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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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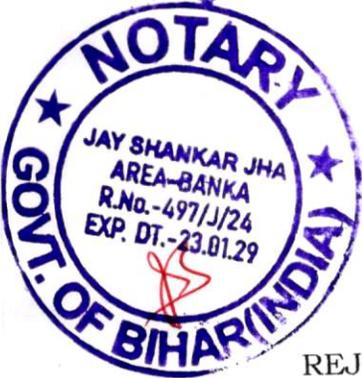
...Respondents

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

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



BIHAR COURT FEE

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2. 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.

3. With reference to the averment made in Paragraph 1 to 6 of the Counter Affidavit, I 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 baseless and contrary to the settled principles of environmental jurisprudence, which recognize the right of any citizen to approach the Tribunal for the enforcement of environmental laws. The project in question involves significant environmental implications, and as a concerned citizen, I am entitled to seek judicial intervention to ensure compliance with statutory safeguards.

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 without adhering to mandatory environmental safeguards, will have far-reaching consequences on the local ecosystem, water resources, and the rights of communities dependent on the Chandan Reservoir. The contention that I am not a social or environmental activist is irrelevant, as the law does not discriminate



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based on the identity of the applicant but on the merits of the environmental concerns raised.

5. With reference to Paragraph 6(f) and (g) of the Counter Affidavit, while the Respondent claims to have conducted a Detailed Project Report (DPR) and Environment Impact Assessment (EIA), the same are incomplete and non-compliant with the mandatory provisions of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 ("2020 Guidelines") issued by the Government of India. Specifically, there is a blatant violation of Clause 4 of the 2020 Guidelines, as the Chandan Dam has not been included as a site fit for sand mining in the District Survey Report (DSR) for District Banka, Bihar. The DSR is a prerequisite for any sand mining activity, and its absence renders the entire process illegal. 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 and DSR is mandatory.

6. 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 failed to conduct a replenishment study as mandated under Clause 5 of the 2020 Guidelines to compute the quantity of sand that can be sustainably



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mined. This omission is a serious violation of environmental norms and undermines the very purpose of the project.

7. With reference to Paragraph 6(j) of the Counter Affidavit, I categorically deny the insinuation that I have been set up by persons inimical to the project. Such allegations are unfounded and are an attempt to divert attention from the substantive legal and environmental violations committed by the Respondents.

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

9. With reference to Paragraphs 6(m) and (n) of the Counter Affidavit, I while I respectfully state that the need to restore the irrigation potential of the Reservoir as alleged, cannot be achieved at the cost of violating mandatory environmental safeguards. The Respondents' reliance on the purported urgency of the project does not justify non-compliance with the 2020 Guidelines or other statutory requirements.

10. 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 by the absence of a valid DSR and replenishment study, as well as the non-inclusion of the Chandan



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Dam in the DSR. These omissions render the tender illegal and unsustainable in law.

11. With reference to Paragraphs 6(p) and 12 of the Counter Affidavit, I deny that the decision to undertake dredging in the Chandan Reservoir 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 the fundamental defects in the process, including the absence of a valid DSR and replenishment study.

12. With reference to Paragraph 7 to 13 of the Counter Affidavit, I deny that the tender document mandates the selected agency to obtain all necessary environmental clearances. The very premise of the tender is flawed, as it proceeds on the assumption that environmental clearances can be obtained ex post facto, which is contrary to the law laid down by the Hon'ble Supreme Court.

13. With reference to Paragraphs 14 to 18 of the Counter Affidavit, I deny each and every allegation contained therein and reiterate that the instant Original Application is bona fide and raises substantial questions of environmental law and governance. The Respondents' attempt to portray the application as frivolous or vexatious is misleading and deserves to be rejected.

14. I further submit 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. Environmental Clearance



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cannot be granted in the absence of a valid DSR, as held by the Hon'ble Supreme Court in State of U.P. vs. Gaurav Kumar & Ors.

15. 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.

16. 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 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.

17. That I do hereby declare and say that the statements made in paragraphs 1 to 14 herein are true to my personal knowledge and belief and that I have not suppressed any material facts and those contained in paragraph no. 15 and 16 is my respectful submissions before this Hon'ble Tribunal.

राहुल कुमार

Deponent



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VERIFICATION

Verified at Civil Court Banka 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

Ashish Kumar Mishra
Advocate
Enrolment no. - 1954/01
Adv. 8.08.2025



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

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



राहुल कुमार