

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 614 OF 2022

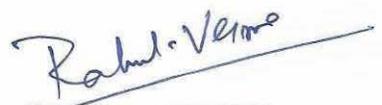
IN THE MATTER OF:
Rasesh B. Vissanji & Ors..Applicants
Versus
State of Uttarakhand & Ors. ... Respondents

**AFFIDAVIT IN COMPLIANCE OF ORDER DATED 6.1.2023
PASSED BY THE HON'BLE NATIONAL GREEN TRIBUNAL ON
BEHALF OF PUBLIC WORKS DEPARTMENT, UTTARAKHAND.**

P A P E R - B O O K

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Filed by:



[RAHUL VERMA]

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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ORIGINAL APPLICATION NO. 614 OF 2022

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Rasesh B. Vissanji & Ors..

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AFFIDAVIT IN COMPLIANCE OF ORDER DATED 6.1.2023
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TRIBUNAL, ON BEHALF OF PUBLIC WORKS DEPARTMENT,
UTTARAKHAND.

I, Harish Chandra Joshi S/o Shri Tika Ram Joshi, aged about 52 years, presently posted as Assistant Engineer, Construction Division, Public Works Department, Almora, District Almora, Uttarakhand , presently at New Delhi, 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 based on record, and I am fully competent to file present Affidavit in Compliance of order dated 6.1.2023 passed by the Hon'ble National Green Tribunal on behalf of Public Works Department, Uttarakhand.



2. That the present matter is related to construction of proposed 8 Kms of Chitai Manjoli Petshal Road, District Almora, Uttarakhand.
3. That the abovementioned matter was listed on 23.09.2022 before this Hon'ble Tribunal, after hearing, this Hon'ble Tribunal was pleased to pass the following order:-

"1. Mr. Rasesh B Vissanji & Others have sent by post the present letter petition, which has been treated and registered as Original Application, complaining about Illegal cutting of trees by using JCB for construction of proposed 6 Kms of Chitai Manjoli Petshal National Highway. It is also submitted that the construction material (muck) has been disposed of illegally on fertile agricultural land of poor farmers damaging the crops.

*2. This Tribunal is empowered to suo moto take cognizance of the cases involving questions relating to environment arising out of the implementation of enactments specified in Schedule I of the National Green Tribunal Act, 2010 as held by Hon'ble Supreme Court in **Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897**. This Tribunal can also take cognizance of such cases on the basis of letter petitions in accordance with*



settled principles of law governing Public Interest Litigation.

3. *Prima facie*, the allegations made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the allegations made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position. Accordingly, we constitute a Joint Committee comprising of representatives of State PCB, Executive Engineer, PWD, Almora, DFO and District Magistrate, Almora and direct the same to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representatives of the concerned project proponents, verify the factual position and submit its report within one month by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The State PCB will be the nodal agency for coordination and compliance.

4. In case the Joint Committee observes any violation of consent conditions/environmental norms, then it shall forward a copy of its report to:-



(i) The concerned Project Proponents to enable them to comply with the recommendations in the report of the Joint Committee or file objections against the observations/recommendations contained in the same and file their response before this Tribunal as desired within one month from the date of receipt of a copy of the report of the Joint Committee by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF; and

(ii) The concerned Statutory Authorities including State PCB and District Magistrate, Almora to enable them to take appropriate remedial action, in accordance with Statutory provisions mandating them to take remedial action for prevention, control and abatement of environmental pollution/degradation and for protection and improvement of environment, by giving notice to/hearing the concerned project proponents and following due process of law and they shall submit their action taken reports separately within one month from the date of receipt of a copy of the report of the Joint Committee by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. List for further consideration on 06.01.2023”

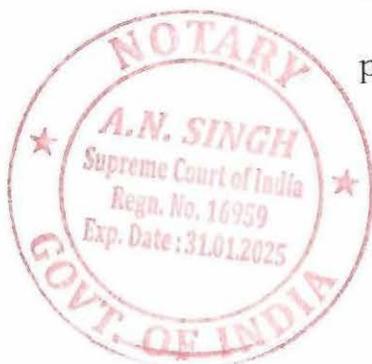


4. That in compliance of abovementioned order dated 23.09.2022 passed by this Hon'ble Tribunal, the Joint Committee visited sites of proposed site on 09.11.2022. Following officials were part of the Joint Committee:

- (i) Shri Mohan Ram Arya, Range Officer, Almora Range, Almora - a representative of Divisional Forest Officer, Almora Forest Division, Almora.
- (ii) Ms Khushbu Pandey, Tehsildar, Tehsil Someshwar, District Almora - a representative of District Magistrate, Almora.
- (iii) Dr. D.K. Joshi, Regional Officer, UKPCB, Regional Office, Haldwani (Nainital).
- (iv) Er. Ashutosh Kumar, Executive Engineer, Nirman Khand, Public Works Department, Almora.

