

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI  
ORIGINAL APPLICATION NO. 720 OF 2023**

**IN THE MATTER OF:**

On the news item appearing in Current Science dated 25.10.2023 titled "Need to declare the Higher Himalaya an eco-sensitive zone"

**INDEX**

<b>SL. NO</b>	<b>PARTICULARS</b>	<b>PAGES</b>
1.	<b>Annexure No. 1</b> A copy of the Reply Affidavit on behalf of Ministry of Environment, Forest and Climate Change as Respondent No.1 in WP (C) No.144 of 2023 with annexures.	<b>1-11</b>
2.	<b>Annexure No. 2</b> A copy of the Suggestions on behalf of Ministry of Environment, Forest and Climate Change as Respondent No.1 in WP (C) No.144 of 2023 on constitution of Expert Committee to determine the carrying capacity of Himalayan Region States.	<b>12-16</b>
3.	<b>Annexure No. 3</b> A copy of the orders passed by the Hon'ble Supreme Court of India in WP (C) No.144 of 2023.	<b>17-26</b>
4.	<b>Annexure No. 4</b> A copy of the Civil Appeal No. 5025 of 2021 filed before the Hon'ble Supreme Court of India.	<b>27-100</b>
5.	<b>Annexure No. 5</b> A copy of the Reply Affidavit on behalf of Ministry of Environment, Forest and Climate Change in Civil Appeal No. 5025 of 2021.	<b>101-109</b>
6.	<b>Annexure No. 6</b> A copy of the orders passed by the Hon'ble Supreme Court of India in Civil Appeal No. 5025 of 2021.	<b>110-137</b>

Filed by



Place: New Delhi  
Dated : 06.01.2025

**AVNEESH ARPUTHAM**  
Advocate for the Respondent-MoEF  
Off: 25, Bazar Lane, Bengali Market,  
New Delhi – 110001.  
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ANNEXURE NO.1

**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION CIVIL NO. 144 OF 2023**

**IN THE MATTER OF:**

ASHOK KUMAR RAGHAV

.....PETITIONER

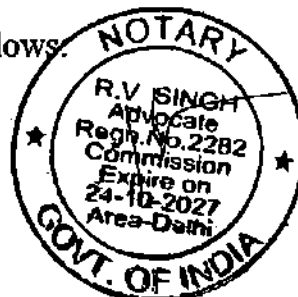
VERSUS

UNION OF INDIA & ORS.

.... RESPONDENTS

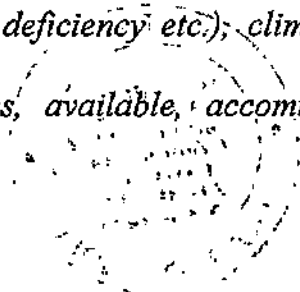
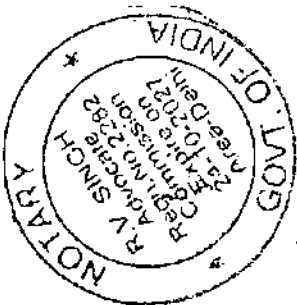
**COUNTER AFFIDAVIT ON BEHALF OF MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE AS RESPONDENT NO. 1**

I W. Bharat Singh, s/o Late Shri W.K. Singh , aged about 56 years, presently working as Scientist 'F' in the Ministry of Environment, Forest & Climate Change (hereinafter referred to as MoEFCC), Government of India, Jorbagh Road, Aliganj, New Delhi-110003, do hereby, in my official capacity, solemnly affirm and state on oath as follows.



1. That I am acquainted with the facts and circumstances of the instant case and duly competent to swear the present affidavit on behalf of the respondent Ministry i.e MoEFCC on the basis of the official records maintained therein.
2. It is submitted that the contents stated in the instant Writ Petition are denied unless specifically admitted in this counter affidavit and this Respondent Ministry crave leave to file further additional affidavit, if and when required.
3. It is humbly submitted that the Petitioner/Appellant has *inter-alia* sought the following:

3.1. *To get Carrying Capacities determined of all ecologically fragile areas, hill stations, high-altitude areas, highly visited areas and tourism destinations in all the 12 States/UTs, situated in the Indian Himalayan Region in terms of tourist inflow, impact of tourism, vehicular traffic, scarcity of ground and surface water, availability of drinking water, water for sanitation, impact on air and water quality, impact on trees, forest and bio-diversity and wildlife, food supply, habitat space, competition (intraspecies and interspecies), physical factors (extreme heat, drought etc.), chemical factors (PH, mineral deficiency etc.); climate, weather, temperatures, natural resources, available, accommodations available, generation of*



*various kinds of waste and the waste management capacity thereof, drainage systems, sewerage infrastructure, parking space availability, health/hospital services, emergency services, the seismic, tectonic and geological positions, geological stability, landslide vulnerability, slope stability/ slope angles/ slope features, topography, altitude, anthropogenic factors and the administrative capacities etc.*

- 3.2. *To determine the Carrying Capacities, as above, in a period not exceeding six months and submit the Carrying Capacity reports, so assessed, before this Hon'ble Court.*
- 3.3. *To review the Carrying Capacities on a periodic basis, not exceeding period of 10 years.*
- 3.4. *To prepare Master Plans/Area Development Plans/Lay-out/Area Development/Zonal Plans/Tourism Plans for all ecologically fragile areas, hill stations, highly visited area and tourism destinations, even outside the purview of State urban planning and development laws, notwithstanding absence of any specific provisions.*
- 3.5. *To constitute an Indian Himalayan Region Monitoring Committee, as a permanent, working Regulatory body, with a multi-tier structural and functional framework headed by a former judge of*



*this Hon'ble Court to monitor all activities in the India Himalayan Region and to report to this Hon'ble Court on a periodic basis.*

4. It is most humbly submitted that 'Land' is a State subject as per 7<sup>th</sup> Schedule of the Constitution of India, and its sustainable management including preservation, protection, regulation, prohibition of developmental activities etc. are the primary responsibility of the concerned State or Union territory administration. That principle of sustainable development being part of Article 21 of the Constitution has to be very basis for every development.
5. It is most humbly submitted that the National Green Tribunal have taken up the issue of need for carrying out carrying capacity studies by the respective State Governments to assess impact of factors such as construction of resorts/hotels and civil structures in many instances, including *suo motu* and have delivered orders from time to time, some of which are enumerated in the paragraphs that follows.

5.1. It is submitted that based on news item published in the Tribune dated 16.01.2023 title "Joshimath disaster a warning for

**Mussoorie**", the National Green Tribunal, *suo motu* in Original

Application (O.A) No. 51 of 2023, vide its Order dated 31.01.2023

constituted a nine member Joint Committee to be headed by the

Chief Secretary, Government of Uttarakhand and Addl. Chief

Secretary, Government of Uttarakhand as the nodal agency for co-

ordination and compliance, to conduct a specific carrying capacity



study for Mussoorie in light of apprehensions expressed in above media report. Other members of the said Joint Committee are as follows:

- i. Wadia Institute of Himalayan Geology, Dehradun,
- ii. G.B. Pant National Institute of Himalaya and Environment,
- iii. National Institute of Hydrology, Roorkee,
- iv. Prof. J.S Rawat, Kumaon University, Almora,
- v. Space Application Centre, Ahmedabad,
- vi. National Institute of Rock Mechanics, Bangalore, and
- vii. Central Pollution Control Board.

A copy of the aforesaid Order of the NGT in O.A No. 51 of 2023, dated 31.01.2023, is herein annexed as ANNEXURE-R1/1.

5.2. It is submitted that the National Green Tribunal (NGT), in the issue of unregulated tourism at the cost of environment was taken up *suo motu* in the light of media report referring to Himalayan region of Himachal Pradesh and Uttarakhand, based on news item in 'The Hindu' dated 27.02.2022 titled: "Tourism has brought economic prosperity to the Himalayan region, but the environmental cost has been catastrophic". That vide Order dated 09.03.2022 in O.A No.



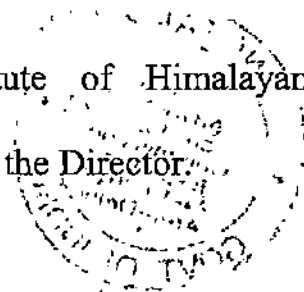
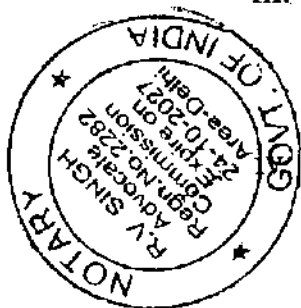
178/2022, the NGT constituted a Joint Committee to undertake study which may be thereafter provided to the Chief Secretaries of twelve States in the Himalayan region, apart from Secretaries, Environment and Tourism, Government of India. A copy of the order dated 09.03.2022 passed by the Hon'ble NGT(PB) is annexed herein as ANNEXURE-R1/2.

5.3. It is submitted that in O.A. No. 635 of 2017: *Ramesh Chand Vs State of Himachal Pradesh & Others*, the National Green Tribunal got carrying capacity conducted for eco sensitive and geographical fragile areas of Manali and Mcleodganj by an Expert Committee comprising of:

- i. An Expert of Ecology from G.P. Pant Institute, Almora, Uttarakhand to be nominated by the Director of Institute.
- ii. Chief Town Planner, Shimla or Senior Architect (Planner) from PWD.
- iii. A Senior Scientist from MOEF&CC, to be nominated by the Secretary, MoEF&CC.

A Senior Scientist from the Indian Council of Forestry Research and Education, Dehradun.

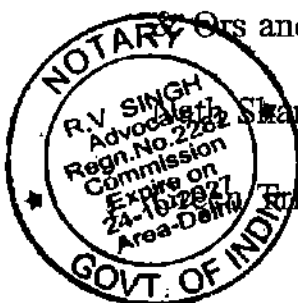
- v. Senior Scientist from Wadia Institute of Himalayan Geology, Dehradun, to be nominated by the Director.



- vi. Scientist/Senior official from the Central Ground Water Board, New Delhi.
- vii. Scientist/ Senior official from the Central Pollution Control Board, New Delhi
- viii. Representative of National Disaster Management Authority, Govt. of India.
- ix. Representative of School of Planning and Architecture, New Delhi.
- x. Member Secretary, Himachal Pradesh Pollution Control Board, shall be a member and Nodal Officer, who shall ensure the compliance.

A copy of the order dated 19.09.2018 passed by the Hon'ble NGT(PB) constituting a Special Expert Committee for conducting carrying capacity assessment of ecological sensitive and geologically fragile areas, particularly manali and Meclodganj is annexed herein as ANNEXURE-R1/3.

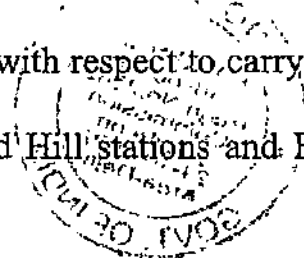
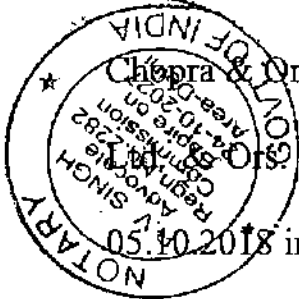
5.4. It is submitted that pursuant to the Orders dated 30.07.2018 and 17.03.2021 in O.A No.462 of 2018: D.V. Girish Vs. Union of India Ors and Order dated 26.09.2019 in OA No. 360 of 2018: Shree



Sharma Vs. Union of India and Ors. of the Hon'ble National Tribunal (Principal Bench), the G.B Pant National Institute

of Himalayan Environment and Sustainable Development, Almora, Uttarakhand, on behalf of this respondent Ministry (MoEFCC) had formulated a ***“Guidelines for Assessing Carrying Capacity of Hill Stations including cities and Eco-Sensitive Zone”*** and circulated to all State Governments / Union territory administrations on 30.01.2020 for their perusal and needful action. It is also submitted that status of the compliance from the States / Union territory administrations have been sent by this answering respondent Ministry on 19.05.2023. A copy of the aforesaid guideline is herein annexed as ANNEXURE-R1/4 and the copies of this respondent Ministry’s letter dated 30.01.2020 and 19.05.2023 are at ANNEXURE-R1/5 and ANNEXURE-R1/6.

