

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION No. 154 of 2022**

IN THE MATTER OF:-

Yodh Bdr. Thapa

.... Applicant

Versus

Bharat Petroleum Corp. Ltd. & Ors.

... Respondents

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Through

(SAMEER ABHYANKAR)
ADVOCATE FOR RESPONDENT NO.2
D-247, LGF, DEFENCE COLONY
NEW DELHI-110024

CC-2516

PLACE: NEW DELHI

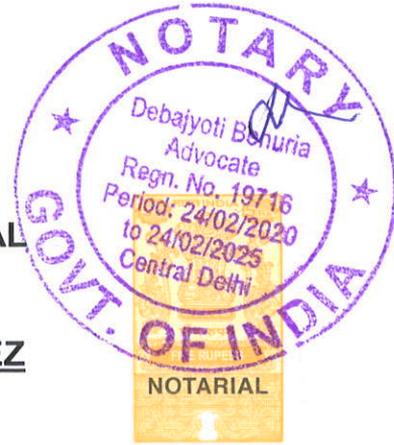
Dated:18.02.2023

Email: contactadvsa@gmail.com

M-9953328394

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

ORIGINAL APPLICATION NO. 154/ 2022/EZ



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.... RESPONDENTS

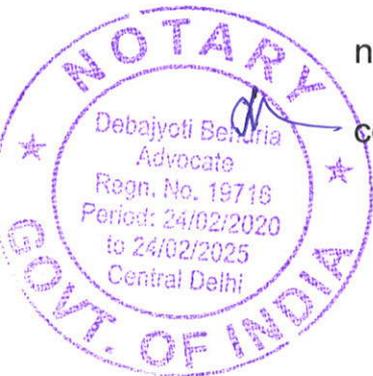
COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 4

I, Ashwani Kumar Chand, I.P.S., Resident Commissioner, Government of Sikkim, Sikkim House, 12, Panchsheel Marg, Chanakyapuri, New Delhi, do hereby solemnly affirm and most humbly and respectfully submit as under:

1. That I am the Resident Commissioner of the State Government of Sikkim, and as such am competent to depose to the contents of this affidavit. I have gone through the contents of the Petition and have understood its contents.



2. That I am authorized to swear the present affidavit based on the instructions received from the Office of the District Collectorate, Pakyong District, East Sikkim.
3. I say that the Applicant has filed the instant Original Application No. 154/2022/EZ titled *Yodh Bdr. Thapa v. Bharat Petroleum Corporation Limited & Ors.* before this Hon'ble Tribunal due to the alleged illegal construction of an oil depot on a plot adjacent to his residential plot of land by the Respondent No. 1.
4. I say that the Applicant submitted a Letter dated 06.09.2022 (Annexure A-2 in the O.A.) to the Sub-Divisional Magistrate, Rangpo ("**SDM, Rangpo**") (within whose jurisdiction the Applicant's plot falls). The SDM, Rangpo immediately deployed a surveyor to the site on 07.09.2022, who, along with the boundary holders, conducted a spot verification of the same and prepared a Spot Verification Report dated 07.09.2022. Vide the spot verification; it was found that in the land bearing Plot No. 2242, recorded in the name of Mr. Arjun Chettri, constructions of huge petroleum containers was being undertaken by the Respondent No. 1. It was

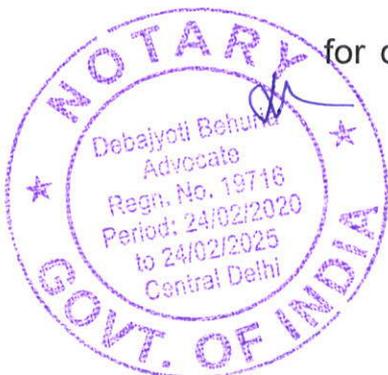


A handwritten signature in blue ink, appearing to be 'Arjun Chettri', located below the notary seal.

also noticed that the petroleum tanks being constructed were approx. 15 ft. away from the boundary wall of the Applicant, 24 ft. away from its office and 64 ft. away from its dispensing unit. Further, the Spot Verification Report was forwarded immediately to the concerned officials of SDM, Rangpo. The said Spot Verification Report has been annexed by the Applicant at Page 62 of the O.A.

