

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 330 OF 2022

IN THE MATTER OF:

Ganesh Chand Sharma.

.....Applicant

Versus

State of Uttarakhand & Ors.

... Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF RESPONDENTS (STATE OF  
UTTARAKHAND) IN COMPLIANCE OF DIRECTIONS PASSED BY THE  
HON'BLE NATIONAL GREEN TRIBUNAL VIDE ITS ORDER DATED 10.08.2022.

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Filed by:



[RAHUL VERMA]

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**ADDITIONAL AFFIDAVIT ON BEHALF OF RESPONDENTS  
(STATE OF UTTARAKHAND) IN COMPLIANCE OF  
DIRECTIONS PASSED BY THE HON'BLE NATIONAL GREEN  
TRIBUNAL VIDE ITS ORDER DATED 10.08.2022.**



I, Shyam Singh S/o Shri Late Shri Gulab Singh aged about 54 years, presently posted as Joint Secretary, Govt. of Uttarakhand, Dehradun, Uttarakhand, do hereby solemnly affirm on oath and state as under:

1. That in my abovementioned official capacity, I am acquainted with the facts and circumstances of the present matter, and I am fully competent to file present Report by way of Affidavit on behalf of State of Uttarakhand.
2. That the abovementioned matter had been filed by the applicant seeking inter alia the relief of issuance of directions

to the respondents not to construct Taradi-Dhabra Shashikhal Motar Marg above the Naula of Village Malla Dhadhariya, District Almora, Uttarakhand and to adopt alternate route to protect it from damage.

3. That the applicant also claimed that Naula in question is the only natural water resource more than 100 years old which servers the inhabitants of village Malla Dhadhariya and Soli besides Students and Teachers of the School situated nearby. The above said Naula is in danger of being completely destroyed by construction of the above said road.
4. That the matter was listed before this Hon'ble Tribunal on 11.05.2022, this Hon'ble Tribunal vide its order dated 11.5.2022 was pleased to pass the directions to Respondent-State of Uttarakhand, the operative portion of the same is as follows:-



“ .....

*4. In view of the grievances raised in the letter petition, the factual position also needs to be verified and remedial action is required to be taken on the basis thereof.*

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We accordingly constitute Joint Committee of State PCB, Executive Engineer, PWD Department and District Magistrate, Almora and direct the same to verify the factual position, look into the grievances of the applicant and in particular consider the alternative suggested by the applicant in para 5.10 of the application for saving the Naula from destruction in consultation with some local expert in the field of Himalayan Geo-hydrology, if so required. State PCB will be the nodal agency for co-ordination and compliance. Report may be furnished on or before 26.05.2022 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

5. The applicant is directed to take requisite steps for service of notices on the respondents and file his affidavit regarding the same by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) within seven days.

List the matter for further consideration on 27.05.2022.



A copy of this order, along with a copy of the complaint, be forwarded to the State PCB, Executive Engineer, PWD Department and District Magistrate, Almora by e-mail for compliance.”

*(Handwritten signature)*

5. That in compliance of the abovesaid order dated 11.05.2022 a Joint Committee consisting of the concerned officials had already conducted a joint site inspection and submitted its report dated 21.5.2022 as already informed to this Hon'ble Tribunal at the time of hearing on 10.8.2022 that the total length of proposed motor road is 21 Km. out of which 2.225 Km. motor road is under construction.
6. That the present alignment of proposed road is about 20 meter above the said Naula/Water Source located at Village Malia Dhadharia. As per finding of the Joint Committee, there is possibility of damage to said Naula/Water Source due to construction of said motor road. However, during inspection the said Naula/Water Source was found undisturbed.
7. That after field inspection and discussion with the villagers of Malia Dhadharia and Talla Dhadharia, the Joint Committee found that the Naula/Water Source may be conserved if the alignment of the proposed road is changed. But if the alignment is changed then the length of the road is likely to increase approximately to the extent of 200 Mtrs. In the said



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context, the Public Works Department informed that sanction towards new alignment will have to be taken from the competent authority. It is further submitted that report further stated that in case the road is constructed as per the alignment suggested by the Applicant in his petition then the length of the road is likely to increase to the extent of 3.00 Km. for which re-alignment/revised alignment have to be carried out which will entail cost escalation for which sanction will be required to be taken from the State Government and it will be big costing on State exchequer which is not feasible also financially. The aforesaid report further stated that in case the proposal as suggested by the Committee is taken into consideration then the length of the road will increase to the extent of 200 Mtrs. (Approx.),. for which no sanction/approval will be required to be taken again from the State Government.



