

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 163 OF 2024

IN THE MATTER OF:

Rasikh Rasool Bhat

...Applicant

VERSUS

Union Territory of Jammu & Kashmir & Others

...Respondents

ADVANCE WRITTEN ARGUMENTS BY THE APPLICANT

MOST RESPECTFULLY SHOWETH:

The present Original Application raises substantial questions relating to violation of statutory environmental safeguards in the execution of the Handwara–Bangus Road Project. The material placed on record, including official documents furnished by Applicant and by the Respondents themselves, demonstrates serious discrepancies concerning forest diversion, commencement of construction, tree removal, extraction of construction material, ecological impact, and compliance with statutory conditions.

The Applicant respectfully submits as under:

1. Forest Clearance Was Granted on an Incorrect Factual Foundation

The proposal for diversion of forest land for construction of the Handwara–Bangus Road proceeded on the premise that no feasible alternative alignment was available outside the forest area. This position is reflected in the Minimum Forest Requirement Certificate placed at Page No. 287 of the record.

However, the Applicant placed on record an illustrated alignment map at Page No. 359 demonstrating the availability of an existing alternative alignment connecting Handwara to Wadder Bala Rajwar. The said material raises a serious question as to whether diversion of forest land was in fact unavoidable or whether no or a less environmentally damaging alternative existed.

The statutory scheme under Section 2 of the Forest (Conservation) Act, 1980, read with applicable guidelines issued by the Ministry of Environment, Forest



and Climate Change, requires strict examination of alternatives and diversion of only the minimum forest area unavoidable for the project.

The examination of alternative alignments is not a procedural formality but a substantive environmental safeguard. If the existence of an alternative alignment was not disclosed before the statutory authorities, the entire appraisal process stood materially compromised.

Accordingly, the certification issued by the Executive Engineer PWD Handwara and Than Assistant Executive Engineer PWD now i/c Executive Engineer PWD Handwara and then Divisional Forest Officer, Langate, and the proposal submitted by the concerned is motivated and causes loss to forest ecology and Environment. And these officers are liable for action under section 15 (2) and 15 B of Environment Protection Act 1986

The statutory duty cast upon the Regional Empowered Committee under Rule 6 of the Forest (Conservation) Rules, 2002 requires an independent and objective examination of the proposal placed before it. Where the approval has been obtained on the basis of incorrect disclosure regarding availability of alternative alignment, minimum forest requirement, ecological sensitivity, wildlife habitat and extent of construction already undertaken, the very foundation of the appraisal process becomes questionable.” While its is also violation of section 7 (c) of J&K Forest (Conservation and Afforestation Rules Act 2000 SRO 203 dated 13 June 2000



2. Construction Commenced Prior to Mandatory Forest Clearance

The Forest Clearance placed at Pages 477–480 demonstrates that approval was granted only on 24.09.2019.

The Compliance Report submitted by the Chief Secretary, placed at Page No. 451, specifically records that Phase-I and Phase-II were not separate road stretches but different stages of construction executed on the same alignment.

The said report further admits that earth cutting, cross-drainage works and protective works on the diverted forest land had already been completed during Phase-I, while Phase-II was restricted mainly to surfacing and road furniture.

Thus, the Respondents' own record establishes that substantial construction activity had already taken place within forest land before grant of statutory approval.

The record at Page No. 156 further discloses registration of FIR No. 449/2018 dated 30.11.2018 regarding alleged execution of construction work in forest land without obtaining mandatory approval.

The RTI information placed at Page No. 369 further reveals that eight running bills amounting to approximately ₹7.38 crore had been released prior to grant of forest clearance. These payments related to substantial works including earthwork, concrete works, drainage structures, retaining walls and protective works.

The above facts establish prima facie violation of Section 2 of the Forest (Conservation) Act, 1980. and also violation of J&K Forest conservation Act and violation of section 15, 15A and 15B of Environment Protection Act.

3. Completion of Earthwork Prior to Forest Clearance Raises Serious Issues Regarding Tree Felling

The RTI reply placed at Page No. 369 records that the entire earth-cutting work had already been completed before 24.09.2019.

Road formation through forest land necessarily requires removal of vegetation and trees falling within the alignment. Therefore, completion of earthwork before grant of forest clearance raises a serious inference that ecological disturbance and removal of vegetation may have occurred before obtaining mandatory approval.

The RTI reply of the Jammu & Kashmir Forest Development Corporation at Page No. 370 records timber extraction during 2020–2021.

The record further shows that technical approval for removal/extraction of trees was granted only on 31.12.2019, as reflected at Pages 481–484.

The chronology disclosed by the official records contradicts and establishing that all the activities were carried in a criminal understating between PWD . Forest Department and Concerned Contractors and number of trees/Saplings in 14 hectors very Dense Forest Area could be more in numbers most probably more than 25000.

