

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI  
IN  
ORIGINAL APPLICATION NO. 1322 OF 2024(PB)**

**IN THE MATTER OF:**

**RAJNEESH KARNWAL**

**..... APPLICANT**

**VERSUS**

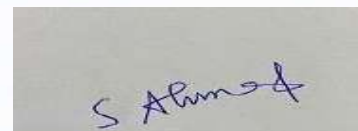
**UNION OF INDIA AND ORS.**

**.....RESPONDENTS**

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**Date: /01/2025**



**( Shariq Ahmad)**

Counsel for MoEF&CC

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PRINCIPAL BENCH AT NEW DELHI

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IN THE MATTER OF:

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REPLY COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT  
NO. 1 THROUGH SECRETARY, MINISTRY OF ENVIRONMENT  
FOREST AND CLIMATE CHANGE, NEW DELHI.

MOST RESPECTFULLY SHOWETH:

1. I, Ms. Vijaya Ratre, aged about 37 years, working as Assistant Inspector General of Forest (Central), in Ministry of Environment, Forest and Climate Change, (hereinafter 'Ministry') do hereby solemnly affirm and State as under:

*Vijaya Ratre*



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.
3. 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.

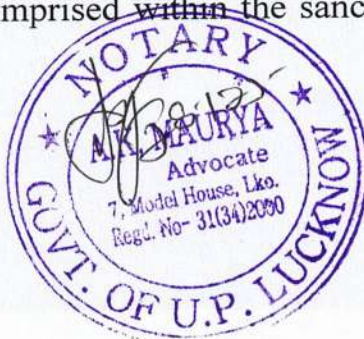
**STATEMENT OF FACTS:**

4. Original Application has been filed alleging that illegal construction activities are being carried out by encroaching upon the land of the Hastinapur Wildlife Sanctuary. It is further contended that, as part of these construction activities, trees have been unlawfully cut, causing significant disruption to the wildlife corridors and fragmenting the habitat essential for the survival of native species.

**REPLY ON MERIT:**

5. It is submitted that, with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country, the Wild Life (Protection) Act, 1972 came into force.
6. It is submitted that as per section 26A (1) (b) of the Wild Life (Protection) Act, 1972, when any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the

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said area shall be sanctuary on and from such date as may be specified in the notification.

7. It is further submitted that, the provisions of Section 29 of the Wild Life (Protection) Act, 1972 are 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.

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 in accordance with such management plans for the sanctuary approved by him as per the guidelines issued by the Central Government and in case the sanctuary also falls under the Scheduled Areas or areas where the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) is applicable, in accordance with the management plan for such sanctuary prepared after due consultation with the Gram Sabha concerned.
9. It is also submitted that as per section 34A of the Wild Life (Protection) Act, 1972, 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,-

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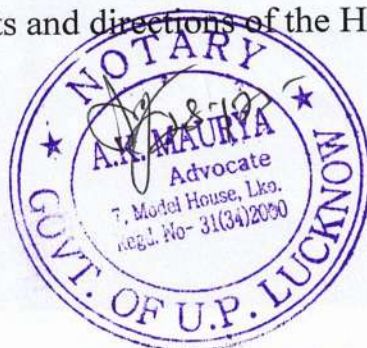


(a) evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;

(b) remove any unauthorised 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: 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 there under 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 authorised 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.



13. It is further submitted that in the case of unauthorised construction or illegal encroachments, the State Government is empowered to take action and initiate proceeding against the wrongdoers.
14. In view of the aforesaid facts, it is respectfully prayed that the Hon'ble Tribunal may be pleased to pass orders as deems fit in the circumstances of the case.

**DEPONENT**

### VERIFICATION

Verified at Lucknow on this 28<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.

**DEPONENT**



EXECUTION ADMITTED  
BEFORE ME  
  
A. K. Maurya  
Advocate Notary  
7, Model House, Lucknow

I identify the deponent/executant  
who has signed/put T.I. before me



Sadhu Kumar Yadav <sadhukumaryadav4516@gmail.com>

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## Service of Reply in OA No 1332 of 2024 i.e. Rajneesh Karnwal v Union of India and Others

1 message

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**Sadhu Kumar Yadav** <sadhukumaryadav4516@gmail.com>

Wed, Jan 29, 2025 at 10:53 AM

To: raj karnwal <rajcool.karnwal@gmail.com>, psecforest-up@nic.in, dfoeerut@gmail.com, dmmee@nic.in

Cc: shariqcounsel2005@gmail.com

Please find enclosed herewith Service of Reply in OA No 1332 of 2024 i.e. Rajneesh Karnwal v Union of India & Others on behalf of Respondent No 1 i.e. Union of India

*Thanks & regards.*

*Sadhu Yadav*

*Court Clerk*

*of Mr Shariq Ahmed, Advocate*

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