

**NATIONAL GREEN TRIBUNAL EASTERN ZONE BENCH,
KOLKATA**

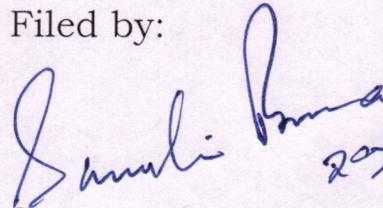
ORIGINAL APPLICATION No. 105 / 2024/EZ

(Rohit Choudhary -Vs- The State of Assam and others)

I N D E X

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Filed by:


20/7/25

Santanu Bora, Advocate

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**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN
ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 105 OF 2024 / EZ

X
filed by
Respondent no. 1
Panbazer - Santai Bura
S.C., NBT, Assam

IN THE MATTER OF :

Rohit Choudhury

.....*APPLICANT*

-Versus-

The State of Assam and others

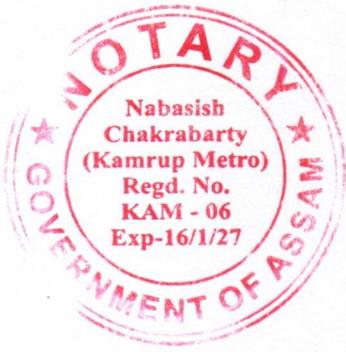
.....*RESPONDENTS*

Sri Sachindran Das -
Joint Secretary to the Government of Assam
Environment & Forest Department
Government of Assam
Dispur, Guwahati-781006

-AND-

IN THE MATTER OF :

An affidavit on behalf of the Respondent-1, through the Joint Secretary to the Govt. of Assam, Department of Environment, Forest and Climate Change, Government of Assam to bring on record relevant order of the Hon'ble National Green Tribunal Principal Bench, New Delhi.



NCS
NABASISH CHAKRABARTY
NOTARY Govt. of Assam
Regd. No. KAM - 06
Panbazer, Guwahati - 781001

29 JUL 2025

X

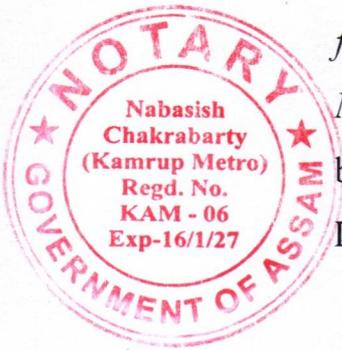
AFFIDAVIT

I Shri Sachindra Das, son of Lt. Bachiram Das , aged about 57 years, presently holding the post of Joint Secretary to the Govt. of Assam, Department of Environment Forest and Climate Change, Government of Assam, Dispur, Kamrup (Metro), do hereby solemnly affirm and state as follows: -

1. That I am the Joint Secretary to the Govt. of Assam, Department of Environment Forest and Climate Change, State of Assam. As such, I am fully conversant with the facts and circumstances of the case.

2. That for due adjudication of instant Original Application, the answering deponent takes the opportunity to bring on record order dated 30.05.25 passed in OA No. 61/2024 (*News Item title "Assam PCCF MK Yadava accused of illegal clearing protected forest for 'Commando Battalion' appearing in the Northeast Now News dated 25.12.2023 -Verses- The State of Assam and Others*) by the Hon'ble National Green Tribunal Principal Bench, New Delhi.

The issue involve in the instant case is absolutely identical in nature , as such the order dated 30.05.25 passed in OA No. 61/2024 (*News Item title "Assam PCCF MK Yadava accused of illegal clearing protected forest for 'Commando Battalion' appearing in the Northeast Now News dated 25.12.2023 -Verses- The State of Assam and Others*) by the Hon'ble National Green



স্বাক্ষর
NABASISH CHAKRABARTY
 NOTARY Govt. of Assam
 Regd. No. KAM - 06
 Panbazer, Guwahati - 781001

29 JUL 2025

Sri Sachindra Das
 Joint Secretary to the Government of Assam
 Environment & Forest Department
 Government of Assam
 Dispur, Guwahati-781006

X

Tribunal Principal Bench, New Delhi is brought on records for due perusal and adjudication of the instant case.

A copy of the order dated 30.05.25 passed in OA No. 61/2024 by the Principal Bench, New Delhi is annexed and marked as **ANNEXURE – I**

3. That the answering deponent begs to state and clarify that, order dated 30.05.25 passed in OA No. 61/2024 by the Principal Bench, New Delhi involving setting up a Commando Battalion in Hailakandi district of Barak valley bordering the State of Mizoram. Whereas, the instant OA involving an identical issued for setting up of Commando Battalion at Geleky in the district of Sivasagar, Assam bordering the State of Nagaland.