Praveen Kumar

4. Illegal Extraction and Utilisation of Construction Material

The communication issued by the District Mineral Officer, Kupwara, placed at Page No. 384, records that approximately 1.30 lakh metric tonnes of River Bed Material (RBM) was required for execution of the project.

However, the Action Taken Report placed at Page No. 352 records that only 74,532.18 MTs of RBM was legally extracted.

The official record therefore reveals an unexplained deficit of approximately 55,468 MTs.

Particulars	Quantity
Project requirement	1,30,000 MTs
Legally extracted material	74,532 MTs
Unexplained balance	55,468 MTs

The Respondents are therefore failure to disclose the lawful source of the remaining construction material.

The record further indicates extensive hill cutting, drilling and blasting for extraction of material beyond the approved project length. Geo-tagged photographs placed at Page No. 12 demonstrate alteration of natural terrain and prima facie ecological damage.

The record at Page No. 134 further discloses a recommendation by the Executive Engineer for extraction of River Bed Material near the Sultanpora–Galsepora Bridge, notwithstanding restrictions contained in Rule 94 of the Jammu & Kashmir Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016, relating to mining near bridge structures.

Similarly, material placed at Page No. 79 records extraction approximately 300 metres downstream of the Dobigaht Zachaldara Bridge, supported by geo-tagged photographic evidence.

The material placed at Pages 385–387 further indicates that extraction and transportation activities caused damage to bridges, public infrastructure, agricultural land, private property and river ecosystems.

These activities were carried in violation of Judgement of the Hon'ble National Green Tribunal in Original Application No. 142 of 2022 (SZ), decided on 23.03.2023, wherein the Tribunal considered the requirement of prior Environmental Clearance for extraction of material intended for commercial utilisation, including for the Government Projects. The judgment forms part of the record at Pages 567–586. The judgement reads as under

(VIII) In spite of the orders of the National Green Tribunal holding repeatedly that Environmental Clearance is required when de-silted material is used for commercial purpose, the current orders of the District Collector is in gross violation of the same... desilting/dredging of water bodies... shall not be permitted without prior Environmental Clearance when the dredged material... is sold either to the public or for Government projects."

5. Wildlife Habitat and Ecological Sensitivity

The Forest Clearance proposal itself acknowledges the presence of protected and sensitive species in the project area.

Item (e) of Table 4 at Page No. 285 records the presence of Himalayan Black Bear, Leopard, Jackal, Himalayan Deer and Himalayan Snow Cock/Jungle Fowl.

Despite such knowledge, extensive hill cutting, blasting and excavation were undertaken in an ecologically sensitive habitat.

Further, Item (f) of Table 4 records that no scientific study was undertaken regarding whether the area constituted a migratory route or breeding habitat, while the possibility of such ecological importance was not ruled out.

Proceeding with the project without scientific assessment violated the precautionary principle.

The RTI reply of the Wildlife Warden, North Division, Sopore, at Page No. 286 records 128 human-wildlife conflict incidents, four fatalities, nine injuries and 136 SOS calls in the Rajwar area since 2017.

The anticipated ecological concerns have therefore materialised and continue to affect local communities as Human and wild life conflict incidents is witnessing increase in the area.



6. Defence Requirement Plea Is Contrary to Official Records

The Respondents have attempted to justify the project by describing it as being of strategic or defence importance.

However, the Forest Clearance proposal clearly records that the project was undertaken for tourism purposes and civilian connectivity.

No document issued by the Ministry of Defence, Indian Army or Border Roads Organisation has been placed on record declaring the project as a defence road.

The project was executed by the Public Works Department and not by any defence agency.

Therefore, the plea of defence necessity appears to be an afterthought and cannot override the statutory requirements governing forest diversion and environmental protection.

7. Contradictory Classification and Length of Project

The Chief Secretary's Compliance Report contains material contradictions regarding the classification and sanctioned length of the project.

At Page No. 459, the project is described as Phase-I of an Other District Road (ODR) with sanctioned length of 29 kilometres.

However, at Page No. 462, the same project is described as Phase-II of a Major District Road (MDR) with sanctioned length of 39 kilometres.

Such contradictions raise serious questions regarding the actual scope, approvals and authorised extent of the project and is establishing illegalities.

8. Construction Beyond Approved Forest Clearance

The Forest Clearance at Page 477 approved the road for a length of 35.50 kilometres, out of which 28 kilometres involved forest land.

However, the User Agency extended construction beyond the approved length, reportedly exceeding 40.5 kilometres, without obtaining fresh forest clearance or statutory approvals. Unlawful length is reflected on page 543 of Record at S.No 2 of Document submitted by Executive Engineer PWD Handwara.



The additional construction involved hill cutting, excavation and blasting, resulting in irreversible damage to natural slopes, vegetation and water channels.

Such activity was beyond the scope of the approved forest diversion and cannot be legally sustained and is gross violations of Conservation of Forest Act, Environment Protection Act , Air (Prevention and Control Pollution) Act , Water prevention and control of Pollution Act and EIA Notification violations and MMRD Act .

