two lakhs & Forty thousand) only per annum i. e Rs 10,000- (Rupees Ten Thousand) only for each space. The lessee will pay this amount in a 02 (two) equal installment. As an advance the 30 (thirty) month's lease amount i. e Rs 6,00,000/- (Rupees Six lakh) only have to be deposited at the CRR Account of DGHC (finance deptment) after execution of

~~25~~

the final agreement between the department and the lessee . After completing the 06 six months as mentioned above the lessee will pay another 2 (two) instalments within 15 (fifteen) days of the following month i.e september 2010. If failed Rs 5--/- (Rupees Five Hundred only) per amount will be charged as per interest of the lease amount.

2. Terms of Lease of open space shall be for five year, renewable at the discretion of the tourism department, DGHC, Darjeeling.
3. The lease is not transferable. In case of the lease is transfer to the third party the same shall be considered forfeited. The lessee shall apply for renewal of the lease of the open space one month before the date of expiry of the said lease.
4. The Truism Department, DGHC, reserves the right to cancel the lease in case of failure to deposit the lease amount after giving a notice of one 1 (month) date.
- 5.
6. The lessee shall always maintain both inside and surrounding it and will also be responsible for the security of the property of the tourism department, DGHC situated at Tiger Hill, Darjeeling & Eagle Crakes Kurseong.
7. The lessee shall not sale provide alcoholic drinks within the Tiger Hill and Eagle Crakes premises. In case sale of alcoholic beverages is detected the lease shall be canceled forthwith without giving notice.
8. The above terms and condition are not exhaustive and additional terms and conditions as required and considered applicable shall be informed to the lessee and enforced.
9. The lessee will not be allowed to construct/ erect any additional work inside of the allotted space of the Tiger Hill, Darjeeling & Eagles Crake , kurseong until and unless the lessee not obtained written permission from the Secretary, Turisim Department, DGHC, Darjeeling.
10. In case of the non- compliance of any of the terms and conditions as stated above, the Tourism Department, DGHC shall cancel the lease after modifying same to the lessee.
11. The Indus towers limited will be responsible for maintain the environment of the proposed sites. The Indus Towers Limited is also responsible for legal and technical Clarence if needed.

- 26 —
12. In acceptance of the above terms and conditions, the leaser and lessee have sat their hands with the agreement of lease on the date & years first written above.

Signature of Lessee

S/D

Indus Tower Limited
New Town, Rajarhat
Kolkata

Signature of the Lesser

S/D

(T.D.Sherpa)
Secretary
Tourism Department
Darjeeling, Gorkha Hill Council,
Darjeeling

Memo No- 1582 (B) /SECY/TRM/DGHC/ DARJ DATED APRIL 01 2010

1. Administrator, DGHC, Council House, LalkOthi, Darjeeling
2. The Principal Secretary, DGHC, Council House, Lalkuthi, Darjeeling
3. The Secretary, Finance Department, DGHC, Council House, Lalkuthi, Darjeeling
4. The Secretary, Establishment Department, DGHC, Council House, IJ Complex, DJ
5. The Secretary, Kurseong, Branch, Secretariat, DGHC, Kurseong
6. The Executive Engineer, Darjeeling Engineering Division, DGHC, Darjeeling
7. The Executive Engineer, Kurseong Engineering Division, DGHC, Kurseong
8. The Assistant Director of Tourism, Tourism Department, DGHC, Darjeeling

S/D

(T.D.Sherpa)
Secretary
Tourism Department
Darjeeling, Gorkha Hill Council,
Darjeeling



Government of West Bengal
Office of the Divisional Forest Officer,
Darjeeling Wildlife Division
Meadow Bank Road, Darjeeling, 734101
Tel/Fax: 0354 2257314, email: dfowildlife1@gmail.com

Amexure - R(A) 1
- 27 -

No. 166/WL/13-5

Date: 17/02/2015

To

The Secretary

Tourism Department

Gorkhaland Territorial Administration, Darjeeling

Sub: Leasing of open space for installation of cellular tower at Tiger Hill

Ref: Lease agreement between your office and Indus Tower Limited, Kolkata vide your office memo no 156/2(6)/SECY/TRM/DGHC/DARJ dated 01-04-2010; Your office memo no 138/FINANCE/(SECY)/TRM/DGHCC/DARJ dated 16-03-2010.

