

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 347 OF 2016**

**IN THE MATTER OF:-**

**I.A. No. 471/2019**

**In Original Application No. 347 of 2016**

**Chandra Bhal Singh       ..... Applicant**

Vs

**Union of India & Ors.**

**..... Respondents**

**IN THE MATTER OF:-**

An affidavit on behalf of Respondent  
No 18, "The Meghalaya Biodiversity  
Board" in compliance to order dated  
09/08/2019.

  
Secretary  
Meghalaya Biodiversity Board  
Shillong

I, Shri. Probestine R. Marak, IFS, son of Ranansing N. Areng, aged about 57 years, resident of Forest Colony, Polo, Shillong, East Khasi Hills District, Meghalaya do hereby solemnly affirm and state as follows:-

1. That, I am the Member Secretary of the Meghalaya Biodiversity Board, Government of Meghalaya, and I am competent to affirm this Affidavit on behalf of Meghalaya Biodiversity Board, i.e., Respondent No. 18 for the State of Meghalaya. I am conversant with the facts and circumstances of the case and I have fully understood the contents and purport of the same.



2. That, the respondent begs to state that, this affidavit is filed in compliance of the order of the Hon'ble NGT dated 09-08-2019 in the instant case, directing the Chief Secretaries concerned of each state to ensure compliance with 100% constitution of BMCs and PBRs by 31.01.2020.

3. That, the respondent begs to state that the Meghalaya Biodiversity Board has been taking steps to implement the provisions of the Biological Diversity Act 2002, Biological Diversity Rules 2004 and Meghalaya Biological Diversity Rules, 2010 in true letter and spirit ever since the constitution of the Board in 2012.

4. That, the respondent admits to the fact that all the 'local bodies' in the State have not yet constituted the Biodiversity Management Committees (BMCs). The respondent begs to state the following:

a. There is no Panchayati Raj Institution in the State of Meghalaya. The Biodiversity Management Committees (BMCs) are constituted by the 'Local Bodies' pursuant to Rule 23(1) of the Meghalaya Biological Diversity Rules 2010 as amended in 2015

**(copy of the Meghalaya Biological Diversity Rules, 2010 dated 30/08/2010 along with Notification of amendment dated 23<sup>rd</sup> March, 2015 are annexed and marked as Annexure – I & II respectively)**

Wherein it clearly mentions and defines as follows:

Every 'Local Body' shall constitute a Biodiversity Management Committee (BMC) within its area of jurisdiction. Accordingly, Biodiversity Management Committees (BMCs) are to be constituted at the Elaka, Syiemship, Dolloiship, Sirdarship, A'khing or at the village level, recognized by the Government of Meghalaya or the Autonomous District Councils in the State as well as at the Municipality and Municipal Corporation level.

b. In Meghalaya, 3274 BMCs have been constituted so far, by the 'local bodies' at the village level, facilitated by Meghalaya Biodiversity Board. More BMCs are in the process of being constituted.

Secretary  
Meghalaya Biodiversity Board  
Shillong



In view of the Paras (a) & (b) above, the respondent reiterates the fact that the State Government and the Meghalaya Biodiversity Board have been taking effective steps to facilitate and speed up the process of constitution of BMCs by all the 'local bodies' in Meghalaya. Creating awareness about the importance of biodiversity, its conservation and the need to form BMCs in all the villages across Meghalaya is a time consuming process. The District Administration and Community & Rural Development Department, Government of Meghalaya, has also taken up with right earnest the task of forming BMCs and there has been significant progress. However, no State level generic notification for formation of BMCs in Meghalaya could be issued since the Biological Diversity Act, 2002 envisages that the Local Bodies would need to form BMC and not the State Government. Further, unless the local bodies themselves resolve to form the BMC, the BMC may not be allowed to become functional thereafter. The guidelines along with the model resolution form circulated by NBA which every BMC would need to adopt and sign individually in this regard is clear, exhaustive and unambiguous. Unless the BMCs are formed by the local bodies voluntarily neither BMC level local biodiversity fund would be created by them nor operated by them, which is essential for rendering them active and functional. Merely creating BMCs on paper may not serve the goal the BMCs are envisioned for. Moreover, Meghalaya being a State governed by the provisions of VI Schedule of the Constitution, the local bodies enjoy considerable autonomy and the State administration is not empowered to create statutory bodies on their behalf. ***However as already stated, every effort is being undertaken to persuade the local bodies to constitute BMCs.***

5. That, the respondent begs to state that, the Meghalaya Biodiversity Board has been taking necessary steps towards preparation of People's Biodiversity Registers (PBRs) in the State, by ensuring quality by engaging the services of qualified expert institutions. At present, preparation of 78 PBRs has been completed

Secretary  
Meghalaya Biodiversity Board  
Shillong



and additionally preparation of 64 PBRs is in progress. Though the PBRs are supposed to be prepared by BMCs, in view of the lack of experience and skill on their part, expert institutions have been engaged in this process, which is expected to lead to local capacity building in due course. These PBRs are being prepared with financial assistance from the National Biodiversity Authority (NBA). Additionally, in order to expose the BMC members in Meghalaya to the best practices followed in other States in this regard, a peer to peer learning visit has been already undertaken to the State of West Bengal and Kerala.

6. That, the respondent begs to state that, the State of Meghalaya lies in the Indo-Burma hotspot and has rich biodiversity. Making PBR in each local body has to be done separately since each village has unique biodiversity and traditional knowledge. PBR of a village or local body cannot be completed within a short duration but the vast diversity of flora and fauna has to be studied for each season since the flora and fauna vary in each season. Therefore, completing a PBR for each village requires a full year of survey and study for which enormous amount of fund and technical staff is required since the local BMC members and villagers do not have the requisite skills and technical expertise to make a scientifically accurate PBR. Meghalaya Biodiversity Board using its own resources has compiled 48 PBRs and has outsourced preparation of 94 PBRs to NGOs out of which 30 have been completed and 64 are nearing completion. The estimated fund required for completing PBRs of all BMCs (6459 villages) roughly is at least 5 cores.

7. That at present there are about 6459 villages in Meghalaya and so far BMCs has been constituted in 3274 villages and the process of formation of BMCs in other villages is ongoing. The exercise requires more funds, time and cooperation from the respective local bodies such as the Dorbars, Syiemship, Dolloiship, Sirdarship, A'khing Nokmas (Headman) etc. which are not in the direct control of the



State since they are basically under the Autonomous District Councils. However, all efforts are being made to create BMCs and prepare PBRs at all the respective local bodies or villages. This exercise however, shall require support and cooperation of all the Autonomous District Councils, concerned Nokmas, Syiems, Dollois, Sirdars and Rangbah Shnongs.