8. That it is also relevant mention herein that based on the recommendations of the above Joint Inspection Committee Report dated 21.05.2022, the State Pollution Control Board, the Nodal Agency, vide its letter dated 24.05.2022 directed

*[Handwritten signature]*

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Head of the Department and Engineer-in-Chief, PWD, Uttarakhand, to take approval with regard to change in alignment and increase in the length of road to the extent of 200 Mtrs. (Approx.) from the competent authority and further to intimate the said proceedings to this Hon'ble Tribunal.

9. That on receipt of the aforesaid letter dated 24.05.2022 from the State Pollution Control Board, the Office of the Engineer-in-Chief and Head of the Department, PWD, Dehradun vide letter 30.05.2022 directed the concerned Executive Engineer (Provincial Division), PWD, Ranikhet to take action in accordance with the recommendations of the joint committee.
10. That in compliance of abovementioned order dated 11.5.2022 passed by this Hon'ble Tribunal, the Action Taken Report by way of affidavit dated 08.08.2022 was filed on behalf of Respondents No.1 to 4 (State of Uttarakhand).
11. That, thereafter, the matter was listed on 10.08.2022 before this Hon'ble Tribunal, after hearing at length the Hon'ble Tribunal was pleased to pass the following order/ directions:



*[Handwritten signature]*

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“ .....

3. *Vide order dated 11.05.2022, notices were ordered to be issued to respondents and a Joint Committee comprising of State PCB, Executive Engineer, PWD Department and District Magistrate, Almora was constituted to submit a Factual Action Taken Report with direction to consider the alternative suggested by the applicant in Para no. 5. 10 of the application for saving the Naula from destruction in consultation with some local expert in the field of Himalayan Geo-hydrology, if so required.*

4. *In compliance thereof, Report has been sent by the Joint Committee vide E-mail dated 02.06.2022. 5. Respondents no. 1 and 2 have also filed Action Taken Report by way of Affidavit dated 08.08.2022 through E-mail dated 09.08.2022.*

6. *Learned Additional Advocate General seeks time to take instructions and file additional affidavit on behalf of respondents no. 1 to 4 regarding further action to be taken.*

7. *Two weeks' time is granted for filing additional affidavit by respondents no. 1 to 4 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.*

8. *In view of the facts and circumstance of the case, we also consider personal appearance of the concerned DFO and District Magistrate, Almora on the next date of hearing through*



*[Handwritten signature]*

*VC to be essential for producing the relevant documents regarding compliance with environmental norms and assisting this Tribunal in just and proper adjudication of the questions involved in the case and they are accordingly directed to remain present before this Tribunal on that date.*

*List the matter for further consideration on 30.08.2022.*

*A copy of this order be forwarded to DFO and District Magistrate, Almora by E-mail for compliance.”*

A true copy of the order dated 10.08.2022 passed by this Hon'ble Tribunal is annexed hereto and marked as ANNEXURE R-1.

12. That in compliance of abovementioned order dated 10.08.2022 passed by this Hon'ble Tribunal, the present Report of Additional Affidavit is being on behalf of State of Uttarakhand are follows:-

I. That in compliance of the order dated 10.08.2022, the District Magistrate, Almora directed to take opinion of the concerned specialist of the Govind Ballabh Pant National Institute of Himalayan Environment (for short NIHE), Kosi Katarmal, District Almora, Uttarakhand, in view of the



above, the officials of district administration contacted the abovesaid NIHE, and it was informed by the abovesaid Institute, that atleast one week time will be required to have the complete inspection of the concerned site done by the said institute.

- II. That, thereafter, on 24.08.2022, the officials of Public Works Department and Revenue Department again had an inspection of the site in question and found that the alignment of the abovesaid motor road is passing 1.00 kilometer in village Soli and is passing in 2.00 kilometer village Malla Dhadaria and is passing 4.00 kilometer via Syahilandand is passing 6.00 kilometer to village Talla Dadharia.
- III. That as per recommendation of the joint committee the Naap land is affected. As the Naapland of the villagers are affected with regard to abovesaid alignment, therefore, the local villagers are raising objections.



- IV. That after considering the suggestions of the applicant, it is found that alignment suggest by the applicant is connected to the village Talla Dadharia via road of earlier approved alignment after passing about 4.00 kilometer below side of the Naula in question. It is also relevant to mention herein that in this alignment also the Naap land is affected.
- V. That in this alternative alignment, the length of road in question will be 4.00 kilometer as compared to 6.00 kilometer upto village Talla Dadharia.
- VI. It is relevant to mention herein that the villagers of village Syahiland are raising objections from beginning with regard to construction of the road regarding approved alignment.

13. That in the abovesaid facts and circumstances, it is pertinent to mention herein that the final decision will be taken after having a public meeting of all the concerned villagers of the area affected in the proposed alignment of the road in question to save the Naula in question.



