

X

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO – 120 OF 2024

IN THE MATTER OF:

SUSHIL MURMU

APPLICANT

VERSUS

UNION OF INDIA AND OTHERS ...

RESPONDENTS

INDEX

S. No.	Description of Documents	Pgs.
1	Rejoinder Affidavit on behalf of applicant	1-13

PLACE: BHUBANESWAR

SANKAR PRASAD PANI

ASHUTOSH PADHY

DATE-01/12/2025

ADVOCATE

FILED ON- 19/03/2026

**PLOT NO 2132/4814, NAGESWAR TANGI, BHUBANESWAR,  
751002 CELL-9437279278 Email:[sankarprasadpani@gmail.com](mailto:sankarprasadpani@gmail.com),**



**BEFORE THE NATIONAL GREEN TRIBUNAL**

EASTERN ZONE BENCH, KOLAKATA

Original Application No -120 /2024

**IN THE MATTER OF:**

**Sushil Murmu**

**...APPLICANT**

**VERSUS**

**UNION OF INDIA and Others**

**...RESPONDENTS**

**COMPOSITE REJOINDER ON BEHALF OF APPLICANT**

**IT IS MOST RESPECTFULLY SHOWETH:**

I, Sushil Murmu, aged about 28 years S/o Somchand Murmu At/Po- Ranga, Dist- Purulia, PS-Baghmundi, Pin 723152 do hereby solemnly affirm, and declare that I am the applicant in the abovementioned Original Application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

**1. REJOINDER TO THE AFFIDAVIT FILED BY MOEFCC 23/07/2024**

- I. That the MOEFCC in its affidavit dated 23/07/2024 in paragraph 8 clearly stated that “*Ministry received a representation in July 2023 requesting for withholding forest clearance and halt on change of land-use in light of violation of FC conditions (now Van (Sanrakshan Evam Samvardhan), 1980) for Turga PSP. That the answering Ministry vide letter dated 16.08.2023 and subsequent reminder letter dated 24.06.2024 sent the said representation to the State Govt. to examine the matter and take appropriate necessary action on the representation as per law. Reply in this regard is awaited.*” That the statement of MOEF clearly suggests the State Govt. is not complying with the directions of MOEFCC and also obtained the forest clearance by suppressing facts and by giving false documents.



- II. It is pertinent to mention here that the MoEFCC circular dated **30.07.2009** and **03.08.2009** requires enclosure of evidence of settlement of rights in the following form:
- a. A letter from the state government certifying that the complete process for settlement of rights has been carried out along with a **record of all consultations and meetings held. However no such record has been attached in the present affidavit filed by MOEF.**
  - b. A letter from each of the Gram Sabhas indicating that all formalities under the FRA have been carried out and they have given informed consent. **However, no such letters from Gram Sabhas have been attached in the present affidavit filed by MOEF.**
- III. That the MOEFCC in its affidavit dated 23/07/2024 has attached a letter from the DM Purulia dated 13/06/2017 wherein in point No. (g) it is stated that *“Neither any person has been given patta under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, nor any person is in possession of any portion of the forest land which is required for 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia”*, that this statement of DM Purulia is not true as **61 Individual Forest Rights (IFR) claims along with Community Forest Rights (CFR) claims which covers an area of 504 ha, a large portion of which falls within the project area from Baruajara, Bandhughutu, Dulgubera have been submitted to the sub-divisional level committee (SDLC) on 24.05.2023 and 89 IFR claims and CFR claim for 357 acres from Ranga-Barelaha Gram Sabha has been submitted to SDLC on 22.08.2023.**
- IV. The Assistant Commissioner (Forestry) on behalf of the MoEFCC submits as follows:



That land being a state subject, the boundaries of forest areas and the status of land are to be determined by the state government. The Government of WB submitted a proposal for prior approval of the central government u/s 2 of FCA dated 18.09.2017. In principle approval was granted on 12.04.2018 for Turga PSP “after careful examination and on the basis of recommendations of the Advisory Committee (AC) and acceptance by competent authority” subject to the fulfilment of condition (xxii) settlement of rights under the FRA.

