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IN THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

INDEX

IN

COUNTER AFFIDAVIT

(ON BEHALF OF THE RESPONDENT No. 2 &5)

IN

ORIGINAL APPLICATION No. 279 OF 2025

IN THE MATTER OF:

Vijay Kumar Padalia Son of Sh. Chandra Dutt Padalia resident of Village Malla Niglat, P.O. Bhowali, Tehsil Kusyaktoli District Nainital, Uttarakhnad 263132.

..... Applicant

Versus

State of Uttarakhand through its Principal Secretary (Forest) Department of Forest and Environment Government of Uttarakhand, Dehradun (Uttarakhand) PIN 248001 and Others.

..... Respondents

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Date: /01/2026



Deepak Bora

Advocate

Counsel for State of Uttarakhand
17, New Lawyers Chambers,
Setalvad Block, Supreme Court of India
New Delhi 110001

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IN THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI



COUNTER AFFIDAVIT

(ON BEHALF OF THE RESPONDENT No. 2 &5)

IN

ORIGINAL APPLICATION No. 279 OF 2025

IN THE MATTER OF:

Vijay Kumar Padalia S/o Chandra Dutt Padalia, Resident of Village Malla Niglat, P.O. Bhowali, Tehsil Kusyaktoli District Nainital, Uttarakhand
Email ID: vijaypadalia4@gmail.com PIN:263132.

..... Applicant

Versus

1. State of Uttarakhand Through its Principal Secretary (Forest) Department of Forest and Environment Government of Uttarakhand Dehradun (Uttarakhand) Email ID: cs-uttaranchal@nic.in PIN 248001
2. Additional Principal Chief Conservator of Forest/ Nodal Officer, Forest Conservation Indra Nagar Forest Colony Dehradun, Uttarakhand Email ID: nodalofficerddn@gmail.com PIN: 248006
3. The Commissioner Kumaon Division Government of Uttarakhand Nainital Email ID: comm-kum-us@nic.in PIN: 263001
4. The District Magistrate Nainital, Uttarakhand Email ID: dm-nai-ua@nic.in PIN: 263001
5. The Principal Chief Conservator of Forest 85,Rajpura Road Dehradun Uttarakhand Email ID: itgc-forest-uk@nic.in PIN: 248001
6. Public Works Department Through its Chief Engineer Court Road, Yamuna Colony, Race Course Dehradun (Uttarakhand) Email ID: itcell.pwduk@gov.in PIN: 248001



7. Public Works Department Through its Chief Engineer, Haldwani Kaladungi Road, Nawar Mula Harak Singh, Haldwani Uttarakhand Email ID: cepwdhaldwani@gmail.com PIN: 263139
8. Public Works Department Through its Chief Engineer 1- Main Road, Nainital, Uttarakhand Email ID: cehq.pwduk@gov.in PIN 263001
9. Uttarakhand Forest Development Corporation Through its Chairman Aranya Vikas Bhawan, 73, Nehru Road, Dehradun Uttarakhand Email ID: vanvikas12@gmail.com PIN 248001
10. Uttarakhand Environment Protection & Pollution Control Board Through its Chairman 29/20, Nemi Road, Dehradun, Uttarakhand Email ID: msukpcb@yahoo.com PIN: 248001
11. Union of India Through its Secretary Ministry of Environment, Forest and Climate Change Paryavaran Bhawan, Lodhi Road, New Delhi Email ID: msfcc@gov.in PIN:11001

..... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2 & 5

I, S. P. Subudhi (Male) aged about 58 years, S/o Sh. Bhajamana Subudhi, presently posted as, Principal Chief Conservator of Forests/Nodal Officer, Forest Conservation, Indra Nagar Forest Colony Dehradun, Uttarakhand, do hereby solemnly affirm on oath and state as under:

1. That in my abovementioned official capacity as Principal Chief Conservator of Forests/Nodal Officer, Forest Conservation, Indra Nagar Forest Colony Dehradun, Uttarakhand being arrayed as Respondent No. 2 in instant Original Application, and also authorized to file the present

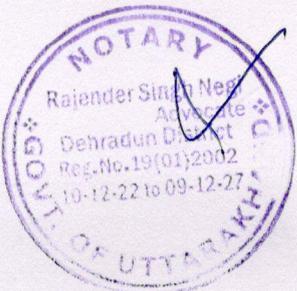


affidavit on behalf of Respondent No.5 before this Hon'ble Tribunal in instant Original Application.