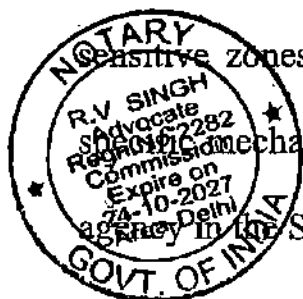
6. It is submitted that the aforementioned ***“Guidelines for Assessing Carrying Capacity of Hill Stations including cities and Eco-Sensitive Zone”*** prepared by the GB Pant National Institute of Himalayan Environment and sustainable Development, Almora, Uttarakhand was also placed before this Hon’ble Court in the matter of Civil Appeal No.868 of 2019: Pushendra Singh Chopra & Ors. Versus Himachal Pradesh Tourism Development Corporation & Ors. The said Civil Appeal was filed challenging the Order dated 05.10.2018 in OA No. 506 of 2015, wherein, the Hon’ble NGT had directed this respondent Ministry to frame a set of guidelines with respect to carrying capacity assessment as applicable to similarly placed Hill stations and Eco



sensitive Zones notified by this Ministry in the country to check hazards of unregulated development threatening the fragile ecology and safety within one month. This Hon'ble Court disposed of the matter vide Order dated 20.04.2022. A copy of the said Order dated 20.04.2022 of this Hon'ble Court is herein annexed as ANNEXURE-R1/7.

7. It is submitted that the G.B Pant National Institute of Himalayan Environment and Sustainable Development in collaboration with the Uttarakhand State Pollution Control Board (UKPCB) has prepared the environment plan for all the 13 districts of Uttarakhand as per the Order dated 26.09.2019 of Hon'ble National Green Tribunal (NGT) in O.A. No. 360/2018: Shree Nath Sharma Vs. Union of India and Others.

8. It is submitted that a study '*On ground evaluation of the issue of colossal environmental degradation in the prominent pilgrim trek regions of Uttarakhand*' was conducted by a Joint Committee, in light of the Order of Hon'ble NGT in the matter of OA No. 561 of 2022. The main objective of the study was to assess the impact of pilgrimage-based tourism on the famous treks in Uttarakhand namely Kedarnath, Yamunotri and Hemkund Sahib. The findings of the study establish that solid waste management, particularly plastic waste, remains a major concern in these ecologically



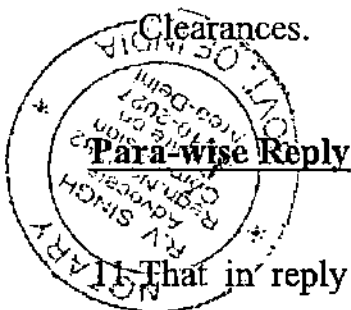
sensitive zones. To address this issue, it was proposed to develop a site-

specific mechanism for waste management to be executed by the concerned

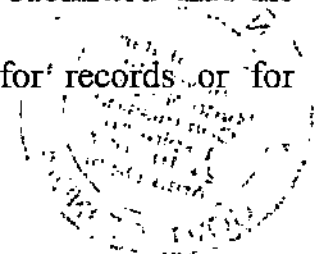
State Government.

9. It is humbly submitted that Development of river valley projects/Hydro Electric Power (HEP) projects in a cascade manner and in multiple numbers requires appraisal consideration in an integrated and holistic manner. Accordingly, the Ministry vide its Office Memorandum (O.M) No. J-11013/1/2013-IA-I, dated 28.05.2013 has made Cumulative Impact Assessment & Carrying Capacity Study (CIA & CCS) an essential exercise and it has been specified that CIA & CCS is a mandatory document for considering proposal of River Valley projects for granting of Environmental Clearances under the provisions of EIA Notification, 2006. A copy of the said O.M dated 28.05.2013 is annexed herein as **ANNEXURE-R1/8**.

10. That the Respondent No.1 has also made necessary provisions, mandating undertaking Environment Impact Assessment (EIA) a pre-requisite under the EIA Notification vide S.O. 1533 (E), dated 14.09.2006, as amended from time to time, framed under the Environment (Protection) Act, 1986. Certain categories of projects and activities as listed in the Schedule to the said notification require prior EIA studies for consideration of Environment Clearances.



11. That in reply to paras nos. 1-12 of the Petition, it is submitted that the averments made by the petitioner are either matter for records or for information of the Hon'ble Court.



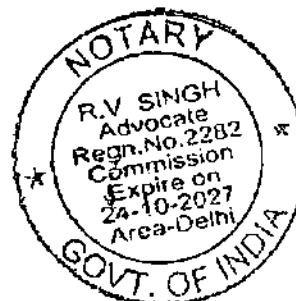
12. That in reply to para nos. 13-14 of the Petition, it is submitted that the averments made by the petitioner are matter of records and may be replied to by the concerned State Government/Union territory administration.

13. That in reply to para no. 15 of the Petition, it is submitted that the same may be answered by the Ministry of Science and Technology and hence is now being answered.

14. That in reply to para nos. 16-25 of the Petition, it is submitted that the averments made by the petitioner are either matter of records or information of this Hon'ble Court.

15. That in reply to para nos. 26 of the Petition, it is submitted that as stated in para no.4 above, 'Land' is a State subject as per 7<sup>th</sup> Schedule of the Constitution of India, and its sustainable management including preservation, protection, regulation, prohibition of developmental activities etc. are the primary responsibility of the concerned State or Union territory administration. That State is duty bound to abide the principle of sustainable development and as enshrined in Article 21 of the Constitution, sustainable development has to be very basis for every developmental venture.

16. That in reply to para nos. 27-28 of the Petition, it is submitted that the averments made by the petitioner are either matter of records or information of this Hon'ble Court.



IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION CIVIL NO. 144 OF 2023

**IN THE MATTER OF:**

ASHOK KUMAR RAGHAV

.....PETITIONER

VERSUS

UNION OF INDIA & ORS.

.... RESPONDENTS

**INDEX**

S. No.	Particulars	Page No.
1.	Suggestions on behalf of the Ministry of Environment, Forest and Climate Change (Respondent No.1) on constitution of Expert Committee to determine the carrying capacity of Himalayan Region States	1 - 4

FILED BY:

Filed On: 01.09.2023

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION CIVIL NO. 144 OF 2023

**IN THE MATTER OF:**

ASHOK KUMAR RAGHAV

.....PETITIONER

VERSUS

UNION OF INDIA & ORS.

.... RESPONDENTS

**SUGGESTIONS ON BEHALF OF MINISTRY OF ENVIRONMENT,  
FOREST AND CLIMATE CHANGE (RESPONDENT NO.1) ON  
CONSTITUTION OF EXPERT COMMITTEE TO DETERMINE THE  
CARRYING CAPACITY OF HIMALAYAN REGION STATES**

1. It is submitted that this Hon'ble Court while hearing the above captioned matter on 21.08.2023 had directed the Petitioner and Respondent to discuss and suggest a way forward for this Hon'ble Court to pass directions with regard to the carrying capacity of Himalayan States and towns. Notably, the Hon'ble Court had expressed its desire to restrict the scope of present Writ Petition to Himalayan regions rather than all States of the country.
2. It is submitted that the Respondent Ministry has in the past circulated Guidelines for Assessing Carrying Capacity of Hill Stations including Cities and Eco-Sensitive Zones to all 13 Himalayan States vide letter dated 30.01.2020 and has also sent reminder vide letter dated 19.05.2023 to request the states that if such study has not been undertaken then the states may kindly

submit the action plan so that carrying capacity can be carried out as early as possible.

3. In the light of the above-stated steps taken by the Respondent Ministry, where comprehensive exercise has been undertaken by experts in the field, it will be imperative that factual aspects of each hill-station are specifically identified and collected with the help of the local authorities cutting across multiple disciplines. It is, therefore, most humbly submitted by the answering Ministry that for achieving the final goal of assessing accurate carrying capacity of each hill station, the following steps ought to be taken:

- a. Direct all 13 Himalayan States to submit Action Taken Report and an Action Plan, in a time-bound manner, for taking steps to carry out the carrying capacity assessment as per guidelines prepared by G.B Pant National Institute of Himalayan Environment.
- b. Direct all 13 Himalayan States for constitution of a Committee, in a time-bound manner, headed by the Chief Secretary of the respective State and comprising such members as deemed appropriate by the Chief Secretary, for carrying out a multi-disciplinary study as per guidelines prepared by G.B Pant National Institute of Himalayan Environment which had been circulated to all 13 Himalayan States vide letter dated 30.01.2020 and reminder sent on 19.05.2023. and also for overseeing the implementation thereof.
- c. G.B Pant National Institute of Himalayan Environment has been involved in conducting a specific Carrying Capacity Study for Mussoorie and for Manali and Mcleodganj arising from matter in OA No. 51 of 2023 and No.635 of 2017 respectively in the Hon'ble NGT. G.B Pant National Institute of Himalayan Environment which is an Institute of the Ministry of Environment, Forest and Climate Change

has also prepared the Guidelines for carrying capacity of Hill Stations including cities and ESZ, arising from OA No.462 of 2018 in the Hon'ble NGT. Therefore, considering the experience of the institute in preparing the Guidelines for carrying out Carrying Capacity Studies, it is suggested that the carrying capacity studies thus prepared by the 13 Himalayan States may be examined /evaluated by a Technical Committee headed by the Director, G.B. Pant National Institute of Himalayan Environment and comprising the following members and with the powers to co-opt such members/Institutions as deemed appropriate:

- i. Director, National Institute of Disaster Management , Bhopal or his nominee;
- ii. Director, National Institute of Hydrology, Roorkee or his nominee;
- iii. Director, Indian Institute of Remote Sensing, Dehradun or his nominee;
- iv. Director, National Environmental Engineering Research Institute, Nagpur or his nominee;
- v. Director, Wadia Institute of Himalayan Geology, Dehradun or his nominee;
- vi. Director, Indian Council of Forestry Research and Education, Dehradun or his nominee;
- vii. Director, Wildlife Institute of India, Dehradun or his nominee;
- viii. Director, School of Planning and Architecture, New Delhi or his nominee;
- ix. Representatives of State Disaster Management Authorities;

- x. Representative from Geological Survey of India
  - xi. Representative from Survey of India
  - xii. Member Secretary, Central Pollution Control Board or his nominee; and
  - xiii. Member secretary, Central Ground Water Board, or his nominee;
- d. Direct the Committee so constituted to submit its report with complete suggestions to the respective states for execution and implementation in a time bound manner, which should be periodically reviewed.

Prayed accordingly as above.

SETTLED BY:

LD ASG Ms. AISHWARYA BHATI

FILED BY:

DATED 01.09.2023

(On behalf of Respondent No. 1)

*Anesh*

True Copy

## ANNEXURE NO.3

ITEM NO.20

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 144/2023

ASHOK KUMAR RAGHAV

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION )

Date : 21-08-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE MANOJ MISRAFor Petitioner(s) Mr. Akash Vashishtha, Adv.  
Mr. Sameer Singh, Adv.  
Mr. Karan Thakur, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ajay Nain, Adv.  
Mr. Anmol Harna, Adv.  
Ms. Neelam Singh, AORFor Respondent(s) Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Dr. Arun Kumar Yadav, Adv.  
Ms. Ameyvikrama Thanvi, Adv.  
Ms. Shagun Thakur, Adv.  
Mr. Digvijay Dam, Adv.Mrs. Aishwarya Bhati, A.S.G.  
Ms. Shagun Thakur, Adv.  
Ms. Ameyavikrama Thanvi, Adv.  
Mr. Digvijay Dam, Adv.  
Mr. Arvind Kumar Sharma, AORMr. Sudarshan Singh Rawat, AOR  
Mr. Ashutosh Kumar Sharma, Adv.  
Mr. S. Sunil, Adv.

