

IN THE NATIONAL GREEN TRIBUNAL,

EASTERN ZONE KOLKATABENCH

Original Application No.5 of 2025/EZ

Atanu Borthakur

....Applicant

Vs.

Union of India & ors.

....Respondents

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Filed by

Amrita Pandey

Amrita Pandey

Advocate for SEIAA, Assam



LINA BARUA
NOTARY GOVT. OF ASSAM
Kamrup (Metro) Guwahat
Reed. No - KAM 37

04 AUG 2025

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AFFIDAVIT ON BEHALF OF THE STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY (SEIAA), ASSAM

I, Shri Ramen Chandra Malakar, Son of Late Pran Chandra Malakar ,
aged about 59 years, by Occupation - Service, presently holding the
position of Member Secretary, SEIAA, Assam and having its address at
Bamunimaidam, Guwahati-21, do hereby solemnly affirm and state as

follows:

1. I am duly authorized by the SEIAA, Assam to depose this affidavit
on its behalf in the present matter before the National Green
Tribunal (Eastern Zone Bench), Kolkata, and am fully conversant
with the facts of the case and I am competent to affirm the present

affidavit.

Ramen Chandra Malakar



LINA BARUA
NOTARY GOVT. OF ASSAM
Kamrup (Metro) Guwahati
Regd. No - KAM-37

U 4 NOV 2025

2. This affidavit is filed in compliance with the Hon'ble Tribunal's order dated 08.07.2025, wherein SEIAA, Assam was directed to file an affidavit explaining its actions regarding the grant of Environmental Clearances (ECs) prior to the finalization of the District Survey Report (DSR) for Udalguri district, in light of the judgment of the Hon'ble Supreme Court in Gaurav Kumar & Ors. (Civil Appeal No. 14170/2024).
 3. I respectfully submit that the undersigned assumed the charge of Member Secretary, SEIAA, Assam on 10.07.2025, as per Government Notification No. 294591/I/1153496/2025 dated 09.07.2025.
 4. Due to the recent assumption of office, the undersigned requires additional time to thoroughly examine the records, consult relevant stakeholders, and prepare a comprehensive affidavit addressing the Hon'ble Tribunal's queries.
 5. In the interest of justice and to ensure a factual and legally sound response, I humbly pray for an extension of **four weeks** from the date of this affidavit to file the detailed affidavit as directed by the Hon'ble Tribunal.
- The delay is neither intentional nor deliberate, and the additional time sought is essential to uphold the principles of fairness and due process.



LINA BARUA
NOTARY GOVT. OF ASSAM
Kamrup (Metro) Guwahati
Regd. No - KAM. 637

04 AUG 2025

Ramesh Chandra Barua

7. That the respondent herein respectfully pray that this Hon'ble Tribunal may kindly grant an extension of four weeks to SEIAA, Assam to file its affidavit in compliance with the order dated 08.07.2025
8. That the respondent is ready and willing to comply with such other directions passed by this Hon'ble Tribunal.
9. That the statements made in paragraph nos. 1 to 2 are true to the best of my knowledge and belief, and no part of it is false or concealed and the statements made in paragraph nos. 3 to 4 are information derived from record and the rest thereof are my humble submission before this Hon'ble Court.

Ramesh Chandra Kumar

DEPONENT

Verification

I, the deponent above-named, do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge and belief, and no part of it is false or misleading.

Ramesh Chandra Kumar

Deponent:

(Authorized Signatory)

SEIAA, Assam



LINA BARUA
NOTARY GOVT. OF ASSAM
Kamrup (Metro) Guwahati
Read. No. - KAM-37

MR. SUBHAM MEDHI
Advocate, Gauhati High Court
Enrollment No. - 1411/2012
Ph. No. 7002640091
Subham Medhi

04 AUG 2025

Item Nos.08&09

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Execution Application No.03/2025/EZ
In
Original Application No.05/2025/EZ

Atanu Borthakur	Versus	Applicant(s)
Union of India & Ors.		Respondent(s)

With

Original Application No.05/2025/EZ

Atanu Borthakur	Versus	Applicant(s)
Union of India & Ors.		Respondent(s)

Date of hearing: 08.07.2025

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Anand Verma, Adv. a/w
Mr. Ashish Choudhury, Adv. and
Mr. Akash Agarwal, Adv. (in Virtual Mode)

For Respondent(s): Ms. Rashhmi Singhee, Adv. for R-1 (in Virtual Mode),
Ms. Malabika Roy Dey, Adv. for R-2, 3, 6 & 7,
Mr. Shayambar Deb, Adv. for R-4 (in Virtual Mode),
Ms. Amrita Pandey, Adv. for SEIAA, Assam (in Virtual Mode)