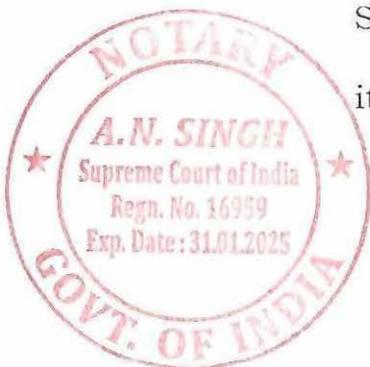
It is relevant to mention herein that the applicant Shri Rasesh B Vissanji was informed about the inspection but the applicant not participated in the joint inspection.

5. That it is pertinent to mention herein that the local villagers are repeatedly demanding for the construction of road in question and in view of sharp curves/ accident prone area at Kalidhar near Chitai, alternative /link road



of 8 Km. length from Chatai Pant Tiraha to Petshal (District Almora) was proposed as a part of Almora - Ghat National Highway No. 309 (B).

6. That the Government of Uttarakhand has accorded administrative and financial approval of Rs. 200.16 Lakh for construction of said alternative road of 8.0 Km. vide letter no. 572III(2)/06-08 (Pra. A)06 dated 28.03.2006. However, presently construction of only 3.25 Km long road is being carried out.
7. That the Integrated Regional Office, Ministry of Environment, Forest & Climate Change, Dehradun, Uttarakhand vide its letter no. 8B/U.C.P./06/125120151 F.C.11765 dated 17.11.2022 has accorded in-principal approval of non-forest uses of 2.43875 hectare land to PWD for construction of Chatai to Hari Dutt Petsali Inter College Motor Marg.
8. That the alignment of said motor road was approved by the Superintendent Engineer, PWD, Almora, Uttarakhand vide its letter no. 7624/204 C-01/2021 dated 22.10.2021.



9. That the villagers of the area has also given consent for use of private land for construction of said proposed motor road.
10. That the Construction Division, PWD, Almora, Uttarakhand has deposited an amount of Rs. 32,47,715.00 (Rupees thirty two lakhs forty seven thousand seven hundred and fifteen only) towards NPV and compensatory afforestation cost to the Forest Department on dated 16.03.2021. Cutting of trees is being carried out by the Uttarakhand Forest Development Corporation Ltd.
11. That the Construction Division, PWD, Almora, Uttarakhand has allotted the contract of said road construction work to Shri Shivraj Singh Banola after following due processes.
12. That as per the joint inspection report, road cutting work is being carried out by contractor as per contract



agreement. The contractor has started the road cutting work before tree cutting work, which was done by Uttarakhand Forest Development Corporation Ltd., however, all the trees are kept there only. Muck dump area has been developed with gabian wall and retaining walls in private land with consent of land holders.

13. That the Committee also observed that the alignment of road has changed at village Manyoli with approval of Superintendent Engineer, First Circle, PWD, Almora, Uttarakhand. The Committee also observed that no illegal trees felling is done in forest area.
14. That the Joint Inspection Report along with its annexures is already part of the record of this Hon'ble Tribunal.
15. That, thereafter, the matter was listed before this Hon'ble Tribunal on 06.01.2023 and this Hon'ble Tribunal was pleased to pass the following directions:-



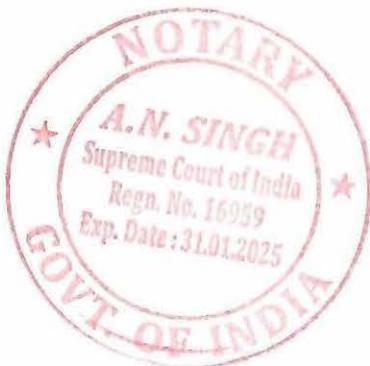
“.....”