In view of the above, the respondent reiterates the fact that the State Government and the Meghalaya Biodiversity Board have already been taking necessary steps for preparation of quality PBRs through expert institutions and building local capacity in this regard.

8. I submit that this is the Affidavit on behalf of the Meghalaya Biodiversity Board, Government of Meghalaya in the instant case and pray that the same may kindly be taken on record. I further submit that if, in the course of this proceeding, any further information is sought for by this Hon'ble Tribunal, the same shall be furnished with full dedication and sincerity.

I pray accordingly.



MELARIKA LYNGWA  
NOTARY  
East Khasi Hills District  
Government of Meghalaya

  
**Deponent**

Secretary  
Meghalaya Biodiversity Board  
Shillong

## Verification

I, the deponent above named, do hereby verify that the contents of Paras 1- 8 of this affidavit are true to the best of my knowledge and belief, based on the records and the rest are my humble submission and prayer before this Hon'ble Tribunal and that nothing material has been concealed there-from and no part there-of is false.

  
**Deponent**

Secretary  
Meghalaya Biodiversity Board  
Shillong

Solemnly affirmed before me by the above named Deponent, on this the 31<sup>st</sup> day of January, 2020 at Shillong.

Identified by :

  
Shri. S. Sengupta  
Advocate.



  
**Notary Public**

**At Shillong**  
MELARIKA LYNGWA  
NOTARY  
East Khasi Hills District  
Government of Meghalaya



# The Gazette of Meghalaya

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

No. 107	Shillong, Monday, August 30, 2010	8th Bhadra 1932 (S. L.,
---------	-----------------------------------	-------------------------

## PART - II A

GOVERNMENT OF MEGHALAYA  
FOREST AND ENVIRONMENT DEPARTMENT  
ORDERS BY THE GOVERNOR

### NOTIFICATION

The 30th August, 2010.

No. **FOR.57/2002/244**.—In exercise of the powers conferred by sub section (1) of Section 63, of the Biological Diversity Act, 2002 (No. 18 of 2003) the Government of Meghalaya hereby makes the following rules, namely:-

1. **Short title and commencement-** (1) These rules may be called **Meghalaya Biological Diversity Rules, 2010**.  
(2) They shall come into force on the date of their publication in the "Meghalaya" Gazette.
2. **Definitions** - In these Rules, unless the context otherwise requires:-
  - (a) "Act" means the Biological Diversity Act, 2002 (No. 18 of 2003);
  - (b) "Authority" means the National Biodiversity Authority established under sub-section (1) of Section 8 of the Act;
  - (c) "Board" means the Meghalaya Biodiversity Board established under Section 22 of the Act;
  - (d) "Committee" means Biodiversity Management Committee established by the local bodies under Section 41 of the Act;
  - (e) "Chairperson" means the Chairperson of the State Biodiversity Board;
  - (f) "Fee" means any fee stipulated in these Rules;
  - (g) "Financial Year" means a year commencing on 1<sup>st</sup> April or on such other date as the State Government may by Notification in official gazette appoint;
  - (h) "Form" means form appended to these Rules;
  - (i) "State Government" means the Government of Meghalaya;
  - (j) "Member" means member of the National Biodiversity Authority or Meghalaya Biodiversity Board, and includes the Chairperson as the case may be thereof;
  - (k) "Rules" means the Meghalaya Biological Diversity Rules 2010;
  - (l) "Section" means section of the Act;
  - (m) "Secretary" means the Secretary of the Board; and
  - (n) Words and expression used but not defined in these Rules and defined in the Act shall have the same meaning respectively assigned to them in the Act.

Secretary Biodiversity Board  
Meghalaya Shillong



**3. Manner of selection and appointment of the Chairperson-**

- (1) The Chairperson of the Board shall be a serving officer of the State Government or an eminent person having adequate knowledge and experience in the conservation and sustainable use of biodiversity and in matters relating to the equitable sharing of the benefits.
- (2) The Chairperson of the Board shall be appointed by the State Government.
- (3) In case the appointment under sub-rule (2) is not that of a serving officer of the Government, it shall be done on the recommendation of a three member search committee, headed by the Chief Secretary, appointed for the purpose. In case of a serving officer of the State Government, he shall not be of rank below that of an Additional Principal Chief Conservator of Forests.

**4. Term of office of the Chairperson -**

- (1) In case the Chairman is not a serving officer of the State Government, he shall hold office for a term of three years, and shall be eligible for re-appointment; provided that no Chairperson shall hold office beyond the age of 65 years. Chairperson may resign from his office by giving at least one month notice in writing to the State Government.
- (2) In case the Chairperson is a serving officer of State Government his appointment as Chairperson shall be in his ex-officio capacity.
- (3) Notwithstanding any other provision in these Rules, continuance of the Chairperson in the office shall be at the pleasure Of the State Government.

**5. Pay and Allowances of the Chairperson -**

The Chairperson shall be entitled to such salary, allowances, leave, pension provident fund and house and other prerequisites, as may be determined by the State Government from time to time.

**6. Nomination and Term of office and Allowances of non- official member -**

- 1) Five non official members from amongst the experts in matters relating to conservation of biological diversity sustainable use to biological resource and equitable sharing of benefits arising out of the use of biological resources shall be nominated by the State Government.
- 2) The non-official Member of the Board shall hold the office for a term not exceeding three years at a 'time from the date of their nomination.
- 3) The non-official Member shall be entitled to sitting allowance, travelling expenses, daily allowance and to such other allowances, as may be fixed by the State Government for attending the meeting(s) of the Board.

**7. Filling up of vacancies of non-official member -**

- (1) A non-official member of the Board may resign from his office at any time by giving in writing under his hand addressed to the State Government and the seat of that member in the Board shall become vacant.
- (2) A vacancy in the Board shall be fitted up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member, in whose place he was nominated.

**8. Removal of the member of the Board -**

- (1) The State Government may remove from the Board any member who, in its opinion, has-
  - (a) been adjudged as an insolvent; or
  - (b) been convicted of an offence which involves moral turpitude; or
  - (c) become physically or mentally incapable of acting as a member; or
  - (d) so abused his position as to render his continuance in office detrimental to the public interest; or
  - (e) acquired such financial or other interest as is likely to affect prejudicially his function as a member.

