



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, EASTERN
ZONE BENCH AT KOLKATA**

ORIGINAL APPLICATION No. 143 OF 2025/EZ

In the Matter of:

Talab Bachao Abhiyan (TBA) & Anr.

...Applicant

-Versus-

Government of Bihar & Ors.

...Respondents

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Date: 23/02/2026

Place: Darbhanga, Bihar.



Filed by:

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Counter Affidavit filed on behalf of Respondent no. 3

(i.e. Darbhanga Municipal Corporation)

I, Ravi Amar Nath s/o Pradeep Kumar aged about 40 years, by occupation- Government Service, presently posted as City Manager under the Darbhanga Nagar Nigam, Bihar, duly authorized by the Darbhanga Municipal Corporation, working for gain at the Office of Darbhanga Municipal Corporation, Darbhanga, Bihar, Pin- 846004, do hereby solemnly affirm and state on solemn affirmation as follows:

1. That I have carefully acquainted myself with the facts and circumstances of the Original Application filed by the Applicant herein, I have diligently perused and examined all the documents, records and material placed on record pertaining to the subject matter of the instant case, and I am duly authorized and competent, by virtue of the authorization granted by the Darbhanga Municipal Corporation, to swear and file the instant Counter Affidavit before this Hon'ble Tribunal. The deponent is fully conversant with the facts deposed to herein.



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2. That the respondent no. 3 (shall be referred as DMC hereinafter) has been advised to deal with only those contentions which are relevant and material for effective and proper adjudication of the issues involved in the instant case and save and except what are matters of record and save what are expressly admitted by me hereinafter I emphatically deny each and every contention as made/raised in the said application as if the same are expressly denied by me in seriatim and specifically traversed.
3. Without prejudice to the aforesaid general denial, and while strictly maintaining all rights and contentions of the Answering Respondent, the Answering Respondent hereby responds to the specific allegations contained in the Original Application para-wise, reserving its right to raise all legal objections, including objections as to maintainability, limitation, locus standi, and jurisdiction, all of which are equally pressed in bar of the reliefs claimed. All the allegations made in the Original Application are denied and disputed in seriatim, and the Answering Respondent shall substantiate its position by reference to the facts hereinafter stated and the documents annexed hereto.
4. With reference to the statements contained in paragraphs 1 to 5 of the said affidavit, save and except what are matters of record. It is denied and disputed that the BUIDCO is implementing the Scheme of Storm Water Drainage (SWDS) in Darbhanga city or 19 other cities/towns of Bihar without proper scientific study or preparation, as alleged or at all. It is respectfully submitted that BUIDCO, being a State instrumentality under the Urban Development & Housing Department, Government of Bihar (Respondent Nos. 4 & 6), is legally constituted, technically qualified and has followed due process in



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the design, planning, and execution of the Storm Water Drainage Scheme. The said Scheme is a legitimate urban infrastructure project sanctioned and funded by the State Government, aimed at mitigating perennial waterlogging and urban flooding. The contention that the same has been undertaken "without proper scientific study" is not only factually erroneous but is also an attempt to mislead this Hon'ble Tribunal. The Answering Respondent, DMC, has no role, responsibility or authority in the execution of the SWDS, which lies solely within the jurisdiction of BUIDCO and the Urban Development & Housing Department.

5. With reference to the statements contained in paragraphs 6 to 8 of the said affidavit, save and except what are matters of record. It is denied and disputed that the Darbhanga city or similarly across several towns in Bihar the municipal sewage systems have been arbitrarily linked with the Newly Constructed Storm Water Drainage System (NCSWD) or that the drainage system, which was originally intended to manage or discharge only fresh rainwater, is now being misused to carry untreated domestic or municipal sewage, thereby polluting the environment or rendering the entire infrastructure scientifically unsound or environmentally hazardous or that the drinking water crisis, which has persisted since 1995-96 or instead of preserving or channeling fresh rainwater for groundwater recharge or replenishment of urban water bodies such as ponds, lakes, wetlands, the water is being wasted through indiscriminate drainage as alleged or at all. The allegations are raised against BUIDCO and Water Resources Department and the respondent herein shall not comment on the allegations raised against other respondents.



