

IN THE HON'BLE NATIONAL GREEN TRIBUNAL (PB)

AT

NEW DELHI

IN

ORIGINAL APPLICATION NO. 529 OF 2023/PB

IN THE MATTER OF:

Dr. SHARAD GUPTA.

.... PETITIONER

VERSUS

UNION OF INDIA &Ors.

...RESPONDENTS

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4. *Vakalatnama*

5. Proof of Service

Nidhi Jaswal -9-
FILED BY:- -10-
NIDHI JASWAL,
ADVOCATE FOR THE RESPONDENT NO. 1
& 2
D-291, 2ND & 3RD FLOOR, DEFENCE
COLONY, NEW DELHI-110024
MOB-9990343004
EMAIL:- nid.jaswal@gmail.com



Reply Counter Affidavit on Behalf of the Respondent No.1 & 2 Union of India, Ministry of Environment, Forest and Climate Change, New Delhi & Ministry of Environment Forest and Climate Change through it's Director.

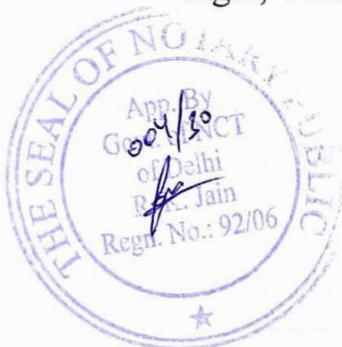
MOST RESPECTFULLY SHOWETH:

I, Sudheer Chintalapati, aged about 40 years, working as 'Scientist 'E' in the Ministry of Environment, Forest and Climate Change at New Delhi do hereby solemnly affirm and State as under:

1. That I am duly authorized to swear this affidavit as such conversant with the facts of the present case and competent to swear the present affidavit.
2. That I have read and understood the contents of the accompanying reply and state that the same has been drafted under my instructions based on the official records.

STATEMENT OF FACTS:

3. It is humbly submitted that the present petition has been filed with a prayer requesting for implementation of recommendations of the CEC vide Hon'ble Apex Court Order dated 23.09.2022 for inclusion of the Surdas Reserve Forest block of 380.558 hectare area and 15.514 hectare area of the government land in the Soor Sarovar Birds Sanctuary located in District Agra, Uttar Pradesh.



(2)

(2)

4. It is submitted that the Central Empowered Committee has forwarded the following recommendations to the Hon'ble Supreme Court as mentioned here:

- i. *Notify 403.09 hectare area of Soor Sarovar Bird Sanctuary (SSBS) under Section 26(A) of the Wildlife (Protection) Act, 1972 after describing the limits of the area which shall be comprised within the Sanctuary in terms of survey numbers of the lands comprised within the SSBS and describe the boundary in terms of boundary pillars on east, west, south and north of the proposed Soor Sarovar Bird Sanctuary along with their 11 forward and backward bearings within a period of two months from the date of order of this Hon'ble Court.*
- ii. *Consider extending the area of the Soor Sarovar Bird Sanctuary (SSBS) by including the Surdas Reserve Forest block of 380.558 hectare area and 15.514 hectare area of the government land which currently forms the buffer zone of the Sanctuary outside the proposed boundary of the Sanctuary after following the procedure under sections 18 to 25 of the Wild Life (Protection) Act, 1972."*

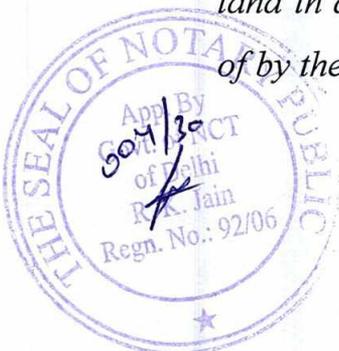
REPLY TO FACTS OF THE CASE:

5. It is submitted that the State Government is empowered to notify an area as a sanctuary in accordance with the procedure laid down from section 18 to section 26 A of the Wild Life (Protection) Act 1972.
6. It is submitted that as per section 26A of the Wild Life (Protection) Act, 1972-

(1) *When—*

(a) *a notification has been issued under section 18 and the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government; or*

(2)



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(b) any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary,

the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification:

Provided that where any part of the territorial waters is to be so included, prior concurrence of the Central Government shall be obtained by the State Government:

Provided further that the limits of the area of the territorial waters to be included in the sanctuary shall be determined in consultation with the Chief Naval Hydrographer of the Central Government and after taking adequate measures to protect the occupational interests of the local fishermen.

