

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

Original Application No. 404 of 2025

IN THE MATTER OF:

Ram Kishore Yadav and Ors.

.....Applicant

VERSUS

Union of India and Ors.

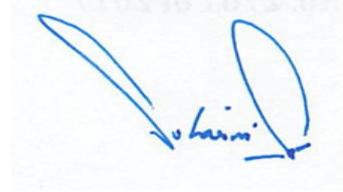
....Respondents

NDOH: 15.04.2026

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THROUGH



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New Delhi
Date: 03.02.2026

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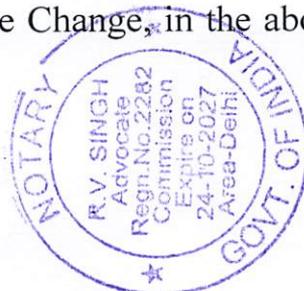
... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE.

MOST RESPECTFULLY SHOWETH:

I, Dr. S. Prabhu, S/o. Shri. K. Subramani aged about 44 years, presently working as Scientist 'D' in the Ministry of Environment, Forest & Climate Change (MoEF&CC), Government of India having its Office at Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi - 110003 do solemnly affirm and declare as under:

1. That I, in my official capacity in the Ministry of Environment, Forest and Climate Change, in the above-mentioned matter, am conversant with the



facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.

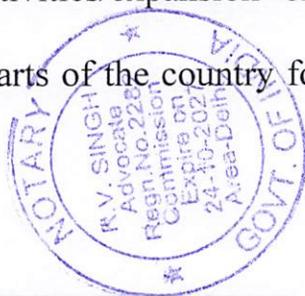
2. That, the Applicant in the instant Original Application has stated that the large-scale illegal construction activities being undertaken by Respondent No. 6 (M/s DLF Universal Ltd.) in and around the forest-notified Wazirabad Pahadi region forming part of the Aravalli hill system in Gurugram, Haryana. It is stated that DLF has commenced construction at the project site, The Dahlias, Sector-54, Gurugram over a plot area of 16.49 acres with a total built-up area of 4,01,100.656 sq. m. without obtaining mandatory prior Environmental Clearance (EC) under the EIA Notification, 2006. It is further stated that the project proponent has initiated construction without obtaining the requisite Consent to Establish under Section 25 of the Water Act, 1974 and Section 21 of the Air Act, 1981.
3. That, the applicant has further stated that massive tree felling has taken place at the site far exceeding authorised limits. While permission was granted to fell approximately 2,000 trees, the applicant asserts based on local observations and satellite imagery that over 20,000 mature trees have been removed illegally, often at night, without any valid approvals. The applicant submits that such large-scale environmental degradation has occurred in violation of applicable environmental and forest laws.



4. That, the prayers in the application include directions for complete stoppage of all construction and related activities in the Wazirabad hill region; declaration of the project area as “deemed forest” under Godavarman guidelines; and constitution of an independent committee comprising MoEF&CC, FSI, WII and civil society representatives for ground verification. The applicant further seeks directions that no forest or environmental clearances be granted on the basis of revenue entries alone, and that environmental status must be determined through field verification, ecological assessment and historical land-use records. Additional prayers include reversal of all activities undertaken in violation of PLPA or deemed forest principles, initiation of environmental compensation and penalties under Sections 15 & 17 of the NGT Act, and a CBI/SIT inquiry into the alleged violations by DLF and the concerned authorities.

Applicable provisions of grant of Environmental Clearance

5. It is submitted that the answering respondent has issued Environmental Impact Assessment (EIA) Notification number S.O. 1533 E dated 14th September, 2006. The EIA Notification, 2006 as amended regulates developmental projects in respect of construction of new projects/activities/expansion or modernization of existing projects in different parts of the country for grant of prior Environmental Clearance



under sub section (3) of section 3 of the said Act, as per the procedure specified in the notification.