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6. With reference to the allegations made in paragraphs 9 to 11 of the said affidavit save and except what are matters of record. It is denied that the that Darbhanga city has been grappling with an acute drinking water crisis since as early as 1995-96 or that the execution of both the Storm Water Drainage Project or the Canal Lining Project, without proper environmental assessment or compliance with NGT directives, is likely to have catastrophic consequences or it shall cause increased urban flooding, waterlogging, disruption of monsoon-dependent pond, lake replenishment, rising ambient temperatures due to reduced natural water flow, and heightened public health risks as alleged or at all.
7. The Answering Respondent disputes each and every ground contained in Grounds Paragraphs 1 to 9 of the Original Application, including all sub-paragraphs thereof, which purport to be couched as grounds for relief but are, in truth and substance, no more than repetitive assertions and unsubstantiated allegations. None of the said grounds, individually or collectively, are legally tenable, factually established, or sufficient in law to entitle the Applicant to any of the reliefs prayed for herein. The alleged grounds are bereft of evidentiary support and amount to a gross misrepresentation of the legal and factual position. The Answering Respondent craves liberty to deal with each of the said grounds separately, if directed to do so by this Hon'ble Tribunal, or as may be appropriate at the hearing of this matter.
8. It is most respectfully submitted that the instant Original Application is devoid of merit, is not maintainable in law, and is liable to be dismissed in limine for the following substantive reasons, which constitute independent and cumulative grounds for dismissal: —



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a. The instant Original Application is not maintainable in law and is, in substance, an afterthought and a misconceived proceeding. The Storm Water Drainage Scheme was conceived and commenced in or around the year 2019, and the Applicant has been fully aware of the same from the very inception of the project. The Applicant has deliberately chosen to approach this Hon'ble Tribunal at an advanced stage of implementation, when substantial public resources have already been expended and significant portions of the project have been completed, thereby rendering the reliefs sought illusory, inequitable and contrary to the principle of good governance and public interest. The Applicant's selective invocation of environmental concerns, at a stage calculated to cause maximum disruption to a legitimate public infrastructure project, smacks of mala fides and is an abuse of the process of this Hon'ble Tribunal.



b. That the application is hopelessly time barred as the present application appears to be barred by limitation and the same shall be argued at the time of hearing as the doctrine of continuing cause of action cannot rescue the application since the original violation, if any, is traceable to the commencement of the project. Further the advanced stage of project completion and expenditure of public funds further disentitles the applicant to equitable relief at this belated stage. The application, therefore, is liable to be dismissed at the threshold on grounds of limitation alone, without entering into the merits of the environmental contentions raised therein.

c. That the applicant herein raised the allegation in paragraph 9 of the grounds that "...the Hon'ble NGT, which expressly



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prohibit any RCC construction or concretization within the designated buffer zones surrounding ecologically sensitive water bodies..." or that senior officers ... disregard not only undermines the sanctity of the Hon'ble NGT's orders and the authority of the Hon'ble High Court...". That the respondent herein submits that the Order dated March, 23, 2023, passed by the Hon'ble NGT, EZ in OA/155/2022/EZ held that:

"...7. In the meantime, the Tribunal directed that there shall be a stay on all construction activities by way of encroachment on the three ponds in question..."

"...H. All illegal constructions leading into to three ponds and encroachments shall be removed within three months and those constructions which are governed by interim order of the Hon'ble High Court, Patna, shall be subject to any final order which may be passed by the Hon'ble High Court..."

That the Hon'ble NGT, EZ had directed that there shall be a stay on all construction activities constituting encroachment upon the three ponds in question. It is respectfully submitted that the drain that has been constructed in the vicinity of the said ponds does not, in any manner, encroach upon the land of the ponds or their water bodies.

The said drain was specifically constructed for the purpose of intercepting and diverting surface road water, so as to prevent its uncontrolled and direct discharge into the ponds — a measure that, far from harming the ponds, actively serves their ecological protection and conservation. The construction of a protective drainage channel peripheral to the pond,



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intended to safeguard its water quality and integrity, cannot be equated with or construed as an “encroachment” within the meaning and intent of this Hon’ble Tribunal’s order.

Whereas, the Applicant has, with manifest mala fides, presented a distorted and misleading version of the facts before this Hon’ble Tribunal, and has, with equal deliberateness, misconstrued and misrepresented the operative directions contained in the order of this Hon’ble Tribunal, in order to suit its own narrow and self-serving narrative. This conduct of the Applicant deserves to be deprecated, and the instant Original Application, being founded upon such misrepresentation, is liable to be dismissed with costs.

