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BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

Original Application No. 76/2025/EZ

IN THE MATTER OF:

Rahul Kumar

...Applicant

Versus

The District Magistrate,

Banka &amp; Ors.

...Respondents

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Rahul Kumar

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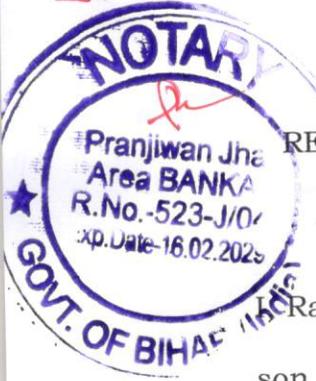
Versus

The District Magistrate, Banka & Ors.

...Respondents



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21.8.25



REJOINDER ON BEHALF OF THE APPLICANT TO THE AFFIDAVIT  
FILED BY THE RESPONDENT NO. 2

Rahul Kumar, Son of Viswanath Das, aged about 36 years, resident son of Matru Yadav, residing at Village & PO - Manjira, Banka, Bihar - 813102, do hereby solemnly affirm and state as follows:

1. That I am the applicant in the above-mentioned matter and am fully conversant with the facts and circumstances of the case. I am competent to swear this affidavit.

2. That I have carefully perused the Counter Affidavit filed on behalf of Respondent No. 2 and vehemently deny the allegations and contentions raised therein. Each and every statement made in the Counter Affidavit, to the extent it is contrary to the facts stated herein, is specifically denied and disputed. The affidavit of the Respondent is an attempt to obfuscate the core legal and environmental violations by

21.8.25

Pranjiwan Jha  
Notary Public  
BANKA (Bihar)  
R.No.-523-J-04



BEFORE THE HONBLE JUDGE, EASTERN ZONE, PATNA

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... son of ... resident ...  
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... the ... state as follows ...  
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... I have carefully ...  
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making baseless personal allegations and presenting a procedural facade that lacks substantive compliance with mandatory statutory guidelines.

3. With reference to the averments made in Paragraph 1 to 6 of the Counter Affidavit, I categorically deny that the instant Original Application has been filed for collateral purposes or in abuse of the process of law. The assertion that I lack locus standi is not only baseless but is also contrary to the settled principles of environmental jurisprudence established by the Hon'ble Supreme Court of India and this Hon'ble Tribunal, which have consistently recognized the right of any public-spirited citizen to approach the courts for the enforcement of environmental laws, acting as a pro bono publico. The project in question involves significant environmental implications for the Chandan Reservoir and its surrounding ecosystem, and as a concerned citizen residing in the district who is directly affected by the health of this vital water body, I am entitled and indeed duty-bound to seek judicial intervention to ensure strict compliance with statutory safeguards meant to protect our environment from irreversible degradation.

4. With reference to Paragraph 6(b) of the Counter Affidavit, I deny the allegation that I have not demonstrated how I am affected or aggrieved by the proposed desilting and dredging project. The project, if implemented in the illegal manner currently proposed without adhering to mandatory environmental safeguards, will have far-reaching and detrimental consequences on the local ecosystem, the

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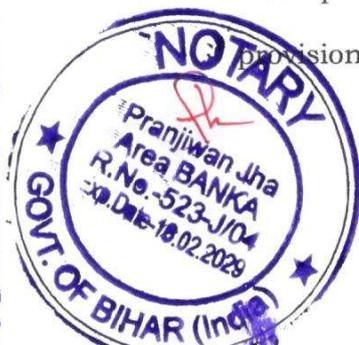
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water retention capacity and quality of the Chandan Reservoir, the stability of its banks, the local biodiversity, and the rights and livelihoods of communities and farmers dependent on this reservoir.

The contention that I am not a formally recognized social or environmental activist is irrelevant and misconceived, as environmental justice does not discriminate based on the profession or title of the applicant but is concerned solely with the merits of the environmental and legal concerns raised. My commitment to the cause is evidenced by my past actions.

5. In this context, it is most pertinent to bring to this Hon'ble Tribunal's notice that this is not the first time I am raising serious environmental issues concerning my district. On multiple occasions in the recent past, I have raised concerns over various environmental degradations. Significantly, it was I who single-handedly raised the critical issue of the non-preparation and absence of a legally mandated District Survey Report (DSR) for Banka district before this Hon'ble Tribunal in a previous proceeding, which underscores my sustained commitment and my legitimate stake in ensuring environmental compliance in the region.