6. It is respectfully submitted that the EIA Notification, 2006 as amended covers 39 projects/activities in its Schedule which inter-alia includes different types of infrastructure projects viz. Airports, Ports, Highways, and Building & Construction Projects etc. as specified and classified in the schedule of the said notification. All such projects/activities shall require prior Environmental Clearance from the concerned regulatory authority, e.g., MoEF&CC in the Central Government for matters falling under Category 'A' in the Schedule and the State Environment Impact Assessment Authority (SEIAA) at State level for matters falling under Category 'B' in the said Schedule, before starting any construction work. Broadly, following categories projects/activities are covered under the ambit of EIA Notification, 2006 as amended:

- a. All new projects or activities listed in the Schedule to this notification;
- b. Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;



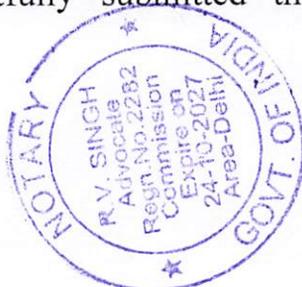
c. Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

7. That, under the provisions of the EIA Notification, 2006 as amended, Environment Clearance for Building and Construction Projects & Township and Area Development Projects are covered under entry 8 (a) & (b) of the Schedule to the EIA Notification, 2006. The entry 8(a) and 8(b) of the Schedule of EIA Notification 2006 provides as follows;

“8(a): Building and Construction projects - >20000 sq. m and <150000 sq. m of built-up area require EC.

8(b): Townships and Area Development projects - Covering an area >50 ha. And or built up area >150000 sq. m – require EC.”

8. That, the aforementioned entries under item 8(a) and 8(b) are qualified as category ‘B’ projects under the EIA Notification, 2006 and requires appraisal by the State Level Expert Appraisal Committees (SEACs) and approved by the State Level Environment Impact Assessment Authorities (SEIAAs). Further, that as per the EIA Notification, 2006, in the absence of a duly constituted SEIAA/SEAC, a category ‘B’ project shall be considered at the Central Level as category ‘B’ project.” It is most respectfully submitted that the requirement of taking Environment

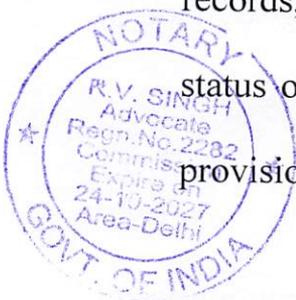


Clearance for any building construction project is governed by the aforesaid provisions, stated in paras above.

Applicable provisions of Forest and tree cutting

9. It is most respectfully submitted that the permissions relating to tree felling and management of tree cover are governed primarily by the respective State Governments/UT Administrations under the applicable State Tree Preservation laws, Forest Acts, Rules and Guidelines. The role of this Ministry is confined to policy-making, regulatory framework and granting approval under Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 2023 (earlier Forest (Conservation) Act, 1980) wherever any forest land, including deemed forest, is proposed to be used for non-forestry purposes. Any tree felling undertaken on such classified land without obtaining due approvals attracts statutory consequences under the aforesaid Act.

10. That, 'Land' is a subject matter of the State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, being the repository of the land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgements and



directions of the Hon'ble Supreme Court. The State Government has to determine any violation of the provisions of the Central and State laws.

11. It is humbly submitted that this Ministry has not accorded any approval for the land in question under Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 2023 (earlier Forest (Conservation) Act, 1980).
12. That, the Hon'ble Supreme Court in its order dated 12.12.1996 in the matter Writ Petition(C) No. 202 of 1995 titled as T.N. Godavarman Thirumulpad Vs Union of India and Ors. *inter-alia* directed "The word "forest: must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act."
13. That, the Hon'ble Supreme Court in its order dated 21.07.2022 in Civil Appeal No. 10294 of 2013 titled as Narinder Singh and Ors. Vs Divesh Bhutani and Ors. *inter-alia* observed that:



"Once a land is found to be a 'forest' within the meaning of the 1980 Forest Act, its user for non-forest purposes will be always governed

by Section 2 of the 1980 Forest Act. Secondly, clause (i) of Section 2 provides that even in the case of a reserved forest under the 1927 Forest Act, the State Government cannot pass an order declaring that the same shall cease to be a reserved forest, without the prior approval of the Central Government. Thirdly, Section 2 starts with a non obstante clause which overrides anything contained in any other law for the time being in force in a State which will include all State and Central legislations applicable to the State.....