9. It is submitted that the Urban Development & Housing Department, Government of Bihar (Respondent No. 4), and BUIDCO — Bihar Urban Infrastructure Development Corporation Ltd. (Respondent No. 6) — are already arrayed as party-Respondents in the present Original Application and are the competent and responsible authorities empowered and obligated to respond to all allegations pertaining to the planning, design, and execution of the Storm Water Drainage Scheme (SWDS). The Answering Respondent, DMC (Respondent No. 3), has absolutely no role, responsibility, authority or involvement whatsoever in the conception, sanctioning, funding, or execution of the SWDS. The said Scheme is a State Government initiative entirely above the sanction limit of the Municipal Corporation, and its entire execution is vested in UD&HD and BUIDCO, acting under the exclusive supervision and administrative control of the State Government of Bihar. The Answering Respondent submits that no adverse order, direction, or environmental compensation can lawfully be passed against DMC in



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respect of activities and projects over which it exercises no jurisdiction, control, or authority

10. That insofar as the Canal/Nala Lining Project is concerned, which has also been mentioned in the present Original Application, it is most respectfully submitted that the said project pertains exclusively to the jurisdiction and functional domain of the Water Resources Department, Government of Bihar, Patna. The Canal/Nala Lining Project was executed by the Water Resources Department as part of its mandate to maintain and improve water conveyance infrastructure under its administrative control. That the Canal/Nala Lining Project was undertaken for the specific purpose of constructing a lined urban nala (canal) extending from Housing Board Colony to Harpatti via Chatti Chowk, Darbhanga, covering a total length of approximately 3.99 kilometers. The said work was executed in different stretches falling under the ambit of the Canal Lining Project.

11. In view of the same any allegations raised against any of the other respondents cannot be answered or replied by the respondent herein as they are separate body.

12. It is most respectfully submitted that the Applicant is not entitled to any of the reliefs prayed for in the Original Application, whether jointly or severally, as against the Answering Respondent. None of the prayers, including the prayer for imposition of environmental compensation under the "Polluter Pays Principle" as against the DMC, are legally maintainable, factually grounded, or warranted in equity, and are therefore liable to be rejected and dismissed. The prayer for environmental compensation against DMC under the Polluter Pays Principle is particularly misconceived insofar as it is



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directed against an authority that neither executed nor permitted any of the alleged violations. The Answering Respondent expressly reserves all its rights and contentions, and craves liberty to make further and more detailed submissions at the hearing of this matter, including on points of law that may arise in the course of arguments.

13. That the Answering Respondent respectfully prays that it may be permitted to file a further/additional affidavit, supplementing the averments made herein, if required or as directed by this Hon'ble Tribunal. The Answering Respondent also reserves its right to raise any other pleas that may be available to it in law, and which may be raised at the time of hearing of this matter.



14. The Answering Respondent most respectfully states and submits that the instant Original Application is harassing, vexatious, speculative, mala fide, and an abuse of the process of this Hon'ble Tribunal. The Original Application is premised upon a suppression of material facts, misleading representations of law, and a deliberate mischaracterization of the orders of this Hon'ble Tribunal. The Applicant has failed to disclose to this Hon'ble Tribunal that the impugned projects were initiated years prior to the filing of this application, and that the Applicant was aware of the same. The application is, accordingly, liable to be dismissed in limine with exemplary costs, as a deterrent against frivolous and vexatious environmental litigation that wastes the scarce judicial resources of this Hon'ble Tribunal and causes prejudice to the Respondents and to the public at large.

15. The statements made in paragraphs 1 to 14 are true to my knowledge, information derived from records which I verily believe



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to be true and the rest are my respectful submissions before this
Hon'ble Court.

Prepared in my Office

Ghanshyam Pandey

Advocate

[Signature]
23/02/26

Deponent

BEFORE ME

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[Signature]
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VERIFICATION

Verified at Darbhanga, Bihar by the deponent above named on this the 23 day of February, 2026, and say that the contents of this affidavit made in paragraph nos. 1 to 15 are true to my knowledge and information derived from records which I verily believe to be true and the rest are my respectful submissions before this Hon'ble Tribunal.

[Handwritten Signature]
23/02/26

DEPONENT



[Handwritten Signature]