

BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE
BENCH, KOLKATA
ORIGINAL APPLICATION No. 141/2024/EZ

Animesh Barman

...Applicant

Versus

The Union of India and others.

....Respondents

INDEX

Sl. No.	Particulars	Page No.
1.	Affidavit.	1 to 06
2.	Annexure- R-1	08 to 11
3.	Annexure - R-2	12 to 13

Sudip Kumar Dutta

Filed by: Sudip Kumar Dutta Advocate for the State of W.B.



26 MAR 2025

BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE
BENCH, KOLKATA
ORIGINAL APPLICATION No. 141/2024/EZ

Animesh Barman

...Applicant

Versus

The Union of India and others.

....Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 7, THE ADDITIONAL
PRINCIPAL CHIEF CONSERVATOR OF FOREST (APCCF), NORTH
BENGAL, WITH THE ORDER OF THE HON'BLE GREEN TRIBUNAL,
EASTERN ZONE, ORDER DATED 02.09.2024, 25.10.2024 and
25.02.2025

I, Shri Rajesh Kumar, son of Shri Kamta Prasad , aged about 56 years, by faith: Hindu, by occupation- Government Service, now posted as Additional Principal Chief Conservator of Forests, North Bengal, Directorate of Forests, Government of West Bengal having its office at Forest Administrative Building, Block-B, Jabravita, South Santi Nagar, Dabgram-II, Jalpaiguri, Pin-734004, do hereby solemnly affirm and state as follows:-

1. I am working as Additional Principal Chief Conservator of Forests, North Bengal, Directorate of Forests, Government of West Bengal and I have made myself acquainted with the facts and circumstances of this case and am competent to affirm this affidavit.



2. That by an order dated 02.09.2024, 25.10.2024 and 25.02.2025 the Hon'ble National Green Tribunal, Eastern Zone, Kolkata, was pleased to direct the respondents to file counter-affidavit.

3. That this affidavit is being affirmed in pursuant to the solemn order passed by the Hon'ble Tribunal on 02.09.2024, 25.10.2024 and 25.02.2025.

4. That an application was received from Animesh Barman, the applicant herein, on 13.05.2024 regarding illegal construction over Government (PWD) land corresponding to LR Plot no – 748, LR Khatian No – 398/3, corresponding to Mouja – Kutipara (Baneswar) JL No – 34, PS – Pundibari, Dist – Cooch Behar, within the near vicinity of century old Baneswar Shiva Temple.

5. That the same was forwarded by the Divisional Forest Officer, Cooch Behar Division to the Executive Engineer, Cooch Behar Highway Division, PWD Roads Dte. for information and perusal vide letter no 1711/26-2 dated 29.05.2024.

The copy of the said letter is annexed herewith and marked as **Annexure- R-1.**

6. That as per the Notification of the Environment Department, Government of West Bengal vide No. 880-EN/T-II-7/003-ii/2003 dated 3rd July 2020 the plot in question is declared as "Baneswar Shiva Dighi Bio Diversity Heritage Site" to strengthen the biodiversity conservation and to stop habitat degradation in and around the pond which is refuge



to Black Softshell Turtle (*Nilssonina nigricans* Anderson, 1875) locally revered as 'Mohan'.

The copy of the said Notification is annexed herewith and marked as **Annexure- R-2**.

7. That the undersigned submits that in the application filed by the applicant on 13.05.2024 before this Hon'ble Tribunal, the schedule of land as mentioned is under Govt. (PWD) land corresponding to LR plot no - 748, LR Khatian no - 398/3, Mouja - Kutipara (Baneswar) J.L No - 34, PS - Pundibari, District - Cooch Behar, which is not a Forest land and the same is also not under the possession of Forest Department.

8. That the undersigned submits that the collection of species of plants, animals and microbes from the Baneswar Shiva Dighi, requires to be regulated as per the provisions of Biodiversity Act, 2002 and West Bengal Biological Diversity Rule, 2005.

9. That the undersigned submits that as per Notification No. 880-EN/T-II-7/003-ii/2003 dated 3rd July 2020 passed by the Environment Department, Government of West Bengal, the management of "Baneswar Shiva Dighi Bio Diversity Heritage Site" is vested with the Gram Panchayet level Biodiversity Committee (BMC) of Cooch Behar-II, Block under the overall supervision of the District level BMC/District Magistrate of Cooch Behar District in Consultation with the West Bengal Biodiversity Board. The Forest department is supposed to intervene in the instant matter, if there is any violation of law and regulations pertaining to the provisions of the Wildlife (Protection) Act, 1972 as amended up to date or if there is any disturbance or harm



caused to the habitat of the Black Softshell Turtle which is a Schedule I species declared under the Wildlife (Protection) Act, 1972.