(2) No member of the Board shall however be removed from the office, on any of the grounds specified in the sub-rule (1) above, without due and proper enquiry by an officer not below the rank of Principal Chief Conservator of Forests appointed by the State Government for the purpose and without giving a reasonable opportunity to the member of being heard.

Secretary Biodiversity Board  
Meghalaya Shillong



**9. Appointment of the Ex-Officio Members -**

Five ex-officio members shall be appointed from the following departments of the State Government as long as they hold their respective office: -

- i) Chief Wildlife Warden, Forests & Environment Department, Government of Meghalaya
- (ii) Director, Agriculture Department, Government of Meghalaya
- (iii) Director, Veterinary Department, Government of Meghalaya
- (iv) Director, Fisheries Department, Government of Meghalaya
- (v) Director, Education Department, Government of Meghalaya.

**10. Head Office of the Board -**

The Head Office of the Board shall be at Shillong.

**11. Secretary of the Board -**

- (1) The State Government shall appoint a Secretary on deputation to the Board.
- (2) The terms and conditions of appointment of the Secretary and his entitlement for salary, allowances, leave, pension provident fund and house and other prerequisites shall be determined by the State Government.
- (3) The Secretary shall be responsible for co-ordinating and convening the meetings of the Board, maintenance of records of proceedings of the Board and for all or any of the following or any such other matters as may be assigned to him by the Board.
  - (a) Day-to-day administration of the Board, management of funds and implementation of various activities of the programme under the guidance of the Chairperson of the Board.
  - (b) Issue orders and instructions on behalf of the Board.
  - (c) Sanction and disburse all payments against the approved budget.
  - (d) Accord administrative sanctions to the estimates included in the budget of the Board within the limit as delegated to him by the State Government.
  - (e) Safe custody of all confidential papers of the Board and production of such papers whenever so directed by the Board or State Government.
  - (f) To initiate Annual Confidential Report/ Performance Appraisal Report of all employees of the Board except himself and the Chairperson.
  - (g) Sanction leave to all employees of the Board except himself and the Chairperson,
  - (h) To exercise such other powers and perform such other functions, as may be delegated to him from time to time by the Board.

Secretary  
Biodiversity Board  
Meghalaya  
Shillong

**12. Meetings of the Board -**

- (1) The Board shall meet at least four times in a year, normally after three months, at the head quarters of the Board or at such other place, as may be decided by the Chairperson.
- (2) The Chairperson shall, upon a written request from not less than five members of the board or upon a direction of the State Government; call a special meeting of the Board.
- (3) Fifteen days notice of an ordinary meeting and three days notice of a special meeting specifying the purpose, the time and the place, at which such meeting is to be held, shall be given to the members.
- (4) Every meeting shall be presided over by the Chairperson and in his absence, by a presiding officer to be elected by the members present from amongst themselves.
- (5) The decision of the Board shall, if necessary be taken by a simple majority of the members present and voting and the Chairperson or in his absence; the member presiding shall have a second or casting vote.



- (6) Each member shall have one vote.
- (7) Quorum for the meeting of the Board shall be five.
- (8) In case a meeting of the Board is adjourned on the ground of quorum, the same may be re-convened within a period of one month from the date of meeting so adjourned. In the meeting so-reconvened, decisions will be taken by a simple majority of the members present and voting without any consideration to the quorum.
- (9) No Member shall be entitled to bring forward for consideration in a meeting any matter of which he has not given ten days' notice unless the Chairperson in his discretion permits him to do so.
- (10) Notice of the meeting may be given to the member by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner, as Secretary of the Board may, in the circumstances of the case, think fit.
- (11) In addition, the Board may evolve such other procedure for the transaction of its business as it may deem fit and proper.

**13. Appointment of Expert Committee by the Board and their Entitlements -**

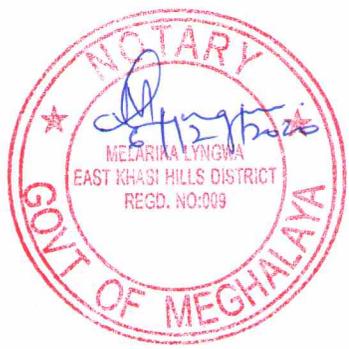
- (1) The Board may constitute any number of committees for such purposes as it may deem fit consisting wholly of members or wholly of other persons or partly of members or partly of other persons.
- (2) The members of the expert committee other than the members of the Board shall be paid such fees and allowances for attending the meetings as the Board may deem fit.
- (3) The Board may invite any person, whose assistance or advice is considered useful to obtain in performing any of its function, and to participate in the deliberation of any of its meetings. Such persons associated with the Board shall be entitled to get allowances, as prescribed by the Board from time to time.

**14. General functions of the Board -**

In particular and without prejudice to the generality of other provisions, the Board may perform the following functions:-

- (i) Lay down the procedure and guidelines to govern the activities provided under Section 23 of the Act.
- (ii) Advise the State Government on many matters concerning conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge,
- (iii) Provide technical assistance and guidance to the departments of the State Government.
- (iv) Regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indian Nationals.
- (v) Facilitate updating and implementations of State Bio-diversity Strategy and Action Plan.
- (vi) Commission studies and sponsor investigations and research.
- (vii) Engage consultants for a specified period, not exceeding three years, for providing technical assistance to the Board in the effective discharge of its functions. Provided that if it is necessary and expedient to engage any consultant beyond the period of three years, the Board shall seek prior approval of the State Government for such an engagement.
- (viii) Collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of biological bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.
- (ix) Organize through mass media a comprehensive programme regarding conservation of biological bio-diversity, sustainable use of its components and fair equitable sharing of benefits arising out of the use of biological resources and knowledge.
- (x) Plan and organize training of personnel engaged or likely to be engaged in programmes for the conservation of bio-diversity and sustainable use of its components.

