

**1266**

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL**

**BENCH AT NEW DELHI**

**ORIGINAL APPLICATION NO. 391 OF 2023**

IN THE MATTER OF :

JAI PRAKASH BADONI

... APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

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PLACE : NEW DELHI

DATED : 21.12.2023

RESPONDENT NO. 1

Through

DR. ANKIT GUPTA

ENROL NO.: D/1710/2011

ADVOCATE FOR RESPONDENT NO. 1

OFFICE: 4, FIRST FLOOR, PRIYA ENCLAVE,

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1267

IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
AT  
NEW DELHI  
IN  
ORIGINAL APPLICATION NO. 391 OF 2023

IN THE MATTER OF:

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Additional Counter Affidavit on Behalf of the Respondent No.1

Union of India, Ministry of Environment, Forest and Climate

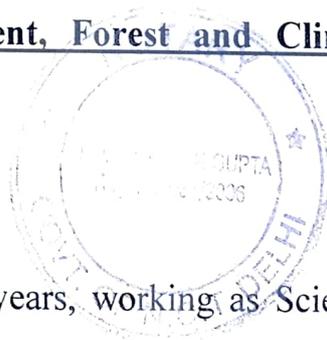
Change, New Delhi.

MOST RESPECTFULLY SHOWETH:

I, Dr Sudheer Chintalapati, aged about 40 years, working as Scientist  
'E', in Ministry of Environment, Forest and Climate Change, New Delhi  
(hereinafter 'Ministry') do hereby solemnly affirm and State as under:



1



Dr. Sudheer Chintalapati  
Scientist 'E', Ministry of Environment, Forest and Climate Change  
New Delhi

1. 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.
2. That I have read and understood the contents of the accompanying reply and state that the same has been drafted under my instructions based on the official records.

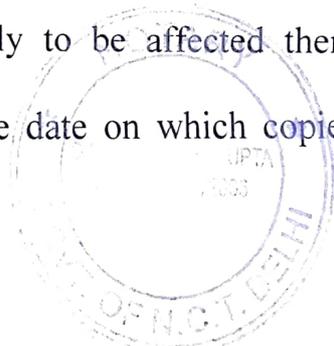
**REPLY TO FACTS OF THE CASE:**

3. It is submitted that, the Ministry was in receipt of representation from Ministry of Road Transport and Highways stating that ropeways are an important component of the transport network of the country as it can be used to provide last mile connectivity as well as mobility in hilly areas and the requirement of EC for these projects came only in 2006 and before that these projects were excluded from the requirement of EC. Further, the Ministry was requested to review the said notification and to exclude ropeways from the projects requiring prior Environmental Clearance.



*[Handwritten signature]*  
2

4. It is submitted that the matter was referred to the Expert Appraisal Committee of Infrastructure sector in this Ministry for deliberation. After detailed deliberation, the said Expert Committee recommended that aerial ropeway is an environment friendly mode of transport in hilly areas with least impact on environment compared to Roads or Highways and recommended that aerial ropeway projects may be excluded from the ambit of EIA Notification, 2006 subject to certain environmental safeguards laid down from time to time.
5. It is submitted that a draft notification for making amendments in the Environment Impact Assessment Notification, 2006 in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 was published, vide number S.O. 491(E) dated the 2nd February 2022, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date on which copies of



Gazette containing the said notification were made available to the Public; And whereas, copies of the said notification were made available to the public on 7th February, 2022.

6. It is also submitted that all objections and suggestions received in response to the draft notification mentioned have been duly considered by the Central Government.
7. It is submitted that Ministry after following the due procedure vide Notification No S.O 1953(E) dated 27th April 2022 exempted Aerial Ropeways from the requirement of prior EC under the provisions of EIA Notification 2006, provided that certain environmental safeguards shall be followed while construction and operation of Aerial Ropeways. (ANNEXURE).
8. It is submitted that proposals for developmental activities within National Parks, Sanctuaries, Tiger Reserves, Tiger Corridors and those activities requiring environmental clearance inside eco-sensitive zones (where finally notified) and default 10 km (where eco-sensitive zones have not been finally notified) around National



*[Handwritten signature]*

Parks and Sanctuaries are considered by the Standing Committee of the National Board for Wild Life.

9. In light of the foregoing submissions, it is respectfully prayed that this Honorable Tribunal may be pleased to issue such orders, directives, or relief as it may deem appropriate and just under the circumstances of the present case.

NOTARY PUBLIC  
GOVERNMENT OF INDIA  
NEW DELHI

*Sudheer Ch.*  
**DEPONENT**

**VERIFICATION**

Verified at New Delhi on this -- day of -----, 2023 that the contents of the above affidavit are true and correct to my knowledge based on the records no part of it is false and nothing material has been concealed there-from.



