

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

I.A. NO. 92 /2024

IN

ORIGINAL APPLICATION NO. 105/2024/EZ

IN THE MATTER OF:

Rohit Choudhury

...APPLICANT

VERSUS

State of Assam & Ors.

...RESPONDENTS

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DATE: 16.10.2024

PLACE: KOLKATA


MADHAV BHATIA, ADV.

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New Delhi-110024,

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NOTICE OF MOTION

Sir,

The enclosed Application is being filed seeking intervention in the subject Original Application, and the Original Application is likely to be listed on 20th November 2024, it is requested that the instant Intervention Application may be listed on 20th November 2024 or any date, thereafter. Please take notice accordingly.

DATE: 16.10.2024
PLACE: KOLKATA


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I.A. NO. /2024

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ORIGINAL APPLICATION NO. 105/2024/EZ

IN THE MATTER OF:

Rohit Choudhury ...APPLICANT

VERSUS

State of Assam & Ors. ...RESPONDENTS

AND IN THE MATTER OF:-

Pradeep Singh Shekhawat
Aged about 37 Years,
S/o Govind Singh, R/o A-34, A,
Vivekanand Colony, Naya Khera,
Jaipur, Rajasthan – 302023 ...INTERVENOR

**APPLICATION ON BEHALF OF THE APPLICANT – PRADEEP
SINGH SHEKHAWAT SEEKING INTERVENTION IN THE ABOVE
CAPTIONED MATTER**

MOST RESPECTFULLY SHOWETH:

1. That the present intervention application is being filed by the applicant in the above captioned matter to assist this Hon'ble Tribunal with relevant facts and concerns related to the illegal construction activities within the Geleky Reserve Forest, as highlighted in the main Original Application. The applicant seeks to contribute meaningfully to the adjudication of the issues raised, particularly with respect to

violations of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and the rules framed thereunder.

2. That the Applicant herein, Pradeep Singh Shekhawat, is a concerned environmentalist, who has been actively working for the protection of the forests and natural resources in the State of Assam. The Applicant has filed an Original Application bearing OA No. 192/2024/EZ along with with IA No. 70/2024/EZ before this Hon'ble Tribunal in relation to illegal diversion of land and unauthorized construction activities in *Barak Bhuban Wildlife Sanctuary* located in Cachar District, Assam. By way of order dated 19.09.2024, this Hon'ble Tribunal was pleased to issue notice in the main original application and dispose of IA No. 70/2024/EZ. The matter is still pending adjudication and will be next listed on 06.12.2024

A true copy of the order dated 19.09.2024 passed by this Hon'ble Tribunal in OA No. 192/2024/EZ is annexed herewith and marked as **Annexure A-1**

3. That the Applicant submits that the pending Original Application OA No. 192/2024/EZ regarding environmental violations in another area of Assam, namely the Barak Bhuban Wildlife Sanctuary, highlights systemic issues of non-compliance with forest conservation laws by state officials, including the former Principal Chief Conservator of Forests (PCCF), Shri M.K. Yadava. The present intervention application filed by the Applicant is aimed at bringing further attention to the pattern of illegal forest diversion and the need for strict accountability of officials responsible for such violations.

4. That the Applicant further submits that his participation in these proceedings would enable him to share insights from his own experiences and provide relevant information that may assist this Hon'ble Tribunal in evaluating the actions and decisions of the Assam Forest Department in the present matter, particularly those of Shri M.K. Yadava, who has previously been involved in similar unauthorized diversions of forest land without proper clearances.
5. That the applicant seeks to support the main prayer of the original application filed by Rohit Choudhury, which calls for an immediate halt to the illegal construction activities within the Geleky Reserve Forest, as well as the restoration of the damaged forest area. The applicant further seeks that the officials responsible, including Shri M.K. Yadava, be held accountable under the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
6. That the applicant respectfully submits that this application for intervention is made in a bonafide manner for the larger public interest of ensuring that the forest laws are upheld, and the fragile ecosystem of Assam is preserved. The applicant seeks to assist the Hon'ble Tribunal in arriving at a just and fair decision that will promote environmental conservation and hold erring officials accountable for their actions.
7. The applicant respectfully submits that the balance of convenience in the present matter strongly favors the protection and preservation of the environment, as well as the upholding of statutory environmental laws. The ongoing illegal construction and diversion of forest land in