Mr. Sunny Sachi Rawat, Adv.  
Ms. Saakshi Singh Rawat, Adv.

Ms. Radhika Gautam, AOR

Mr. Shuvodeep Roy, AOR  
Mr. Deepayan Dutta, Adv.

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.

Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.

Mr. Raghvendra Kumar, AOR  
Mr. Anand Kumar Dubey, Adv.  
Mr. Simanta Kumar, Adv.

Mr. Shreyas Awasthi, Adv.  
Mr. Bhanu Mishra, Adv.  
Mr. Saransh Bhardwaj, Adv.  
Ms. Astha Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

List the Writ Petition on 28 August 2023.

(GULSHAN KUMAR ARORA)  
AR-CUM-PS

(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR

ITEM NO.31

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).144/2023

ASHOK KUMAR RAGHAV

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION)

Date : 10-07-2023 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s)

Mr. Akash Vashishtha, Adv.  
Mr. Sameer Singh, Adv.  
Mr. Karan Thakur, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ajay Nain, Adv.  
Mr. Anmol Harna, Adv.  
Ms. Neelam Singh, AOR

For Respondent(s)

Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Dr. Arun Kumar Yadav, Adv.  
Ms. Ameyvikrama Thanvi, Adv.  
Ms. Shagun Thakur, Adv.  
Mr. Digvijay Dam, Adv.

Ms. Aishwarya Bhati, A.S.G.  
Ms. Shagun Thakur, Adv.  
Ms. Ameyavikrama Thanvi, Adv.  
Mr. Digvijay Dam, Adv.  
Mr. Arvind Kumar Sharma, AOR

Mr. Sudarshan Singh Rawat, AOR  
Ms. Rachna Gandhi, Adv.  
Mr. Sunny Sachin Rawat, Adv.  
Mr. Mohit Kaushik, Adv.  
Ms. Saakshi Singh Rawat, Adv.

Mr. Samir Ali Khan, AOR

Mr. Shuvodeep Roy, AOR

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.

Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.

Mr. Shreyas Awasthi, Adv.  
Mr. Bhanu Mishra, Adv.  
Ms. Astha Sharma, AOR

Ms. Radhika Gautam, AOR

UPON hearing the counsel the Court made the following  
O R D E R

- 1 Counter affidavits be filed within four weeks.
- 2 List the Petition on 21 August 2023.

(SANJAY KUMAR-I)  
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR

ITEM NO.28

COURT NO.1

SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Writ Petition(s)(Civil) No(s). 144/2023

ASHOK KUMAR RAGHAV

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION )

Date : 19-05-2023 This petition was called on for hearing today.

**CORAM : HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA**  
**HON'BLE MR. JUSTICE K V VISWANATHAN**

**For Petitioner(s)** Mr. Akash Vashishtha, Adv.  
Mr. Sameer Singh, Adv.  
Mr. Karan Thakur, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ajay Nain, Adv.  
Mr. Anmol Harna, Adv.  
Ms. Neelam Singh, AOR

**For Respondent(s)** Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Dr. Arun Kumar Yadav, Adv.  
Ms. Ameyvikrama Thanvi, Adv.  
Ms. Shagun Thakur, Adv.  
Mr. Digvijay Dam, Adv.

Mrs. Aishwarya Bhati, A.S.G.  
Mr. Digvijay Dam, Adv.  
Ms. Shagun Thakur, Adv.  
Ms. Ameyavikrama Thanvi, Adv.  
Mr. Arvind Kumar Sharma, AOR

Mr. Sudarshan Singh Rawat, AOR

**Mr. Sudarshan Singh Rawat, Adv.**

**Mr. Abhimanyu Jhamba, Adv.  
Ms. Thonpinao Thangal, Adv.  
Mr. Shivam Prashar, Adv.  
Ms. Hatnei Mawi, Adv.  
Mr. Samir Ali Khan, AOR**

**Mr. Shuvodeep Roy, AOR  
Mr. Sai Shashank, Adv.  
Mr. Deepayan Dutta, Adv.**

**Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Anupama Ngangom, Adv.**

**Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.**

**Ms. Ripul Swati Kumari, Adv.  
Mr. Bhanu Mishra, Adv.  
Mr. Devvrat Singh, Adv.  
Ms. Astha Sharma, AOR**

**UPON hearing the counsel the Court made the following  
O R D E R**

- 1 Counsel appearing on behalf of the Union of India states that the counter affidavit would be filed positively within a period of three weeks.
- 2 The States who are respondents to these proceedings shall also file their affidavits in the meantime.
- 3 List the Writ Petition on 10 July 2023.

**(GULSHAN KUMAR ARORA)  
AR-CUM-PS**

**(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR**

ITEM NO.37

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).144/2023

ASHOK KUMAR RAGHAV

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION)

Date : 17-04-2023 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Akash Vashishtha, Adv.  
Mr. Sameer Singh, Adv.  
Mr. Karan Thakur, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ajay Nain, Adv.  
Mr. Anmol Harna, Adv.  
Ms. Neelam Singh, AOR

For Respondent(s) Mrs. Aishwarya Bhati, A.S.G.  
Mr. Digvijay Dam, Adv.  
Ms. Ameyavikrama Thanvi, Adv.  
Ms. Shagun Thakur, Adv.  
Mr. Arvind Kumar Sharma, AOR

Mr. Sudarshan Singh Rawat, AOR  
Mr. Vikas Negi, Adv.  
Ms. Saakshi Singh Rawat, Adv.

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Anupama Ngangom, Adv.

Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.

Ms. Astha Sharma, AOR  
Mr. Srisatya Mohanty, Adv.  
Ms. Anju Thomas, Adv.  
Mr. Sanjeev Kaushik, Adv.  
Ms. Mantika Haryani, Adv.

Mr. Shreyas Awasthi, Adv.  
Mr. Himanshu Chakravarty, Adv.  
Ms. Ripul Swati Kumari, Adv.  
Mr. Bhanu Mishra, Adv.  
Mr. Devvrat Singh, Adv.  
Ms. Muskan Surana, Adv.

**UPON hearing the counsel the Court made the following  
O R D E R**

- 1 Four weeks' time is granted for filing counter affidavit.
- 2 List the petition on 19 May 2023.

**(SANJAY KUMAR-I)  
DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR**

ITEM NO.37

COURT <sup>25</sup> NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).144/2023

ASHOK KUMAR RAGHAV

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION)

Date : 20-03-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE J.B. PARDIWALAFor Petitioner(s) Ms. Neelam Singh, AOR  
Mr. Akash Vashishtha, Adv.  
Mr. Sameer Singh, Adv.  
Mr. Karan Thakur, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ashish Sheoran, Adv.  
Mrs. Reena Devi, Adv.  
Mr. Sukesh Kumar Mishra, Adv.For Respondent(s) Mrs. Aishwarya Bhati, A.S.G.  
Ms. Amiyavikrama Thanvi, Adv.  
Ms. Shagun Thakur, Adv.  
Mr. Digvijay Dam, Adv.  
Mr. Arvind Kumar Sharma, AOR  
  
Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.  
  
Mr. Sudarshan Singh Rawat, AORUPON hearing the counsel the Court made the following  
O R D E R

1 Counter affidavit by the Union of India be filed within three weeks.

2 List the petition on 17 April 2023.

Signature Not Verified  
Digitally signed by  
Sanjay Kumar  
Date: 2023.03.20  
19:04:42 IST  
Reason: [ ]

(SANJAY KUMAR-I)  
DEPUTY REGISTRAR(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 144/2023

ASHOK KUMAR RAGHAV

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION )

Date : 17-02-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE J.B. PARDIWALAFor Petitioner(s) Ms. Neelam Singh, AOR  
Mr. Akash Vashishtha, Adv.  
Mr. Sameer Singh, Adv.  
Mr. Karan Thakur, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ashish Sheoran, Adv.  
Mrs. Reena Devi, Adv.  
Mr. Sukesh Kumar Mishra, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

1 Issue notice returnable on 20 March 2023.

(GULSHAN KUMAR ARORA)  
AR-CUM-PS(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRARSignature Not Verified  
Digitally signed by  
GULSHAN KUMAR  
ARORA  
Date: 2023.02.17  
16:53:14 IST  
Reason:

True Copy

SECTION XVII

289

## IN THE SUPREME COURT OF INDIA

I.A. (Crl. / Civil ) No.....Of 201

In

Special Leave Petition (Crl. / Civil ) No..... Of 201

Civil / Criminal Appeal / Transfer / Writ Petition No. \_\_\_\_\_ of 2021

IN THE MATTER OF:

Keekar Singh Panwar & ors Petitioner's/Appellant's

Versus

Union of India & ors. Respondent's/ Caveater'sINDEX OF FILING

S.No.	Particular	Copies	Court fees
①	Office Report on Limitation		
(2)	Listing Proforma		
(3)	Synopsis and L/D		
4.	impugned final order dated 11.11.2020.		
5.	Civil Appeal with Affidavit		1500/-
6.	Appendix		500/-
7.	Annexures A1 to A-20		<u>2000/-</u>
8.	Application for c/c.		
9.	Application for permission to file lengthy Synopsis & L/D		
10.	Application for stay		
11	Application for duly Affirmed Affidavit.		Total Rs.

12. F/m

13. Vakalatnamam

Filed On 10.6.2021

CODE No.1852

I.C.No. 4853

(SATYA MITRA)

ADVOCATE FOR THE PETITIONERS / RESPONDENT

APPELLANT/ CAVEATOR / INTERVENOR

576, MASJID ROAD, JANGPURA

NEW DELHI-110014

Moble No.9911769905/8800221595

Item No. 05

Court No. 1

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

Original Application No. 256/2020  
(I.A. No. 369/2020)

Keshar Singh Panwar &amp; Ors.

Applicant(s)

Versus

Union of India &amp; Ors.

Respondent(s)

Date of hearing: 11.11.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s): Mr. Colin Gonsalves, Senior Advocate with Ms. Tanya Agarwal,  
Advocate

**ORDER**

1. This application questions the approval of the Zonal Master Plan (ZMP) for the Bhagirathi Eco-sensitive Area in Uttarakhand by the Ministry of Environment, Forest and Climate Change (MoEF&CC) on 16.7.2020.
2. Main contention of the applicants is that due process has not been followed while approving the ZMP in terms of order of the Hon'ble Supreme Court in that the draft of ZMP has not been scrutinized, as required. The Members of the Committee constituted for the purpose criticized the ZMP. The minutes approving the ZMP do not mention the views of the Committee.
3. Case set out in the application is that the applicant no. 1 is the head of "Aapda Baadh Sangharsh Samit" (disaster affected people Committee). The said Committee has been formed in the wake of disaster

in Uttarakhand in 2012-13. Applicant Nos. 2 and 3 are environmentalists. Eco-Sensitive Zone (ESZ) Notification dated 18.12.2012 provided for approval of the ZMP for conservation of Bhagirathi Eco-Sensitive Zone. The ZMP was to be prepared in consultation with the local people for restoration and conservation of the area and to regulate the development in the said area. The ZMP is to lay down restrictions on change of use and cutting of hills for conservation of the eco sensitive area.