64. Thus, we hold that the lands covered by the special orders issued under Section 4 of PLPA have all the trappings of forest lands within the meaning of Section 2 of the 1980 Forest Act and, therefore, the State Government or competent authority cannot permit its use for non-forest activities without the prior approval of the Central Government with effect from 25th October 1980. Prior permission of the Central Government is the quintessence to allow any change of user of forest or so to say deemed forest land. We may add here that even during the subsistence of the special orders under Section 4 of PLPA, with the approval of the Central Government, the State or a competent authority can grant permission for non-forest use. If such non-forest use is permitted in accordance with Section 2 of the 1980 Forest Act, to that extent, the restrictions imposed by the



special orders under Section 4 of PLPA will not apply in view of the language used in the opening part of Section 2 of the 1980 Forest Act. We also clarify that only because there is a notification issued under Section 3 of PLPA, the land which is subject matter of such notification, will not ipso facto become a forest land within the meaning of the 1980 Forest Act.

65. Therefore, the lands covered by the special orders dated 18th August 1992 issued under Section 4 of PLPA will be governed by the orders passed by this Court in the Petition for Special Leave to Appeal (Civil) Nos.7220-7221 of 2017. Hence all the concerned authorities shall take action to remove the remaining illegal structures standing on land covered by the special orders and used for non-forest activities on the said lands erected after 25th October 1980, without prior approval of the Central Government, and further to restore status quo ante including to undertake reforestation/afforestation programmes in right earnest. As far as the lands covered by special orders under Section 5 are concerned, we are not making any adjudication. Therefore, the authorities will have to decide the status of the lands covered by the said orders under Section 5 on case to case basis.



66. *To avoid any prejudice to the affected persons, we direct that before the action of removal of the illegal structures and/or action of stopping non-forest activities is taken in respect of the lands covered by the special orders dated 18th August 1992 issued under Section 4 of PLPA, the concerned competent authority shall afford an opportunity of being heard to the affected persons and conclude such proceedings finally not later than three months from today and submit compliance report in that regard within the same time."*

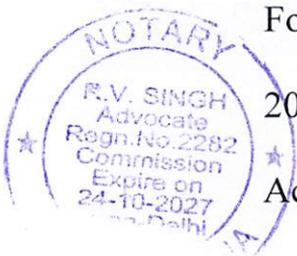
14. It is humbly submitted that the MoEFCC deals with policy and regulatory issues at a broader level. The role of the MoEFCC is to frame policy, provide directions and guidance as an advisory capacity, and approvals under the provisions of the relevant Central Acts.

15. It is humbly submitted that, with regards to Felling of trees, it is submitted that the Protection and management of forests is primarily the responsibility of State Governments /Union Territory Administrations.

There are strong legal frameworks for the protection and management of tree resources, which include the National Forest Policy 1988, the Indian

Forest Act, 1927, the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 2023 (earlier Forest (Conservation) Act, 1980), the Wildlife (Protection)

Act, 1972, and State Forest Acts/State-specific Tree Preservation Acts and Rules, etc. The State Governments /UT Administrations take appropriate



actions in accordance with the provisions made under these Acts/ Rules for regulating felling of trees.

16. It is humbly prayed that this Hon'ble Tribunal may be pleased to take on record the above submissions and dismiss the Original Application or pass any order deemed fit in the facts and circumstances of the case, which the answering Respondent shall duly comply with.

17. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.

DEPONENT

(डॉ. एस. प्रभु)
(Dr. S. PRABHU)
वैज्ञानिक 'डी'/Scientist 'D'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

VERIFICATION

7 Identical

I Identified the deponent/Executant who has signed in my presence

I, the aforementioned Deponent do hereby declare on this 13 FEB 2026 day

of _____ at _____ that the contents of the affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

(डॉ. एस. प्रभु)
(Dr. S. PRABHU)
वैज्ञानिक 'डी'/Scientist 'D'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



solemnly affirmed before me, read over & explained to the deponent.

Notary Public. DELHI

13 FEB 2026