It is seen that a cellular tower has been installed in open space in Tiger Hill. On enquiry at the tower station it was learnt that the permission for installation of the tower has been given by the then Secretary, Tourism Department, Darjeeling Gorkha Hill Council, Darjeeling vide the above mentioned memos and the tourism department is presently with Gorkhaland Territorial Administration. The land has been given on lease to INDUS TOWERS LIMITED KOLKATA for 5 years for installation of cellular tower.

However, after field enquiry it is found that the area is under Catchment Area block of Senchal Wildlife Sanctuary as per the Gazette Notification No. 5380-For dated 24th June 1976 under Sub Section (1) of section 18 of Wildlife (Protection) Act 1972 and Government Notification No 2773-For 11B-23/98 dt 19th August 1998. In this case as per the Forest Conservation Act 1980, for utilization of this land for any Non Forestry works permission from Competent Authority is required to be taken as per the laid down government procedure. This applies even for leasing out the land.

Hence, you are requested to cancel the lease and take steps to remove the cellular tower from the wildlife sanctuary and user agency is required to submit their proposal to the competent Authority under Forest Conservation Act 1980 for utilization or transfer of the land or taking the land on lease.

Encl: As mentioned in Reference

Sd/- Dr. Rajendra S. H.,

Divisional Forest Officer
Darjeeling Wildlife Division



In Attendance - RLB 1

- X -

Government of West Bengal
Office of the Divisional Forest Officer,
Darjeeling Wildlife Division
Meadow Bank Road, Darjeeling, 734101
Tcl/Fax: 0354 2257314, email: dfowildlife1@gmail.com

No.1279/WL/13-5

Date: 01-09-2015

To
State Manager
Indus Towers Limited
Godrej Waterside Building, 8th Floor,
Tower 1, Plot-5, Block DP, Sector V
Salt Lake City, KOLKATA-700091

Sub: Cellular Tower at Tiger Hill inside Senchal Wildlife Sanctuary

Ref: Lease agreement between the then Secretary Tourism department, DGHC and Indus Tower Limited, Kolkata vide the then Secretary Tourism DGHC's office memo no 156/2(6)/SECY/TRM/DGHC/DARJ dated 01-04-2010; the then Secretary Tourism department, DGHC office memo no 138/FINANCE/(SECY)/TRM/DGHCC/DARJ dated 16-03-2010; this office memo No 166/WL/13-5 dated 17-02-2015.

Sir,

Refer to this office memo No 166/WL/13-5 dated 17-02-2015. It is seen that a cellular tower has been installed in open space in Tiger Hill. On enquiry at the tower station it was learnt that the permission for installation of the tower has been given by the then Secretary, Tourism Department, Darjeeling Gorkha Hill Council, Darjeeling vide the above mentioned memos and presently the tourism department is with Gorkhaland Territorial Administration. The land has been given on lease to INDUS TOWERS LIMITED KOLKATA for 5 years for installation of cellular tower.

However, after field enquiry it is found that the area is under Catchment Area block of Senchal Wildlife Sanctuary as per the Gazette Notification No 5380-For dated 24th June 1976 under Sub Section (1) of section 18 of Wildlife (Protection) Act 1972 and Gazette Notification No 2773-For 11B-23/98 dt 19th August 1998. For utilization of sanctuary land for any Non Forestry works permission from Competent Authority under Forest Conservation Act 1980, from National Board for Wildlife and Supreme Court is required to be taken. This applies even for leasing out the land.

Hence, you are requested to furnish documents, if permission has been obtained from competent authorities mentioned above to the office of the undersigned immediately. If not, you are hereby asked to remove the tower immediately and apply for the clearance from National Board for Wildlife & Supreme Court and under Forest Conservation Act 1980.

This may be treated as very urgent


 Divisional Forest Officer
 Darjeeling Wildlife Division

4 Annexure - R-2

Registered No. WBISC-247

No. WB/DTP/Pt.I/CPS/98/4448



The Calcutta Gazette

Extraordinary
Published by Authority

VADRA 10]

TUESDAY, SEPTEMBER 1, 1998

[SAKA 1920

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury etc.

