

SL. NO. 35.01.13.02.23



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
O. A. No. 576/2022

In The Matter of:

Bharat Prakash Rai

... Applicant

Versus

The State of West Bengal &Ors.

... Respondents

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Filed by

*Sibojyoti Chakrabarti*

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

Email:

(M): 9007035534





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THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O. A. No. 576/2022

In The Matter of:

Bharat Prakash Rai

... Applicant

Versus

The State of West Bengal & Ors.

... Respondents



AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 2, THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS & HEAD OF FOREST FORCE, WEST BENGAL.

I, Ms. Lipika Ray, D/o Late Radhaballav Roy, aged about 56 Years, by faith Hindu, by occupation-service presently posted as Chief Conservator of Forests, PGLI, having office at Aranya Bhawan, Block- LA-10A, Sec III, Salt Lake City, Kolkata-700106, West Bengal, do hereby solemnly affirm and declare as follows:

1. That I am the Chief Conservator Forests, PGLI, having office at Aranya Bhawan, Block- LA-10A, Sec III, Salt Lake City, Kolkata-700106, West Bengal, and I have been duly authorized by the Respondent No. 2 to swear this affidavit.
2. That this affidavit is being filed in pursuance to the Solemn Order dated 21.12.2022, as passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi.
3. That it is stated that a committee has been constituted by the Hon'ble Tribunal vide Solemn Order dated 07.09.2022 in connection with the above matter, the West Bengal Pollution Control Board being the nodal office for coordination and compliance.

10 FEB 2023



4. That it is stated and submitted that a circular dated 28<sup>th</sup> September, 2006 has been issued by the office of the District Land & Land Reforms Officer, Darjeeling in pursuance to the directions issued by the Hon'ble Supreme Court of India wherein it has been inter alia decided to regulate permission towards felling of trees in different area of Darjeeling.

That in the said circular the procedure for permission towards tree felling in the hill areas has also been detailed.

Photocopy of the circular dated 28<sup>th</sup> September, 2006 which has been issued by the office of the District Land & Land Reforms Officer, Darjeeling is annexed herewith and marked with the letter 'R-1'.

5. That subsequently after enactment of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 the circular dated 28<sup>th</sup> September, 2006 had become null and void.
6. That the Divisional Forest officer (DFO) Kurseong, had vide letter dated 28.12.2022 informed the District Magistrate & Collector, Darjeeling inter alia that for felling of trees in Non Forest areas and tea gardens of the hill sub divisions specially in Sadar Sub Division, Kalimpong Sub Division, and Kurseong Sub Division of Darjeeling district including Mirik Sub Division, permission for felling of trees in Non-Forest areas may be obtained in the following manner:-
- (i) Either under the provisions of Section 4A of the West Bengal Land Reforms Act, 1955;
  - (ii) Or Under the provisions of West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006.

Moreover as per Rule 4 (3) of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 felling permission is given after conducting enquiry as prescribed in the rule notified by competent authority.



As per Notification No. 901-for dated <sup>3-</sup>1<sup>st</sup> March, 2007 the competent authority is:-

- (a) Forest Range Officer for Rural Areas under the jurisdiction of Forest Range Officer;
- (b) Divisional Forest Officer (Utilisation Division) for Kolkata Municipal Corporation areas;
- (c) Divisional Forest Officer for all other Rural areas not covered by the jurisdiction of the Forest Range Officer and Municipalities/Corporations/Notified Area Authorities within his jurisdiction excepting Kolkata Municipal Corporation areas;

Therefore the esteemed office of the District Magistrate & Collector has been requested to kindly direct the concerned authorities of land department and Siliguri Sub Division not to accept and process any further applications for tree felling in Siliguri Sub Divisional areas and the applications may be directly submitted to the concerned Range Officer and Divisional Forest Officer, Kurseong Division having territorial jurisdiction as per the above notification.

Photocopies of the Letter dated 28.12.2022 written by the DFO Kurseong to the District Magistrate & Collector, Darjeeling along with the notification dated 1<sup>st</sup> March, 2007 are collectively annexed herewith and marked with the letter 'R-2'.

7. That the statements made in the above paragraphs are true to my knowledge and belief and from the records as available in the office and the rest are my humble submission before this Hon'ble Tribunal.

