

1382

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI

ORIGINAL APPLICATION (Suo-Moto) No. 61/ 2024

IN THE MATTER OF :

In Re: News item appearing in The Northeast News dated 25-12-2023, titled- "Assam PCCF M K Yadava accused of illegally clearing protected forest for Commando Battalion".

IN THE MATTER OF :

An additional affidavit filed for and on behalf of the State of Assam.

ADDITIONAL AFFIDAVIT

FILED BY Smt. MAUCHUMI BARUA, AGED ABOUT 55 YEARS, D/o LATE ROHINI BARUA, PRESENTLY HOLDING THE POST OF SECRETARY TO THE GOVERNMENT OF ASSAM, ENVIRONMENT & FOREST DEPARTMENT.

I, Smt. Mauchumi Barua, aged about 55 years, D/o Lt. Rohini Barua, presently holding the post of Secretary to the Government of Assam, Environment & Forest Department, and posted at Guwahati, in the district of Kamrup (Metro), Assam, do hereby solemnly affirm and state as under.



Mauchumi Barua
Secretary to the Govt. of Assam
Environment & Forest Dept.

1. That, I being the Secretary to the Government of Assam, Environment & Forest Department, and being duly authorised to represent the State of Assam in the present Original Application (Copy of the news publication), and, also, being well conversant with the facts and circumstances of the case, I am competent to swear this affidavit.
2. That, in the instant case 5 (five) numbers of affidavits have already been filed on behalf of the State of Assam, wherein it has been elaborately explained the manner in which the chronic problem of encroachment by the people of Mizoram in the Inner Line Reserved Forest (ILRS), located on the Assam-Mizoram border, is going on, in a systemic way, since early seventies, by giving details of incidents, in tabular form. While explaining the said incidents, several news paper reportings have also been quoted in the said affidavit-in-opposition. It was also explained that pursuant to the Cabinet decision dated 28-07-2021, the Governor of Assam vide letter No.HMA.113/2021/Pt/29, dated 22-10-2021 granted approval for raising 1 (one) new Assam Commando Battalion, i.e. the 2nd Assam Commando Battalion (Operation), at Birsima, Hailakandi. It was stated that the ILRF is remotely located which is around 75 km from the district headquarters, Hailakandi, and, therefore, to have an easy mobility and availability of force, it was decided to house the facility and infrastructure for the battalion within ILRF itself.
3. That, in the last additional affidavit filed on behalf of the State of Assam in the instant proceeding, it was brought on record by



Manuchini Bana

Secretary to the Govt. of Assam
Environment & Forest Dept.
Dispur, Guwahati-06

stating that the MoEF & CC in its meeting of Forest Advisory Committee held on 26-12-2024 approved the proposal of diversion of forest land submitted by State Government for 11.5 hectare for construction of Assam Police Commando Battalion at Damchera in inner line reserved forest under Hailakandi Division, Hailakandi District in the state of Assam.

Relevant pages of the minutes concerning this matter can be seen from page no 21 to 38 (Agenda No. 2) of the minutes of the meeting.

In the said affidavit it was further stated that the Government of India issued the Stage-I/In-principle of Approval on 21-01-2025, vide Online Proposal No FP/AS/OTHERS/469924/2024.

The Government of Assam already fulfilled all the conditions mentioned in the said Stage-I/In-principle of Approval.

Be it mentioned that all the above three documents are already part of the last affidavit dated 20-02-2025 filed on behalf of the State of Assam.

4. That, subsequent to the filing of the above mentioned affidavit on 20-02-2025, the Final (Stage-II) approval of the proposal has also been granted by the Government of India, as per Rule 11 of the Van (Sanrakshan EvamSamvardhan) Adhiniyan, 1980, on compliance of conditions imposed in the 'In-Principle' approval. The Government of Assam has complied with all the conditions imposed in the Stage-I clearance. Accordingly, Government of India, granted the Final (Stage-II) approval under Section 2(1)(ii)



Manchuni Barua
Secretary to the Govt. of Assam
Environment & Forest Dept.
Dispur, Guwahati-06

of Van (Sanrakshan Evam Samvardhan) Adhiniyan, 1980, to the Government of Assam on 20-02-2025, by online proposal No. FP/AS/OTHERS/469924/2024, dated 20-02-2025.

Copy of the Final (Stage -II) approval dated 20-02-2025 is annexed herewith and marked as **Annexure-I**.

