

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW  
DELHI

ORIGINAL APPLICATION NO. 279 OF 2025

IN THE MATTER OF:

VIJAY KUMAR PADALIA

...APPLICANT

VERSUS

STATE OF UTTARAKHAND & ORS.

...RESPONDENT(S)

**INDEX**

S. No.	Particulars	Pages
1.	Common Rejoinder on behalf of the Applicant to the Counter Affidavit dated 15.01.2026 filed on behalf of No.1, Forest Department, Government of Uttarakhand and to the Counter Affidavit dated 13.01.2026 filed on behalf of Respondent No. 2 and Respondent No. 5, Principal Chief Conservator of Forests / Nodal Officer, Dehradun, Uttarakhand, along with the Affidavit	01-12
2.	Proof of Service	13

Place: New Delhi

Date: 15.04.2026

**Bidya Mohanty**

Advocate for the Applicant

G-12, Basement (rear)

Jangpura Extension

New Delhi – 110014

M: 9603742644

E: bidyamohanty19@outlook.com

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI  
ORIGINAL APPLICATION NO. 279 OF 2025

IN THE MATTER OF:

VIJAY KUMAR PADALIA

...APPLICANT

VERSUS

STATE OF UTTARAKHAND & ORS.

...RESPONDENT(S)

**COMMON REJOINER ON BEHALF OF THE APPLICANT TO THE  
COUNTER AFFIDAVITS FILED ON BEHALF OF RESPONDENT NO. 1,  
RESPONDENT NO. 2 AND RESPONDENT NO. 5**

**MOST RESPECTFULLY SHOWETH:**

1. This Common Rejoinder is being filed by the Applicant to the Counter Affidavit dated 15.01.2026 that has been filed on behalf of Respondent No. 1, Forest Department, Government of Uttarakhand and the Counter Affidavit dated 13.01.2026 that has been filed on behalf of Respondent No. 2 and Respondent No. 5, Principal Chief Conservator of Forests / Nodal Officer, Dehradun, Uttarakhand (collectively, the “concerned Respondents”) in O.A. No. 279 of 2025, filed by the Applicant before this Hon’ble Tribunal.
2. At the outset, it is submitted that the contents of the Counter Affidavit dated 15.01.2026 and those of the Counter Affidavit dated 13.01.2026 have not been able to provide any meaningful response to the blatant inaccuracies, cover-ups and explicit fabrications undertaken by the User Agency, *i.e.* PWD, and the Respondent State authorities in obtaining permissions and sanctions, as highlighted by the Applicant in O.A. No. 279 of 2025. It is submitted that receipt of permissions for construction of the road and sanctions for diversion of reserved forest land does not, *per se*, sanctify the illegalities in the procedure followed and the overtly false and misleading information provided, in order to obtain these permissions and sanction.

3. The Counter Affidavits are replete with mere denials and bald averments, which do not address, or even engage with, the multiple instances of inconsistency in, and falsification of, data and the blatant disregard of due process, as have been pointed out by the Applicant. It is submitted that such bald denials should not be considered as any denial at all, more so on behalf of the State Government, which, in terms of the Forest Conservation Rules, 2003 (as applicable at the time), is not meant to serve as a post-office and mechanically forward the proposal of the User Agency to the Central Government. The State Government, while evaluating and forwarding the proposal, has a power coupled with duty to ensure that the proposal is indeed in public interest, and to that extent, has an onus to ensure that the proposal is complete in all aspects and does not have any glaring disparities.
4. In particular, no clarity or explanation has been proffered, or even attempted to be substantiated with appropriate documents, on the following discrepancies demonstrated by the Applicant in O.A. No. 279 of 2025:
- (i) Suppression of the list of trees surveyed, as appended to the only joint inspection conducted on 10.01.2012;
  - (ii) In the online proposal form, response of “0” to entry seeking details of “non-forest land required for this project”;
  - (iii) In the online proposal form, response of “no” to entry seeking “copy of map indicating location of alternative examined” with the reason “more oak tree and forest land”, when the letter dated 18.03.2015 sent by the Addl. Chief Forest Conservator and Nodal Officer notes rejection by the Public Works Department, Uttarakhand (the user agency) of alternate alignment through agricultural fields having no forest area and with no tree-felling involved;
  - (iv) No joint inspection conducted despite recommendation in the above letter of 18.03.2015;
  - (v) List of 73 trees mentioned in the online proposal form, when the report of site inspection conducted by the Public Works Department (hereinafter, the