Identified by me

*Sibajit Chakrobarti*  
Advocate

13/02/2023

For The State of West Bengal

*Dipika Ray*  
Deponent

Chief Conservator of Forests  
Public Grievances, Law & Information  
Department of Forests  
Government of West Bengal

Solemnly Affirm & Declare  
Before Me on Identification  
of Ld. Advocate

*Shyam Narayan Pandey*

SHYAM NARAYAN PANDEY  
NOTARY, GOVT. OF INDIA  
REGN. NO. 13524/2018

13 FEB 2023

13.02.2023



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## VERIFICATION

I, Ms. Lipika Ray, D/o Late Radhaballav Roy, aged about 56 Years, by faith Hindu, by occupation-service presently posted as Chief Conservator of Forests, PGLI, having office at Aranya Bhawan, Block- LA-10A, Sec III, Salt Lake City, Kolkata-700106, West Bengal, do hereby solemnly verify and declare as follows:

1. That I am the Chief Conservator of Forests, PGLI, having office at Aranya Bhawan, Block- LA-10A, Sec III, Salt Lake City, Kolkata-700106, West Bengal, and I am duly authorized by the Respondent No. 2 to swear this affidavit.
2. That the statements made in the paragraphs 1 to 6, are true to my knowledge and belief and as derived from the office records and the rest are my respectful submissions before this Hon'ble Tribunal.

Identified by me

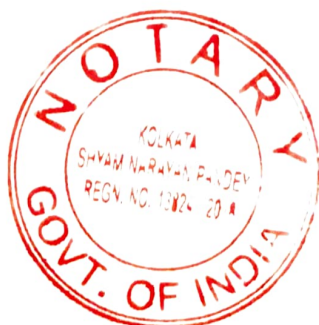
*S. Bijoy Chakrabarti*  
Advocate

For The State of West Bengal

13/02/2023

*Lipika Ray*

Deponent  
Chief Conservator of Forests  
Public Grievances, Law & Information  
Department of Forests  
Government of West Bengal



Annexure 'R-1'  
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GOVERNMENT OF WEST BENGAL  
OFFICE OF THE DISTRICT LAND & LAND REFORMS OFFICER  
DARJEELINGC I R C U L A R

No. 278/V-5/06

Dated : 28<sup>th</sup> September, 2006

In pursuance of the instructions of the Hon'ble Supreme Court of India read with instructions received from the State Government and in consideration of the views given by the Divisional Forest Officers in the meeting on 11.07.06 and also in terms of clearance given by the Conservator of Forest, Northern Circle, West-Bengal vide his No. 991/2M-67 dated 14.08.06, it has been decided to regulate permission towards felling of trees in different areas of the Darjeeling as follows.

The district of Darjeeling may be divided into two broad categories, viz., the Sub-Division of Siliguri and rest three Sub-Division within the territorial jurisdiction of Darjeeling Gorkha Hill Council. Again the Siliguri Sub-Division has got a Municipal Corporation and also Tea Gardens. Similarly the hill areas have got four Municipalities and many Tea Gardens.

Procedure for consideration of permission towards tree felling in the hill areas shall be regulated as follows :

- 1) In each Block area the tree cutting committee shall be constituted by the Block Land & Land Reforms Officer (representative of Collector), Forest Range Officer (representative of Divisional Forest Officer) and Ward Commissioner or Local Gram Panchayat Member (representative of local authority) as the case may be.
- 2) In respect of Tea Gardens only the Local Pradhan or the Chairman of the Municipality or the authorized representative as the case may be shall be in the committee.
- 3) The enquiry should be made jointly on a mutually convenient date.
- 4) The report of the committee shall be forwarded by the Block Land & Land Reforms Officer to the Sub-Divisional Land & Land Reforms Officer who will send it to the respective Divisional Forest Officer for onward transmission with its specific comments to the Collector for appropriate consideration and disposal as per rule.

In respect of the Sub-Division, Siliguri, following principle shall be adopted :

- 1) It has been decided by the Conservator of Forest that though most of the areas within the Siliguri Sub-Division fall on the jurisdiction of Kurseong Division, but for the purpose of consideration of prayers for tree felling, Divisional Forest Officer, Baikunthapur shall have the jurisdiction to consider all cases relating to Siliguri Sub-Division.
- 2) The composition of the tree cutting committee shall be same as in the hill areas.
- 3) In respect of Panchayat Samiti Areas the Block Land & Land Reforms Officer shall place the enquiry report to the Karmadhyaksha of the Bon-O-Bhumi Sanskar Sthayee Samity for the consideration. Similarly in case of the Corporation the same shall be placed before the Mayor, Siliguri Municipal Corporation or his representative who may be authorized by him for the purpose in this behalf.
- 4) With the observation of the Karmadhyaksha or the Mayor, as the case may be the report, shall be sent to the Sub-Divisional Land & Land Reforms Officer, Siliguri who will send the same to the Divisional Forest officer, Baikunthapur for onward transmission to the Collector with its specific comments for further action.

