

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

Original Application No.100/2025/EZ.

(Earlier O.A. No.220/2025/PB)

IN THE MATTER OF:

News Item titled "Villagers seek halt on illegal road construction appearing in

The Arunachal Times dated

22.04.2025".

...Applicant(s)

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PLACE: Guwahati

DATE: 29-08-2025

THROUGH

Shri Apurba Ghosh

Advocate, MoEF&CC

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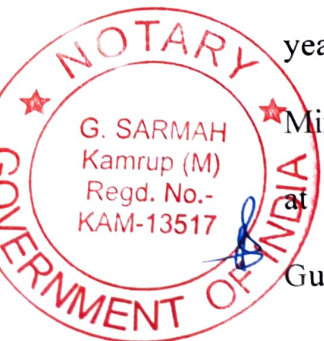
...Applicant

**COUNTER AFFIDAVIT ON BEHALF OF THE MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE.**

MOST RESPECTFULLY SHOWETH:

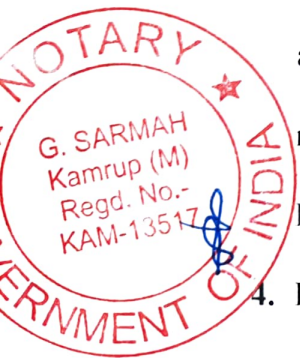
I, Hemen Hazarika, son of Late Harakanta Hazarika, aged about 44 years, presently posted as Scientist "E" in the Sub-Office, Guwahati, Ministry of Environment, Forest & Climate Change, Government of India at 4th Floor Housefed Complex, Rukminigaon, Six Mile, G.S. Road, Guwahati-781022, do hereby solemnly affirm and state as under: -

1. That I, in my official capacity in the Ministry of Environment, Forest and Climate Change, in the above mentioned matter, am conversant with the



facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.

2. That the present Original Application has been registered *suo motu* by the Hon'ble Tribunal, Principal Bench, New Delhi on 06.05.2025 in O.A. No. 220/2025, and was thereafter transferred to the Hon'ble Eastern Zone Bench, Kolkata, and re-numbered as O.A. No. 100/2025/EZ, based on a news report published in the *Arunachal Times* on 22.04.2025, stating illegal and unauthorised road construction in the ecologically sensitive catchment areas between Ganga-Taipu and Ganga-Tago in Papum Pare District, Arunachal Pradesh.
3. That, the said news item states that despite repeated complaints, unauthorised earth-cutting and construction using heavy machinery continues in the region, resulting in damage to forest land, contamination of water sources, and health risks to local villagers. The report further alleges inaction on part of the Range Forest Officer and states that a representation has been submitted by the Village Forest Committee to the Hon'ble Governor of Arunachal Pradesh seeking urgent intervention.
4. It is humbly submitted that, the answering Respondent denies all allegations, /averments made in the news item except those specifically admitted herein.
5. That, under clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (hereinafter "1986 Act"), the Central Government

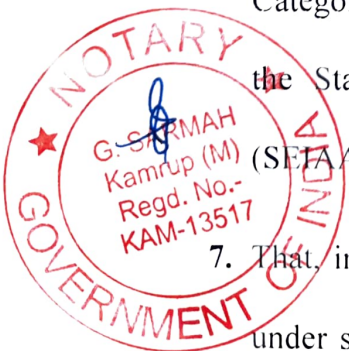


is empowered to make rules for the purpose of protecting and improving the environment. In exercise of such powers, the answering Respondent had issued the Notification no. S.O. 1533(E) dated 14th September, 2006 which requires certain projects to obtain prior Environmental Clearance ("EC") before any construction work in case of new projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories of Projects or Activities which require prior environmental clearance.

6. That, all Projects and Activities are broadly categorized into two categories - Category "A" and Category "B", based on the spatial extent of potential impacts and potential impacts on human health and natural and manmade resources. All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, require prior environmental clearance from the Central Government in the Ministry of Environment, Forest and Climate Change (MoEF&CC) and all projects or activities included as Category 'B' in the Schedule require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority

(SEIAA).

7. That, in exercise of the powers conferred upon the Central Government under sub section (3) of section 3 of the Environment (Protection) Act,



1986 and in accordance with the procedures specified in the EIA Notification, 2006, SEIAAs have been constituted in different States/UTs to discharge the functions of the regulatory authorities for the respective States/UTs. It is humbly submitted that State Environment Impact Assessment Authority (SEIAA) Arunachal Pradesh, is a regulatory authority at the state level.

8. That, the answering Respondent, in this regard, humbly submits that under the Schedule to the EIA Notification, 2006, as amended, relating to the list of activities requiring prior Environmental Clearance, Highways are covered under entry 7(f) of Clause (7) of the said Schedule and, the same is reproduced below:-

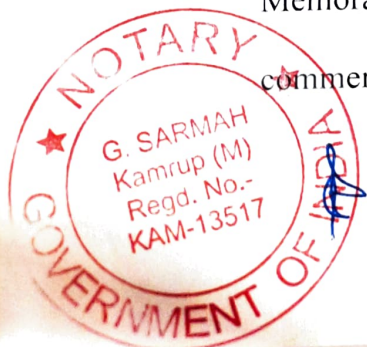
	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
7		Physical Infrastructure including Environmental Services		
7(f)	Highways	i. New National Highways; and ii. Expansion of National Highways	i. All New State High ways projects;	General Condition shall apply



	greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignment and 60 m on re-alignment or by-passes	ii. State Highway expansion projects in hilly terrain (above 1000 m AMSL) and/or ecologically sensitive areas	Note: Highways include Expressways
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9. It is humbly submitted that, the answering Respondent has not received any proposal under Category 'A' for road construction in the stretches from Ganga to Taipu or Ganga to Tago as referred to in the news item. Any such construction activity carried out without prior EC, where required under the EIA Notification, 2006 as mentioned in the above table, would be in violation of the said Notification.

