

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

**Original Application No. 642 OF 2024**

**IN THE MATTER OF:**

News Item titled Land sinking: "A new environmental challenge in J & K" appearing in greaterkashmir.com dated 29.04.2024

Versus

Chief Secretary, Jammu & Kashmir & Ors.

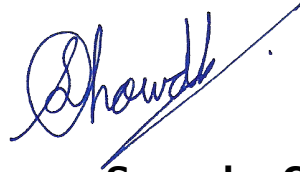
...Respondents

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Place: Delhi

Date: 24 Dec, 2024



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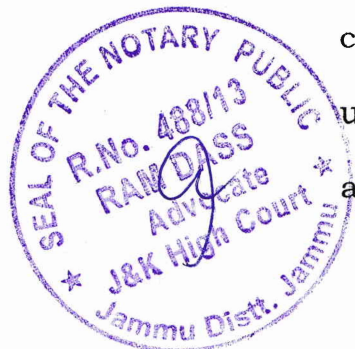
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**Affidavit on behalf of Ministry of Environment, Forest and Climate Change (Respondent No. 6)****IT IS MOST RESPECTFULLY SHOWETH:**

I, Khursid Alam Khan, currently working as Scientist 'C' in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Regional office, Jammu, do hereby solemnly affirm and state as under:-

1. That I am working as Scientist 'C', Ministry of Environment, Forest and Climate Change, Government of India.
2. That I am fully conversant with the facts and circumstances of the case from records maintained in the office. I have read and understood the contents of the Application thereof and as such authorized and competent to swear the present affidavit.



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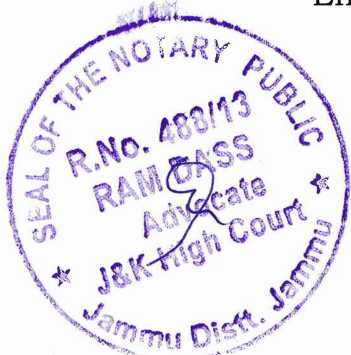
3. That the instant Application has been registered *suo moto* by the Hon'ble NGT on the basis of the news item relating to alleged massive land sinking at Parnote Village in Ramban District of Jammu and Kashmir and massive construction activities, including road expansions and construction of tunnels in eco-fragile zones in various areas of J&K being the cause behind the abovementioned issue. The news item further mentions that if these activities are conducted without Environmental Impact Assessment (EIA), these are bound to disturb eco-system.
4. That in this regard, the answering Respondent respectfully submits that under clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986, the Central Government has the power to make rules for carrying out the purposes of the said Act. While exercising the powers conferred by the Environment (Protection) Act, 1986, the answering Respondent had issued the Environment Impact Assessment (EIA) Notification vide S.O.60 (E) dated 27<sup>th</sup> January, 1994 mandating 32 categories of projects listed in Schedule- I to obtain prior Environmental Clearance based on the investment criteria (originally it was Rs 50 crores, which was enhanced to Rs 100 crores). It is further submitted that the Environmental Impact Assessment was made a statutory requirement for certain category of construction and development



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activities through amendment dated 07.07.2004 in the EIA Notification, 1994.

5. It is humbly submitted that under the Environment (Protection) Act, 1986 read with Environment (Protection) Rules, 1986, the answering Respondent has issued a Notification No. S.O. 1533(E) dated 14.09.2006 in suppression of the Notification No. S.O.60(E) dated 27th January, 1994.
6. It is further submitted that under the provisions of the EIA Notification, 2006, all new projects or activities listed in the Schedule to the EIA Notification, 2006 or the expansion or modernization of existing projects or activities listed in the said Schedule with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization or any change in product -mix in an existing manufacturing unit included in Schedule beyond the specified range, shall be undertaken in any part of India, as applicable, only after receipt of the prior Environment Clearance from the Central Government or by the State Level Environment Impact Assessment Authority ("SEIAA"), as the case may be. It is submitted that the Central Government under sub-section (3) of Section 3 of the Environment Protection Act, 1986 in accordance with the

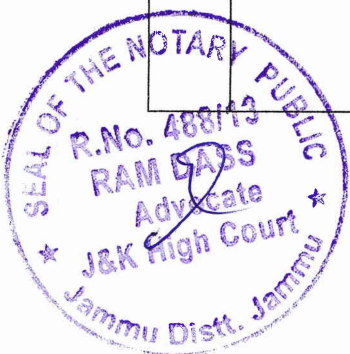


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procedure specified in the EIA Notification, 2006, duly constitutes SEIAA in the States.