The applicant submits that **Responsibility of settlement of rights vested with the state government. The District Collector (DC) is responsible for issue of required certificates.** Stage II approval was granted by the Ministry on 13.10. 2022 “after due consideration” upon receiving compliance report, subject to condition of settlement of rights under FRA. It is further confirmed that the grant of approval at both Stage I and Stage II is subject to the settlement of rights under the FRA.

This document has the minutes of the meeting held on 23.03.2017 with merely 24 signatures. This document also contains a letter to BDO by Pradhan of Ajodhya GS which mentions four plots of land given as pattas under FRA. The attached resolution in Bangla mentions many others who also have pattas in the area, and they were told that they should have no problem with giving the NOC if they were given suitable compensation. It is evident that the MoEFCC has not shared the entire document to hide the irregularities therein, or has not applied its mind to the documents submitted by the state government.

2. The MoEF circular dated 30.07.2009 and 03.08.2009 requires enclosure of evidence of settlement of rights in the following form:
  - a. A letter from the state government certifying that the complete process for settlement of rights has been carried out along with a



record of all consultations and meetings held. However no such record has been attached with the Annexure.

- b. A letter from each of the Gram Sabhas indicating that all formalities under the FRA have been carried out and they have given informed consent. **However, no such letters from Gram Sabhas have been attached with the Annexure.**

**REJOINDER TO THE AFFIDAVIT FILED BY DM PURULIA DATED 01/08/2024**

3. The letter from DM Purulia dated 13.06.2017 is rife with contradictions as: The claim made in point (g) is untrue, as it states that ‘neither any person has been given pattas under the FRA nor any person is in possession of any portion of forest land required for the TPSP as is noted in the minutes of the GS submitted by the Pradhan of Ajodhya Gram Panchayat. At the same time, 61 Individual Forest Rights (IFR) claims along with Community Forest Rights (CFR) claims which covers an area of 504 ha, a large portion of which falls within the project area from Barujara, Bandhughutu, Dulgubera have been submitted to the sub-divisional level committee (SDLC) on 24.05.2023 and 89 IFR claims and CFR claim for 357 acres from Ranga-Barelaha Gram Sabha has been submitted to SDLC on **22.08.2023.**

Therefore the claim made in point (d) saying that discussion and decision with presence of 50% Gram Sabha members is not applicable for TPSP because neither any person has been given pattas under the FRA nor any person is in possession of any portion of forest land required for the TPSP is contrary to MoEF circular dated 30.07.2009 and 03.08.2009. Further, the claims made in points (d) and (g) undermine the claims made in points (a), (b), (c), (e) and (f) which state that consultations have taken place with the GS and consent has been given, as well as facilities managed by the government have been completed and so on. That the cause of the TPSP



was brought before the HC which quashed the ‘in principle approval’, whereas the Division Bench set aside the judgement by order dated 23.12.2021.

That Sec 3(2) of the FRA is inapplicable to the present case as the TPSP is a conventional source of energy. This has no bearing on the case as the claim for settlement of rights before diversion of forest land emerges from MoEF circulars dated 30.07.2009 and 03.08.2009 the conditions entailed in Stage I and Stage II clearances given by the MoEFCC and not from Sec 3(2) of the FRA. That the applicant has not enclosed evidence that he is forest dweller; **whereas the applicant Sushil Murmu is president of the Barelahar Forest Rights Committee.** That pending IFR and CFR claims are not justified as Stage I and II clearance has been granted. However, the **settlement of rights is a condition for both clearances and therefore in no way forecloses the validity of such claims being filed.**

That the areas where IFR and CFR claims have been filed in Baruajara, Bandhugutu, Dulgubera, Ranga Barelahar are not notified as Gram Sansads (equivalent to Gram Sabhas in WB) and the Gram Sabhas held subsequently by the villagers are invalid. The provision by the Govt of WB to form FRCs at Gram Sansad Level has been subverted and the distinction between **Gram Sansads and Gram Sabhas has been clarified by letter dated 28.02.2013 by the MoTA to the Gov of West Bengal.** Thereby, the MoTA circular mentioned herein, dated 08.04.2008 (Annexure R-4), recognising Gram Sansad as Gram Sabha stands superseded.

