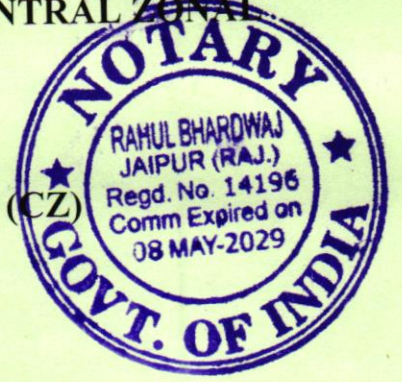


IN THE HON'BLE NATIONAL GREEN TRIBUNAL CENTRAL ZONAL  
BENCH AT BHOPAL

IN

ORIGINAL APPLICATION NO. 259 OF 2024 (CZ)



IN THE MATTER OF:

RAJENDRA TIWARI

..... APPLICANT

VERSUS

UNION OF INDIA AND ORS.

.....RESPONDENTS

Reply Counter Affidavit On Behalf Of The Respondent No. 1 Union Of India,  
Through Secretary, Ministry Of Environment, Forest And Climate Change,  
New Delhi, Respondent No. 2 Chairman, National Wild Life Board.


MOST RESPECTFULLY SHOWETH:

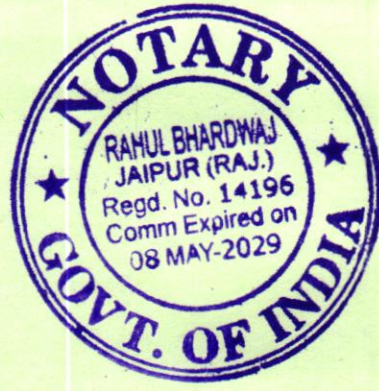
1. I, Mahesh Dutt Purohit, aged about 35 years, working as Scientist 'D', in Ministry of Environment, Forest and Climate Change, (hereinafter 'MoEF&CC') do hereby solemnly affirm and State as under:
2. That I am duly authorized to swear this affidavit and as such I am conversant with the facts of the present case and competent to swear the present affidavit.

**ATTESTED**

**NOTARY PUBLIC  
JAIPUR (RAJ.) INDIA**

**09 JAN 2025**

  
ई.महेश दत्त पुरोहित/Er. Mahesh Dutt Purohit  
वैज्ञानिक डी/संयुक्त निदेशक/Scientist-D/Joint Director  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
भारत सरकार  
Government of India  
क्षेत्रीय कार्यालय गांधी नगर (उप क्षेत्रीय कार्यालय, जयपुर)  
RO, Gandhinagar (Sub Regional Office, Jaipur)



**STATEMENT OF FACTS:**

3. The grievance of the applicant is that illegal operation of commercial establishment by the Respondent No. 12, Private Respondent Small Scale Cottage Industry upon reserved forest land situated in Nahargarh Wildlife Sanctuary.

**REPLY ON MERIT:**


4. It is submitted that the Nahargarh Wildlife Sanctuary was notified vide Government of Rajasthan Notification No. F11 (39) Revenue/8/80 of dated the 22.09.1980. The copy of the Notification dated 22.09.1980 is annexed herewith and marked as **Annexure-1**.
5. It is further submitted that, the provisions of Section 29 of the Wild Life (Protection) Act, 1972 as follows:

*No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the National Board that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wild life therein, authorises the issue of such permit."*

**ATTESTED**

**NOTARY PUBLIC  
JAIPUR (RAJ.) INDIA**

**09 JAN 2025**

  
ई. महेश दत्त पुरोहित/Er. Mahesh Dutt Purohit  
वैज्ञानिक डी/संयुक्त निदेशक/Scientist-D/Joint Director  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
भारत सरकार  
Government of India  
क्षेत्रीय कार्यालय गांधी नगर (उप क्षेत्रीय कार्यालय, जयपुर)  
RO, Gandhinagar (Sub Regional Office, Jaipur)

6. It is submitted that, proposals pertaining to developmental activities within National Parks, Sanctuaries, Tiger Reserves, Tiger Corridors, requiring environmental clearance within Eco-sensitive Zones (ESZ) around National Parks and Sanctuaries, are considered by the standing committee.
7. It is submitted that such proposals are forwarded by State Governments to the Ministry for placing before the standing committee after thorough scrutiny by the State/Union Territory Governments/ Administrators and the State Boards for Wild Life headed by the respective Chief Ministers/Administrators. The standing committee, which also includes eminent ecologists, conservationists and environmentalists, takes informed decisions on the proposals placed for its consideration. Hence, the opinion reached at by the standing committee is an expert opinion.
8. It is further submitted that Section 33 of the Wild Life (Protection) Act, 1972 provides that the Chief Wild Life Warden shall be the authority to control, manage and protect all Sanctuaries.
9. It is also submitted that as per section 34A of the Wild Life (Protection) Act, 1972,

