

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, AT KOLKATA
ORIGINAL APPLICATION NO. 105 OF 2024**

IN THE MATTER OF:

Rohit Choudhury... .. Applicant

Versus

State of Assam & Ors... .. Respondents

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P. Gupta

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**New Delhi
Dated:01.10.2024**

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, AT KOLKATA
ORIGINAL APPLICATION NO. 105 OF 2024**

IN THE MATTER OF:

Rohit Choudhury... .. Applicant

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State of Assam & Ors... .. Respondents

**REJOINDER AFFIDAVIT TO THE REPLY FILED BY THE RESPONDENT
NO. 2**

IT IS MOST RESPECTFULLY SUBMITTED:

1. That the Applicant herein is filing a rejoinder to the reply filed by Respondent No. 2 in the matter. At the outset, the Applicant deny each and every statement, allegation, averment and contention made by the Respondent in its reply affidavit which is contrary to or inconsistent with what is stated in the original application. The Applicant prays that nothing should be deemed to be admitted by the Applicant by virtue of not having been specifically denied herein.
2. That the applicant is filing a point based and specific response to the reply filed by the Respondent No. 2 and reserves its right to file a para wise rejoinder in case the need arises.
3. That the Original Application is based on the fact that the Forest Department of Assam, Respondent No.2 herein has illegally permitted for diversion of 28 hectares of reserve forest land in the Geleky Reserve Forest for establishment of Commando Battalion without prior approval of the Central Government as per the provisions of the Van Adhiniyam, 1980. When the matter was listed on 09.08.2024, the Hon'ble Tribunal while referring to various

paras in the Reply submitted by the said Respondent, acknowledged the fact that the allegations raised in the OA are true and that the Forest Department alongwith the then PCCF and HOFF, Shri M.K Yadav has committed violation of the provisions of section 2 of the Van Adhiniyam, 1980.

4. It is submitted that the violations of forest laws committed by the State and its authorities under the pretext of security reasons is not only illegal and arbitrary but it also violates the principle of public trust doctrine which casts duty upon the State to protect forest and its natural resources. The Respondent No. 2 has stated in its reply that it is raising a large Commando Batallion infrastructure which is meant to house 800 personnel which itself implies that there would be construction activity with heavy machinery and equipments, influx of heavy transportation vehicles, increase in public movement at large scale etc. which makes it obvious that the forest and its ecosystem including trees, flora and fauna would face huge destruction. The Respondent No.2 has stated that it has not felled any trees for the construction activity which is a blatant lie and a false statement as such large construction cannot be undertaken without clearing of the trees and vegetation in the forest area. It is also submitted that it is not just the felling and cutting of trees which impacts the forest but such construction activity has an overall impact on the ecology of the forest including its natural vegetation which undergoes irreversible and irreparable loss. Moreover, such activity would not have been allowed considering the fact that this is a Reserve Forest which falls under high degree of protection as per law and not simply a forest per se.
5. That the Respondent No.2 has stated that that the establishment of the Commando Batallion is not covered under section 2 of the now

Amended Van Adhiniyam, 1980 as the said activity was allowed by the then PCCF on 15.11.2022 i.e prior to the said amendment. It is important to point out that the establishment of Commando Battalion involving such large construction activity was a non-forest activity even prior to the said amendment. Infact in the letter of 15.11.2022 the PCCF has twisted the words and has misinterpreted the Act and its provisions only for his own convenience. Also, such a large construction cannot be interpreted as “any other like purposes” since this is not for conservation, development and management of forests and wildlife but is completely the contrary as it would only result into large scale destruction of the forests and not vice versa. Copy of the letter dated 15.11.2022 by M.K.Yadava the then PCCF & HOFF, Assam to the Circle in Charge, Eastern Assam Circle, Jorhat is attached and annexed herewith as **Annexure A-1.**

6. That it is not just this particular case of violation but the Respondent No. 2 is committing similar violations by allowing use of forest lands for non-forest activity in various other areas of the State as well. In a letter dated 17.10.2022 of the Circle in Charge, Eastern Assam Circle, Jorhat addressed to the Principal Chief Conservator of Forests & Head of Forest Force, Assam, it is been mentioned that “**...In this regard, vide your letter under reference dated 20-12-2021 matter for establishment of a Battalion Camp inside Abhoypur Reserved Forest has already been taken by your good office...**” The letter gives rise to the suspicion that it is not just the Battalion Camp at the Geleky Reserve Forest that was permitted, but also there is a possibility of Battalion Camps having been permitted in other Reserve Forests including the Abhoypur Reserve Forest. The Assam Forest Department being secretive about the permissions given for other

such Battalion Camps, the Hon'ble Tribunal may direct for disclosure of the documents in this regard.

Copy of the letter dated 17.10.2022 of the Circle in Charge, Eastern Assam Circle, Jorhat addressed to the Principal Chief Conservator of Forests & Head of Forest Force, Assam is attached and annexed herewith as **Annexure A-2**.

7. That a copy of the letter dated 03.06.2024 has been obtained by the applicant under the RTI Act. The said letter written by Divisional Forest Officer, Sivasagar Division (T), addressed to the Superintendent of Police, Sivasagar District inter alia states that, "...as per instruction received from the Special Chief Secretary, Assam DPR copy of establishment of Commandant Battalion Camp in Assam-Nagaland interstate Border area of Geleky RF is needed for submission to the higher authority. Therefore, the undersigned would like to request you to provide a copy of the DPR of the ongoing construction of Commandant Battalion Camp in Geleky RF adjacent to Assam-Nagaland Border."

It is pertinent to point out that the said letter of the DFO, Sivasagar asking for the DPR copy of the Battalion camp at Geleky Reserve Forest has been written to the Police Department only after this matter was taken up by the Hon'ble Tribunal on 29.05.2024. The said letter implies that the Assam Forest Department did not even have a copy of the DPR of the ongoing construction of Commando Battalion Camp in the Geleky RF. Whereas the Assam Forest Department in its reply has tried to justify the establishment of the Commando Battalion Camp including permanent residential structures citing inter-state boundary dispute, infact it itself had no inkling of the type of constructions coming up in the Geleky Reserve Forest till the Hon'ble Tribunal took up the matter and

issued notice to the Forest Department. This shows that the establishment of the Commando Battalion Camp at Geleky RF was a unilateral decision by the then PCCF& HOFF who had no concern for the rules and the rationale for establishing a Battalion Camp in the Geleky RF, and the Respondent No. 2 was itself not aware of the details of the construction, let alone the stated purpose of protecting the Reserve Forests of Assam from armed aggression by the neighbouring states. Copy of the letter dated 03.06.2024 by Divisional Forest Officer, Sivasagar Division (T), addressed to the Superintendent of Police, Sivasagar District is attached and annexed herewith as **Annexure A-3**.

