

## BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

## EASTERN ZONE BENCH, KOLKATA

## ORIGINAL APPLICATION NO. 38 OF 2022/EZ

IN THE MATTER OF:

Dr. Bina Basnett

.....Applicant

VERSUS

State of Sikkim &amp; Ors.

.....Respondent(s)

## INDEX

S. No.	Particulars	Page Nos.
1.	Composite Rejoinder being filed on behalf of the Applicant	1-84
2.	ANNEXURE-A/10 Copy of the Gazette Notification dated 27.08.2014.	85-93
3.	ANNEXURE-A/11 Web-copy of the distance calculated on the website www.calculator.net	94-98
4.	Proof of Service	99

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Date 11.11.2024.

Place- KOLKATA.

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**COMPOSITE REJOINDER TO THE REPLIES AS FILED BY  
THE RESPONDENTS HEREIN.**

**MOST RESPECTFULLY SHOWETH:**

- A. That the contents of the Counter Affidavits/Replies are rebutted. All the averments of the Original Application are reiterated as true, correct and well founded in law and in equity and are not being repeated only for the sake of brevity. Anything to the contrary in the Counter Affidavits/Replies be treated as denied and controverted and nothing be treated as admitted unless specifically traversed and expressly admitted hereunder.
- B. That the Applicant is filing the present Para-wise Rejoinder to the Reply of the Respondent No. 12 (Project Proponent) only to avoid repetition and for the convenience of this Hon'ble Tribunal.

**PRELIMINARY OBJECTIONS:**

1. That it is a settled preposition of law that no individual or organisation is allowed to act as against the Environmental Rule of Law in the name of Sustainable Development.
2. That it is respectfully submitted that the Replies filed by the Respondent No.2, 5, 11 and 12 have not been signed and verified in accordance with Rule 16 (3) of The National Green Tribunal (Practices and Procedure) Rules, 2011. The relevant portion of the Rule 16 (3) of The National Green Tribunal (Practices and Procedure) Rules, 2011 are being reproduced hereinbelow for the kind ready reference of this Hon'ble Tribunal:

*“(3) The reply shall be signed and verified as written statement by the respondent or any other person duly authorised by him in writing in the same manner as provided for in Order VI, rule 15 of the Code of Civil Procedure, 1908”.*

Hence, it is respectfully submitted that the replies filed by the abovementioned Respondents in question to the Original Application are liable to be taken off the record.

3. That, even otherwise, it is most respectfully submitted that the Reply filed by the Respondent No. 12 is liable to be taken off the record in as much as the same has been placed on record/filed along with a false affidavit in support dated 27.12.2023. The Respondent No. 12 has relied upon some documents (Annexure R12/35 is dated 18.01.2024 , Annexure R12/36 is dated 17.02.2024 and Annexure R12/54 is dated 09.02.2024), which are, clearly, of a later date than the date of supporting Affidavit and hence were not in existence at the time of swearing of the Affidavit. Hence, it is respectfully submitted that, on this sole ground, the reply of the Respondent No. 12 may kindly be taken off record of the present proceedings.
4. That the Respondent No. 12 is, infact, liable for the prosecution of contempt/perjury of this Hon'ble Tribunal in as much as it is very categorically clear that the abovementioned Respondent No. 12 has, infact, deliberately did not file its reply in terms of the Orders dated 18.10.2023 and 01.02.2024, as passed by this Hon'ble Tribunal only in order to procure the above said documents and rely/use the same for the purposes of adjudication of the present Original

Application. In fact, the Respondent No. 12 had chosen to stall the proceedings and adjudication of the present Original Application by not filing the Reply. That the contents of the abovesaid affidavit clearly demonstrates that the alleged Reply was well prepared as on 27.12.2023.

5. That it is respectfully submitted that the unlawful permissions, including the Cabinet permission, granted for the construction of the project in question itself has given rise to the cause of action for approaching this Hon'ble Tribunal as the same involves a substantial question of environment which needs adjudication before this Hon'ble Tribunal.
6. That from the bare perusal of the documents on record, it is very much apparent that the Respondent No. 12, Project Proponent, was hell bound to construct a building of 14 floors alongwith an Infinity Swimming Pool on the roof top of the proposed building. In any case, the Environmental Clearance was not there for 14 floors building at the time of filing of the present Original Application. Hence, in any case, the Respondents cannot at all be allowed to take a plea of not availing the alternate remedy by way of filing an Appeal under

Section 16 of the National Green Tribunal Act, 2010 for the alleged first Environmental Clearance dated 25.02.2022.

7. That it is respectfully submitted that Environmental Clearance is a mere pre-condition of commencement of the construction. The Applicant is challenging the whole of the construction per-se and not a singular event of issuance of grant of EC. It is legally untenable argument/contention that the Applicant has got only remedy of challenging the EC.
8. That it is respectfully submitted that the Hon'ble Supreme Court has restored the present Original Application to its original position. It is further submitted that the Hon'ble Supreme Court was pleased to direct this Hon'ble Tribunal to decide afresh without being influenced by the impugned order. Hence, the objection of not pursuing the alternate remedy is untenable in the eyes of law.
9. That it is pertinent to bring into the kind attention of this Hon'ble Tribunal that the Applicant herein has challenged the illegal and unlawful actions of the Respondent herein, mainly, on the ground of erection of a high rise building in the city of Gangtok in complete contravention/disobedience of the

Notification dated 19.03.2021 bearing No. 17/DNG/20-21 issued by Department of Mines and Geology and EIA Notification, 2006 and further for not having the Environmental Clearance for the construction of a 14 (11+3 (proposed)) storey building. It is an admitted position that the Respondent No. 11 has issued the Environmental Clearance for the extended three floors only on 23.08.2023 and hence the apprehension of the Applicant herein of construction of a 14 floor building stood vindicated as submitted in the body of the Original Application. Therefore, in light of the facts and circumstances of the present case, the present Application is well maintainable.

10. That it is a settled preposition of law that while deciding the maintainability of the Original Application, only the contents of the Application and the documents relied upon by the Applicant has to be looked into. Admittedly, the present Original Application has been filed challenging the construction of a 14 (11+3 (proposed)) storey illegal building in Gangtok for which there was no Environmental Clearance at the time of filing of the present Original Application. Hence, the contentions of the Respondent No. 12 of not

availing the alternate remedy do not hold good in the eyes of law. Further, the present Original Application is well maintainable.

11. That it is respectfully submitted that the Respondent herein, in the garb of providing extra space in the name of taxi stand has built a Commercial complex and that too in a PPP model. It is pertinent to submit herein that the site in question, admittedly, falls under ecologically fragile area in Seismic Zone IV, which is highly prone to Earthquakes and Landslides due to heavy rain. Further, it is pertinent to mention herein that, the claim of the Respondents, of providing extra parking space, is nothing but a farce one and does not hold good in law as well as in facts in as much as, practically/in actual, there is no enhancement of any space for the parking of the taxis of general public as in own admission of the answering Respondent, only 2 floors have been earmarked for them. Hence, it is, manifestly clear that the whole scheme of the Respondent is only to build a private Commercial building in the name of building a Taxi stand for the general public.

12. That it is respectfully submitted that the malafide conduct of the Respondent No. 12 of material concealment and suppression of documents from this Hon'ble Tribunal is writ large from the fact that the Respondent No. 12 herein has filed incomplete set of documents being Annexure R12/15, Annexure R12/19, R12/20, R12/21 R12/43 and R12/44 only with an intent to mislead this Hon'ble Tribunal. It is also, pertinent to submit herein that the Detailed Project Report (DPR) has not been filed on record by any of the Respondents.
13. That it is respectfully submitted that the present Original Application has been filed by the Applicant under Section 14, 15 and 17 read with Section 18 of the National Green Tribunal Act, 2010, thereby challenging the illegal construction of a 14 storey building in the heart of the city of Gangtok, which falls under Seismic Zone IV and the present Original Application is very much maintainable in as much as the Applicant herein has raised a substantial question related to environment and risk involved in the construction of such a huge building in an ecologically fragile area.

14. That it is respectfully submitted that the allegations made by the Respondents qua the Applicant not being an aggrieved person under Section 18 of the NGT Act, 2020 does not hold good in the eyes of law and have no basis at all in as much as the Applicant herein is a resident of State of Sikkim, more specifically, Ranipool, East District, Gangtok and has been born in the beautiful flora and fauna of the city. Moreover, the Applicant herein is a public spirited person working for the benefit of the public at large. Infact, as per the concept of The Public Trust Doctrine, it primarily rests on the principle that certain resources like air, sea, waters, and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership in the name of sustainable development. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. The Applicant herein is contending the unlawful action of the

Respondents herein only to bring back the original shape of the ecology of the surrounding areas of the project site.

15. That it is respectfully submitted that the present Application is very much maintainable at the hand of the Applicant herein in as much as, it is not only the Applicant, but all the residents of the Gangtok, as pleaded in the body of the Original Application, are going to be impacted by such high rise illegal construction on a hilly slope.
16. That it is a settled preposition of law that as per the definition of “substantial question relating to environment” provided under Section 2(1)(m) of the National Green Tribunal Act, 2010 and this Hon’ble Tribunal is having inherent power to examine and decide the question of violation of any specific statutory environmental obligation, which affects or is likely to affect a group of individuals, or the community at large.
17. That, since, a specific prayer for restoration of ecology has been made by the Applicant and, further, it is also clear from the documentary evidence that the project proponent has committed numerous breaches because of which the implementation of the project is bound to have serious adverse

impact on the ecology and environment of the area. Therefore, the environmental degradation as established would give rise to an independent cause of action. Hence, the Application is also an Application under Section 15 of the NGT Act, 2010.

18. That it is respectfully submitted that here in the present case there is a direct violation of Statutory environmental obligation as mandated under EIA Notification 2006. Hence, the present OA is very much maintainable.
19. That, here in the present case, it is pertinent to point out that the ex-post facto environmental clearance cannot be granted under law and, hence, consent to establish granted is not proper. It is an admitted position that the commencement of the foundation work should not have been started before getting prior environmental clearance and only thereafter consent to establish should have been granted. Hence, in the present case, even the Consent to establish as granted by the Sikkim Pollution Control Board is marred by illegality.
20. That, even otherwise, the Environment Clearance dated 25.02.2022 as well as 23.08.2023 issued by the Respondent No. 8 and 11 respectively are not in accordance with the EIA

Notification, 2006 and, hence, these are a nullity in the eyes of law on the following grounds:

- (i) That it is worthwhile to submit herein that the project in question falls under Category A in terms of EIA Notification, 2006, however, the Environmental Clearances have been granted to the project in question under category B without proper verification and scrutiny/investigation.
- (ii) That, as per the Annexure R/3 filed by the Respondent No. 11 alongwith its Reply, in own admission of the Respondent No. 12, the site in question is located within 10 KM area of Eco Sensitive Zones. Therefore, as per General Condition of the EIA Notification, 2006, if, a site is located within 10 KM from the boundary of Eco-sensitive areas, then the project specified in Category B will be treated as Category A. Hence, the Respondent No. 8 and 11 had no authority to issue the Environment Clearance for the site in question. Relevant extract of the EIA Notification, 2006 is being reproduced herein below for the ready reference of this Hon'ble Tribunal:

*“General Condition (GC):*

*Any project or activity specified in Category ‘B’ will be treated as Category A, if located in whole or in part within 10 Km from the boundary of : (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as identified by the Central Pollution Control Board from time to time, (iii) Eco-sensitive areas as notified under Section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:”*

21. That, moreover, it is respectfully submitted that the Respondent No. 12 had lied with respect to distance between the project in question and Fambong Lho Wildlife Sanctuary in as much as the calculation of the distance between coordinate points of east side of the wildlife sanctuary and project in question on [www.calculator.net](http://www.calculator.net) comes to 2.30 KM only and, hence, any permission qua the same can only be given after due compliance of the EIA Notification dated 2006 under Category A and that too by the Central Authority. Copy

of the Gazette Notification dated 27.08.2014 is annexed herewith as **ANNEXURE-A10** and web-copy of the distance calculated on the abovementioned website is annexed herewith as **ANNEXURE-A11**.