the Geleky Reserve Forest poses an imminent threat to the environment, biodiversity, and ecological balance of the region. Given that the applicant is intervening to ensure the implementation of laws designed to prevent such irreparable harm to the forest, the balance of convenience clearly tilts towards allowing the intervention in favor of environmental protection.

8. Further, the Respondents would suffer no prejudice if the present intervention application is allowed as the Applicant seeks to assist the Hon'ble Tribunal with relevant facts and arguments related to environmental violations that are already under scrutiny. On the contrary, the intervention will serve the larger public interest by ensuring that all facts are fully and fairly considered, enabling a comprehensive and just determination of the issues involved.
9. The applicant further submits that the present application for intervention is made in good faith and with bona fide intentions. The applicant has a legitimate interest in the outcome of these proceedings, given his active involvement in similar environmental matters within the state of Assam, particularly concerning illegal forest diversion.

PRAYER

It is most respectfully prayed that this Hon'ble Appellate Tribunal may be pleased to:

- a. Allow the present intervention application and allow the Applicant herein to intervene in the present Original Application bearing OA 105/2024/EZ;

b. Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper in the facts of the present case;

FILED



DATE: 16.10.2024
PLACE: KOLKATA

MADHAV BHATIA, ADV.
A-446, LGF, Defence Colony,
New Delhi-110024,
Mob:9910572585
Email: madhavbhatia@vertarilegal.com

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

I.A. NO. /2024

IN

ORIGINAL APPLICATION NO. 105/2024/EZ



IN THE MATTER OF:

ROHIT CHOUDHURY

...APPLICANT

VERSUS

STATE OF ASSAM & ORS.

...RESPONDENTS

AFFIDAVIT

I, Pradeep Singh Shekhawat, S/o Govind Singh, R/o A-34, A, Vivekanand Colony, Naya Khera, Jaipur, Rajasthan – 302023, aged about 37 Years, do hereby solemnly affirm and state on oath as under:

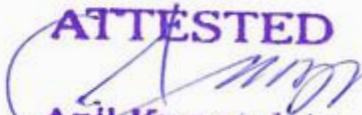
1. That I am the Applicant in the present Application and as such am fully conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That I have gone through the contents of the accompanying application that has been drafted by my counsel according to my instructions and the contents of the same are true and correct to my knowledge.


DEPONENT

VERIFICATION

Verified on this ____ day of ____ 2024 that the contents of the present Affidavit are true and correct to my knowledge and nothing material has been concealed.



ATTESTED

Anil Kumar Jain
Notary (Govt. of India)
JAIPUR (Raj.)


DEPONENT

22 OCT 2024

Item No.02

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.192/2024/EZ
(I.A. No.70/2024/EZ)

Pradeep Singh Shekhawat

Applicant(s)

Versus

State of Assam & Ors.

Respondent(s)

Date of hearing: 19.09.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. A.D.N. Rao, Sr. Advocate
Mr. Madhav Bhatia, Advocate

ORDER

1. Heard Mr. A.D.N. Rao, learned Senior Counsel assisted by Mr. Madhav Bhatia, learned Counsel appearing for the Applicant.
2. This Original Application has been filed by the Applicant, seeking the following reliefs:-
 - a. *“Issue suitable order/directions directing the Respondents to stop all illegal constructions, including the illegal construction of road to Bhuban Hill, within the Barak Bhuban Wildlife Sanctuary located in Cachar District, Assam;*
 - b. *Issue suitable order/directions directing the Respondents to undertake site inspection and assess the damage done to the forest area and to recover payment for Compensatory Afforestation and Net Present Value from the erring officials of the Forest Department were responsible illegal activities;*
 - c. *Direct that Sh. MK Yadava and the concerned officials of the Respondent No.2 be made personally liable for the damage caused to the forest area and pay compensation for the loss to ecology and environment;*
 - d. *Direct punishment of Sh. MK Yadava-Respondent No.3 and other concerned officials of Respondent No.2 as well as Respondent No.3*

under Section 3A and 3B for committing offences under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980;

e. Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case."