10. Furthermore, the Forest Department in coordination with officials mentioned above will play technical and consultative role in habitat and conservation related issues involved within the legal framework of the Wildlife (Protection) Act, 1972.

11. That the undersigned states that it is fact that these Black Softshell Turtles (*Nilssonina nigricans* Anderson, 1875) which is Schedule I species under the Wildlife (Protection) Act, 1972, occasionally cross the boundary of the Shiva Dighi to venture out for other adjoining water bodies. The Role of Forest Department is only restricted to the well-being and conservation of these Black Softshell Turtles.

12. That the land where the alleged "Illegal as well as unauthorized construction" is taking place is a non-forest land which is not under the control and possession of the Forest Department. Thus, the application and/or objection of the Applicant was duly forwarded by the Divisional Forest Officer, Cooch Behar Division to the Executive Engineer, Cooch Behar Highway Division, PWD Roads Dte. for information and perusal vide letter no 1711/26-2 dated 29.05.2024.

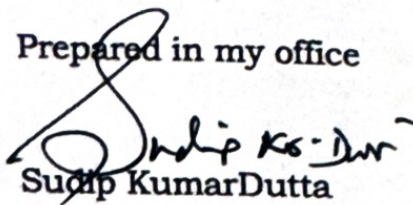
13. It is therefore prayed that the Hon'ble Tribunal may pass necessary order or further orders as it deem fit and proper in the interest of justice.

14. The statements made in paragraph 1 to 12 are based on information derived from the record which are usually kept and



maintained by the answering respondents in the ordinary course of business and which I believe to be true and rest thereof are my humble submission before this Hon'ble Tribunal.

Prepared in my office


Sudip Kumar Dutta

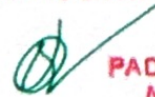
Advocate



Deponent

**Addl. Principal Chief Conservator
of Forest, North Bengal**

**SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME ON IDENTIFICATION**



**PADMA DAS
NOTARY**

26 MAR 2025





GOVERNMENT OF WEST BENGAL
DIRECTORATE OF FORESTS
OFFICE OF THE DIVISIONAL FOREST OFFICER
COOCHBEHAR DIVISION

EAST KAMESWARI ROAD, P.O. & DIST. COOCHBEHAR, WEST BENGAL – 736101
Phone – 03582-227727, Fax 03582-230751, E-mail : cobdivn@gmail.com



No. 1711 / 26-2

Dated, Cooch Behar, the 29/05/2024

From : Divisional Forest Officer,
Cooch Behar Division.

To : The Executive Engineer,
Cooch Behar Highway Division
PWD Roads Dte.
Cooch Behar

Sub : Objection regarding illegal-construction over Govt.(PWD) Land at Baneswar, Pundibari -Reg.

Sir,

With reference to above, please find enclosed a complaint letter dated 13.05.2024 regarding illegal-construction over Govt.(PWD) Land at Baneswar, Pundibari.

This is for your kind information and perusal.

Divisional Forest Officer
Cooch Behar Division

1.



Mohan
15/1/24

DIVISIONAL OFFICER
COOCHBEHAR DIVISION

Dated- 15.05.2024
Reg. No. 1232
Case No. 28
Date 21/05/2024

1. The Chairman, west Bengal Bio Diversity Board, (Department of Environment), Prani Sampad Bhawan (5th floor) LB - 2, Sector - III, Salt Lake City Kolkata- 700106, West Bengal, India
2. The District Magistrate & President of Coochbehar Debutter Trust Board, Office at Sagar Dighee Square , Post Office and District - Coochbehar, PIN - 736101
3. The Sub-Divisional Officer sadar & cum Ex- officio Member of Coochbehar Debutter Trust Board, Office at Sagar Dighee Square , Post Office and District - Coochbehar, PIN - 736101
4. The Executive Engineer, Public Works Department, (PWD ROADS), Cooch Behar Division, Sunity Road, Near Circuit House, PO & Dist- CoochBehar, Pin-736101
5. The Divisional Forest Officer, Coochbehar. Division. Office at- Kameswari Road (East), Near Coochbehar Airport, PO & Dist.: Coochbehar, Pin:- 736101
6. The Block Land & Land Reforms Officer, Coochbehar-II , Po- Pundibari, Dist-Coochbehar-736165
7. The Officer -in -Charge, Pundibari, Police Station, Po- Pundibari, Dist-Coochbehar-736165
8. The Pradhan, Baneswar Gram Panchayat, office of The Coochbehar -II Panchayat Samity, Po- Baneswar, Dist- Coochbehar, Pin- 736165,