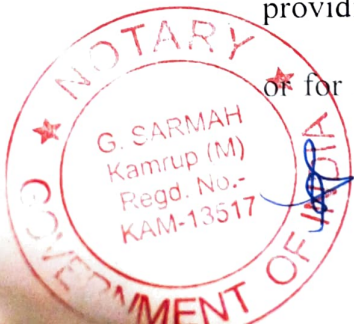
10. It is most respectfully submitted that, subsequent to the 2006 Notification, the answering Ministry, from time to time, has also issued various Office Memorandum and notifications to address cases where projects commenced operations without obtaining prior Environmental Clearance



(EC) prescribing procedures for identification and handling of such violations under the EIA Notification 2006,

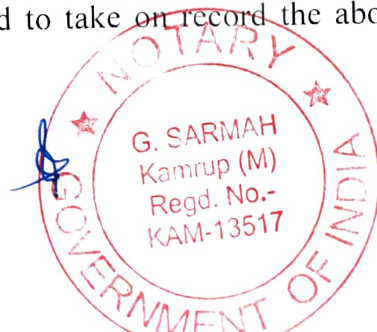
11. It is submitted that, the answering Ministry has issued OM dated 16.11.2010, 12.12.2012, 27.06.2013 and notified S. O. no. 804 (E) dated 14.03.2017, which provided a fixed six-month window (extended by one month pursuant to court directions) for consideration of such violation cases. Further, in compliance with the order of the Hon'ble NGT in O.A. No. 34/2020 (WZ) Tanaji B. Gambhire v. Chief Secretary, Government of Maharashtra, and the Ministry issued a Standard Operating Procedure on 07.07.2021 for identification and handling of violation cases under the EIA Notification, 2006.

12. It is further submitted that, the Hon'ble Supreme Court, vide order dated 16.05.2025 (pg. 3612/C) in W.P. (C) 1394/2023 Vanashakti vs. Union of India and connected matters, namely W.P. (C) 118/2019 Ajay Jajodia vs. Union of India, W.P. (C) 115/2024 One Earth One Life vs. Union of India and Civil Appeal Nos. 381-382/2025, has categorically held that the 2017 Notification and the 2021 Office Memorandum, along with all circulars, orders, OMs and notifications issued in pursuance thereof, are illegal and struck down. The Hon'ble Court has further restrained the Central Government from issuing any circulars, orders, OMs or notifications providing for grant of ex post facto environmental clearance in any form of for regularising acts done in contravention of the EIA Notification. It



has, however, clarified that the environmental clearances already granted till date under the 2017 Notification and 2021 OM shall remain unaffected.

13. That, the answering Respondent respectfully submits that any diversion or non-forest use of forest land is regulated under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. In this regard, the State Forest Department is the competent authority to examine if the area under question constitutes notified forest land, and whether activities in the area require approval under Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
14. That the answering Respondent supports the strict implementation of the “Precautionary Principle” and “Polluter Pays Principle” as enshrined in Section 20 of the National Green Tribunal Act, 2010, and submits that the enforcement of environmental safeguards at ground level lies within the jurisdiction of the concerned State Authorities.
15. That, in view of the foregoing, it is most respectfully submitted that the answering Respondent has acted strictly in accordance with the provisions of the Environment (Protection) Act, 1986 and the Environmental Impact Assessment Notification, 2006. No Environmental Clearance has been granted by the Ministry for the alleged road construction activities referred to in the present matter. It is, therefore, prayed that this Hon’ble Tribunal may be pleased to take on record the above submissions and pass such



order(s) as may be deemed just and proper in the facts and circumstances of the case.

16. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.

Dr. Hemen Hazarika
(*Hemen Hazarika*)
DEPONENT

Verification

Verified at Guwahati on this 29th Day of August, 2025, that the contents of this affidavit in paragraph 1 to 16 are true and correct to my knowledge based on the official record maintained in the daily course of its business, no part of this affidavit is false and nothing material has been concealed therefrom.

Identified by:

Mehboob Alam

MEHBOOB ALAM

Advocate

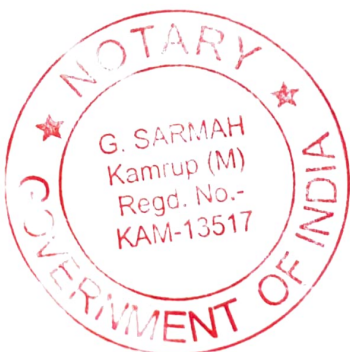
Gauhati High Court

Bar Council Enrolment No. 571 of 2017

Sl. No.: *2452*
Date: *29/8/25*

Dr. Hemen Hazarika
(*Hemen Hazarika*)
DEPONENT

BY PUBLIC : OATH COMMISSIONER
I have duly affirmed before me this day, I certify that I read over and explained the contents to the declarant and that the declarant seemed perfectly to understand them.



Gitanjali Sarmah
GITANJALIE SARMAH
NOTARY
Guwahati, Kamrup (M)
Regd. No. - KAM-13517
GOVT. OF INDIA