*(1) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Conservator of Forests may,-*

*(a) evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;*

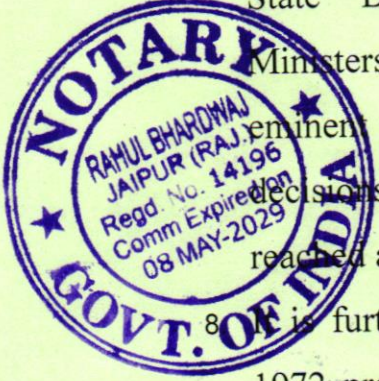
*(b) remove any unauthorized structures, buildings, or constructions erected on any Government land within any sanctuary or National Park and all the things, tools and effects belonging to such person shall be confiscated, by an order of an officer not below the rank of the Deputy Conservator of Forests:*

**ATTESTED**

**NOTARY PUBLIC  
JAIPUR (RAJ.) INDIA**

**09 JAN 2025**

  
ई.महेश दत्त पुरोहित/Er. Mahesh Dutt Purohit  
वैज्ञानिक डी/संयुक्त निदेशक/Scientist-D/Joint Director  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
भारत सरकार  
Government of India  
क्षेत्रीय कार्यालय गांधी नगर (उप क्षेत्रीय कार्यालय, जयपुर)  
RO, Gandhinagar (Sub Regional Office, Jaipur)



*Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.*

*(2) The provisions of this section shall apply notwithstanding any other penalty which may be inflicted for violation of any other provision of this Act.*

10. It is submitted that as per section 51 (1) of the Wild Life (Protection) Act, 1972, any person who contravenes any provision of this Act (except Chapter VA and section 38J) or any rule or order made thereunder or who commits a breach of any of the conditions of any license or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees, or with both.

11. It is further submitted that in accordance with section 55 (b) of the Wild Life (Protection) Act, 1972, the Chief Wild Life Warden, or any other officer authorized in this behalf by the State Government subject to such conditions as may be specified by that Government may file complaints in the Court against the offences under the Act.

12. It is further submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter-alia, being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned Judgments and directions of the Hon'ble Supreme Court.

**ATTESTED**

**NOTARY PUBLIC  
JAIPUR (RAJ.) INDIA**

**09 JAN 2025**

ई. महेश दत्त पुरोहित/Er. Mahesh Dutt Purohit  
वैज्ञानिक डी/संयुक्त निदेशक/Scientist-D/Joint Director  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
भारत सरकार

Government of India

क्षेत्रीय कार्यालय गांधी नगर (उप क्षेत्रीय कार्यालय, जयपुर)  
RO, Gandhinagar (Sub Regional Office, Jaipur)

13. It is submitted that prior approval of the Central Government under Section-2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is required for carrying out any non-forestry activity on forest land.
14. It is further submitted that in the case of unauthorized construction or illegal encroachments, the State Government is empowered to take action and initiate proceeding against the wrongdoers.
15. In light of the foregoing submissions, it is respectfully prayed that this Honorable Tribunal be pleased to issue such orders, directives, or relief as it may deem appropriate and just under the circumstances of the present case.



### VERIFICATION

Verified at Jaipur on this 9<sup>th</sup> day of January, 2025 that the contents of the above affidavit are true and correct to the best of my knowledge based on records and no part of it is false and nothing material has been concealed therefrom.

**ATTESTED**

**NOTARY PUBLIC  
JAIPUR (RAJ.) INDIA**

**09 JAN 2025**

**DEPONENT**

ई.महेश दत्त पुरोहित/Er. Mahesh Dutt Purohit  
वैज्ञानिक डी/संयुक्त निदेशक/Scientist-D/Joint Director  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
भारत सरकार  
Government of India  
क्षेत्रीय कार्यालय गांधी नगर (उप क्षेत्रीय कार्यालय, जयपुर)  
RO, Gandhinagar (Sub Regional Office, Jaipur)

**DEPONENT**

ई.महेश दत्त पुरोहित/Er. Mahesh Dutt Purohit  
वैज्ञानिक डी/संयुक्त निदेशक/Scientist-D/Joint Director  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
भारत सरकार  
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क्षेत्रीय कार्यालय गांधी नगर (उप क्षेत्रीय कार्यालय, जयपुर)  
RO, Gandhinagar (Sub Regional Office, Jaipur)