Secretary Biodiversity Board  
Meghalaya Shillong

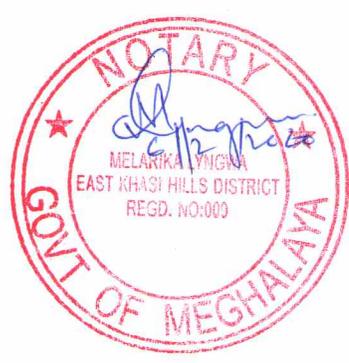


- (xi) Take steps to build-up database and to create information and documentation system for biological resources and associated traditional knowledge through bio-diversity registers and electronics data bases, to ensure effective management, promotion and sustainable uses.
- (xii) Give directions to the local bodies/Bio-diversity Management Committees in writing and through appropriate oral means, for effective implementation of the Act, and to facilitate their meaningful participation in all measures relating to conservation, sustainable use, and equitable benefit-sharing.
- (xiii) Report to the State Government about the functioning of the Board and implementation of the Act and Rules made thereunder.
- (xiv) Recommend, prescribe, modify, collect fee of biological resources from time to time.
- (xv) To devise methods to ensure protection of rights including intellectual property rights over biological resources and associated knowledge including systems of maintaining confidentiality of such information as appropriate, including the protection of the information recorded in People's Biodiversity Registers.
- (xvi) Sanction grants-in-aid and grants to Biodiversity Management Committees for specific purposes.
- (xvii) Undertake physical inspection of any area, in connection with the implementation of the Act.
- (xviii) Ensure that biodiversity and bio-diversity dependent livelihoods are integrated into all sectors of planning and management and at all levels of planning from local to State, to enable such sectors and administrative levels to contribute effectively for conservation and sustainable use.
- (xix) Prepare the annual budget of the Board incorporating its own receipts as also the devolution from the State and Central Government provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government.
- (xx) Board shall have full powers for granting administrative and technical sanctions to all estimates it may, however, delegate such powers of administrative and technical sanctions to the Member- Secretary of the Board, as may be deemed necessary.
- (xxi) Recommend creation of posts to State Government, for effective discharge of the functions by the Board and to create such posts; provided that no such post whether permanent/temporary or of any nature, would be created without prior approval of the State Government,
- (xxii) Perform such other functions, as may be necessary to carry out the provisions of the Act or as may be prescribed by the State Government from time to time,
- (xxiii) Shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same.

**15. Powers and Duties of the Chairperson -**

- 1) The Chairperson shall be the Chief Executive of the Board and he shall ensure that the affairs of the Board are run efficiently and in accordance with the provisions of the act and the rules made thereunder.
- 2) The Chairperson shall have the powers of general superintendence over the officers and staff of the Board and Chairperson may issue necessary directions for the conduct and management affairs of the Board
- 3) The Chairperson shall convene and preside over and preserve order in all the meetings of the Board and shall ensure that all decisions taken by the Board are implemented in proper manner.
- 4) The Chairperson shall have the powers to accord administrative sanction, accept tender and sanction payments within the limit as may be prescribed by the State Government from time to time.
- 5) Chairperson shall have the power to initiate Annual Confidential Report/ Performance Appraisal Report of Secretary of the Board. Chairperson shall also have the powers to accept Annual Confidential Report/ Performance Appraisal Report of all other employees of the Board.
- 6) The Chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board,

Secretary Biodiversity Board  
Meghalaya Shillong



**16. Terms and Conditions of Service of employees of the Board-**

- 1) The terms and conditions of the employees of the Board shall be same as those of corresponding scale of pay under the State Government. The appointments in general shall be on contractual basis or on deputation, unless otherwise decided by the State Government.
- 2) The Board shall approve the method of recruitment/promotion to the posts in the Board.
- 3) Provisions of the State Reservation Policy as applicable to the appointment to the posts under the State Government shall be applicable for appointment of employees to the Board.

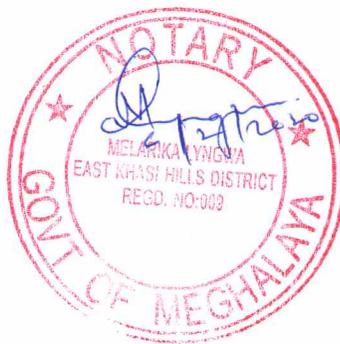
**17. Procedure for access to/collection of biological resources -**

- 1) Any person seeking access to collection of biological resources and associated knowledge for research or for commercial utilization shall make an application to the Board in Form-I appended to these rules. Every application shall be accompanied by a fee of Rs. 500/- in case such access is for research purpose and Rs. 5,000/- for commercial utilization, and shall be in the form of a cheque or demand draft. Application submitted by the members of Schedule caste and Schedule Tribe shall however be accompanied with a fee amounting to fifty percent (50 %) of the amount specified herein-above.
- 2) The Board after due appraisal of the application and after consultation with the concerned local bodies and after collecting such additional information, as it may deem necessary, shall decide on the application, as far as possible within a period of 3 months of receipt of the same. In this context, the word "consult", for the purposes of the act, includes the following steps, inter-alia; (a) issuing of public notice, in local languages, of the proposal for access/collection; (b) discussion/dialogue with the general assembly of the local body; and (c) formal consent from the assembly after being provided adequate information about the proposal and its implications for conservation and livelihoods.
- (3) On being satisfied with the merit of the application, the Board may allow the application or restrict any such activity if it is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.
- (4) A written agreement duly signed by an authorized officer of the Board and the applicant shall govern the access/ collection. The form of the agreement shall be decided by the Board.
- (5) The conditions for access/collection may specifically provide measures for conservation and protection of biological resources to which the access/collection is being granted.
- (6) The Board may reject the application if it considers that the request cannot be acceded to after recording the reasons therefore. Before passing an order of rejection, the applicant shall be given a reasonable opportunity of being heard.
- (7) Any information given in the form referred to in the sub-rule (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

**18. Revocation of access/approval -**

- (1) The Board may either on the basis of any complaint or *suo moto* withdraw the access granted and revoke the written agreement under the following conditions:-
  - (i) On the basis of reasonable belief that the person accessing the said bio-resource has violated any of the provisions of the Act or the condition on which application was allowed.
  - (ii) When the person has failed to comply with the terms of agreement,
  - (iii) On failure to comply with any of the conditions of access,
  - (iv) On account of overriding public interest with reference to protection of environment and conservation of biological diversity, and protection of the rights, livelihoods and knowledge of local communities.
- (2) The revocation order shall be made only after making such inquiries as required and after giving the person so affected an opportunity of being heard.
- (3) The Board shall send a copy of such revocation order to the Biodiversity Management Committees for prohibiting the access and also to access the damage, if any, caused and take steps to recover the damage.

  
Secretary  
Biodiversity Board  
Meghalaya  
Shillong



**19. Restriction on activities related to access to biological resources -**

- (1) The Board, if it deems necessary and appropriate, shall take steps to restrict or prohibit the proposal for access to biological resources for the following reasons:-
  - (i) The request for access is for any tax which are likely to become threatened due to such access;
  - (ii) The request for access is for any endemic and rare species;
  - (iii) The request for access may likely to result in adverse effect on the livelihoods, culture, or indigenous knowledge of the local people;
  - (iv) The request to access may result in adverse environmental impact which may be difficult to control and mitigate;
  - (v) The request for access may cause genetic erosion or effecting the ecosystem function adversely;
  - (vi) Use of resources for purpose contrary to national interest and other related international agreements entered into by the country;
- (2) Any order of restriction shall be made only after making such inquiries as required; consulting the concerned local bodies and Biodiversity Management Committees, and giving the person so affected, an opportunity of being heard.