2. I state that I have read and understood the contents of the said Application and its annexures and in reply thereto I state as under:

BRIEF FACTS

3. That the instant Original Application has again been preferred by the petitioner for seeking judicial intervention against the construction of Motor Road from NH-87(Now renumbered as NH-109)/ Dakarauli to Malla Niglat, situated in District Nainital, State of Uttarakhand.
4. That it is most respectfully submitted that prior to the present case, the applicant had earlier filed an Original Application i.e. O.A. No. 522 of 2018 titled as 'Vijay Kumar Padalia vs. State of Uttarakhand & Ors.', before this Hon'ble Tribunal. The said application was filed challenging the orders passed by Respondents No. 1 to 11 and, inter alia prayed for quashing the sanctions and permissions granted for the construction of the motor road from NH-87 (now NH-109) Dakarauli to Malla Niglat. The applicant had further impugned the permission granted by the Ministry of Environment, Forest and Climate Change, Government of India vide communication dated 21.05.2016 as well as the permission accorded by the Government of Uttarakhand vide letter 1256/x-4-16/1(487)/2015 dated 14.03.2017.
5. That the Divisional Forest Officer, Nainital Forest Division, has already filed a detailed Counter Affidavit on 18.09.2018 in the said matter O.A. 522/2018 on behalf of Respondent 1,2 & 5. The said Counter Affidavit forms part of the record of this Hon'ble Tribunal.



6. That this Hon'ble Tribunal, after considering the facts and circumstances of the said case, was pleased to dismiss the Original Application 522/2018 vide its order 24.10.2018. The operative part of the Order dated 24.10.2018 is being quoted as under-

“Moreover, in the instant case, the challenge has been sought to be made in respect of the procedure which has reached Stage-I. It is well settled that it is only when Stage-II under Forest Conservation Act has been reached that such orders are to be challenged. It would not be out of place to mention here that only because the earlier Application was allowed to be disposed of on the request of the Learned Counsel for the Application so as to file proper Application incorporating the subsequent events does not by any stretch of imagination means that it give a right to the Applicant to bypass the procedure laid down under law i.e. to file an appeal against the order impugned.

For the aforesaid reasons, we are of the considered opinion that this Original Application, in the facts and circumstances of the case, is not maintainable and is hereby dismissed.

All interim orders passed earlier shall stand vacated”.

7. That being aggrieved by the above said Order dated 24.10.2018, the petitioner preferred Civil Appeal No. 10989 of 2018 ‘Vijay Kumar Padalia Vs. State of Uttarakhand and Ors.’, before the Hon'ble Apex Court. And the Hon'ble Apex Court was pleased to allow and dispose the same vide its order dated 06.05.2025 with direction to this Hon'ble Tribunal to examine all the pleas of the petitioner. The operative part of the Order dated 06.05.2025 is being quoted as under:

“Learned counsel for the respondents has submitted that the issue of limitation may arise in so far as the appeal is concerned. If required and necessary, it will be open to the appellant, Vijay Kumar Padalia, to file an application seeking condonation of delay and rely upon Section 14 of the Limitation Act, 1963. We also accept the submission that exclusion of time on account of bona fide proceedings will apply, notwithstanding the upper time limit fixed for condonation of delay. Further, the appellant, Vijay Kumar Padalia, will be entitled to raise the plea that



the order was never communicated and, therefore, the limitation period would commence only from the date of knowledge.

The NGT will examine all pleas and contentions raised by the parties in accordance with law. We make no comment either way on such pleas and contentions of the parties or on merits. The interim order passed by this Court on 07.12.2018, which was continued thereafter, shall continue to operate for a period of two months from today.

In view of the period of time that this litigation has been pending, we request the NGT to take up the matter for hearing expeditiously.

The appeal is allowed and disposed of in the aforesaid terms”.

