

IN THE HON'BLE NATIONAL GREEN TRIBUNAL (EZ)

IN

ORIGINAL APPLICATION NO. 105 OF 2024

IN THE MATTER OF:

Rohit Choudhury

....Applicant

Vs.

State of Assam & Ors.

....Respondents

INDEX

S. No.	Particulars	Pg. No.
1.	Counter Affidavit on Behalf of the Union of India, Ministry of Environment, Forest and Climate Change (Respondent No.3)	1-9
2.	Copy of Site Inspection Report <u>Annexure R1</u>	10-30
3.	Copy of letters dated 28.08.2024 <u>Annexure R2</u>	31-34

Place: 01-10-2024

Date: Guwahati

For Respondent No. 2

Filed through

Amrita Pandey

Ms. Amrita Pandey
Advocate

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Additional Counter Affidavit On behalf of Ministry of Environment, Forest and Climate Change (MoEF&CC) (Respondent No.3)

IT IS MOST RESPECTFULLY SHOWETH:

I, Laetitia Jean Syiemiong, D/o (L) Andrew Ranee, aged about 47 years, working as Deputy Inspector General of Forests (C) in the Regional Office, Shillong of the Ministry of Environment, Forest and Climate Change ('MoEF&CC' for short), do hereby solemnly affirm and state as follows:

1. That I am holding the post of Deputy Inspector General of Forests (C) in the Ministry of Environment, Forest & Climate Change, Regional Office, Shillong I have made myself



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acquainted with the facts and circumstances of this instant case and I have been duly authorized and empowered to make and swear this affidavit for and on behalf of the Ministry of Environment, Forest & Climate Change and I am competent to do so.

2. That, the deponent has been served with a copy of the said application in which the deponent have perused and understood the contents/ allegations/averments/statements and/ or tenor thereof made in the application. At the outset, the deponent denies all averments, submissions; statements and allegations made therein except as may be specifically admitted herein after.

Statement of Facts

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



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State and Central Acts and concerned judgments and directions of the Hon'ble Supreme Court.

4. It is submitted that prior approval of the Central Government under Section-2 (1) (ii) of the *Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980* (earlier known as Forest (Conservation Act) is required for carrying out any non-forestry activity on forest land.
5. That the answering Ministry, on account of media report dated 25.04.2024 that "*A second commando battalion in Assam established without FC nod*", vide letter dated 25.04.2024 and subsequent reminder letter dated 13.06.2024 requested the State Govt. to furnish a detailed factual report vis-à-vis allegations of violation of statutory provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 by the PCCF/HoFF, Assam. Additionally, Regional Office, Shillong of the answering Ministry vide letter dated 06.05.2024 requested the State Govt. to provide a detailed factual report in this regard. Reply is awaited in this regard.



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6. Subsequently, the Hon'ble Tribunal vide order dated 29.05.2024 constituted a committee comprising of the officers of MoEF&CC to enquire into the instant case comprehensively. Accordingly, in compliance of the order supra, the answering Ministry vide Office Memorandum dated 05.06.2024 issued a formal letter regarding the formation of the said Committee and filed an affidavit in this regard.
7. It is submitted that State Govt. vide letter dated 25.06.2024 submitted a proposal for ex-post facto approval 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 with online proposal No. FP/AS/OTHERS/478981/2024 to this answering Ministry. That after examination of the said proposal certain shortcomings were observed and the same was communicated to the State Government vide letter dated 16.07.2024. The State Government submitted its reply



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on 08.08.2024 to the queries raised by this answering Ministry vide letter dated 16.07.2024.

In addition, the answering respondent vide letter dated 16.07.2024 requested its Sub-office, Guwahati of Regional Office, Shillong to carry out site inspection and submit a report to this Ministry. The Sub-office, Guwahati of Regional Office, Shillong vide letter 22.08.2024 submitted a Site Inspection Report (SIR) of 28 ha of forest land proposed for establishment of Commando Battalion Camp in Assam-Nagaland inter State Border area of Geleky Reserved Forest. (Copy of the SIR annexed as **Annexure-1**)

8. It is submitted that said SIR has been examined in the answering Ministry and *prima facie* it has been observed that the non-forestry activities have been allowed without prior approval of the Central Government on the forest land in question which is in contravention of the statutory provisions and rules of *Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980*. In the meantime, the proposal of State Govt. for ex-post facto approval was further deliberated in the Advisory Committee (AC) meeting held on 27.08.2024.