4. The applicants have referred to earlier proceedings in *OA 80/2015, Keshar Singh Panwar & Ors. vs. Union of India & Ors.* seeking directions for preparation of ZMP. The ZMP draft in the year 2016 was rejected by the MoEF&CC and Ministry of Water Resources (MoWR) being against the guidelines in the ESZ Notification. The draft of ZMP lacked integral approach. The ZMP was thus required to be prepared by an independent expert body of experts in the fields of hydrogeology, geology, climatology, and ecologist/biodiversity expert, river engineer, glaciologist, seismologist and local representatives of Uttarakhand.

5. Vide order dated 26.07.2017, this Tribunal, on joint submission by the parties, directed constitution of a nine-member Committee to be headed by Additional Chief Secretary, Environment, Uttarakhand. The said order was modified by the Hon'ble Supreme Court vide order dated 13.07.2018 to the effect that the plan prepared by the Committee may also be looked into by the persons mentioned in letter dated 07.08.2017 of the MoWR. The order of the Hon'ble Supreme Court is as follows:

“... ..  
*Notice was issued limited to the aforesaid grievance. Learned counsel for the respondents submits that the Committee had completed its task and had prepared draft master plan and, therefore, at this stage, no purpose would be served in changing the composition of the Committee.*

*We find that while constituting the aforesaid Committee, the NGT in the impugned order had also given the direction that any such plan that would be prepared by the Committee shall be submitted for approval by the Ministry of Environment, Forest & Climate Change/ Ministry of Water Resources and the report of the Committee shall also be placed before the NGT. Thus, the plan has to be approved by the Ministry of Environment, Forest and Climate Change as well as the Ministry of Water Resources.*

*Mr. Colin Gonsalves, learned senior counsel appearing for the appellants submits that the insofar as the Ministry of Water Resources, River Development & Ganga Rejuvenation is concerned, this Ministry had itself suggested the names of certain persons. We find from the record that the names of such persons are mentioned at page 144 in the letter dated 07.08.2017. As per the order of the NGT, approval of the Ministry of Water Resources is also required. **It would be in the fitness of things that the aforesaid draft plan which had been prepared by the Committee is looked into and scrutinized by the persons mentioned in the letter dated 07.08.2017. While considering the issue of approval, the Ministry of Water Resources shall have the same scrutinized from among the persons who were suggested by the Ministry itself. Appeal stand disposed of with these directions.***

6. Thereafter, a draft document was submitted by the Secretary, Forest, Uttarakhand on 27.09.2018 to the MoEFF, without being scrutinized by the persons mentioned in the letter dated 07.08.2017. Thereafter, instead of such scrutiny, a letter was sent to the 11 members for their comments on 12.10.2018 requesting them to scrutinize the ZMP. The said experts gave their views but the same were not considered and no change was effected in the ZMP. One of the experts is said to have requested for a meeting but no such meeting was called. The MoEF&CC proceeded to approve the ZMP in its 41<sup>st</sup> meeting on 16.07.2020. After the said approval, eight of the experts wrote letter dated 08.08.2020 that their suggestions have not been considered and incorporated in the ZMP sent for approval.

7. According to the applicants, the ZMP is in violation of ESZ Notification dated 18.12.2012 and that there is no carrying capacity study, study of dried up water bodies, plan to protect land use, ecological

4

studies, integration of different plans and study of e-flow. The ZMP does not address issues of restoration of the areas affected by road widening activities.

8. We have heard Shri Colin Gonsalves, Senior Advocate appearing for the applicants. He submits that a miscellaneous application was moved before the Hon'ble Supreme Court being *M.A. Diary No(s). 17544/2020, Keshar Singh Panwar & Ors. vs. Union of India & ors.*, wherein following order was passed:

*"Learned counsel for the petitioners prays that he be permitted to withdraw the miscellaneous application to enable the petitioners to challenge the approval dated 16.07.2020. Prayer is allowed.*

*The miscellaneous application is dismissed as withdrawn with aforesaid liberty."*

9. We have considered the matter. As already noted, the main grievance of the applicants is that the Expert Committees views have not been considered with regard to the draft ZMP which has been approved in the meeting held on 23<sup>rd</sup> – 24<sup>th</sup> June, 2020 under the Chairmanship of the Additional Secretary, MoEF&CC. Relevant discussion dealing with the ZMP in question is as follows:

“ ..  
**Uttarakhand** ..

**5.7 Zonal Master Plan of Bhagirathi Ecologically Sensitive Zone (BESZ)**

*Shri Anand Bardhan, Principal Secretary, Forest & Environment, Govt. of Uttarakhand briefed about the Bhagirathi Eco-sensitive Zone (BESZ). While explaining the background of the matter, it was mentioned that in 2011, an extent of 100 meter on both sides of the Bhagirathi River covering an area of 40 sq. k. approx. was considered as Eco-sensitive Area. Subsequently, the final notification of the Bhagirathi Eco-sensitive Area was issued on 18<sup>th</sup> December, 2012 covering an ESZ area of 4179.55 sq. kms which includes 89 villages. Out of total ESZ area of 4179.55 sq. km. about 4106.9 sq.km (98.27%) area has been covered in reserved forest*

and/or protected area (Gangotri Wildlife Sanctuary). While remaining ESZ area is under van Panchayat i.e. 729.78 hectares. The representatives of the State further deliberated the concerns arising on the BESZ notification and chronological development of ZMP is summarized below:-

- a. The notified areas are mostly the National Park, reserve forests, protected forests which are being regulated under existing Acts/Rules of Forests & Wildlife. The Hon'ble National Green Tribunal (NGT) O.A. No. 151/2013 of Legal Aid Committee had directed the State Government of implement the notification of BSEZ in letter and spirit. Preparation of Zonal Master Plan is mandated under Bhagirathi Ecologically sensitive Zone's Notification.
- b. The draft Zonal Master Plan (ZMP) for Bhagirathi Ecologically sensitive Zone (BESZ) submitted by the State Government was discussed during the 21<sup>st</sup> meeting of the Expert Committee on ESZ held on 31<sup>st</sup> August, 2016. However, the ZMP could not approved by MoEF&CC as most of provisions given in ESZ Notification were not complied in the proposed ZMP.
- c. Separately, as per the direction of the Hon'ble NGT in the order dated 26<sup>th</sup> July 2017, a Committee headed by Addl. Chief Secretary, Environment and Forest, Government of Uttarakhand comprising eminent experts & members from reputed institutions (IITs), was constituted to prepare the ZMP and submit a report for approval. The Committee further revised the ZMP and submitted to MoEF&CC by incorporating certain additional provisions in the Notification for exemptions of certain activities. Subsequently, the BESZ Notification was amended by the MoEF&CC on 16<sup>th</sup> April, 2018 with regard to developmental activities in view of slope/stabilization of eco-fragile area.
- d. In the meantime, in Civil Appeal before Hon'ble Supreme Court (Keshar Singh & Ors. v. UOI & Ors.), the Hon'ble Supreme Court ordered in the matter that;

*"We find that while constituting the aforesaid Committee, the NGT in the impugned order had also given the directed that any such plan that would be prepared by the Committee shall be submitted for approval by the Ministry of Environment, Forest and Climate change/ Ministry of Water Resources and the report of the Committee shall also be placed before the NGT. Thus, the plan has to be approved by the Ministry of Environment, Forest and Climate Change as well as the Ministry of Water Resources."*

- e. The draft ZMP submitted by the State Government incorporating **amendments/recommendations of the aforesaid Committee (Constituted by the Hon'ble NGT) was discussed during the 34<sup>th</sup> meeting of the Expert Committee on ESZ held on 06<sup>th</sup> March, 2019.** During the meeting, Committee deferred the proposal for want of

6

compliances/approval from MoWR, RD & GR on the issues related water management in catchment area Ministry of Jal Shakti in March 2020 has scrutinized the ZMP and concurred.

The Principal Secretary, Environment & Forest informed that State is facing hardship in planning and implementation of activities in the area due to pending approval of ZMP for Baghirathi Ecologically Sensitive Zone (BESZ) notification. State requested for allowing the mining activities to meet the requirement of local development including road construction. The Chairman opined that in view of flood requirement in the area, only surface clearance of stones could be considered. Further, taking into account of the concerns raised by BRO on National Security as highlighted by state, it was advised that the organization may submit memos of relevant Monitoring Authority signifying the crucial actions to be taken up where impediment activities exists due to non-approval of ZMP.

**The Expert Committee of ESZ noted that in preparation of ZMP, there was involvement of experts at Central level (MoJal Shakti) as well as in the State level. However, it was emphasized that features of ZMP has to be seen in light of ESZ notification wherein prime focus has been given to conservation and protection of biodiversity of entire catchment area which supports the Bhagirathi riverine ecosystem including wildlife of the area. Therefore, multiple features of ZMP have to be seen in commensurate with the provisions of ESZ notification for Bhagirathi River.**

Based on the presentation made and discussion held, Committee recommended the approval of ZMP subject to following conditions for strict compliance by the State Government:

- i. State has to strictly comply the provisions of ESZ notification for Bhagirathi river specifically given under Prohibited and regulated activities.
- ii. State has to fulfill and comply the suggested points and remarks made by Department of WR, RD&GR, Jal Shakti including maintaining the e-flow of the Bhagirathi River.
- iii. Regarding demarcating all the existing village settlements, types & kinds of forests, agriculture areas, fertile lands, green areas, horticultural areas, orchards, lakes, natural heritage sites and water bodies, the clearer map on demarcation of all these features need to be generated so called as Base Map. Further, as agreed by Govt. of Uttarakhand as given in the concurrence report of MoJal Shakti, the Geomorphological and Geological map shall be drawn at micro level planning.
- iv. Regarding conservation, protection and management of natural springs, water bodies including drying up springs, the ZMP shall be extended to prepare the micro level planning, which shall demarcate the catchment

area of each stream in catchment of Bhagirathi river, particularly dried up stream. A dedicated micro level plan should also be drawn for rejuvenation of streams and it shall become part of ZMP.

- v. A comprehensive long term plan for conservation on natural boundaries of river bank needs to be drawn by State apart from retaining wall construction and in view of disaster management situation.
- vi. **With regard to tourism activities, ZMP shall be extended for finalization of comprehensive long term Eco-Tourism Master Plan and activities shall not be beyond the carrying capacity of catchment area. Tourism Master Plan shall be prepared as per the guidelines of Ministry of Tourism, and shall be followed strictly. In this regard, State Government shall submit its concurrence to MoEF&CC on the Eco-Tourism Master Plan, which is meeting the requirement of ESZ notification as well as fulfilling the carrying capacity of tourist/pilgrims.**
- vii. **No expansion/ activities shall be performed above and beyond the carrying capacity of the catchment area."**

10. From the above, it appears that though the order of the Hon'ble Supreme Court has been referred to, there is no mention of the views of the 11 Member Expert Committee though it is stated that such views were discussed. The approval of ZMP is subject to conditions specified therein, including compliance of the ESZ Notification, suggestions of the Ministry of Jal Shakti, demarcation of existing village settlements, types & kinds of forests, agriculture areas, fertile lands, green areas, horticultural areas, orchards, lakes, natural heritage sites and water bodies, preparation of micro level planning regarding conservation, protection and management of natural springs, water bodies including drying up springs, long term planning long term plan for conservation on natural boundaries of river bank, and comprehensive long-term Eco-Tourism Master Plan and activities shall not be beyond the carrying capacity of catchment area.

11. In view of the above, we direct that the MoEF&CC to expressly consider the views of the 11 Member Expert Committee, based on their scrutiny of the draft ZMP and, if necessary, issue amended approval within three months from today. If amendment is not found necessary, atleast brief reasons may be recorded.

A copy of this order be forwarded to the MoEF&CC by e-mail for compliance.