8. That the applicant made another RTI application on the 09.07.2024 with the Conservator of Forests (CF), Eastern Assam Circle, Jorhat, seeking copy of the communications w.r.t the construction of the Commando Battalion Camp in the Geleky RF. The said application was then forwarded to the Divisional Forest Officer, Sivasagar Division vide letter dated 03.08.2024. However in reply to the same, the Divisional Forest Officer, Sivasagar Division vide letter dated 16.08.2024 denied providing the said communications under the pretext of section 8 (1) (h) claiming that, ***“...I would like to inform you that the required document could not be provided to you as per Section 8 (1) (h) of the RTI Act, 2005 as the matter is under departmental investigation...”***

It is apparent that the Assam Forest Department do not wish to disclose the communications with respect to the establishment of the Battalion Camp as it fears that its illegal permissions given for construction activities at Geleky RF and similar violations would come to light. The applicant humbly submits that the Hon'ble Tribunal may direct the DFO, Sivasagar to submit the copies of the relevant communications to the Hon'ble Tribunal so that it can be

verified if more permissions for such constructions inside other Reserve Forests had been given.

Copy of the RTI application dated 09.07.2024 alongwith letters dated 03.08.2024 and 16.08.2024 are attached and annexed herewith as **Annexure A-4 (Colly)**.

9. That the proposal for obtaining ex-post facto approval of the Central Government under section 2 of the Van Adhiniyam, 1980 for non-forestry use of 28.0 Ha. of forest land for establishment of Commando Batallion Camp in Geleky Reserve Forest was discussed in the 6th meeting of the Advisory Committee of the MoEFCC on 27.08.2024. The minutes of the meeting noted that the DDGF(C), Regional Office, Shillong had submitted a Site Inspection Report by the DIGF (C), Sub-Regional Office, Guwahati of MoEF&CC, based on a field inspection done on 16.08.2024 and 17.08.2024. The SIR was tabled before the Advisory Committee. In its major findings and observations, the SIR mentioned that the ***“...construction work was in full swing on the day of site visit with involvement of about 400 Nos. of workers. The proposed area is a prima facie case of violation of Section 2(1) (ii) Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 as the work has been started without prior permission of Central Govt. On enquiry of the inspection team, work was initiated in the proposed area on 20.11.2022 and construction work started in 18 ha and remaining 10 ha is yet to be taken up for development. The DFO informed that 85% of work has been completed and 75% procurement of goods has been done. Moreover observed that 4.2 km of boundary wall has been constructed out of total 4.8 km.”***

That it is clear from the Site Inspection Report that the violation is ongoing, and there is an attempt by the Government of Assam to complete the work and present a *fait accompli* before the Hon'ble Tribunal. It is also evident that the violation is happening with the full knowledge and acquiescence of the officials of the Assam Forest Department including the Divisional Forest Officer, Sivasagar Division, Chief Conservator of Forests, Eastern Assam Circle, Additional PCCF, Upper Assam Zone, and the PCCF & HoFF, Assam.

10. That after detailed discussion and deliberation the Committee decided to defer the proposal in view of the violations committed by the Respondent No. 2. The Committee made the following decision in this regard:

“The Committee had detailed discussion and deliberation with the Dy. DGF (Central), RO, Shillong and Nodal Officer, Assam. After going through the facts of the proposal and submissions made by the Dy. DGF (Central), RO, Shillong and the Nodal Officer Assam, the Committee deferred the proposal for ex-post facto approval for 28.0 Ha. of forest land for establishment of Commando Battalion Camp in Assam-Nagaland inter State Border area of Geleky Reserved Forest under Sivasagar Forest Division, Sivasagar District in the State of Assam and sought the following details:-

- i. The Report of the Committee constituted in pursuance of Hon'ble NGT in their order dated 29.05.2024 in Original Application No.105/2024/EZ, will be perused for further consideration in the instant proposal, once same is submitted.
- ii. The Regional Office shall initiate action in the instant matter and complete the proceedings as prescribed under section 3A

and 3B of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.

iii The State Government shall discontinue any kind of construction activities forthwith in the proposed forest area.

.....”

It is evident from the abovesaid that even the MOEFCC has acknowledged the violation of section 2 of the Van Adhiniyam in the present case and has decided to initiate action under section 3A and 3B of the Van Adhiniyam, 1980 and has deferred the proposal in view of the present proceedings before the Hon'ble Tribunal.

Copy of the Minutes of the meeting held on 27.08.2024 of the Advisory Committee of the MoEFCC is attached and annexed herewith as **Annexure A-5**.

In view of the aforesaid, it is humbly prayed that on the basis of the submissions made in the present rejoinder, directions prayed in the original application may be granted by the Hon'ble Tribunal and stringent action against the concerned official/officials of the Forest Department must be taken for allowing illegal construction activity inside the Geleky Reserve Forest. Additionally, they shall also be made personally liable to compensate for the damage caused to the forest area.

Rohit Choudhury

APPLICANT

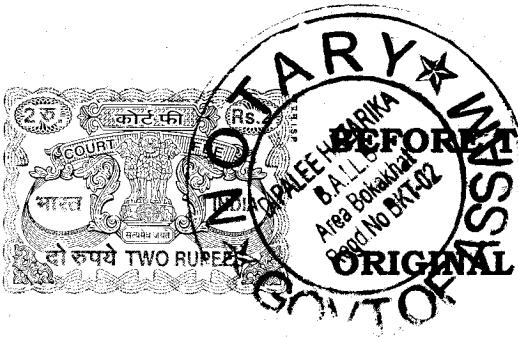
Filed by

P. Gupta

**PARUL GUPTA
ADVOCATE FOR THE APPLICANT
A-63, THIRD FLOOR,
DEFENCE COLONY,
NEW DELHI-110024**

**Email ID: parul.lawyer@gmail.com
Phone:91-9891656928**

Dated:- 01.10.2024



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH
ORIGINAL APPLICATION NO. 105 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 above mentioned 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 *15th* day of *October* 2024.

Rohit Choudhury

DEPONENT

Identified by
Nandika Begum
Advocate, Bokakhat

01/10/24
NOTARY

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GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND
HEAD OF FOREST FORCE, ASSAM
ARANYA BHAWAN, PANJABARI, GUWAHATI-37

ANNEXURE A-1

Email: hoff-assam@gov.in

Dated 15.11.2022

No. FG.46/Border/Nagaland/Pt-II

To,

The Circle In Charge
Eastern Assam Circle, Jorhat

Sub: Proposal for establishment of Commandant Battalion Camp in the Assam-Nagaland interstate border area of Geleky RF for protection and conservation of Reserved Forest land and conservation of forest resources.

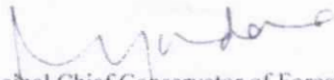
Ref: Your letter No. FG.18/CM/Meeting/EAC/Genl/2021-22 dated 17.10.2022



With reference to the above, I am to inform you that As per Section 2 (b) of FC Act, 1980 the non-forest purpose means the following:

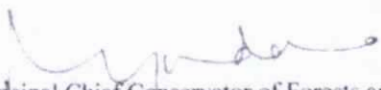
“any purpose other than re-afforestation; but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes”.

Since the purpose of proposal for 28 Ha. forest land for establishment of Commandant 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 (b) of Forest Conservation Act, 1980. Therefore you are allowed to go ahead with the establishment of the proposed Battalion Camp in the interest of conservation and protection of Forest land


Principal Chief Conservator of Forests and
Head of Forest Force, Assam

Copy to:

1. The Additional Principal Chief Conservator of Forest (T), Upper Assam Zone, Jorhat for information and necessary action.
2. The Divisional Forest Officer, Sivasagar Division, Sivasagar for information and necessary action.