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The AC, after detailed discussion and deliberation, deferred the said proposal 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 Geleky 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. (The same has been communicated to the State Govt. through Parivesh 2.0 portal of MoEF&CC)

9. That taking into account the Site Inspection Report (SIR), the answering Ministry vide letter dated 28.08.2024 requested its Regional Office, Shillong to initiate action in the instant matter as prescribed under section 3A and 3B of *the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980*, as appropriate. Moreover, the answering Ministry vide letter dated 28.08.2024 also requested the State Government to stop and discontinue any kind of activities forthwith in the forest area in question. (Copy of the letters dated 28.08.2024 annexed as **Annexure-2**)

10. It is further submitted that the Hon'ble Tribunal vide order 09.08.2024 directed that the Committee should submit its report in four weeks' time in the instant matter. In this regard, it is humbly submitted that because of Budget





Session of Parliament up to 12th August, 2024 and also due to rainy season, field visit could not be taken up. Moreover, in the meantime, Additional Secretary level officer (Shri Tanmay Kumar) who was made part of the Committee has been promoted and was replaced with another Additional Secretary level officer, namely, Shri Amandeep Garg (vide O.M. dated 28.08.2024). Subsequently in the first week of September, 2024, one of the member of the Committee, the DDGF of Shillong was diagnosed with some serious medical ailment. In view of these, the field visit could not be taken up. However, the committee has now visited the site in question on 27.09.2024, though the preparation of the report and its submission to Hon'ble NGT will take some more time. Accordingly, the Additional Director General of Forest (FC), MoEF&CC has humbly requested the Hon'ble Tribunal to kindly allow additional four weeks time for submission of the Report by the Committee.

- 11.** It is respectfully submitted that this answering Ministry without prejudice reserves its right to file additional information till pendent-lite, if so required.



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Sl. No.	47
Date	31/10/24

12. It is respectfully submitted that in view of the above mentioned facts, the replying Respondents humbly pray that the Hon'ble Tribunal may be pleased to pass such order as deemed fit in the interest of the Justice.

VERIFICATION:-

I, the above named deponent, do hereby verify that the contents of the above counter affidavit are true and correct to my knowledge as per the records of the answering respondent. No part of it is false and nothing material has been concealed therefrom. Verified at Guwahati on this 1st day of October, 2024.

Identified by:

Mehboob Alam

MEHBOOB ALAM

Advocate

Enrolment No. 571 of 2017

DEPONENT

(Ms. LAETITIA JEAN SYEMIONG)



Ganesh
GITANJALEE SARMAH
 NOTARY
 Guwahati, Kamrup (M)
 Regd. No. - KAM-13517
 GOVT. OF INDIA

उप वन महानिरीक्षक (केंद्रीय)/
 Deputy Inspector General of Forests (Central)
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Ministry of Environment, Forest and Climate Change
 क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

NOTARY PUBLIC : OATH COMMISSIONER
 Solemnly affirmed before me this day, I certify that I read over and explained the contents to the declarant and that the declarant seemed perfectly to understand them.



भारत सरकार

Government of India

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest & Climate Change

क्षेत्रीय कार्यालय, शिलांग/Regional Office, Shillong

उप कार्यालय, गुवाहाटी/Sub - office, Guwahati

चौथीमंजिल, हौसेफेड इमारत, जीएसरोड, रुक्मिणीगाँव, गुवाहाटी-७८१०२२

4th Floor, Housefed building, GS Road, Rukminigaon, Guwahati - 781022

दूरभाष/Tel Fax/ 0361-2962350, E-mail:iro.guwahati-mefcc@gov.in

F.No.3 ASC/255/2024/GHY/381

ANNEXURE-1



22nd August, 2024

सेवा मे.

✓ The Addl. Director General of Forests (FC)
Ministry of Environment, Forest & Climate Change
Government of India
Indira Paryavaran Bhawan,
Jor Bagh road, Aliganj, New Delhi -110003

Sub: Proposal for diversion of 28 Ha forest land for the purpose of the establishment of Commando Battalion Camp in Assam-Nagaland Inter State border area of Geleky Reserved Forest under Sivasagar Forest Division, Assam

Sir,

With reference to above, I am directed to enclose herewith the site inspection report of the proposal mentioned under the subject above, for kind information and further necessary action.

Encl: As stated.

भवदीय,

(Ms. Laetitia Jean Syiemiong)

वन उप महानिरीक्षक (केंद्रीय)

Deputy Inspector General of Forests(C)

o/c

SITE INSPECTION REPORT

PROPOSAL FOR DIVERSION OF 28 HA FOREST LAND FOR THE PURPOSE OF THE ESTABLISHMENT OF COMMANDO BATTALION CAMP IN ASSAM-NAGALAND INTER STATE BORDER AREA OF GELEKY RESERVED FOREST UNDER SIVASAGAR FOREST DIVISION, ASSAM

State Government of Assam vide online proposal No.FP/AS/OTHERS/478981/2024 on 06.06.2024 submitted the 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 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.

The purposed of this proposal is to establish a Commando Battalion infrastructure in Assam-Nagaland border to resist further encroachment and further destruction of forest resource by the ever-increasing pressure for occupation of land by deployment of forest protection force.