8. That in compliance of the above said Order dated 06.05.2025 passed by Hon'ble Apex Court, the Original Application 522/2018 'Vijay Kumar Padalia Vs. State of Uttarakhand and Ors.', was re-listed for hearing on 27.05.2025 and this Hon'ble Tribunal has passed the following directions:

“In view of the above order, un-represented parties are required to be noticed and heard expeditiously.

4. Mr. Mukesh Verma, Learned Counsel accepts notice on behalf of UKPCB.

5. Learned Counsel for the applicant is directed to serve fresh notice upon un-represented respondents indicating the next date of hearing.

6. List on 04.07.2025”.

9. That subsequently, in pursuance of the order dated 04.07.2025 passed by this Hon'ble Tribunal, whereby liberty was granted to the applicant to amend the Original Application No. 522 of 2018 and treat the same as an Appeal, the Applicant preferred Appeal No. 64 of 2025, *Vijay Kumar Padalia vs. State of Uttarakhand and Others*, under Sections 16 read with 18 of the National Green Tribunal Act, 2010. The relevant operative portion of the order dated 04.07.2025 is reproduced herein below:



“This Original Application (OA) has been listed in pursuance to the order of the Hon’ble Supreme Court dated 06.05.2025 passed in Civil Appeal No. 10989/2018. The OA was originally dismissed as not maintainable by the order dated 24.10.2018 which was the subject matter of challenge before the Hon’ble Supreme Court in Civil Appeal No. 10989/2018. The Hon’ble Supreme Court, while allowing the Appeal by order dated 06.05.2025, has set aside the order of the Tribunal dated 24.10.2018 and has remanded the matter back with a direction that this OA will be treated as an Appeal under Section 16 of the National Green Tribunal Act, 2010, and has also granted liberty to the Applicant to amend the OA”.

10. That the said Appeal No. 64 of 2025, Vijay Kumar Padalia vs. State of Uttarakhand and Others, was thereafter listed before this Hon’ble Tribunal on 09.10.2025, wherein this Hon’ble Tribunal was pleased to grant four weeks’ time to the Respondents to file their reply. The operative portion of the order dated 09.10.2025 reads as under:

“It is submitted by the counsel for the applicant that the respondents have already been served.

3. Learned Counsel for the respondents are granted four weeks’ time to file reply. Rejoinder, if any, can be filed by the appellant within two weeks thereafter.

4. List on 16.01.2026.”

11. That the subject matter and issues involved in the instant Original Application No. 279 of 2025 ‘Vijay Kumar Padalia vs. State of Uttarakhand and Others’, and those in Appeal No. 64 of 2025 ‘Vijay Kumar Padalia vs. State of Uttarakhand and Others’, are substantially identical, as both pertain to the construction of the same motor road, i.e., from Dakarauli to Malla Niglat, District Nainital.

12. That it is most pertinent to mention that the Ministry of Environment, Forest and Climate Change, Government of India, vide its letter No. 08B/U.C.P/06/193/2015/F.C/367 dated 21.05.2016, granted in-principle

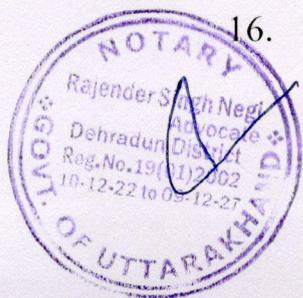


(Stage-I) approval for diversion of 0.540 hectares of forest land for the purpose of construction of the said Dakarauli–Malla Niglat Motor Road, under Section 2 of the Forest (Conservation) Act, 1980.

13. That thereafter, the Government of Uttarakhand vide letter 1256/x-4-16/1(487)/2015 dated 14.03.2017 has granted official (Stage-II) approval for diversion of 0.540 Ha. forest land for the said construction under section-2 of Forest Conservation Act, 1980. The legal status of the said land is still Reserve Forest.
14. That both the approvals i.e. granted by the Union Govt. and the State Government as well were subject to certain conditions stipulated therein. The said final approval granted by the State Government vide letter dated 14.03.2017 was issued pursuant to and in furtherance of the final approval granted by the Ministry of Environment, Forest and Climate Change, Government of India, vide its letter No. 08B/U.C.P/06/193/2015/F.C/1359 dated 28.11.2016, for diversion of 0.540 hectares of forest land for the construction of the Dakarauli to Malla Niglat Motor Road under Section 2 of the Forest (Conservation) Act, 1980.