22. That it is respectfully submitted that no one shall be allowed in the eyes of law to give a complete go by to the basic condition of not having a building of more than 5½ floors in the zonation map 1 of the State of Sikki as prescribed by the Notification dated 19.03.2021 that too by risking the lives of people residing in the shadow of such a huge building, while in catena of judgements, the Court of law have time and again emphasized to scrutinize the issue of height of structure/building in seismic sensitive areas like Seismic Zone IV.
23. That the Regulation 39 which was inserted in the Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985 vide Notification dated 16.10.2001 is not at all applicable for the present project in as much as the building in question is neither a Government building or any registered organisation building with the State. It is pertinent to mention herein that the present building

is a private building which is being developed on the basis of PPP model.

24. That all the permissions/approvals granted to the project proponent suffers from serious legal lapses and infirmities and have not been given/obtained in accordance with law.
25. That it is pertinent to submit herein that at the time of granting Site Stability Certificate dated 29.12.2021, the Respondent No. 3 had made a categorical comment with regard to the load impact assessment to be done of the surrounding area of the site in question, as Sikkim lies over young fold mountains and is under Seismic Zone IV. However, the same was waived by merely relying upon an undated certificate issued by Dr. Dipesh Majumdar, Assistant Professor, Department of Construction Engineering, Jadavpur University, which certifies that the load of the structure has been calculated to be 21Ton/sqm. without any basis and data. The Applicant herein disputes the requisite experience and qualification of Dr. Dipesh Majumdar, Assistant Professor Department of Construction Engineering, Jadavpur University. That the alleged certificate as issued by Dr. Dipesh Majumdar, Assistant Professor does not at all inspire confidence on

account of being an undated important certificate which may have cascading effects upon the lives and limbs of the public at large.

26. That it is worthwhile to submit herein that the certificate issued by the Jadavpur University is completely silent upon the procedure and steps taken by the University before issuing the certificate and the same is against the settled Indian Standards as set by Bureau of Indian Standards and National Building Code. Apparently, a bare perusal of the document, clearly, indicates that the said report was prepared on the basis of the information supplied by the interested party, i.e., Respondent No. 12, and not independently.
27. That it is respectfully submitted that all the Geo-technical study, investigations, soil test reports etc. have been done by the private practitioners, who have been engaged by the Respondent No. 12, the Project Proponent. In the humble submission of the Applicant, all such consultants are interested parties. It is pertinent to mention herein that the alleged Geo-Technical investigations showed the presence of the mica in the soil which is a mineral that is known for its layered structure and can have an implication upon the

stability of the soil, especially, in the context of the building foundation. Highly weathered rock like mica schist is generally not, at all, ideal for high rise constructions. Admittedly, there is no independent Environment Impact Assessment by an institution of repute or person. In the humble submissions of the Applicant, the same is a mandatory requirement keeping in view of the Eurasian Tectonic plates and Seismic Zone IV.

28. That the Applicant herein disputes all the permissions, reports, approvals at the hands of the Respondent No. 12, an interested party, who has awarded the contract much before the approvals from the authorities as established in law. Infact the work ought to have been awarded after thorough investigation and research by an independent body.
29. That the Applicant further also disputes the requisite experience and qualification of the professionals. There is nothing on the record, which could even suggest their professional experience and capabilities with respect to their past experiences in erecting such a high rise building in the heart of densely populated Gangtok city, which falls under

Seismic Zone IV and just above the moving Eurasian Tectonic Plates.

30. That it is respectfully submitted that no scientific comparison/investigation has been done with respect to the foundational design/construction as to which foundation would be better- The Raft foundation or the Pile Foundation.
31. That it is an admitted position that the Raft foundation has been used in the present project in question. Normally, in such places like Gangtok, pile foundation is used for the purposes of providing more stability to the high rise building. The Applicant herein came to know that Pile foundation was used in the construction of New Secretariat building at Tashiling, Gangtok, which can even be verified from Respondent No. 1.

### **REJOINDER TO THE REPLY**

1. That the contents of Para 1 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
2. That the contents of Para 2 of the Reply are wrong, false and hence denied. It is denied that under the said case, the

Applicant has wrongly alleged that the Respondent No. 12, M/s MESASO Infrastructure Private Limited has been executing the construction project in violation of the environmental laws. It is denied that the present Original Application is frivolous, premature, malafide, not maintainable and without any merit either on facts or law. It is vehemently denied that the Applicant is politically motivated and is misusing the sanctity of this Hon'ble Tribunal to meet the political agendas schemed by her and her associates. It is further denied that the Applicant is a serial litigator and the present Application is just another attempt of the Applicant to harm the Respondent for personal gains without any real consideration for any harm to the environment. It is denied that the construction project of the answering Respondent is being executed in accordance with the provisions of applicable environmental laws after seeking required permissions/ sanctions/ clearances/ consents. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

3. That the contents of Para 3 of the Reply are a matter of record and hence need no reply. Further, the contents of Original

Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

4. That the contents of Para 4 of the Reply are wrong, false and hence denied. It is denied that the Applicant always had the alternate remedy of challenging the Consent to Establish (CTE) or the EC as per law in appropriate forums, even before filing this Original Application under Section 14, 15 and 17 of the National Green Tribunal Act, 2010 (hereinafter NGT Act, 2010). It is further denied that even after intimation of this Hon'ble Tribunal under order dated 10.05.2022, the Applicant chose not to follow the right course of action provided under law and instead approached the Hon'ble Supreme Court. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
5. That the contents of Para 5 of the Reply are wrong, false and hence denied. It is denied that the present Application has been filed without jurisdiction and in contravention of the provisions of the NGT Act, 2010. It is vehemently denied that the Applicant has challenged the project on alleged contravention of statutes which do not fall within the ambit of

Schedule I of the NGT Act, 2010. It is denied that the application is not maintainable. It is denied that the answering Respondent has undertaken all measures to comply with the environmental norms governing such construction projects which includes the grant of CTE and prior EC among others. It is denied that even after being aware of the said statutory permissions, the appropriate appellate remedy was not pressed for and instead a general application has been preferred on frivolous grounds under Section 14 and 15 of the NGT Act, 2010 without any reference or consideration of the laws included in the Schedule I of the said Act. It is further denied that the said conduct of the Applicant shows their desperation and disregard to the procedure and remedy laid down under the statutes and are using the sanctity of this Hon'ble Tribunal as a means to meet their political ends. It is denied that this Application is liable to be dismissed on these grounds alone. It is denied that an application under Section 14 and an application under Section 15 of the NGT Act, 2010, cannot be integrated into one. It is denied that the present application, which is filed under Section 14 as well as Section 15 of the NGT Act, 2010, is not maintainable specially when

the Applicant has not been able to show how she has been directly affected due to the construction of the project of the answering Respondent. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

6. That the contents of Para 6 of the Reply are wrong, false and hence denied. It is denied that even after wrongly approaching the Hon'ble Supreme Court through Civil Appeal Diary No. 32544/2022 against order dated 10.05.2022 of this Hon'ble Tribunal, the Applicant chose not to cure the defects notified by the registry of the Hon'ble Supreme Court on 14.10.2022, which was cured only on 25.08.2023, which is after approximately ten months. It is further denied that during this time period the Applicant remained silent and initiated no proceedings before any judicial forum including taking any action for removal of defects before the Hon'ble Supreme Court. It is vehemently denied that the said fact has also been recorded by the Hon'ble Supreme Court under its order dated 25.09.2023 with observation that all pleas and contentions of the parties are left open. That it is wrong and denied that in the meanwhile the answering Respondent continued the

construction of the project in question in accordance with law and now the project stands almost complete. It is further denied that without consideration of the same, the Applicant remained quiet and took steps only after the said Civil Appeal was listed before the Chamber bench of the Hon'ble Supreme Court on 17.07.2023 wherein four weeks were granted for curing defects on the failure of which the cause would be dismissed. It is denied that as per News Notification posted on 28.10.2023, the Applicant joined the Sikkim Democratic Front, the main opposition Party to the current ruling Political Party, namely Sikkim Krantikari Morcha, which demonstrates that the cases filed, and the non-pursuance of the Appeal before Hon'ble Supreme Court, was only a ploy to get political mileage and in fact it was politically orchestrated. It is vehemently denied that the conduct of the Applicant qualifies the case to be dismissed as it is a fit case of a person who does not come under the definition of an aggrieved person under Section 18 of the NGT Act, 2010. It is denied that, therefore, the case is liable to be rejected and dismissed with huge costs on the Applicant for abusing and misusing the process of judicial remedy available to the public to meet the

ends of justice. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

**REJOINDER TO THE FACTS IN BRIEF:**

7. That the contents of Para 7 of the Reply are a matter of record to the extent that the answering Respondent, is a Special Purpose Vehicle (SPV) Company registered under the Companies Act, 2013, which has been formed for the purpose of implementation and establishment of Multi-level Car Parking Cum Commercial Development at Old West point school area in the city of Gangtok over a built-up area of 33801.25 sqm. However, it is vehemently denied that the present case has been filed to challenge the establishment by raising various frivolous grounds which has no basis or merit either in fact or law. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
8. That the contents of Para 8 of the Reply are wrong, false and hence denied. It is denied that the said project is an initiative of the Gangtok Smart City Development Ltd. (GSCDL) ( Respondent No. 2 herein) under the Smart City program for

providing Multi Level Car Parking (MLCP) cum commercial development at the Old West Point School Area in the city of Gangtok, Sikkim keeping in view the unprecedented growth in the number of motor vehicles, especially the taxis and cars along with the concentration of activities which has led to acute parking problems in the Gangtok City area thereby creating congestion and consequent pollution by vehicles. It is denied that the aforesaid project would cater to 400 plus numbers of taxis and cars, ensuring smooth and automated integration with the city traffic. It is most respectfully submitted that the Respondent herein, in the garb of construction of a multistorey car parking comprising of 4 floors, has further constructed 10 additional floors for commercial activities which has put the life of the nearby residents and tourists under great threat. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

9. That the contents of Para 9 of the Reply are wrong, false and hence denied. It is denied that GSCDL under its Project Information Memorandum dated 16.09.2020 has explained the necessity of the said project. It is denied that under the

same it has been stated that in the State of Sikkim, the road space is limited, and on-Street parking is not possible on all roads and parking demand far outweighs the supply in the Gangtok city. It is vehemently denied that therefore, the said project has been envisaged to tackle the problem of traffic congestions thereby not only providing a better infrastructure for the easement of the people of Sikkim but also causing a relief in the emission concentration caused due to traffic congestions. It is most respectfully submitted that the construction of Multilevel Car Parking space is nothing but an eye wash as only upto 4 floors have been built for parking and out of these 4 floors only 2 floors have been assigned for general parking facility for the general public. However, rest 10 floors of the said building has been built for commercial activities which is against every law and rule and which poses a great threat to environment and people living in a near vicinity. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

10. That the contents of Para 10 of the Reply are wrong, false and hence denied. Further, the contents of Original Application

and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

11. That the contents of Para 11 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
12. That the contents of Para 12 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
13. That the contents of Para 13 of the Reply are wrong, false and hence denied. It is denied that after demolition of the existing MLCP and removal of building materials and debris, the land was left with dug up soil with a hollow pit where the soil is loose. It is vehemently denied that at that time the monsoon season was around the corner and the site was left vulnerable to the effect of heavy monsoon which posed danger of landslide or such other mishap. It is denied that in pursuance to the condition made by SPCB under NOC dated 17.09.2021 a letter by a reputed Soil Consultant in this regard and permission of the GSCDL, the work for securing the

foundation by concretizing it with cement was started. It is most respectfully submitted that no such letter given by the alleged reputed Soil Consultant has been filed on record by the Respondent herein. Fact of the matter remains that the Respondent herein started the construction of the present building even before obtaining all the necessary permissions and clearances. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

