

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**
Appeal No. 48/2025

IN THE MATTER OF:

Rajesh Sharma

...Appellant

Versus

Ministry of Environment, Forest and Climate Change & Ors.

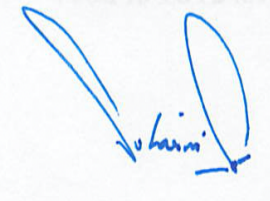
...Respondent(s)

N.D.O.H. – 22.05.2026

INDEX

S. No.	Particulars	Page No.
1.	Counter Affidavit on behalf of Respondent No.1- Ministry of Environment, Forest and Climate Change	1-7
2.	Annexure R1/1: A True copy of Office Memorandum dated 29.03.2022 regarding permitted activities prior to grant of Environmental Clearance	8-9

THROUGH



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New Delhi
Date: 21.05.2026

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Appeal No. 48/2025

IN THE MATTER OF:

Rajesh Sharma

...Applicant

Versus

Ministry of Environment, Forest and

Climate Change & Ors.

...Respondent(s)

**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

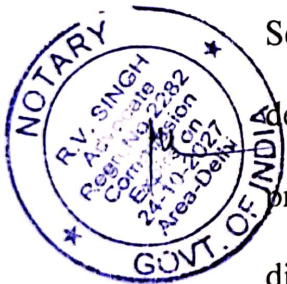
declare as under:

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. It is respectfully submitted that the present Appeal has been filed by the Applicant challenging the Environmental Clearance dated 19.02.2025 granted by the State Environment Impact Assessment Authority (SEIAA), Haryana in favour of Respondent Nos. 6 and 7 in respect of the Industrial Plotted Colony Project located at Village Shidrawali, Tehsil-Manesar, District Gurugram, Haryana, inter-alia alleging commencement of certain activities prior to grant of Environmental Clearance and procedural irregularities in the appraisal process.

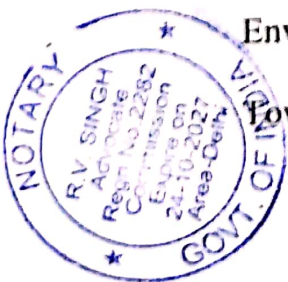
Applicable provisions for grant of Environmental Clearance

3. 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, as per the procedure specified in the notification.
4. That, it is respectfully submitted that the EIA Notification, 2006 as amended covers 38 projects/activities in its Schedule which inter-alia includes different types of infrastructure projects such as 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, the 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.
5. 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) &

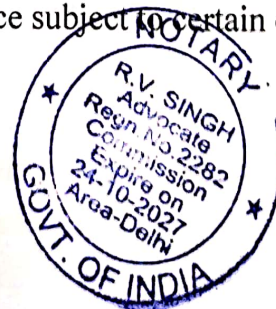


(b) of the Schedule to the EIA Notification, 2006. The entry 8(a) and 8(b) of the Schedule of EIA Notification 2006 provides as follows;

“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.”

6. 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 or 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.
7. It is further submitted that the Ministry has issued O.M. dated 29.03.2022 setting out those activities that can be undertaken by the Project Proponent prior to the grant of Environmental Clearance subject to certain conditions set out therein. These activities are:

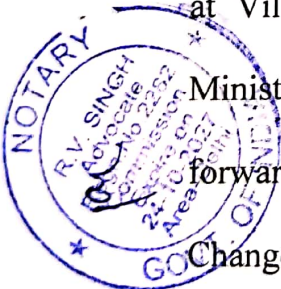


- i. Fencing of the project site by boundary wall using civil construction, barbed wire or precast/prefabricated components
- ii. Construction of temporary sheds using pre-fabricated/modular structure, for site office/guards and storing material and machinery,
- iii. Provision of temporary electricity and water supply for site officer/guards only.

A true copy of the OM dated 29.03.2022 is marked and annexed herein as **ANNEXURE- R1/1.**

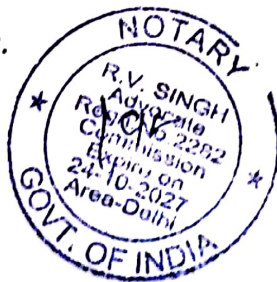
8. It is respectfully submitted that the Ministry had received a representation/email complaint dated 03.09.2024 from Shri Rajesh Sharma regarding alleged commencement of construction activities without obtaining prior Environmental Clearance in respect of the project situated at Village Shidrawali, District Gurugram, Haryana. Accordingly, the Ministry vide letter dated 17.09.2024 bearing No. IA3-16/1/2024-IA.III forwarded the representation to the Directorate of Environment & Climate Change, Government of Haryana, for taking necessary action in accordance with law and for furnishing an action taken report to the Ministry.

9. It is respectfully submitted that the project in question, as described in the Appeal, pertains to a building construction/township and area development activity, which is covered under Item 8(a) and 8(b) of the Schedule to the



Environmental Impact Assessment Notification, 2006. Such projects are categorised as Category 'B' projects under the EIA Notification, 2006.