“PWD”), Nainital, alone on 01.03.2013 lists number of affected trees to be 91;

- (vi) Inconsistency in the width of the proposed road which is of 9 meters, as per the sanction obtained for diversion of forest land, but a reduced width of 7 meters has been considered at the time of site inspection conducted by the PWD, Nainital alone on 01.03.2013 for survey of trees that stand to be affected;
  - (vii) In the online proposal form, response of “*not vulnerable to erosion*” to entry seeking “Brief note on vulnerability of the forest area to erosion”;
  - (viii) In the online proposal form, response of “*no*” to entry asking “whether the forest land proposed for diversion is located within eco-sensitive zone (ESZ) of the Protected Area notified under Wildlife (Protection) Act, 1972” with the note “in case, ESZ of a Protected Area is not notified, then, 10 kms distance from boundary of the Protected Area should be treated as ESZ”. This response has been given despite the forest area being located at a distance of 8 kms from the Naina Devi Himalayan Bird Conservation Reserve, which is a notified Protected Area;
  - (ix) In the online proposal form, response of “*kakar*” only for entry seeking “Details of wildlife present”, when the reserved forest area is home to diverse wildlife including leopards, foxes, porcupine, nilgais, wild boars and land otters, some of which are protected species under the Wildlife (Protection) Act, 1972.
5. Importantly, no information has been presented on any concrete steps taken till date, in accordance with law, to ensure that the *naap* land (privately-owned land) that is required for the construction of a 1.5 km long road, as allegedly intended, has been acquired. No proposals or notifications for acquisition have been brought forward to substantiate that the proposal in question is for construction of a *bona fide* motor road of 1.5 km length and not a fraud sought to be perpetuated on the

inhabitants of Malla Niglat. As things stand, the proposed road of 9 metres width would only be constructed over 0.54 ha of reserved forest land, thus, coming up to 600 metres in length and ending at a private individual's residential bungalow.

6. Without prejudice to the above submissions, a para-wise reply has been given as below:

- (i) The contents of paragraph nos. 3 to 14 are factual in nature and only those forming part of public records are admitted.
- (ii) The contents of paragraph nos. 16, 20 and 32 are denied for being factually *and* legally incorrect and misleading. As submitted above, the fact of receiving the administrative and financial sanction, the in-principle approval and the formal sanction for diversion of reserved forest land do not validate or authenticate the illegal and improper procedures employed in obtaining these. On account of such irregularities and falsehoods, the in-principle approval dated 21.05.2016 and the sanction granted by the State Government for diversion of the reserved forest land dated 14.03.2017, amongst others, are the subject-matter of challenge in Appeal No. 64 of 2025 filed by the Appellant before this Hon'ble Tribunal.
- (iii) The contents of paragraph nos. 17 and 19 pertaining to public interest are denied, as these are bald averments without any data or document to substantiate their claim. As urged by the Applicant, the village spans a stretch of 3 kms, and is situated on NH-87 (now NH-109), with the closest house in the village only 5 metres from the NH and the furthest dwelling being about 80 metres away from the NH. The proximity to the NH, along with the RCC concrete paths running through the village, clearly indicate good connectivity. It is submitted that the claim of proposed road being in public interest is not supported by any evidence establishing that the existing infrastructure has proved to be inadequate for these purposes.