14. That the contents of Para 14 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
15. That the contents of Para 15 of the Reply are wrong, false and hence denied. It is most respectfully submitted that there was no misleading submissions at the hands of the Applicant as alleged. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
16. That the contents of Para 16 of the Reply are a matter of record and hence need no reply. Further, the contents of Original

Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

17. That the contents of Para 17 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the CTE dated 24.02.2022 has been granted after the commencement of the work by the Respondent herein which is not at all permissible in the eyes of law. Moreover, the aforementioned CTE is nothing but an eye wash issued at the behest of Respondent No. 12 herein. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
18. That the contents of Para 18 of the Reply are a matter of record. However, it is most respectfully submitted that the EC dated 25.02.2022 granted by the Respondent No. 8, Sikkim State Environment Impact Assessment Authority (SEIAA) is not a valid and proper EC in accordance with the EIA Notification as the SEIAA herein had no authority to grant EC for the said project in question. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

19. That the contents of Para 19 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the said EC dated 25.02.2022 is not in accordance with law and rules. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
20. That the contents of Para 20 of the Reply are a matter of record and hence need no specific reply. However, it is submitted that the Hon'ble Tribunal never commented upon the conduct of the Appellant in the Order dated 02.03.2022 as alleged in the corresponding paragraph. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
21. That the contents of Para 21 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
22. That the contents of Para 22 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

23. That the contents of Para 23 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
24. That the contents of Para 24 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
25. That the contents of Para 25 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

**REJOINDER TO PRELIMINARY OBJECTIONS AND SUBMISSIONS:**

26. That the contents of Para 26 of the Reply are wrong, false and hence denied. It is denied that the challenge to the construction activities of the Respondent No. 12 for setting up the present project is misplaced and bad in law and deserves to be dismissed with huge costs as it is without any merits. It is most respectfully submitted that the project in question puts a grave threat and danger to the environment and ecology of

the Gangtok and also to the life and limbs of the nearby residents. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

27. That the contents of Para 27 of the Reply are wrong, false and hence denied. It is denied that the Applicant has not brought on record any material to show how she is aggrieved within the meaning of Section 18 of the NGT Act, 2010. It is further denied that not a single person who owns the property around the Project has opposed or come before this Hon'ble Tribunal. It is vehemently denied that the Applicant is a member of the main opposition party of Sikkim namely, Sikkim Democratic Front, and this entire case was only a political manifestation of a disgruntled person who appears to be a political opportunist with least interest in environment and as such no substantial question of environment has been raised in the said Application. It is most respectfully submitted that the Applicant herein is a social activist who has been born and brought up in the city of Gangtok and has her natural love and affection towards the environment and fragile ecology of the city. It is a matter of fact that the project in question consists

of 14 floors which is not at all permitted in the area and the permission qua the same has been wrongly given without considering the health of the environment and ecology of the surrounding area. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

28. That the contents of Para 28 of the Reply are wrong, false and hence denied. It is denied that the Applicant has now approached this Hon'ble Tribunal, at a belated stage, challenging the Project without placing on record any evidence to substantiate the allegations. It is vehemently denied that all this invariably proves that the present Original Application is politically motivated and the Applicant has vested interest in the said proceedings with oblique interests. It is denied that there is something more than meets the eye and the Applicant cannot be conceived as a 'person aggrieved' within the meaning of Section 18 of the NGT Act, 2010. It is most respectfully submitted that the Applicant herein very much falls within the definition of 'person aggrieved' under Section 18 of the NGT Act, 2010. Moreover, construction of a 14 storey building in an earthquake prone area which comes

under the category of Seismic Zone IV and where only 5½ storeys are allowed to be constructed, is itself bad in the eyes of law. It is a matter of fact that the Respondents herein under the guise of construction of a 4 storey multilevel car parking has gone on to construct a 14 storey of commercial building for fulfilling their personal and political agendas. It is pertinent to submit herein that the sanction given by the cabinet for the construction of such a huge building in a hilly terrain like Gangtok is itself bad in the eyes of law and hence the building in question is liable to be demolished. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

29. That the contents of Para 29 of the Reply are wrong, false and hence denied. It is denied that in the present case the Appellant has failed to submit a single document, verifying her credentials or how she is impacted by the Project. It is most respectfully submitted that the judgements relied upon by the Respondent No. 12 in the corresponding paragraph have no bearing upon the merits of the present OA and hence cannot be relied upon. Further, the contents of Original Application

and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

30. That the contents of Para 30 of the Reply are wrong, false and hence denied. It is denied that the Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985, and the regulations made thereunder are building bye-laws which are absent from the Schedule I of the National Green Tribunal Act, 2010. It is further denied that a harmonious reading of Section 14 of the Act, read with Schedule I of the Act, would lead to the inference that the adjudication on issues pertaining to any cause of action arising out of Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985 and the regulations made thereunder, would not be maintainable before this Hon'ble Tribunal, which the Original Applicant seems to be completely unaware of at this juncture. It is vehemently denied that the Applicant is not remedy less and has only chosen a wrong forum to mislead this Hon'ble Tribunal and this is a ground alone to dismiss the Original Application. It is denied that the answering Respondent has obtained all clearances under the Sikkim Allotment of

Housing Sites and Construction of Building (Regulation and Control) Act, 1985 which has not been either administratively challenged nor in any appropriate competent court thus far. It is further denied that this is a ground alone to dismiss this case with huge costs. It is most respectfully submitted that the present OA has been filed against the construction of a 14 storey building in the city of Gangtok where construction only upto the extent of 5½ floors is permitted. It raises a Substantial question of Environment which needs to be adjudicated upon, else, all the building bye laws can be given a go by and huge buildings can be constructed in hilly terrains which clearly is going to demolish the environment and ecology of the area. It is not in dispute that the hill stations are prone to landslides and earthquake, especially, Gangtok and hence construction of such huge building by surpassing all the laws and rules in the name of PPP project is nothing but an act of destruction of environment which cannot at all be allowed. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

31. That the contents of Para 31 of the Reply are wrong, false and hence denied. It is denied that the O.A. filed by the Applicant

is not maintainable since the Original Applicant is challenging the MLCP cum commercial development at Old West Point Area without challenging the grant of the CTE dated 24.02.2022, before the appropriate forum as per the Water (Prevention and Control of Pollution) Act, 1976 and the Air (Prevention and Control of Pollution) Act, 1981. It is vehemently denied that this Tribunal vide Order dated 10.05.2022 also noted and dismissed the Original Application while referring to availability of alternative remedy. It is most respectfully submitted that the cause of action for filing the present OA arose when the Cabinet approved the construction of such a huge building by relaxing the Regulation 39 of the Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985 without giving any reasoning for the same. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

32. That the contents of Para 32 of the Reply are wrong, false and hence denied. It is most respectfully submitted that the cause of action for filing of the present OA arose when the sanction for the construction of a 14 storey building was granted by the

Cabinet. It is submitted that the granting of Environment clearances does not renders the earlier cause of action invalid against upon which the present OA has been filed by the Applicant. It is a matter of fact that the act of granting sanction by the Cabinet for the construction of a 14 storey building raises a substantial question of Environment as a huge building like the present one poses grave threat and danger to the environment and life and limb of the local residents. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

33. That the contents of Para 33 of the Reply are wrong, false and hence denied. It is denied that despite the existence of alternative remedies in the form of a statutory appeals under the abovesaid Acts, the Applicant has filed the present O.A. and approached this Hon'ble Tribunal primarily to escape the statutory limitation, which is a ground alone to dismiss this case with huge costs. It is most respectfully submitted that the Judgement as mentioned in the corresponding paragraph is not applicable in the present case as the cause of action for filing the present OA arose much prior to the grant of Environment clearance. Moreover, subsequent cause of action

does not renders the previous cause of action invalid. Hence, the contentions raised by the Respondent No. 12 in the corresponding paragraph are false and frivolous and has no basis at all. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

34. That the contents of Para 34 of the Reply are wrong, false and hence denied. It is most respectfully submitted that the Respondent No. 1 has wrongly misused the delegated power vested with it.. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

35. That the contents of Para 35 of the Reply are wrong, false and hence denied. It is denied that the Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985, and the Regulations made thereunder are building bye-laws which are not part of the Schedule I of the NGT Act, 2010. It is further denied that a harmonious reading of Section 14 of the Act, read with Schedule I of the Act, would lead to the inference that the adjudication on issues pertaining to any cause of action arising out Sikkim Allotment

of Housing Sites and Construction of Building (Regulation and Control) Act, 1985 and the regulations made thereunder, would not be maintainable before this Hon'ble Tribunal and therefore the said contentions is not maintainable and the same may be ignored by this Hon'ble Tribunal. It is most respectfully submitted that the building bye laws are made as the topography and geographical nature of the place for the protection of life, limb and environment. It is very much pertinent to state herein that construction of a 14 storey building, in a place where only 5½ floors, is permissible is nothing but an irresponsible act as all the rules and regulation have been mended using the delegate power of the Government without taking into consideration the health of the environment and people living in the vicinity of such a huge building that too in a seismic zone 4. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

36. That the contents of Para 36 of the Reply are wrong, false and hence denied. It is denied that the due process laid down thereunder and the requisite permission required has already been obtained for the said project. It is most respectfully

submitted that the alleged relaxation as given under the garb of Regulation 39 has to be exercised in genuine difficulties for government projects which are required for the benefit of the public at large. Here, in the present matter a Commercial building has been given permission to be built in the garb of construction of a Multilevel Car Parking which only comprises of 4 floors in the whole 14 floor building. Moreover, no specific or genuine reason has been given before sanctioning the permission for construction of such a huge building. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

37. That the contents of Para 37 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the sanction/approval dated 11.06.2021 given by the Cabinet is without assigning any reason or basis. It is pertinent to submit herein that the relaxation given under Regulation 39 has not to be exercised as per own whims by the State Government. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

38. That the contents of Para 38 of the Reply are wrong, false and hence denied. It is denied that the building design, structural safety and stability of the project is of utmost importance to the Project Proponent and every care has been taken to ensure that highest standards are maintained with regard to the above. It is denied that this is for maintaining the highest global standards given the significance of this project for not only the Gangtok city but for the entire State of Sikkim. It is most respectfully submitted that the construction of a 14 floor building in a hilly terrain of Gangtok where the maximum permissible height is 5½ floors is itself not safe and not desirable. The project, in question, is a clear example of mending all rules and regulation by the State Government which can not at all be allowed in the eyes of law. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
39. That the contents of Para 39 of the Reply are wrong, false and hence denied. It is most respectfully submitted that the Geological Report given by the Mines and Geology Department clearly and categorically states that the stability of the surrounding area of the project also needs to be

checked, however, the same was not done relying upon a fabricated undated Certificate given by Jadhavpur University which is neither legal nor permissible in the eyes of law. Hence, the report itself is nothing but an eye wash and hence cannot at all be relied upon. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

40. That the contents of Para 40 of the Reply are wrong, false and hence denied. It is most respectfully submitted that all the investigations and surveys have been conducted at the behest of the answering Respondent No. 12 herein and are not at all reliable. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
41. That the contents of Para 41 of the Reply are wrong, false and hence denied. It is denied that subsequently on 17.08.2021, the present Respondent also got prepared the Design Basis Report on MEPF (Mechanical, Electrical, Plumbing and Fire Protection) services for the present project by a well-known, Ahmedabad based MEPF Consultants namely Pankaj Dharkar & Associates, to ensure that the building was safe to proceed

with. It is most respectfully submitted that there is no such report as stated by the Respondent in the corresponding paragraph has been annexed. The Respondent herein be put to strict proof upon the same. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