Principal Chief Conservator of Forests and
Head of Forest Force, Assam

dc

J S.
File it.

(83)

GOVERNMENT OF ASSAM
OFFICE OF THE CONSERVATOR OF FORESTS
EASTERN ASSAM CIRCLE ::: JORHAT

E Mail: conservator.eac@gmail.com

No. FG.18/CM/Meeting/EAC/Genl/2021-22

Dated: 17.10.2022

To,

The Principal Chief Conservator of Forests &
Head of Forest Force, Assam
Aranya Bhawan, Panjabari, Guwahati-37

Sub: Proposal for establishment of Commandant Battalion Camp in the Assam-Nagaland interstate border area of Geleky RF for protection and conservation of Reserved Forest land and conservation of forest resources.

Ref: Your office letter no. FG.46/Border/Nagaland/Pt-II dated 20-12-2021. —

Sir

The undersigned has the honour to **enclose** herewith a letter received from DFO, Sivasagar Division dated 13-10-2022 wherein he has requested to relook your letter No. FG.27/Nodal/Misc/2017 dated 22-03-2022.

In this regard, vide your letter under reference dated 20-12-2021 matter for establishment of a Battalion Camp inside Abhoypur Reserved Forest has already been taken by your good office. However under the present circumstances immediate permission may kindly be accorded for establishment of a Battalion Camp inside Geleky Reserved Forest over an area of 28 Ha for forestry purpose as requested by the DFO, Sivasagar Division.

This is for favour of your kind information and necessary action.

Yours faithfully,

Encl: As stated above.

Circle in charge
Eastern Assam Circle, Jorhat

Copy to:

1. The APCCF T UAZ
2. The DFO, Sivasagar Division. This has reference to his letter no. A/G/9(a)/ANB/2319-21 dated 13-10-2022.

Circle in charge
Eastern Assam Circle, Jorhat

o/c

31/10/2022
ISSUED ON



GOVERNMENT OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER ::
SIVASAGAR DIVISION (T)
SIVASAGAR

e-mail: dfo.t.sivasagar@gmail.com

Letter No. B/G/9(a)/ANB/2024/ 2697-98

Date: 3/6/2024

To

The Superintendent of Police,
Sivasagar District,
Sivasagar



Sub:

Providing the DPR copy of establishment of Commandant Battalion Camp in Assam-Nagaland interstate Border area of Geleky RF.

Ref:

Instruction from APCCF(T), UAZ, Assam's dtd. 02-06-2024.

Sir,

With reference to the above, as per instruction received from the Special Chief Secretary, Assam the DPR copy of establishment of Commandant Battalion Camp in Assam-Nagaland interstate Border area of Geleky RF is needed for submission to the higher authority. Therefore, the undersigned would like to request you to provide a copy of the DPR of the ongoing construction of Commandant Battalion Camp in Geleky RF adjacent to Assam-Nagaland Border.

This is for favour of your kind information and necessary action.

Yours faithfully

Divisional Forest Officer
Sivasagar Division (T),
Sivasagar

Copy to:-

1. The District Commissioner, Sivasagar for favour of his kind information and necessary action.

Divisional Forest Officer
Sivasagar Division (T),
Sivasagar

Memo no. A/G/9(a)/ANB/2024/ 1418-20

Date:- 3/6/2024

Copy to:-

1. The Principal Chief Conservator of Forests & Head of Forest Force, Assam, Panjabari, Guwahati-37 for favour of his kind information and necessary action.
2. The Addl. Principal Chief Conservator of Forests (T), Upper Assam Zone, Jorhat for favour of his kind information and necessary action.
3. The Conservator of Forests, Eastern Assam Circle, Jorhat for favour of his kind information and necessary action.

Divisional Forest Officer
Sivasagar Division (T),
Sivasagar

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11/07/24



J. Shyam
11/7/24

RTI Matter

To
The State Public Information Officer (SPIO)
O/o the Conservator of Forests (CF)
Eastern Assam Circle, Jorhat
Kamar Bandha Rd, Babupatty
Pin- 785001
District- Jorhat, Assam

ANNEXURE A-4 (COLLY)

Dated: 09.07.2024

Sub: Request for information under RTI Act, 2005.

Respected Sir,

This is in reference to the letter No.FG.18/CM/Meeting/EAC/Genl/2021-22 dated: 17.10.2022 and letter No.B/G/9(a)/ANB/2024/2697-98 dated: 03.06.2024, I request you to kindly provide me the copy of the following letters as mentioned in the letter dated 17.10.2022, and 03.06.2024:

1. Letter No.FG.46/Border/Nagaland/Pt-II dated 20-12-2021.
2. Letter No.FG.27/Nodal/Misc/2017 dated 22-03-2022.
3. Letter No.A/G/9(a)/ANB/2319-21 dated 13.10.2022.
4. Copy of the instruction of APCCF (T), UAZ, Assam dated 02.06.2024.
5. The information may be provided by email at rohitzkaziranga@gmail.com

The application fee of Rs.10/- by **IPO No.52F-089661** is deposited herewith.

Sincerely,

Rohit Choudhury
09.07.2024

(Rohit Choudhury)

Village: Gormur, P.O: Lokhujan
Bokakhat-785612, Dist- Golaghat, Assam
Email: rohitzkaziranga@gmail.com

GOVERNMENT OF ASSAM
OFFICE OF THE CONSERVATOR OF FORESTS, EASTERN ASSAM CIRCLE
JORHAT

No. FG.4/RTI Act.2005/EAC/pt-III

E-mail: conservator.eac@gmail.com

Dated 03-08-2024

✓ To,

The State Public Information Officer,
O/o the Divisional Forest Officers
Sivasagar Division

Sub: Transfer of RTI application U/S 6 (3) of RTI Act,2005.


Ref: letter No. Nil, dt.09-07-2024

Under Section 6(3) of the Right to Information Act, 2005, I am transferring herewith the RTI application received from Sri Rohit Choudhury, Village: Gormur, P.O.-Lokhujan, Bokakhat-785612, Dist-Golaghat, Assam, Email: rohitzkaziranga@gmail.com for your information and onward necessary action as sought for under section 7(1) of the Act and furnish the information to applicant directly from your end with a copy to this office.

The application cast of RTI 10.00 (Rupees ten) only in form of IPO in retained in this office.

Yours faithfully,

Enclo: The RTI application
(transferred) as stated above.


Deputy Conservator of Forests,
Cum
State Public Information Officer
O/o the Conservator of Forests,
Eastern Assam Circle, Jorhat.

Copy to Sri Rohit Choudhury, Village: Gormur, P.O.-Lokhujan, Bokakhat-785612, Dist-Golaghat, Assam, for information.

Deputy Conservator of Forests,
Cum
State Public Information Officer
O/o the Conservator of Forests,
Eastern Assam Circle, Jorhat.

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GOVERNMENT OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER ::
SIVASAGAR DIVISION (T)
SIVASAGAR



e-mail : dfo.t.sivasagar@gmail.com

Letter No. B/G/124/RTI/3432

Date. 16/8/2024

To Sri Rohit Choudhury
Gormur Village
P.O. Lokhujan, Bokakhat
Dist. Golaghat, Assam

Sub Providing reply under RTI Act 2005.