*Sudheer Ch.*  
**DEPONENT**

5  
ATTENDED  
NOTARY PUBLIC  
Govt of India, NCT of Delhi  
21 DEC 2023



भारत का राजपत्र  
The Gazette of India

सी.जी.-डी.एल.-अ.-27042022-235392  
CG-DL-E-27042022-235392

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 1860]

नई दिल्ली, बुधवार, अप्रैल 27, 2022/वैशाख 7, 1944

No. 1860]

NEW DELHI, WEDNESDAY, APRIL 27, 2022/VAISAKHA 7, 1944

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 27 अप्रैल, 2022

का.आ. 1953(अ).— भारत सरकार के तत्कालीन पर्यावरण और वन मंत्रालय की अधिसूचना सं. का.आ. 1533 (अ) तारीख 14 सितम्बर, 2006 जिसे इसकी अनुसूची (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) के अंतर्गत आने वाली परियोजनाओं जिनमें अनुसूची की मद सं. 7(छ) के अंतर्गत आने वाले आकाशी रज्जू मार्ग भी हैं, के लिए पूर्व पर्यावरणीय अनापत्ति (ईसी) की अपेक्षा के संबंध में भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii) में प्रकाशित की गई थी;

और मंत्रालय को सड़क परिवहन और राजमार्ग मंत्रालय से अभ्यावेदन प्राप्त हुआ है जिसमें यह कथन किया गया है कि रज्जू मार्ग देश के परिवहन नेटवर्क का महत्वपूर्ण घटक हैं चूंकि पहाड़ी क्षेत्रों में इसका प्रयोग अन्तिम मील संयोजकता और साथ ही गतिशीलता प्रदान करने के लिए किया जा सकता है और इससे पहले इन परियोजनाओं को पर्यावरण अनापत्ति की आवश्यकता केवल वर्ष 2006 में उत्पन्न हुई थी और इससे पहले ये परियोजनाएं पर्यावरण अनापत्ति की अपेक्षा से अपवर्जित की गई थीं। इसके अतिरिक्त, मंत्रालय से अनुरोध किया गया था कि वह उक्त अधिसूचना का पुनर्विलोकन करें और पूर्व पर्यावरण अनापत्ति (ईसी) की अपेक्षा करने वाली परियोजनाओं से रज्जू मार्गों को अपवर्जित करे;

और लोक उपयोगी रज्जू मार्गों को पत्र एफ.सं. 5-2/2017-एफसी तारीख 05.08.2019 के अनुसार कतिपय शर्तों के अधीन रहते हुए वन (संरक्षण) अधिनियम, 1980 (1980 का 69) की परिधि से अपवर्जित कर दिया गया है;

और मामला, विचारविमर्श के लिए, इस मंत्रालय में अवसंरचना विशेषज्ञ मूल्यांकन समिति को निर्दिष्ट किया गया था। व्यापक विचारविमर्श के पश्चात्, उक्त विशेषज्ञ समिति ने यह सिफारिश की है कि आकाशीय रज्जू मार्ग पहाड़ी क्षेत्रों में परिवहन का पर्यावरण अनुकूल पद्धति है जिसमें सड़कों या राजमार्गों की तुलना में पर्यावरण पर कम से कम समाघात हो और यह सिफारिश की थी कि आकाशीय रज्जूमार्गों परियोजनाओं को समय-समय पर अधिकथित कतिपय पर्यावरण सुरक्षोपायों के अधीन रहते हुए ईआईई अधिसूचना, 2006 की परिधि से अपवर्जित किया जाए;

और पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए पर्यावरण समाघात निर्धारण अधिसूचना 2006 में संशोधन करने के लिए प्रारूप अधिसूचना का.आ.सं. 491 (अ) तारीख 2 फरवरी, 2022 द्वारा प्रकाशित की गई थी जिसमें ऐसे उन सभी व्यक्तियों में जिनकी उससे प्रभावित होने की संभावना थी, उस तारीख से, जिसको उक्त अधिसूचना की राजपत्र की प्रतियां जनता को उपलब्ध करा दी जाती हैं, साठ दिन की अवधि के भीतर आक्षेप और सुझाव आमंत्रित किए गए थे;

और उक्त अधिसूचना की प्रतियां 7 फरवरी, 2022 को जनता को उपलब्ध करा दी गई थीं ;

और उपरोक्त पैरा 5 में उल्लिखित प्रारूप अधिसूचना के उत्तर में प्राप्त सभी आक्षेपों और सुझावों पर केन्द्रीय सरकार द्वारा सम्यक रूप से विचार कर लिया गया है;

अतः अब, केन्द्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिसूचना में निम्नलिखित और संशोधन करती है, अर्थात्:-

उक्त अधिसूचना की अनुसूची में, शीर्ष "पर्यावरण सेवाएं सहित भौतिक अवसंरचना" के अधीन मद 7(छ) और उससे संबंधित प्रविष्टियों का लोप किया जाएगा।