We have not considered it necessary for issue a notice to the MoEF&CC, to avoid delay, as the direction is based on the earlier proceedings. However, if MoEF&CC is aggrieved it will be at liberty to move this Tribunal.

The application is disposed of.

In view of order in the main application, no order is necessary on IA 369/2020 which will stand disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

November 11, 2020  
Original Application No. 256/2020  
(I.A. No. 369/2020)  
DV

  
TIC

In the Hon'ble Supreme Court of India  
Civil Appellate Jurisdiction

Civil Appeal No. of 2021

(Arising out of impugned final order dated 11.11.2020 in Original  
Application No. 256/2020 passed by the Hon'ble National Green  
Tribunal (Principal bench) at New Delhi)

In the matter of:

S.No.	Name of the Parties	Position of the Parties	
		Before the Hon'ble NGT	Before this Hon'ble Court
1.	Keshar Singh Panwar S/o Dhoom Singh Panwar Village Uttaron, Tehsil Bhatwadi Dist. Uttarkashi Uttarakhand 249171	Applicant No.1	Appellant No.1
2.	Meena Srivastav W/o Harihar Prasad Srivastava Srivastava Nivas, Birla Galu, Tehsil Bhatwadi District Uttarkashi Uttarakhand 249171	Applicant No.2	Appellant No.2

3.	Geeta Devi Gairola W/o Bharosa Ram Village Ladaadi, Tehsil Bhatwadi District Uttarkashi. Uttarakhand 249171	Applicant No.3	Appellant No.3
Versus			
1.	Union of India Through its Secretary Ministry of Environment and Forests & Climate Change Indira Paryavaran Bhawan Jor Bagh Lane New Delhi 110003	Respondent No.1	Respondent No.1
2.	State of Uttarakhand Through its Chief Secretary Secretariat 4 Subhash Road, Dehradun 248001	Respondent No.2	Respondent No.2
3.	Ministry of Water Resources River Development and Ganga Rejuvenation Through its Secretary Shram Shakti Bhawan Rafi Marg, New Delhi 110001	Respondent No.3	Respondent No.3

CIVIL APPEAL UNDER SECTION 22 OF THE NATIONAL GREEN  
TRIBUNAL ACT, 2010

To,  
The Hon'ble Chief Justice of India  
And His Companion Judges of the  
Hon'ble Supreme Court of India

The Humble Appeal of the  
Appellant above named:

**MOST RESPECTFULLY SHOWETH:**

1. This Appeal is being filed impugning final order dated 11.11.2020 in Original Application No. 256/2020 passed by the Hon'ble National Green Tribunal (Principal bench) at New Delhi by which the Application filed by the Appellants was disposed off.

2. Questions of Law

The Appellants state that the following questions of law arise for consideration of this Hon'ble Court:

- I. Whether the impugned final order erred in refusing to go by the order of this Hon'ble Court dated 13.07.2018, failed to order the calling of meeting(s) by the Ministry of Water

Resource to facilitate scrutiny and thereby committed the first mistake?

- II. Whether the NGT made second major error by not considering that 8 out of 11 experts have stated in their letter to the Union of India, that they have not approved the ZMP?

### 3. Facts of the Case

The brief facts leading to the filing of this Civil Appeal are:

- i. The impugned final order dismisses the OA 256/2020 without deciding the issues raised therein involving non-compliance of the Hon'ble Supreme Court order dated 13.07.2018 as well as the order of the NGT itself dated 26.07.2017 in the present case with regard to the preparation of a Zonal Master Plan (ZMP) of Bhagirathi Eco Sensitive Zone (BESZ) and gave direction to MoEF&CC which undermines the order of Supreme Court and is not accordance with law in force. Through this impugned order dated 11.11.2020, the compulsory directions under its own previous order dated 26.07.2017 and Supreme Court order dated 13.07.2018 become meaningless and infructuous. The impugned order undermines the constitution and authority of 9 member committee and order of this Hon'ble Court dated 13.07.2018. By this manner, NGT not only

renders entire exercise behind preparation of a fruitful ZMP meaningless and futile but also legitimizes an unauthorized and flawed document as an 'approved ZMP'. Hence, this Appeal.

#### The Central Issue

- ii. The central point in this appeal relates to the non-implementation of a crucial part of the order dated 13.7.2018 of this Hon'ble Court in Civil Appeal No. 2366-2367 of 2018 wherein this Hon'ble Court directed the Ministry of Water Resources, Respondent No.3, to have the Zonal Master Plan (ZMP) as prepared by the State of Uttarakhand "looked into and scrutinised" by the 11 experts and on the basis of that the report of 11 experts to finally decide whether ZMP should be approved or whether it should be rejected and fresh ZMP should be made.
- iii. Ministry of Water Resources, Respondent No.3, procrastinated for three years. The ministry refused to call meeting(s) of the 11 experts. Resultantly no scrutiny was capable of being done. By scrutiny what the appellants mean is that the Ministry ought to have convened meeting(s) of the 11 experts where views would be exchanged and on the basis of this scrutiny process, a final decision could be arrived at.

- iv. After procrastinating over two years and by making a pretence of compliance of the order dated 13.07.2018 passed by this Hon'ble Court, the Ministry of Water Resources, Respondent No.3, asked the 11 members to send by email their views. These e-mails were sent and are in the possession of the Ministry of Water Resources, Respondent No.3. 8 out of 11 members protested saying that for compliance with the order dated 13.07.2018 passed by this Hon'ble Court, it was not sufficient at all that the views be solicited only by email. Rather it was necessary that the Ministry of Water Resources facilitate (so that the experts could discuss) and finalise the recommendation on the basis of the scrutiny and consultation done in the meeting(s). The Ministry did not convene a meeting thereby overriding the protests of 8 out of 11 experts calling for a meeting so that the scrutiny could be properly done.

Two Major Errors in the Impugned Final Order passed by NGT

- v. The NGT refused to go by the order of this Hon'ble Court dated 13.07.2018, failed to order the calling of meeting(s) by the Ministry of Water Resource to facilitate scrutiny and thereby committed the first mistake.
- vi. It was a specific argument before the NGT that the MoWR was resisting to facilitate the meeting(s) and was preventing proper

scrutiny by the 11 experts. In para 6 of the impugned final order the Tribunal has avoided dealing with the argument of the appellants that the ministry was resisting scrutiny by 11 members and that merely asking for views by way of email was not "scrutiny".

- vii. Similarly para 9 while recording what the NGT calls the "main grievance" the NGT has again refused to deal with the submissions emphatically made that for scrutiny to be done an exchange of diverse views in a meeting(s) was required to be facilitated by the Ministry of Water Resource.
- viii. **"Scrutiny"** is not a mechanical compilation of 11 different views. It requires discussion. It involves persuasion. It could possibly involve change of views. It involves reconciliation of divergent views. It possibly involves sharpening of differences or reconciliation of differences. Thus according to the appellants herein no scrutiny was permitted.
- ix. Similarly in Para 10 references are made to the views of the 11 experts as if the submission by email of such views was adequate for full and complete compliance of Supreme Court order dated 13.07.2018 in letter and spirit.

- x. The second major error made by the NGT is that it nowhere mentions that 8 out of 11 experts have stated in their letter to the Union of India, that they have not approved the ZMP. Once the ZMP is not approved by the 11 experts, there can be no approval by the Ministry of Water Resources, Respondent No.3.

Brief Description of the Appellants

- xi. That, Appellants are residents of the Bhagirathi valley of Uttarakhand and are concerned for the protection of the ecology of Himalayas, our national river Ganga and for the policies of sustainable development. Appellant No.1 is a local resident of Uttarkashi who lost his houses in recurrent disasters (of 2012 and June 2013) and is struggling for the protection of the disaster affected people of the valley. He has been heading of "Aapda Baadh Sangharsh Samiti" of Asi Ganga valley of Uttarkashi and is working towards getting justice to the disaster affected people since the disaster of August 2012 in Uttarkashi area. Appellants 2 and 3 are environmental activists of Uttarkashi who have been actively involved in many environmental campaigns like save Ganga, polythene removal and conservation of forests by planting trees and consistently struggling for removal and stopping the pollution from Ganga Ghats and are concerned for the future of this area. The

Appellants also filed an O.A. No 80 of 2015 before this Tribunal for implementation of the Bhagirathi Eco Sensitive Zone notification in its true letter and spirit.

- xii. Impugning the approval of the Zonal Master Plan purportedly made in accordance with the Ecological Sensitive Zone Notification dated 18.12.12 the Applicants filed Miscellaneous Application Diary No. 17544 of 2020 before the Supreme Court and the said application was disposed of on 29.9.20 in the following terms:

"Learned counsel for the petitioners prays that he be permitted to withdraw the miscellaneous application to enable the petitioners to challenge the approval dated 16.07.2020. Prayer is allowed. The miscellaneous application is dismissed as withdrawn with the aforesaid liberty."

True Copy of order dated 29.9.2020 passed by Supreme Court in Miscellaneous Application Diary No. 17544 of 2020 is annexed hereto and marked as Annexure A-1 (Pages      to Pages 78 )

Ecological Sensitive Zone notification dated 18.12.2012  
for protecting the origin valley of National River Ganga

- xiii. This Appeal deals with urgent reliefs in respect of conservation of Bhagirathi Ecological Sensitive Zone, in what is described as "the last existing pristine stretch of the Ganga" for which an Ecological Sensitive Zone Notification dated 18.12.12 was made. The salient features of this notification are herein:

*"1. Boundaries of Eco-sensitive Zone: The said Eco sensitive Zone is the entire watershed of about 100 kilometers stretch of the river Bhagirathi from Gaumukh to Uttarkashi covering an area of 4179.59 square kilometers*

*2. Zonal Master Plan for the Eco Sensitive Zone*

*(1) For the purpose of the Eco Sensitive Zone the State Government shall prepare in consultation with local people particularly women a ZMP within a period of 2 years*

*(4) The Zonal Master Plan shall provide for restoration of denuded areas, conservation of existing water bodies, management of catchment areas, watershed management, groundwater management, soil and moisture conservation, needs of local community and such other aspects of the ecology and environment that need attention*

*(5) The Zonal Master Plan shall be prepared based on watershed approach.....*

*(8) The Zonal Master Plan shall regulate the development in the Eco sensitive zone so as to meet the requirement of local people without affecting the rights and privileges of the bonafide residents and also ensure eco friendly development of their livelihood security*

*(12) No change of land use from green uses such as horticulture areas, agriculture, tea gardens, parks and others like places to non-green uses shall be permitted in the Zonal Master Plan, except that strictly limited conversion of such lands may be permitted to meet the local needs including civic amenities and other infrastructure development in larger public interest and national security with the prior approval of State Government with due study of Environmental Impacts and complying with their mitigation options and subject to finalisation of Zonal Master Plan.*

*(14) There shall be no consequential reduction in green area such as forest area, agricultural area etc.*

*(16) (iv) The places in the Eco-sensitive Zone where cutting of hills causes ecological damage and slope instability in adjacent areas, such cuttings shall be undertaken with proper study of the Environmental Impacts and taking appropriate mitigation measures*

*in consultation with line Ministries of the Central Government including Public Consultation.*

*3. Activities to be prohibited, regulated or permitted*

*(a) Prohibited activities*

*(i) River Valley projects (iii) Mining of minerals and stoner quarrying and crushing (iv) commercial felling of trees (v) setting up of saw mills (vi) commercial use of firewood*

*(b) Regulated activities*

*(c) Eco-friendly activities*

*4. A committee to be called the Monitoring Committee to monitor the compliance with the provisions of this notification"*

True copy of the Ecological Sensitive Zone notification dated 18.12.2012 is annexed hereto and marked as Annexure A-2 (Pages 79 to Pages 98 )

True Copy of Amendment to the Ecological Sensitive Zone notification dated 16.4.2018 is annexed hereto and marked as Annexure A-3 (Pages 99 to Pages 103 )

State failed to make the Zonal Master Plan (I)

Petitioners filed OA No. 80 of 2015

- xiv. This notification mandated that a Zonal Master Plan (ZMP) would be made by the State of Uttarakhand within 2 years i.e. by 2014. The

State vehemently opposed to the notification as well as to the making of a Zonal Master Plan that was required for the implementation of the notification. Thus the State delayed the making of the Zonal Master Plan for 4 years, thereby delaying the conservation of the Bhagirathi ESZ and the residents of the area. For the implementation of the ESZ Notification the petitioners herein filed O.A. 80 of 2015 before this Tribunal. Only upon being pressurised by the National Green Tribunal to formulate a ZMP, the State drafted a ZMP which was merely an amalgamation of the departmental plans of the state government that included several commercial activities (hydropower projects, mining) directly in contradiction to the clauses of the notification.