(2) Notwithstanding anything contained in sub-section (1), the right of innocent passage of any vessel or boat through the territorial waters shall not be affected by the notification issued under sub-section (1).

(3) No alteration of the boundaries of a sanctuary shall be made by the State Government except on a recommendation of the National Board.

5. It is submitted that, the Ministry has not received any proposal from the State Government of Uttar Pradesh for alteration in the boundaries of the Soor Sarovar Bird Sanctuary.



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- 6. It is further submitted that, the Ministry has requested the ~~he~~ State Government of Uttar Pradesh to take action in accordance with the provisions of the Wild Life (Protection) Act, 1972 for implementation of the recommendations of the CEC accepted vide Supreme Court of India order vide letter dated 02.01.23 and letter dated 05.10.23 in this regard (ANNEXURE II).
- 7. It is submitted that, as and when a complete proposal for alteration in the boundaries of the sanctuary is received on the PARIVESH portal of the Ministry, the same shall be placed before the Standing Committee of the National Board for Wild Life for its consideration.
- 8. In light of the foregoing submissions, it is respectfully prayed that this Honourable Tribunal be pleased to issue such orders, directives, or relief as it may deem appropriate and just under the circumstances of the present case.

(डा. सुधीर चिन्तापति)
 (DR. SUDHEER CHINTALPATI)
 वैज्ञानिक ई/Scientist E
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Ministry of Environment, Forest and Climate Change
 भारत सरकार, नई दिल्ली
 Govt. of India, New Delhi

DEPONENT

30 OCT 2023
VERIFICATION

Verified at New Delhi on this ^{30th} day of ~~October~~, 2023 that the contents of the above affidavit are true and correct to my knowledge based on the records no part of it is false and nothing material has been concealed therefrom.

THE SEAL OF NOTARY PUBLIC
 App. By
 Govt. of Delhi
 R. Jain
 004/30
 02/06
ATTESTED
 Notary Public, Delhi

(डा. सुधीर चिन्तापति)
 (DR. SUDHEER CHINTALPATI)
 वैज्ञानिक ई/Scientist E
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Min. of Environment, Forest and Climate Change
 भारत सरकार, नई दिल्ली
 Govt. of India, New Delhi

DEPONENT

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30 OCT 2023

F.No. 1/3/2022-WL
Government of India
Ministry of Environment, Forest and Climate Change
(Wildlife Division)

6th Floor, Vayu Block,
Indira Paryavaran Bhawan,
Jor Bag Road, New Delhi – 110003.

Date: 2nd January, 2023

To
Additional Chief The Chief Wild Life Warden,
Government of Uttar Pradesh,
17, Rana Pratap Marg, Narhi,
Hazratganj, Lucknow, Uttar Pradesh 226001

Subject – Submission of revised proposal for Soor Sarovar Bird Sanctuary as per the Directions of Hon'ble Supreme Court dated 23.09.2022 in the matter of I.A no 196157, 196158 and 196159/2019 in W.P Civil No 13381 of 1984 titled as M.C Mehta Vs Union of India in the Hon'ble Supreme Court of India.

Sir,

Please refer to the Hon'ble Supreme Court order dated 23.09.2022 in the matter of I.A no 196157, 196158 and 196159/2019 in W.P Civil No 13381 of 1984 titled M.C Mehta Vs the Union of India **(Copy of the order enclosed)**.