**20. Operation of State Bio-diversity fund -**

- (1) The State Bio-diversity fund shall be operated by the Member-Secretary of the Board or by such any other officer of the Board as may be authorized by the Board in this behalf
- (2) The State Bio-diversity Fund shall have two separate heads of accounts, one relating to receipts (grants and loans) from the Central Government/National Biodiversity Authority and State Government, including receipts from such other sources as decided by the Board and the other one for sources concerning the fee, royalty and other receipts of the Board.
- (3) The State Government shall after due appropriation made by the State legislature by the law in this behalf, pay to the Board such sum of money, as the State Government may think fit for being utilized for the purpose of the Act.
- (4) The Board shall frame guidelines on ways to ensure that decision regarding the management and uses of the Fund are transparent and accountable to the public,

**21. Annual Report and Annual Statement of accounts -**

- (1) The Board shall prepares its annual report for each financial year in Form-II giving detailed account of its activities and annual Statement of account and submit the same to the State Government,.
- (2) The Board shall lay down the procedure for upkeep of the accounts. The accounts of the Board shall be audited annually by a Chartered Accountant appointed for the purpose by the Board. The Accountant General of the State may as well audit the accounts and the expenditure towards this shall be payable by the Board.
- (3) The Board shall submit the Annual Report together with the audited Statement of accounts for each financial year to the State Government by September each year so as to enable the State Government to lay the reports before the Legislative Assembly.

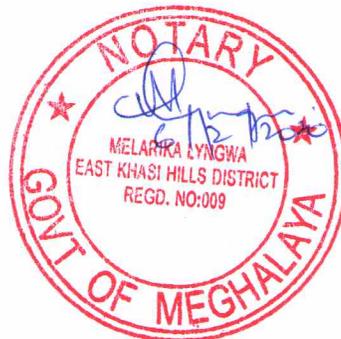
**22. Establishment and management of Bio-diversity Heritage Site -**

- (1) The Board shall, in consultation with local bodies and other key stakeholders, take necessary steps to facilitate setting up of areas of significant bio-diversity, values as biodiversity heritage sites. Following recommendation from this Board, the State Government shall issue notification to this effect,
- (2) The Board shall frame guidelines on the selection, management and other aspects of Heritage Sites, ensuring that these provide decision making role for: relevant Biodiversity Management Committees.

**23. Constitution of Biodiversity Management Committees -**

- (1) Every local body shall constitute a Biodiversity Management Committee within its area of jurisdiction. Accordingly, Biodiversity Management Committees are to be constituted at the *Elaka, Syiemship, Dolloiship, Sirdarship, A'khing* or

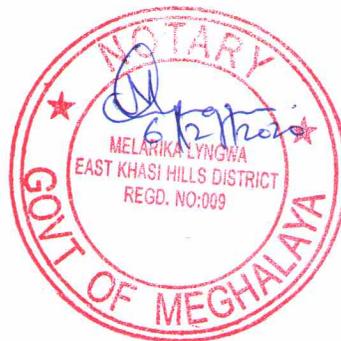
Secretary Biodiversity Board  
Joghalaya Shillong  
Meghalaya



any other similar body recognized by Khasi Hills Autonomous District Council, Jaintia Hills Autonomous District Council & Garo Hills Autonomous District Council as well as at Municipality and Municipal Corporation level.

- (2) If the local body is satisfied that the function of the Biodiversity Management Committee can be discharged by the general assembly of the local body, or by one of its existing committees, the same should be recorded as resolution passed by such local body following due procedure.
- (3) The Biodiversity Management Committee constituted under sub-rule (1) shall have seven persons nominated by the local body, of whom not less than one third shall be women. These persons being so nominated should be drawn from amongst the herbalists, agriculturist, Non Timber Forest Produce collectors/traders, fisher-folk, representatives of user associations, community workers, academicians and any person/representative of organization, on whom the local body trusts that he can significantly contribute to the mandate of the Biodiversity Management Committee. The proportion of members belonging to the Schedule Caste and the Schedule Tribe should not be less than Scheduled Caste/ Schedule Tribe percentage in the *area* under the jurisdiction of the Local Body. All members of the Biodiversity Management Committee should be residents within the said local body limits and enlisted in the voters list.
- (4) The local body shall nominate six special invitees from forest, agriculture, veterinary, health, fisheries and education department, such special invitees shall however not have voting right.
- (5) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be presided over by the Chairperson of the local body. The Chairperson of the local body shall have the casting vote in case of a tie.
- (6) The Chairperson and other members of *the* Biodiversity Management Committee shall be appointed for a term of three years and shall be eligible for re-appointment. Chairperson or any other member of the Biodiversity Management Committee may resign from his office at any time by giving in writing under his hand addressed to the Chairperson of the concerned Local authority.
- (7) The Chairperson of the Biodiversity Management Committee may be removed from his office by a resolution passed by not less than five members of the Biodiversity Management Committee.
- (8) In case Chairperson of a Biodiversity Management Committee is removed from office by a resolution passed by not less than five members of the Biodiversity Management Committee, within fifteen (15) days from the date of receipt of a copy of such resolution, the Chairperson of the concerned Local Authority shall convene a special meeting of the Biodiversity Management Committee and elect a new Chairman as per the procedure indicate in sub-rule 5 above.
- (9) The Chairperson of the local authority may remove from the Biodiversity Management Committee any member who, in his opinion, has -
  - a. been adjudged as an insolvent; or
  - b. been convicted of an offence which involves moral turpitude; or
  - c. become physically or mentally incapable of acting as a member; or
  - d. so abused his position as to render his continuance in office detrimental to the public interest; or
  - e. acquired such financial or other interest as is likely to affect prejudicially his function as a member
- (10) A vacancy in the Biodiversity Management Committee caused due to resignation, removal or death of its member shall be filled up by a fresh nomination by the Chairperson of the concerned Local Authority and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member, in whose piace he was nominated
- (11) The local Member of the District Councils would be special invitees to the meetings of the Biodiversity Management Committees.
- (12) For every district a technical support group comprising of experts in the field of biodiversity drawn from Government agencies, Non Government organizations, academic field, community and individuals shall be established by the State Government. The expert group shall lend support to Biodiversity Management Committees.