- (iv) Further, it is urged that bald averments on NOC in paragraph nos. 19 and 21 do not assist in proving the case of the Respondents. The Applicant has annexed various representations made by the residents of the village from 2012-2017 (pages 102-113 of the O.A.) objecting to the construction of the road, which have been completely ignored by the authorities. It may be noted that despite the Divisional Forest Officer, Nainital Forest Division requesting PWD, by letter dated 18.06.2012, to pay personal attention to the objections of the residents (pages 45-46 of the O.A.), no action was taken by PWD or any other authority.
- (v) In paragraph no. 18, the Forest Department and the Nodal Officer have attempted to extricate themselves of any liability with respect to the sheer lack of efforts in obtaining the remaining non-forest land required for the proposed project. However, it may be noted that the infirmities detailed in the O.A., key aspects of which are summarised in paragraph no. 4 above, primarily pertain to the 0.54 hectares of forest land which was sought to be diverted for the proposed project and to which, there has been no response from the concerned Respondents. The concerned Respondents have throughout attempted to push the entire blame and the onus for accountability on the PWD, as if the concerned Respondents were not involved in various inspections and supervision of the entire process, while themselves endorsing PWD's proposal. It is submitted that the concerned Respondents, who play a vital role in evaluating all proposals for diversion of forest land, cannot be permitted to evade responsibility in such manner.
- (vi) In paragraph no. 22, the concerned Respondents have incorrectly averred that non-compliance of PWD with the instructions in the letter dated 18.06.2012 from the Divisional Forest Officer, Nainital Forest Division pertaining to the objections raised by the locals of the village Malla Niglat does not relate to any act or omission on their part. It is stated that the letter dated 18.06.2012

itself records that the Forest Division will not be able to take any action on PWD's proposal without resolution of objection by the residents. Despite no such resolution having been made by PWD and the objections of the residents of the village persisting, the fact that the proposal received the approval of the Forest Department and the Nodal Officer clearly shows there has been an abdication of duty on the part of the concerned Respondents. It is further submitted that having ignored the objection of the residents of the village to give a green signal to the proposal, it ill behoves the concerned Respondents to claim that the proposed road was in "public interest".

- (vii) The contents of paragraph nos. 25 and 27 are entirely misleading and are thus, denied. During the pendency of O.A. No. 543 of 2017, the Applicant became aware of the Theoretical Permission of MoEFCC dated 21.05.2016, Stage II Clearance dated 28.11.2016 and the sanction of the transfer of forest land granted by the State Government dated 14.03.2017, in reply to an application under the Right to Information Act, 2005. The copy of the application and the reply received on 15.11.2017, along with the above clearances and sanction, were brought on record by the Applicant before this Hon'ble Tribunal in its rejoinder dated 02.02.2018 (pages 339-434 of Appeal No. 64 of 2025). Thereafter, when O.A. No. 543 of 2017 was listed before this Hon'ble Tribunal, it was noted that the issue of Forest Clearances had come to the knowledge of the Applicant after filing of the said Application and in order to get his grievance addressed, the Forest Clearances had to be put to challenge. Accordingly, this Hon'ble Tribunal, by order dated 02.08.2018, disposed of O.A. No. 543 of 2017 with "*liberty to file a fresh one, in view of the subsequent development*". The Applicant filed a comprehensive application, being O.A. No. 522 of 2018, under Section 14 of the National Green Tribunal Act, 2010 ("**NGT Act**") on 09.08.2018, impugning the various clearances and the sanction by the State Government.

No lack of *bona fides* on behalf of the Applicant were found by this Hon'ble Tribunal and thus, this Hon'ble Tribunal had given liberty to the Applicant to file afresh, challenging the various permissions and sanction. The order dated 02.08.2018 passed by this Hon'ble Tribunal having attained finality, the concerned Respondents cannot be permitted to bring new and baseless issues into question at this point, to draw focus away from their errors with respect to PWD's proposal.

(viii) The contents of paragraph no. 28 are deliberately misleading and seeks to conceal from this Hon'ble Tribunal that the list of trees appended to the report of the **only** joint site inspection conducted on 10.01.2012 has been suppressed and is yet to be brought on record by any of the Respondent authorities. The list of 91 trees comes from a subsequent inspection report conducted only by representatives of PWD, and that too, having considered a much narrower width of the proposed road (*i.e.*, 7 meters) than that for which sanction has been given for diversion of forest land (*i.e.*, 9 meters). Furthermore, the concerned Respondents provide no basis for computing the number of affected trees to be 73, as even by their erroneous calculation of trees over area having width of 7 meters, the affected number of trees stood at 91. (Site inspection reports dated 01.03.2013 and 09.09.2015 at pages 69-70 and pages 84-85 of the O.A.)

(ix) The contents of paragraph no. 29, to the extent of grant of approval for non-forest use, is completely denied as the demarcated or identified non-forest land supposedly sought to be used for the proposed road has not been sought to be demonstrated by any of the Respondents before this Hon'ble Tribunal. As submitted, this, along with the complete lack of any attempt or even intention to acquire the non-forest land and the misinformation by the User Agency, throws into doubt as to whether the proposed road was ever intended to be constructed across a stretch of 1.5km.