GOVERNMENT OF WEST BENGAL

Forest Department

Forest Branch

NOTIFICATION

No. 2773-For. 11B-23/98

Calcutta, the 19th August, 1998

WHEREAS the area whose situation and boundaries are described in the Schedule below (hereinafter referred to as the said area) is considered to be of adequate ecological, faunal and floral significance for the purpose of protecting, propagating and developing wild life and its environment;

AND WHEREAS by this department Notification No. 5380-For, dated the 24th June, 1976 the Governor had declared his intension to constitute the said area as a sanctuary for the said purpose under sub-section (1) of section 18 of the Wild Life (Protection) Act, 1972 (53 of 1972);

AND WHEREAS the said area is constituted of reserved forests under section 20 of the Indian Forest Act, 1927 (16 of 1927), and is to be included in a sanctuary;

NOW, THEREFORE, in exercise of the power conferred by clause (b) of sub-section (1) of section 26A of the Wild Life

(Protection) Act, 1972 (53 of 1972), the Governor is pleased hereby to specify in the Schedule below the limits of the said area which shall be comprised within the sanctuary and to declare that the said area shall be a sanctuary to be known as Sanchal Wild Life Sanctuary, with effect from the date of publication of this Notification in the *Official Gazette*.

The Schedule

A. Situation

District : Darjeeling

Wild Life Division - I, Sanchal and Takdah Ranges, covering an area of 38.88 square kilometers (approximately) and comprising the following forest blocks and compartments :-

Block	Compartment
Goddikhana	1 to 6
Rangirum	1 to 4
Rongdong	1 to 4
Dooteria	1 to 5
Rambi	1 to 5

Block	Compartment	East	:	
Rishap	1 to 8		:	From the 6th Mile basti on the Peshoke Road, along the Public Works Department Cart Road (leading towards Takdah) and along the boundary between the Rampuria and Pumong blocks to the southern boundary of the Pumong blocks. Then Southwards along the boundary of the reserved forest, namely, along the external boundary of Rampuria, Rambhi extension, Rambhi, Rishap and Sureil blocks to the boundary between the reserved forests of Darjeeling and Kurseong Forest Divisions.
Sureil	1 to 5		:	
Senchal pasture	1 and 2		:	
Dura Senchal	1 (a), 1 (b), 2, 3, 4, 5, 6 (a), 6 (b), 7 (a), 7 (b)		:	
Chattakpur	1 and 2		:	
Rangbul	1 to 3		:	
Sonada	1, 2, 3 (a), 3 (b), 4		:	
Pachim	1 to 3		:	
Catchment area	Nil		:	
Setikhola	Nil		:	
Rambi extension	Nil		:	
Rampuria	1 to 4	South	:	The reserved forest of the Kurseong Forest Division.
Simkhola	1 to 4		:	
Tapkedara	Nil	West	:	Northern along the western boundary of the reserved forests to Jorebunglow, namely, along the external boundaries of the Pachim, Sonada, Rangbul and Dooteria blocks.
Dawaipani	1 to 7		:	

B. Boundaries :

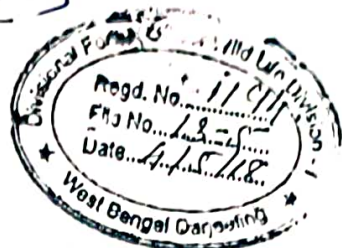
North : From Jorebunglow along the northern boundary the reserved forests to the 6th Mile basti on the Peshoke Road.

By order of the Governor,

S. M. Chaki
Dy. Secy. to the Govt. of
West Bengal.

Amendment - H(A)R-3

3/5/18



Government of West Bengal
Office of the District Magistrate & Administrator
D.I. Fund Department
Darjeeling

Memo No. 307(1)/(3)/DIF

Dated: 3/5/2018.

To
The Principal Secretary,
Tourism Department,
Government of West Bengal.

Subject: Proposed Golf Course and Tourist Huts on the land of Darjeeling Improvement Fund adjacent to Tiger Hill, Darjeeling.

Sir,

I would like to inform you that as per the office record there is total 31.85 acres of D.I. Fund land at Sinchal Pasture adjacent to Tiger Hill of which 2 acres of land has been transferred to the Tourism Department and the rest 29.85 acres of land is recorded in favour of D.I.Fund Darjeeling.

Since it is a recorded fact that the mentioned area was used as a Nine Hole Golf Course in the past (Copy of letter 1209 of 1906 & 1927 & copy of letter of Principal Secretary Tourism dated 25.6.2013 enclosed), it may be leased to the Tourism Dept, Govt of West Bengal for the same purpose. The provision for a Golf Course at Sinchal pasture near Tiger Hill would immensely contribute to the tourism attractions in the area where there is no civilian Golf Course at present. Demand for golf Course has been raised by locals to attract high end tourists.