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Following general principles have been adopted uniformly for the District.

- 1) Format for enquiry shall be the same as enclosed.
- 2) The Committee shall take extra care to find out the purpose for felling of trees in respect of each case.
- 3) If the tree proposed to be felled is within 100 meters from the forest boundary, the Committee may take extra precautions to avoid possible theft of trees from forest.
- 4) If a tree proposed to be felled is within 50 meters from the forest boundary the respective Divisional Forest Officer is requested to have a cross check personally.

This Circular is issued with a for felling of trees satisfying the condition laid down by the Hon'ble, Supreme Court.

Sd/-

(S. Bhattacharyya)

Additional District Magistrate  
& Collector,  
Darjeeling.

Memo No.1498/(50) / IV-5/06

Dated : 28<sup>th</sup> September, 2006

Copy along with a copy of the proforma forwarded for favour of information and taking necessary action to :

- 1) The Sabhadhipati, Siliguri Mahakuma Parishad.
- 2) The Mayor, Siliguri Municipal Corporation.
- 3) The Principal Secretary, DGHC.
- 4) The Additional Executive Officer, Siliguri Mahakuma Parishad.
- 5) The Chief Executive Officer, Siliguri Mahakuma Parishad.
- 6) The Conservator of Forest, Northern Circle.
- 7) The Divisional Forest Officer, Darjeeling / Kurseong / Kalimpong / Baikunthapur.
- 8) The Sub-Divisional Officer, Darjeeling / Kurseong / Kalimpong / Siliguri.
- 9) The Sub-Divisional Land & Land Reforms Officer, Sadar/ Kurseong/Kalimpong/Siliguri.
- 10) The Block Development Officer,.....(all). All the Pradhans may be intimated from his end.
- 11) The Karmadhyaksha, Bon-O-Bhumi Sanker Sthoyee Samity, Matigara / Phansidewa/Khoribari/Naxalbari.
- 12) The Block Land & Land Reforms Officer,.....(iii).
- 13) The Chairman, Darjeeling / Kurseong / Kalimpong / Mirik Municipality.



(S. Bhattacharyya)

Additional District Magistrate  
& Collector,  
Darjeeling.



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Government of West Bengal  
Directorate of Forests  
Office of the Divisional Forest Officer  
Kurseong Division, Dow Hill, Darjeeling 734204

Phone No: 0354-2332200; Fax No: 0354-2332200; Email: [dfokue-wb@nic.in](mailto:dfokue-wb@nic.in)



No: - 3038 /28-15

Dated, 28 / 12 / 2022.

To  
The District Magistrate  
Darjeeling

Sub: Circular regarding regulation of permission for felling trees in different areas of Darjeeling District-reg.

Ref: Memo. No. 3585/XXVII-9/DLLRO-Dj./22 dated 19/12/2022, by District Magistrate, Darjeeling.

Sir,

With reference to the subject cited above, this is to bring to your kind notice that the Circular no. 278/IV-5/06 dated 28.09.2006 issued by District Land and Land Reforms Officer, Darjeeling on the basis of the letter of Conservator of Forests, Hill Circle vide his memo no. 1666/CI-68/99 dated 28.09.1999 stands null and void after the enactment of West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and the notification of subsequent rules in 2007. The same has been clarified by the then Conservator of Forests vide his letter no. 414/C2-30/07(Pt.-II) dated. 29/03/2007. (Attached herewith)

The West Bengal Trees (Protection and Conservation) in Non-Forest Area 2006 and the related rules notified in 2007 clearly prescribes the procedure to be followed for felling trees in non-forest areas of West Bengal.

**(I) Felling in Non- Forest areas and tea gardens of hill subdivisions specifically in Sadar Sub-Division, Kalimpong Sub Division and Kurseong Sub- Divisions of Darjeeling District (Inclusive of Mirik Subdivision bifurcated from Kurseong Sub Division in 2017).**

The Section 5(1) of the Act, states that,

'In the Sadar Sub-Division, Kalimpong Sub-Division and Kurseong Sub-Division of Darjeeling District, no such permission shall be required, if a rayat obtains permission under provisions of Section 4A of the West Bengal Land Reforms Act, 1955, read with rule 474 of the West Bengal Land and Land Reforms Manual, 1991'.