4. That the statements made in paragraph ___ x ___ are true to my knowledge and belief and in paragraph 1,2 and 3 are based on records and rest are my respectful submissions before this Hon'ble Tribunal and that I have not suppressed any material facts.

And I sign this affidavit on this the 29th day of July 2025 at Guwahati.

Sri Sachindran Das.

DEPONENT

Joint Secretary to the Government of Assam
Environment & Forest Department
Government of Assam
Dispur, Guwahati-781006

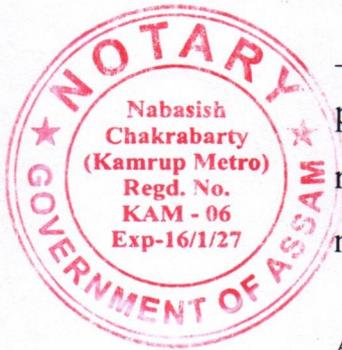
Identified by me:
Sachin Barua
Advocate

**SOLEMNLY AFFIRMED and
declared before me by the
Deponent on being identified
by learned Advocate**

N. Chakrabarty

29 JUL 2025

NABASISH CHAKRABARTY
NOTARY Govt. of Assam
Regd. No. KAM - 06
Panbazer, Guwahati - 781001



Item No. 26A

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**Original Application No. 61/2024
(I.A. No. 124/2024)

News Item titled "Assam: PCCF MK Yadava accused of illegally clearing protected forest for Commando Battalion" appearing in the Northeast Now News dated 25.12.2023

Date of completion of hearing and reserving of order: 28.04.2025

Date of pronouncement of order: 30.05.2025

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Devajit Saikia, Advocate General with Mr. A.H. Laskar & Mr. P. Nayak, Addl. A.G. for the State of Assam, Mr. Thakur Sumit, Advocate for MoEF&CC.
Mr. Prabhakar Kandpal & Ms. Suman Kharb, Advocates for MoEF&CC.
Ms. Parul Gupta, Adv. in I.A. No. 124/2024 (Through VC)

ORDER

1. This Original Application (OA) was registered *suo-motu* based on the news item titled "Assam: PCCF MK Yadava accused of illegally clearing protected forest for Commando Battalion" published in the Northeast Now News dated 25.12.2023. The news item had disclosed that an environmental activist had filed the complaint with the Ministry of Environment, Forest and Climate Change (MOEF&CC), making allegations against the Assam Government's top forest officials for illegally diverting 44 acres of protected forest land for a Commando Battalion Headquarters in Barak Valley. The complaint was against the Principal Chief Conservator of Forests (PCCF) and Head of Forest Force (HoFF) that he bypassed the mandatory procedure prescribed under Forest Conservation Act, 1980 (FC Act, 1980) while granting permission for construction of the second Assam Commando Battalion unit headquarter inside the inner line of reserved forest in Hailakandi District. Further disclosure was made in the news item



that the project was being executed by the Assam Police Housing Corporation. The news item disclosed that the inner line reserved forest established in 1877, was a sprawling 1,10,000-hectare expanse, known for its rich biodiversity, including endangered species like the Hoolock gibbon, slow Loris and clouded leopard and it was also a crucial habitat for elephants, tigers and variety of birds. It refers to the Assam Cabinet decision to establish one unit out of six in inner line reserved forest despite the protected status of the area.

2. The Tribunal, by order dated 23.01.2024, while taking up the matter in *suo-motu* exercise of power, had impleaded the Respondents and had issued notices to them. Initially, the affidavit dated 21.01.2024 was filed by the Respondent No. 2-PCCF, Assam, denying the allegation and taking the stand that no illegal diversion of 44 hectares of forest land was done and that to set up camp for the Commando Battalion created for the protection of the inner line reserved forest the space was allowed as per Cabinet decision of Government of Assam along with the Assam-Mizoram Border. The affidavit emphasised the need for setting up the camp for the Commando Battalion in that area. In this affidavit, a plea was also raised that the ownership of land was and shall continue to be with the Forest Department and the area shall continue to be a reserved forest by stating as under:-

“xxx

xxx

xxx

xiii. Also, the ownership of the land is and shall continue to be with the Forest Department and the area shall continue to be a Reserved Forest, with full access to the Assam Forest Department. Further it is to be mention that around 11.4 hectare will be utilised for housing infrastructure and facilities for the battalion which has been recovered from evicting the encroached area, while 32.5 ha area will be utilised for outdoor training purposes of the battalion of the Police and the Forest Personnel. Further, no tree is being felled in establishing the whole battalion camp.