6. With reference to Paragraph 6(f) and (g) of the Counter Affidavit, while the Respondent makes a hollow claim to have conducted a Detailed Project Report (DPR) and makes a passing reference to an Environment Impact Assessment (EIA), the same are fundamentally incomplete and blatantly non-compliant with the mandatory provisions of the Enforcement & Monitoring Guidelines for Sand



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Mining, 2020 ("2020 EM Guidelines") issued by the Ministry of Environment, Forest & Climate Change, Government of India. The most egregious violation is of Clause 4 and other relevant clauses of the 2020 EM Guidelines, as the Chandan Dam/Reservoir has not been included as a site identified for sand or silt mining in the District Survey Report (DSR) for District Banka, Bihar. The DSR is the foundational and prerequisite document for any sand or silt mining activity, and its absence for this specific site renders the entire process patently illegal ab initio. Reliance is placed on the judgment of the Hon'ble Supreme Court in State of U.P. vs. Gaurav Kumar & Ors., wherein it was held that the 2020 EM Guidelines are binding and mandatory and that a DSR is an indispensable prerequisite before any mining activity can be sanctioned.

7. With reference to Paragraph 6(h) of the Counter Affidavit, I deny that the dredging process is being undertaken in accordance with the National Framework for Sediment Management, 2022, or the provisions of the Environment (Protection) Act, 1986, and the EIA Notification, 2006. The Respondent has conspicuously failed to conduct a mandatory replenishment study as mandated under Clause 5 of the 2020 EM Guidelines, which is essential to scientifically compute the quantity of sand/silt that can be sustainably removed without causing ecological damage. This critical omission is a serious violation of environmental norms and completely undermines the purported purpose of the project, revealing it to be a mining-centric rather than a restoration-centric activity.



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8. With reference to Paragraph 6(j) of the Counter Affidavit, I categorically and emphatically deny the vague and unsubstantiated insinuation that I have been set up by persons inimical to the project. Such baseless allegations are a common tactic to divert the attention of this Hon'ble Tribunal from the substantive legal and environmental violations committed by the Respondents and to personally discredit a citizen who is merely seeking to uphold the rule of law. No evidence whatsoever has been provided to support this defamatory claim.

9. With reference to Paragraph 6(l) of the Counter Affidavit, I deny the assertion that I never submitted any representation before the Respondents regarding environmental degradation caused by dredging. The failure of the Respondents to acknowledge or address such representations does not absolve them of their statutory obligations to comply with the law.

10. With reference to Paragraphs 6(m) and (n) of the Counter Affidavit, while I do not contest the need to maintain the irrigation potential of the Reservoir, I respectfully but firmly state that this objective cannot be lawfully achieved at the cost of violating mandatory environmental safeguards. The Respondents' attempt to create an artificial urgency for the project does not justify non-compliance with the 2020 EM Guidelines or other statutory requirements. In fact, a closer examination of the chronology exposes the hollowness of the department's stand. The department itself acknowledges that the DSR was prepared in 2022, whereas the decision to start the process of de-silting was taken in 2023. It is astounding that any de-silting and

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dredging is proposed to be done based on a DSR that completely fails to determine the quantity and identify the specific source of the silt and sand to be removed, as is explicitly mandated in the 2020 EMGSM, particularly in Annexure-I, II and V. These annexures provide the very framework for how desiltation/dredging projects must be planned, yet the 2022 DSR is silent on these crucial aspects. It is both surprising and revealing that the Executive Engineer, Water Resources Department, Banka, was himself a member of the joint committee responsible for preparing this very DSR. It is also profoundly important to mention that this DSR was prepared on the specific directions of the Hon'ble Supreme Court in the Pawan Kumar case; despite such a clear mandate, the DSR fails to mention the basic details of quantity and source of silt and sand, making it a worthless document for the purpose it is now being misused for.

11. Furthermore, the department's assertion that de-siltation will be done over 216 Hectares is meaningless as they have completely failed to provide the specific geo-referenced coordinates of the areas where this activity would be carried out. This omission is not minor; it is fundamental and clearly indicates that the sole purpose of the tender is to create a cloak of legality for widespread and unregulated illegal mining, keeping all environmental laws at stake. The primary objective of a DSR is to identify and quantify the availability and the source of mineral, including in dams and reservoirs in the district, which has not been done. This Hon'ble Tribunal has already passed a judgment in OA 99/2022/EZ that no de-silting can be carried out without a



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DSR prepared as per MoEF&CC guidelines. The purpose of the tender appears to be nothing but large-scale illegal sand mining without following mandatory environmental law.

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12. This intent is further corroborated by the department's own corrigendum issued on 22.04.2025. As per Annexure-B of this corrigendum, a minimum of 6.11 Million Cubic Meters (MCM) of sand has to be sold by the contractor. This is shocking and confirms the worst fears. Under the disguise of removing silt, the department is effectively running a commercial mining operation, seeking to benefit and promote rampant illegal miners, which will inevitably lead to severe environmental degradation. This commercial mandate contradicts the professed goal of irrigation restoration.

