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IN THE HON'BLE NATIONAL GREEN TRIBUNAL EASTERN ZONE BENCH,
AT KOLKATA

IN

ORIGINAL APPLICATION No. 175 OF 2024 (EZ)

In the Matters of:

News Item titled "Proposed luxury hotels in and around kaziranga wildlife conservation livelihood" appearing in Mongabay dated 31.07.2024

....Applicant

Vs

Union of India and Others.

...Respondents

INDEX

SL NO.	PARTICULARS	PAGE No.
1.	Common Reply Affidavit on Behalf of the Respondent No. 3 (MoEFCC) and Respondent No. 4 (NTCA)	2 - 8
2.	A Gazette Notification issued by the Government of Assam Orders by the Governor Environment & Forest Department. (Annexure - 1)	9 - 10

FILED BY



AMRITA PANDEY

ADVOCATE FOR Respondent
No. 3 (MoEFCC) & Respondent
No. 4 (NTCA)
F/747/2009
DATE: 14.11.2024

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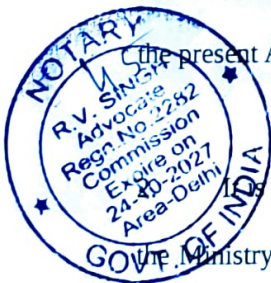
COMMON REPLY AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO. 3 (MoEFCC) AND RESPONDENT NO. 4 (NTCA)

I, **Hemant Singh S/o Santosh Singh**, aged about 36 Years, at present posted as **Assistant Inspector General of Forests (AIGF)**, National Tiger Conservation Authority (NTCA), CGO Complex, New Delhi-110003, do hereby solemnly affirm and state as under:

1. That I am presently working as **AIGF**, Ministry of Environment, Forest and Climate Change, Government of India, and am well conversant with the facts and circumstances of the present case from the records maintained with the Respondent Ministry and I am duly authorized and competent to swear

the present Affidavit on behalf of the Respondents Nos. 3 and 4.

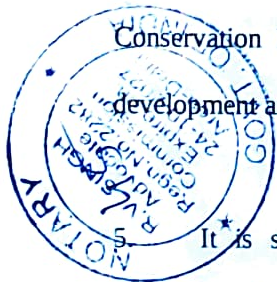
It is submitted that the National Tiger Conservation Authority (NTCA) is a statutory body under the Ministry of Environment, Forest and Climate Change, constituted under enabling provisions of the Wildlife (Protection) Act, 1972, as amended in 2006, for strengthening tiger conservation, as per power and functions assigned to it under the said Act. It has been successful in fulfilling its mandate within the



ambit of the Wildlife (Protection) Act, 1972 for strengthening tiger conservation in the country by retaining an oversight through advisories/normative guidelines, based on appraisal of tiger status, ongoing conservation initiatives and recommendations of specially constituted committees. As such, the National Tiger Conservation Authority has an overarching role in the matter of tiger conservation.

3. It is pertinent to mention that the State Government is mandated with the day-to-day administration of field formations within the State as per the Wildlife (Protection) Act, 1972. The National Tiger Conservation Authority assists the tiger range States by hand-holding and providing necessary funding support, for protection, strengthening of anti-poaching activities including a special strategy for monsoon patrolling, for deployment of anti-poaching squads involving ex-army personnel and more home guards, apart from workforce comprising of local people, in addition to the strengthening of communication and wireless facilities on a site-specific basis.

4. It is submitted that the Wildlife (Protection) Act, 1972 as amended in 2006, under Section 38 V made it mandatory that every Tiger Reserve should be managed in accordance with a site-specific scientific management plan i.e. Tiger Conservation Plan which is the road map for managing a tiger reserve. The said plan includes the concept of core-buffer zonation, prescribed interventions for protection, habitat improvement, field data collection relating to changes in the composition of flora and fauna, animal estimation and other aspects. It is mandatory for the State Government to prepare a 'Tiger Conservation Plan' for the proper management of a tiger reserve, which will also include a staff development and deployment plan.



It is submitted that the National Tiger Conservation Authority has issued Notifications/ Guidelines from time to time and as and when required. It is further submitted that the State Government is mandated with the day-to-day administration of field formations within the State as per the Wildlife (Protection) Act, 1972 and this answering respondent issues Advisories / Guidelines to be implemented by State Governments.

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6. It is submitted that this answering respondent has issued guidelines for tourism activities in Tiger Reserves. The National Tiger Conservation Authority (Normative Standards for Tourism Activities and Project Tiger) Guidelines, 2012 under Section 38 O (1) (c) of the Wildlife (protection) Act, 1972 issued in 2012 provide the specific terms and conditions with respect to tourism in Tiger Reserves. As per the said guidelines 2012, no new tourism infrastructure is permitted in core areas.