Background of proposal:

The matter on the proposal for diversion of 28 ha forest land for the purpose of the establishment of commando battalion camp in Assam-Nagaland inter state border area of Geleky Reserved Forest under Sivasagar Forest Division was reported by “Northeast Now” newspaper dated 22.01.2024 titled as “Assam PCCF in hot water again: 28 hectare of Geleky Forest diverted for commando camp” wherein reported on violation of Forest Conservation Act, 1980 and the order of Supreme Court in Godavarman Thirumulkad Vs Union of India. The matter was further reported by national daily “Hindustan Times” dated 25.04.2024 titled “A second Battalion in Assam established without FC nod”.

Subsequently a court case O.A.105/2024/EZ, Shri Rohit Choudhury -Vs- State of Assam & Ors was filed and registered on 25-05-2024 by Shri Rohit Choudhury before the National Green Tribunal, Eastern Zone Bench Kolkata. Thereafter affidavit dated 30.07.2024 was e-filed on 01.08.2024 by the Ministry on the matter to Hon'ble NGT. The Hon'ble court observed that the matter relates to substantial environmental issue and violation of Forest (Conservation) Act, 1980 and requires consideration. In pursuance to Hon'ble NGT, Kolkata first order dated 29.05.2024, Ministry vide its letter dated 05.06.2024 constituted the committee comprising of (a) Shri AK Mohanty, ADGF, MoEF&CC(FC), MoEF&CC, (b) Shri Tanmay Kumar, Addl. Secretary, MoEF&CC & (c) Ms. Imtiena Ao, DDGF(C) MoEF&CC, Regional Office, Shillong and directed that the committee shall visit the site and submit its report on affidavit to the Hon'ble NGT and the ADG(FC) shall be the Nodal Officer for filing the report affidavit.

The Hon'ble NGT in its latest order dated 09.08.2024 observed that two months have already passed and no report has been placed before the Tribunal by the ADG(FC) MoEF&CC and further the court granted four weeks time for filing the said affidavit indicating what action has been taken against the PCCF Shri. M.K. Yadava who permitted diversion of Forest land in violation of the statute.

As per the provision of the F(C)Act,1980, the site inspection of this instant proposal was conducted by Sub Office Guwahati under Regional Office, Shillong, Shillong on 16.08.2024 and 17.08.2024 along with the following officials of the State Forest Department and representatives of User Agency:-

1. Ms Sayambrita Dutta, Divisional Forest Officer, Sivasagar

2. Shri Himangshu Gogoi, Range Officer, Sivasagar Range, Sibsagar Forest Division.
3. Sonam Kumar Gupta, Range Officer, Dhania Range, Burachoparia Wildlife Sanctuary, Nagaon Wildlife Division.
4. Shri Sambhu Jadav, Public Relation Officer, Badri Rai & Company.

1) The Legal Status of the forests land proposed for diversion

District	Forest Division	Area involved (ha)	Legal Status	Aerial distance of the proposed area from the nearest PA/WLS/NP
Sivasagar	Sivasagar	28	Geleky Reserved Forest	30 Km from Hollongapar Gibbon WLS.

Component wise break up of the proposed area (need to submit the revised):-

Sl. No.	Type of Building	As per the submitted documents (in ha)
1	Residential building	0.80
	Future Expansion	0.85
2	Non residential building	0.80
3	Activity Area	7.50
4	Utilities	0.10
5	Natural stream	1.80
6	Landscape and Park Area	3
7	Road/Footpath Area	3.50
8	Open Land Area	9.65
	Total	28.00

2) Whether proposal involved any construction of buildings (including residential) or not. If yes details thereof:

-Yes. The detail component wise proposed construction of building provided by the DFO Sivasagar are as under:

(i) Residential building details:-

RESIDENTIAL BUILDINGS								
SL. NO	NAME OF THE BUILDINGS	NO. OF UNITS			NO OF FLOOR	NO OF BLOCK	BUILT UP AREA PER BLOCK	TOTAL BUILT UP AREA
		PER BLOCK	TOTAL UNITS	PER UNIT/FLAT AREA (Sq. M)				
1	CO's Residence	1	1	250.00 (4BHK+Office+ Servant)	G+1	1	250	250
2	Deputy Commandant	4	4	165.00 (3BHK+Servant)	G+1	1	720	720
3	Assistant Commandant	4	8	138.00(3BHK+ Servant)	G+1	2	600	1200
4	Inspector/Sub-Inspector Residence	12	24	12 0.00(3BHK+ Servant)	G+2	2	1560	3120
		8	8	120.00(3BHK+ Servant)	G+2	1	1040	1040
5	Havildar's ASI, Constable Residence	12	96	84.00 (2BHK)	G+2	8	1101	8811.20
6	Followers QTR	8	8	65.00(2BHK)	G+1	1	640	640
7	Barrack Accommodations	60 Cap	240 Cap	216.00(30 Persons per floor)	G+2	4	1008	4032
8	Accommodation for SO's (Inspector/SI)	10 Rooms (Twin Sharing)	20 Cap	250.00(25 Sq m per Room)	G+1	1	600	600
Total:-								20413.20