2. Hon'ble Supreme Court has accepted the recommendations of the CEC in the matter for increasing the area of Soor Sarovar Bird Sanctuary, Agra to 800 hectares from 403 hectares. The relevant part of the recommendation as mentioned in the given letter are as follows: -

"Notify 403.09 ha of Soor Saovar Bird Sanctuary (SSBS) under section 26A) of the Wild Life (Protection) Act, 1972 and describing the limits the area which shall be comprised within the sanctuary in terms of survey numbers of land comprised within the SSBS and describe the boundary in terms of boundary pillars on east, west, south and north of the proposed Soor Sarovar Bird Sanctuary along with their forward and backward bearing within a period of two months from the date of order of this Hon'ble Court.

Consider extending the area of the Soor Sarovar Bird sanctuary by including the surdas Reserve Forest block of 380.558 ha and 15.514 ha of the government land which currently forms the buffer zone of the Sanctuary outside the proposed boundary of the sanctuary after following the procedure under section 18 to 25 of the Wild Life (Protection) Act 1972".

3. In view of above, the State Government of Uttar Pradesh is requested to take action in accordance with the provisions of the Wild Life (Protection) Act, 1972 for implementation of the recommendations of the CEC accepted vide Supreme

Court of India order mentioned above.

4. Further, a revised proposal for declaration of ESZ after notification of the Sanctuary with revised boundaries may also be sent to the Ministry for taking further action in the matter.

Encl; As above

Yours faithfully

-sd-

(Rakesh Kumar Jagenia)
Deputy Inspector General of Forests (Wildlife)
E-mail: digwl-mefcc@gov.in

Copy to:

1. Dr. Sharad Gupta, 24, Heera Bagh Colony Dayal Bagh. Agra – 282005
Mobile No. 9837036270 E- mail: sharadguptashikha@rediffmail. com
2. PSO to ADGF (WL)/PPS to IGF(WL)/Sr. PPS to DIG(WL).

(Dr. SURESH CHINTALPATI)
Minister for Environment, Forest and Climate Change
Govt. of India, New Delhi

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Annex - 2

REMINDER

F. No. 1/3/2022-WL
Government of India
Ministry of Environment, Forests and Climate Change
(Wildlife Division)

6th Floor, Vayu Wing,
Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj,
New Delhi -110003

Date: 05.10.2023

To,
The Chief Wild Life Warden,
Government of Uttar Pradesh,
17, Rana Pratap Marg, Narhi,
Hazratganj, Lucknow, Uttar Pradesh 226001

Sub: - Reminder letter for Submission of revised proposal for Soor Sarovar Bird Sanctuary as per the Directions of Hon'ble Supreme Court dated 23.09.2022 in the matter of I.A no 196157, 196158 and 196159/2019 in W.P Civil No 13381 of 1984 titled as M.C Mehta Vs Union of India in the Hon'ble Supreme Court of India.

Please refer this Ministry's letter of even no. dated 02.01.23 in connection with the Hon'ble Supreme Court order dated 23.09.2022 in the matter of I.A no 196157, 196158 and 196159/2019 in W.P Civil No 13381 of 1984 titled M.C Mehta Vs the Union of India (Copies enclosed).

2. Hon'ble Supreme Court has accepted the recommendations of the CEC in the matter for increasing the area of Soor Sarovar Bird Sanctuary, Agra to 800 hectares from 403 hectares. The relevant part of the recommendation as mentioned in the given letter are as follows: -

"Notify 403.09 ha of Soor Saovar Bird Sanctuary (SSBS) under section 26A) of the Wild Life (Protection) Act, 1972 and describing the limits the area which shall be comprised within the sanctuary in terms of survey numbers of land comprised within the SSBS and describe the boundary in terms of boundary pillars on east, west, south and north of the proposed Soor Sarovar Bird Sanctuary along with their forward and backward bearing within a period of two months from the date of order of this Hon'ble Court. Consider extending the area of the Soor Sarovar Bird sanctuary by including the surdas Reserve Forest block of 380.558 ha and 15.514 ha of the government land which currently forms the buffer zone of the Sanctuary outside the proposed boundary of the sanctuary after following the procedure under section 18 to 25 of the Wild Life (Protection) Act 1972".

3. In view of above, the State Government of Uttar Pradesh is requested to take action in accordance with the provisions of the Wild Life (Protection) Act, 1972 for implementation of the recommendations of the CEC accepted vide Supreme

(7)

Court of India order mentioned above.