Ref: Your application dt. 9-7-2024 received in this office on 5-8-2024

With reference to the above, I would like to inform you that the required document could not be provided to you as per Section 8 (1) (h) of the R.T.I. Act'2005 as the matter is under departmental investigation.

This is for your information and necessary action.

Public Information Officer
- Cum

Assistant Conservator of Forests
O/o the Divisional Forest Officer
Sivasagar Division (T)
Sivasagar

Memo No. A/G/124/RTI/2020 Date: 16/8/2024

Copy to Deputy Conservator of Forests cum SPIO, O/O the Conservator of Forests, EAC, Jorhat for favour of his kind information. This has a reference to letter no. FG.4/RTI Act 2005/EAC/pt-III dt. 3-8-2024.

Public Information Officer
- Cum

Assistant Conservator of Forests
O/o the Divisional Forest Officer
Sivasagar Division (T)
Sivasagar

State Government has cleared of encroachment. The Committee noted the same.

4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Dy. DGF (Central), RO, Shillong and Nodal Officer, Assam. After going through the facts of the proposal and submissions made by the Dy. DGF (Central), RO, Shillong and the Nodal Officer Assam, the Committee deferred the proposal for ex-post facto approval for 11.5 Ha Forest land in favour of Assam Police Housing Corporation Limited, Assam for non-forestry use of 11.5 Ha. of forest land for establishment of 2nd Commando Battalion Camp at Damchera in Innerline Reserved Forest under Hailakandi Division, Hailakandi District in the State of Assam and sought the following details as under:
 - i. AC decided to form a sub-committee for making a site visit and obtain SIR.
 - ii. Regional Office shall complete proceedings under Section 3A/3B against the officers responsible for violation.
 - iii. The State Government shall discontinue any kind of construction activities forthwith in the proposed forest area.

Agenda No.3

Online Proposal No. FP/AS/OTHERS/478981/2024

Subject: Proposal for seeking prior approval of the Central Government under Section 2 (1) (ii) of the Van (SanrakshanEvamSamvardhan) Adhiniyam, 1980 in favour of Sivasagar Territorial Forest Division, Assam for non-forestry use of 28.0 Ha. of forest land for establishment of Commando Battalion Camp in Assam-Nagaland inter State Border area of Geleky Reserved Forest under Sivasagar Forest Division, Sivasagar District in the State of Assam (Online No. FP/AS/OTHERS/478981/2024)- regarding

1. The agenda item was considered by the AC in its meeting held on 27.08.2024. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by the Member Secretary before the AC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts, Rules and Guidelines relevant to the proposal and their significance.
3. The DDGF (Central), Regional Office, Shillong, Nodal Officer Assam & representative of the Assam Police attended the meeting. The Advisory Committee (AC) after thorough deliberation and discussion observed the following:
 - i. State Government of Assam vide online proposal FP/AS/OTHERS/478981/2024 submitted the proposal for seeking prior approval of the Central Government under Section 2 (1) (ii) of the Van (SanrakshanEvamSamvardhan) Adhiniyam, 1980 in favour of Sivasagar Territorial Forest Division, Assam for non-forestry use of 28.0 Ha. of forest land for establishment of Commando Battalion Camp in Assam-Nagaland inter State Border area of Geleky Reserved Forest

under Sivasagar Forest Division, Sivasagar District in the State of Assam.

ii. Item wise break-up details of the forest land proposed for diversion:

Sl. No.	Type of Building	Area allotted (in ha)
1.	Residential building	3.54
2.	Non residential building	0.95
3.	Parade ground	4.59
4.	Shooting range	2.0
5.	Utilities	0.5
6.	Carriage way	2.4
7.	Natural stream	2.0
8.	Open area/ Park/ land scape/ road	12.02
	Total plot area	28.0

- iii. As per the proposal, there is incessant encroachment from Nagaland side which has led to the loss of more than 60% of the Geleky RF under Sivasagar Division. Therefore, the proposal states that the forest department decided to host a Commando Battalion infrastructure to stop further deforestation in the forest of Assam bordering Nagaland.
- iv. DFO, Sivasagar has recommended the proposal stating that the unabated encroachment is continuing at an alarming rate, there is almost certainty of losing the remaining forest wealth of the RFs of Sivasagar Division to the occupation of Nagaland. Thus, in order to resist further encroachment of the forest area and to prevent further destruction of forest resource by the ever-increasing pressure for occupation of land, the deployment of forest protection force and construction of battalion camps at strategic locations inside the forest area at the ever-expanding trans-state forest encroachment frontier is unavoidable, inevitable and must. Thus setting up of the battalion camp inside Geleky RF is urgent and essential and in the sole interest of forest conservation.
- v. As per the proposal, Administrative approval was granted to Assam Police Headquarters for Construction of newly raised 5 (five) nos. of Commando Battalions at Pabhoi in Biswanath District, Geleky (Kamalabari) in Sivasagar District, Kachurtal in Hailakandi District, Doldoli (Lahorijan) in Karbi- Anglong District, Ambikapur in Sadiya District on 12.04.2024.
- vi. The Financial Sanction was issued to the Assam Police Headquarters for Raising of New Assam Police Commando battalion at Geleki (Kamalabari) in Sivasagar Dist., Assam on Engineering, Procurement and Construction (EPC) Mode on 20.04.2024.
- vii. As per DSS report, the area was full of vegetation and no construction work was visible until January, 2022, however, vegetation was cleared and construction work was visible in February, 2023 satellite image of the proposed site.
- viii. Further, DFO, Sivasagar Forest Division has mentioned in his inspection report that:
- The Assam-Nagaland border extends along 3(three) nos. of Assam Forest Divisions Golaghat, Jorhat & Sivasagar Forest

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Divisions which includes a total of 9 (nine) nos. of Reserved Forests (RFs) areas. These RFs situated along the Assam-Nagaland border were under the cover of virgin forests prior to 1900s and hosted an unlimited variety of flora and fauna. Having realized the intrinsic values of these areas, the British had constituted them into RFs. The encroachment pressure was existing since 1950s on all the RFs bordering the state of Nagaland were generally small.