42. That the contents of Para 42 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
43. That the contents of Para 43 of the Reply are wrong, false and hence denied. It is most respectfully submitted that there is nothing placed on record to show that the said Associate Professor was having all requisite expertise of vetting the document and providing the certification for a high rise building of 14 floors in the seismic zone IV. Therefore, any undated certificate given by the same cannot at all be relied upon. It is pertinent to mention herein that the said document does not at all decipher that a tall building of 14 floors can be built up at the site in question. Further, the contents of Original

Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

44. That the contents of Para 44 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
45. That the contents of Para 45 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
46. That the contents of Para 46 of the Reply are a matter of record and hence need no specific reply. However, the contents of the Certificate given by the Associate Professor, IIT Guwahati is denied and disputed as there is nothing placed on record to show that the said Associate Professor was having all requisite expertise of vetting the document and providing the certification for a high rise building of 14 floors in the seismic zone IV wrong. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

47. That the contents of Para 47 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
48. That the contents of Para 48 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
49. That the contents of Para 49 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
50. That the contents of Para 50 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
51. That the contents of Para 51 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

52. That the contents of Para 52 of the Reply are a matter of record and hence need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
53. That the contents of Para 53 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the Applicant disputes the report given by the Structural Consultant appointed by the Respondent. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
54. That the contents of Para 54 of the Reply are wrong, false and hence denied. It is most respectfully submitted that there is nothing placed on record to show that the said Associate Professor was having all requisite expertise of vetting the document and providing the certification for a high rise building of 14 floors in the seismic zone IV. Therefore, any undated certificate given by the same cannot at all be relied upon. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

55. That the contents of Para 55 of the Reply are wrong, false and hence denied. It is most respectfully submitted that there is nothing placed on record to show that the said Associate Professor was having all requisite expertise of vetting the document and providing the certification for a high rise building of 14 floors in the seismic zone IV. Therefore, any undated certificate given by the same cannot at all be relied upon. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
56. That the contents of Para 56 of the Reply are wrong, false and hence denied. It is denied that all necessary permissions under law have been taken and the project is being executed only after obtaining the same. It is further denied that the contention of the Applicant that the permission and plans for the said project have not been issued and that no DPR and blueprint are available are totally false and devoid of any merit. It is most respectfully submitted that the permissions as granted by the departments for the construction of building in question are not proper and have only been granted in haste by the official Respondents by showing the same as a PPP

project. Necessary guidelines and rules have not been followed and reliance have been put upon doubtful certificates issued by the Assistant Professors of Universities who have no practical experience or knowledge whatsoever. Hence, the permissions as mentioned in the corresponding paragraph are nothing but an eye wash. Moreover, it is also worthwhile to state herein that the construction of the building in question started way before the alleged permissions being issued by the departments. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

57. That the contents of Para 57 of the Reply are wrong, false and hence denied. It is denied that the process undertaken towards approval of the number of floors also includes the examination of whether the site will be able to bear the building proposed. It is further denied that in this regard necessary sanction and permissions have already been issued by the concerned authorities showing that the site in question is viable to take the proposed building and therefore the contention of the Applicant on the risk of the project towards landslides is without any scientific basis. It is vehemently

denied that the influence of earthquakes on the said project has already been examined and necessary studies and approvals towards the same has also been undertaken as is evident from the submissions made above. It is most respectfully submitted that the project in question is very near to the place where recently land slide took place and hence there is always a risk involved. Therefore, construction of a huge building of 14 floors in such an area cannot at all be allowed to take place. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

58. That the contents of Para 58 of the Reply are wrong, false and hence denied. It is denied that the above-mentioned details clearly show that the site in question can bear the load of the proposed building and that this aspect has been comprehensively looked into and hence stands addressed. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
59. That the contents of Para 59 of the Reply are wrong, false and hence denied. It is denied that this shows that due steps have been taken in accordance with law and scientific requirements

for relaxation of the restriction on the floors of the proposed project. It is most respectfully submitted that carving an exception to the regulations and sanctioning a permission for construction of a commercial building cannot at all be justified as there is no genuine reason or public welfare involved in the said project for which such an exceptional power has been exercised by the State Government. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

60. That the contents of Para 60 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the permission for the construction of 3 additional floors has been given on the wrong premises which clearly shows the malafide and ill intent of the Respondents herein. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

61. That the contents of Para 61 of the Reply are a matter of record and hence need no specific reply. However, it is most respectfully submitted that the project in question was always for a 14 storey building which was pre-planned and the

Execution for the same has been done in a very planned and stage wise manner so that same cannot be questioned. It is pertinent to submit herein that the reason given by the Respondent for construction of additional 3 floors are false and fabricated and have only been stated to befool the general public at large. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

62. That the contents of Para 62 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the approval given by the Cabinet for the construction of a 14 storey building in a phase wise manner clearly and manifestly shows the high handedness of the State Government and their interest in building such a hazardous building in the city of Gangtok risking all the lives, limbs and ecology of the area. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
63. That the contents of Para 63 of the Reply are a matter of record and hence need no specific reply. However, it is most respectfully submitted that the EC and CTE given to the

Respondent herein for the construction of the building in question are fabricated and concocted in nature and has no basis at all. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

64. That the contents of Para 64 of the Reply are a matter of record and hence need no reply. However, it is most respectfully submitted that the project in question was always for a 14 storey building which was pre-planned and the Execution for the same has been done in a very planned and stage wise manner so that same cannot be questioned. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
65. That the contents of Para 65 of the Reply are wrong, false and hence denied. It is denied that the aspect on the number of floors being proposed under the said project has been thoroughly examined by the statutory authorities and the permissions in this regard have already been issued without any non-conformity towards the same. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

66. That the contents of Para 66 of the Reply are wrong, false and hence denied. It is denied that the answering Respondent has duly applied and obtained the Consent to Establish for the said project as required under the Air (Prevention and Control of Pollution) Act, 1981, and Water (Prevention and Control of Pollution) Act, 1974, at two stages and has operated the construction of the project in accordance with law. It is most respectfully submitted that none of the alleged permissions have been granted to the Respondent herein by following the due process of law, rules and regulations. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
67. That contents of Para 67 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
68. That the contents of Para 68 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

69. That the contents of Para 69 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
70. That the contents of Para 70 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
71. That the contents of Para 71 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
72. That the contents of Para 72 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
73. That the contents of Para 73 of the Reply are wrong, false and hence denied. It is most respectfully submitted that the permissions given to the Respondent herein for the construction of a 14 storey commercial building are completely illegal and have been given at the behest of the

Respondent herein in the name of a PPP project. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

74. That the contents of Para 74 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
75. That the contents of Para 75 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
76. That the contents of Para 76 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
77. That the contents of Para 77 of the Reply are wrong, false and hence denied. It is denied that the answering Respondent, for the sake of abundant precaution, despite the mandate of undertaking EIA Study and report not being applicable on the present project, undertook and prepared an EIA Study and Report by M/s Envirotech East Pvt. Ltd. dated 07.12.2021. It

is most respectfully submitted that the Respondent herein be put to strict proof upon the same. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

78. That the contents of Para 78 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
79. That the contents of Para 79 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
80. That the contents of Para 80 of the Reply are a matter of record and hence need no reply. It is most respectfully submitted that Environment Clearance dated 25.02.2022 as well as 23.08.2023 issued by the Respondent No. 8 and 11 respectively are not in accordance with the EIA Notification, 2006 in as much as the same has been granted treating the construction of building as Category B Project, however, as per the form submitted by the Respondent No. 12 seeking environment clearance, it has been clearly stated that the site

is located within 10 KM area of Eco Sensitive Zones. Therefore, as per General Condition of the EIA Notification, 2006 if a site is located within 10 KM from the boundary of Eco-sensitive areas then the project specified in Category B will be treated as Category A. Hence, the Respondent No. 8 had no authority to issue the Environment Clearance for the site in question. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

81. That the contents of Para 81 of the Reply are a matter of record and hence need no specific reply. It is most respectfully submitted that Environment Clearance dated 25.02.2022 as well as 23.08.2023 issued by the Respondent No. 8 and 11 respectively are not in accordance with the EIA Notification, 2006 in as much as the same has been granted treating the construction of building as Category B Project, however, as per the form submitted by the Respondent No. 12 seeking environment clearance, it has been clearly stated that the site is located within 10 KM area of Eco Sensitive Zones. Therefore, as per General Condition of the EIA Notification, 2006 if a site is located within 10 KM from the boundary of

Eco-sensitive areas then the project specified in Category B will be treated as Category A. Hence, the Respondent No. 8 had no authority to issue the Environment Clearance for the site in question. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

82. That the contents of Para 82 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
83. That the contents of Para 83 of the Reply are a matter of record and hence need no specific reply. It is most respectfully submitted that the Environment Clearance of the project has been given in a very haste manner in complete contradiction with the EIA Notification, 2006 and hence the same are invalid and illegal. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
84. That the contents of Para 84 of the Reply are wrong, false and hence denied. Further, the contents of Original Application

and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

85. That the contents of Para 85 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
86. That the contents of Para 86 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
87. That the contents of Para 87 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
88. That the contents of Para 88 of the Reply are wrong, false and hence denied. It is denied that various other details/reports/documents are examined such as the site plan, land documents, sale deed, stability report, site stability report vetted by Mines & Geology Department, structural details & analysis among others. It is most respectfully submitted that the averments made in the corresponding paragraph are wrong

and false and has no basis at all. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

89. That the contents of Para 89 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

90. That the contents of Para 90 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

91. That the contents of Para 91 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

92. That the contents of Para 92 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

93. That the contents of Para 93 of the Reply are a matter of record and hence need no specific reply. However, it is respectfully

submitted that no approved blue print plan has been paced on the record of this Hon'ble Tribunal. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

94. That the contents of Para 94 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
95. That the contents of Para 95 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
96. That the contents of Para 96 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
97. That the contents of Para 97 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

98. That the contents of Para 98 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
99. That the contents of Para 99 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
100. That the contents of Para 100 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
101. That the contents of Para 101 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
102. That the contents of Para 102 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

103. That the contents of Para 103 of the Reply are a matter of record and hence need no specific reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
104. That the contents of Para 104 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
105. That the contents of Para 105 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
106. That the contents of Para 106 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
107. That the contents of Para 107 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

108. That the contents of Para 108 of the Reply are wrong, false and hence denied. It is denied that as the issue started progressing the “Hamro Sikkim Party” i.e. a political party where the present applicant served as a President started politicising various issues including PPP Models entered into by the State respondents and Private parties such as in the present case. It is most respectfully submitted that the allegations made in the corresponding paragraph are completely false and frivolous and has no basis at all. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
109. That the contents of Para 109 of the Reply are wrong, false and hence denied. It is denied that the founder of the said party, Mr. Bhaichung Bhutia in an interview with the Sikkim Chronicle on 10.02.2022 has candidly stated that even if this Hon’ble Tribunal gives a negative decision, they will continue their fight. It is further denied that he has also declared that this matter will be taken till the end whether the court gives good or bad justice. That the said fact indicates a complete disregard of the Applicant (being directly associated with Mr Bhutia) towards the proceedings of this Hon’ble Tribunal in

adjudicating the case as per law and also shows the biasness of the Applicant in targeting the present project just to propagate their political agenda to the people of Sikkim. It is most respectfully submitted that the allegations made in the corresponding paragraph are again false and baseless. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

110. That the contents of Para 110 of the Reply are wrong, false and hence denied. It is denied that in a recent development which now clearly proves the political motivation is the fact that as per News Notification posted on 28.10.2023, the Applicant has joined Sikkim Democratic Front along with Mr Bhutia which demonstrate that the cases filed, the non-pursuance of the appeal before Hon'ble Supreme Court, was only a ploy to get political mileage and in fact it was politically orchestrated by the main Opposition Party in Sikkim for oblique political gains. It is most respectfully submitted that the allegations levelled against the Applicant herein in the corresponding paragraph are completely false, concocted and frivolous in nature and has no basis at all.

Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

111. That the contents of Para 111 of the Reply are wrong, false and hence denied for want of knowledge. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
112. That the contents of Para 112 of the Reply are wrong, false and hence denied. It is denied that with regards to Air Pollution, the project shall take utmost care to ensure the minimization of same in immediate vicinity. It is denied that various Erosion & Sedimentation Control (ESC) Measures is being adopted which includes: Periodic sprinkling of water at the site, place of Aggregate at the site entrance, cover the tipper by Green Cloth etc. It is further denied that the design of various engineering services and selection of equipment has been done keeping in mind of natural aspects of the Gangtok City. It is denied that the stack height will be adequately planned above six meters from the building height so that the smoke will be exhausted at greater heights. The exhaust systems of all kitchens in the project are planned with Electrostatic scrubbers to ensure no Oil, Gas or dirt comes out.

It is most respectfully submitted that there is no study/investigation which has been made as on the affect on wildlife in as much as the present site falls within the 10 KMs radius of the Eco-Sensitive Zone. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

113. That the contents of Para 113 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
114. That the contents of Para 114 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
115. That the contents of Para 115 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
116. That the contents of Para 116 of the Reply are wrong, false and hence denied. Further, the contents of Original

Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

### **REJOINDER TO PARA-WISE REPLY**

117. That the contents of Para 117 of the Reply are wrong, false and hence denied. It is denied that the Applicant has suppressed the fact that she was the President of a political Party named “Hamro Sikkim Party” and has now joined Sikkim Democratic Front, which is the main political opposition, and she has vested interests on politicising the matter therein for the sake of playing with the emotions of the general populace of Sikkim. It is vehemently denied that the Applicant has not exhausted the statutory alternative remedy of challenging the Consent to Establish as well as the Environment Clearance before the appropriate forum. It is most respectfully submitted that the Applicant herein in the present OA has raised a Substantial Question of Environment when sanction for the construction of a 14 storey commercial building was granted by the State Government. Grant of EC and Consent to Establish are subsequent events having separate cause of action which has no bearing upon the maintainability of the present OA. Further, the contents of

Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

118. That the contents of Para 118 of the Reply need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
119. That the contents of Para 119 of the of the Reply are wrong, false and hence denied. It is denied that the Original Applicant has casually submitted that the present Application would warrant the exercise of jurisdiction under Section 14, 15,17 and 18 of the NGT. It is denied that the said submissions are wrong and misconceived. It is vehemently denied that an application under Section 14 and an application under Section 15 of the NGT Act, 2010, cannot be integrated into one. It is further denied that an application under Section 14 can be filed when there is a substantial question relating to environment towards implementation of enactment specified in Schedule I of the NGT Act, 2010. Whereas under Section 15, specific relief, compensation or restitution can be sought only by a claimant who is a direct victim of any pollution and other environmental damages, caused to her/him. It is denied that the present application, which is filed under Section 14 as

well as Section 15 of the NGT Act, 2010, is not maintainable specially when the Applicant has not been able to show how she has been directly affected due to the construction of the project of the answering Respondent. It is most respectfully submitted that the present OA is very much maintainable and has been filed in accordance with law as a substantial question related to environment of the city of Gangtok is involved. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

120. That the contents of Para 120 of the Reply are wrong, false and hence denied. It is denied that the Multi-Level Car Parking cum Commercial Development fully adheres to all relevant statutory regulations and has successfully undergone the required Environmental Clearance process for construction of 14 floors. It is vehemently denied that there has been no illegality in the construction of MLCP cum CD at Old West Point School Area by the Project Proponent or Respondent No. 2, GSCDL. It is most respectfully submitted that the whole construction of the building in question and sanction for the same are itself illegal. Further, the contents

of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

121. That the contents of Para 121 of the Reply are wrong, false and hence denied. It is denied that the entire construction is being carried out in accordance with law and all possible statutory clearances. It is vehemently denied that it will be a landmark in the city of Gangtok as a Gold Standard Project to be emulated not only in Sikkim but the entire country. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
122. That the contents of Para 122 of the Reply are wrong, false and hence denied. It is denied that the Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985 and the Regulations made thereunder are building byelaws are not part of the Schedule I of the National Green Tribunal Act, 2010. It is further denied that a harmonious reading of Section 14 of the Act read with Schedule I of the Act, would lead to the inference that the adjudication on issues pertaining to any cause of action arising out Sikkim Allotment of Housing Sites and Construction of Building (Regulation and Control) Act, 1985 and the

Regulations made thereunder, would not be maintainable before this Hon'ble Tribunal. It is vehemently denied that the said height regulations are subject to relaxation, taking into account the exigencies of the situation such as in the present situation, wherein the capital of the state has been facing acute issues of vehicular congestion with the lack parking facilities for vehicles, for a number of years. It is denied that, accordingly, the said relaxation in the case of the present Respondent has been granted by a body no less than the Cabinet itself, which is evident from the minutes of the meeting dated 11.06.2021. It is further vehemently denied that taking note of the same and after following due process of law the sanction dated 31.12.2021 under Regulation 9 of the Sikkim Building Construction Regulation, 1991, has also been granted by the GMC for the said project for 11 storeys. It is matter of record that Respondent State has relaxed the restriction on the number of floors on several occasions some of them being (1) The Central Referral Hospital (Manipal) at Tadong, Gangtok:@9 storeys (2) Sir. Thuthob Namgyal Memorial Hospital, Socheygang, Gangtok @13 storeys (3) State Secretariat Building, Tashiling, Gangtok@ 8 storeys

among others. It is denied that the State Respondent has also relaxed the floor restrictions on private parties as well, such as hotels etc. to promote tourism, apartment complexes to enhance housing supply etc. It is denied that height restrictions are applied on merits of the case to engineered structures against the general norm for height restrictions for private buildings which are mostly owner driven non-engineered constructions. It is most respectfully submitted that relaxation for a 14 storey building has never been given by the State Government before. Moreover, the examples quoted in the corresponding paragraph are all hospitals which are built for the welfare of the public at large, however, here in the present case relaxation has been given to a commercial building in the garb of 4 floors of multilevel parking. It is pertinent to submit herein that construction of a 4 floors multilevel parking was enough to resolve the parking issues of the city and further 10 floors of pure commercial activities was nowhere the need of the hour. Hence, the relaxation itself is bad in the eyes of law. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

123. That the contents of Para 123 of the Reply are wrong, false and hence denied. It is denied that Applicant is merely engaging in conjectures and surmises. It is further denied that there will be no restriction of the view of Mount Kanchenzonga. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
124. That the contents of Para 124 of the Reply are wrong, false and hence denied. It is denied that the location of the project is under Zone 1 and has soil load bearing capacity limit as per the report of Mines and Geology Department experts. It is further denied that the permission from the Cabinet, the GMC, the geotechnical studies, the vetting of the structure by IIT, Guwahati and by the Jadavpur University alongwith the stability report of Mines & Geology among others studies shows that the present project is safe to be constructed on the proposed site. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
125. That contents of Para 125 of the Reply are wrong, false and hence denied. Further, the contents of Original Application

and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

126. That the contents of Para 126 of the Reply are wrong, false and hence denied. It is denied that the Applicant is merely engaging in conjectures and surmises without adducing any scientific evidence. It is further denied that the said structure will adhere to the highest safety and stability requirements as described in detail in previous paragraphs. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

127. That the contents of Para 127 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

128. That the contents of Para 128 of the Reply are wrong, false and hence denied. It is denied that the approvals along with other statutory approvals have been granted following a due process and especially taking into consideration the environmental factors, the geotechnical factors, site stability, load bearing capacity and other such safeguards. Further, the

contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

129. That the contents of Para 129 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

130. That the contents of Para 130 of the Reply need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

131. That the contents of Para 131 of the Reply are wrong, false and hence denied. It is denied that the technology and design to withstand higher magnitude earthquake has been taken care of while planning, in accordance to the report of Respondent No.3 Mines and Geology. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

132. That the contents of Para 132 of the Reply are wrong, false and hence denied. It is denied that there is no cause of action which has arisen in the present case which has only been

fabricated by the Applicant to gain publicity by propagating her political agendas and therefore the same may be dismissed with huge costs. It is vehemently denied that there is no substantial question of environment that has been raised. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

133. That the contents of Para 133 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

134. That the contents of Para 134 of the Reply need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

135. That the content of Para 135 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

136. That the content of Para 136 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
137. That the content of Para 137 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
138. That the contents of Para 138 of the Reply are wrong, false and hence denied. It is denied that the said project has been undertaken following all legal procedures, in a detailed manner thereby ensuring complete compliance of any legal mandates therein. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
139. That the contents of Para 139 of the Reply are wrong, false and hence denied. It is most respectfully submitted that the Respondent herein by making such averments in the corresponding paragraph is only trying to cover up for the misdeeds done. Fact of the matter remains that the

construction of the building in question commenced way back from the date of grant of illegal permissions. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

140. That the contents of Para 140 of the Reply are wrong, false and hence denied. It is denied that all steps have been taken for the construction project of the answering Respondent as per law as well as to address the requirements of seismicity of the area. It is denied that the structure can withstand seismic load up to Richer Scale 8 as per norms of IS 1893 – 2016. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
141. That the contents of Para 141 of the Reply need no reply. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
142. That the contents of Para 142 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.
143. That the contents of Para 143 of the Reply are wrong, false and hence denied. It is denied that the present Original

Application is lacking any cause of action and has been filed purely for publicity interest, with the object of politicising the issue for electoral gains. It is denied that the Applicant is a non-serious about any environment issues and this case has been filed purely for oblique political motives Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

144. That the contents of Para 144 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

145. That the contents of Para 145 of the Reply are wrong, false and hence denied. Further, the contents of Original Application and Preliminary Objections raised hereinabove are reiterated and reaffirmed.

### **PRAYER**


In view of the facts and submissions as stated above, it is most respectfully prayed before this Hon'ble Tribunal that it may be pleased to:

a) Allow the present OA filed by the Applicant; and or

- b) Pass such other and further Order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.

  
**APPLICANT**

**THROUGH**

  
**LEGAL CONSULTUS**  
**(SWETANK SHANTANU & PRATAP SHANKER)**  
 D-21, 3<sup>rd</sup> Floor, Jangpura Extension  
 New Delhi-110014  
 Mob: 9818058809, 9891200224

Date: 11.11.2024,  
 Place: KOLKATA.

**VERIFICATION**

I, Dr. Bina Basnett alias Shanthi Basnett, D/O Mr. PB Basnett R/O Rani Pool, East Sikkim- 737135, do hereby verify that the contents of Paras 1 to 145 are true to my personal knowledge and Paras 1 to 32 believed to be true on legal advice and that I have not suppressed any material fact.

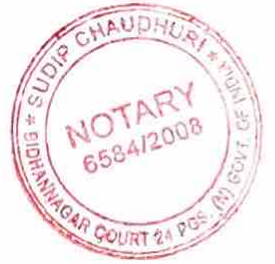
Date: 11.11.2024.  
 Place: KOLKATA.

  
**APPLICANT**

SL. NO. 241 24

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH KOLKATA

Original Application No. 38/2022



IN THE MATTER OF:

Dr. Bina Basnett

.....Applicant

Versus

State of Sikkim & Ors.

.....Respondents

BEFORE THE NOTARY PUBLIC  
AT BIDHANNAGAR  
DIST. NORTH 24 PARGANAS

AFFIDAVIT

I, Dr. Bina Basnett alias Shanthi Basnett D/o Mr. P.B. Basnett ,  
aged about 39 years R/O Om Shanti Niwas, Lower Marchak,  
NH-10, near Petrol pump, Ranipool, East Sikkim-737135,  
presently at Kolkata, do hereby solemnly affirm and declare as  
under:

1. That I am the Applicant in this case and as such am fully acquainted with the facts and circumstances of the case and as such am fully competent to swear this affidavit.
2. That I say that I have read and understood the contents of the accompanying Rejoinder which has been drafted by my Counsel under my instructions. I say the facts stated therein are true to the best of my knowledge.