Subject:— Objection regarding illegal-constructions over Govt. (PWD) land corresponding to LR plot No. 748, LR khatian No. 398/3 ,corresponding to Mouja- Kutipara, (Baneswar) JL-34, PS- Pundibari, Dist- Coochbehar, within the near vicinity of century old Baneswar Shiva Temple thereby, creating unnatural hindrance /obstruction for the Black soft-shell turtles, locally called "Mohan" towards adversely impacting their ecology system.

Respected Sir/ Madam,

With profound respect and utmost sincerity, we the under signed beg to demonstrated that, being the local inhabitants of kutipara (Baneswar) mouja under Baneswar Gram Panchayat, Coochbehar -II Panchayat Samity, within the near vicinity of century old Baneswar Shiva Temple, we have been cherishing the species being the Black soft-shell turtles, locally called "Mohan" generation after generations who have

RECEIVED
15.05.24



been naturally build up their ecology system in the century old baneswar shiva temple pond which has been under the administrative control of Coochbehar Debutter Trust Board.

Regard being had to the fact that, in a natural course of event those Black soft-shell turtles, locally called Mohan, roam around the other ponds, water bodies for their natural survivals situating within the periphery of kutipara (Baneswar) mouja under Baneswar Gram Panchayat, Coochbehar -II Panchayat Samity regarding which frequently the species require to cross the state highway (PWD Road) which connects between Coochbehat to Alipurduar districts. By virtue of Notice Vide No. 880-En/T-11-7/003-II/2003 dated 03.07.2020 under Section 37 (1) of Biological Diversity Act 2002 The west Bengal Bio Diversity Board has been pleased to recommend this sensitive area as " Baneswar Shib Dighi Bio Diversity Heritage Area" and simultaneously innumerable cautioning have also been affixed encompassing the area keeping in mind the safety-security and conservations of those Black soft-shell turtles.

It is noteworthy to mention here that, from last couple of months an adverse plight suddenly emerged as we have identified few illegal as well as unauthorized constructions over and above the Govt. (PWD) land without any lawful-sanction or permission randomly built up, particularly by two individuals namely one Samir Biswas and by one Sudarshan Mahato over Govt. (PWD) land corresponding to LR plot No. 748, LR khatian No. 398/3 ,corresponding to Mouja- Kutipara, (Baneswar) JL-34, PS- Pundibari, Dist- Coochbehar, within the near proximity of state highway (PWD Road) which connects between Coochbehat to Alipurduar districts and such road as well as roadside area is frequently used by those species for their natural as well as biological crossing cum movement corridor . Even the competent authority has also restricted the speed limit of all vehicles highly considering their natural as well as biological cum movement corridor. pertinent to mention here that, despite relentless objections substantiating our specific grievances regarding the unnatural hindrance /obstruction for the Black soft-shell turtles, towards adversely impacting their ecology system upon obstructing their natural and easy movement cum crossing for those illegal as well as unauthorized construction situating particularly at the road (state Highway) side. Curiously enough, having been indulged into an unholy alliance by the said private individuals and local administrations the constructions works is in progress blatantly violating the existing Rules and regulations towards endangering the ecology of those



species being the Black soft-shell turtles, locally called Mohan thereby shutting down their ecological-corridors .

Under the above factual circumstances, we the under signed humble pray before your good office to immediately initiate appropriate proceedings forthwith to conduct a field enquiry, if necessary, to ascertain our legitimate prayer thereby stopping or demolishing those illegal as well as unauthorized constructions over and above the Govt. (PWD) land which are without any lawful-sanction or permission, considering the historical, cultural and heritage-recommended Baneswar Shib Dighi Bio Diversity Heritage Area" so that those species being the Black soft-shell turtles, locally called Mohan could be conserved and protected accordingly .

Hope an indispensable and efficacious measures would be taken from your end considering the gravity and seriousness of the issue within a period of 7 days from the date of receiving this representation.