- b. After the declaration of Nagaland as a state during 1962, encroachment pressure increased in the RFs mainly by the tea growers and others for cultivation of tea, rubber, beetle nut and settlement from the Nagaland side. Clearing of forest for such non-forestry purposes has resulted in loss of forest land every year. Simultaneously, the Govt. of Nagaland had also supported the Naga people by establishing Civil Sub-Division and started encroachment inside the RFs by installing battalion posts and by providing infrastructures like schools, primary health centers, roads, water supply, electricity, irrigation schemes, agricultural farms, fisheries etc. to the encroachers in spite of various agreements for maintaining status-quo along the Assam-Nagaland border areas.
- c. This incessant encroachment from Nagaland side has led to the loss of more than 95% of Doyang, Rengma, Nambor South and Diphu RF's of Golaghat Division; loss of more than 80% of Desso Valley and Tiru Hills RF's under Jorhat Division; and loss of more than 60% of the Geleky RF under Sivasagar Division. The Assam Forest Department evicted such encroachments from time to time; but the border problem has been aggravating.
- d. The details of encroachment inside the Assam forest land at Assam-Nagaland Border is as below:

Sl. No.	Name of the RF	Division	Total Area (in Ha)	Encroachment area (in Ha approx.)	% of Encroachment
1.	Desso Valley RF	Jorhat	16381.446	13322.14	81.3
2.	Tiru Hills	Jorhat	5858.552	4829.15	82.42
3.	Desso RF	Jorhat	2797.148	500	17.87
4.	Geleky RF	Sivasagar	5929.200	4000	67
5.	Abhypor RF	Sivasagar	6737.985	125	18.50
6.	Doyang RF	Golaghat	24635.77	23717.18	96.27
7.	Rengma RF	Golaghat	13921.49	13558.35	97.39
8.	Nambor South RF	Golaghat	27240.61	26742.81	98.17
9.	Diphu RF	Golaghat	18363.00	18050.00	98.29

- ix. As this unabated encroachment continues at this alarming rate, there is almost certainty of losing the remaining forest wealth of the RFs of Sivasagar & Jorhat Divisions to the occupation of Nagaland. Thus, in order to resist further encroachment of the forest area and to prevent

further destruction of forest resource by the ever-increasing pressure for occupation of land, the deployment of forest protection force and construction of battalion camps at strategic locations inside the forest area at the ever-expanding trans-state forest encroachment frontier is unavoidable, inevitable and must. Thus setting up of the battalion camp inside Geleky RF is urgent and essential and in the sole interest of forest conservation.

- x. Further, DFO, Sivsagar has also mentioned in Part- II that requirement of forest land is unavoidable and bare minimum for the project.
- xi. Nodal Officer Adhinyam, Assam has also recommended the stating that with the incessant encroachment, Geleky RF has already lost about 60% of the Reserved Forest area to Nagaland. Golaghat Division has lost almost 98% of its Reserved forest and Jorhat division lost about 85% of its Reserved forest to Nagaland, hence to resist further encroachment and occupation of land, the deployment of armed forces and construction of commando battalion camp is essential for the sole interest of forest conservation. The area selected is devoid of valuable tree species, only dominated by naturally growing bamboo species and is 2 Km from the disputed interstate Assam-Nagaland border. The location is site specific as it is a strategic location to dominated over the area and resist further attempt of encroachment from miscreants from Nagaland side, which would not be otherwise possible by stationing in an area outside the Reserved Forest area. Hence, the establishment of the Commando battalion camp inside Geleky RF is the most feasible from the forest protection point of view.
- xii. The area proposed for diversion is 28.00 ha of Reserved Forest and the density of vegetation is 0.3 having Eco-class 1. No trees are proposed to be felled in the proposal.
- xiii. It has been mentioned in the proposal that proposed project does not fall within 10 km radius of the boundary of any PAs. No endangered, Schedule-I species, etc. have been reported in the area proposed for diversion. No protected archaeological / heritage site / defence establishment or any other important monuments is located in the area has been reported. Certificates to this effect has been submitted by DFO concerned.
- xiv. DFO, Sivasagar has mentioned in Part- II that there is no violation of provisions of Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980. However, an O.A was filed in Hon'ble NGT, Kolkata by Shri. Rohit Choudhury Vs State of Assam and Others which was registered on 25.05.2024 w.r.t. Shri MK Yadava who was also the Head of Forest Force approved the diversion of another 28.00 ha at the Assam-Nagaland border in Geleky Reserve Forest in 2022 for a Police Battalion Camp.
- xv. Compensatory Afforestation has been proposed over an area of 28.0 ha inside compensatory afforestation land bank of 830 ha. of evicted non forest land adjacent to Burahchapory Wildlife Sanctuary under Nagaon Wildlife Division, Nagaon. CA scheme for 10 years along with site suitability certificate, KML file and DGPS map have been submitted.

- xvi. As per DSS analysis, Construction work, felling of trees, road is visible in the proposed area and Cultivation land and settlement is visible in the proposed CA site. Further, it is seen that the complete area of 28.0 ha had been broken. The Conservator of Forests, Jorhat has mentioned that a boundary wall around the site has been constructed. Works on the Commando battalion camp is in process and almost 60% of the main building has been completed and others are under construction
- xvii. Brief background of the proposal:
- a. An O.A was filed in Hon'ble NGT, Kolkata by Shri. Rohit Choudhury Vs State of Assam and Others which was registered on 25.05.2024.
 - b. Ministry vide letter dated 25.04.2024 and 13.06.2024 requested the State Govt. of Assam to furnish a detail factual report in respect to news report in Hindustan Times "Shri MK 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" and submit to Ministry with a copy marked to Regional Office, Shillong requesting to coordinate with the State Govt. and provide the requisite information with comments in the matter to the Ministry.
 - c. The Regional Office, Shillong vide letter dated 06.05.2024 and 18.06.2024 requested the State Govt. to provide the detail factual report to Ministry. Further, it was informed regarding constitution of committee as directed by Hon'ble NGT, in O.A. 105/2014/EZ order dated 29.05.2024.
 - d. Ministry vide letter dated 05.06.2024 constituted the following committee in pursuance of direction of Hon'ble NGT in their order dated 29.05.2024.
 - A. Sh AK Mohanty, ADGF (FC), MoEF&CC,F(C), MoEF&CC
 - B. Sh. Tanmay Kumar, Special Secretary, MoEF&CC
 - C. Ms. Imtiena AO, DDGF(C) MoEF&CC, Regional Office, Shillong
 - e. With reference to Ministry's letters dated 25.04.2024 and 13.06.2024, the Conservator of Forests, Jorhat in his letter addressed to PCCF & HoFF, Assam attached a copy of letter of DFO, Sivasagar wherein it is informed as below:
The area in concern is dominated by Kako bamboo (Bambusabalacoa) without any valuable tree species and very much vulnerable to encroachment. Due to gradual destruction of forest wealth in the past, the area of 28.0 ha has transformed into a degraded open forest with only naturally growing bamboo patches of Jati, Bholuka, Dolo and Mukal here and there. No fresh clearing was required. It has been observed that construction works of the Commando battalion camp is in process in the 28 Ha area after receiving the order for establishment of the Commando battalion camp at Geleky RF from the Principal Chief Conservator of Forest & Head of Forest Force, Assam vide letter no.FG.46/Border/Nagaland/Pt-II dated 15.11.2022. The area has been demarcated by constructing a boundary wall around it and

structures have been constructed as per the master plan. Almost 60% of the main building has been completed and others are under construction.