(ii) Non residential building components:

NON RESIDENTIAL BUILDINGS								
SL. NO	NAME OF THE BUILDINGS	MAIN FACILITIES OF BUILDING			No of Floor	No of Block	Built up Area per Block	Total Built up Area (Sq. M)
		Type	Nos./CAP	Area (Sq. M)				
1	COS Office Building	Conference Room	20 Cap	60.00	G+2	1	1080.00	1080.00
		CO Room with Attached Toilet	01 Nos.	48.00				
2	M.T. Garage with Office (Assam Type)	LMV	06 Nos.	174.00(29 sqm per vehicle)	G	1	870.00	870.00
		MMV	06 Nos.	174.00(29 sqm per vehicle)				
		HMV	06 Nos.	298.00(50 sqm per vehicle)				
		Office Block	10 Nos.	224.00				
3	Ration Store & Clothing Store (G+1)	Hall	02 Nos.	174.00 (87 sqm per hall)	G+1	1	300.00	300.00
4	Magazine/Kote Building & Sentry Post & Boundary Wall/Fencing (B/G)	Magazine/ Kote Building	10 Cap	218.00	G	1	350.00	350.00
		Explosive Depo Block	01 Nos.	96.00	B			
		Common Toilet Block	08 Cap	28.00	G			
5	GO's Mess (G+1)	Deluxe Rooms with Attached Toilet	04 Nos.	100.00 (25 sqm per room)	G+1	1	650.00	650.00
		Suites	02 Nos.	100.00 (50 sqm per room)				
6	SO's Mess(G+1)	Twin Sharing Rooms with Attached Toilet	14 Nos.	336.00 (24 sqm per room)	G+1	1	850.00	850.00
		Community Centre	75-100 Cap	253.00				
7	Community Centre with Canteen, Saloon & Laundry	Laundry/Saloon/ Daiyneeds	NA	120.00	G	1	600.00	600.00
		Canteen	48 Cap.	158.00				
8	Hospital-10 Beeded-(G)	10 Badded	10 Badded	330.00	G	1	330.00	330.00

9	Drill Shed (Assam Type)	Covered platform	150 Cap	400.00	G	1	400.00	400.00
10	Gate Complex with 10 Men Barrack (Assam Type)	10 Men Barrack	10 Cap.	100.00	G	1	175.00	175.00
11	Watch Towers (10 Nos.)-G	Watch tower	10 Cap.	50.00	G	1	50	50
12	Fire Station with Barrack(G+1)	Lecture room	10 Cap.	17.00	G+1	1	350.00	350.00
		Accomodation room	04 Badded	30.00				
		Fire tender parking space	02 Vehicles	140.00				
13	ATM(G)	NA			G	1	15.00	15.00
14	Control Room(G)	NA			G	1	50.00	50.00
15	Classroom Block with computer lab(G+1)	50 Seated classrooms	06 Nos.	390.00 (65.00 sqm per classroom)	G+1	1	700.00	700.00
16	Indoor Sports Complex with Gym(G)	Badminton hall	01 Court	208.00	G	1	800.00	800.00
		Table tennis hall	01 Table	152.00				
		Gym hall	40-50 Cap.	150.00				
17	Primary School (Assam Type)	30 Seated classrooms	05 Nos.	36.00	G	1	560.00	560.00
18	Family Welfare Centre (Assam Type)	Training hall	30 Cap.	98.00	G	1	500.00	500.00
19	Naamghar	Hall	50 Cap.	100.00	G	1	100.00	100.00
		Table tennis hall	1 Table	104.00				
20	Recreation Hall(G)	TV/Multipur pose hall	50 Cap.	76.00	G	1	400.00	400.00
21	Garrage-02 Nos. (For COS Office)-Assam Type	NA			G	1	80.00	80.00
22	Sentry Post-02 Nos. (For COS Office)-Assam Type	NA			G	1	8.00	8.00
23	Sentry Post-01 Nos. (For COS residence)- Assam Type	NA			G	1	16.00	16.00

24	Guard Sheed-01 Nos. (For COS Residence)- Assam Type	NA	G	1	74.00	74.00
25	Kill House (G)	NA	G	1	280.00	280.00
Total:-						9588.00

The building construction has been started on the proposed site. The component wise (%) work constructed and finished so far as provided by the DFO, Sivasagar is as under:

SI No	Name of Building	% completed
1	4 Nos of Barrack	92%
2	8 nos Havildar and 3 nos of Inspection building	79%
3	Hospital and 10 men barrack	95%
4	School and Fire station	75%-78%
5	Deputy Commandant Building	0%
6	Canteen and Recreation hall	0%
7	Namghar	75%
8	Indoor stadium	0%
9	CO Building	78%
10	CO Residence	0%
11	GO Mess Building	80%
12	SOS Mess Building	80%
13	Commandant Office Block	80%
14	SOS Accomodation Building	80%
15	Small components (ATM,Sentry post etc)	0%

3) Total cost of the Project at present rates.