PARAWISE REPLY

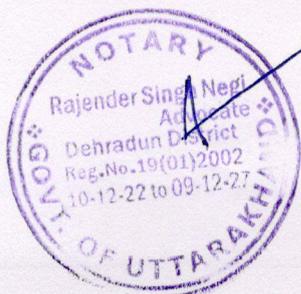
15. That Para 1 and 2 of the Original Application are purely factual in nature and, as such, do not warrant any specific response from the answering Respondents.
16. That the averments contained in Para 3 of the Original Application are specifically denied by the answering Respondents. It is submitted that the sanctioned land admeasuring 0.54 hectares forms part of a Reserved



[Handwritten Signature]

Forest, as duly notified under Section 20 of the Indian Forest Act, 1927. The proposal for diversion and the procedure relating thereto were processed and guided by the Public Works Department, Nainital, in its capacity as the user agency. The diversion of the aforesaid land was undertaken strictly in terms of Section 2 of the Forest (Conservation) Act, 1980, after obtaining due and valid approval from the Central Government.

17. That the allegations made in Para 4 of the Original Application are denied. As per the proposal submitted by the user agency, the construction of the subject road, having an approximate length of 1.50 kms., is squarely in public interest, directly benefitting about sixty families comprising a population of approximately 500 persons. The Government of Uttarakhand, Public Works Department, vide Government Order No. 2339/III(2)/11-30(Pra.Aa)/11 dated 20.09.2011, has accorded the administrative and financial sanctions for construction of the said motor road measuring approximately 1.50 Kms.
18. That the contents of Para 5 of the present O.A. relate to the user agency, namely the Public Works Department, Nainital, and appropriately call for a detailed response from Respondents 6, 7 and 8 in respect of the said construction. It is respectfully submitted that Section 2(ii) of the Forest(Conservation) Act, 1980, expressly enables the use of forest land for non-forestry purposes by the State Government with the prior approval of the Central Government. The proposal submitted by the user agency is confined strictly to 0.54 hectares of forest land, measuring 600 metres in length and 9 metres in width. The user agency had duly sought forest clearance under the Forest (Conservation) Act 1980, only for the said 0.54 hectares. Consequently, the provisions of the Forest



(Conservation) Act, 1980, are attracted solely to the aforesaid 0.54 hectares of forest land and not to any privately owned land.

19. That the contents of Para 6 of the Original Application, as pleaded by the Applicant, are not admitted and are denied. It is respectfully submitted that the obligation to obtain the No Objection Certificate (NOC) rests with the Public Works Department, acting as the user agency. In the present case, the requisite NOC was duly obtained and submitted by the user agency along with its proposal. The said NOC was issued by the Gram Pradhan, Village Malla Niglat, Betalghat, District Nainital, and was duly endorsed by the B.D.C. Member, Hartapa, District Nainital. The proposal submitted by the user agency is demonstrably in public interest and substantially benefits the local populace by improving access to essential amenities.
20. That the contents of Para 7 to 10 of the present Application are denied in toto by the answering Respondents. It is submitted that the user agency submitted a proposal for construction of a motor road purely in furtherance of public interest. The Government of Uttarakhand, through its Public Works Department, vide letter 2339/III(2)/11-30(Pra.Aa)/11 dated 20.09.2011, has accorded administrative and financial sanctions for construction of a motor road of about 1.50 kilometres in length. Pursuant thereto, the user agency obtained the requisite NOC from the competent authorities to enable forest clearance in accordance with the prescribed procedure. It is further pertinent to state that the Public Works Department, Nainital Division, as user agency, submitted a detailed proposal seeking diversion of 0.540 hectares of forest land for construction of the Dakarauli–Malla Niglat road in District Nainital, in compliance with Section 2 of the Forest (Conservation) Act, 1980. The said proposal received final approval from the Ministry of Environment, Forest and Climate Change, Government of India, vide Letter No.



08B/U.C.P/06/193/2015/F.C/1359 dated 28.11.2016. Subsequently, the Government of Uttarakhand, vide Letter No.1256/X-4-16/1(487)/2015 dated 14.03.2017, granted formal permission for diversion of 0.540 hectares of forest land under Section 2 of the Forest (Conservation) Act, 1980. All approvals were thus granted by the competent authorities in strict conformity with the statutory framework.