2. Vide email dated 23.09.2022, this Tribunal constituted a Joint Committee comprising of representatives of the Uttarakhand Pollution Control Board (UKPCB), the Executive Engineer, PWD, Almora, the DFO and the District Magistrate, Almora and directed the same to verify the factual position and submit its report within one month.

3. In compliance of order dated 23.09.2022, Factual and Action Taken Report of the Joint Committee has been submitted by the UKPCB vide email dated 04.01.2023.

4. In view of the averments made in the application and observations made in the report, we consider it appropriate to have response of (1) the State of Uttarakhand, through Chief Secretary, Government of Uttarakhand; (2) the Chief Engineer, Public Works Department (PWD), Uttarakhand; (3) the Principal Chief Conservator of Forests (HoFF), Government of Uttarakhand; (4) the UKPCB and (5) the District Magistrate, Almora, who stand impleaded as Respondents No. 1 to 5. The Registry is directed to prepare and attach memo of parties to the application.

5. Mr. Rahul Verma, Additional Advocate General, who is already appearing for the State of Uttarakhand before this Tribunal accepts notice on behalf of Respondents No. 1 to 3 and 5.



6. Mr. Mukesh Verma, Advocate, who is also appearing for the UKPCB before this Tribunal accepts notice on behalf of Respondent No. 4.

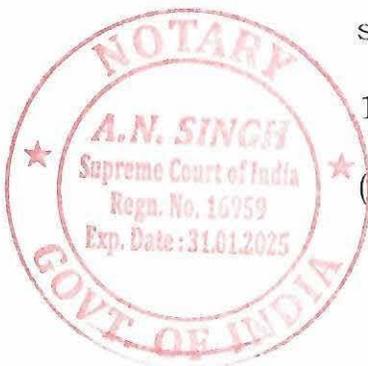
7. Reply/response on behalf of Respondents No. 1 to 5 be filed within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

8. In their reply/response the respondents shall give requisite details regarding action plan formulated for compensatory afforestation, budgetary provisions made, the species to be planted, particulars of land selected for afforestation, specific timeline for said plantation and steps to be taken for protection of the trees planted and also for their maintenance for ensuring survival thereof.

9. List for further consideration on 06.03.2023”

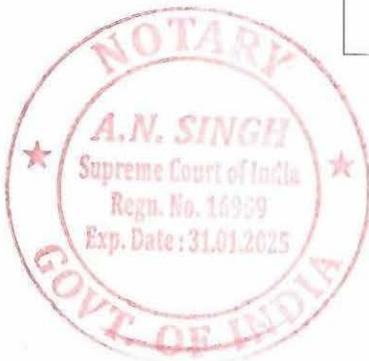
A true copy of the said order dated 06.01.2023 passed by this Hon'ble Tribunal is annexed hereto and marked as ANNEXURE R-1.

16. That the Divisional Forest Officer, Almora, Uttarakhand, sent their report vide letter No.4092/29-1 dated 17.02.2023 to the Principal Chief Conservator of Forest, (HoFF), Uttarakhand, wherein the following points are



mentioned and the same are being furnishing hereinbelow in the Tabular form by way of present affidavit:

Srl.	Points	Status of the site
1.	Compensatory afforestation	That in reply thereto it is respectfully submitted that for compensatory afforestation, the land measuring 4.83 Hectare has been identified at Manila compartment No. 23 District Almora, Uttarakhand and the proposal for the same has already been enclosed.
2	Budgetary provisions made	In reply thereto it is respectfully submitted that the Construction Division, PWD, Almora has deposited an amount of Rs.16,45,458/- (Rupees sixteen lakhs forty five thousand four hundred & fifty eight only) at the rate of Rs. 03,37,184.00 (Rupees three lakhs thirty seven thousand



		one hundred and eighty four only) towards NPV and compensatory forestry cost to the Forest Department on dated 16.03.2021.
3.	The species to be planted	It is respectfully submitted that the Baanj, Falyat, Tejpat, Malta, Neebu Utis, Bhimal and Dadim etc. species of tree has to be planted.
4.	The particulars of the land identified for the afforestation.	Land measuring 4.83 hectare situated at compartment No. 23 in Manila, District Almora, Uttarakhand.
5.	Specific timeline	The compensatory afforestation will be completed within one year from the date of receiving of due approvals.
6.	Steps to be taken for protection of the trees planted.	Provision has been made in plantation scheme the wall around area of the planted trees for the security of the planted trees, and sweeping will also be done from time to time



		for the area of 04-04 meters outside the area of security wall.
7	Maintenance	For the maintenance of the compensatory afforestation area, the work of weeding will be done two times in a year as well as the dry grass and leafs and other flammable articles will be from the area.