Zonal Master Plan dated 2016

rejected by Central Government

- xv. This Zonal Master Plan made by the State in 2016 was so blatantly in violation of the Ecological Sensitive Zone Notification that the Ministry of Environment and Forests and the Ministry of Water Resource both rejected this Zonal Master Plan through an affidavit dated 21.12.2016 filed before this Tribunal. Relevant parts are herein:

"4.2. That on 18-12-2012 the notification of ESZ was published and state of Uttarakhand was supposed to prepare a zonal master plan (ZMP) within 2 Years from the date of publication of notification as per the guidelines/objectives of the notification. However, the state of Uttarakhand delayed the formulation of the ZMP & after the Hon'ble Tribunal's intervention, ZMP was submitted to the MoEF&CC in Feb'2016.

4.7. That after two years from the publication of notification in Dec 2012, the state completely failed to submit even a preliminary draft of ZMP and was later compelled to prepare the ZMP only after the order of Hon'ble tribunal and was submitted in Feb 2016. A preliminary discussion on the issue was done on 31<sup>st</sup> August in MoEF&CC and a revised ZMP has been submitted by the state of Uttarakhand in Dec'2016. Both the ZMPs have been reviewed and the views are summarized below.

5. That in consideration of the above made submissions, it is concluded that:

1. The zonal master plan submitted by the state government has violated the provisions of the notification & has not complied with the guidelines of the ESZ notification in its proposal. It gravely lacks the fundamental background studies, the micro-details on implementation & specificities of various plans which are required for a justifiable and successful implementation of the notification.

2. The ZMP was consistently delayed by the state government and it was only with the consistent intervention of the Hon'ble Tribunal that a ZMP was submitted by the state. The ZMP appears to be a collection of already existing/ proposed or under implementation schemes/ programs of various departments of the state and is devoid of policies/ plans as per the guidelines of the notification. Furthermore, absence of steps towards implementation of various works, and vehement requests for relaxation of provisions that are objecting to the states developmental module are particularly concerning.

3. The submitted ZMP document lacks an integrated approach within its various departments and is devoid of an environmentally conserving sustainable development program for the ESZ area. Additionally, fundamental studies with relevant baseline data is absent and thus the works suggested in ZMP are insufficient, incomplete submissions.

4. There is an absence of understanding of the spirit of the notification by the state that is obvious through the ZMP. With the absence of adequate studies, recommendations violating the guidelines, noncompliance of provisions, requests for relaxation of provisions and lack of micro-details, the purpose of formulation of ZMP has been defeated and the notification has been compromised. The ZMP in its

*current form is therefore incomplete, non-compliant and thus disapproved in its present form.*

*6. That considering the delay in submission of ZMP & the inadequacy of the submission by the State of Uttarakhand, the Union of India submits the following:*

*1. That, in order to facilitate creation of a comprehensive ZMP for the ESZ, MoEF&CC and MoWR, RD&GR proposes that an independent Expert body may be constituted for forming a comprehensive ZMP true to the letter & spirit of the notification and keeping intact the spirit of conservation enshrined therein:*

*2. The expert body may have the following TORs:*

*a. This expert body must be inclusive of experts from the field of hydrogeology, geology, climatology, and ecologist/ biodiversity expert, river engineer, glaciologist, seismologist, local representatives of Uttarakhand hills working in the field of environment, the non-governmental members of the already existing monitoring committee and adequate representation from central & state govt.*

*b. This expert body shall submit a preliminary draft of ZMP within 6 months of its formulation and the final ZMP within one year.*

*c. The new expert body will carry out all the studies currently lacking in terms of carrying capacity,*

*existing and depleted water sources, hazard zones etc. with baseline data, based on which the ZMP shall be formulated. This body will consult the Appellant s who are the residents of this ESZ, for considering their comments/suggestions for the ZMP.*

*d. Since this expert body will be one body and not segregated into various departments, it will integrate the various aspects of ZMP and formulate policies in consideration of local conservation and development. It will provide an overview, shall consider the already made submissions by different departments & shall co-ordinate with departments individually. The different departments shall submit the required/ Relevant information & provide the required assistance.*

*e. This ZMP will have elaborate details since this will be a map for future implementation of the notification. The ZMP will ensure micro-detailing of procedures and next steps with area specific plans a detailed plan specific for every village and specific conservation plan for existing and identified sites (natural heritage sites etc)."*

True Copy of affidavit dated 21.12.2016 by Ministry of Water Resource and Ganga Rejuvenation is annexed hereto and marked as Annexure A-4 (Pages 104 to Pages 115)

Central Government report dated 31.12.16

Recommended independent Committee of Experts to formulate a new  
Zonal Master Plan

- xiii. The Secretary, Ministry of Water Resources, through his report dated 31.12.2016 stated, that the State of Uttarakhand had no intention of implementing the Ecological Sensitive Zone Notification and he recommended that a separate body be constituted to formulate a new ZMP.

*"d. The government of Uttarakhand has time and again submitted their opposition to the notification and if the political leadership of a state is in opposition the administration will also echo the same. That the senior administrators in the state articulate the voice of the govt. over the notification/ environment conservation is evident from the actions of the state with respect to the formulation of ZMP.*

*j. The govt. of Uttarakhand clearly sees the notification as anti-developmental, and reads no scope for any alternate developmental model via the guidelines of the notification. The argument that development is limited to the implementation of the old developmental policies also needs a revisit. A fresh approach towards a holistic developmental model is a possibility that must be ventured for the sake of the larger vision of conservation of the National River.*

k. *The applicants in the case 80/2015 have submitted a set of comments on the ZMP and suggestions for improving livelihood opportunities alongside forest conservation and some of the suggestions like development of tourist eco villages, promotion of lateral movement of tourism rather than a linear movement, identification and protection of natural heritage sites and making each village energy self-reliant are commendable and easily implementable practices. It also strengthens the idea that if public consultation is done appropriately, perhaps a much refined ZMP can be formulated.*

l. *In order to successfully implement the notification, true to its letter and spirit, a holistic approach is required. While an independent expert body is required to formulate sustainable ZMP, a similar body is also required to monitor the implementation on ground.*

m. *An elaborate detailed ZMP should be formulated by an independent set of experts in a stipulated time period of 6 months which is inclusive of the required studies, is site specific and well integrated.*

n. *This expert body must be inclusive of experts from the field of hydrogeology, geology, climatology, an ecologist/ biodiversity expert, agronomist, horticulturist, wild-life expert, river engineer, glaciologist, seismologist, local representatives of Uttarakhand hills working in the field of environment, the Non-governmental members of the*

*already existing monitoring committee and adequate representation from central & State govt.*

*Conclusion:*

*Unfettered, unobstructed flow of Ganga is intrinsic to the goal of Ganga rejuvenation and revival. Keeping in mind the ecological services and the cultural significance of the Ganga Himalayan basin, the protection of the origin path of the National river Ganga is pivotal to the country. Considering that this is the last pristine and origin stretch of the Ganga, any developmental policy pertaining to this area must facilitate and promote the conservation of the stretch rather than exploiting the natural resources.*

*ESZ notification of 18.12.2012 is a visionary document for the conservation of this origin path of the Ganga but is only representative of the ecological sensitivity of the area. In consideration of the cultural significance of the river, this notification should in fact be read as a cultural-ecological sensitive zone, in order to fully understand the vision, requirement and means of conservation of the river Ganga."*

True Copy of Report dated 31.12.2016 by Ministry of Water Resource and Ganga Rejuvenation and 11 list of experts is annexed hereto and marked as Annexure A-5 (Pages 116 to Pages 140 )

- xiv. Subsequently a letter dated 7.8.2017 was submitted by the Central Government recommending the names of the experts which should

constitute the independent expert committee for formulation of new ZMP. Relevant part of this letter is herein:

*"In the matter of O.A. No. 80 of 2015 – Keshar Singh Panwar Vs Union of India Ors. Before the Hon'ble NGT (PB), New Delhi.*

*Sir,*

*1. During the course of hearing held on 26.07.2017 in the above cited subject matter, the Hon'ble Tribunal ordered that the Zonal Mater Plan (ZMP) of the Bhagirathi would be constituted by an Expert Body, notified by the Hon'ble Tribunal itself.*

*2. In this regards the NGT has asked the stakeholders including MoWR, RD&GR to give names of experts for consideration.*

*3. In the view of above, following is the list of the names of experts as approved by the competent authority for submission to the Hon'ble NGT to be considered as members of the Expert Body for finalization of the Zonal Master Plan (ZMP) of the Bhagirathi:*

*i. Dr. Ravi Chopra, Director, People's science Institute, Dehradun*

*ii. Dr. Navin Juyal, Geologist, National Physical laboratory, New Delhi*

- iii. *Dr. S. Sathya Kumar, Wildlife Expert, Wildlife Institute of India, Dehradun*
- iv. *Dr. Vinod Tare, Professor, IIT, Kanpur*
- v. *Prof. A.K.Gosain, Dept. of Civil Engineering, IIT, Delhi*
- vi. *Prof. Brij Gopal, Biodiversity Expert, University of Delhi*
- vii. *Dr. D.P. Dobhal, Glaciologist, Wadia Institute of Himalayan, Geology, Dehradun*
- viii. *Dr. Hemant Dhyani, Local Resident, Eco-Sensitive Zone, Uttarakhand*
- ix. *Shri Chandi Prasad Bhatt, Environmentalist, Uttarakhand*
- x. *Shri Jagat Singh 'Jangli', Local Resident of Uttarakhand*
- xi. *Dr. Sharad Kumar Jain, Director, National Institute of Hydrology, Roorkee*

*4. The above list may be submitted before the Hon'ble NGT (PB). This issue with the approval of the Competent Authority."*

True Copy of letter dated 7.8.2017 by Ministry of Water Resource and Ganga Rejuvenation and 11 list of experts is annexed hereto and marked as Annexure A-6 (Pages 141 to Pages 143)

NGT order dated 26.7.2017 constituting a 9 member Committee for making a new Zonal Master Plan

- xv. In view of that report and the letter National Green Tribunal made orders, *inter alia*, constituting a 9 member Committee for the formulation of the ZMP but the Additional Secretary of the State, the principal wrong doer was made the Chairperson. The relevant parts of the final order of the National Green Tribunal dated 26.07.2017 constituting the committee is set out herein:

*"In view of the joint request made and the fact that the plan prepared by the State of Uttarakhand has not been approved by the Ministry of Environment, Forest and Climate Change and the Ministry of Water Resources on the ground that the plan is not acceptable in the form as it has been submitted and also in regard to the notification.*