For Applicant(s) : Mr. Anand Verma, Adv. a/w
(in OA-05-2025-EZ) Mr. Ashish Choudhury, Adv. and
Mr. Akash Agarwal, Adv. (in Virtual Mode)

For Respondent(s): Ms. Malabika Roy Dey, Adv. for R-2, 3, 6 & 7,
Mr. Shayambar Deb, Adv. for R-4 (in Virtual Mode),
Ms. Amrita Pandey, Adv. for R-5 (in Virtual Mode)

ORDER

1. Mr. Anand Verma assisted by Mr. Ashish Choudhury and Mr. Akash Agarwal, learned Counsel is present (in Virtual Mode) on behalf of the Applicant in both Execution Application No.03/2025/EZ and Original Application No.05/2025/EZ.



2. Affidavit dated 09.06.2025 has been filed on behalf of the Respondent No.5, State Environment Impact Assessment Authority; the same is taken on record.
3. A compliance affidavit dated 27.06.2025 has been filed by the Respondent No.4, Assam State Pollution Control Board ; the same is taken on record.
4. Affidavit dated 04.07.2025 has been filed on behalf of the Deputy Commissioner, Udalguri ; the same is taken on record.
5. In para 6 of the affidavit of State Environment Impact Assessment Authority (SEIAA), Assam dated 09.06.2025, it has been stated that based on the detailed appraisals by the State Expert Appraisal Committee (SEAC), Assam, the following project proponents of Udalguri district have been granted Environmental Clearance. The project proponents are as under :-
 - i) Sri Haru Baglari EC granted on 14.10.2024 (for Nunoil Sand Stone Mahal No.3 (Kulsi River) ;
 - ii) Jyotish Basumatary EC granted on 14.10.2024 for Bellola Sand and Gravel Mahal (Kulsi River) ; and
 - iii) Sri Jasobanta Bordoloi EC granted on 08.01.2025 for Baligaon Pasnoi S.S. Mahal
6. In paragraph 7 of the affidavit, it has been stated by the State Environment Impact Assessment Authority (SEIAA), Assam that the Environment Clearances were issued with the condition that the mining areas in question must be reflected in the District Survey Report (DSR) once finalized. This shows that the District Survey Report (DSR) was never finalized. ?



7. In the affidavit of the District Commissioner, Udalguri dated 04.07.2025 in paragraph 10 thereof it is categorically stated that District Survey Report (DSR) for Udalguri district has been finally approved on 13.05.2025 and that the Bodoland Territorial Council ('BTC' for short) has also requested the Additional Principal Chief Conservator of Forest (PCCF) for resuming the mining activities as per rules. Document to that effect has also been filed with the affidavit at page 1237 (Colly). This clearly shows that when the Environmental Clearances were granted on various dates as mentioned in paragraph 6 of the affidavit of SEIAA, Assam, the DSR had not been finalized.
8. The DSR was approved admittedly on 13.05.2025. Question is how could the three Environmental Clearances, as mentioned in para 6 of the affidavit of SEIAA, Assam have been granted prior to approval of the DSR. This shows a thoroughly callous and irresponsible way of working of State Environment Impact Assessment Authority (SEIAA), Assam.
9. We also find that the action of the State Environment Impact Assessment Authority (SEIAA), Assam in granting Environmental Clearances without there being a valid District Survey Report ('DSR' for short) is in gross violation of the law laid down by the Hon'ble Supreme Court in Civil Appeal No.14170 of 2024 *State of Uttar Pradesh & Anr. Versus Gaurav Kumar & Ors.* with Civil Appeal No.14933 of 2024 and Civil Appeal No.14000 of 2024.
10. Paras 19, 19.1, 20, 21 and 22 of the judgment of the Hon'ble Supreme Court read as under :-

"19. Decision of this Court in State of Bihar V. Pawan Kumar²² : Considering the mandatory requirement of preparation of

²² (2022) 2 SCC 348. Hereinafter. "Pawan Kumar

DSR, which shall form the basis for grant of EC for sand mining in any districts, this Court specifically directed appraisal by SEIAA and SEAC as under ;

16.2. Needless to state that while preparing DSRs and the appraisal thereof by SEAC and SEIAA, it should be ensured that a strict adherence to the procedure and parameters laid down in the policy of January 2020 should be followed.