9. Violation of Condition No. 12 of Forest Clearance

The Forest Clearance dated 24.09.2019 contains Condition No. 12 at Page No. 480, providing that the approval would remain valid for one year and would stand cancelled if mandatory deposits were not made within the stipulated period.

The record establishes that the required deposits were not made within the validity period and were deposited only pursuant to directions issued by this Hon'ble Tribunal dated 22.08.2025.

Accordingly, the Forest Clearance stood liable to cancellation after expiry of the stipulated period.

Subsequent compliance cannot retrospectively validate activities undertaken during the intervening period without a valid approval.

10. Systemic Nature of Violations in Forest Diversion Projects

The report submitted by the **Chief Secretary, UT of Jammu & Kashmir**, reveals that the violations in the present case are not isolated but form part of a systemic pattern of non-compliance in forest diversion projects across the Union Territory. The Annexure to the report, placed on record at **Pages 498 to 509**, discloses that **154 projects** involving the felling of approximately **82,511 trees** were permitted to proceed despite non-payment of mandatory statutory dues, leaving an outstanding liability of approximately **₹49.07 crore** out of a total liability of **₹84.82 crore**. These official findings disclose a widespread administrative failure and continuing violations of the **Polluter Pays Principle, Precautionary Principle, and Sustainable Development**, embodied under **Section 20 of the National Green Tribunal Act, 2010**, besides attracting the consequences contemplated under **Sections 15, 15A and 15B of the Environment (Protection) Act, 1986**. The findings of the Chief Secretary's

Resubmitted

Report are further corroborated by the analysis published in **The Indian Express** dated **18.02.2026**, which is placed on record at **Page No. 563**, highlighting the systemic failure in recovering statutory environmental dues and ensuring compliance with forest and environmental laws across Jammu & Kashmir.

The present case reflects the importance of strict enforcement of environmental laws and adherence to the principles of sustainable development, precaution and polluter pays incorporated under Section 20 of the National Green Tribunal Act, 2010.

11. Road Not in Public Interest

The impugned road passes almost entirely through dense forest area, except for the initial 2–3 kilometres on private/proprietary land, and does not provide first connectivity to any habitation or substantial benefit to the local population.

The residents of the area have unanimously opposed the project and demanded its immediate cancellation, as reflected in the representations placed on record at Pages No. 144–150.

The project, therefore, has resulted in extensive ecological damage without corresponding public benefit or necessity.

12. Fresh Violations in the Project

The Applicant respectfully submits that fresh violations have occurred during the pendency of the present proceedings, including further hill cutting, mining activities near bridge structures, and continuing human–wildlife conflict incidents arising from disturbance of the project area.

The Applicant has brought these subsequent developments on record by filing **I.A. No. 484 of 2026**. Since the violations are continuing in nature and directly relate to the subject matter of the present Original Application, the said Interlocutory Application deserves to be taken on record and admitted by this Hon'ble Tribunal for complete adjudication of the environmental issues involved.



PRAYER

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:

- a) **Allow the present Original Application** and hold that the Respondents have failed to comply with the statutory environmental safeguards applicable to the Handwara–Bangus Road Project;
- b) Direct the competent authorities to initiate appropriate action against the erring officers/persons responsible for the violations in accordance with the provisions of the **Environment (Protection) Act, 1986**, including Sections **15, 15A and 15B**, and other applicable environmental laws;
- c) Direct assessment and recovery of **environmental compensation/restoration cost** from the responsible persons under the **Polluter Pays Principle** for the damage caused to forest land, wildlife habitat, rivers, and ecology;
- d) Direct an independent investigation into the alleged unauthorised forest diversion, hill cutting, mining, extraction of River Bed Material, tree removal and construction activities beyond approved permissions, and take appropriate action against the responsible Respondents;
- e) Direct the competent authority to examine and take appropriate steps for declaring the project area and adjoining ecologically sensitive habitat as a **Wildlife Sanctuary**, in view of the presence of protected species, wildlife habitat, and increasing human–wildlife conflict incidents;
- f) Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of environmental protection, ecological restoration and sustainable development.



Place Handwara J&K
Dated 18/07/2026

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Advance Copy of Written Arguments

Rasikh Rasool <rasikhrasool@gmail.com>

Tue, 21 Jul at 4:19 PM

To: Gautam Singh <gautamsinghh.ind@gmail.com>

Dear Learned Counsel for the state

Please find attached the Applicant's advance written arguments in the above matter.

It is requested that if the Respondents propose to file or rely upon any written submissions/arguments, an advance copy of the same may kindly be shared with the Applicant through return email before the date of hearing.

Regards,

Rasikh Rasool Bhat

Applicant in Person

O.A. No. 163 of 2024

Mobile No 9103097097

Advance written arguments .pdf