The total cost of the project is Rs. 176.25 cr.

4) Whether forest area proposed for diversion is important from wildlife point of view or not.

No wildlife was cited on the day of inspection, however the DFO, Sivasagar informed that wildlife viz., Leopard, wild boar, Snakes etc. are reported in the surrounding area. However Divisional Forest Officer, Sivasagar informed the inspection team that Human wildlife conflict has been reported earlier around the proposed area.

5) Vegetation

Sl. No.	Forest Division	Reserve Forest & area (in ha)	Total Nos. of trees to be felled including poles
1	Sivasagar	Geleky RF & 28 ha	<i>Few standing trees viz., Duwabanga sp., Sterculia villosa, Ficus spp, Sapium baccatum (Saleng), Anthocephalo cadamba</i> etc were observed during the site visit

Effect of removal of trees on the general ecosystem in the area

The proposed area is broken and construction is on going on the day of inspection. The vegetation in the proposed area has been almost entirely clear felled except few standing trees viz, *Duwabanga sp., Sterculia villosa, Ficus spp, Sapium baccatum (Saleng), Anthocephalo cadamba* etc with pockets of baboo species like *Dendrocalamus hamiltonii* (kako bah), *Bambusa tulda* (Jati bah), *Bambusa balacoa* (Bholuka bah), *Schizostachyem dullooa*(*Dolo Bah*) etc.

The effect of tree removal in the area can be minimize by undertaking plantation measures under relevant guideline and rules.

6) Background note on the proposal

As given in the first paragraph.

7) Compensatory Afforestation:

The CA site has been proposed in 28 ha equivalent non forest land in the identified compensatory afforestation land bank of 830 ha evicted non forest land in Sonitpur district of Assam located adjacent to Burahchapory Wildlife Sanctuary under Nagaon Wildlife Division in Sonitpur district of Assam.

District	Forest Division	Range/ Location	Area (in ha)	Financial outlay(Rs)
Sonitpur	Nagaon Wildlife Division	Dhania Range	28	2.12 crore

Whether land for compensatory afforestation is suitable from plantation and management point of view or not.

The Sate Govt of Assam vide its letter No ECF, 439104/2024/16 dated 29.07.2024 notified the evicted non forest land of 830 ha handed over to State Forest Department in Sonitpur district of Assam adjacent to Burahchapory Wildlife Sanctuary under Nagaon Wildlife Division for providing lands towards compensatory afforestation for forest diversion cases in Assam. The final notification of identified CA site to RF/PRF has not been completed however the Range Officer, Dhania Range informed that it will be completed before grant of Stage II /Final Approval of the proposal.

The CA site is located around the submergence area of Brahmaputra river which is about 2 km from the identified CA site. The approach route to the CA site is through two nallahs i.e. Phultala Nallah and Boga Nallah by boat or temporarily constructed bamboo bridge. On the day of the site inspection, the Range Officer informed that temporary illegal settlement are still occupying the evicted CA land bank. The team observed that agricultural practices and rearing of livestock, cows etc are still continuing in this evicted land.

The identified CA site is an open forest with few standing trees species like *Streblus asper*, *Bombax ceiba* etc. The team observed continuous large scale cultivation of *Corchorus capsulansies sp.* (Jute) and other vegetables like Brinjal in the identified CA site. The Range Officer, Dhania Range informed that some illegal temporary settlement are still existing in the evicted CA land bank of 830 ha and forest department is in the process of eviction of such temporary settlement.



Photographs of approach route to CA site through two Nallahs
(A) & (B) above, channels of Brahmaputra river



Photographs showing *Corchorus sp.* (Jute) and Brinjal crop in the CA site

The identified CA site is suitable for plantation. However following measures suggested:-

- (i) The complete demarcated and proper fencing of the boundary of identified CA site to prevent from encroachment, etc.
- (ii) State Govt to take necessary action for removing the existing temporary encroachment/encumbrances around the identified CA land.

Whether land for compensatory afforestation is free from encroachments/other incumbencies.

Yes, however temporary settlement observed around the identified CA land bank.

Whether land for compensatory afforestation is important from religious and archaeological point of view.

No.