It is pertinent to mention that as per the Government Notification dated 22-10-2021, the Battalion (Operation) was to be set up at

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Birsima, but the area being heavily forested, the location was subsequently shifted to the current spot, which was earlier occupied by the encroachers and tree felling was required.

It is pertinent to mention that the new location is free and open from trees and open area cleared from illegal encroachers and not a single tree shall be fell in the construction.

Copy of the Google map of the site demarcated under Polygon, the tentative plan of the Battalion camp and photographs of standing trees near the camp site, are annexed herewith and marked as Annexure -XII, Annexure - XIII and Annexure - XIV, respectively.”

3. The Tribunal on 15.02.2024 took note of the stand of the Respondent No. 2-PCCF, Assam and recorded the submission of Counsel for the Respondent No. 1-MoEF&CC that the communication was already sent to the concerned Authorities of the State of Assam on 16.01.2024 seeking the requisite information, which was not supplied till then. The Advocate General appearing for the State of Assam had stated that the concerned Authority of the State will take immediate steps to send all the relevant information to MoEF&CC. Therefore, the Tribunal directed MoEF&CC to make its stand clear by the next date.

4. In the meanwhile, on 09.03.2024, I.A. No. 124/2024-an application for impleaded was filed by one Rohit Choudhary, resident of village Garmur, Bokakhat, District Golaghat, Assam. Though this Application remain pending but counsel for the Applicant in this IA has been heard by the Tribunal at all subsequent stages, and the Respondents in the OA have also filed counter affidavits responding to the plea and submission of the Applicant in this IA. In this background, by this order, the IA 124/2024 is formally allowed for keeping the record straight.

5. The PCCF, Assam has filed an additional affidavit dated 12.03.2024, placing on record the necessary documents in support of the plea which was already taken in the earlier affidavit dated 21.01.2024 and additionally emphasising the need for such construction. The Respondent No. 2-PCCF, Assam also took the stand that Damchera under Gharmurah Range was

under encroachment therefore steps were taken for eviction of the area. A plea was also taken that for non-forest activity Section 2 of FC Act, 1980 was not attracted.

6. Respondent MoEF&CC had filed the affidavit dated 28.03.2024, clarifying that prior approval of the Central Government under Section 2(1)(ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 (VSESA, 1980) (earlier known as Forest (Conservation) Act) is required to carry out any non-forestry activity on forest land. This affidavit also discloses that the MoEF&CC had sought a detailed factual report from the State Government and on examination of the report, the MoEF&CC *prima-facie* observed the use of forest land for non-forestry activities without prior permission of the Central Government, which contravenes the provisions of VSESA, 1980. The affidavit further discloses that the MoEF&CC vide letter dated 18.03.2024 had directed the State Government to stop and discontinue the alleged construction activities forthwith and vide letter dated 18.03.2024 had requested the RO, MoEF&CC, Shillong, to initiate action as prescribed under Section 3A and 3B of VSESA, 1980.

7. The Tribunal also, by the order dated 14.03.2024, had made it clear that if any illegal construction was done by the State Authority on the forest land during the pendency of the OA, they will be doing so at their own risk and cost. On 23.04.2024, when the matter was listed, the learned Advocate General appearing for the State had informed that the construction activities were stopped and an application was made to the MoEF&CC for permission, which was pending.

8. Respondent No. 2-PCCF, Assam had filed the affidavit dated 23.04.2024. again, emphasising the need for setting up the camp for the

Battalion in that area and reiterating the plea that it is a non-forest activity not covered by Section 2 of the VSESA, 1980.

9. In the additional affidavit dated 05.11.2024 filed by the Joint Secretary, Environment and Forest Department, Government of Assam it was disclosed that the proposal for diversion submitted by the State of Assam for 11.5 hectare of forest land for establishment of 2nd Commando Battalion at Damchera in inner line forest reserved in Hailakandi District was under consideration before Advisory Committee of MoEF&CC and in the affidavit it was further disclosed that the notice dated 14.05.2024 annexure 5 was served by the RO, MoEF&CC, Shillong under Rules 3A, 3B and 15(3) of the VSES Adhiniyam, 1980 upon Shri M.K. Yadav, IFS retd. In the affidavit, it was further disclosed that the matter was under examination by the MoEF&CC concerning *post facto* approval of the proposal to divert 11.5 hectares of forest land. The State of Assam had filed the additional affidavit dated 20.02.2025 stating that the Government of India had issued Stage-I (in-principal approval on 21.01.2025) and that the Government of Assam had fulfilled all the conditions mentioned in the said approval, and final approval by the Ministry was pending.