11 NOV 2024

*Handwritten signature*

3. I say that the averments of facts stated herein above are true to my knowledge, no part of its false and nothing material has been concealed therein.



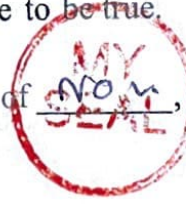
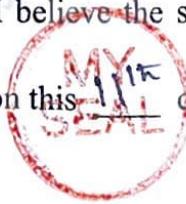
*Shanthy*

**DEPONENT**

**VERIFICATION:**

I, Dr. Bina Basnett alias Shanthy Basnett, the deponent mentioned above do hereby most solemnly affirm and verify that what is stated in the above Affidavit is true to my knowledge and I believe the same to be true.

Verified at Kolkata on this 11<sup>th</sup> day of Nov, 2024.



*Shanthy*

**DEPONENT**

*S. Chaudhuri*  
**S. CHAUDHURI**  
**\* NOTARY \***  
GOVT. OF INDIA  
Regn. No.-6584/08  
Bihannagar Court  
Dist.-North 24 Pgs

Identified by me  
*Sipankay Thaker*  
Advocate

**11 NOV 2024**

**MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE**

**NOTIFICATION**

New Delhi, the 27th August, 2014

**S.O. 2171(E).**—Whereas, a draft notification under sub-section (1), clause (v) and clause (xiv) of Sub-section (2) and Sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) was published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, vide notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 309(E), dated the 4th February, 2014, inviting objections and suggestions from all persons likely to be affected thereby, within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, copies of the said Gazette were made available to the public on 4th February, 2014;

And whereas, suggestions received in respect of the proposed draft notification have been considered by the Central Government;

And whereas, the Fambonglho Wildlife Sanctuary (hereinafter referred to as the Sanctuary) located towards west of Gangtok, straddling the entire hill range with a majestic view of the Mountain Kanghendzonga, was established in 1984 to offset the ecological loss due to rapid development in Gangtok and its surroundings covering an area of 51.76 square kilometers;

And whereas, the Sanctuary has an altitudinal gradient ranging from 1524metres to 2749metres situated on a Northeast-southwest trending ridges and its habitats is dominated by Quercus species (Kattus), Michelia species (Champ), Machilus species (Kaulo) and Morus species (kimbu). Bamboos, tree ferns, Cyathea species, Rhododendron species, interspersed with *Lyoniaov alifolia*, are also found inside the protected area and the sanctuary is also home to a large number of wild orchids, mosses and Lycopodium species;

And whereas, there is a settlement in an area of 32.38 hectare inside the sanctuary, but does not form part of sanctuary;

And whereas, the sanctuary is a habitat for a number of scheduled animals [Specified in Schedule I of the Wild Life (Protection) Act, 1972 (53 of 1972)]and also drinking water source for the numerous villages and small towns surrounding it besides being the source for major tributaries of river Teesta, the life line of Sikkim. The sanctuary supports a large number of avifauna and is known to have a significant population of Satyr Tragopan providing a fertile breeding area for this endangered pheasant. A number of butterflies are also found in the sanctuary. The Sanctuary is the nearest protected area from Gangtok with large tract of green cover;

And whereas, the Sanctuary is the habitat which supports variety of rare and endangered animals viz, goral, serow, red panda, himalayan black bear, weasels, martens, leopard, jungle cat, marbled cat, large Indian civet and palm civet. avi-faunal diversity exhibits kalij pheasant, satyr tragopan, hill partridge, brown wood owl, collared scops owl, yellow-billed blue magpie, black eagle, green pigeon, slaty-headed parakeet, yellow backed sun bird, maroon oriole, orange-bellied chloropsis, red-tailed minla, Nepal tree creeper, bulbuls, laughing thrushes and titmice which are present in the sanctuary.

And whereas, it is necessary to conserve and protect the area around the Fambonglho Wildlife Sanctuary and to propagate improvement and development of the wildlife therein and its environment;

And whereas, it has become necessary to specify certain areas around the Fambonglho Wildlife Sanctuary as Eco-sensitive Zone and to prohibit industries, operations or processes or class of industries, operations or processes in the said Eco-Sensitive Zone.

Now, therefore, in exercise of the powers conferred by Sub-section (1), clause (v) and clause (xiv) of Sub-section (2) and Sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby notifies an area up to 25metres all around the boundary of the Fambonglho Wildlife Sanctuary in the State of Sikkim as the Eco-sensitive Zone, details of which are as under, namely:-

1. **Extent and boundaries of Eco-sensitive Zone.**- (1)The extent of Eco-sensitive Zone shall be 25 meters all around the boundary of the Fambonglho Wildlife Sanctuary.

(2) The Eco-sensitive Zone is bounded by 27° 21' 51" N latitude and 88°36'25"E longitude towards east (Reference point No.1 of map); 27°17'57"N latitude and 88°28'33"E longitude towards west (Reference point No.9 of map); 27°22'49"N latitude and 88°34'50"E longitude towards north (Reference point No.4 of map) and 27°16'22"N latitude and 88°30'13"E longitude towards south (Reference point No.11 of map).

- (3) The map of Eco-sensitive Zone boundary together with its latitudes and longitudes of extremes and extent is appended to this notification as **Annexure I**.
- (4) The list of 33 villages falling within the Fambonglho Wildlife Sanctuary Eco-sensitive Zone alongwith their longitudes and latitudes at prominent points are appended to this notification as **Annexure II**:

Provided that the Annexure II shall be subject to the list of village's confirmation by the State Government in the Zonal Master Plan.

**2. Zonal Master Plan for the Eco-sensitive Zone.-** (1)The State Government shall, for the purpose of effective management of the Eco-sensitive Zone, prepare a Zonal Master Plan within a period of two years from the date of publication of this notification in the Official Gazette, for the consideration and approval of the Central Government in the Ministry of Environment, Forests and Climate Change, in consultation with the local people and with the following concerned State Departments, namely:-

- (i) Forest, Environment and Wildlife Management;
- (ii) Sikkim Police;
- (iii) Urban Housing Development;
- (iv) Tourism;
- (v) Rural Management and Development;
- (vi) Irrigation and Flood Control;
- (vii) Public Works Development;
- (viii) Land Revenue; and
- (ix) Disaster Management.

(2) The Zonal Master Plan shall provide for restoration of degraded areas, conservation of existing water bodies, management of catchment areas, watershed management, ground water management, soil and moisture conservation, needs of local community and such other aspects of ecology and environment that need attention.

(3) The Zonal Master Plan shall demarcate all the existing and proposed urban settlements, village settlements, types and kinds of forest, agriculture areas, horticultural areas, lakes, other water bodies and entrepreneurial units.

(4) The Zonal Master Plan shall contain the measures as may be specified by the Central Government or the State Government, for regulation of activities specified under column (2) of the table specified in paragraph 4.

(5) The Zonal Master Plan so prepared shall be co-terminus with the regional development plan.

**3. Measures to be taken by State Government.-** The State Government shall take the following measures for giving effect to the provisions of this notification, namely:—

(1) **Land Use.-**Forests, horticulture areas, agricultural areas, parks and open spaces earmarked for recreational purposes in the Eco-sensitive Zone shall not be used or converted into areas for commercial or industrial related development activities:

Provided that the conversion of agricultural lands within the Eco-sensitive Zone may be permitted on the recommendation of the State Level Eco-sensitive Zone Monitoring Committee (SESZMC), and with the prior approval of the State Government, to meet the residential needs of the local residents, and for the activities listed at item numbers 12, 25, 26, 30 and 31 specified under column (2) of the table in paragraph 4, namely:—

- (i) Rainwater harvesting,
- (ii) Cottage industries including village artisans, etc.,
- (iii) Small scale industries not causing pollution,
- (iv) Eco-tourism facilities like home stays, ropeways, kiosks, funiculars, etc; and
- (v) Security Forces Camp:

Provided further that no use of tribal land shall be permitted for commercial or industrial related development activities without the prior approval of the State Government and without compliance of the provisions of the law for the time being in force, including the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007):

Provided also that any error appearing in the land records within the Eco-sensitive Zone shall be corrected by the State Government, after obtaining the views of SESZMC, only once in each case and the correction of said error shall be intimated to the Central Government in the Ministry of Environment, Forests and Climate Change:

Provided also that the above correction of error shall not include change of land use in any case except as provided under this sub-paragraph.

(2) **Natural Springs.**—The catchment areas of all springs shall be identified and plans for their conservation and rejuvenation shall be incorporated in the Zonal Master Plan and strict guidelines be drawn up for the prohibition of development activities at or near these areas.

(3) **Tourism.**—The activity relating to tourism within the Eco-sensitive Zone which shall form part of the Zonal Master Plan shall be as under, namely:-

(i) all new tourism activities or expansion of existing tourism activities within the Eco-sensitive Zone shall be in accordance with the guidelines issued by the Central Government in the Ministry of Environment, Forests and Climate Change and the Ministry of Tourism and by the National Tiger Conservation Authority, with emphasis on eco-tourism, eco-education and eco-development and based on carrying capacity study of the Eco-sensitive Zone;

(ii) new construction of any kind shall not be allowed within the Eco-sensitive Zone except the activity specified at item No. 30 relating to eco-tourism facilities like home stays, ropeways, kiosks, funiculars, etc. under column (2) of the Table in paragraph 4;

(iii) till the Zonal Master Plan is approved, development for tourism and expansion of existing tourism activities shall be permitted by the concerned regulatory authorities based on the actual site specific scrutiny and recommendation of the SESZMC.

(4) **Natural heritage.**—All sites of valuable natural heritage in the Eco-sensitive Zone such as the gene pool reserve areas, rock formations, waterfalls, springs, gorges, groves, caves, points, walks, rides, cliffs, etc. shall be identified and be preserved and proper plan be drawn up for their protection and conservation, within six months from the date of publication of this notification and such plans shall form part of the Zonal Master Plan.

(5) **Noise pollution.**—The Environment Department or the State Forest Department of Sikkim shall draw up guidelines and regulations for the control of noise pollution in the Eco-sensitive Zone in accordance with the provisions of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981).

(6) **Air pollution.**—The Environment Department or the State Forest Department of Sikkim shall draw up guidelines and regulations for the control of air pollution in the Eco-sensitive Zone in accordance with the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).

(7) **Discharge of effluents.**— The discharge of treated effluent in Eco-sensitive Zone shall be in accordance with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974).

(8) **Solid wastes.** - Disposal of solid wastes shall be as under:—

(i) The solid waste disposal in Eco-sensitive Zone shall be carried out as per the provisions of the Municipal Solid Waste (Management and Handling) Rules, 2000 published by the Government of India in the Ministry of Environment, Forests and Climate Change *vide* notification number S.O. 908 (E), dated the 25th September 2000;

(ii) the local authorities shall draw up plans for the segregation of solid wastes into biodegradable and non-biodegradable components;

(iii) the biodegradable material shall be recycled preferably through composting or vermiculture;

(iv) the inorganic material shall be disposed of in an environmentally acceptable manner.

(9) **Bio-medical waste.**—The bio-medical waste disposal in the Eco-sensitive Zone shall be carried out as per the provisions of the Bio-Medical Waste (Management and Handling) Rules, 1998 published by the Government of India in the Ministry of Environment, Forests and Climate Change *vide* Notification number S.O. 630(E), dated the 20th July, 1998.

(10) **Vehicular traffic.** - The vehicular movement of traffic shall be regulated in a habitat friendly manner and specific provisions in this regard shall be incorporated in the Zonal Master Plan and till such time as the Zonal master plan is prepared and approved by the Ministry of Environment, Forests and Climate Change, SESZMC shall monitor compliance of vehicular movement as per the rules and regulations in force.

