

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

Original Application No.109/2025/EZ

In the matter of :

Kailash Chandra Nayak ... Applicant

-Versus-

State of Odisha & Others ... Respondents

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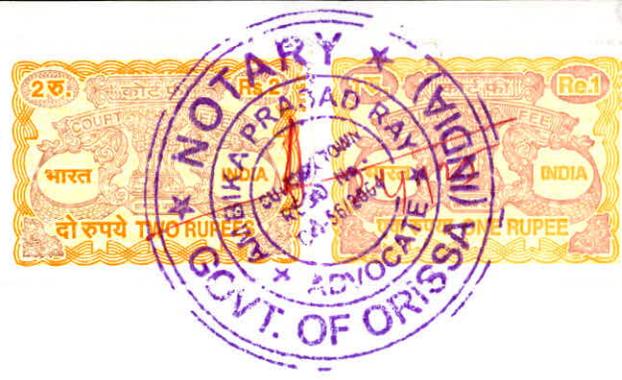
Sl. No.	Description of documents	Pages
1.	Additional Compliance Affidavit filed by the Respondent No.3	1 – 6
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By the Respondent No.3 through,



Cuttack
Dtd. 24.12.2025

PARTHA SARATHI NAYAK
ADDL. GOVT. ADVOCATE
MOB.9437277043



BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

Original Application No.109/2025/EZ

IN THE MATTER OF:-

Kailash Chandra Nayak *Applicant*

Versus

State of Odisha & Ors. **Respondents**

ADDITIONAL COMPLIANCE AFFIDAVIT FILED BY
THE RESPONDENT No.3

I, Shri Ambar Kumar Kar, aged about 58 years, S/o:- Kulamani Kar at present working as the Collector & District Magistrate, Jajpur, At/Po/PS/Dist- Jajpur, do hereby solemnly affirm and state as follows:-

1. That I am working as Collector & District Magistrate, Jajpur and also Respondent No.3 in the present Original application and I am well acquainted with the facts of the case and also competent to swear this affidavit on behalf of the Respondent No.3.

2. That the present Original Application is filed against construction of school building over forest kism land and utilisation of District Mineral Foundation Fund for

Ambar Kumar Kar
COLLECTOR & DISTRICT MAGISTRATE
JAJPUR

Ambar Kumar Kar

24.12.25
AMBIKA PRASAD RAY
NOTARY, CUTTACK TOWN
REGD. NO-ON-58/2004

construction/renovation of said schools construction over forest kism land which is in violation of Forest Conservation Act, 1980.

3. That at the outset the deponent humbly submitted that at present the construction work of additional class rooms/library/toilet stopped due to pendency of the present proceeding before this Hon'ble Tribunal.
4. That the deponent is the District Collector-cum-District Magistrate, Jajpur and also function as the Chairperson of the Board of Trustees and Managing Trustee of the District Mineral Foundation, Jajpur in terms of Rule 8 and Rule 9 of the Odisha District Mineral Foundation Rules, 2015. Under the aforesaid legal framework, the Board of Trustees is vested with powers to approve annual plans, budget allocations, priority sectors, and permissible activities, including education-related infrastructure.
5. That in the year 2023, the Board of Trustees duly approved various educational infrastructure projects, including construction of additional classrooms, activity rooms, and sanitation facilities at several existing Government schools based on requirements emerging from increased student enrolment and demand for improved learning facilities. Accordingly, funds were sanctioned under permissible activities elaborated under Rule-10 of the Odisha District

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Mineral Foundation Rules, specifically falling under High Priority Activities relating to Education.

6. That a petition has been filed seeking stoppage of ongoing construction activities over certain land recorded as forest land in current Records of Rights. The petitioner has asserted that the said construction is violative of statutory restrictions applicable to forest land. Subsequently, the User Agency, in compliance with legal process, has applied for diversion of forest land under the Forest (Conservation) Act, 1980 through FORM-A, which is presently under consideration.
7. That clarification regarding applicability of the Forest (Conservation) Act, 1980 to non-forest kism lands that earlier had sabikkism as jungle was already issued by Revenue & Disaster Management Department vide letter No. 43968 dated 24.10.2011. The land on which the developments are undertaken was long in possession and use of Government schools and had ceased functioning as forest land for decades due to establishment of schools and continued community use.

The Xerox copy of letter No. 43968 dated 24.10.2011 issued by Revenue & Disaster Management Department is filed herewith as ANNEXURE-E/3.

Ambika Prasad Ray

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8. That the schools in question have existed since several years after their establishment post-Independence, and the campus land is under undisputed possession of Government institutions. The use of the area was limited to school buildings, playground, extracurricular activities, hosting functions, and other educational utilities. No instance of felling of trees for construction has been reported.
9. That the Right of Children to Free and Compulsory Education Act, 2009 mandates the State to ensure neighbourhood schooling, where a Primary School shall be available within 1 km and an Upper Primary School within 3 km radius of habitation. The fulfilment of infrastructural norms under RTE requires sufficient classrooms, toilets, playgrounds, instructional spaces, separate sanitation facilities, and provision for hostels in tribal or remote habitations.
10. That the construction undertaken addresses functional needs of children, mainly belonging to tribal and disadvantaged communities. Due to high enrolment and expansion of grades, existing buildings are insufficient, warranting additional classrooms, library space, activity rooms and toilet blocks. Such expansion directly addresses retention, reduction of dropout, gender-specific sanitation needs and accessibility challenges.