17. That the villagers are continuously demanding for construction of proposed road, and villagers had submitted the affidavit bearing signature of money villagers in support of construction of proposed road, as the present road in question is in larger public interest and for welfare of public.

18. That the present Affidavit in compliance of direction passed by this Hon'ble Tribunal is being filed kind perusal of this Hon'ble Tribunal.



DEPONENT



VERIFICATION

I, the deponent above named do hereby verify and say that the contents of my above report by way of 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.

18 APR 2023

Verified by me at New Delhi on this 18th day of April, 2023.

Certified that the above Named Deponent Identify by Shri/Smt. Rahul Verma Solemnly affirmed before me at Delhi S. No. 056 The contents of the affidavit which have been read & explained to me are true and correct Notary

I Identify the deponent who has Signed/Put T.I. in my presence

[Signature]
DEPONENT

Filed through:

Rahul-Verma
[RAHUL VERMA]

Additional Advocate General for State of Uttarakhand / Respondents
137, Tower No.10, Supreme Enclave,
Mayur Vihar Phase-I,
Delhi-110091
Mobile No. 9717706032
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ATTESTED
[Signature]
A.N. Singh, Adv.
Notary Public
Govt. of India, Delhi
Mob.: 9718139591, 7982539115

18 APR 2023

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ANNEXURE R-1

Item No. 6

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 614/2022

Rasesh B Vissanji & Others

...Applicants

Versus

State of Uttarakhand & Ors.

...Respondents

Date of hearing: 06.01.2023

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

Applicant: None.

Respondents: Mr. Rahul Verma, AAG for the State of Uttarakhand-
Respondents No. 1 to 3 and 5.
Mr. Mukesh Verma, Advocate for UKPCB-Respondent No.
4 (through VC).

Application is registered based on a letter petition received by post.

ORDER

1. The grievance of the applicants in the present application is about Illegal cutting of trees by using JCB for construction of proposed 6 Kms of Chitai Manjoli Petshal National Highway. It is also submitted that the construction material (muck) has been disposed of illegally on fertile agricultural land of poor farmers damaging the crops.

2. Vide email dated 23.09.2022, this Tribunal constituted a Joint Committee comprising of representatives of the Uttarakhand Pollution Control Board (UKPCB), the Executive Engineer, PWD, Almora, the DFO and the District Magistrate, Almora and directed the same to verify the factual position and submit its report within one month.

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3. In compliance of order dated 23.09.2022, Factual and Action Taken Report of the Joint Committee has been submitted by the UKPCB vide email dated 04.01.2023.

4. In view of the averments made in the application and observations made in the report, we consider it appropriate to have response of (1) the State of Uttarakhand, through Chief Secretary, Government of Uttarakhand; (2) the Chief Engineer, Public Works Department (PWD), Uttarakhand; (3) the Principal Chief Conservator of Forests (HoFF), Government of Uttarakhand; (4) the UKPCB and (5) the District Magistrate, Almora, who stand impleaded as Respondents No. 1 to 5. The Registry is directed to prepare and attach memo of parties to the application.

5. Mr. Rahul Verma, Additional Advocate General, who is already appearing for the State of Uttarakhand before this Tribunal accepts notice on behalf of Respondents No. 1 to 3 and 5.

6. Mr. Mukesh Verma, Advocate, who is also appearing for the UKPCB before this Tribunal accepts notice on behalf of Respondent No. 4.

7. Reply/response on behalf of Respondents No. 1 to 5 be filed **within two months** at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

8. In their reply/response the respondents shall give requisite details regarding action plan formulated for compensatory afforestation, budgetary provisions made, the species to be planted, particulars of land selected for afforestation, specific timeline for said plantation and steps

O. A. No. 614/2022

Rasesh B. ViSSsanji & Ors. Vs.
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to be taken for protection of the trees planted and also for their maintenance for ensuring survival thereof.

9. List for further consideration on 06.03.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 06, 2023
AVT



||TRUE COPY||