3. The Applicant in the present Original Application is stated to be a resident of A-34, A, Vivekanand Colony, Naya Khera, Jaipur, Rajasthan, and is stated to have conducted a lot of investigative work on the adverse impacts of illegal mining in Rajasthan as well as in Assam.
4. The allegation, *inter alia*, of the Applicant is of construction of a road within the Barak Bhuban Wildlife Sanctuary without obtaining prior approval from the Central Government as mandated by the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
5. It is also alleged that the illegal construction is still ongoing and creating an environmental hazard in the said Wildlife Sanctuary.
6. Mr. A. D. N. Rao, learned Senior Counsel has also drawn our attention to Annexure-A/7 (page no.78) to the Original Application, which is the Minutes of the field visit of the site in question dated 29.11.2022, and submits that in the report itself it is mentioned by the then PCCF & HoFF, Assam, that diversion of the area under the Forest (Conservation) Act, 1980, and afforestation in an equivalent area elsewhere, in which case, the road as well as the Right of Way (ROW) of the road shall be under the control of the PWD; the Forest Department shall have no control over the road as it will be a public road.
7. Learned Senior Counsel further submits that in the Minutes dated 29.11.2022, two Approaches were suggested for purposes of taking decision. Approach-1 mentions that the Forest Department shall have no control over the road as it will be a public road; whereas

Approach-2 mentions that the entire control of the road and Right of Way (ROW) shall continue to be with the Forest Department.

Approach 1 & 2 of the Minutes dated 29.11.2022 read as under:-

***Approach 1:** Diversion of the area under FC Act and afforestation in an equivalent area elsewhere, in which case, the road as well as the ROW of the road shall be under the control of the PWD; the Forest department shall have no control over the road as it will be a public road.*

***Approach 2:** The entire land to be under the control of the Forest Department by way that the road to be developed by PWD on behalf of the Forest Department. In that case the entire control of the road and ROW shall continue to be with the Forest Department.”*

8. Learned Senior Counsel further submits that subsequently in the said Minutes a decision was taken that the Forest Department will have full control of the road as it will be a departmental road with right of the PWD to maintain it at regular intervals. Learned Senior Counsel, therefore, submits that construction of the road over the land which is admitted in the report to be forest land would amount to diversion of forest land which is not permitted without sanction of the Central Government in view of the mandatory provisions of Section 2 of the Forest (Conservation) Act, 1980, irrespective of whether the Forest Department will have full control of the road as mentioned in the Minutes dated 29.11.2022.
9. Matter requires consideration.
10. Issue notice to the Respondents, returnable within four weeks.
11. Ms. Malabika Roy Dey, learned Counsel who is present in Court, accepts notice on behalf of the Respondent Nos.1, 2 & 5, State Respondents, Government of Assam.
12. Ms. Apurba Ghosh, learned Counsel who is present in (Virtual Mode), accepts notice on behalf of the Respondent No.4, MoEF&CC.
13. Issue notice to the Respondent No.3, returnable within four weeks.