10. The second additional affidavit, dated 17.03.2025, was filed by the Government of Assam, disclosing that after filing of the earlier affidavit on 20.02.2025 final Stage - II approval of the proposal was granted by the Government of India as per Rule 11 of the VSES Rules, 2023 on compliance of the conditions imposed by in-principal approval.

11. Subsequently another supplementary affidavit dated 20.04.2025 was filed by the State of Assam disclosing that it had filed an application for Environment Clearance (EC) through Parivesh 2.0 portal vide proposal dated 03.12.2024 and that State Level Environment Appraisal Committee (SEAC), Assam on 04.12.2024 had issued Terms of Reference (ToR) with

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special conditions. The Project proponent had submitted the ToR compliance report and duly uploaded it on the Parivesh 2.0 portal. The minutes of the meeting of the SEAC dated 18.03.2025 were enclosed and it was disclosed that the minutes of meeting of the SEAC were under consideration before the SEIAA, Assam.

12. Alongwith the subsequent additional affidavit dated 25.04.2025, the decision of the SEIAA, Assam, dated 22.04.2025 has been placed on record.

13. In the aforesaid factual background, we have heard the learned Advocate General for the State of Assam, learned counsel for the MoEF&CC and learned counsel for the applicant in I.A. No. 124/2024 at length.

14. The following two issues arise for consideration before the Tribunal:-

- (i) whether the approval of the Central Government under Section 2 of the FC Act, 1980, was required for the diversion of the forest land and construction of the camp for the second Commando Battalion, in question and if such a permission has been obtained? (arising from the news report which formed basis of this *suo motu* OA).
- (ii) Whether the decision of the SEIAA, Assam, dated 22.04.2025 is correct? (based on submission of the applicant in IA No. 124/2024)

15. So far as the first issue is concerned, Section 2 of the Forest Act 1980 provides as under:-

"2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose.- Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose. Explanation.-For the purposes of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for any purpose other than reforestation."

16. In the present case, the decision of the SEIAA, Assam dated 22.04.2025 records the nature of construction disclosed by the project proponent as under:-

"The august house asked the project Proponent to brief about the project details and the status of construction. It was submitted that the project has proposal of construction of non-residential building involving Office Building for the Commandment, Garage, Sentry post, M.T. Garrage With Office (20 Vehicles), Ration & Clothing Store, Magazine / Kote Building with Explosive Depot, Go's Mess / Guest House, SOS's Mess, Community Center with Canteen, Saloon, Laundry Block, Hospital (10 Bed), Drill shed with Stage, Gate Complex with 10 Men Barrack, Watch Towers, Fire Station with Barrack, AT, Control Room, Classroom block for Computer lab, Indoor Sports complex with Gym, Primary School, Family Welfare Center, Namghar, Recreation Hall, Quarters for Deputy Commandant and Assistant Commandant, Inspectors, Havildars and Barracks."

17. The above construction clearly falls within the meaning of 'non-forest activity'. It is not in dispute that the land, in question, is a forest land. In the present case, the Government of Assam had submitted the online proposal seeking approval of the Central Government under Section 2 of the FC Act, 1980 in favour of the Assam Police Housing Corporation Limited for non-forestry use of 11.5 hectare of forest land for establishment of the camp for the 2nd Commando Battalion at Dhamchera in inner line reserved forest under Hailakandi Division, Hailakandi District in the State of Assam.

18. The Government of India had granted in-principle/Stage-I approval to the proposal on 21.01.2025, subject to the fulfilment of certain conditions. The State of Assam had furnished compliance report of the conditions stipulated in the in-principal approval. Thereafter, the Central

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Government has granted approval under Section 2(1)(ii) of the FC Act, 1980 in favour of the Assam Police Housing Corporation Limited for the above project, subject to certain conditions. The condition no. 2.1 relates to the compensatory afforestation and reads as under:-

"2. Standard conditions

S. No.	Conditions
2.1	<i>The State Government shall ensure that Compensatory afforestation over 11.50 ha non-forest land inside compensatory afforestation land bank of 830. Ha. of evicted non forest land adjacent to Burahchapory Wildlife Sanctuary under Nagaon Wildlife Division, Nagaon (which is already notified as forests under the relevant provisions of Assam Forest Regulation of 1891 (VII of 1891) by the State Government against this proposal vide Environment & Forest Department notification No. ECF No. 607416/11 dated 24.01.2025) is initiated within two years from the date of issue of Stage-II approval and maintained thereafter as per approved plan by the State Forest Department at the cost of the User Agency. Further, as far as possible, a mixture of local indigenous species shall be planted and monoculture of any species may be avoided.</i>

