

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH,
AT KOLKATA
O.A. No. 233/2024/EZ

IN THE MATTER OF :

Jharana Dehury & Ors.

Applicant(s)

Versus

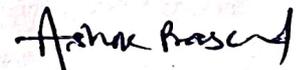
Union of India & Ors.

Respondent(s)

INDEX

<u>Sl. No</u>	<u>Particulars</u>	<u>Page(s)</u>
1.	Counter Affidavit / Reply for and on behalf of the Respondent No. 7	1 to 5

Through :


(Ashok Prasad)
Advocate,
Counsel for U.O.I.

Place : KOLKATA
Dated : 24/08/25

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**COUNTER AFFIDAVIT / REPLY FOR AND ON BEHALF OF THE
RESPONDENT NO. 7**

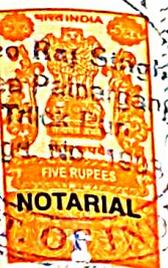
MOST RESPECTFULLY SHEWETH:

I, Arvind Mudgal Son of Radhey Shyam Mudgal, aged about 53 Years, employed/ appointed as the Under Secretary, in Ministry of Tribal Affairs, Govt. of India, officiating at Ground Floor, Gate No.2, Jeevan Tara Building, Parliament Street, Patel chowk, New Delhi- 110 001 New Delhi, do hereby solemnly affirm and declare as under: -

1. That I am well conversant with the facts and circumstances of the case, and as such, I am duly authorized and competent to swear this affidavit on behalf of Ministry of Tribal Affairs, in the above matter.
2. That I have read and understood the original appeal and have been advised to traverse by way of this Counter Affidavit as reply thereto.
3. That have and except those which are matter of record and those which are specifically admitted hereto the contents of the OA that have not been specifically admitted hereunder or are a matter of record be deemed denied.
4. That the deponent craves liberty to raise additional submission or file supplementary affidavits in case need arises during the course of arguments.

(1)

Deo Raj Singh
Area Patarganj
Trilok Puri
Reg. No. 1903



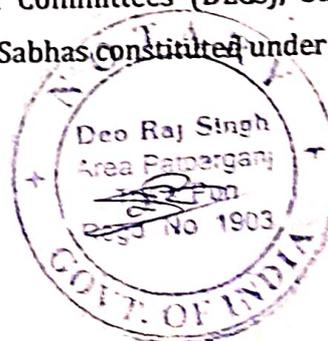
737/2025
Reg. No.

8/12/24/10/11

PRELIMINARY SUBMISSIONS:

5. The application is related to diversion of 234 Ha. Of forest land in favour of West Bengal State Electricity Distribution Company Ltd. (WBSEDCL) for construction of 1000 MW Turga Pumped Storage Project in Purulia, West Bengal. The applicant has challenged the Stage I and Stage II forest clearance granted highlighting that it fails to comply with the provisions of the Forest Rights Act, 2006 and that there has been no consent taken of the Gram Sabha. The applicant therefore pray to stay the construction work and felling of trees in the project area; stay the forest clearance granted; restrain the state to evict the applicants and to comply with the Provisions of the FRA.
6. At the outset, the answering respondent submits that the Schedule Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter, "FRA"), places the primary responsibility for its implementation on the State Governments, including the identification, recognition, and vesting of forest rights, and ensuring that all conditions under the FRA are met prior to the diversion of forest land for non-forestry purposes.
7. Section 11 of the FRA, the Ministry of Tribal Affairs is designated as the nodal agency for the purpose of implementation of the provisions of this Act. The answering Respondent further submits that while the Ministry of Tribal Affairs is the nodal agency under the FRA for policy guidance, issuance of advisories, and inter-ministerial coordination. This role is to the extent of policy oversight, monitoring progress, issuing clarifications in accordance with the provisions of this Act.
8. The actual process of recognizing and vesting individual and community forest rights, obtaining Gram Sabha resolutions, and ensuring compliance with Section(5) of the FRA, lies solely with the concerned State Government authorities, including the District Level Committees (DLCs), Sub-Divisional Level Committees (SDLCs), and the Gram Sabhas constituted under this Act.

(2)



9/12/18/10/11.

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9. In this regard, the Ministry has issued advisories and communications to State Governments and the Ministry of Environment, Forest and Climate Change (MoEFCC) time to time, insisting them of the necessity to ensure that no forest land is diverted unless the process of recognition of forest rights is complete and consent of Gram Sabhas is obtained as per law. However, compliance and enforcement of these obligations rests entirely with the State Government concerned, including in the present case, the State Government of Odisha.

10. That the answering Respondent has no role in the grant of approval of clearance to the mining project of Respondent No. 6, i.e., Singareni Collieries Company Limited (SCCL), in Angul District, Odisha, nor has it received any proposal or request related to the said project.

11. That the answering Respondent is not in possession of any independent verification of the facts relating to:-

- a. Whether the recognition of forest rights was completed in the project-affected area.
- b. Whether consent of Gram Sabhas was obtained in accordance with the MoEF & CC Guidelines dated 03.08.2009 and Rule 13 of the Forest Rights Rules, 2007,
- c. Whether the mandatory certificate from the District Collector was furnished as required under the guidelines issued by MoEF & CC.

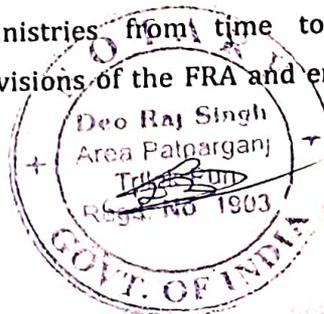
12. The answering Respondent respectfully submits that all such aspects fall within the purview of the State Government of Odisha, which is the implementing agency under the Act.

13. That the Ministry is the nodal agency and not the implementing agency for the FRA, 2006.

14. The answering Respondent respectfully submits that it has performed its functions in accordance with law by issuing necessary policy guideline to all State Governments and relevant Ministries from time to time. The responsibility for implementing the provisions of the FRA and ensuring legal

8/12/19/10.

(3)



compliance at the ground level lies with the concerned State Government statutorily.

15. Further, the answering Respondent craves leave from filing a para-wise reply to the Petition and respectfully submits that the present affidavit is being filed to place relevant facts and clarifications before this Hon'ble Court.

In view of the above facts indicated in earlier paras, it is respectfully prayed that this Respondent shall abide by any order or direction, passed by the Hon'ble Tribunal.

VERIFICATION:

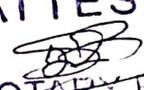
Verified at Delhi, on this the 16th day of July, 2025 that the contents of the above Affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed there from.

Deo Raj Singh

DEPONENT

Identified by me

Advocate

ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA
 18 JUL 2025



797/2025

Reg. No.