Secretary  
Biodiversity Board  
Meghalaya  
Shillong



- (13) The key mandate of the Biodiversity Management Committees shall be to ensure conservation, sustainable utilization and equitable sharing of benefits from the biodiversity. The Biodiversity Management Committees shall facilitate preparation of People's Biodiversity Registers. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them. The People's Biodiversity Registers shall be prepared at the *Elaka, Syiemship, Dolloiship, Sirdarship, Akhing* or any other similar body recognized by Khasi Hills Autonomous District Council, Jaintia Hills Autonomous District Council & Garo Hills Autonomous District Council and Municipality/ Municipal Corporation Biodiversity Management Committee level by using the process and the format set by the Board. The Biodiversity Management Committees and local bodies will be responsible for ensuring the protection of the knowledge recorded in the People's Biodiversity Registers especially to regulate its access to outside agencies and individuals.
- (14) The other functions of the Biodiversity Management Committees are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval to maintain data about local traditional practitioners using the biological resources.
- (15) The Board shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers and shall ensure that all information recorded in such Registers received legal protection against misuse and appropriation by outside agencies and individuals.
- (16) The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing.
- (17) The Biodiversity Management Committee at *Elaka, Syiemship, Dolloiship, Sirdarship, Akhing* or any other similar body recognized by Khasi Hills Autonomous District Council, Jaintia Hills Autonomous District Council & Garo Hills Autonomous District Council or Municipality/Municipal Corporation level may decide the terms on which it would permit access to biodiversity resources and associated knowledge to different parties for various purposes within their jurisdiction and levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from the area falling within its jurisdiction. The major share of levy charged for the material collected/cultivated from private land should be given to the owner/cultivator of the land/knowledge holders and the balance should be deposited in Local Biodiversity Fund of Biodiversity Management Committee. The levy charged for the material collected/cultivated from Government land should be totally deposited in Local biodiversity fund of Biodiversity Management Committee.
- (18) The Board shall provide guidelines for terms of access and fee collection by the Biodiversity Management Committees.
- (19) The Biodiversity Management Committees shall prepare a Biodiversity Management Plan using output from People's Biodiversity Register and will be responsible for or participate in its implementation.
- (20) The local bodies shall ensure that the Biodiversity Management Committees are integrated with the functioning of existing local institutions by cross membership, regular coordination meetings, and other such measures as determined by the local bodies or as specified by the Board.

**24. Local bio-diversity Fund -**

- (1) At level of each local body a local biodiversity fund shall be constituted.
- (2) The Board shall provide to the local body any loan or grant received by it from State Government, Central Government or from the Authority for the purposes of the Act. The local body can also access such funds from other sources as it identifies, or as specified by the Board. \*
- (3) The local biodiversity fund shall be operated by the Biodiversity Management Committees. The Board shall lay down the operational guideline for operation of the fund by the Biodiversity Management Committees, including ways, in which its functioning is transparent and accountable to all members of the relevant local body.
- (4) The fund shall be used for the conservation and promotion of bio-diversity in the areas falling within the jurisdiction of the concerned local body and for the benefits of the local community so far as such use is consistent with conservation of bio-diversity.
- (5) The account of the local biodiversity fund shall be prepared in such form as may be specified by the Board and during each financial year at such time, as may be prescribed by the Board.

Secretary  
 Biodiversity Board  
 Janghalaya  
 Shillong



- (6) The Biodiversity Management Committees shall prepare its annual report giving full account of its activities during the previous financial year, and submit a copy thereof to the board and a copy to the general assembly of the local body.
- (7) The accounts of the local bio-diversity fund shall be maintained and audited in such manner, as may be specified by the Board.
- (8) Every local body constituting a Biodiversity Management Committee under sub-section (1) of section 41, shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in section 45 & 46 of the Act, respectively and relating to such Committee, to be submitted to the District Magistrate having jurisdiction over the area of the local body.

**25. Appeal for settlement of disputes -**

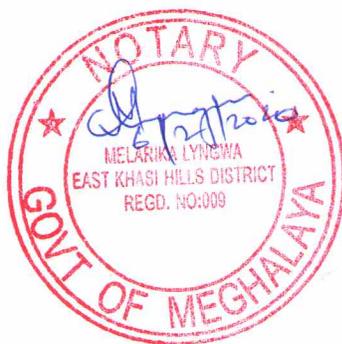
- (1) If a Biodiversity Management Committee is aggrieved by any order, decision, or policy decision of the Board, it may prefer appeal in Form -III appended to these Rules to the Government of Meghalaya in the Forests & Environment Department. Similarly, if a dispute arises between one Biodiversity Management Committee and other Biodiversity Management Committee(s) regarding their respective jurisdiction or any other matter, any of the involved party may file an appeal in the Form-III-A appended to these rules to the Chairperson.
- (2) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant and the relief sought for, or preferring the appeal; and shall be accompanied by an authenticated copy of the order, direction or policy decision, as the case may be by which the appellant is aggrieved. The memorandum of appeal shall be duly signed by the authorized representative of the appellant.
- (3) The memorandum of appeal shall be submitted in quadruplicate accompanied with the authenticated copy of the order, directions or policy decision as the case may be, by which the appellant is aggrieved, either in person or through a registered post with acknowledgement due, within 30 days from the date of the order, direction or policy decision provided that if the appellate authority is satisfied that there was good and sufficient reason for the delay in preferring the appeal, for reasons to be recorded in writing allow the appeal to be preferred after the expiry of the aforesaid period of 30 days but before the expiry of 45 days from the date of the order, direction, or policy decision as the case may be.
- (4) The notice for hearing of the appeal shall be given in Form-IV by a registered post with an acknowledgement due.
- (5) Every memorandum of appeal shall be accompanied by a fee of Rs.500/-.

**26. Interpretation of Rules -**

In case of any dispute as to the interpretation of these rules, the matter shall be referred to the Government of Meghalaya in the Forests & Environment Department, whose decision shall be final.

Sd/- C. D. KYNJING,  
Principal Secretary to the Government of Meghalaya,  
Forests & Environment Department.