Land identified for compensatory afforestation is in how many patches, whether patches are compact or not

One patch

Maps with the details.

Submitted in SoI toposheet as well as soft copies of shape file along with proposal.

Total financial outlay:

Rs. 2.12 crore

- 8) Whether proposal involves violation of Forest (Conservation) Act, 1980 or not. If yes a report on violation including action taken against the concerned officials:**

Yes.

The State Govt has not taken any action on the responsible officers/officials of the State Forest Department / user agency.

- 9) **Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Govt or not.**

No displaced person involved in this proposal.

- 10) **Reclamation Plan**

Not required.

- 11) **Cost Benefit ratio.**

The State Govt submitted that Cost benefit analysis could not be quantified as the proposed battalion is primarily for protection of forests and forest land.

- 12) **Recommendation of the Principal Chief Conservator of Forests/State Govt.**

The proposal has been recommended at all levels by the Govt of Assam.

- 13) **Recommendation of DDG(C), Regional Office, Shillong along with detailed reasons.**

The under construction camp of Commando Battalion spread over 28 ha is basically meant for forest protection, specifically the Geleky RF in the sensitive Assam-Nagaland border. The construction is large scale and of permanent nature with no resemblance to the activities specified in explanation (b) of Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The proposal for diversion was received on 06.06.2024 under Section 2 of the Adhiniyam, 1980 and approval by GoI is pending, however the construction is going on in full swing as seen during the site inspection on 16.08.2024. Therefore noting that it is prima facie a case of violation, it was sent to Ministry for consideration under Rule 10 (2) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023.

The establishment of the battalion with well trained and armed personnel could be of immense help to the State Forest Department for the protection, conservation and management of forest and forest resources.

The proposal is therefore recommended for ex-post facto approval.

- 14) DDG(C), Regional Office, Shillong shall give detailed comments on whether there are any alternatives examined for locating the proposal in non-forest land.**

-No alternative examined as the proposed area is an on going project.

- 15) Utility of the proposal.**

This proposal is for the purpose of the establishment of Commando Battalion Camp in Assam-Nagaland inter State Border area of Geleky Reserved Forest under Sivasagar Forest Division.

- 16) Whether land being diverted has any socio-cultural/religious value.**

Not involved.

- 17) Whether any scared grove or very old growth trees/forests exists in the area proposed for diversion.**

Not involved.

- 18) Situation w.r.t. any Protected Area**

The proposal area is 30 Km aerial distance from the nearest protected area i.e. Hollongapar Gibbon WLS. The proposed area does not fall under any Eco-Sensitive zone/protected area nor under any elephant /wildlife corridor. There was no encounter with any wildlife in the proposed area on the day of inspection, however the DFO, Sivasagar informed that wildlife viz., Leopard, Wildboar, snakes etc. are reported in the surrounding area and there are reports on Human wildlife conflict around the proposed area.

- 19) Whether the land under diversion forms part of unique eco-system.**

No

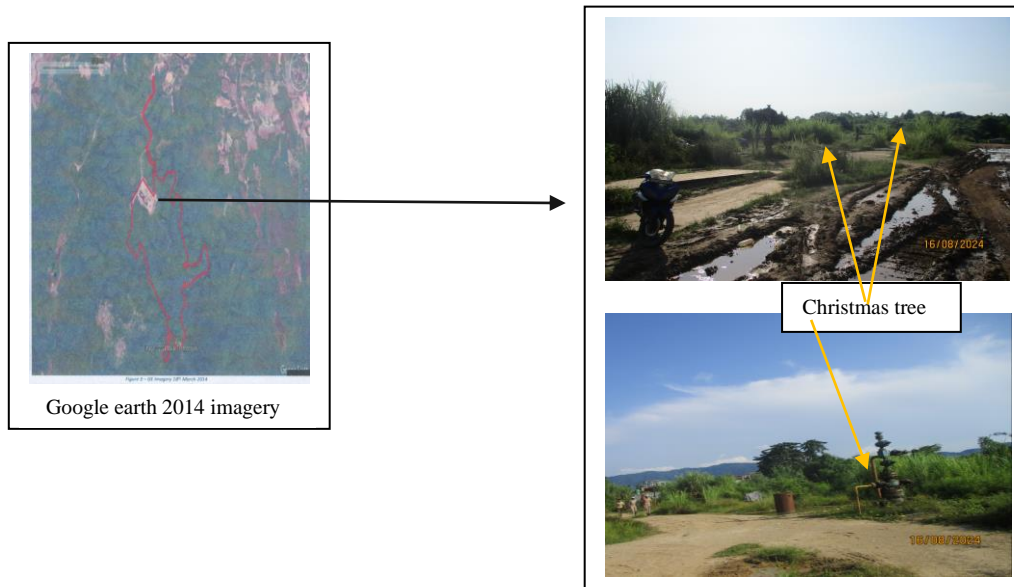
20) Any other information relating to the proposal.