4. Further, a revised proposal for declaration of ESZ after notification of the Sanctuary with revised boundaries may also be sent to the Ministry for taking further necessary action in the matter.

Yours faithfully

Signed by

Rakesh Kumar Jagenia

Date: 05-10-2023 17:24:49

(Rakesh Kumar Jagenia)

Deputy Inspector General of Forests (WL)

E-mail: digwl-mefcc@gov.in

Encl: As above.

Copy to: PPS to ADG(WL) & Director, Wild life Preservation, MoEFCC/ PPS to IGF(WL), MoEFCC.


(Dr. SUDHEER CHINTALAPATI)
प्राध्यापक, वन एवं पर्यावरण विभाग, मंत्रालय
Min. of Environment & Forests, Government of India
2017

Government of India
Ministry of Environment, Forest and Climate Change
Legal Monitoring Cell

Date: 30/08/2023

Subject: Engagement of Panel Counsel

Respected Madam,

Ms. Nidhi Jaswal (9990343004, 9818274049 & nid.jaswal@gmail.com)

You are engaged to appear and conduct the case mentioned below for all purposes on behalf of this Ministry till the disposal of the case or expiry of your term of engagement or until further orders, whichever is earlier.

2. Details of the case are as follows:-

Court: **NGT (PB), New Delhi**

Case No.: **OA No. 529/2023**

Title of the Case: **Dr. Sharad Gupta Vs. UOI & Ors.**

Concerned Division of the Ministry: **ESZ**

Name and contact of the Divisional Head: **Adv (SK) & 011-20819351**

Email ID: **s.kerketta66@gov.in**

Name and contact of the dealing Associate (Legal): **Mr. Manish Chaturvedi**

Ph. No. **8005482283**

Email ID: **manishchaturvedi363@gmail.com**

Next Date of hearing: **06/11/2023**

3. **This engagement is subject to the following conditions:-**

- i. The engagement is governed by **O.M. No. 17(21)/2020-PL/NGT Dated 22.08.2022, 02.03.2023** and **O.M. No. 17(21)/2017-PL/NGT** on dated 01.12.2017, 07/02/2019 and 04/05/2020, Policy and Law Division, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, New Delhi read with relevant circulars/instructions issued by this Ministry from time to time.
- ii. In case you are unable to attend the case for some reason, sufficient advance intimation should be given to the concerned Division.
- iii. To return the brief on expiry of your term/disposal of the case to the Ministry of Environment, Forest and Climate Change, or till further orders.
- iv. To intimate the Ministry the progress of the case regularly including obtaining and forwarding certified copy of the Order/Judgement to the concerned Division whenever necessary.
- v. To appear on behalf of this Ministry in person, and **not through a junior counsel** in the matters marked to you.
- vi. The engagement is acknowledged.

Nidhi Jaswal

Smita
(Legal Monitoring Cell)
MoEF&CC, New Delhi

स्मिता सालवे/Smita H. Salve
 वरिष्ठ परामर्शी (विधि)
 Senior Consultant Legal
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 M/o Environment, Forest and Climate Change
 भारत सरकार, नई दिल्ली
 Govt. of India, New Delhi



Nidhi Jaswal <nid.jaswal@gmail.com>

Advance Service - Reply on behalf of MOEF in OA 529/2023 titled Gupta vs Union of India as Dr. Sharad

1 message

Nidhi Jaswal <nid.jaswal@gmail.com>

Mon, Oct 30, 2023 at 8:37 PM

To: anshulgupta@angpartners.co.in, kirtidua@angpartners.co.in, info@angpartners.co.in

Dear All,

This is in reference to the captioned subject.

By way of advance service, please find attached herewith the Reply that is being filed on behalf of MOEF before the Hon'ble NGT with regard to the captioned matter.

This is for your kind information and record.

In case of any further clarifications, please feel free to revert.

Regards

--

**NIDHI JASWAL
ADVOCATE ON RECORD
SUPREME COURT OF INDIA
PH: +91-9990343004****DISCLAIMER:**

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