21. That the contentions in Para 11 & 12 of the present application are denied. The user agency is solely responsible for compliance with the due process and procedure relating to the project. The user agency, in fact, obtained formal NOCs from the village residents and their local representatives in 2014, prior to undertaking any further steps under the project. To the knowledge of the answering respondents, no coercion, threat or undue influence was exercised in obtaining such NOCs.
22. That the assertions contained in Para 13 & 14 are directed towards the Public Works Department in its capacity as user agency; consequently, an appropriate response may be tendered by Respondents 6, 7 and 8. As the said averments do not relate to any act or omission of answering respondents, no comment is warranted from answering respondents.
23. That the contents of Para 15 pertain to Respondents 6, 7 and 8 and are admitted only to the extent that they constitute matters of record. It is, however, necessary to reiterate that the Public Works Department, Nainital, submitted a proposal for diversion of 0.540 hectares of forest land for the construction of the Dakarauli–Malla Niglat road under Section 2 of the Forest (Conservation) Act, 1980, and that administrative and financial sanction for a road of about 1.50 kilometres in length was granted vide Government Order No. 2339/III(2)/11-30(Pra.Aa)/11 dated 20.09.2011.



24. That the contents of Para 16 & 17 are directed towards the Public Works Department as user agency, and a detailed response thereto may more appropriately be furnished by Respondents 6, 7 and 8.
25. That the contents of Para 18 of the present application are admitted only to the extent that they constitute matters of record. The Applicant had, in fact, filed Original Application No. 543 of 2017 seeking discontinuation of the proposed road construction, which came to be dismissed by this Hon'ble Tribunal vide order dated 02.08.2018.
26. That the contents of Para 19 & 20 of the present application are also based on matter of records relating to Original Application No. 543 of 2017 and are admitted only to that limited extent.
27. That the averments in Paragraph 21 are emphatically denied. Permission for diversion of the said 0.54 hectares of land was granted by the MoEF&CC, Govt. of India strictly in accordance with the applicable laws, rules and prescribed procedure. The Applicant had earlier preferred O.A. No. 543 of 2017 (VijayKumar Padalia v. State of Uttarakhand and Others) before this Hon'ble Tribunal, in which a counter affidavit on behalf of Respondents 1, 2 and 5 was filed by the Divisional Forest Officer on 10.10.2017. Despite being fully aware of the principal and final approvals granted by the competent authorities for diversion of the forest land, the Applicant made no bona fide effort to amend his prayers. After detailed hearings, this Hon'ble Tribunal dismissed the said Original Application on 02.08.2018 and, in continuation of the said order, granted liberty to the Applicant to file a fresh application in view of subsequent developments. The Applicant was, therefore, at all material times fully cognizant of the approvals accorded for construction of the road.



28. That in reply to Para 22 of the present application, it is submitted that a detailed joint inspection was duly carried out as part of the prescribed procedure for construction of the Dakarauli–Malla Niglat road. The proposal of the user agency recorded that 0.540 hectares of Reserved Forest land and 0.810 hectares of private (Nap) land were involved, and the joint inspection reaffirmed this position.
29. That the contents of Para 23 and 24 are based on matter of records and are admitted only to that extent. It is further submitted that, as user agency, the proposal of the Public Works Department concerned only 0.540 hectares of forest land, for which non-forest use approval was duly granted by the appropriate Government. Respondents 6, 7 and 8 may furnish a more detailed clarification since the allegations are primarily directed towards them.
30. That contents of Para 25 comprises matter of records and therefore, call for no further elaboration. It is submitted that the Public Works Department, Nainital, is the user agency entrusted with the construction of the Dakarauli–Malla Niglat road. Under the Forest (Conservation) Rules, 2003 (as amended), it is incumbent on the user agency to submit a detailed proposal for diversion of forest land for non-forestry use under Section 2 of the Forest (Conservation) Act, 1980. In the present case, the extent of forest land proposed to be diverted is confined to 0.540 hectares.
31. That the averments in Para 26 are matters of record; moreover, they pertain exclusively to Respondents 6, 7 and 8, who alone are competent to deal with the allegations made therein. The answering Respondent, therefore, refrains from commenting on the same and leaves it to the said Respondents to file an appropriate reply as they may be advised.