Be it stated that as per Rule 9(i), proposal for Central Government in respect of Van (Sanrakshan Evam Samvardhan) Adhiniyan, 1980, are accorded in two stages namely (i) 'In-Principle' approval (ii) 'Final' approval. Accordingly, the MoEF & CC had accorded Stage-I approval to the proposal on 21-01-2025, vide online proposal No. FP/AS/OTHERS/469924/2024 and as stated above the Final (Stage-II) approval was granted on 20-02-2025, by online proposal No. FP/AS/OTHERS/469924/2024, dated 20-02-2025..

5. That, in view of the above explained facts it is humbly submitted that this Hon'ble Tribunal may be pleased to drop the instant proceeding in view of the necessary approval granted by the appropriate authority that is the Government of India.

Manchini Barua
Secretary to the Govt. of Assam
Environment & Forest Dept.



6. That, the statements made in paragraphs1, 2, 3(p), 4(p) and 5 ... are true to my knowledge and those made in paragraphs3(p) and 4(p)... are being matters of records which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

"On Oath"

I swear, that my declaration is true, that it conceals nothing and that no part of it is false, so help me God.

And I sign this affidavit on this 17th day of March, 2025, at Guwahati.

Identified by me,

Basanta Talukder
17.3.25

Manchumi Barua

Advocate's Clerk

DEPONENT

Secretary of the Govt. of Assam
Environment & Forest Dept.
Dispur, Guwahati-06



SL No. 4271

n. u. u. 1
17/3/25
Banti Baishya
NOTARY, GOVT. OF ASSAM
KAMRUP (Metro) Guwahati
Regd. No.: KAM-22

NOTARY PUBLIC : OATH COMMISSIONER
Solemnly affirmed before me this day, I
Certify that I read over and Explained
the contents to the declarant and that
the declarant seemed perfectly to
understand them.



सत्यमेव जयते

Government of India

...

(Forest Conservation Division)



Online Proposal No.:
FP/AS/OTHERS/469924/2024



Dated: 20/02/2025

To,

The Special Chief Secretary (Forests),
Department of Environment and Forest
Government of Assam,
Dispur

Subject:

Proposal for seeking prior approval of the Central Government under Section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 in favour of Assam Police Housing Corporation Limited for non-forestry use of 11.5 Ha. of forest land for establishment of 2nd Commando Battalion Camp at Damchera in Innerline Reserved Forest under Hailakandi Division, Hailakandi District in the State of Assam (Online No. FP/AS/OTHERS/469924/2024)-regarding.

Sir/Madam,

I am directed to refer to Government of Assam online proposal FP/AS/OTHERS/469924/2024 on the above mentioned subject, seeking prior approval of Central Government under Section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. After careful consideration of the proposal, *'in-principle'/Stage-I* approval to the proposal was granted by the Ministry on 21.01.2025 subject to fulfillment of certain conditions prescribed therein. The State Government has furnished compliance report in respect of the conditions stipulated in the in-principle approval and has requested the Central Government to grant final approval.

2. In this connection, I am directed to say that on the basis of the compliance report furnished by the Government of Assam through online PARIVESH portal on 02.02.2025, *final approval (Stage-II approval)* of the Central Government is hereby granted under Section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 in favour of Assam Police Housing Corporation Limited for non-forestry use of 11.5 Ha. of forest land for establishment of 2nd Commando Battalion Camp at Damchera in Innerline Reserved Forest under Hailakandi Division, Hailakandi District in the State of Assam subject to the following conditions:

1. General Conditions

S. No	Conditions
1.1	Legal status of the diverted forest land shall remain unchanged.
1.2	The land identified for the purpose of CA shall be clearly depicted on a Survey of India toposheet of 1:50,000 scale.
1.3	The State Government has realized the NPV of the forest area diverted under this proposal from the User Agency, as per the orders dated 28.03.2008, 24.04.2008 and 09.05.2008 passed by the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 202/1995 and the guidelines given under para 3 of the Chapter- 3 of the Consolidate Guidelines and Clarifications issued under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and Van (Sanrakshan Evam Samvardhan) Rules, 2023 published by the Ministry on 29.12.2023, the user agency shall pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India.
1.4	The Compensatory levies to be realized from the User Agency under the project shall be transferred/ deposited, through e-challan, into the account of National Authority, CAMPA pertaining to the State concerned through e-portal (https://parivesh.nic.in/).
1.5	The State Government shall ensure that compliance of Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted as per the sub-rule (7) of Rule 11 of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 has been completed before handing over of forest land to the User Agency.
1.6	The State Government shall ensure that tree felling is done only in built up area and bare minimum felling shall be permitted in other non-built up areas. Felling of trees before the start of construction should be verified by the concerned DFO.
1.7	The user agency shall explore the possibility of translocation of maximum number of trees identified to be felled and shall ensure that any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department.
1.8	The cost of felling of trees shall be deposited by the User Agency with the State Forest Department.
1.9	The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required.
1.10	No labour camp shall be established on the forest land and no work shall be allowed after sunset.
1.11	The User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas.
1.12	No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
1.13	The State Government shall ensure that boundary of the diverted forest land shall be demarcated on ground at the project cost, by erecting walls or four feet high reinforced cement concrete pillars, each inscribed with its serial number, distance from pillar to pillar and GPS co-ordinates.