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.

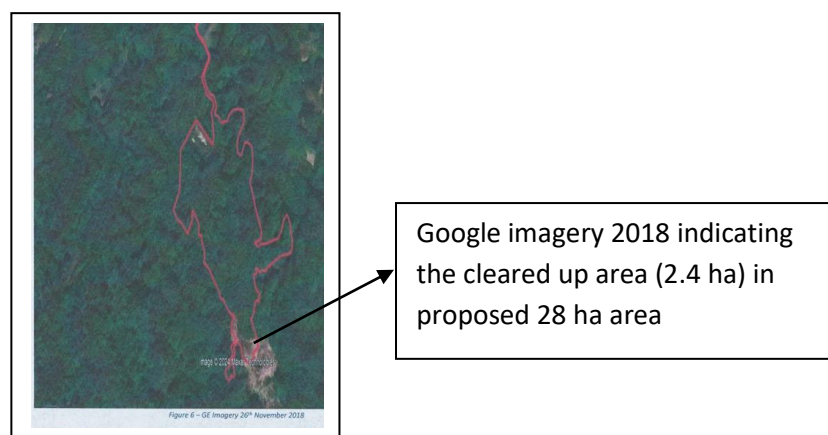
The Geleky Reserve Forest (5929.20 ha) where the proposed area has been proposed is under enormous anthropogenic pressure as 4000 ha i.e. 67 % of the RF has been reported encroached by the DFO, Sivasager. The Geleky RF is in contiguous with Dissoi valley RF, Dissoi RF, Tiru Hills RF and Abhayapur RF. 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.



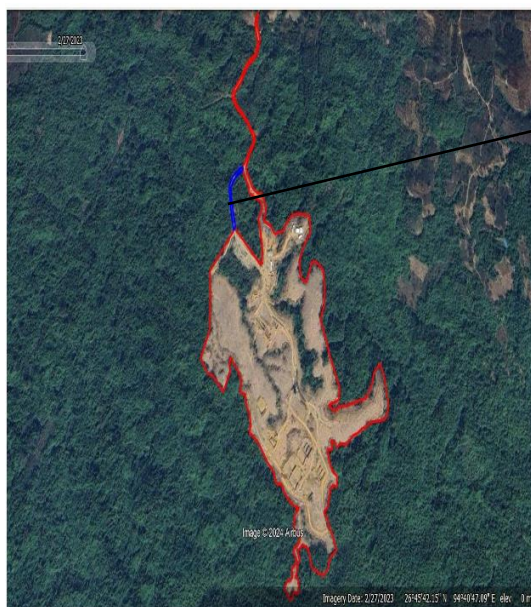
On enquiry, the DFO informed that 19.50 sq km of South Geleki area was earlier used by the ONGC, out of which 2.63 ha area is within this proposed 28 ha. This area was also verified from the google earth 2014 imagery. There is an existing approach road of 6 meter wide to this drilling sites which were 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:-

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.



Indicating additional 0.16 ha (in blue colour) approach road are to the proposed area being used by the user agency

- (v) 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 Deopani Nalah and Namti Nalah.
- (vi) The identified CA site boundary should be demarcated immediately to avoid confusion and possible encroachment.
- (vii) State Govt shall ensure to take necessary action immediately for removing of the existing temporary settlement/ encroachers/ encumbrances around the identified CA land.
- (viii) Re-enumeration of the standing trees as few standing trees *viz.*, *Duwabanga sp.*, *Sterculia villosa*, *Ficus spp*, *Sapium baccatum (Saleng)*, *Anthocephalo cadamba* etc were observed during the site visit.
- (ix) The Environment clearance of the proposed area shall be obtained, if applicable.
- (x) Comment of CWLW on the proposed site as conflict of human wild animal conflict has been reported around the proposed area.