The claim that the Gram Sabhas held by the people of Baruajara, Bandhugutu, Dulgubera, Ranga Barelahar are not qualified to be Gram Sabhas is contrary to the FRA and the letter dated 28.02.2013 by the MoTA to the Gov of West Bengal. That FRA is a special act and shall prevail over



any other law in operation at the time. The claim that no person had been given patta in the 234 Ha of land to be diverted, and that informed consent of Gram Sabhas had been procured is not substantiated as it misrepresents the contents of the minutes of the meeting held on 23.03.2017

The letter from Pradhan, **Ajodhya GP dated 24.03.2017**, attached as Annexure R- 3 (pg. 64) itself mentions four people in possession of land in the proposed project area from whom NOC had to be obtained. Letter dated 05.07.2017 To BDO from Pradhan Ajodhya GP only attests to joint site visit and physical verification of plot no. 659, Teliyabhasha Mouza, JL No. 81 where it was found that no persons had been given pattas under FRA 2006 over 2.766 Ha of forest land on the said plot no. 659. The No objection is originally only given for this small piece of land based on site visit and verification. The NOC for the rest of the land is added as an afterthought in a handwritten point at the end of the letter with no claim of any site visit of physical verification conducted for the rest of the area.

Further, Annexure R – 6 stating completion of settlement of rights under FRA is incomplete as it does not contain minutes and resolution of the Gram Sabha meetings and the full documents proving informed consent of Gram Sabha as required by MoEF circular dated 30.07.2009 and 03.08.2009.

#### **4. Rejoinder Affidavit to BCWD dated 12.08.24 (Respondent 5)**

The cause of the TPSP was brought before the HC, which quashed the ‘in principle approval’, whereas the Division Bench set aside the judgement by order dated 23.12.2021. In Para 8, it argues that the applicant has not enclosed evidence of being a forest dweller. In Para 12, it argues that pending IFR and CFR claims are not justified as Stage I and II clearance has been granted. It further argues that the areas where IFR and CFR claims have been filed in Barujara, Bandhugutu, Dulgubera, Ranga Barelahar are



not notified as Gram Sansads (equivalent to Gram Sabhas in WB) and the Gram Sabhas held subsequently by the villagers are invalid. Para 21 states that that Gram Sabhas were convened at Baghmundi and Ajodhya GP on 20.03.2017 and 23.03.2017 observing all due procedure. However, the letters themselves reflect the flouting of all norms for obtaining informed consent as per FRA. The reply affidavit makes the same argument of inapplicability of Sec 3(2) of the FRA made in the counter filed by the DM Purulia. This has no bearing on the case as **the claim for settlement of rights before diversion of forest land emerges from MoEF circulars dated 30.07.2009 and 03.08.2009 the conditions entailed in Stage I and Stage II clearances given by the MoEFCC and not from Sec 3(2) of the FRA.** The claim in Para 12 regarding IFR and CFR claims is not justified as the settlement of rights is a condition for both clearances and therefore, in **no way forecloses the validity of such claims being filed.** The presence of pattas is substantiated by letters dated 27.03.2017 and 24.03.2017, and 05.06.2017 (annexed as R-2). The claim in Para 12 that the Gram Sabhas held by the people of Barujara, Bandhugutu, Dulgubera, Ranga Barelahar are not qualified to be Gram Sabhas is contrary to the FRA and the letter dated 28.02.2013 by the MoTA to the Gov of West Bengal. That FRA is a special act and shall prevail over any other law in operation at the time.

**5. Counter Affidavit by Forest Department dated 07.08.24 (Respondent 2 and 5)**

The Additional Chief Secretary, Dept. of Forest, WB and DFO, Purulia, submits as follows:

Para 5 states that the DFO, Purulia, had checked all factual details and no human habitation or recorded IFR or CFR was found in the entire area of 234 ha proposed for diversion. That Stage I and Stage II clearance



was given after submission of the requisite compliance reports. And 234 ha of land was handed over for compensatory afforestation. Compensatory afforestation is underway and has been achieved for 106.04 ha of land. Para 11 mentions that “strong resistance of the local community” to the project has been reported by the DFO. The letter by the DFO attached as Annexure R 2 clearly states that **“The work order in question be kept pending till the kind direction of the NGT.”** (Annexure R-2: Letter dated 15.07.24 from DFO to PCCF, WB.)