19. Condition no. 3.6 states that the instant case shall not set any precedent. Learned counsel appearing for the MoEF&CC has placed reliance upon Rule 10(2)(v) of VSES, Rules 2023, in support of order dated 20.02.2025 passed by the Government of India (Forest Conservation Division). Thus, we are of the view that at this stage without there being any challenge to the said order further deliberation on this issue is not required. The clearance under Section 2 of the FC Act 1980, now, exists in favour of the Assam Police Housing Corporation Limited.

20. The second issue relates to the correctness of the decision dated 22.04.2025 taken by the SEIAA, Assam, in terms of EIA Notification 2006. The Assam Police Housing Corporation Limited had filed an application for the grant of Terms of Reference (ToR) under the provisions of EIA Notification 2006 vide proposal dated 03.12.2024. The SEAC had issued

the ToR dated 04.12.2024 and the applicant had submitted the ToR compliance report, which was examined by the SEAC in the meeting dated 07.03.2025. After due diligence on the project report by the SEAC, the minutes of the meeting dated 18.03.2025 were uploaded.

21. The SEIAA, Assam, had considered the issue in its 36th meeting held on 22.04.2025. The minutes of the meeting dated 22.04.2025 filed as Annexure-I (page 1460) reveal that though the SEIAA, Assam had noted the stand of the Project Proponent that Environmental Clearance (EC) is not required up to the construction of built-up area measuring 20,000 sqm. and project proponent had stopped the construction after completing 19668 sqm. But SEIAA, Assam proceeded further and took the view that the project is exempted from obtaining EC in accordance with the OM F. No. 19-2/2013-IA-III dated 09.06.2015 of the MoEF&CC which provides that the educational institutions are exempted from the requirement of EC subject to sustainable environmental management practices. By the OM dated 30.01.2025, it was clarified that the guidelines issued by the OM dated 09.06.2015 will be followed by the building projects and will continue to apply in respect of notification dated 29.01.2025. The Hon'ble Supreme Court of India in Writ Petition (Civil) No. 166/2025, in the matter of *Vanashakti v. Union of India* by order dated 24.02.2025 has stayed the operation and implementation of the notification dated 29.01.2025 and OM dated 30.01.2025.

22. In view of the above, view of the SEIAA, Assam that the project is exempted as educational institute in the Minutes of Meeting dated 22.04.2025 needs to be re-examined by SEIAA, Assam. The above infirmity in the Minutes of Meeting dated 22.04.2025 will not have any effect on the project under consideration because now the construction is confined below 20,000 sqm.

23. In the affidavit dated 25.04.2025, the State of Assam has taken the stand that it will confine its construction to 20,000 sqm. (19668 sqm. to be precise). For such a construction, EC is not required. The stand of the State of Assam in the affidavit dated 25.04.2025 is as under:

“In this regard, it is respectfully submitted before this Hon'ble Tribunal that due to the Order dated 24-02-2025, passed by the Hon'ble Supreme Court in the case of Vanashakti -vs- Union of India, being the WP(C) No. 166/2025, whereby the operation and implementation of the Notification dated 29-01-2025 issued by the MoEF&CC has been kept in stayed. Under such circumstances, the answering deponent, on behalf of the State of Assam, solemnly undertakes that the State Government is ready to dismantle all the constructions beyond 20,000 Sq. mtr. (19,668 Sq. mtr. to be precise) and shall not undertake any further construction beyond the said limit, for which no EC is required as per the provisions of the ECI Notification, 2006. In other words, the State of Assam shall restrict the construction of the buildings and premise of the Police Commando Battalion within 20,000 Sq. mtr. and, if required, shall apply afresh for the additional 8,233 Sq. mtr. as and when required and same shall be done only after obtaining EC in the appropriate category. It is also sincerely and respectfully undertaken before this Hon'ble Tribunal that the State shall strictly abide by all existing laws in force for the purpose of establishment of the Commando Battalion and, until and unless all clearances are obtained under the existing laws, it shall not start any further construction.”

24. In the above circumstances, we are of the view that no interference in this OA is required. The OA is accordingly disposed of.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 30, 2025
OA No. 61/2024 (I.A. No. 124/2024)
avt