32. That the contents of Para 27 are specifically denied as being incorrect, misconceived and devoid of merit. The user agency, i.e. the Public Works Department, Nainital, duly submitted a proposal for diversion of 0.540 hectares of forest land for construction of a 1.50 kilometre road from Dakarauli to Malla Niglat. Upon due scrutiny, the MoEF& CC, Government of India, approved the proposal strictly in accordance with the prescribed procedure. The land in question is part of a Reserved Forest which, under Chapter II, Section 3 of the Indian Forest Act, 1927, vests absolutely in the Government, and the Applicant has no right, title or interest therein. All allegations, insinuations and assertions to the contrary are categorically denied.
33. That in response to Para 28, it is submitted that as per Letter No. 2607/1-G/PF/UK/Road/8875/2014 dated 18.03.2015, a joint inspection of the proposed Dakarauli–Malla Niglat road was conducted on 31.03.2015. The inspection was carried out in the presence of the officials named in the record, and the Joint Inspection Committee examined both Alignment No. 1 and Alignment No. 2, ultimately recommending Alignment No. 1 as technically feasible and rejecting Alignment No. 2.
34. That in reply to Para 29, the answering respondents submit that the allegations therein are essentially directed towards the Deputy Conservator of Forests and the Public Works Department, and that an appropriate clarification may be provided by them; accordingly, no specific comments are offered on said paragraph.
35. That in reply to Para 30, the answering respondents submit that the Applicant's apprehensions are speculative and unfounded. Landslides and certain other geological phenomena are naturally occurring events in hilly terrain, and the allegations in this regard are not admitted.



36. That the contents of Para 31 are not admitted and are expressly denied. The area in question does not fall within the Naina Devi Bird Conservation Reserve, Nainital, nor is it situated within or proximate to any Eco-Sensitive Zone. The assertion that the area is covered by the Wildlife (Protection) Act, 1972 is factually incorrect and misconceived.
37. That in reply to Para 32, it is submitted that the allegations are directed towards the Deputy Conservator of Forests and are, therefore, not admitted by the answering respondents.
38. That the contents of Para 33 are not admitted and are denied. The project has been undertaken in public interest for the benefit of approximately 45 local families residing near the proposed road, and involves only 0.540 hectares of forest land. The user agency, PWD Nainital, bears responsibility for issues pertaining to private land holdings of individuals. As per the approval of the competent authority, only 73 trees, being the maximum number permitted, are liable to be felled, and, as on date, no tree felling has been carried out by the Uttarakhand Forest Corporation, Nainital.
39. That the contents of Para 34 and 35 are not admitted and are consequently denied. The user agency, PWD Nainital, duly submitted its proposal for diversion of 0.540 hectares of forest land for construction of a 1.50 kilometre road from Dakarauli to Malla Niglat. The Ministry of Environment, Forest and Climate Change, Government of India, granted in-principle Approval vide Letter No. 08B/U.C.P/06/193/2015/F.C/367 dated 21.05.2016 and final Approval vide Letter No. 08B/U.C.P/06/193/2015/F.C/1359 dated 28.11.2016, followed by formal permission from the Government of Uttarakhand



vide Letter No. 1256/X-4-16/1(487)/2015 dated 14.03.2017, all under Section 2 of the Forest (Conservation) Act, 1980.

40. That the contents of Para 36 are matters of record; this Hon'ble Tribunal dismissed the Original Application No. 543 of 2017 (Vijay Kumar Padalia v. State of Uttarakhand and Others) vide order dated 02.08.2018, granting liberty to file afresh in view of subsequent developments.
41. That the contents of Para 37, 38 & 39 are also based on matter of records. The Applicant had filed the Original Application No. 522 of 2018 challenging the sanctions and permissions for the construction of Dakarauli-Malla Niglat road and, inter alia, assailing the MoEF&CC permission dated 21.05.2016 and the State Government's sanction dated 14.03.2017. And the same was dismissed by this Hon'ble Tribunal vide its Order dated 24.10.2018.
42. That the contents of Para 40, 41 & 42 of the present application are also based on matter of records hence need no comments.
43. That in reply to Para 43 & 44 of the present application, it is submitted that the applicant has already preferred Appeal No. 64 of 2025 in compliance with the order dated 04.07.2025 passed by this Hon'ble Tribunal converting O.A. No. 522 of 2018 into an appeal; therefore, the present Original Application, arising from the same cause of action, is not maintainable. Whereas, the present Original Application has been filed subsequent to the Supreme Court's judgment dated 06.05.2025 in respect of the very same cause of action, while the Appeal No. 64 of 2025 is already pending adjudication before this Hon'ble Tribunal.



