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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 & Ors.

...Respondents

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SL. No. - 1113
DATE - 08.08.2025



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REJOINDER ON BEHALF OF THE APPLICANT TO THE AFFIDAVIT
FILED BY THE RESPONDENT NO. 3

I, 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.

Jay Shankar Jha
08.08.25
Jay Shankar Jha
Notary Public
BANKA (Bihar)
R.No. - 497/J/24

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BIHAR COURT FEE

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08 Aug 2025

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08 Aug 2025

NOTARY
JAY SHANKAR JHA
AREA-BANKA
R.No.-497/J/24
EXP. DT.-23.08.25
GOVT. OF BIHAR

NOTARY
JAY SHANKAR JHA
AREA-BANKA
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08 Aug 2025

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08 Aug 2025

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SL. No. 1113
DATE 08.08.25

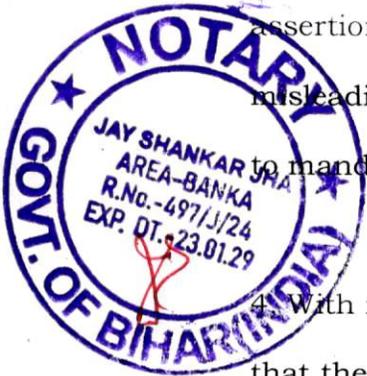
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2. I have carefully perused the Counter Affidavit filed on behalf of Respondent No. 3 (SEIAA, Bihar) and vehemently deny the allegations and contentions raised therein. Each and every statement made in the Counter Affidavit, to the extent it is contrary to the facts stated herein, is specifically denied and disputed.

3. With reference to the averments made in Paragraphs 1 to 6 of the Counter Affidavit, I deny that the role of SEIAA is limited to granting Environmental Clearances (EC) under the EIA Notification, 2006. The SEIAA, as a statutory authority, is obligated to ensure strict compliance with all environmental laws, including the Enforcement & Monitoring Guidelines for Sand Mining, 2020 ("2020 Guidelines"). The

assertion that no order or action of SEIAA is under challenge is misleading, as the very grant of exemption from EC without adherence to mandatory safeguards is under scrutiny in the present proceedings.

4. With reference to Paragraphs 7 to 12 of the Counter Affidavit, I deny that the District Survey Report (DSR) for District Banka, Bihar, which excludes the Chandan Reservoir, complies with the 2020 Guidelines. The non-inclusion of the Chandan Reservoir in the DSR constitutes a blatant violation of Clause 4 of the 2020 Guidelines, which mandates the identification of all potential sand mining sites in the DSR. 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 Guidelines are binding and mandatory. Environmental



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Clearance cannot be granted in the absence of a valid DSR, and any attempt to bypass this requirement is illegal. I deny that the Office Memorandum dated 12.07.2023 (Annexure R/2) provides a valid exemption from EC for the dredging and desilting of the Chandan Reservoir. The exemption is contingent upon adherence to the National Framework for Sediment Management, 2022, which has not been complied with in the present case. Specifically, no replenishment study has been conducted to compute the quantity of sand that can be sustainably mined, in violation of Clause 5 of the 2020 Guidelines. The absence of such a study renders the entire dredging process arbitrary and environmentally unsustainable.



5. With reference to Paragraphs 13 to 15 of the Counter Affidavit, I deny that the tender document issued by the Government of Bihar incorporates adequate environmental safeguards. The mere mention of the National Framework for Sediment Management, 2022, in the tender document does not absolve the Respondents of their obligation to conduct a replenishment study or include the Chandan Reservoir in the DSR. The purported provisions for environmental clearance are illusory, as the tender process has been initiated without fulfilling these mandatory prerequisites.

6. With reference to Paragraph 16 of the Counter Affidavit, I deny that the role of SEIAA, Bihar, is limited to granting EC upon application by

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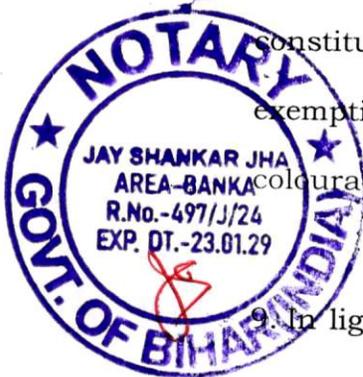
the project proponent. The SEIAA has a proactive duty to ensure that no project proceeds without complying with all environmental norms, including the 2020 Guidelines. The failure to do so amounts to a dereliction of statutory duty.

7. With reference to Paragraphs 17 to 20 of the Counter Affidavit, I deny that the Respondents have taken all possible steps to comply with the directions of the Hon'ble Tribunal. On the contrary, the Respondents have persistently violated the 2020 Guidelines by proceeding with the tender process without a valid DSR or replenishment study.

8. I reiterate that the non-compliance with the 2020 Guidelines, particularly the absence of a valid DSR and replenishment study, constitutes a fatal flaw in the project. The attempt to rely on an exemption from EC without adhering to the underlying safeguards is a colourable exercise of power and deserves to be struck down.

9. In light of the above, I pray that this Hon'ble Tribunal dismiss the contentions raised in the Counter Affidavit and grant the reliefs sought in the Original Application.

10. That in view of the foregoing, the Applicant most respectfully prays that this Hon'ble Tribunal be pleased to allow the prayers sought forth



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in the Original Application and declare the e-tender dated 27.02.2025 and the corrigendum dated 08.04.2025 as illegal, null, and void and direct the Respondent No. 6 to conduct a comprehensive Environmental Impact Assessment and public consultation before initiating any desilting or dredging activity in the Chandan Reservoir; and/or to pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

11. That I do hereby declare and say that the statements made in paragraphs 1 to 8 herein are true to my personal knowledge and belief and that I have not suppressed any material facts and those contained in paragraph no. 9 and 10 is my respectful submissions before this Hon'ble Tribunal.

✓ राहुल कुमार

Deponent



Jay Shankar Jha

Jay Shankar Jha
Notary Public
BANKA (Bihar)
R.No.-497/J/24

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VERIFICATION

Verified at Banma on this 8th 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

Subodh Kumar Mishra.
Advocate
8.08.2025

Enrolment no. 1957101

Sri/Smt. Rahul Kumar
who is/are identified by
Sri/Smt. Subodh Kumar Mishra
Advocate, Banka Solemnly Affirmed
declare before me.

Jay Shankar Jha
08.08.25
Jay Shankar Jha
Notary Public
BANMA (Bihar)
R.No.-497/J/24



राहुल कुमार