Yours faithfully,



(Ms Lactitia Jean Syiemiong)
Deputy Inspector General of Forests

PHOTOGRAPHS OF THE PROPOSED AREA



Construction site of Commandant Office Block



Construction site of Assistant Commandant Block



Photographs of SoS block



Work Station site



Hospital construction site
Construction Site for Primary school



Temporary Labour shed



Undergoing construction sites in indoor sports s complex



Constructed road inside the proposed area



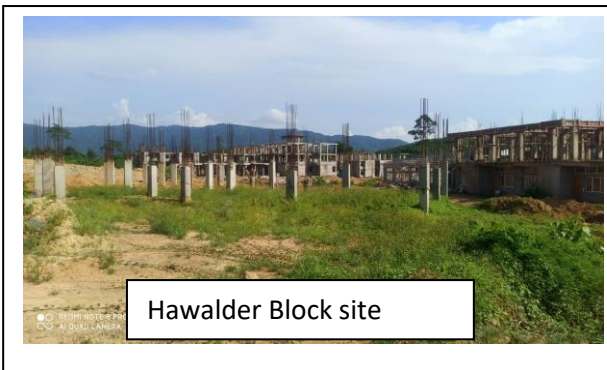
Hawalder Barrack site



Construction site for Inspector Unit



Construction site for Barrack site



Hawalder Block site



Water Tank under construction site



Overhead water tank site



Constructed Boundary wall of the proposed site



Boundary wall and proposed site



Brick block material inside the proposed site



Levelled Parade Ground site



Under construction of culvert for the approach road



Approach road to the proposed site



Undergoing construction of the approach road

ANNEXURE-2

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

Indira Parayavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi-110003
Dated: As per e-sign

To,

Deputy Director General of Forests,
Regional Office, MoEFCC,
Law-U-Sib, Lumbatngen, Near MTC Workshop,
Shillong

Sub:

**Non-forestry activity on 28 hectares of forest land for construction of
commando batallion in Geleky, Sivasagar, Assam**
Ref: Letter No. F.No. 3ASC/255/2024/GHY/381 dated 22.08.2024.

Madam,

With respect to the above mentioned subject for which a proposal from State of Assam for ex-facto approval of violation of Van (Sanrakshan evam Samvardhan) Adhinyam, 1980 has been received in the ministry. Before that, an information regarding same was also received to the Ministry which was intimated to State of Assam and Regional Office for the needful.

In this connection, Regional Office Shillong (MoEF&CC) has submitted a Site Inspection Report (SIR) vide letter no. F.No. 3ASC/255/2024/GHY/381 dated 22.08.2024 to this Ministry.

The said SIR has been examined in the Ministry and prima facie it has been observed that the non forestry activities have been allowed without prior approval of the Central Government on the forest land in question which is in contravention of the statutory provisions and rules of *Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980*.

Taking into account the aforesaid, it is requested to initiate action in the instant matter as prescribed under section 3A and 3B of the *Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980*, as appropriate.

Yours sincerely,

Signed by Suneet Bhardwaj
Date: 28-08-2024 18:47:47

Sd/-
(Suneet Bhardwaj)
Asst. Inspector General of Forests



Copy to: Sub-office Guwahati of Regional Office, Shillong of MoEF&CC .



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

Indira Parayavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi-11003
Dated: As per e-sign

To

The Additional Chief Secretary (Forests),
Government of Assam,
Guwahati

Sub: Non-forestry activity on 28 hectares of forest land for construction of commando batallion in Geleky, Sivasagar, Assam

Madam/Sir,

With respect to the above mentioned subject for which a proposal from State of Assam for ex-facto approval of violation of Van (Sanrakshan evam Samvardhan) Adhinyam, 1980 has been received in the ministry. Before that, an information regarding same was also received in the Ministry which was intimated to State of Assam and Regional Office for the needful.

In this regard, the Regional Office, Shillong has submitted a Site Inspection Report (SIR) (Copy attached). The Sub-office vide its letter no. F.No. 3ASC/255/2024/GHY/381 dated 22.08.2024 *inter alia* submitted the following with respect to the forest area in question:

i) The under construction camp of Commando Battalion spread over 28 ha is basically meant for forest protection, specifically the Geleky RF in the sensitive Assam-Nagaland border. The construction is large scale and of permanent nature with no resemblance to the activities specified in explanation (b) of Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980.

The Sub-Office *inter alia* recommended that 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) Adhinyam, 1980 shall be submitted by the State Govt as per para 1.16 of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980.

The said report has been examined in the Ministry and *prima facie* it has been observed that the use of forest land for non forestry activities has been allowed without prior approval of the Central Government which is in contravention of the statutory provisions and rules of Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980.

Taking into account the aforesaid, the State Government is requested to stop and discontinue any kind of activities forthwith in the forest area in question. It is further stated that non-adherence to the aforesaid request/direction will amount to wilful violation of statutory provisions of *Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980*.

Enc. As above

Signed by Suneet Bhardwaj

Date: 28-08-2024 18:49:39

Yours sincerely,

Sd/-

(Suneet Bhardwaj)

Assistant Inspector General of Forests



Amrita Pandey <amritalegal@gmail.com>

OA105/2024/EZ Rohit Choudhury -vs- State of Assam & Ors

Amrita Pandey <amritalegal@gmail.com>

Thu, Oct 3, 2024 at 5:28 PM

To: mrdey <mrdey@rediffmail.com>, parul gupta <parul.lawyer@gmail.com>

Dear Sir,
Please find attached herewith the copy of the affidavit filed by MOEF&CC
Warm regards,
Amrita Pandey
Advocate

 **OA 105.pdf**
5272K