The Applicant submits that the claim made in Para 5 with regard to the DFO testifying to no human habitation in the project area is unjustified. The letter dated 05.07.2017 To BDO from Pradhan Ajodhya GP only attests to joint site visit and physical verification of plot no. 659, Teliyabhasha Mouza, JL No. 81 where it was found that no persons had been given pattas under FRA 2006 over 2.766 Ha of forest land on the said plot no. 659. The No objection is originally only given for this small piece of land based on site visit and verification. The NOC for the rest of the land is added as an afterthought in a hand written point at the end of the letter, with no claim of any site visit of physical verification conducted for the rest of the area.

Similarly. the claim in Para 10 that forest land has been handed over after compliance with conditions in both Stage I and II clearance is **unfounded as both clearances require completion of compliance with FRA which has not been done.**

**6. Response to Counter Affidavit by Ministry of Tribal Affairs dated 24.09.24 (Respondent 3)**

The Under Secretary, GoI, Ministry of Tribal Affairs submits as follows:

Para 7 states that the state government is responsible for the implementation of the FRA as per the Act and Rules and thus any action to be taken in line with FRA falls in the purview of the state government. Para 9 states that by letter dated 11.10.2023 the MoTA directed the state authorities to examine the representation submitted by Shri Mangal Murmu dated 28.06.2023 and ensure proper implementation of various provisions of the FRA, 2006. An action taken report was also requested. Para 10 **reiterates Sec 4(5) of the FRA and quotes point V(a) at length from the FRA Guidelines underlining the absolute nature of the protection given to forest-dwelling ST or OTFD from eviction or removal from forest land till the recognition and verification process is complete.** The Affidavit invokes Sec 11 of the FRA to assert that while the MoTA is the Nodal Agency for the implementation of the Act, it is not the implementing agency under the Act. (Pg. 5, Para 9 (sic)).

The applicant submits that there is no clarification as to any action taken report having been received from the State Authorities in response to the letter dated 11.10.2023.

**7. Response to the Counter Affidavit by WBSEDCL dated 10.12.24 (Respondent 7):** The Divisional Engineer (Civil) of the WBSEDCL submits as follows:

The environmental clearance was received from the MoEFCC in July 2018. 'In Principle, ' forest clearance was obtained from the MoEFCC in April. 2018. On the receipt of various clearances, the WBSEDCL took necessary steps towards the implementation of the project. (pg. 5). The area has no rare/endangered/ unique species of flora or fauna (pg. 8). The project does not involve the displacement of any people as no villages or hamlets are being submerged; therefore, Resettlement and Rehabilitation issues do not arise. (pg. 9). The public Hearing meeting for Environmental Clearance

## IX

conducted on 02.02.2016 (pg. 10) was conducted by the WB Pollution Control Board and has nothing to do with the settlement of Forest Rights under the FRA or acquiring Gram Sabha Consent. The applicant has not enclosed any proof of being a forest dweller. (pg. 10). Final compliance report submitted by WBSEDCL to the State Forest Department on 08.11.2021 and same is not annexed with the affidavit. Final Forest Clearance for diversion of 234 Ha of forest land was obtained prior to filing of IFR and CFR claims before the SDLC. (pg. 12, para 8). The District Magistrate and Collector, Purulia gave concurrence under FRA 2006, stating that no one had been given pattas under the FRA, nor any person was in possession of any portion of the project land (pg. 16, Para 15; pg. 17, Para 18).

The applicant submits that the claim that no person had been given patta in the 234 Ha of land to be diverted, and that informed consent of Gram Sabhas had been procured is not substantiated as it misrepresents the contents of the minutes of the meeting held on 23.03.2017. The claim that IFR and CFR claims are invalid due to being filed after Final Forest Clearance was obtained does not hold, as the final clearance itself is subject to the condition of compliance with FRA, 2006. The same has been acknowledged in the counter filed by the MoEFCC.