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11. That Section 3(2) of the Forest Rights Act, 2006 explicitly allows diversion of forest land for essential public facilities, including schools, not exceeding one hectare in each case, subject to recommendation of Gram Sabha, and subject to compliance with statutory conditions. Schools fall expressly within permitted public purposes under Sections 3(2)(a) and relevant Central guidelines.

12. That since the land presently stands recorded as forest in current records pending correction of revenue entries, ex-post diversion under Forest (Conservation) Act is being undertaken through FORM-A, and the User Agency is prepared to comply with compensatory levies, Net Present Value, or other directions of MoEFCC/FAC, if so levied, ensuring statutory regularization.

13. That upon diversion and correction of records, the land will stand regularized as educational use land and serve as legitimate school campus area, enabling compliance with RTE norms, recognition requirements, creation of safe facilities for children, and long-term public benefit. The school serves students from tribal and non-tribal families alike and has been a long-standing public utility serving no personal or commercial interest.

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It is therefore submitted that the construction of educational facilities is a statutory obligation of the State; the action of DMF, Jajpur has been taken strictly under approved schemes; steps for regularization of land under the applicable forest diversion process have already commenced; and stoppage of construction would adversely impact public interest, educational continuity, and State obligations under RTE.

14. That it is submitted that the Respondent No.3 reserves the right to file further affidavit if so required in future.

15. That the facts stated above all are true to the best of my knowledge and belief and based on official records.

Identified by

P.S. Nayak.
24/12/25

Advocate

Ambar Kumar Kar

DEPONENT
COLLECTOR & DISTRICT MAGISTRATE
JAJPUR

CERTIFICATE

Certified that cartridge papers not being available, thick white papers are being used.

Cuttack

Dt. *24*.12.2025

Partha Sarathi Nayak

PARTHA SARATHI NAYAK
ADDL. GOVERNMENT ADVOCATE

The above named *Ambar Kumar Kar* Mobile *9437277043* identified by *P.S. Nayak* Adv solemnly affirm and states before me that the contents of this *Advt. Compliance Amr* are true to the best of his/her/their knowledge and belief *PS 24.12.25*



AMBIKA PRASAD RAY
NOTARY, CUTTACK TOWN
Regd. No.-ON-56/2004

BY FAX

**GOVERNMENT OF ORISSA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT**

No.GE(GL)-S- 76/2010- *43968* R & DM. Dtd. *24/10/2011*

From

Shri R. K. Sharma, IAS
Commissioner-cum- Secretary to Government

To

All Collectors

Sub: Government land recorded in non-forest kism with a note of "Sabik Kism Jungle" in the RoR finally published after 25.10.1980 but which was forest kism in Sabik record – application of Forest (Conservation) Act, 1980 – Clarification regarding.

Madam/Sir,

There have been doubts about the applicability of Forest (Conservation) Act, 1980 to the lands recorded as non-forest kism in RoR published after 25.10.1980 but which carry an entry of 'Sabik kism jungle' in the remarks column.

This matter has been examined in consultation with Forest & Environment Department and it is noted that section 2 of the Forest (Conservation) Act, 1980 restricts the dereservation of forests or use of forest land for non-forest purpose except with prior approval of Government of India, MoEF for such non-forest use.

Further, the Hon'ble Supreme Court, in their order Dt. 12.12.1996 passed in WP(C) No. 202/1995 have observed that

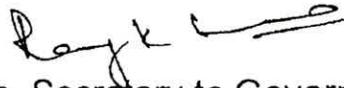
" The term 'forest land' occurring in section 2, will not only include 'forest' as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of its ownership. This is how it has to be understood for the purpose of section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980

therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof

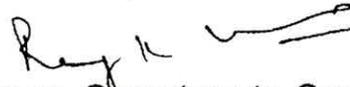
In consideration of this position, Government have been pleased to clarify that the provisions of Forest (Conservation) Act, 1980 would be applicable to any type of forest land including the land recorded as non-forest land in Hal records published after 25.10.1980 which was of "Jungle" kism in its respective Sabik record as on 25.10.1980 irrespective of the fact that the said non-forest kism land in Hal record does not find place in the District Level Committee Report which formed the basis for the affidavit filed by the State Government before the Apex Court.

You are, therefore, requested to take appropriate action in the matter accordingly.

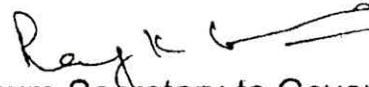
Yours faithfully,



Commissioner-cum- Secretary to Government
Memo No. 43969 /R&D.M. dtd. 24/10/2011
Copy forwarded to Secretary, Board of Revenue, Orissa, Cuttack/ all RDCs for information and necessary action.



Commissioner-cum- Secretary to Government
Memo No. 43970 /R&D.M. dtd. 24/10/2011
Copy forwarded to Forest & Environment (Forest) Department/ CMD, IDCO for information and necessary action.



Commissioner-cum- Secretary to Government
Memo No. 43971 /R&D.M. dtd. 24/10/2011
Copy forwarded to OIC, IMU Cell/ LR&GE(A)/(B)/(C) Branch of Revenue & D.M. Department for information and necessary action.

 24/10/11

Deputy Secretary to Government

T.C.

attested