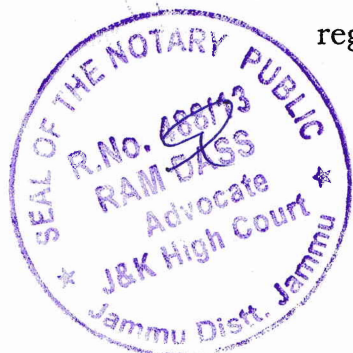
7. It is respectfully submitted that under the Schedule to the EIA Notification, 2006 relating to the list of activities requiring prior Environmental Clearance, Highways are covered under entry 7(f) of Clause (7) of the said Schedule, the relevant portion of which is reproduced below:-

	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
<b>7</b>		<b>Physical Infrastructure including Environmental Services</b>		
<b>7(f)</b>	Highways	i) New National Highways; and ii) Expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignment and 60 m on re-alignment or by-passes	i) All New State Highways projects; ii) State Highway expansion projects in hilly terrain (above 1000 m AMSL) and/or ecologically sensitive areas	General Condition shall apply  <u>Note:</u> (i) Highways include Expressways. (ii) All Highway projects are exempted upto 100 km from line of control or border subject to compliance of Standard Operating Procedure notified in this regard from time to time. (iii) Width at toll plaza and junction improvement at intersection of other roads is exempted from Right of Way.



*K. B. S.*

8. Thus, in accordance with the provisions of EIA Notification, 2006, all new National or State Highway projects require prior Environmental Clearance under Category 'A' and Category 'B', respectively, before commencement of any activity under the said project.
9. The entry 7(f) of the above-mentioned Schedule further states that in case of projects pertaining to expansion of the existing highways, such projects shall require prior Environmental Clearance from the answering Respondent, or the SEIAA, as the case may be, if the proposed expansion involves more than 100 km of length and additional right of way (RoW) or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes. It is further submitted that as per the EIA Notification, 2006, as amended, only such project that meets both the conditions, i.e., threshold length of the highway and envisaged expansion width (RoW or land acquisition) of the highway, would require a prior Environment Clearance from the answering Respondent.
10. It is further humbly submitted that vide amendment dated 14.07.2022 to the EIA Notification, 2006, all highway projects have been exempted upto 100 km from line of control or border, subject to compliance of Standard Operating Procedure notified in this regard from time- to- time.



11. Having stated the rule position prescribed under the EIA Notification, 2006, as amended from time-to-time, the answering Respondent also humbly submits that the Project Proponent, before undertaking any construction activity that require prior Environmental Clearance as prescribed under the Schedule, is obligated to undergo the mandatory process of screening, scoping, public consultation and appraisal, including conducting Environmental Impact Assessment and obtaining Environmental Clearance before commencing any construction activity listed under the Schedule.
12. Therefore, taking into consideration the above submissions made by the answering Respondent, it is prayed that this Hon'ble Tribunal may take on record and consider above submissions or pass any other appropriate order, which the answering Respondent shall duly comply with and thus render justice.
13. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.



  
DEPONENT

**Dr. Khursid Alam Khan**  
Sceincist 'C'  
Integrated Regional Office, Jammu  
Ministry of Environment, Forest & Climate Change  
Govt. of India

**VERIFICATION**

I, the aforementioned Deponent do hereby declare on this 20<sup>th</sup> day of December, 2024 at Jammu that the contents of the affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

**Dr. Khursid Alam Khan**  
Sceincist 'C'  
Integrated Regional Office, Jammu  
Ministry of Environment, Forest & Climate Change  
Govt. of India



Solemnly Affirmed / Sworn before me  
Hence Attested

NOTARY PUBLIC  
Jammu Distt. Jammu

20/12/2024