Secretary  
Biodiversity Board  
Meghalaya  
Shillong



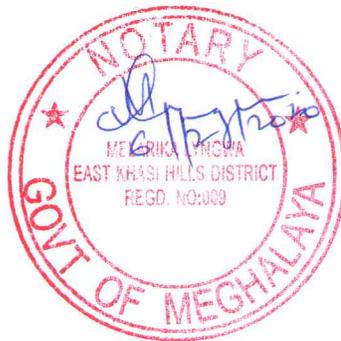
FORM -1

**Application Form for Access to Collection of Biological Resources or Commercial Utilization  
and Associated Traditional Knowledge**

(See Rule 17 of the Meghalaya Biological Diversity Rules, 2010)

18. Full particulars of the applicant:
  - (a) Name:
  - (b) Permanent address :
  - (c) Address of the contact person/agent, if any in India :
  - (d) Profile of the organisation (personal profile in case the applicant is an individual). (Please attach relevant documents of authentication).
  - (e) Nature of business :
  - (f) Turnover of the organization in India Rupee :
19. Details and specific information about nature of access sought and biological material and /or associated knowledge to be accessed:
  - (a) Identification (scientific name) of biological resources and its traditional use :
  - (b) Geographical location (including village, Block and District of proposed collection) :
  - (c) Description/nature of traditional knowledge and its existing manifestations and uses (oral/documented):
  - (d) Any identified individual/family/community holding traditional knowledge :
  - (e) Quantity of biological resources to be collected :
  - (f) Time span in which the biological resources are proposed to be collected :
  - (g) Name and number of person authorized by the company for meeting the collection :
  - (h) The purpose for which the access is required including the type and extent of research, commercial being derived and expected to be derived from it:
  - (i) Whether any collection use of the resource endangers any component of biological diversity and risks which may arise from the access :
20. Estimation of benefits that would turn to communities arising out of the use of accessed bio-resources and traditional knowledge :
21. Proposal mechanism and arrangements of benefit sharing :
22. Any other information :

Secretary  
Biodiversity Board  
Meghalaya  
Shillong



**PART B**

**Declaration**

I declare that I have been fully authorized to submit the application, I further declare that:

- Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection and use of proposed biological resources shall not entail environmental impact;
- Collection and use of proposed biological resources shall not post any risk to biodiversity, including ecosystem, species and genetic diversity.
- Collection and use of proposed biological resources shall not adversely affect the local communities;

I undertake to pay any fee and/or royalty, as may be levied by the Board or Biodiversity Management Committees. I/we further undertake to furnish any irrevocable bank guarantees, as may be prescribed by the Board.

I further declare the information provided in the application form is true and correct and I/ we shall be responsible for any incorrect/wrong information.

Date.....

Place.....

Signature.....

Name.....

Designation.....

*[Handwritten Signature]*  
 Secretary  
 Biodiversity Board  
 Meghalaya  
 Shillong



FORM II

Form of Annual Report for the Meghalaya Biodiversity Board

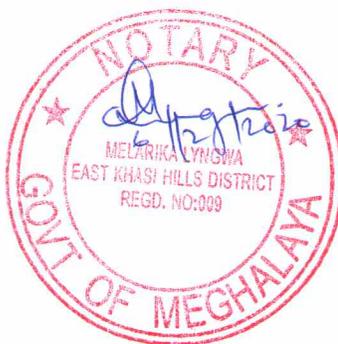
(see sub-rule 1 of Rule 21 of the Meghalaya Biological Diversity Rules, 2010)

1. Introduction
2. Constitution of the Board including changes therein
3. Meetings of the Board
4. Expert Committees constituted by the Board
5. Details of approval granted by the Board for commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indians in exercise of the powers conferred under Section 23 of the Biological Diversity Act, 2002
6. Details of activities prohibited or restricted by the Board in exercise of the powers conferred under Section 24 of the Biological Diversity Act, 2002
7. Details of Biological Heritage Sites declared during the year
8. Awareness relating to the Intellectual Property Rights and Public Participation
9. Regulations issued under Section 64 of the Biological Diversity Act, 2002
10. Finance and Accounts of the Board
11. Annual plan for the following year
12. Any other important matter dealt by the Board

Annexure

- (i) Members of the Board
- (ii) Organization Chart
- (iii) Staff Strength including recruitment
- (iv) Publications
- (v) Training Courses / Seminars / Workshops organized
- (vi) Statement of Accounts

Secretary  
Biodiversity Board  
Shillong



FORM III

Form of Memorandum of Appeal

BEFORE THE GOVERNMENT OF MEGHALAYA IN THE FORESTS & ENVIRONMENT

DEPARTMENT

(Memorandum of Appeal under Rule 25 of Meghalaya Biological Diversity Rules, 2010)

Appeal No. \_\_\_\_\_ of 200

.....

.....Appellant(s)

.....

VS.

.....Respondent(s)

The Meghalaya Biodiversity Board

The appellant begs to prefer this Memorandum of Appeal against the order dated \_\_\_\_\_

passed by the respondent on the following facts and grounds.

a. **FACTS**

(Here briefly mention the facts of the case).

b. **GROUND**

(Here mention the grounds on which the appeal is made):

(i)

(ii)

(Hi)

3. **RELIEF SOUGHT**

(i)

(ii)

(iii)

4. **PRAYER**

(a) In the light of what is stated above, the appellant respectfully prays that the order/decision of the respondent be quashed/set-aside.

(b) The policy/guidelines/rules/regulations framed by the respondent be quashed/modified/annulled to the extent \_\_\_\_\_

(c) \_\_\_\_\_

5. The amount of Rs. \_\_\_\_\_ (Rupees. \_\_\_\_\_) as fee for this appeal has been paid to \_\_\_\_\_; \_\_\_\_\_ vide order No. \_\_\_\_\_

dated \_\_\_\_\_

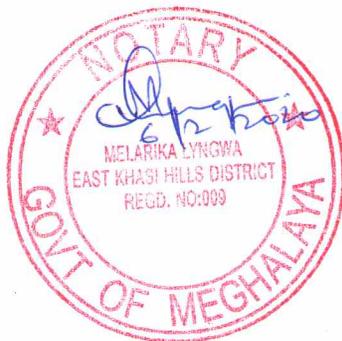
Date.....

Signature of the applicant with seal

Place.....

Address.....

Secretary  
Meghalaya Biodiversity Board  
Shillong



VERIFICATION

I, the applicant do hereby declared that what is stated above is true to the best of my information and belief.

Verified on \_\_\_\_\_ day of \_\_\_\_\_

Date: .....

Signature of the applicant with seal

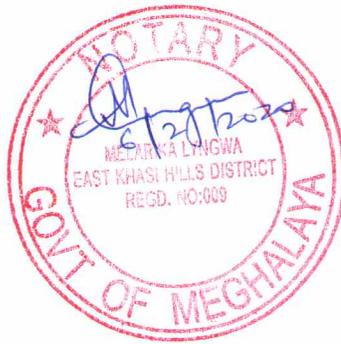
Place: .....