Annexure - 2

31

राजस्थान सरकार

कृषि विभाग

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26.9.80

क्रमांक/एन 11/39/राज-8/80 जयपुर, दिनांक 22 सितम्बर, 1980

अधि-मूचना

वन्य जीव सुरक्षा अधिनियम 1972 की धारा 18 के उपबन्धों के अधीन राज्य सरकार निम्न अनुसूचि में वर्णित सीमाओं के अन्तर्गत आने वाली जयपुर जिले की भूमियों को, उनकी परिधि में व प्राणजातीय, सामंजस्य, भू-संरचना, सम्बन्धित-भौतिक एवं प्राणी राज्य महत्त्व को ध्यान में रखते हुए पथ द्वारा वन्य जीव अभयारण्य घोषित करती है, जिले में नाहरगढ़ वन्य जीव अभयारण्य के नाम से जाना जायेगा एवं जो उक्त अधिनियम या तदधीन बनाये गये नियमों या जारी किये गये आदेशों के उपबन्धों का विषय होगा।

अनुसूचि

नाहरगढ़ वन्य जीव अभयारण्य की सीमाओं का विवरण:-

क्षेत्रीय भारतीय वन्य जीव सुरक्षा अधिनियम 1972 की धारा 18-2 की सीमा विवरण नाहरगढ़ वन्य जीव अभयारण्य

- उत्तर- वनक्षेत्र बीड तालेडा व ग्राम मूराड की उत्तरी सीमा तक ग्राम कूकन का वन क्षेत्र। (पश्चिमी वन क्षेत्र ग्राम दोलनपुरा उत्तरा नम्बरान 1090 व 1091 व ग्राम कूकन उत्तरा नम्बरान 4, 5, 6 व 7 का उत्तरी भाग।
- पूर्व- वन सीमा जार्जिन समीपवर्ती राजस्थान क्षेत्र ग्राम कूकन मूराड चिमलपुरा जामेर, अजमेरी जामेर पाण्डा, जामेर मेगली रोड व राजस्थान क्षेत्र ग्राम नाहरगढ़।
- दक्षिण- वन सीमा जार्जिन समीपवर्ती आवासीय सुहमपुरी व पुरानी बरली।
- पश्चिमी- नापरा का नाका आका टी क्षेत्र व राजस्थान क्षेत्र ग्राम किराम आका बीड। पण्ड व नाना अमानीराहते पश्चिम दिशाकामा, औद्योगिक क्षेत्र व वन सीमा जार्जिन समीपवर्ती राजस्थान क्षेत्र ग्राम जेजना आकडा,

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शिवपुरिया जिले, बडा गाँव भांडगा व लीपवती वन क्षेत्र बडा गाँव  
भांडगा जमीन नं० 82-85 व 83 का उत्तरी पट्टिचमी को-1  
व लीमा वन क्षेत्र बीड लोडो जमीनचर्चा वन क्षेत्र लखम मोललपुरा  
उत्तरा नम्बर 1092-93

राजस्थान के आदेशों से  
*[Signature]*  
उप राज्यपाल सचिव

प्रतिनिधि सूचनार्थ एवं आवश्यक कार्रवाई के हेतु प्रेषित है:-

- 1- सचिव, राजस्थान सरोदय, राजस्थान, जयपुर ।
- 2- सचिव, मुख्य मंत्री सरोदय, राजस्थान, जयपुर ।
- 3- समस्त निजी सचिव, मंत्री सरोदय, राजस्थान, जयपुर ।
- 4- निजी सचिव, मुख्य मंत्री, राजस्थान, जयपुर ।
- 5- समस्त राजस्व सचिव, राजस्थान, जयपुर ।
- 6- मुख्य वन संरक्षक, राजस्थान, जयपुर ।
- 7- मुख्य वन्य जीव प्रतिकालक, राजस्थान, जयपुर ।
- 8- जिलाधीश, जयपुर ।
- 9- कार्मिक एवं पुरातामनिक मध्या विभाग, पुरातामनिक अ०, ...  
को अतिरिक्त 10 प्रतियाँ भिजित ।
- 10- गार्ड फाईल

*[Signature]*  
उप राज्यपाल सचिव

प्रतिनिधि पुनः प्रेषित है:-

- 1- सचिव, राजस्थान विधान सभा, जयपुर ।
- 2- सचिव, राजस्थान लोक सेवा आयोग, अजमेर ।
- 3- पत्रिका, राजस्थान उच्च न्यायालय, जोधपुर/जयपुर ।

*[Signature]*  
उप राज्यपाल सचिव

प्रतिनिधि अधीक्षक, केन्द्रीय गुरुद्वारालय, जयपुर को अपने राजपत्र में प्रकाशनाार्थ  
प्रेषित है ।

*[Signature]*  
उप राज्यपाल सचिव

*[Handwritten mark]*

एम०पी०बेरवा/21-9-80

जमीनचर्चा के लिये जयपुर के लिये को भेजा जा  
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