5. Taking due cognizance of the observations in the Spot Verification Report regarding the installation of the petrol tanks, it was decided to call the representatives of the Respondent No. 1 with relevant documents pertaining to the said installation in view of the fact that there were guidelines prevailing which governed the installation of such tanks of explosives and flammable products.

6. I say that thereafter SDM, Rangpo issued a Notice bearing No. SDM/R/206 dated 20.09.2022 to the Depot In-Charge of the Respondent No. 1 directing them to attend a hearing in the Office of the SDM, Rangpo on 26.09.2022 with all the relevant documents for discussions on the issues raised by the Applicant in regard to



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the installation of huge petroleum containers close to the boundary wall of the Applicant.

7. I say that on 26.09.2022, all the parties i.e. the Applicant and the representatives of the Respondent No. 1, were present. After the discussions between the parties, the Respondent No. 1 requested for some time to escalate the matter to their superiors. It is stated that due to the puja holidays i.e. from 03.10.2022 to 07.10.2022, 15 working days were given to the parties for amicable settlements, if any.
8. I say that thereafter on 29.11.2022, SDM, Rangpo issued another Notice bearing No. SDM-R/236 dated 29.11.2022 to the Depot In-Charge of the Respondent No. 1 directing them to appear and attend the second hearing without fail in the Office of the SDM, Rangpo on 03.12.2022 and with the relevant supporting documents for the settlement of the instant matter. At this stage it may be mentioned that in Paragraph 11 of the O.A., the Applicant has referred to a Letter dated 17.10.2022. It is stated that no such



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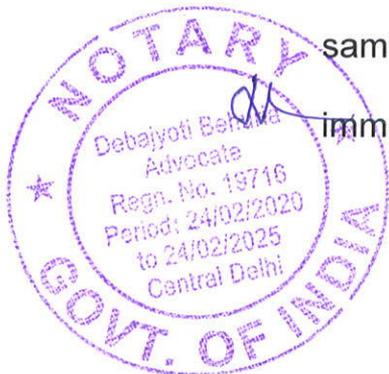
Letter has been received by the Answering Respondent in the Office of the SDM, Rangpo.

A copy of Notice bearing No. SDM-R/236 dated 29.11.2022 issued by SDM, Pakyong to the Respondent No. 1 is annexed herewith as **Annexure – R1**.

9. I say that on 03.12.2022, all the parties i.e. the Applicant and the representatives of the Respondent No. 1, were present. At this hearing, BPCL did not produce the relevant permissions for the establishments. Accordingly, the parties were advised to approach a Court of competent jurisdiction for a resolution.

A copy of the Order Sheet dated 03.12.2022 recorded and issued by SDM, Rangpo is annexed herewith as **Annexure – R2**.

10. I say that the allegation as to the Answering Respondent not having taken any action against the Respondent No. 1 for the construction carried out by the Respondent No. 1 without obtaining a Consent to Establish (“CTE”), despite having knowledge of the same, is incorrect. It is submitted that the above record shows that immediately upon receiving the Letter dated 06.09.2022 from the



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Applicant, SDM, Rangpo immediately took necessary actions. It is therefore submitted that there has been no dereliction of duty on the part of SDM, Rangpo as alleged by the Applicant. SDM, Rangpo has duly taken cognizance and necessary action immediately.

11. I say that the present affidavit is true to the best of my knowledge and information received from the Answering Respondent and nothing material has been concealed therefrom. The annexures are true copies of their respective originals.



[Handwritten signature]

DEPONENT
Ashwani Kumar Chand, IPS
Resident Commissioner
Government of Sikkim

VERIFICATION:

18 FEB 2023

Sikkim House, 12, Panchsheel Marg,
Chanakyapuri, New Delhi-110 021

Verified at New Delhi on _____ day of February, 2023, that the contents of the above said affidavit are true and correct to the best of my knowledge and belief. Nothing material has been concealed therefrom.

Nishu
R/24/20/2020
WISH/15/AN/4744/1
I identified the deponent who has signed in my presence.