- xviii. Examination of the proposal revealed certain shortcomings and the same was communicated to the State Government on 16.07.2024. Reply to queries raised by the Ministry on 16.07.2024 was received from the State Government on 08.08.2024. Summary of the same are as under:

Sl. No.	Query raised by the MoEF&CC	Reply from the State Government
1.	The State Government has mentioned that there is no violation of the Adhinyam in the said proposal. Therefore, reason for seeking ex-post facto approval of the Central Government is required.	<p>Following has been submitted by the State Government:</p> <p>VII. Assam has got a total of 75 Reserved Forests (RF) having inter-state borders with Arunachal Pradesh, Nagaland, Mizoram and Meghalaya. Of this, the Department has prepared a report of status of encroachments pertaining to 73 out of 75 RF. Out of 84,160.87 ha of area, Nagaland has occupied 36294.07 ha. The forest under Jorhat and Sivasagar Forest Division namely Dissai Valley, Dissai, Tiru Hills and Geleki are extra poised with each other.</p> <p>VIII. The process of occupation from across the border by armed miscreants has a long history in these forest of Dissai Valley, Dissai, Tiru Hills, Geleki, Abhaypur. Some of which date back to 1953.</p> <p>IX. As per the various Working Plan of Jorhat and Sivasagar Division, these forests have been facing enemy pressure on the southern border on Nagaland. Nagaland has been staking claim.</p> <p>X. About the Forest land used for Battalion construction, this is pertinent to mention that as described, the area has lost all its original forest characteristics and there are no standing trees. It is dominated by JatiBaanh (<i>Dendrocalamushamiltonii</i>) etc. The growth of bamboo is bushy and stranded. This has been the condition of the forest for last 3-4 decades. Therefore, as already</p>

		<p>stated there was no tree felling involved in the Battalion construction.</p> <p>XI. Geleki RF which has an area of 5929.20 ha and was once evergreen forest having Holong and Mekai. This forest is now encroached. The encroached area ENF-13023/28/2024-ENV./FORES T-Environment & Forest Department I/676626/2024 by Nagaland is 400 ha. The State of Assam is trying to hold on to the balance of 1900 ha. of the area, which is now, as described earlier as only secondary growth of bamboos. It is difficult for Assam Forest and Assam Police to enter into these areas and recover the areas from encroachment and undertake plantation to revive the forest.</p> <p>XII. The Assam Forest Department along with Assam Police, is trying all its efforts so that remaining areas of these forest don't slip away into the hands of Nagaland. There are several areas when the Forest officials were forced to lodge FIR caused by miscreants from across the border.</p> <p>XIII. The above descriptions clearly indicate that it is not out of any greed of land by Assam Forest or Assam Police or any diversion for commercial purposes of Forest land that the Battalion has been allowed to set up. The battalion has been set up in conditions which cannot be mitigated by any other means by the State Govt. as already stated in the previous paras, land is a state subject and Govt. of Assam through its two Department namely Assam Forest and Assam Police have done best possible for protection of the Forest and maintaining the integrity of the State.</p> <p>XIV. The Forest Department and the Assam Police have a long history of</p>
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		<p>working together from 1986 when the Assam Forest Protection Force Act 1986 was introduced.</p> <p>XV. In view of the above, the State Government has requested MoEF&CC as under:</p> <ul style="list-style-type: none"> f) To condone the inadvertent mistake, if any, of the PCCF &HoFF who acted on behalf of the State Govt. in the interest of the forest protection only and not otherwise. g) To do away with the imposition of provisions of section 3A and 3B, as the diversion was resorted to by the Forest Department only for protection of forest, possibly to sacrifice 40 odd hectares of degraded land devoid of tree cover to save thousands of hectares of the remaining forests from undergoing further degradation, denudation, encroachment and settlements. h) To do away with imposition of NPV and Penal NPV on the proposed diversion. However, the State Government has already made provisions to allocate 11.5 Hectares of Revenue land in lieu of the diversion of proposed forest land and afforest the same at its own cost. i) To allow change of user agency from Forest Department to Police headquarters or their authorized agency in the application for diversion on Parivesh 2.0. j) To accord early approval of the diversion so that construction can be completed. It is to be stated here that the force is already recruited by the State Government, but effective deployment in the area concerned cannot be done in absence of suitable accommodation of the force including security of the arms and ammunition. <p>The reply of the State Government to condone the mistake of the then PCCF &HoFF has to be viewed in light of</p>
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		provisions in the Adhiniyam. As per records, No prior permission was sought from the Central Government before sanctioning the construction of a Police Battalion on Reserve Forest Land by the State Government.
2.	If another User Agency has received the administrative and/or financial sanction for the construction, the said user agency should apply for forest clearance along with relevant documents.	There is no administrative approval or the Financial Sanction in favour of Divisional Forest Officer, Sivsagar. The administrative approval and the Financial Sanction are in the name of Assam Police Headquarter and the Financial Sanction are marked to Assam Police Housing Corporation Limited as vendor which is a State Public Sector Undertaking under the administrative control of Assam Police. The reply of the State Government may be accepted.
3.	Since the User Agency in the extant proposal is the Divisional Forest Officer, Sivsagar Division, any administrative approval or financial sanction received by the User Agency for construction on forest land may be uploaded.	It was mentioned in the reply that if MoEF&CC allows change of User Agency, the same shall be complied with. Accordingly, User Agency has been changed from Divisional Forest Officer, Sivsagar Division to Assam Police Housing Corporation Ltd.
4.	The component-wise break up of forest land has not been submitted along with the proposal. The same needs to be uploaded along with KML file	The component-wise break up of forest land is submitted. However, KML file is not submitted along with the reply.
5.	KML file of the Geleky Reserve Forest needs to be submitted	Submitted
6.	Approved layout plan has not been uploaded. The same needs to be submitted.	Layout plan submitted along with the proposal. The layout plan is approved by the Assam Police Housing Corporation.
7.	Land Use pattern statement for 28 Ha is given as Residential Area: 3.54 Ha; Administrative buildings: 0.95 Ha & Open spaces – 12.02 Ha among others. The State Government is asked to justify situating the proposal in forest land. Furthermore, since the proposal involves the construction of residential	It may kindly noted that Assam has lost several hundred of Sq Km. of land to Nagaland pertaining to the bordering reserve forests. In case of Geleki and other adjoining areas, it is seen that currently more than 220 Sq Km. of forest is already under occupancy of Nagaland. The ground situation is such that effective protection cannot be guaranteed if the unit is located outside the RF. It is to be understood that these activities across the

	<p>area, State Government may explore the possibility of shifting the said activity in non-forestland in compliance of Guideline 1.10 of the Adhiniyam</p>	<p>border have twin purpose. Firstly, cutting the forest and encroaching upon the land and secondly, set up of armed police infrastructure followed by making up of roads, setting up of villages and administrative machinery and thereby taking the whole area under their control. Therefore, setting the battalion outside the RF would not serve any purpose at all. As also explained in reply to the EDS SI. No. 1 the entire issue also involves security of the State. As regards, construction of residential unit in the said battalion, it may be noted that the purpose of battalion is full functional unit with official, residential, operation, utility and fitness spaces. Assuming that part of the services is taken out and moved elsewhere in civil area, it will hamper the efficiency of the battalion. Giving the ground situation, the State Government is not in a position to compromise on quality of services and facilities in the Battalion Unit, else this may be self-defeating.</p> <p>The reply of the State Government of situating the residential area and open spaces along with the Police Battalion may be accepted.</p>
8.	<p>The details of alternatives explored by the State Government for situating the proposal inside Forest land may be submitted.</p>	<p>There are five possible sites for locating a Battalion camp to counter the encroachment from the Nagaland side namely Dissai valley RF, Dissai RF, Tiru Hills RF, Geleki RF and Abhayapur RF. Among these, the most degraded and most encroached is Geleki RF where there a few standing trees and the old forest of Hollong/ Mekai formation has long disappeared and the remaining area of the forest is covered with secondary succession of stunted and bushy bamboo growth. There the area where the battalion has proposed, there were no standing trees and does not require any felling of trees. Therefore the present area is best suited for Battalion Camp.</p> <p>The reply of State Government regarding alternative sites considered for construction of the Police Battalion is put up for discussion of the Advisory Committee.</p>