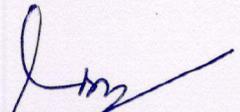
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44. That the contents of Para 45 & 46 of the present application are not admitted and are denied as being erroneous and misconceived. The State of Uttarakhand is a hill State with difficult terrain, where access and communication are severely impeded and where basic public facilities such as schools, hospitals and civic amenities are scarce, rendering road connectivity a matter of pressing public necessity.
45. That in reply to the contents of Para 47 and 48 of the present application, the answering respondents submit that in 2021 and thereafter, several natural disasters occurred in the hilly regions of Uttarakhand, as widely reported in the media. Road connectivity is critical for effective relief and rehabilitation during such calamities, and the lack of adequate roads, coupled with the absence of essential public facilities, forces inhabitants of hill regions to migrate to the plains; the State Government has therefore undertaken proactive measures to improve transport infrastructure and to reconstruct and restore roads and public assets damaged in such disasters.
46. That the contents of Para 49 & 50 of the present application are not admitted and are specifically denied. A joint inspection of the proposed road was carried out on 10.01.2012 at the behest of the user agency, PWD Nainital, which revealed that only 0.540 hectares of reserved forest and 0.810 hectares of Nap land would be affected and there was no alternative land, the proposed alignment reflecting minimum land requirement. The joint inspection report was duly signed by representatives of all departments concerned and countersigned by the Executive Engineer, PWD Nainital, the District Magistrate, Nainital and the Divisional Forest Officer, Nainital Forest Division. The geological report dated 31.03.2015 pertaining to the road leading to Village Malla Niglat found no adverse geological impact. The proposed road lies about 5 kilometres away from the lakes of Bhimtal, Nainital, Khurpatal,



Saattal and Naukuchiyatal, as evident from the Google Map filed by the project proponent, and National Highway-87 follows a different alignment and is about 1.50 kilometres away. The road, upon completion, will directly benefit about 45 local families. The user agency was responsible for obtaining NOCs, which were duly secured from the Gram Pradhan, Malla Niglat, and the B.D.C. Member, Hartapa, and an open public meeting held on 10.07.2015 in Village Malla Niglat unanimously supported the project; the minutes thereof stand annexed with the counter affidavit filed by the Divisional Forest Officer in O.A. No. 522 of 2018. The MoEF&CC granted the in-principle approval vide Letter dated 21.05.2016 and final Approval vide Letter No. 08B/U.C.P/06/193/2015/F.C/1359 dated 28.11.2016, and the Government of Uttarakhand, vide Letter No. 1256/X-4-16/1(487)/2015 dated 14.03.2017, has ratified diversion of 0.540 hectares of forest land; all permissions were thus granted after due consideration and in accordance with law.

47. That the contents of Para 51 of the present application are not admitted and is categorically denied. The present Application is devoid of substance and is liable to be dismissed. The permissions and approvals for diversion of 0.540 hectares of forest land in Bhowali Range, Nainital Forest Division, for the Dakarauli–Malla Niglat road were granted strictly in accordance with law and in overwhelming public interest, whereas the Applicant's persistent attempts to stall the project on untenable and repetitive grounds.


DEPONENT

VERIFICATION:

I, the deponent above named do hereby verify and say that the contents of my above affidavit are true and correct to my knowledge, no part of it is



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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.

Verified at Dehradun, Uttarakhand on this day of 13 January, 2026.


DEPONENT



108/26
This affidavit is sworn before me by
Shri. Vijay Kumar Badalen
who is identified by Shri.
at Dehradun on.....


(Rajender Singh Negi)
Advocate & Notary, Dehradun