Thus for above mentioned areas of Darjeeling District, the permission for felling of trees in Non-forest areas may be obtained in the following manner;

1. Either under provisions of Section 4A of West Bengal Land Reforms Act, 1955
2. Or under the provisions of West Bengal Trees (Protection and Conservation in Non- Forest Areas) Rules 2007.



← 8 →

The procedure currently being followed is an amalgamation of the above two acts in accordance with circular No. 278/IV-5/06 of 28.09.2006 issued by DLLRO, Darjeeling which is null and void after the notification of rules in 2007. Hence the current procedure is legally untenable and should be corrected. If required West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 may be amended to include Kalimpong, Kurseong and Siliguri Sub-Divisions also within its purview.

**(II) Felling in all other non-forest areas including Tea Gardens of West Bengal (Inclusive of Siliguri Sub-Division of Darjeeling District),**

In all other non-forest areas of West Bengal including Siliguri Sub-Division of Darjeeling District, the Section 6 of West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and the related Rules Notified in 2007 are applicable.

Under Rule 4 (3) of West Bengal Trees(Protection and Conservation in Non- Forest Areas) Act, 2007 felling permission is given after conducting enquiry as prescribed in the rule by notified 'Competent Authority'.

As per Notification No. 901- For dated 1st March 2007, the 'Competent Authority' is;

- (i) Forest Range Officer for Rural Areas under the jurisdiction of Forest Range Officer.
- (ii) Divisional Forest Officer (Utilisation Division) for Kolkata Municipal Corporation Area
- (iii) Divisional Forest Officer, for all other "Rural Areas" not covered by the jurisdiction of the Forest Range Officer and Municipalities/ Corporations/ Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area. (Copy attached herewith).

Hence, it's clear that felling permission for trees in rural areas under Siliguri Subdivision should be given by the concerned Range Officer having territorial jurisdiction and for Municipalities/ Corporations/ Notified Areas Authorities and other Rural areas by Divisional Forest Officer, Kurseong Division.

Therefore, it is requested to kindly direct the concerned authorities of Land Department and Siliguri Subdivision not to accept or process any further applications for tree felling in Siliguri Sub-Division area. The applications should be directly submitted to the concerned Range Officer and Divisional Forest Officer, Kurseong Division having territorial jurisdiction as per notification no. 901 - For dated 1st March 2007 for further processing and issuance of felling permission.

This is for your kind information and needful action.

Enclosed:

1. Chief Conservator of Forests, Hill Circle letter No.414/C2-30/07(Pt-II), dated 29.03.2007.
2. Notification No. 901-For, dt. 1st March, 2007.
3. Form – I(A), application for felling or disposing of trees in Non-Forest Areas in respect of person (other than a developer).

  
 (Dr. Harikrishnan P.J, IFS)  
 Divisional Forest Officer  
 Kurseong Division

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The

Kolkata



Gazette

सत्यमेव जयते

Extraordinary  
Published by Authority.

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THURSDAY, MARCH 1, 2007

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PART I—Order and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT

Writers' Buildings, Kolkata-700 001

## NOTIFICATION

No. 901-For dt. the 1st March, 2007. In exercise of the power conferred by clause (2) of section 3 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 (West Ben. Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to appoint the competent authority under column (1), to perform the duties and exercise the powers conferred under the said Act within the jurisdiction as described under column (2), of the Schedule given below:—

## SCHEDULE

Name of the competent authority (1)	Jurisdiction (2)
(1) Forest Range Officer	Rural areas under the jurisdiction of the Forest Range Officer ;
(2) Divisional Forest Officer (Utilisation Division)	Kolkata Municipal Corporation area ;
(3) Divisional Forest Officer	All other "Rural Areas", not covered by the jurisdiction of the Forest Range Officer, and Municipalities/Corporations/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area.

By Order of the Governor,

Sd/-

( S. Nag )

Joint Secretary to the Govt. of West Bengal

BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI

O. A. NO. 576/2022

In The Matter of:

Bharat PrakashRai

... APPLICANT

VERSUS

The State of West Bengal &Ors.

... RESPONDENT(S)



AFFIDAVIT ON BEHALF OF  
PRINCIPAL CHIEF CONSERVATOR  
OF FORESTS & HEAD OF FOREST  
FORCE, WEST BENGAL BEING  
RESPONDENT NUMBER 2.

SIBOJYOTI CHAKRABARTI

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