CERTIFIED THAT THE DEPONENT
Shri/Smt./Km. *Ashwani Kumar Chand*
S/o, W/o R/o *Resident Commissioner,*
Govt of Sikkim
Identified by Shri/Smt. *Nishu Sanghavi,*
Has solemnly affirmed before me a
Delhi on **18 FEB 2023** No. *22*
That the contents of the affidavit which
have been read & explained to him/her
are true & correct to his/her knowledge

[Handwritten signature]

DEPONENT
Ashwani Kumar Chand, IPS
Resident Commissioner
Government of Sikkim

Sikkim House, 12, Panchsheel Marg,
Chanakyapuri, New Delhi-110 021

[Handwritten signature]
NOTARY



7
Annexure R-1

Government of Sikkim
Office of the Sub Divisional Magistrate-cum-Officer,
Rangpo Sub Division, 737132, Pakyong District Sikkim
Telefax: 03592-2430034; e-mail:sdmrangpo@gmail.com

No.SDM-R/236

Date: 29.11.2022

To

The Depo Incharge,
BPCL, Majhitar,
C/o Pankaj Fuels (Arjun Chettri).

NOTICE

This is in reference to the Notice issued bearing no. SDM/R/206 dated 20/09/2022, and the hearing heard on 26/09/2022 with regards to complaint filed by Shri Y.B Thapa.

You are therefore directed to appear in the Office of the undersigned on 03/12/2022, 1:00 PM without fail with all the supporting documents for settlement of the same.

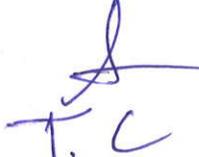



Sub-Divisional Magistrate,
Rangpo Sub Division, Pakyong District, Sikkim.
Sub-Divisional Magistrate
Rangpo, Sikkim

Copy to:

1. RO/AD, SDAC Rangpo
2. Legal Retainer, SDAC Rangpo
3. Shri Y.B Thapa
4. Office copy

} For Info and presence

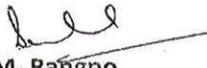
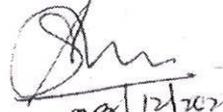
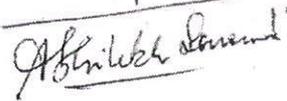
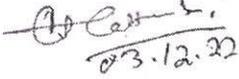
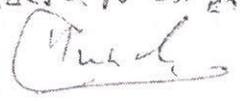

T.C

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Annexure R-2

Shri Y.B Thapa vs BPCL, Majhitar

ORDER SHEET

Sl. No.	Date	Orders with signature of the Presiding Officer	Office notes as to action taken on order (if any) and date
II	03/12/22	<p>Petitioner: Complainant.</p> <p>1. Shri Y.B Thapa</p> <p>Respondent:</p> <p>1. BPCL, Majhitar</p> <p>In connection to the last hearing dated 26/09/2022 a second hearing was held on 03/12/2022.</p> <p>Since, the case could not be settled the parties are advised to approach to the competent court for the settlement of the matter.</p> <p>Given under my hand and seal.</p> <p style="text-align: center;">  SDM, Rangpo Sub-Divisional Magistrate Rangpo, East Sikkim </p> <p style="text-align: center;">  </p>	<p>Y. B. THAPA</p> <p> 03/12/2022</p> <p>Amit C. Kujal  03/12/2022</p> <p>R. K. [Signature] Rahul Myamdes 03/12/2022</p> <p> 03/12/2022</p> <p></p> <p>RISHAN DATTA  03.12.22</p> <p>ARJUN CHOW </p>

T.C



Office of Sameer Abhyankar <contactadvsa@gmail.com>

Advance Service Yodh Bdr. Thapa vs Bharat Petroleum Corp .Ltd & Ors O.A No. 154/2022

1 message

Office of Sameer Abhyankar <contactadvsa@gmail.com>

Sat, Feb 18, 2023 at 4:08 PM

To: "surendra_kr15@rediffmail.com" <surendra_kr15@rediffmail.com>, akshar@outlook.com, explosives@explosives.gov.in, ccb.cpcb@nic.in

Dear sir

Please find attached a scanned copy of the Counter affidavit on behalf of the Respondent No. 4 in the captioned Matter.

Regards

Prince Kumar

For

Mr. Sameer Abhyankar, Adv

M-7004629902

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Address for Correspondence:

D-247, LGF, Defence Colony,

New Delhi 110024

Ph. +91-11-49402169

 **counter affidavit R-4.pdf**
2126K