4. **List of activities prohibited or to be regulated within the Eco-sensitive Zone.**—All activities in the Eco-sensitive Zone shall be governed by the provisions of the Environment (Protection) Act, 1986 (29 of 1986) and be regulated in the manner specified in the Table below, namely:—

TABLE

Sl. No.	Activity	Prohibited	Regulated	Permitted	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1.	Commercial Mining, stone quarrying and crushing units.	Yes	-	-	(a) All new and existing mining (minor and major minerals), stone quarrying and crushing units are prohibited except for the domestic needs of <i>bona fide</i> local residents.  (b) The mining operations shall strictly be in accordance to the orders of the Hon'ble Supreme Court dated 04.08.2006 in the matter of T.N. Godavarman Thirumulpad Vs. UOI in W.P.(C) No. 202 of 1995 and dated 21.04.2014 in the matter of Goa Foundation Vs. UOI in W.P.(C) No. 435 of 2012.
2.	Felling of trees.	-	Yes	-	(a) There shall be no felling of trees on the forest land or Government or revenue or private lands without prior permission of the competent authority in the State Government.  (b) The felling of trees shall be regulated in accordance with the provisions of the concerned Central or State Act and the rules made thereunder.
3.	Setting up of saw mills.	Yes	-	-	
4.	Setting up of industries causing water or air or soil or noise pollution.	Yes	-	-	No new or expansion of existing polluting industries shall be permitted within the Eco-sensitive Zone.
5.	Use or production of any hazardous substances.	Yes	-	-	
6.	Commercial establishment of hotels and resorts.	Yes	-	-	No new or expansion of existing commercial establishments such as hotels and resorts shall be permitted within the Eco-sensitive Zone.
7.	Commercial use of firewood.	Yes	-	-	
8.	Commercial water resources including ground water harvesting.	-	Yes	-	(a) The extraction of surface water and ground water shall be allowed only for <i>bona fide</i> agricultural use and domestic consumption of the occupier of the land.  (b) The extraction of surface water and ground water for industrial or commercial use including the amount that can be

					extracted, shall require prior written permission from the concerned Regulatory Authority. (c) No sale of surface water or ground water shall be permitted. (d) Steps shall be taken to prevent contamination or pollution of water from any source including agriculture.
9.	Establishment of new major hydroelectric projects.	Yes	-	-	Setting up of new hydro-electric power plants (dams, tunneling, and construction of reservoir) and expansion of existing plants in the Eco-sensitive Zone is prohibited except the micro hydel power projects (Up to 100KW) or the mini hydel power projects (from 101 to 2000KW), which would serve the energy needs of the local communities, subject to consent of the concerned Gram Sabha and all other requisite clearances.
10.	Erection of electrical cables and telecommunication towers.	-	Yes	-	Promote underground cabling.
11.	Ongoing agriculture and horticulture practices by local communities along with dairies, dairy farming, aquaculture and fisheries.	-	-	Yes	
12.	Rain water harvesting.	-	-	Yes	Shall be actively promoted.
13.	Fencing of existing premises of hotels and lodges.	-	Yes	-	
14.	Vegetative fencing			Yes	
15.	Organic farming.	-	-	Yes	Shall be actively promoted.
16.	Widening and strengthening of existing roads and construction of new roads.	-	Yes	-	Shall be done with proper Environment Impact Assessment and mitigation measures, as applicable.
17.	Movement of vehicular traffic at night.	-	Yes	-	For commercial purpose.
18.	Introduction of exotic species.	-	Yes	-	
19.	Undertaking activities related to tourism like over-flying the sanctuary area by hot-air balloons, etc.	Yes	-	-	
20.	Protection of hill slopes and river banks.	-	Yes	-	
21.	Discharge of untreated effluents and solid waste in natural water bodies or land area.	Yes	-	-	

22.	Discharge of treated effluents in natural water bodies or land area.	-	Yes	-	Recycling of treated effluent shall be encouraged and for disposal of sludge or solid wastes, the existing regulations shall be followed.
23.	Commercial Sign boards and hoardings.	-	Yes	-	
24.	Adoption of green technology for all activities.	-	-	Yes	Shall be actively promoted.
25.	Cottage industries including village artisans, etc.	-	-	Yes	
26.	Small scale industries not causing pollution.	-	Yes	-	Non polluting, non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco-sensitive Zone which do not cause any adverse impact on environment.
27.	New wood based industry.	Yes	-	-	No establishment of new wood based industry shall be permitted within the Eco-sensitive Zone.
28.	Collection of Forest produce or Non-Timber Forest Produce (NTFP).	-	Yes	-	
29.	Construction activities	Yes	-	-	No new construction of any kind shall be allowed within the Eco-sensitive Zone, except for the domestic needs of local residents including the activities listed at item numbers 12, 25, 30 and 31. In the case of activities listed at item number 26, the construction activity shall be regulated and kept at the minimum.
30.	Eco-tourism facilities like home stays, ropeways, kiosks, funiculars, etc.	-	Yes	-	
31.	Security Forces Camp		Yes		
32.	Use of plastic carry bags.	Yes	-	-	

**5. State Level Eco-sensitive Zone Monitoring Committee.**—(1) The Central Government for effective monitoring of the Eco-sensitive Zone, hereby constitute a Committee to be called the State Level Eco-sensitive Zone Monitoring Committee (SESZMC) for the State of Sikkim comprising of :—

- (i) Chief Secretary, Government of Sikkim —Chairman
- (ii) Chief Wild Life Warden, Government of Sikkim —Member;
- (iii) Representative of the Ministry of Environment, Forests and Climate Change —Member;

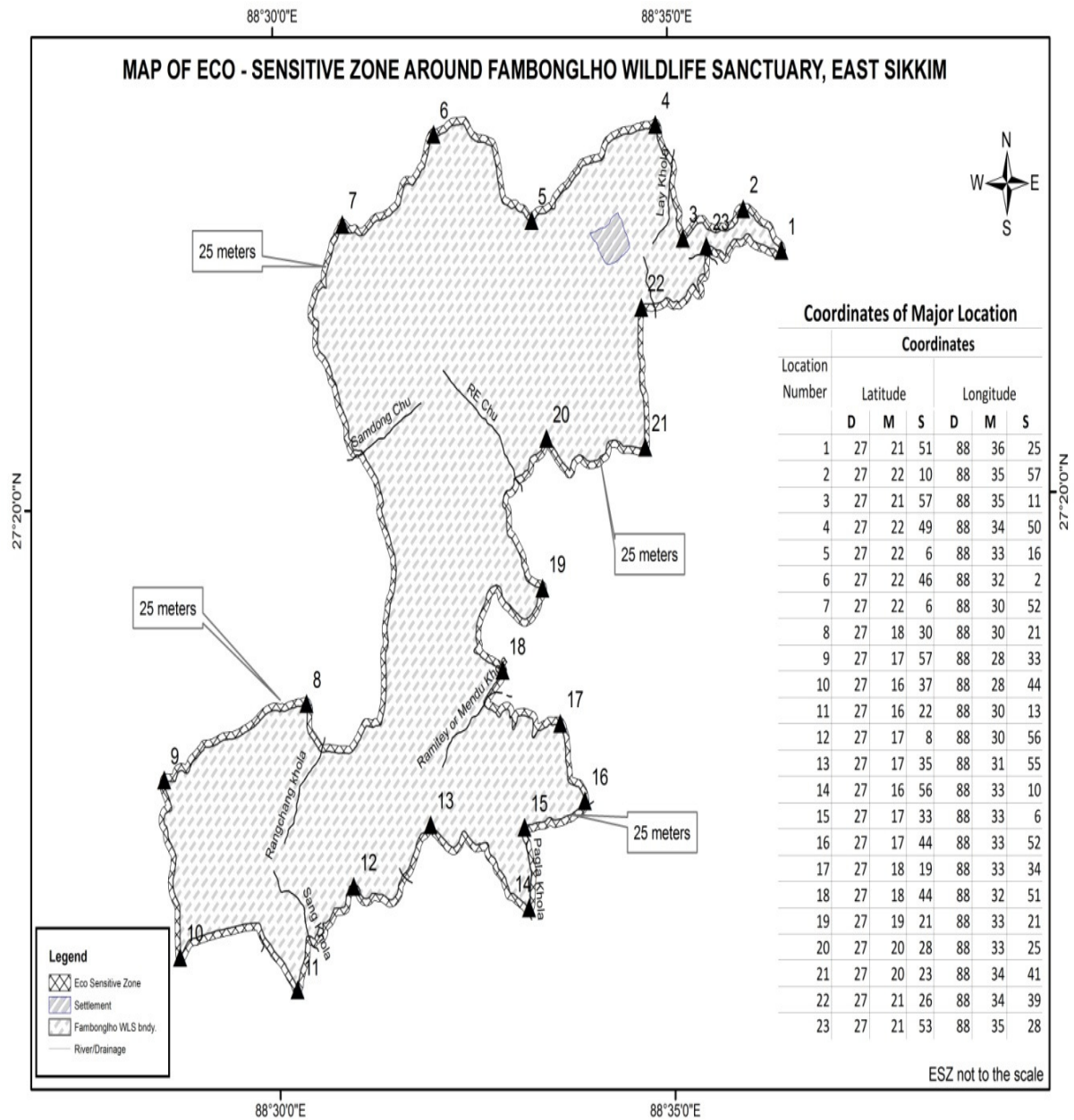
- (iv) PCCF, Government of Sikkim —Member;
- (v) Representative of State Pollution Control Board —Member;
- (vi) One representative of Non-governmental Organisations working in the field of environment to be nominated by the Government of Sikkim (for a term of one year) —Member;
- (vii) Representative of Rural Management Department, Government of Sikkim —Member;
- (viii) Representative of Govind Ballabh Pant Himalayan Institute of Environment and Development, Sikkim —Member;
- (ix) Representative of Agriculture Department, Government of Sikkim —Member;
- (x) Representative of Urban Development and Housing Department, Government of Sikkim —Member;
- (xi) Concerned District Collector —Member;
- (xii) Divisional Forest Officer (In-charge of PA) —Member;
- (xiii) Chief Conservator of Forest (Wild Life) —Member Secretary.
- (2) The SESZMC shall monitor the compliance of the provisions of this notification.
- (3) The activities that are covered in the Schedule to the notification of the Government of India in the Ministry of Environment and Forests number S.O. 1533(E), dated the 14th September, 2006, and are falling in the Eco-sensitive Zone, except the prohibited activities as specified in column(3) of the Table under paragraph 4 thereof, shall be scrutinised by the SESZMC based on the actual site-specific conditions and referred to the Central Government in the Ministry of Environment, Forests and Climate Change for prior environmental clearances under the provisions of the said notification.
- (4) The activities that are not covered in the Schedule to the notification of the Government of India in the Ministry of Environment and Forests number S.O. 1533(E), dated the 14th September, 2006 but are falling in the Eco-sensitive Zone, except the prohibited activities as specified in column(3) of the Table under paragraph 4 thereof, shall be scrutinised by the SESZMC based on the actual site-specific conditions and referred to the concerned Regulatory Authorities.
- (5) The Member Secretary of the SESZMC or the concerned Collector or the concerned park in-charge shall be competent to file complaints under section 19 of the Environment (Protection) Act, 1986 against any person who contravenes the provisions of this notification.
- (6) The SESZMC may invite representatives or experts from concerned Departments, representatives from Industry Associations or concerned stakeholders to assist in its deliberations depending on the requirements on issue to issue basis.
- (7) SESZMC shall submit the annual action taken report of its activities as of 31st March of every year by 30th June of that year to the Central Government in the Ministry of Environment, Forests and Climate Change as per proforma given in **Annexure III**.
- (8) The Central Government in the Ministry of Environment, Forests and Climate Change may give such directions, as it deems fit, to the SESZMC for effective discharge of its functions.