### **8. Response to the Counter Affidavit by WB Power Department dated 24.03.25 (Respondent 9)**

The Special Secretary, Power Department, Government of WB is repeating the assertions of state government departments which have been duly responded in this Rejoinder affidavit. Hence for shake of brevity same is not repeated here.

~~12~~

The state cabinet approved a proposal for the Turga PSP on 08.05.20217 and granted 'In Principle' approval on 12.09.2018. Para 12 the respondent asserts that the project is socio-economically viable and does not form part of any protected area. It holds that the project will lead to the development of social infrastructure in the area and 'lead to significant improvement of socio-economic condition of tribal and underprivileged population of Purulia.' Para 13 argues that the project is a public utility project and it's for the welfare of the public at large, and the applicants are trying to mislead the tribunal for their vested interests. States that no proof of the applicant being a forest dweller or of his being affected by the proposed project has been submitted. Para 19 argues that the claim of the applicant regarding pending IFR and claims is not justified since Stage I and II clearances had been granted prior to submission of claims. That all the procedures for the settlement of rights under the FRA had been carried out for the entire area, and NOC was given based on the report by the district administration and the Gram Panchayat.

9. It is being a clear case of Non-compliance of Forest Rights Act which is conditional to the Approval and for the said reason the Forest Clearance need to be kept in abeyance and no work be allowed to commence on forest land till it is fully complied.

**By the Applicant Through**

**Date:**01/12/2025

*S. Pami* *A. P. Patil*

FILED ON 19/03/2026

**ADVOCATE**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL EASTEN ZONE BENGAL,  
KOLKATA

ORIGINAL APPLICATION NO. 120 OF 2024

IN THE MATTER OF :

SUSHIL MURMU ewrt

APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

RESPONDENTS

AFFIDAVIT

I, Sushil Murmu S/o Somchand Murmu, aged about 28 Years, P.O. Ranga, Dist. Purulia, P.S. Baghmundi, Pin 723152 , do hereby solemnly affirm, and declare as under :

1. That I am the applicant in the above mentioned original application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

2. That I have read over the contents of the accompanying Rejoinder affidavit and the same is true and correct and is drafted on my instruction.

Sushil Murmu  
DEPONENT 01/12/25

VERIFICATION

Verified on this... 1<sup>st</sup>... day of ~~December~~ 2025 at Purulia that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from

Under the Notaries Act, 1952  
Solemnly affirm/ Sworn  
Before me this 1<sup>st</sup> day of Dec 2025

Identified by

By Sushil Murmu  
S/o. Somchand Murmu  
Who is identified by U. Chattopadhyay (Adv)  
Sushil Murmu  
DEPONENT 01/12/25

Upama Chattopadhyay  
Advocate  
1/12/25

Nabin Kumar Sao  
NOTARY PUBLIC  
Govt of West Bengal Purulia

01/12/2025



Handwritten notes: 18-28-25, 18-28-25, 18-28-25



Sankar Pani &lt;sankarprasadpani@gmail.com&gt;

---

**REJOINER AFFIDAVIT FLIED ON BEHALF OF APPLICANT IN OA 120OF 2024, NGT-EZ.**

1 message

**Sankar Pani** <sankarprasadpani@gmail.com>

Thu, Mar 19, 2026 at 5:17 PM

To: Dn Ray &lt;raydnr@gmail.com&gt;, Sibojyoti Chakrabarti &lt;subho.advocate@gmail.com&gt;, Ashok Prasad &lt;Ashokadvhc@gmail.com&gt;, Dipanjan Ghosh &lt;dpnjnghsh0@gmail.com&gt;

Dear Sir/Madam, please find copy of the Rejoinder affidavit filed on behalf of the Applicant.

--

Sankar Prasad Pani, Environment Lawyer  
National Green Tribunal Kolkata & Orissa Highcourt  
Res-Plot No 2132/4814(B), Nageswar Tangi,  
Bhubaneswar, 751002  
Cell- 9437279278  
Skype- sankar.pani

**ilovepdf\_merged (10).pdf**

701K