14. All the Respondents shall file their counter-affidavits within four weeks.
15. The Applicant shall take steps for service of the copy of the Original Application along with all its annexures upon Ms. Malabika Roy Dey and Mr. Apurba Ghosh, Counsel for the Respondents, as well as the Respondent No.3, and file affidavit of service within one week.
16. **List on 06.12.2024.**

(I.A. No.70/2024/EZ):-

1. This I.A. has been filed by the Applicant, seeking stay of illegal construction including the illegal construction of road to Bhuban Hill within the Barak Bhuban Wildlife Sanctuary located in Cachar District, Assam, and for constituting a Committee to assess the extent of illegal diversions within the said Sanctuary.
2. Considering the allegations made, by way of interim measure, we provide that unless and until there is sanction from the Central Government as required under Section 2 of the Forest (Conservation) Act, 1980, no construction shall be permitted within the Barak Bhuban Wildlife Sanctuary during the pendency of the present Original Application.
3. I.A. No.70/2024/EZ is accordingly disposed of.

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

September 19, 2024,
 Original Application No.192/2024/EZ
 (I.A. No.70/2024/EZ)
 AK

// TRUE COPY//

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH KOLKATA
ORIGINAL APPLICATION NO. 105/2024/EZ**

IN
IA ___/2024/EZ

IN THE MATTER OF:

ROHIT CHOUDHURY

...APPLICANT

VERSUS

STATE OF ASSAM & ORS.

...RESPONDENTS

KNOWN ALL to whom these presents shall come that I, Pradeep Singh Shekhawat, Applicant in the above captioned Interim Application, do hereby appoint:

VERTARILEGAL

Madhav Bhatia, Shreshth Arya, Shreyuss Shankar Joshi

A-446 (LGF), Defence Colony, New Delhi – 110024

(M) +91 9910572585; (E) madhavbhatia@vertarilegal.com

- Herein after called Advocates to be my/ our advocates in the above noted case and authorized them to act appear and plead in the above noted case in the Court or in any court in which the same may be tried or heard and also in the appellate courts including High Court and the Supreme Court
- To sign, verify and present pleadings application, appeals, cross objections or petitions for execution, review, restoration, withdrawal, compromise or other petitions, replies, objections or affidavits or documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
- To file and take back documents.
- To withdraw or compromise the said case or submit to arbitration any difference of disputes that may arise touching or in any manner relating to the said case. To take out execution proceedings.
- To deposit, draw and receive moneys, cheques and grant receipts there and to all other acts and things which may be necessary to be done for the progress and in the course of prosecution of that said case.
- To appoint and instruct other legal practitioners authorizing him to exercise the power and authorize hereby confer upon the advocate whenever he may think fit to do so and singe the power of attorney on our behalf.
- And I/ We undersigned do hereby agree ratify and confirm acts done by the advocates or his substitute in the matter is my/ our acts as if done by me/us to all intents and purposes.
- And I/ We undersigned do hereby agree that in the event of any part of the fees agreed by me/ us to be paid to the advocate remaining unpaid, he shall be entitled to withdraw from the prosecution and would be entitled to the same.

IN THE WITNESS WHEREOF I/ We do hereby upto put my/ our hand to these presents the contents to which have been understood by me/us on the 13 day of Nov 2024

Accepted





Client



Outlook

Proof of Service

Application seeking intervention in "OA105/2024/EZ Rohit Choudhury -vs- State of Assam & Ors"

From Apurv Yash <Apurvyash@vertarilegal.com>

Date Fri 08-11-2024 19:43

To Malabika RoyDey <mrdey@rediffmail.com>; parul.lawyer@gmail.com <parul.lawyer@gmail.com>; amritalegal@gmail.com <amritalegal@gmail.com>

1 attachments (3 MB)

IA_for_intervention_by_Pradeep_Singh_Shekhawat[1] (1).pdf;

Dear Sir,

We act for and on behalf of our client Mr. Pradeep Singh Shekhawat, Applicant in the enclosed Intervention Application. You are requested to please find attached the Application seeking intervention in the subject matter pending before the National Green Tribunal, East. Kindly take notice that this mail shall be treated as proof of service for all purposes henceforth.

Regards

Apurv Yash

Associate

Vertari Legal

A – 446 (LGF), Defence Colony, New Delhi – 110024

E-mail: apurvyash@vertarilegal.com

Mobile: + 91 9471884337

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