

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
IN
ORIGINAL APPLICATION NO. 168 OF 2023**

IN THE MATTER OF:

Dilip Nath

..... Applicant

-Versus-

Principal Chief Conservator of Forest (PCCF) & Ors.

..... Respondent

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Place: Kolkata

Dated: 4th November 2024

Filed by-

Anamika Pandey
Adv
F/748/2009

**Ms. Anamika Pandey
(Advocate for the Respondent No. 06)**

IN THE HON'BLE NATIONAL GREEN TRIBUNAL**EASTERN ZONE BENCH AT KOLKATA****IN****ORIGINAL APPLICATION NO. 168 OF 2023****IN THE MATTER OF:****Dilip Nath****..... Applicant****-Versus-****Principal Chief Conservator of Forest (PCCF) & Ors.****..... Respondent**

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

MOST RESPECTFULLY SHOWETH:

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

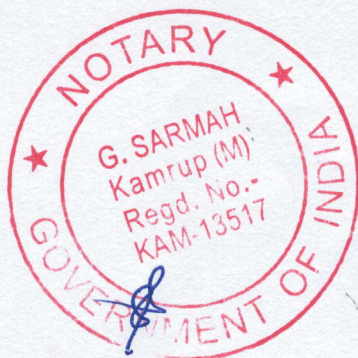
STATEMENT OF FACTS:

3. It is submitted that the Original Application has been registered on the basis of a complaint letter petition dated 20.09.2023 submitted by the Applicant with regard to allegations of violation of provisions of the Forest (Conservation) Act, 1980 with regard to Sonai Rupai Wildlife Sanctuary in Sonitpur district of Assam. The allegation is that illegal roads, bridges and schools have been constructed by the Government within the Sonai Rupai Wildlife Sanctuary and there is illegal encroachment and depletion of forest and that illegal encroachers may be evicted therefrom.
4. It is submitted that vide order dated 21.08.2024, the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata directed Ministry of Environment, Forest and Climate Change (hereinafter 'Ministry') to file an affidavit in reply to the affidavit of the Principal Chief Conservator of Forest, Assam (Respondent No. 1) dated 15.07.2024 with regard to the stand of Ministry.



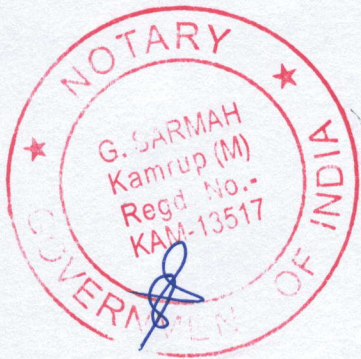
REPLY ON MERIT:

5. It is submitted that, Wild Life (Protection) Act, 1972 has been enacted with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country.
6. It is submitted that as per section 26A (1)(b) of the Wild Life (Protection) Act, 1972, when any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological fauna and floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the **State Government** shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification.
7. It is submitted that, the protection and management of forests is primarily the responsibility of concerned State/Union Territory. The various actions to remove encroachment are taken by State Government and UT Administration as per the provisions under various acts such as Indian Forest Act, 1927, Wild Life (Protection) Act, 1972, Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, various rules made under these Acts and State Specific Acts and Rules.



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8. It is further submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter-alia, being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgments and directions of the Hon'ble Supreme Court.
9. It is further submitted that, this Ministry has issued advisory to all States/UTs for removal of encroachment on forest land. Ministry has been requesting the States/UTs to ensure that encroachments of forests under their control are removed at the earliest as per the applicable laws and following due procedures. The Ministry has also requested the States/UTs to ensure that recurrence of encroachment of forest land does not occur in future.



Copy of the Advisories issued by the Ministry dated 2nd August 2021 and 19th September, 2023 are annexed as

Annexure-I.

10. It is further submitted that in the case of unauthorised construction or illegal encroachments, the State Government is empowered to take action and initiate proceeding against the wrongdoers. In view of the aforesaid facts, it is respectfully prayed that the Hon'ble

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Sl. No. 627
Date 4/11/24

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Tribunal may be pleased to pass orders as deemed fit in the circumstances of the case.

DEPONENT

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

VERIFICATION

Verified at Guwahati on this 4th day of November 2024 that the contents of this affidavit from paragraph 1 to 10 are based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed therefrom.

Identified by:

Mehboob Alam
04/11/24

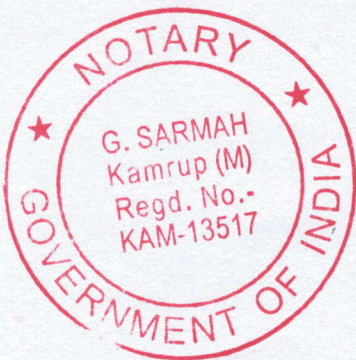
MEHBOOB ALAM

Advocate

Enrolment No. 571 of 2017

DEPONENT

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



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

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.