9.	The State Government has not submitted an integrated plan for water supply, electricity and other such utilities etc required for establishment of a Battalion Inside Forest land. The details of the same shall be provided by the State Government	The electricity line will be routed through approach road and the water needs will be met from the bore wells dug inside the diverted area. The reply of the State Government may be accepted.
10.	As per DSS report, Cultivation land and settlement is visible in the proposed CA site. Comments from State Government in this regard needs to be submitted.	The proposed CA comprising a block of 830 Ha. of revenue area adjacent to Burhachapori Wildlife Sanctuary in Sonitpur District has been allotted to Assam Forest Department by the Revenue & DM Department for use as CA Land Bank. Once all the land bank is allotted for CA, the same would be notified as RF and annexed to Burhachapori Wildlife Sanctuary as its Second Edition. The whole area was evicted in February 2023, and is in control of Forest Department. There are small bamboo and tin structures in the deserted agricultural areas which shall automatically disappear over the plantation activity is started. The reply of the State Government may be accepted.
11.	Cost-Benefit analysis for the project has not been uploaded on PARIVESH portal. The same needs to be submitted.	Submitted by DFO, Sivasagar stating that the proposed battalion is primarily for protection of forests and forest land, therefore cost benefit analysis could not be quantified.

- i. As stated above, the State Government requested the User Agency to be changed from the DFO Sivsagar to the Assam Police Housing Corporation. Subsequently, the State Government intimated that the Assam Police Headquarters appointed the Managing Director, Assam Police Housing Corporation Limited as the authorized officer on behalf of the Assam Police Headquarters to act as User Agency for the said proposal vide its letter No. C.92/PSC/MISC/2023/VOI-IV/43 dated 09.08.2024. Accordingly, the User Agency has been changed by the Ministry in the PARIVESH portal from the DFO Sivsagar to the Assam Police Housing Corporation.
- ii. The DDGF(C), Regional Office, Shillong had submitted a Site Inspection report that was conducted by the DIGF (C), Sub-Regional Office, Guwahati of MoEF&CC based on field inspection dated 16.08.2024 and 17.08.2024. The SIR was tabled in front of the Advisory Committee. The major findings and observations/recommendations is given as below:
The user agency for this proposed area is Divisional Forest Officer, Sivasagar Forest Division whereas the administrative approval and the Financial Sanction are in the name of Assam Police Headquarter and the

Financial Sanction are marked to Assam Police Housing Corporation Limited as vendor which is a State Public Sector Undertaking under the administrative control of Assam Police.

The Geleky Reserve Forest (5929.20 ha) where the proposed area has been proposed is under enormous anthropogenic pressure as 4000 ha i.e. 67 % of the RF has been reported encroached by the DFO, Sivasager. The Geleky RF is in contiguous with Dissoi valley RF, Dissoi RF, Tiru Hills RF and Abhayapur RF. The nearest village is Athkhel NC. Deopani Village in Assam which is about one and half km from the proposed area. The Nagaland State boundary is about 3.5 km away from the proposed area and nearest villages of Nagaland viz., Wamaken village, Anaki village and Kangtsung are 2-3 km away from the proposed site.

The terrain of proposed area is undulating and observed to be broken and construction work was in full swing on the day of site visit with involvement of about 400 Nos. of workers. The proposed area is a prima facie case of violation of Section 2(1) (ii) Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 as the work has been started without prior permission of Central Govt. One enquiry of the inspection team, work was initiated in the proposed area on 20.11.2022 and construction work started in 18 ha and remaining 10 ha is yet to be taken up for developmental. The DFO informed that 85% of work has been completed and 75% procurement of goods has been done. Moreover observed that 4.2 km of boundary wall has been constructed out of total 4.8 km.

The installed "03 Nos of Christmas tree" used for drilling exploration for oil and gas operations was observed within the proposed 28 ha area.

On enquiry, the DFO informed that 19.50 sq km of South Geleki area was earlier used by the ONGC, out of which 2.63 ha area is within this proposed 28 ha. This area was also verified from the google earth 2014 imagery. There is an existing approach road of 6 meter wide to this drilling sites which were used by the ONGC. The DFO further informed 'Exploration of oil at nine site by ONGC-IRG-17 and 18, well No.G-169 and G-160 in favour of ONGC was granted vide Ministry letter No.8- 106/86/FC dated 6.5.1985 but not for the existing road. However no forest Clearance approval letter could be traced by the DFO, Sivasager.

Moreover the broken area on the southern part (2.4 ha) of the proposed area as seen in google earth 2018 imagery was the cleared up area by miscreants from Nagaland which was later on stopped by the Assam as per the DFO.

The establishment of battalion with well trained and armed personnel in the region will strengthen the State Forest Department to encounter protection, conservation and management of forest and forest resources and support in reducing the anthropogenic pressure in the region. Hence the proposal is recommended for ex post facto approval subject to the following:

- a. The Ministry may issue necessary direction for immediate stopping of the ongoing work and the detail Action Taken Report on violation of Section 2(1) (ii) Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 shall be submitted by the State Govt as per para 1.16 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.

- b. *The forest clearance letter of diversion of forest land "Exploration of oil at nine site by ONGC-IRG-17 and 18, well No.G-169 and G-160 in favour of ONGC" and the current status of the project.*
 - c. *The diverted forest area for exploratory drilling by ONGC located within the proposed area is to be excluded from the proposed 28 ha, and necessary changes in the proposal is to be done, if required.*
 - d. *The proposed approach road to the proposed site comprises of an old existing road without the forest clearance and newly broken area of 0.32 ha by the current user agency. However instead of using 0.32 ha another old existing approach road of 0.16 ha (approx.) to the proposed site is being used by the user agency in addition to the proposed area of 28 ha.*
 - e. *State Govt shall ensure for no obstructing in the e-flow of the region by providing preventive and protective measures of the nalah existing within the diversion area which falls into permanent stream namely DeopaniNalah and NamtiNalah.*
 - f. *The identified CA site boundary should be demarcated immediately to avoid confusion and possible encroachment.*
 - g. *State Govt shall ensure to take necessary action immediately for removing of the existing temporary settlement/ encroachers/ encumbrances around the identified CA land.*
 - h. *Re-enumeration of the standing trees as few standing trees viz..Duwabanga sp., Sterculiavillosa, Ficusspp, Sapiumbaccatum (Saleng), Anthocephalocadambaete were observed during the site visit.*
 - i. *The Environment clearance of the proposed area shall be obtained, if applicable.*
 - j. *Comment of CWLW on the proposed site as conflict of human wild animal conflict has been reported around the proposed area.*
- iii. During the AC Meeting held on 27.08.2024, the Committee was informed that the matter of use of Forest land for construction of the Assam Police Battalion in Gelecky Reserve Forest, Sivsagar is also presently pending in front of the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkatavide Original Application No. 105/2024/EZ. The Hon'ble Court has stated in its Order dated 09.08.2024 that.
- In view of the Guidelines, we are of the view that it is not for the PCCF Assam to take a decision as to whether the strong constructions for 800 personnel with arms, ammunitions and sophisticated weapons would impact forest conservation or not since the decision in such a case has to be taken by the Central Government in view of the mandatory statutory requirement of Section 2 of the Forest (Conservation) Act, 1980. There is nothing on record to show that there is any permission or sanction granted by the Central Government for diversion of forest land in question for the constructions referred to in the affidavit of the PCCF, Assam.*
- iv. The committee was also informed that the State Government in its proposal continues to state that there is no violation of Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980. DFO, Sivasagar has mentioned in Part- II that there is no violation. The order for establishment of the