The Governor of West Bengal has notified the Senchal Wildlife Sanctuary vide notification in the Calcutta gazette, dated 1.9.1998. From the map available with us, it appears the DI Fund land at Senchal is bordering the Reserve Forest Area and is not inside it.

It is requested to also rebuild the ruined Burdwan Raj Rest House/Darjeeling Golf Club House/D.I.Fund Bungalow which were burnt in previous agitations.

Enclosed- Map

Your faithfully,

[Signature]
28.4.18.
District Magistrate
Darjeeling

Dated: _____/_____/2018.

Memo No. _____/DIF,

Copy forwarded for information and necessary action to :

- (1). The Commissioner, Jalpaiguri Division.
- (2). The Secretary Tourism, Govt of West Bengal
- (3) DFO Wildlife Darjeeling

The land is not covered by trees, rather it is open grassland and a few Families are found settled there.

[Signature]
28.4.18
District Magistrate
Darjeeling

Government of West Bengal
DIRECTORATE OF FORESTS

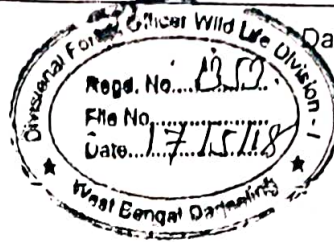
Office of the Principal Chief Conservator of Forests, Wildlife
& Chief Wildlife Warden, West Bengal.

Bikash Bhavan, North Block, Third Floor, Saltlake City, Kolkata-700 091
Tel No.2334-6900/2358-3208, Fax.91-033-23345946 Website - www.wildbengal.com, e-mail: wildlife@gmail.com

No.: 1134/WL/2W-665/2012

Dated: 11.05.2018

To
The Principal Secretary,
Department of Forests,
Govt. of West Bengal.



Sub: Proposed Golf Course and Tourism Huts in Senchal Wildlife Sanctuary.

Sir,

Please find enclosed herewith a letter of the District Magistrate, Darjeeling addressed to the Principal Secretary, Department of Tourism, Govt. of West Bengal regarding establishment of a golf course within Senchal Wildlife Sanctuary. This golf course had been established in the area in 1906 by granting a lease to the Darjeeling Golf Club of "Reserve Forest" land measuring 34 acres. The conditions of the lease were that it would be leased for the purpose of golf course as long as it was used as such. If the golf course ceased to exist, the area would revert back to the Forest Department.

Since the golf course was no longer in use and the lease was not renewed, the Govt. of West Bengal declared it as part of Senchal Wildlife Sanctuary vide Notification No. 2773-For.11B-23/98, dated 19.08.1998. Accordingly the area which is claimed to be recorded to be with DI Fund Darjeeling continues to be Reserve Forest (as per lease condition of 1906) and now stand declared as part of the Senchal Wildlife Sanctuary.

It is requested that the Tourism Department may be apprised of the status of land in question. If they intend to revive any activity in the area they should be advised to follow all rules and norms for working in a wildlife sanctuary.

Thanking you.

Enclosure: As stated above.

Yours sincerely,

Sd/- R. K. Sinha

(Ravi Kant Sinha)

Principal Chief Conservator of Forests, Wildlife
& Chief Wildlife Warden, West Bengal

No: 1134/WL/2W-665/2012

Dated: 11.05.2018

Copy forwarded for information to:

- 1) The Principal Chief Conservator of Forests & Head of Forest Force, West Bengal.
- 2) The Chief Conservator of Forests, Wildlife (North), West Bengal
- 3) The Divisional Forest Officer, Darjeeling Wildlife Division, West Bengal.

(Ravi Kant Sinha)

Principal Chief Conservator of Forests, Wildlife
& Chief Wildlife Warden, West Bengal

X

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

O. A. NO. 80/2024/EZ
In The Matter of:
Subhas Datta

... APPLICANT

VERSUS

The State of West Bengal & Ors.

... RESPONDENT(S)



AFFIDAVIT-IN-OPPOSITION ON
BEHALF OF THE RESPONDENT No.
04, DEPARTMENT OF FOREST,
GOVERNMENT OF WEST BENGAL.

SIBOJYOTI CHAKRABARTI
Advocate

For The State of West Bengal
Email: subho.advocate@gmail.com
(M): 9007035534.