S. No	Conditions
1.14	The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
1.15	The layout plan of the proposal shall not be changed without the prior approval of the Central Government.
1.16	The forest land shall not be used for any purpose other than that specified in the proposal.
1.17	The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government.
1.18	No damage to the flora, fauna or the environment of the adjoining area shall be caused; Adequate measures to ensure no damage to the adjoining areas should be taken by the User Agency at the project cost.
1.19	The concerned Divisional Forest Officer, will monitor and take necessary mitigative measures to ensure that there is no adverse impact on the forests in the surrounding area.
1.20	The User Agency shall submit the annual self-compliance report in respect of the above stated conditions to the State Government, concerned Regional Office and to this Ministry by the end of March every year regularly.
1.21	Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife shall be carried with by the State Government and user agency.
1.22	The user agency shall comply all the provisions of all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and NGT Order (s) pertaining to this project, if any, for the time being in force, as applicable to the project; and
1.23	Violation of any of these conditions will amount to violation of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and action would be taken as prescribed in para 1.16 of Chapter 1 of the consolidated guidelines and clarifications issued under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and Van (Sanrakshan Evam Samvardhan) Rules, 2023 as issued by this Ministry's letter No. 5-2/2017-FC dated 29.12.2023.

2. Standard conditions

S. No	Conditions
2.1	The State Government shall ensure that Compensatory afforestation over 11.50 ha non-forest land inside compensatory afforestation land bank of 830 ha. of evicted non forest land adjacent to Burahchapory Wildlife Sanctuary under Nagaon Wildlife Division, Nagaon (which is already notified as forests under the relevant provisions of Assam Forest Regulation of 1891 (VII of 1891) by the State Government against this proposal vide Environment & Forest Department notification No. ECF No. 607416/11 dated 24.01.2025) is initiated within two years from the date of issue of Stage-II approval and maintained thereafter as per approved plan by the State Forest Department at the cost of the User Agency. Further, as far as possible, a mixture of local indigenous species shall

S. No	Conditions
	be planted and monoculture of any species may be avoided.

3. Specific Conditions

S. No	Conditions
3.1	<i>The Regional Office shall pursue the proceedings under Section 3A/3B of the Van Sanrakshan evam Samvardhan Adhiniyam, 1980 as applicable.</i>
3.2	<i>The State Government shall ensure that an area of 1.03 Ha that was broken up and not sought for diversion is restored.</i>
3.3	<i>No future expansion shall be allowed and further diversion of forest land for any expansion purposes shall not be allowed in the instant case.</i>
3.4	<i>The State Government shall ensure that Green belt/green area is maintained in the land marked for open area (as per the land use details). No construction activity or land use change shall be undertaken in said land parcels of the diverted forest land.</i>
3.5	<i>The State Government shall study the impact of proposed arrangement on forest and wildlife of the ILRF for ten years from the date of approval of the Central Government and submit a quarterly report to the Regional Office for perusal.</i>
3.6	<i>The instant case shall not set any precedent for regularization or ex-post facto approval in similar matters.</i>
3.7	<i>The approval accorded in the instant proposal shall be subject to the order of the Hon'ble National Green Tribunal in OA No. 61/2024 (IA No. 124/2024) and other orders by Hon'ble Courts/Tribunal in this regard.</i>

Copy To

1. The Principal Chief Conservator of Forests (HoFF), Government of Assam, Guwahati.
2. The DDGF (Central), Regional Office, Shillong of MoEF&CC.
3. The CCF-cum-Nodal Officer (FCA), Government of Assam, Guwahati.
4. Monitoring Cell, FC Division, MoEF& CC, New Delhi for uploading.
5. User Agency.

Your's faithfully
 Signature Not Verified (S. Sundar)
 Digitally Signed by: S. Sundar
 Assistant Inspector General of Forests
 Assistant Inspector General/Scientist, MEF
 Date: 20/02/2025