Commando battalion camp at Geleky RF from the Principal Chief Conservator of Forest & Head of Forest Force, Assam vide letter no.FG.46/Border/Nagaland/Pt-II dated 15.11.2022 also states that the establishment of the Commando Battalion inside the 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.*

- v. The Committee was further informed that since the State Government has sought approval of MoEF&CC for use of 28.00 Ha forest land for establishment of a Commando Battalion, to be constructed by the Assam Police Housing Corporation, and that will house Assam Police Commando Battalion, the proposal may be considered by the Committee as a case for ex-post facto approval of violation of the Adhinyam. The committee accepted the same.
- vi. The Committee was apprised that the Hon'ble NGT has not issued specific instructions against ex-post facto approval of the construction in the Inner Line Reserve Forest.
- vii. Furthermore, the Committee was of the view that since the extant proposal is a violation of the Adhinyam, the request of the State Government to *condone the inadvertent mistake, if any, of the PCCF & HoFF who acted on behalf of the State Govt& to do away with the imposition of provisions of section 3A and 3B* cannot be accepted.
- viii. The Nodal Officer Assam and Official from the Assam Police highlighted the need for an armed force in the Geleky RF to protect the same from encroachment and stated that the intention of the State Government was only to protect the Forests on the inter-state borders. The Committee stated that it is in agreement with the need for placing an armed police force inside the Reserve Forest to ensure its protection. However, the prior consent of the Central Government was necessary in this case.
- ix. The Site Inspection Report mentions that the constructions were ongoing and recommended that the Ministry may issue necessary direction for immediate stopping of the ongoing work. The Committee acknowledged the same.
- x. The Committee desired that the present status of the constructions may be perused and reported to it. It asked the committee constituted in pursuance of Hon'ble NGT in their order dated 29.05.2024 to visit the Geleky RF site and submit a report to the Ministry.
- xi. The details of alternatives explored for situating the proposal inside Forest land was sought by the State Government, wherein the State Government has mentioned that there are five possible sites for locating a Battalion camp to counter the encroachment from the Nagaland side namely Dissai valley RF, Dissai RF, Tiru Hills RF, Geleki RF and Abhayapur RF. Among these, the most degraded and most encroached is Geleki RF where there a few standing trees and the old forest of Hollong/ Mekai formation has long disappeared and the remaining area of the forest is covered with secondary succession of stunted and bushy bamboo growth. There the area where the battalion has proposed, there were no standing trees and does not require any felling of trees. Therefore the present area is best suited for Battalion Camp. The justification submitted by the State Government was accepted by the Committee.

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- xii. As per DSS of the CA land proposed on NFL, certain huts and agriculture is seen. However, this patch is part of the NFL landscape of 830Ha that the State Government has cleared of encroachment. The Committee noted the same.
1. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Dy. DGF (Central), RO, Shillong and Nodal Officer, Assam. After going through the facts of the proposal and submissions made by the Dy. DGF (Central), RO, Shillong and the Nodal Officer Assam, the Committee deferred the proposal for *ex-post facto* approval for 28.0 Ha. of forest land for establishment of Commando Battalion Camp in Assam-Nagaland inter State Border area of Geleky Reserved Forest under Sivasagar Forest Division, Sivasagar District in the State of Assam and sought the following details:-
- i. The Report of the Committee constituted in pursuance of Hon'ble NGT in their order dated 29.05.2024 in Original Application No.105/2024/EZ, will be perused for further consideration in the instant proposal, once same is submitted.
 - ii. The Regional Office shall initiate action in the instant matter and complete the proceedings as prescribed under section 3A and 3B of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
 - iii. The State Government shall discontinue any kind of construction activities forthwith in the proposed forest area.
 - iv. The State Government shall provide details of the forest clearance letter of diversion of forest land "Exploration of oil at nine site by ONGC-IRG-17 and 18, well No.G-169 and G-160 in favour of ONGC" and the current status of the project.
 - v. The State Government shall exclude the diverted forest area for exploratory drilling by ONGC located within the proposed area of 28 ha in Gelecky RF, and submit a revised proposal.
 - vi. The State Government to suitably modify the proposal to include the alternate approach road to the proposed area with area 0.16Ha, as indicated in the SIR of Regional Office.
 - vii. The State Government shall provide comments of CWLW Assam for the proposed site in the light of human wild animal conflict reported around the proposed area.

Agenda No. 4

Online Proposal No. FP/HP/MIN/QRY/421697/2023

Subject: Proposal for seeking prior approval of the Central Government under section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 in favour of Cement Corporation of India Limited for renewal of 172.30 ha Mining Lease of Manal Limestone Mine within the jurisdiction of Paonta Forest Division, District- Sirmour in the State of Himachal Pradesh (Online No. FP/HP/MIN/QRY/421697/2023) - regarding

1. The agenda item was considered by the AC in its meeting held on 27.08.2024. The corresponding agenda note may be seen at www.parivesh.nic.in.



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Om Prakash <omprakash.life@gmail.com>

Fwd: Rejoinder to the Reply filed by Respondent No. 2 in OA No. 105 of 2024 pending before NGT (EZ)

1 message

parul gupta <parul.lawyer@gmail.com>
To: Om Prakash <omprakash.life@gmail.com>

Tue, Oct 1, 2024 at 3:31 PM

Parul Gupta

Advocate

+91-9891656928

parul.lawyer@gmail.com

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From: **parul gupta** <parul.lawyer@gmail.com>

Date: Tue, Oct 1, 2024 at 3:31 PM

Subject: Rejoinder to the Reply filed by Respondent No. 2 in OA No. 105 of 2024 pending before NGT (EZ)

To: Amrita Pandey <amritalegal@gmail.com>, mrdey@rediffmail.com <mrdey@rediffmail.com>

To,

1. Ms Amrita Pandey, Advocate for R-1,2,4 and 5
2. Ms Malabika Roy Dey, Advocate for R-3

Dear Madam,

Please find attached the copy of the Rejoinder to the Reply filed by Respondent No.2 in OA No.105 of 2024 pending before the National Green Tribunal (EZ) Bench. This email shall be treated as service of notice to the parties.

Regards,

Parul Gupta

Advocate

+91-9891656928

parul.lawyer@gmail.com

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