7. It is submitted that the term 'tourism' in the context of Tiger Reserves is contemplated as "ecotourism", which needs to be ecologically sustainable nature-tourism. It is distinct from 'mass tourism' having sustainable, equitable, community based effort for improving the living standards of local, host communities living on the fringes of tiger reserves. Ecotourism is fostered under 'Project Tiger' to benefit the host community in accordance with tiger reserve specific Tourism 'Plan forming' part of the Tiger Conservation Plan, subject to regulation as per carrying capacity, with a focus on buffer areas. Since, tourism has been happening in areas of national parks and wildlife sanctuaries which are now designated as core or critical tiger habitat, regulated low impact tourism (visitation) is allowed in such areas subject to site specific carrying capacity. However, no new tourism infrastructure should be permitted in such core and critical tiger habitats. The opportunities for stakeholders would include management of low-cost accommodation for tourists, providing guide services, providing sale outlets, managing excursions, organizing cultural activities and the like.

8. It is submitted that the Chief Wildlife Warden of the State shall ensure that each tiger reserve prepares a tourism plan, as part of the statutory Tiger Conservation Plan, mandated under Section 38 V of the Wildlife (Protection) Act, 1972, vis-a-vis guidelines of the National Tiger Conservation Authority.

This site-specific tourism plan forming part of the Tiger Conservation Plan shall be approved as per the provisions of the Wildlife (Protection) Act, 1972. Prior to this approval, no new infrastructure for

tourism (except for minor alterations in existing modest home stays) shall be allowed to be developed in and around tiger reserves. The Tiger Conservation Plan of the Kaziranga Tiger Reserve is yet to be

submitted by the State Government of Assam.

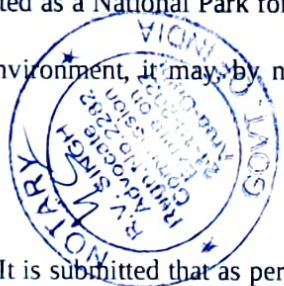


9. It is submitted that the tourism plan shall, inter alia, include a monitoring mechanism, estimated carrying capacity, which may be modified on a site-specific basis), tourism zones and demarcation of the area open to tourism based on objective and scientific criteria. It is pertinent to mention herein that “any core area in a tiger reserve from which relocation has been carried out, shall not be used for tourism infrastructure”.

10. It is submitted that permanent tourist facilities located inside core or critical tiger habitat, which are being used for wildlife tourism shall be phased out on a time frame decided by the Local Advisory Committee (LAC). Strict plans ensuring low impact adherence by these facilities shall be developed and approved by the LAC for implementation. There shall be no privately run facilities such as catering, etc., inside the core or critical tiger habitat. Such existing facilities if any, are to be run by the Tiger Conservation Foundations.

11. It is submitted that, Wild Life (Protection) Act, 1972 has been enacted with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country.

12. It is submitted that as per Section 35(1) of the Wild Life (Protection) Act, 1972, “Whenever it appears to the State Government that an area, whether within a sanctuary or not, is, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, needed to be constituted as a National Park for the purpose of protecting, propagating or developing wild life therein or its environment, it may, by notification, declare its intention to constitute such area as a National Park.”



13. It is submitted that as per Section 26A (1) (b) of the Wild Life (Protection) Act, 1972, when any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological

significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification.

14. It is submitted that the Kaziranga Proposed Reserve Forest was created with an area of 232 square km on 1st June 1905 and with the enactment of Assam National Park Act of 1968, it was declared as the National Park.

(a) It is submitted that vide notification dated 03.08.2007, the State Government of Assam, declared the Kaziranga Tiger Reserve. A copy of notification dated 03.08.2007 is annexed herewith as **Annexure - I.**

(b) It is submitted that, as per Section 35(6) of the Wild Life (Protection) Act, 1972, "No person shall destroy, exploit or remove any Wild Life including forest produce from a National Park or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the National Park, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the National Board that such removal of wild life from the National Park or the change in the flow of water into or outside the National Park is necessary for the improvement and better management of wild life therein, authorizes the issue of such permit."

(a) It is further submitted that Section 33 of the Wild Life (Protection) Act, 1972 provides that the Chief Wild Life Warden shall be the authority to control, manage and protect all Sanctuaries.

(b) It is also submitted that as per section 34A of the Wild Life Protection) Act, 1972,

1) *Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Conservator of Forests may,-*

a) *evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;*

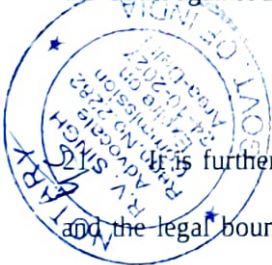


b) remove any unauthorised structures, buildings, or constructions erected on any Government land within any sanctuary or National Park and all the things, tools and effects belonging to such person shall be confiscated, by an order of an officer not below the rank of the Deputy Conservator of Forests: Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.

2) The provisions of this section shall apply notwithstanding any other penalty which may be inflicted for violation of any other provision of this Act.