Address: .....

Signature of the authorized representative of the appellant.

Enclosures - Authenticated copy of the order, direction or policy decision, against which the appeal has been preferred.

Secretary Biodiversity Board  
Meghalaya Shillong



**FORM III- A**  
**Form of Memorandum of Appeal**  
**BEFORE THE MEGHALAYA BIODIVERSITY BOARD**

(Memorandum of Appeal under Rule 25 of Meghalaya Biological Diversity Rules, 2010)

Appeal No. \_\_\_\_\_ of 200

..... Appellant (s)

.....

vs

..... Respondents)

The appellant begs to prefer this Memorandum of Appeal against the order dated \_\_\_\_\_  
passed by the respondent on the following facts and grounds.

**c. FACTS**

(Here briefly mention the facts of the case).

**d. GROUNDS**

(Here mention the grounds on which the appeal is made):

- (i)
- (ii)
- (iii)

**3. RELIEF SOUGHT**

- (i)
- (ii)
- (iii)

**4. PRAYER**

- (a) In the light of what is stated above, the appellant\*respectfully prays that the order/decision of the respondent be quashed/set-aside.
- (b) The policy/guidelines/rules/regulations framed by the respondent be quashed/modified/annulled to the extent \_\_\_\_\_

5. The amount of Rs. - \_\_\_\_\_ (Rupees \_\_\_\_\_) as fee for this appeal  
has been paid to \_\_\_\_\_ vide order No. \_\_\_\_\_  
dated \_\_\_\_\_

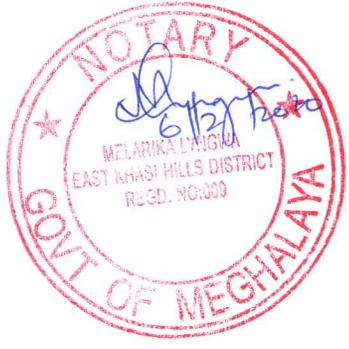
Date.....

Place.....

Signature of the applicant with seal

Address.....

Secretary Biodiversity Board  
Meghalaya Shillong



VERIFICATION

I, the applicant do hereby declared that what is stated above is true to the best of my information and belief.

Verified on \_\_\_\_\_ day of \_\_\_\_\_

Date.....

Signature of the applicant with seal

Place.....

Address.....

Signature of the authorized representative of the appellant.

Enclosures - Authenticated copy of the order, direction or policy decision, against which the appeal has been preferred.

  
Secretary  
Biodiversity Board  
Jorhat, Assam



FORM IV

By Registered Post/Acknowledge due.

Notice For Hearing

(see sub-rule 4 of the Rule 25 of the Meghalaya Biological Diversity Rules, 2010)

Appeal No .....of 200.

Between

\_\_\_\_\_  
\_\_\_\_\_  
vs  
\_\_\_\_\_  
\_\_\_\_\_

..... Appellant (s)

..... Respondent(s)

NOTICE

Please take the notice that the above appeal by the appellant, against the order/direction/policy decision (Give details) is fixed for hearing on \_\_\_\_\_ at \_\_\_\_\_

The copies of the Memorandum of appeal and other annexure filed along with the appeal are sent herewith for your reference.

Please note that if you fail to appear on the said days or other subsequent date of hearing of the appeal, the appeal would be disposed of finally by placing you *ex-parte*.

Date.....

Place.....

Authorized signatory on behalf of the

Appellate Authority

Seal

Secretary  
Biodiversity Board  
Meghalaya  
Shillong



GOVERNMENT OF MEGHALAYA  
FORESTS & ENVIRONMENT DEPARTMENT  
\*\*\*\*\*

NOTIFICATION

Dated Shillong, the 23<sup>rd</sup> March, 2015.

**NO.FOR.57/2002/Vol-II/569** - In exercise of the powers conferred by sub-section (1) of Section 63 of the Biological Diversity Act, 2002, the Government of Meghalaya hereby makes the following rules to amend the Meghalaya Biological Diversity Rules, 2010, namely,-

**1. Short title and commencement** - (1) These rules may be called the Meghalaya Biological Diversity (Amendment) Rules, 2015.

(2) They shall come into force on the date of their notification in the Official Gazette of Meghalaya.

**2. Amendment of Rule 23.** - In Rule 23 of the Meghalaya Biological Diversity Rules, 2010, in sub-rule (1), for the words "or any other similar body recognized by the Khasi Hills Autonomous District Council, Jaintia Hills Autonomous District Council and Garo Hills Autonomous District Council as well as at Municipality and Municipal Corporation level", the words "or at the village level, recognised by the Government of Meghalaya or the Autonomous District Councils in the State as well as at the Municipality and Municipal Corporation level" shall be substituted.

Secretary Biodiversity Board  
Meghalaya Shillong

Sd/-  
Principal Secretary to the Govt. of Meghalaya,  
Forests & Environment Department  
\*\*\*\*\*

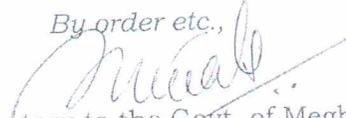


Memo NO.FOR.57/2002/Vol-II/569-A, Dated Shillong, the 23<sup>rd</sup> March, 2015.

Copy forwarded to:-

1. The P.S. to the Chief Minister for information of the Chief Minister.
2. The P.S. to the Minister i/c Forests & Environment Department for information of the Minister.
3. The Private Secretary to the Chief Secretary, Govt. of Meghalaya for information of the Chief Secretary.
4. The Secretary, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-110003.
5. The Assistant Inspector General of Forests, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-110003.
6. The Principal Secretary to the Govt. of Meghalaya, Cabinet Affairs Department.
7. The Secretary, National Biodiversity Authority, TICEL Bio-Park, 5<sup>th</sup> Floor, CSIR Road, Taramani, Chennai-600113, Tamil Nadu, India.
8. The Secretary to the Government of Meghalaya, Law Department.
9. The Principal Chief Conservator of Forests & HoFF, Meghalaya, Shillong.
- ✓ 10. The Secretary, Meghalaya Biodiversity Board, Shillong.
11. The Director of Printing & Stationery for favour of publication in the Meghalaya Gazette.

By order etc.,



Deputy Secretary to the Govt. of Meghalaya,  
Forests & Environment Department.

&&&&&&



Secretary Biodiversity Board  
Meghalaya Shillong