14. That the present Additional Affidavit in compliance of directions passed by this Hon'ble Tribunal is being filed on behalf of State of Uttarakhand for kind perusal of this Hon'ble Tribunal.

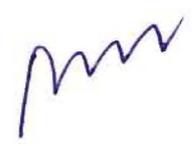
15. In view of the facts and circumstances as explained hereinabove sincere efforts are taken by the State of Uttarakhand in compliance of the directions passed by this Hon'ble Tribunal, the same may kindly be accepted by this Hon'ble Tribunal and the deponent hereby undertakes to comply with every direction passed by this Hon'ble Tribunal.

  
DEPONENT

**VERIFICATION**

I, the deponent above named do hereby verify and say that the contents of my above Additional Affidavit are true and correct to my knowledge based on record, no part of it is false and nothing material has been concealed there from. The legal submissions are further true as per legal advice received and believed to be true and correct.





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Verified by me at Dehra, Uttarakhand on this 26 day of August, 2022.



*[Handwritten Signature]*  
DEPONENT

Filed through:

*[Handwritten Signature: Rahul Verma]*  
[RAHUL VERMA]

Additional Advocate General for State of Uttarakhand  
/Respondents  
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Mayur Vihar Phase-I,  
Delhi-110091  
Mobile No. 9717706032  
Email- [advrahulverma9999@gmail.com](mailto:advrahulverma9999@gmail.com)

*[Handwritten Signature]*  
Regt. No  
1007  
26/08/22



This affidavit is sworn before me by  
Shri. *[Handwritten Signature]*  
who is identified by Shri .....  
at Dehradun on .....

*[Handwritten Signature]*  
(Rajender Singh Negi)  
Advocate & Notary, Dehradun

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH**

(By Video Conferencing)

Original Application No.330/2022

Ganesh Chand Sharma

...Applicant

Versus

State of Uttarakhand & Ors.

...Respondents

Date of hearing: 10.08.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Ganesh Chand Sharma, Advocate in person.

Respondents: Mr. Rahul Verma, Additional Advocate General, for Respondents no. 1 to 4.  
Mr. Pushp Gupta Advocate for Respondent no. 5.  
Mr. Mukesh Verma, Advocate for UKPCB.

**Application under Section 18 (1) read with Section 14 and 15 of the  
National Green Tribunal Act 2010.**

**ORDER**

1. The applicant has filed present application under Section 18(1) read with Sections 14 & 15 of the National Green Tribunal Act, 2010 seeking inter alia the relief of issuance of directions to the respondents not to construct Taradi-Dhabra Shashikhal Motar Marg above the Naula of Village Malla Dhadhariya and to adopt alternate route to protect it from damage.

2. The applicant has claimed that Naula in question is the only natural water resource more than 100 years old which servers the inhabitants of village Malla Dhadhariya and Soli besides Students and Teachers of the School situated nearby. The above said Naula is in danger of being completely destroyed by construction of the above said road by respondent

no.2. As per the PWD Department in order to save the Naula at demarcation point 1/23 a two number HP Band under demarcation point 0/40 below the village Soli can be done without any hindrance to save the Naula from destruction.

3. Vide order dated 11.05.2022, notices were ordered to be issued to respondents and a Joint Committee comprising of State PCB, Executive Engineer, PWD Department and District Magistrate, Almora was constituted to submit a Factual Action Taken Report with direction to consider the alternative suggested by the applicant in Para no. 5. 10 of the application for saving the Naula from destruction in consultation with some local expert in the field of Himalayan Geo-hydrology, if so required.

4. In compliance thereof, Report has been sent by the Joint Committee vide E-mail dated 02.06.2022.

5. Respondents no. 1 and 2 have also filed Action Taken Report by way of Affidavit dated 08.08.2022 through E-mail dated 09.08.2022.

6. Learned Additional Advocate General seeks time to take instructions and file additional affidavit on behalf of respondents no. 1 to 4 regarding further action to be taken.

7. Two weeks' time is granted for filing additional affidavit by respondents no. 1 to 4 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

8. In view of the facts and circumstance of the case, we also consider personal appearance of the concerned DFO and District Magistrate, Almora on the next date of hearing through VC to be essential for producing the relevant documents regarding compliance with environmental norms and assisting this Tribunal in just and proper adjudication of the questions

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Ganesh Chand Sharma Vs. 15  
State of Uttarakhand & Ors.

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involved in the case and they are accordingly directed to remain present before this Tribunal on that date.

List the matter for further consideration on 30.08.2022.

A copy of this order be forwarded to DFO and District Magistrate, Almora by E-mail for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 10, 2022  
AG

  
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