19. It is submitted that as per section 51 (1) of the Wild Life (Protection) Act, 1972, any person who contravenes any provision of this Act (except Chapter VA and section 38J) or any rule or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both.

20. It is further submitted that in accordance with section 55 (b) of the Wild Life (Protection) Act, 1972, the Chief Wild Life Warden, or any other officer authorized in this behalf by the State Government subject to such conditions as may be specified by that Government may file complaints in the Court against the offenses under the Act.



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



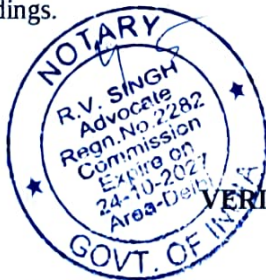
22. It is submitted that prior approval of the Central Government under Section-2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is required for carrying out any non-forestry activity on forest land.

23. The proposal for declaration of the Eco-sensitive Zone around Kaziranga Tiger Reserve has been received in the Ministry and is under examination.

24. It is further submitted that in the case of unauthorized construction or illegal encroachments, the State Government is itself empowered to take action and initiate proceeding against the wrongdoers.

25. It is submitted that the present affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s), direction(s), as deemed fit and proper under the facts and circumstances of the present case.

26. That other/ancillary issues raised in the petition under reply do not pertain to the answering respondent. The answering Respondent craves leave to make additional submissions, if required, during the course of the proceedings.



VERIFICATION

[Signature]
DEPONENT

I, **Hemant Singh**, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct to my knowledge derived from the records of the case and believed to be true. No part of it is false and nothing material has been concealed therefrom. Verified at New Delhi on this the 11 day of **November**, 2024.

solemnly affirmed before me, read over & explained to the deponent

[Signature]
Notary Public, DELHI

[Signature]
DEPONENT

14 NOV 2024

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সংখ্যা - ৭৬৮/৯৭

Registered No. 768/97



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ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 266 দিশপুৰ, শুক্ৰবাৰ, 3 আগষ্ট, 2007, 12 শ্ৰাবণ, 1929 (শক)
 No. 266 Dispur, Friday, 3rd August, 2007, 12th Sravana, 1929 (S.E.)

GOVERNMENT OF ASSAM
 ORDERS BY THE GOVERNOR
 ENVIRONMENT & FOREST DEPARTMENT

NOTIFICATIONThe 3rd August, 2007

NO. FRW- 6/2007/23. In exercise of the powers conferred under Section 38 V(i) of The Wild Life (Protection) Act 1972 as amended up to date, and in pursuance of the approval of the Government of India communicated vide letter No. 3-1/2003-PT, dtd. 5th August 2006, the Governor of Assam is pleased to declare the land described in the schedules below as a 'Tiger Reserve' with effect from the date of publication of this notification in the official gazette.

SCHEDULESA. Location, Area and Name

District Golaghat, Nagaon and Sonitpur
 Sub-division (civil) Bokakhat, Kaliabor, Nagaon, Biswanath, Gohpur and Tezpur
 Forest Division Eastern Assam Wildlife and Nagaon Wildlife
 Name KAZIRANGA TIGER RESERVE
 Area Core : 48203.85 ha. [482 sq km]
 Buffer : 54835.55 ha. [548 sq km]
 Total : 1,03039.40 ha. [1,030 sq km]



B. Description of the Boundary/Area

The 'Core Area' comprises of the following areas as per their original notified boundary descriptions:

Area	Area in Ha.	Notification Number
1. Kaziranga National Park	42993.00	FOR/WL/722/68, dtd. 1-1-1974
2. First Addition to Kaziranga National Park	4378.75	FRS. 253/90/198, dtd. 28-5-1997
3. Second Addition to Kaziranga National Park	646.98	FRS. 197/85/9, dtd. 10-7-1985
4. Third Addition to Kaziranga National Park	69.76	FRS. 101/85/3, dtd. 31-5-1985
5. Fifth Addition to Kaziranga National Park	115.36	FRS. 26/85/2, dtd. 13-7-1985

The 'Buffer Zone' comprises of the following areas as per their original notified boundary descriptions:

Area	Area in Ha.	Notification Number
1. Fourth Addition to Kaziranga National Park	89.754	FRS. 104/85/41, dtd. 3-8-1988
2. Sixth Addition to Kaziranga National Park	37600.00	FRS. 104/85/289, dtd. 7-8-1999
3. Kukurakata Reserved Forest	1592.87	48, dtd. 23-11-1889
4. Panbari Reserved Forest	765.84	677R, dtd. 22-2-1913
5. Bagser Reserved Forest	3367.05	5310E, dtd. 15-7-1919
6. Laokhowa Wildlife Sanctuary	7013.79	FRS. 863/78/Pt I/17, dtd. 12-9-1979
7. Burhachapori Wildlife Sanctuary	4406.25	FRW. 31/92/PV15, dtd. 11-10-1995

Dr. ANWARUDDIN CHOUDHURY,
Joint Secretary to the Govt. of Assam,
Environment & Forest Department.