[फा.सं. आईए-3-22/17/2021-आईए. III]

डॉ. सुजीत कुमार बाजपेयी, संयुक्त सचिव

**टिप्पण :** मूल अधिसूचना भारत के राजपत्र, संख्या का.आ. 1533(अ), तारीख 14 सितंबर, 2006 में प्रकाशित की गई थी और उसमें अधिसूचना संख्या का.आ. 1886(अ), तारीख 20 अप्रैल, 2022 द्वारा अंतिम बार संशोधन किया गया था।

## MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

### NOTIFICATION

New Delhi, the 27th April, 2022

**S.O. 1953(E).**—Whereas the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533 (E), dated the 14th September, 2006 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), regarding requirement of prior Environmental Clearance (EC) for the projects covered in its Schedule (hereinafter referred to as the said notification) including aerial ropeways which are covered under item 7(g) of the Schedule;

And whereas, the Ministry is in receipt of representation from Ministry of Road Transport and Highways stating that ropeways are an important component of the transport network of the country as it can be used to provide last mile connectivity as well as mobility in hilly areas and the requirement of environmental clearance for these projects came only in 2006 and before that these projects were excluded from the requirement of Environmental Clearance. Further, the Ministry was requested to review the said notification and to exclude ropeways from the projects requiring prior Environmental Clearance (EC);

And whereas, Public utility ropeways have been excluded from the ambit of the Forest (Conservation) Act, 1980 (69 of 1980) subject to certain conditions as per letter F. No. 5-2/2017-FC dated 05.08.2019;

And whereas, the matter was referred to the Expert Appraisal Committee of Infrastructure sector in this Ministry for deliberation. After detailed deliberation, the said Expert Committee recommended that aerial ropeway is an environment friendly mode of transport in hilly areas with least impact on environment compared to Roads or Highways and recommended that aerial ropeway projects may be excluded from the ambit of EIA Notification, 2006 subject to certain environmental safeguards laid down from time to time.

And whereas, a draft notification for making amendments in the Environment Impact Assessment Notification, 2006 in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 was published, *vide* number S.O. 491(E) dated the 2<sup>nd</sup> February 2022, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the Public;

And whereas, copies of the said notification were made available to the public on 7<sup>th</sup> February, 2022;

And whereas, all objections and suggestions received in response to the draft notification mentioned in para 5 above have been duly considered by the Central Government;

Now, therefore, in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendment in the said notification, namely,-

In the Schedule to the said notification, under heading, "Physical Infrastructure including Environmental Services", Item 7(g) and the entries relating thereto shall be omitted.

[F. No. IA3-22/17/2021-IA.III]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.

**Note:** The principal notification was published in the Gazette of India, *vide*, number S.O. 1533(E), dated the 14<sup>th</sup> September, 2006 and last amended *vide* the notification number S.O. 1886(E), dated the 20<sup>th</sup> April, 2022.

*Sujit Kumar Bajpayee*

1275



White Legal Solutions &lt;vakilankitgupta@gmail.com&gt;

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**advance copy of counter affidavit along with annexures and BTF**

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**White Legal Solutions** <vakilankitgupta@gmail.com>  
To: Akanksha Sisodia <advocateakankshasisodia@gmail.com>  
Cc: sabina moef <sabinamoef@gmail.com>

Thu, Dec 21, 2023 at 3:25 PM

DEAR ADVOCATE AKANKSHA SISODIA

PLEASE FIND ATTACHED THE ADDITIONAL COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1 I.E. MINISTRY OF ENVIRONMENT IN THE MATTER OA NO. 391/2023 "Jay Prakash Badoni Applicant Versus Union of India & Ors.

THE NEXT DATE OF HEARING IN THE MATTER IS 8/01/2024.

HOPE THE SAME TO BE IN ORDER. AN ACKNOWLEDGEMENT OF THIS EMAIL IS HIGHLY APPRECIATED.

[Quoted text hidden]

Thanks and regards:-

**DR. ANKIT GUPTA (Advocate and Mediator)****Ph. D, LL.M, LLB(hons.), DCL, CAL (U.S.A.)****Legal Consultant, Delhi Police****on Panel, Govt. of NCT DELHI****on Panel, Employee Provident Fund Organization****on Panel, Employee State Insurance Corporation****on Panel, Ministry of Environment, Forest and Climate Change****on Panel, State Election Commission, Delhi****on Panel, Jain Co-operative Bank Ltd.****on Panel, Home Credit Finance****on Panel, ASES Security****on Panel, Moneyboxx finance Ltd.****on Panel, Rajiv Gandhi Superspeciality Hospital****on Panel, National Skill Development Corporation (NSDC)****on Panel, Telecommunications Consultants India Limited**

[Quoted text hidden]

**ADDITIONAL COUNTER AFFIDAVIT.pdf**

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