13. Additionally, even as per the MoEF&CC notification S.O 3611(E) dated 25.07.2018, it is clearly mandated that "The District Survey Report shall be prepared for each minor mineral in the district separately". Here, the department has utterly failed to prepare any separate, valid DSR for the minor minerals i.e. Sand and Silt, for the Chandan Reservoir site.

14. With reference to Paragraph 6(o) of the Counter Affidavit, I deny that the E-Tender in question complies with all rules and regulations. The tender process is vitiated and fundamentally flawed due to the absence of a valid, site-specific DSR and a replenishment study, as well as the non-inclusion of the Chandan Dam in any DSR. These omissions render the tender illegal, null, and void, and unsustainable

in law.



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15. With reference to Paragraphs 6(p) and 12 of the Counter Affidavit, I deny that the decision to undertake dredging is based on sound environmental or legal principles. The minutes of the meeting dated 29.12.2023 and the letter dated 10.12.2024 (Annexure D) do not cure these fundamental and incurable defects in the process, including the absence of a valid DSR and replenishment study. They are merely internal administrative documents that cannot override statutory mandates.

16. With reference to Paragraph 7 to 13 of the Counter Affidavit, I deny that the tender document's clause requiring the selected agency to obtain all necessary environmental clearances ex post facto has any legal validity. The very premise of the tender is flawed, as it proceeds on the assumption that environmental clearances can be obtained after the fact, which is a concept expressly rejected and held to be impermissible by the Hon'ble Supreme Court in a catena of judgments. The department keeps quoting that the bidder would obtain EC, but as per the judgments passed by the Hon'ble Supreme Court in Pawan Kumar and Gaurav Kumar cases, the DSR shall be the very basis for granting an EC. In this case, since no valid DSR has been prepared for the site—a fact acknowledged by the department—it is a legal impossibility for any Environmental Clearance to be obtained lawfully.

17. The tender condition is therefore a mere eyewash and an attempt to circumvent the law.

18. With reference to Paragraphs 14 to 18 of the Counter Affidavit, I deny each and every allegation contained therein and reiterate that



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the instant Original Application is bona fide, filed in public interest, and raises substantial, grave questions of environmental law and governance. The Respondents' attempt to portray the application as frivolous or vexatious is misleading, devoid of merit, and deserves to be rejected outright.

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19. I most respectfully reiterate and submit that the non-compliance with the 2020 EM Guidelines, particularly the absence of a valid, site-specific DSR and a scientific replenishment study, constitutes a fatal flaw in the project that cannot be remedied. Any Environmental Clearance granted in the absence of a valid DSR would be illegal and void, as held by the Hon'ble Supreme Court in State of U.P. vs. Gaurav Kumar & Ors.

20. In light of the above, I pray that this Hon'ble Tribunal may be pleased to dismiss the contentions raised in the Counter Affidavit of Respondent No. 2 and grant the reliefs sought in the Original Application.

21. That in view of the foregoing, the Applicant most respectfully prays that this Hon'ble Tribunal be pleased to allow the prayers sought forth in the Original Application and declare the e-tender dated 27.02.2025 and the corrigendum dated 08.04.2025 (and subsequent corrigendum dated 22.04.2025) as illegal, null, and void.

22. That I do hereby declare and say that the statements made in paragraphs 1 to 19 herein are true to my personal knowledge, derived from documents, and based on my belief, and that I have not suppressed any material facts. The statements contained in



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paragraph no. 20 are my respectful submissions before this Hon'ble Tribunal.

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✓ राहुल कुमार

Deponent  
(Rahul Kumar)

VERIFICATION

Verified at Banka on this 21<sup>st</sup> day of August 2025, that the contents of the above affidavit are true and correct to the best of my knowledge, information, and belief, and no part of it is false and nothing material has been concealed therefrom.

✓ राहुल कुमार

DEPONENT  
(Rahul Kumar)  
Applicant

Identified by me

Susobh Kumar Mishra  
Advocate  
21/08/2025  
Enrolment No.: Eno-1954/01



श्री/श्रीमती Rahul Kumar  
जिसका पहचान in subedy  
Kumar Mishra  
Advocate Banka  
शपथ पत्र में वर्णित बातें को धर्म एवं  
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भारत सरकार  
Government of India



राहुल कुमार  
Rahul Kumar  
जन्म तिथि/DOB: 01/01/1989  
पुरुष/ MALE



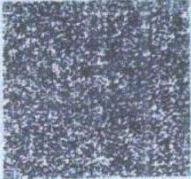
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मेरा आधार, मेरी पहचान

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Unique Identification Authority of India



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बंका, बंका,  
बिहार - 813102



Address:  
S/O: Vishwanath Das, gram-manjira, po-  
manjira thana-banka, Banka, Banka,  
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राहुल कुमार