19.1. Further, noting the existence of the Enforcement and Monitoring Guidelines for Sand Mining, 2020, the Court directed as under ;

"12. It could thus be seen that in accordance with the 2020 Guidelines, the DSR is required to be prepared before the auction / e-auction/grant of mining lease by Mining Department or Department dealing with mining activity in the respective States. It is further provided that the potential site for mining having its impact on the forest, protected area, habitation and bridges should be avoided. For this, a Sub-Divisional Committee is required to be formed which, after the site visit, is required to decide regarding the suitability of the sites for mining. The Sub-Divisional Committee is further required to record its reasons for selecting the mining lease in the patta land. Various details are required to be given in the annexures appended to the said policy.

13. It is further to be noted that Appendix X of the Notification dated 15-1-2016, issued by MoEF and CC also provides for composition of the Sub-Divisional Committee:

"A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation Department, State Pollution Control Board or Committee, Forest Department, Geology or Mining Officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof."

14. It is to be noted that with the advent of modern technology, various technological gadgets like drones and satellite imaging, etc. can be used for identification of the potential sites and preparation of the DSR and also to check misuse and unauthorized mining."

20. **Conclusion** : Having considered the regulatory regime introduced from time to time, increasing the width as well as the



depth of scrutiny before granting an environmental clearance for sand mining, we are of the opinion that there is a mandatory requirement of preparation of a DSR. The DSR shall form the basis for application of environmental clearance. It shall also be the basis for preparation of reports and also appraisal of the projects. Another important facet of DSR is that it shall be prepared for all the districts and the draft is to be placed in the public domain. There is a requirement for keeping a copy of DSR in Collectorate. It must also be posted on the district's website for 21 days. After comments are received, they shall be considered and if found correct, they will be incorporated in the final report. The final DSR will then be finalized within 6 months by the DEIAA. The lifetime of the report is five years. After five years the existing DSR will not be tenable and a new DSR will have to be prepared and finalized. The purpose and object of prescribing a lifetime of five years for subsistence of a DSR is for the reason that the position of ecology and the environment is rapidly changing and the position that exists five years back, may not subsist for later days. It is true that it might have changed even before the expiry of five years but a reasonable estimate, to work as a benchmark is a policy consideration. As a precautionary principle, it is not only legal and valid but is also mandatory. It must be enforced strictly and with all vigor.

21. We conclude by holding that :

- (i). A District Survey Report is a document of seminal importance as it enables informed decision making.
- (ii). Preparation of a DSR as per the procedure prescribed for its preparation under Appendix X, read with para 7(iii)(a), is required to be followed meticulously.

- (iii). *A valid and a subsisting DSR alone can be the basis for an application for grant of EC. A draft DSR is untenable for grant of an EC.*
- (iv). *Preparation of reports and appraisal of projects by DEIAA and DEAC shall be on the basis of a valid and a subsisting DSR.*
- (v). *DEIAA and DEAC are recognized as the authorities fastened with the statutory duty of preparing the DSR every five years and this duty compels them to have a comprehensive and a real time perspective of the environment position of the district including its eco-sensitivity and other fragilities.*

22. *For the reasons stated above, we reiterate our decision of dismissing these civil appeals against the judgment and order passed by the NGT holding that the e-auction notice dated 13.02.2023 is illegal and contrary to law."*

11. We therefore direct State Environment Impact Assessment Authority (SEIAA), Assam to file its affidavit explaining the action taken by it on the admitted facts of the case particularly in the light of the law laid down by the Hon'ble Supreme Court in Gaurav Kumar (Supra).
12. The learned counsel for the applicant Mr. Anand Verma further informs that the approved DSR does not find place in the public domain or in the portal of the MoEF&CC or of SEIAA, Assam. This allegation of the Applicant shall also be addressed by SEIAA, Assam in its affidavit.
13. We therefore direct SEIAA, Assam to file its affidavit showing what remedial action has been taken by it to remedy the illegalities committed by it. Let the affidavit be filed within two weeks. |



14. Ms. Rashhmi Singhee, learned Counsel appearing (in Virtual Mode) states that she has filed affidavit on behalf of Ministry of Environment, Forests and Climate Change (MoEF&CC). The order of 18.02.2025, however, shows that the same is not on record and she was directed to file it. Even after five months the same has not been e-filed. Let her file the same within two weeks.
15. We also direct a copy of this order be forwarded to the Ministry of Environment, Forests and Climate Change (MoEF&CC), New Delhi.
16. **List for hearing on 02.09.2025.**

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

July 08, 2025,
Execution Application No.03/2025/EZ
In
Original Application No.05/2025/EZ
With
Original Application No.05/2025/EZ
SKB