- (x) The contents of paragraph no. 33 are averments without any substance and baseless and are thus, completely denied. The letter dated 18.03.2015 from the Nodal Officer raised a specific query on rejection of alternate alignment through agricultural fields having no forest areas and recommended that the issue be resolved by a joint inspection of officials of the PWD, revenue department, geologist and the Divisional Forest Officer (pages 81-83 of the O.A.). However, no such joint inspection was carried out pursuant thereto and, aside from the bald averments, no report or minutes of any purported joint inspection has been brought on record. Furthermore, it is mandated that route of the alternate alignment be annexed to the online form for proposal, which obligation was abandoned by the User Agency as well as the concerned Respondents. It is submitted that the above facts clearly indicate that non-examination and suppression of an alternate alignment through agricultural fields seems to have been motivated by concerns, which have nothing to do with “public interest”.
- (xi) As regards the contents of paragraph no. 35, the concerned Respondents have, in a very callous and irresponsible manner, referred to landslides as naturally occurring events in hilly terrains, while attempting to brush aside the very severe consequences that landslides have had in recent times on human life as well as ecology, especially in Uttarakhand. As has already been demonstrated by the Applicant, the landslide leading to an entire hillside caving in 2021 had occurred along the proposed alignment of this motor road, blocking the NH (around where the hillside will be cut for the proposed road) and affecting the inhabitants. Some hundreds of villagers had also been awarded compensation for the grave damage to their property (pages 126 to 128 of the O.A.). The fact that the concerned Respondents do not see, or pretend not to see, any connection to the increasingly geologically-vulnerable

nature of the demarcated area and the entirely unnecessary road is evidently an example of grave dereliction of public duty.

(xii) The contents of paragraph no. 36 are entirely incorrect and denied. As stated, the concerned area of the reserved forest is at a distance of 8 kms from the Naina Devi Bird Conservation Reserve, which is a notified Protected Area under the Wildlife (Conservation) Act, 1972. Thus, in terms of the online form completed by the PWD, being within 8 kms of the said Reserve, the area falls in the ESZ of this Reserve.

(xiii) The contents of paragraph nos. 41 and 43 are entirely incorrect and thus, denied, as the averments therein are completely baseless and in deliberate ignorance of judicial orders, specifically the order dated 06.05.2025 passed by this Hon'ble Supreme Court in Civil Appeal No. 10989 of 2018. It is submitted that O.A. No. 522 of 2018 filed by the Applicant had been disposed of by this Hon'ble Tribunal on 24.10.2018 but on account of procedural irregularities and not on merits. Subsequently, the Hon'ble Supreme Court has set aside the order of this Hon'ble Tribunal disposing of O.A. No. 522 of 2018 and remanded the matter to this Hon'ble Tribunal, directing that the said Application be treated as an Appeal under Section 16 of the NGT Act. Further liberty was granted to the Applicant to file a separate petition under Section 14 of the NGT Act. Thus, in terms of the directions of the Supreme Court, O.A. No. 522 of 2018, impugning the various clearances, has been converted into an Appeal and registered as Appeal No. 64 of 2025. Further, the Applicant has filed O.A. No. 279 of 2025, which challenges the entire proposal on the grounds of being a sham and an act of fraud by the Respondent authorities, motivated by reasons which are bereft of public interest. Accordingly, it is submitted that while both matters pertain to the same proposal by PWD, they seek to draw this Hon'ble Tribunal's attention to different points of issue.

(xiv) The contents of paragraph nos. 23, 30 to 32, 34, 38 to 40 and 44 to 47 are repetitive and have been addressed above. It is submitted that repeated insistence by the concerned Respondents on having complied with applicable law without specifically addressing the inaccuracies and misrepresentations pointed out in their online proposal should lend credence to the Applicant's case that the entire exercise, in fact, is duplicitous and is sought to be undertaken for oblique motives, with the involvement of the Respondent State authorities. At the cost of repetition, it is urged that such bald and evasive denial by the concerned Respondents would amount to admission of the allegations made out by the Applicant in the O.A.