COPY TO :-

1. Samir Biswas

Son of Ratan Biswas
Of Vill- Sonari Nikotiyar Kuthi
PO - Baneswar
Ps- pundibari
Dist- Coochbehar-736133

2. Sudarshan Mahato

Son of Sadhu saran Mahato
vill & Po- Baneswar, PS- pundibari
Dist- Coochbehar-736133

Yours Sincerely

① Animesh Barman

② Sushanta Raj

③ Rajesh Roy

④ Dipak Roy



- 6) मिन्मन झाकाय
- 7) अरुण मेठ झाकाय
- 8) इन्टर मेठ
- 9) Biswasit Borman
- 10) Tanushree RAY
- 11) मिन्मन झाकाय
- 12) Milton Das



6. Milon Sarkar
7. Saral Dev Karji
8. Monoj Ghosh
9. Biswajit Burman
10. Tanushree Ray
11. Sisir Das
12. Milton das



The
Kolkata Gazette



सत्यमेव जयते

Extraordinary
Published by Authority

SRAVANA 23]

FRIDAY, AUGUST 14, 2020

| SAKA 1942

PART I.—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
Environment Department

NOTIFICATION

No. 880-EN/T-II-7/003-ii/2003.—3rd July, 2020.—Whereas, Baneswar Shiva Dighi is a pond measuring about 1.65 acre located in Mouza Baneswar in Coochbehar District and offers refuge to Black Softshell Turtle (*Nilssonia nigricans* Anderson, 1875, locally revered as 'Mohan' which is under Appendix I of CITES and is extinct in the wild as per IUCN ;

And, whereas, to strengthen the biodiversity conservation and to stem habitat degradation in and around the pond, the State Government, upon the recommendation of the West Bengal Biodiversity Board, has felt it necessary to declare the area as the Baneswar Shiva Dighi Biodiversity Heritage Site ;

And, whereas, the collection of species of plants, animals and microbes from the Baneswar Shiva Dighi requires to be regulated as per the provisions of the Biological Diversity Act, 2002 and West Bengal Biological Diversity Rules, 2005.

And, whereas, no-objection regarding declaration of Baneswar Shiva Dighi has been resolved in the meeting held by District Magistrate of Coochbehar on 17.12.2019 with concerned Biodiversity Management Committee, local authorities and other stakeholders, and thereafter no objection regarding said Biodiversity Heritage Site declaration has been conveyed by the office of the District Magistrate of Coochbehar ;

Now, therefore, in exercise of the powers conferred under sub-section(1) of Section 37 of the Biological Diversity Act, 2002 and sub-rule(2) of rule 20 of the West Bengal Biological Diversity Rules, 2005, the Governor is hereby pleased to declare Baneswar Shiva Dighi and surrounding areas in the immediate vicinity as Baneswar Shiva Dighi Biodiversity Heritage site.

The details of the area and boundary of Baneswar Shiva Dighi Biodiversity Heritage Site is given below :—



BANESWAR SHIVA DIGHI BIODIVERSITY HERITAGE SITE

The Area covered :—

Area	: 1.65 Acre (perimeter of 328 meters)
Mouza	: Baneswar
Gram Panchayat	: Baneswar
Panchayat Samity	: Coochbehar-II
District	: Coochbehar
Boundary	: West : Park, Shiva Mandir Road in further west East : Metalled Road North : Baneswar Shiva Mandir area South : Metalled Road (New Baneswar Road)

GPS-Co-ordinates of the Baneswar Dighi Biodiversity Heritage Site :—

The boundaries of the proposed Biodiversity Heritage Site (BHS) are subtended by GPS co-ordinates mention below :

Waypoint	Waypoint name	Latitude(°N)	Longitude (°E)
1	North-East	26.3985°	89.4986°
2	North-West	26.3985°	89.4977°
3	South-East	26.397796°	89.498563°
4	South-East	26.397835°	89.497699°

The management of Baneswar Shiva Dighi Biodiversity Heritage Site shall be done by the Gram Panchayat level Biodiversity Management Committee (BMC) of Baneswar Gram Panchayat, BMC of Coochbehar-II Block under the overall supervision of the District level BMC/District Magistrate of Coochbehar District in consultation with the West Bengal Biodiversity Board.

This Notification shall come into effect from the date of its publication in *The Kolkata Gazette*.

By order of the Governor,

Sd/-

Principal Secy. to the Govt. of West Bengal.