[F. No. 25/12/2013-ESZ-RE]

DR. G. V. SUBRAHMANYAM, Scientist 'G'

## Annexure I

## Map of Eco-sensitive Zone boundary together with its latitudes and longitude of extremes and extent.



## Annexure II

## Villages falling within the proposed Eco Sensitive Zone of Fambonglho Wildlife Sanctuary in Sikkim.

Sl. No.	NAME	Latitude			Longitude		
		Degree	Minute	Second	Degree	Minute	Second
1.	Upper Raktong	27	22	44	88	31	33
2.	Upper Tintek	27	22	18	88	30	45
3.	Raksay (Raktong Tintek Gumpa)	27	23	21	88	32	18
4.	Khese	27	20	36	88	30	28
5.	Dhanbari	27	18	48	88	30	38
6.	Chadey	27	18	41	88	29	22
7.	Namrang (Tumin Karma Choling Gumpa)	27	19	38	88	31	5

8.	Upper Samdong (Samdong Menkagyud Gumpa)	27	21	23	88	30	1
9.	Kambal	27	22	11	88	29	45
10.	Baliman	27	20	41	88	35	0
11.	Upper Lingdum	27	19	50	88	34	34
12.	Perbing	27	21	11	88	34	54
13.	Changrong	27	21	30	88	35	29
14.	Ari (Lingdok Chenkar Gumpa)	27	22	44	88	33	57
15.	Nampong	27	22	56	88	33	1
16.	Navey	27	22	41	88	35	52
17.	Lingdok	27	23	1	88	34	54
18.	Pachey	27	22	59	88	35	31
19.	Simik (Simik Daduling Gumpa)	27	17	13	88	28	31
20.	Thangsing	27	16	35	88	28	33
21.	Lingzey(Simik)	27	17	59	88	28	7
22.	Bhoteygaon	27	21	40	88	36	14
23.	Takchi	27	22	5	88	36	23
24.	Tirkutam	27	16	38	88	30	55
25.	Patieum	27	16	44	88	31	19
26.	Byang	27	15	57	88	30	5
27.	Phengyong (Song Kagyud Gumpa)	27	15	50	88	30	42
28.	Lingtam Tanka (Martam Chenkar Gumpa)	27	17	11	88	32	4
29.	Chinzey	27	17	21	88	33	57
30.	Shyagyong Rumtek	27	18	21	88	34	9
31.	Tephyak Mendu	27	18	40	88	33	39
32.	Rey	27	19	18	88	33	23
33.	Sebek Lingdum	27	20	0	88	33	51

**Annexure III****Proforma of Action Taken Report: - State Level Eco-sensitive Zone Monitoring Committee.—**

1. Number and data of Meetings
2. Minutes of the meetings: Mention main not worthy points. Attached Minutes of the meeting on separate Annexure.
3. Status of preparation of Zonal master Plan including Tourism master Plan (Eco-sensitive Zone wise)
4. Summary of cases dealt for rectification of error apparent on face of land record. (Eco-sensitive Zone wise).  
Details may be attached as Annexure
5. Summary of cases scrutinized for activities covered under Environment Impact Assessment (EIA) Notifications, 2006 (Eco-sensitive Zone wise).  
Details may be attached as separate Annexure.
6. Summary of case scrutinized for activities not covered under EIA Notification, 2006 (Eco-sensitive Zone wise).  
Details may be attached as separate Annexure.
7. Summary of complaints ledged under section 19 of Environment (Protection) Act, 1986. (Eco-sensitive Zone wise).
8. Any other matter of importance.

[F. No. 25/12/2013-ESZ/RE]

DR. G. V. SUBRAHMANYAM, Scientist 'G'

[home](#) / [math](#) / [distance calculator](#)

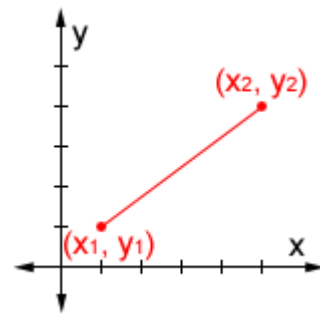
## Distance Calculator

The calculators below can be used to find the distance between two points on a 2D plane or 3D space. They can also be used to find the distance between two pairs of latitude and longitude, or two chosen points on a map.

### 2D Distance Calculator

Use this calculator to find the distance between two points on a 2D coordinate plane.

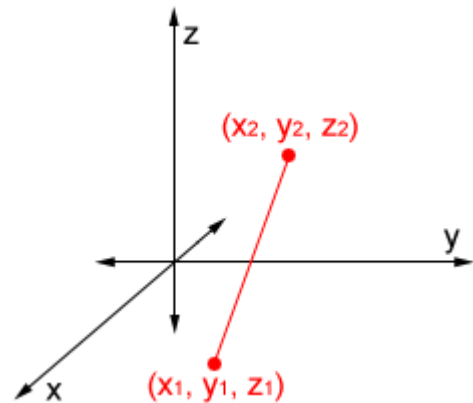
	$X_1$	$Y_1$
Point 1:	<input type="text" value="1"/>	<input type="text" value="1"/>
	)	
	$X_2$	$Y_2$
Point 2:	<input type="text" value="4"/>	<input type="text" value="5"/>
	)	
	<input type="button" value="Calculate"/>	<input type="button" value="Clear"/>



### 3D Distance Calculator

Use this calculator to find the distance between two points on a 3D coordinate space.

	$X_1$	$Y_1$	$Z_1$
Point 1:	<input type="text" value="1"/>	<input type="text" value="1"/>	<input type="text" value="1"/>
	)		
	$X_2$	$Y_2$	$Z_2$
Point 2:	<input type="text" value="2"/>	<input type="text" value="2"/>	<input type="text" value="2"/>
	)		
	<input type="button" value="Calculate"/>	<input type="button" value="Clear"/>	



### Distance Based on Latitude and Longitude

Use this calculator to find the shortest distance (great circle/air distance) between two points on the Earth's surface.

Result

The distance between [27.1946, 88.3659] and [27.2151, 88.3625] is:

**2.30 km or 1.43 miles**

	Latitude 1	Longitude 1
Point 1:	<input type="text" value="27.1946"/>	<input type="text" value="88.3659"/>
	Latitude 2	Longitude 2
Point 2:	<input type="text" value="27.2151"/>	<input type="text" value="88.3625"/>
	<input type="button" value="Calculate"/>	<input type="button" value="Clear"/>



## Distance on Map

Click the map below to set two points on the map and find the shortest distance (great circle/air distance) between them. Once created, the marker(s) can be repositioned by clicking and holding, then dragging them.

Clear



## Distance in a coordinate system

### Distance in a 2D coordinate plane:

The distance between two points on a 2D coordinate plane can be found using the following distance formula

$$d = \sqrt{(x_2 - x_1)^2 + (y_2 - y_1)^2}$$

where  $(x_1, y_1)$  and  $(x_2, y_2)$  are the coordinates of the two points involved. The order of the points does not matter for the formula as long as the points chosen are consistent. For example, given the two points  $(1, 5)$  and  $(3, 2)$ , either 3 or 1 could be designated as  $x_1$  or  $x_2$  as long as the corresponding  $y$ -values are used:

Using  $(1, 5)$  as  $(x_1, y_1)$  and  $(3, 2)$  as  $(x_2, y_2)$ :

$$\begin{aligned}
 d &= \frac{96}{\sqrt{(3-1)^2 + (2-5)^2}} \\
 &= \frac{96}{\sqrt{2^2 + (-3)^2}} \\
 &= \frac{96}{\sqrt{4+9}} \\
 &= \frac{96}{\sqrt{13}}
 \end{aligned}$$

Using (3, 2) as  $(x_1, y_1)$  and (1, 5) as  $(x_2, y_2)$ :

$$\begin{aligned}
 d &= \sqrt{(1-3)^2 + (5-2)^2} \\
 &= \sqrt{(-2)^2 + 3^2} \\
 &= \sqrt{4+9} \\
 &= \sqrt{13}
 \end{aligned}$$

In either case, the result is the same.

### Distance in a 3D coordinate space:

The distance between two points on a 3D coordinate plane can be found using the following distance formula

$$d = \sqrt{(x_2 - x_1)^2 + (y_2 - y_1)^2 + (z_2 - z_1)^2}$$

where  $(x_1, y_1, z_1)$  and  $(x_2, y_2, z_2)$  are the 3D coordinates of the two points involved. Like the 2D version of the formula, it does not matter which of two points is designated  $(x_1, y_1, z_1)$  or  $(x_2, y_2, z_2)$ , as long as the corresponding points are used in the formula. Given the two points (1, 3, 7) and (2, 4, 8), the distance between the points can be found as follows:

$$\begin{aligned}
 d &= \sqrt{(2-1)^2 + (4-3)^2 + (8-7)^2} \\
 &= \sqrt{1^2 + 1^2 + 1^2} \\
 &= \sqrt{3}
 \end{aligned}$$

### Distance between two points on Earth's surface

There are a number of ways to find the distance between two points along the Earth's surface. The following are two common formulas.

#### Haversine formula:

The haversine formula can be used to find the distance between two points on a sphere given their latitude and longitude:

$$d = 2r \sin^{-1} \left( \sqrt{\sin^2 \left( \frac{\phi_2 - \phi_1}{2} \right) + \cos(\phi_1) \cos(\phi_2) \sin^2 \left( \frac{\lambda_2 - \lambda_1}{2} \right)} \right)$$

In the haversine formula,  $d$  is the distance between two points along a great circle,  $r$  is the radius of the sphere,  $\phi_1$  and  $\phi_2$  are the latitudes of the two points, and  $\lambda_1$  and  $\lambda_2$  are the longitudes of the two points, all in radians.

The haversine formula works by finding the great-circle distance between points of latitude and longitude on a sphere, which can be used to approximate distance on the Earth (since it is mostly spherical). A great circle (also orthodrome) of a sphere is the largest circle that can be drawn on any given sphere. It is formed by the intersection of a plane and the sphere through the center point of the sphere. The great-circle distance is the shortest distance between two points along the surface of a sphere.

Results using the haversine formula may have an error of up to 0.5% because the Earth is not a perfect sphere, but an ellipsoid with a radius of 6,378 km (3,963 mi) at the equator and a radius of 6,357 km (3,950 mi) at a pole. Because of this, Lambert's formula (an ellipsoidal-surface formula),

more precisely approximates the surface of the Earth than the haversine formula (a spherical-surface formula) can.

### Lambert's formula:

Lambert's formula (the formula used by the calculators above) is the method used to calculate the shortest distance along the surface of an ellipsoid. When used to approximate the Earth and calculate the distance on the Earth surface, it has an accuracy on the order of 10 meters over thousands of kilometers, which is more precise than the haversine formula.

Lambert's formula is as follows:

$$d = a\left(\sigma - \frac{f}{2}(X + Y)\right)$$

where  $a$  is the equatorial radius of the ellipsoid (in this case the Earth),  $\sigma$  is the central angle in radians between the points of latitude and longitude (found using a method such as the haversine formula),  $f$  is the flattening of the Earth, and  $X$  and  $Y$  are expanded below.

$$X = (\sigma - \sin(\sigma)) \frac{\sin^2(P) \cos^2(Q)}{\cos^2\left(\frac{\sigma}{2}\right)}$$

$$Y = (\sigma + \sin(\sigma)) \frac{\cos^2(P) \sin^2(Q)}{\sin^2\left(\frac{\sigma}{2}\right)}$$

Where  $P = (\beta_1 + \beta_2)/2$  and  $Q = (\beta_2 - \beta_1)/2$

In the expressions above,  $\beta_1$  and  $\beta_2$  are reduced latitudes using the equation below:

$$\tan(\beta) = (1 - f)\tan(\phi)$$

where  $\phi$  is the latitude of a point.

Note that neither the haversine formula nor Lambert's formula provides an exact distance because it is not possible to account for every irregularity on the surface of the Earth.

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