10. It is further submitted that appraisal and grant of Environmental Clearance in respect of Category 'B' projects fall within the jurisdiction of the State Level Expert Appraisal Committee (SEAC) and the State Environment Impact Assessment Authority (SEIAA) concerned, in accordance with the procedure prescribed under the EIA Notification, 2006. The Ministry of Environment, Forest and Climate Change does not appraise or grant Environmental Clearance for Category 'B' projects where a duly constituted SEIAA exists.
11. It is submitted that in view of the foregoing facts and submissions, this Hon'ble Tribunal may be pleased to take the present affidavit on record and pass such other order(s) as may be deemed fit in the interest of justice, which the answering respondent shall duly comply with.
12. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.



VERIFICATION

Verified at.....on this.....day of 21 MAY 2026 that the contents of this affidavit based on official record(s) maintained and information available in

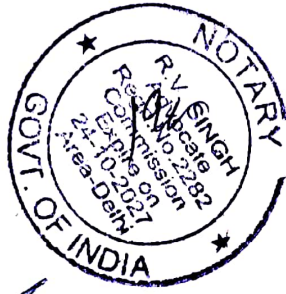

DEPONENT
 (डॉ. एस. प्रभु)
 (Dr. S. PRABHU)
 वैज्ञानिक 'डी'/Scientist 'D'
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Min. of Environment, Forest and Climate Change
 भारत सरकार, नई दिल्ली
 Govt. of India, New Delhi

the office are true and correct, no part of it is false and nothing has been concealed there from.

DEPONENT

(डॉ. एच. 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



I identified the deponent/declarant who has signed in my presence.
21/05/24

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

[Signature]
Notary Public. DELHI

21 MAY 2026

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F. No. IA3-22/10/2022-IA.III [E 177258]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi-110 003

Dated: 29th March, 2022

OFFICE MEMORANDUM

Subject: Clarification regarding activities which can be undertaken for securing the land prior to grant of Environmental Clearance-regarding.

As per the provisions of Environment Impact Assessment (EIA) Notification 2006, the project or activities [New/Expansion/ Modernization/ change of product-mix or raw material mix] listed in the Schedule to the said Notification would require prior Environment Clearance (EC) from the concerned Competent Authority before undertaking any construction work or preparation of land by the project proponent, except for securing the land.

2. In this regard, Office Memorandum No. J-11011/41/2006-IA.II(I) dated 19/08/2010 clarified that while securing the land, no activity relating to any project covered under EIA Notification, 2006 including civil construction can be undertaken at the site without prior EC except fencing of the site to protect it from getting encroached and construction of temporary shed(s) for the guard(s).

3. Over a period of time, various options other than conventional barbed wire and wall fencing, have come into existence, viz., use of pre-fabricated structures, pre-cast compound wall etc. Further, in order to secure the land, the project proponent may need to have water and electricity connection. In view of the same, it has been decided by the Competent Authority in the Ministry to explicitly clarify that following activities can be undertaken by the project proponent for securing the land.

- i. Fencing of the project site by boundary wall using civil construction, barbed wire or precast/ prefabricated components.
 - ii. Construction of temporary sheds using pre-fabricated / modular structure, for site office/guards and storing material and machinery.
 - iii. Provision of temporary electricity and water supply for site office/guards only.
4. The above activities shall be undertaken subject to the following:

- i. The land should be in the legal possession of the project proponent and all statutory approvals in respect of the project site should have been obtained.
- ii. In case of involvement of any forest land, no activity shall be initiated at the site till the Stage II Forest Clearance is obtained under the relevant provisions of Forest (Conservation) Act, 1980. In case of applicability of Wildlife Clearance, necessary permission from Standing Committee for National Board for Wildlife (SCNBWL) shall be obtained under the provisions of Wildlife Protection Act, 1972.
- iii. In case of felling of trees if any, requisite permission from the Forest Department/Statutory Authorities of the concerned State Government shall be obtained.
- iv. The investment made by the Project Proponent on the above, in anticipation of the applicable clearances under the relevant provisions of the Acts/Rules, shall be entirely at the cost and risk of the proponent.

5. However, the above dispensation would not entitle the project proponent to claim ***fait accompli*** with regard to grant of EC or any other applicable permission from any concerned statutory authority and further, the works of the aforesaid nature shall have no bearing on appraisal of the project for grant of EC which shall follow the due process and procedure as laid down in EIA Notification 2006, as amended.

6. This O.M. is being issued in supersession of the earlier O.M. dated 19/08/2010 and with the approval of the Competent Authority.



(A.K. Agrawal)
Director

To

1. Chairman, Central Pollution Control Board (CPCB)
2. Chairman of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the Officers of I.A. Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DG (FC) & SS
5. PPS to AS(TK) / AS (NPG)/ AS(RS)
6. PPS to JS (SKB)
7. Website, MoEF&CC/Guard file.