7. It is submitted that all statements, claims and averments made in the Counter Affidavits dated 13.01.2026 and 15.01.2026, which are contrary to and/or are inconsistent with what is stated hereinabove, are denied, as if the same were specifically traversed and denied. Nothing stated in the said Counter Affidavits shall be deemed admitted unless the same has been specifically admitted.
8. In light of the above, it is imperative that this Hon'ble Tribunal allow O.A. No. 279 of 2025 and permanently restrain the Respondent authorities from constructing the proposed road from Dakaroli to village Malla Niglat, off NH-87 (now NH-109).

  
(Applicant)

Place: New Delhi

Date: 15.04.2026

  
(Bidya Mohanty)

Advocate for the Applicant

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW  
DELHI

ORIGINAL APPLICATION NO. 279 OF 2025

IN THE MATTER OF:

VIJAY KUMAR PADALIA

...APPLICANT

VERSUS

STATE OF UTTARAKHAND & ORS.

...RESPONDENT(S)

**AFFIDAVIT**

I, Vijay Kumar Padalia, s/o Chandra Dutt Padalia, aged about 56 years, residing at 57, Malla Niglat Bhowali, Nainital – 263 132, Uttarakhand, do hereby solemnly affirm and state as under:

- 1) That I am the Applicant in O.A. No. 279 of 2025 and am fully conversant with the facts and circumstances of the said O.A. and am competent to swear this affidavit before this Hon'ble Tribunal.
- 2) That the accompanying Rejoinder has been drafted by my counsel at my instance. I further state that the contents of the accompanying Rejoinder have been read out and explained to me in Hindi and I state that the same are true and correct to the best of my knowledge and are in accordance with my instructions, briefing and narration.



*Hemant Dhusia*  
HEMANT DHUSIA Advocate  
Notary Distt H.Q. Nainital  
Reg.No.20(10)/2023 13-04-2026

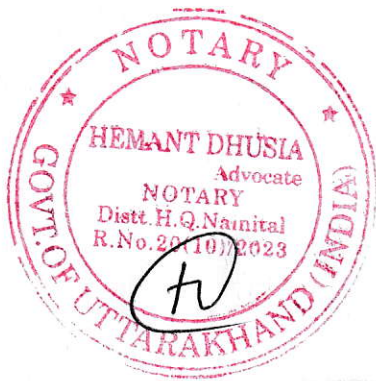
*Vijay Kumar Padalia*

DEPONENT

## VERIFICATION

I, the deponent above named, do hereby verify that the contents of the above Affidavit are true to the best of my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Nainital on this 13 day of April, 2026.



*Handwritten signature*

DEPONENT

Attested that Sri/smt. Vijay Kumar  
the Deponent Identified by R.K. Phak Av  
Sworn & Verified the contents of  
the Affidavit at Nainital  
on Date 13-04-2026 at Nainital

*Handwritten signature of Hemant Dhusia*  
HEMANT DHUSIA Advocate  
Notary Distt H.Q. Nainital 13-04-2026  
Reg.No.20(10)/2023

509



---

**O.A. No. 279 of 2025 | Vijay Kumar Padalia v. State of Uttarakhand & Ors. | Common Rejoinder to Counter Affidavits filed on behalf of Respondent Nos. 1, 2 and 5**

---

**From** Bidya Mohanty <bidyamohanty19@outlook.com>

**Date** Wed 2026-04-15 15:42

**To** adv.deepakbora@gmail.com <adv.deepakbora@gmail.com>

**Cc** Sumedha Ray Sarkar <sumedharaysarkar@gmail.com>

1 attachment (908 KB)

Common Rejoinder - O.A. No. 279 of 2025 - R1, R2 and R5.pdf;

Dear Mr. Bora,

Attached, please see the Common Rejoinder Affidavit sought to be filed on behalf of the Applicant to the Counter Affidavits filed on behalf of Respondent Nos. 1, 2 and 5 in O.A. No. 279 of 2025.

This e-mail may be treated as a record of service on Respondent Nos. 1 to 5 (State of Uttarakhand, Department of Forest and Environment; Nodal Officer, Forest Conservation; Commissioner, Kumaon Division; District Magistrate, Nainital; Principal Chief Conservator of Forests, Dehradun).

Regards,  
Bidya Mohanty  
Advocate  
+91 9603742644