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Agni Wing, 5th Floor
Indira Paryavaran Bhawan
Aliganj, Jor Bagh
New Delhi - 110003
Dated: -2nd August, 2021

To,
The Principal Secretary
Department of Forest
Govt. of All States/UTs

Sub: Advisory on Remove encroachment of forest land -regarding.

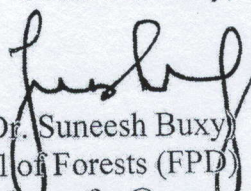
Sir/Madam,

Reference is invited to this Ministry's letter No. 17-15/2018-FPD(pt) dated 10.12.2018 on the above-mentioned subject. As per reports received (copy attached) from States/UTs, it has been observed by the Ministry that there is encroachment of forest land in State Governments/ Union Territory Administrations. This Ministry has also received lots of public grievances/general complaints regarding encroachment of forest land and the same has been forwarded to States/UTs for appropriate necessary action as per provisions laid down in the extant Acts, Rules & Regulations.

2. As you are aware, the primary responsibility of protection of forests from various threats including encroachment lies with the respective States/ UT Administrations. You are, therefore, requested to ensure that encroachment of the forest land under your control is removed at the earliest under the provisions of law and send the latest report to this Ministry by 31/08/2021 on the encroachment removed and the area that is still under encroachment in the States/UTs.

3. You are also requested to keep a vigil so that recurrence of encroachment of forest land does not occur in future. A timely action by the State Governments in this regard will be highly appreciated.

Yours faithfully,


(Dr. Suneesh Buxy)
Inspector General of Forests (FPD)
Email:-fpd-moefcc@gov.in
Tele No. 011-24695233

Copy to:

1. Chief Secretary, Govt. of All States/UTs.
2. Principal Chief Conservator of Forests (HoFF), Govt. of All States/UTs.

Most urgent

F. No.6/5/2022-FPD
Government of India
Ministry of Environment, Forest & Climate Change
(Forest Protection Division)

Agni Wing, 5th Floor
Indira Paryavaran Bhawan
Jor Bagh Road
New Delhi-110003
Dated: 19.09.2023

To

**The Principal Secretary
Department of Forests
Government of all States/UTs**

Sub: Advisory / letter requesting to provide status on removal/eviction of encroachment uptill now, for forest land-reg.

Sir/Madam,

1. This is in reference to the Fifty-First Report of 17th Lok Sabha on the representation of Shri Phillipson regarding encroachment of Forest Land and other important issues related therewith has been received in this Ministry. In this respect this Ministry has observed that there are cases of encroachments in forest lands under in State Government / Union Territory Administration. This Ministry has received various Public Grievance/ General complaints regarding encroachment of forest land and same has been forwarded to State/ UTs Administration for proper necessary action as per laid down in Extent Acts, Rules and Regulation.

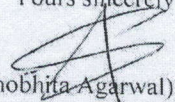
2. As you are aware that removal/ eviction of encroachment land area is primarily the responsibility of respective State/ UTs Administration. Therefore, you are requested to take necessary action to ensure that encroachment of forest land is removed at the earliest as per provisions of Law and by following due procedures. The State Forest Departments should also ensure that recurrence of encroachment of forest lands does not occur.

3. In this regards, you are requested to provide quarterly report on the status of encroachment of forest lands as well as evictions carried out by the State Forest Departments. The report for the quarter ending June 2023 should be provided to this Ministry latest by i.e. 20.09.2023 on **email id: fpd-moefcc@gov.in**. The format for Quarterly Monitoring of Status of encroachment Eviction is attached in Annexure-I.

This may be accorded on top priority.

Encl: As above

Yours sincerely


(Dr Shobhita Agarwal)
Assistant Inspector General of Forests (FPD)
Email: fpd-moefcc@gov.in

Copy to.

**The Principal Chief Conservator of Forest (HoFF)
Department of Forests
Government of all States/UTs**

Annexure-I

Format for furnishing Quarterly Monitoring of Status report on Encroachment Eviction.

Area under Encroachment till March 2023	Area under new encroachment if any during 2023-24	Quarterly Eviction Status 2023			
		April – June	July – September	October-December	January – March

Area in Ha



Anamika Pandey <legumjure@gmail.com>

OA168-2023-EZ- Dilip Nath -vs- PCCF & Ors

Anamika Pandey <legumjure@gmail.com>

Mon, Nov 4, 2024 at 5:41 PM

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

Dear Madam/s,

Please find attached herewith the scan copy of the notarized affidavit on behalf of MoEF&CC.

Warm Regards,

Anmaika Pandey
Adv for MOEF&CC**Calcutta Office:**

Hasting Chambers,

7 C, Kiran Shankar Roy Road,

2nd Floor, Room No. 6, Kolkata-700 001

033- 46033642, +91 8336835229, +91 7439600631.

 **OA 168-2023 MoEFCC Notarised affidavit dated 04-11-2024.pdf**
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