*We constitute the following:-*

- 1. Additional Chief Secretary, Environment and Forest, State of Uttarakhand - Chairperson.*
- 2. Director or his nominee, Wadia Institute of Himalayan Geology, Dehradun, Uttarakhand - Member.*
- 3. Dr. Vinod Tare, Professor in Indian Institute of Technology, Kanpur - Member.*

4. *Director or his nominee, National Institute of Hydrology, Roorkee - Member.*
5. *Representative of the Ministry of Environment, Forest and Climate Change, Regional Office of Dehradun Member.*
6. *Director or his nominee, Wildlife Institute of India, Dehradun Member.*
7. *Representative of Ministry of Water Resources, River Development & Ganga Rejuvenation (Joint Secretary level or above) Member.*
8. *Dr. A.B. Akolkar, Member Secretary, Central Pollution Control Board (in his personal capacity) Member.*
9. *Padma Shri Chandi Prasad Bhatt, Environmentalist, Uttarakhand Member.*

*In view of the above, we dispose of this application with the directions to the Committee to prepare and submit a report of the proposed plan. The said plan would be submitted for approval of Ministry of Environment, Forest and Climate Change/Ministry of Water Resources, which we hope would be granted without any undue delay on the part of the Ministry. The report submitted by the Committee shall also be placed before the Tribunal."*

True Copy of order dated 26.7.2017 passed by National Green Tribunal Principal bench at New Delhi in O.A. 151 of 2013 and O.A. 80 of 2015 is annexed hereto and marked as Annexure A-7 (Pages 144 to Pages 147 )

xvi. Appellants filed Review Petition No. 19 of 2017 stating therein that the Secretary appointed as Chairman was the principal wrong doer in the non-implementation of the Ecological Sensitive Zone Notification and sought changes in the composition of the NGT Committee. National Green Tribunal made an order including Dr. Ravi Chopra in the 9 Member Committee. Relevant part of order dated 23.10.2017 is herein:

*"We have heard the Learned Counsel appearing for the applicant at some length.*

*....However Dr. A.B. Akolkar former Member Secretary of CPCB has expressed his inability to be the member of the Committee. Consequently, we appoint Dr. Ravi Chopra, Director of People Science Institute, Dehradun to be the member in his place. Except to the above modification the Review Application stand disposed of.."*

True Copy of order dated 23.10.2017 passed by National Green Tribunal Principal bench at New Delhi in Review Application No. 19 of 2017 is annexed hereto and marked as Annexure A-8 (Pages 148 to Pages 149)

Civil Appeal No. 2366-2367 of 2018 in the Supreme Court

seeking change in the Committee

xvii. Subsequently, Appellants moved to this Hon'ble Court through Civil Appeal No 2366-2367 of 2018, to seek a change of the Chairman,

the principal wrong-doer, knowing fully well that the state government will again work against the implementation of the notification.

NGT Committee Members reject the  
draft Zonal Master Plan in June/July 2018

xviii. Meanwhile a new draft of the Zonal Master Plan was prepared, which was not in compliance with the Ecological Sensitive Zone notification and was objected to by several of the NGT appointed Committee members. No committee member gave its consent or signed the draft prepared by the State of Uttarakhand. Relevant parts of the comments on draft Zonal Master Plan of NGT Committee members are set out herein:

*"Comments of Dr. Ravi Chopra, Director People Science*

*Ensuring ecological and livelihood security through a participatory development approach was meant to be the core of the ZMP. Such a Plan could have served as a model for developing many parts of the Indian Himalayan Region (IHR). The final ZMP draft presented by the Uttarakhand state officials to the committee represents a missed opportunity. It does little to ensure or enhance ecological and livelihood security in the BESZ.*

*The final draft thus deviates substantially from the letter and spirit of the guidelines given in the December 2012*

BESZ Gazette Notification (and amended in April 2018). It remains largely faithful to the rejected ZMP of October 2016. It lacks an integrated approach, as desired by the Union Ministries. Based on the foregoing it is not possible to accept the draft ZMP in the form presented."

*Dr Vinod Tare*

*Professor and Founding Head, CGanga Environmental Engineering and Management Programme Department of Civil Engineering IIT Kanpur*

*I have gone through the minutes, latest version of ZMP and the comments sent by Dr Ravi Chopra. I would like to emphatically state that most important suggestions made and communicated in writing by various members could not be seriously considered and discussed in the meetings of the committee despite several submissions and requests by the members. Much of the committee time was used for presentation of material prepared by various departments.*

*I have the same opinion regarding the proceedings of the committee meetings as narrated by Dr Ravi Chopra in his notes. The present version of ZMP packages project reports prepared by various departments and emphasizes on modifying the Eco Sensitive Zone (ESZ) Notification rather than realizing the spirit of the same.*

*I once again request that a meeting of only committee members be arranged and the present version of ZMP be*

*reviewed and modified. Otherwise, it is not in order to state that the ZMP is endorsed by the committee.*

*Dr. Pradeep Srivastava Scientist, Wadia Institute of Himalaya Geology.*

*I fully agree with Prof. Tare and all the updates/corrections provided by Dr Chopra. The committee should have met atleast once independently that never happened.*

*I kept on raising that the zone upstream of Uttarkashi and similar zone laterally in all the valleys are vulnerable to slope failures. This zone has the steepest rise in topography, steep slopes and receives focused rainfall which brought together increases vulnerabilities multifold. This is declared as ecozone and our the committee's job is to see how all the elements of an ecozone are kept intact.*

*I will again suggest that report should see that our recommendations include (i) no dam construction in the ecozone (ii) road widening should have a feasibility study that disturbs the slope least and in special cases alternative ways should be searched (iii) tourism should be regulated in away that Government structure should be able to take responsibilities of any causalities therefore carrying capacity, in terms of tourism, of such zones should be studied and the data be used in formulating any policy."*

True Copy of Comments of Dr. Ravi Chopra, Director People Science dated 11.6.2018 is annexed hereto and marked as Annexure A-9 (Pages 150 to Pages 192 )

True Copy of e-mail dated 16.7.2018 by Dr. Vinod Tare and Dr. Pradip. Srivastav on NGT Constituted Committee for ZMP of Bhagirathi Eco Sensitive Zone is annexed hereto and marked as Annexure A-10 (Pages 193 to Pages 198 )

Misleading submissions in this Hon'ble Court

on behalf of the State

- xix. The above objections were, however, not brought to the notice of this Hon'ble Court while hearing the Civil Appeal of the Appellants . Rather it was projected by the State that the Zonal Master Plan formulation process had been completed and therefore this Hon'ble Court recorded the submission made by the State as under:

*"Learned counsel for the respondents submits that the Committee had completed its task and had prepared draft master plan and, therefore, at this stage, no purpose would be served in changing the composition of the Committee."*

- xx. This was a patently false statement designed to mislead because the members of the NGT Committee mandated to finalise the Zonal Master Plan has written to the Chairperson of the Committee stating that they were not in agreement with the said Zonal Master Plan. This fact was also not disclosed to this Hon'ble Court.

Order dated 13.7.2018 passed by this Hon'ble Court  
ordering scrutiny by 11 member Committee

xxi. This Hon'ble Court directed that the Zonal Master Plan should be scrutinized by the 11-member Expert body whom the Ministry of Water Resource had recommended in an affidavit filed before NGT. It was also directed that the scrutiny would be facilitated by the Ministry of Water Resource. Relevant part of the order dated 13.7.2018 is set out herein:

*" In these appeals filed by the appellants there is a challenge to the order dated 23.10.2017 passed by the National Green Tribunal (hereinafter referred to as 'NGT'). The said order is passed in certain miscellaneous applications filed in O.A. No. 151 of 2013 and O.A. No. 80 of 2015. In those applications prayer was made before the NGT for constituting the Committee by the NGT for preparing the Zonal Master Plan in relation to the State of Uttarakhand under the Notification dated 18.12.2012.*

*The NGT constituted the Committee of 9 persons. The Chairperson of the Committee, as per the aforesaid order, is the Additional Chief Secretary, Environment and Forest, State of Uttarakhand.*

*The limited grievance of the appellants was about the composition of the said Committee and particularly, on the appointment of the Additional Chief Secretary, Environment and Forest, State of Uttarakhand as the Chairperson. It is the submission of the appellants that he is the principal wrong doer because of which the appellants have filed the original applications before the NGT and, therefore, such a person should not have been made the Chairperson of the Committee.*

*Notice was issued limited to the aforesaid grievance. Learned counsel for the respondents submits that the Committee had completed its task and had prepared draft master plan and, therefore, at this stage, no purpose would be served in changing the composition of the Committee.*

*We find that while constituting the aforesaid Committee, the NGT in the impugned order had also given the direction that any such plan that would be prepared by the Committee shall be submitted for approval by the Ministry of Environment, Forest and Climate Change/Ministry of Water Resources and the report of the Committee shall also be placed before the NGT. Thus, the plan has to be approved by the Ministry of Environment, Forest and Climate Change as well as the Ministry of Water Resources.*

*Mr. Colin Gonsalves, learned senior counsel appearing for the appellants submits that insofar as the Ministry of Water*

40

*Resources, River Development & Ganga Rejuvenation is concerned, this Ministry had itself suggested the names of certain persons. We find from the record that the names of such persons are mentioned at page 144 in the letter dated 07.08.2017. As per the order of the NGT, approval of the Ministry of Water Resources is also required. It would be in the fitness of things that the aforesaid draft plan which had been prepared by the Committee is looked into and scrutinized by the persons mentioned in the letter dated 07.08.2017. While considering the issue of approval, the Ministry of Water Resources shall have the same scrutinized from among the persons who were suggested by the Ministry itself. Appeals stand disposed of with these directions.*

True Copy of order dated 13.7.2018 passed by Supreme Court in Civil Appeal No 2366-2367 of 2018 is annexed hereto and marked as Annexure A-11 (Pages 199 to Pages 203 )

Draft ZMP rejected by 9 members NGT Committee and without seeking scrutiny of 11 members Committee submitted for approval by the State

- xxii. On 27.9.2018, Secretary, Forest, Uttarakhand Govt, by letter dated 27.9.18 submitted the draft document in the name of Zonal Master Plan for approval by Ministry of Environment and Forest and Climate Change. This draft does not have consent or signatures of the committee members appointed by this Tribunal on 26.07.2017. This

was the same draft which was to be scrutinized as per Supreme Court's order dated 13.07.2018. Relevant part of the letter dated 27.9.2018 is set out herein:

*"From  
Secretary Government of Uttarakhand  
To  
Secretary  
Government of India  
Ministry of Environment, Forests and Climate Change*

*Date 27 September 2018*

*Sub: Submission of Zonal Master Plan of Bhagirathi Eco Sensitive Zone (BESZ) reg,*

- 1. Kindly refer to the order of Hon'ble National Green Tribunal dated 26.7.2017 in O.A. 151 of 2013 and O.A. 80 of 2015 wherein a committee was constituted to prepare Zonal Master Plan of Bhagirathi Eco-Sensitive Zone in relation to State of Uttarakhand*
- 2. In compliance of the above said order of the Hon'ble NGT committee has prepared the Zonal Master Plan. In this regard two sets of the Zonal Master Plan for Bhagirathi Eco-sensitive Zone, prepared by the aforesaid committee, is being submitted for your kind perusal and approval"*

True Copy of letter dated 27.9.2018 by the Secretary, State of Uttarakhand is annexed hereto and marked as Annexure A-12 (Pages \_\_\_\_\_ to Pages 204)

11 member Committee views sought as a formality

After Draft Zonal Master Plan was submitted by the State

Only E-mail called for, Not a single meeting called,

No consultation done

xxiii. Instead of calling for a meeting of the 11 Experts whom this Hon'ble Court had in its order dated 13.7.2018 directed a fresh scrutiny to be done by, the MoWR & GR does not call for a meeting and a formal scrutiny and is in breach of the said order of this Hon'ble Court. Instead, as a formality, a letter is sent by the MOWR&GR to the 11 members for their comments on a voluminous document contained in the ZMP. Relevant part of the letter dated 12.10.2018 is set out herein:

*"Ministry of Water Resources, River Development & Ganga Rejuvenation*

*12th October, 2018*

*Sub:- Zonal Master Plan (ZMP) for Bhagirathi Eco-Sensitive Zone reg.*

*Sir,*

*Kind attention is invited to the order of Hon'ble Supreme Court dated 13.07.2018 (copy enclosed) in Civil Appeal No (S). 2366-2367/2018 in the matter of Keshar Singh Panwar & Ors. Vs. Union of India & Ors wherein the Ministry of Water Resources, River Development & Ganga Rejuvenation has been directed to have the Zonal Master Plan for Bhagirathi Eco-sensitive Zone scrutinized from the persons suggested by the Ministry vide letter dated 07.08.2017 (copy enclosed).*

*2. A copy of the revised Zonal Master Plan for Bhagirathi Eco-sensitive Zone, received from the Government of Uttarakhand recently is being e-mailed separately.*

*3. It is requested to kindly scrutinize the Zonal Master Plan for Bhagirathi Eco- Sensitive Zone prepared by the Government of Uttarakhand and furnish your comments thereon within 15 days."*

True Copy of letter dated 12.10.2018 by Ministry of Water Resources, River Development & Ganga Rejuvenation is annexed hereto and marked as Annexure A-13 (Pages 205 to Pages 206 )

- xxiv. It is reiterated that the views of the Experts was called for after the ZMP drafted by the State by bypassing the experts was submitted to the MoEF by the State Government.
- xxv. Even after receiving the views of the experts there is not a single word changed in the ZMP submitted to MoEF by the state government on 27.9.18. This means that the views of the experts were completely ignored. This is apart from the fact that merely asking for emails is not what this Hon'ble Court envisaged in its order dated 13.7.18. What was envisaged was that the Ministry of Water Resources would call for a meeting and facilitate the collective scrutiny of the ZMP (II) by the experts so that they could formulate their stand in respect thereof. All this has been frustrated by the malafide conduct of the State.

Request made to Ministry of Water Resource

for summoning meetings, ignored

No Scrutiny allowed

- xxvi. On behalf of the experts, Shri Hemant Dhyani, requested for a meeting for scrutinizing the ZMP:

*"..a meeting is needed to first discuss the various aspects related to the fundamental participatory framework of ZMP. Local self governing bodies (panchayats) should be*

*made aware and strengthened for proper implementation of schemes.....Therefore, first and foremost, framework of the ZMP along with vision, objectives of each and every chapter with their boundary conditions needs to be discussed and finalized...."*

True Copy of e-mail dated 1.8.2020 received by the Applicant No.1 on Requesting comments to ZMP is annexed hereto and marked as Annexure A-14 (Pages 201 to Pages 221 )

- xxvii. Appellants also spoke many times with concerned officials of the State and experts for update on progress about the ZMP but it was told that no meeting was called by the MoWR. Last year the Appellant No. 1 wrote a letter dated 19.8.19 to the Secretary with disappointment and requested for timely and proper compliance but the same was unheard. Relevant part is set out herein:

*"It should be noted that on 13 July 2018, the Honorable Supreme Court gave its decision on the appeal filed by me. In this, you were directed that the 11-member committee proposed by you on 07.08.2017 to examine the Master Plan of Bhagirathi Eco Zone prepared under the Chairmanship of the State of Uttarakhand. It has been over a year, but no information / update of the master plan has come to public either through newspapers nor by any other means. In the meantime, some members of this committee were contacted by me, and it was found that not a single meeting of the committee has been called by you so far.*

*It may be known that the state government has always been negative about the eco-sensitive zone and its master plan, due to which I had to go to the court. There has been about 7 years since 2012 notification, but there is no master plan on the ground. As a result, there is no solution to the problem of random road construction, dumping of debris, disposal of waste. On the other hand, indiscriminate heavy construction, mechanical activities, mining / crushing, expansion of municipalities are going on arbitrarily. The monitoring committee is also almost non-existent. Now within the Gangotri National Park, which is also an eco zone and home to snow leopard, there is a plan to install stone crusher. Taking cognizance of my letter, please take steps of proceeding with the master plan immediately. It will be completed by getting it examined by an independent body. I sincerely hope that you will take this step in the interest of Mother Ganga soon and will not force me to go to court again. Thank you .*

True Copy of letter dated 19.8.2019 written by the Appellant is annexed hereto and marked as Annexure A-15 (Pages      to Pages 222 )

Order dated 13.7.2018 passed by this Hon'ble Court

mandating scrutiny disobeyed

xxviii. That the Ministry of Environment and Forests approved the submission by the State of Uttarakhand in the name of Zonal Master

Plan on 16.7.20 without complying with the final orders of this Hon'ble Court as well as National Green Tribunal. This approval was not known to members of the Expert Committee until a newspaper report appeared on 17.7.20.

41<sup>st</sup> meeting of the MoEF made recommendations for approval of the ZMP without calling the experts for the meeting.

Illegal Approval of the ZMP on 16.7.20  
without calling the experts for the meeting  
without scrutiny

xxix. MoEF approved the Zonal Master Plan without either calling the 11 Expert Members referred to by this Hon'ble Court or even making a single comment in respect of any of the responses above set out. The MoEF & CC without application of mind granted approval on 16.7.2020. This so called "approved ZMP" was uploaded on 25.7.2020 by MoEF&CC on its website. Relevant part is set out herein:

"In a review meeting of Chaardham Road Project in the State of Uttarakhand via Video Conferencing, Union Environment Minister..... informed that the Zonal Master Plan (ZMP) prepared by the Government of Uttarakhand and appraised by the Ministry of Jal Shakti, has been accorded approval by

the Ministry of Environment Forest and Climate Change (MOEF & CC) on 16<sup>th</sup> July 2020”

True Copy of Approval accorded to Zonal Master Plan of Bhagirathi Eco Sensitive Zone as released on Press Information Bureau Government of India dated 17.7.2020 is annexed hereto and marked as Annexure A-16 (Pages 223 to Pages 224)

- xxx. The representatives of the MoWR who were mandated to be present for approval of the Zonal Master Plan vide order of this Hon'ble Court dated 13.7.18 were not present and were not informed by the MoEF of the holding of this meeting.
- xxxi. Relevant parts of the Minutes of 41<sup>st</sup> ESZ Expert Committee Meeting dated 23/24.6.20 for the Declaration of Eco Sensitive Zone (ESZ) Around Protected Areas (Wildlife Sanctuaries/ National Parks/Tiger Reserves) & Zonal Master Plan (ZMP) through video conferencing held on 23<sup>rd</sup> June to 24<sup>th</sup> June 2020 is as under:

*"The draft ZMP submitted by the State Government incorporating amendments/recommendations of the aforesaid Committee (constituted by Hon'ble NGT) was discussed during the 34th meeting of the Expert Committee on ESZ held on 06th March 2019. During the meeting, Committee deferred the proposal for want of compliances/approval from MoWR, RD & GR on the issues related water management in catchment area Ministry of*

*Jal Shakti in March 2020 has scrutinised the ZMP and concurred.*

*Based on the presentation made and discussions held, Committee recommended the approval of the ZMP subject to following Conditions for strict compliance by the State Government:*

- i. State has to strictly comply the provisions of ESZ notification for Bhagirathi river specifically given under Prohibited and regulated activities.*
- ii. State has to fulfil and comply the suggested points and remarks made by Department of WR, RD&GR, Jal Shakti including maintaining the e-flow of the Bhagirathi River.*
- iii. Regarding demarcating all the existing village settlements, types & kinds of forests, agricultural areas, fertile lands, green areas, horticultural areas, orchards, lakes, natural heritage sites and water bodies, the clearer map on demarcation of all these features need to be generated so called as Base Map. Further, as agreed by Govt of Uttrakhand as given in the concurrence report of MoJal Shakti, the Geo-morphological & Geological map shall be drawn at micro level planning.*
- iv. Regarding conservation, protection and management of natural springs, water bodies including drying up springs, the ZMP shall be extended to prepare the micro level planning, which shall demarcate the catchment area of each stream in catchment of Bhagirathi river, particularly dried up stream. A dedicated micro level plan should also*

*be drawn for rejuvenation of streams and it shall become part of ZMP.*

*v. A comprehensive long term plan for conservation on natural boundaries of river bank needs to be drawn by State apart from retaining wall construction and in view of disaster management situation.*

*vi. With regard tourism activities, ZMP shall be extended for finalization of comprehensive long term Eco-Tourism Master Plan and activities shall not be beyond the carrying capacity of catchment area. Tourism Master Plan shall be prepared as per the guidelines of Ministry of Tourism, and shall be followed strictly. In this regard, State Government shall submit its concurrence to MoEF&CC on the Eco-Tourism Master Plan, which is meeting the requirement of ESZ*

*notification as well as fulfilling the carrying capacity of tourist/pilgrims.*

*vii. No expansion/activities shall be performed above and beyond the carrying capacity of the catchment area.*

*Zonal Master Plan for Baghirathi Ecosensitive Area  
Uttarakhand*

*Recommended for approval of the Zonal Master Plan of BESZ subject to conditions to be fulfilled by the State Govt."*

True Copy of Minutes of 41<sup>st</sup> ESZ Expert Committee Meeting dated 23/24.6.20 for the Declaration of Eco Sensitive Zone (ESZ) Around Protected Areas (Wildlife Sanctuaries/ National Parks/Tiger Reserves) &

Zonal Master Plan (ZMP) through video conferencing held on 23<sup>rd</sup> June to 24<sup>th</sup> June 2020 is annexed hereto and marked as Annexure A-17 (Pages 225 to Pages 252)

True Copy of Minutes of 34th ESZ Expert Committee Meeting for the Declaration of Eco-Sensitive Zone (ESZ) Around Wildlife Sanctuaries/National Parks held on 6.3.2019 in the Ministry of Environment, Forest and Climate Change is annexed hereto and marked as Annexure A-18 (Pages 253 to Pages 274)

xxxii. Even for this videoconferencing meeting the experts were not informed.

xxxiii. Thus it can be seen that despite the Supreme Court order dated 13.7.18 the 11 Member Expert Committee were excluded from the deliberations and scrutiny of the ZMP submitted by the State, were excluded from the meetings when the recommendation was made for approval and finally were once again excluded when the approval was granted.

8 out of 11 Experts protest the approval

xxxiv. In view of the above disobedience of the order of this Hon'ble Court dated 13.7.2018 and total exclusion from the decision making process, 8 expert members of the scrutiny group including 3 independent expert members of the NGT committee, write a letter to the Secretary - MOEF&CC and MoWR&GR, categorically stating

that the ZMP that has been approved totally illegally. This letter dated 8.8.2020 is at Annexure A-19 and the relevant part is as under

"To,

1. *The Secretary,*

*Ministry of Jal Shakti and Ganga Rejuvenation (Formerly MoWR&GR)*

*Shram Shakti Bhawan, Rafi Marg, New Delhi*

2. *The Secretary,*

*Ministry of Environment Forests and Climate Change*

*Indira Paryavaran Bhawan, Jor Bagh, New Delhi*

*Subject: Regarding 'approved' Zonal Master Plan (ZMP) of Bhagirathi Eco Sensitive Zone.*

*Dear Sirs,*

*This is with reference to the order of the Hon'ble NGT dated 26.7.2017 in OA No. 80 of 2015 under which a committee had been appointed by the NGT for the preparation of the ZMP. Later on Hon'ble Supreme Court in an order dated 13.7.2018 in the Civil Appeal No. 2366-2367/2018 directed MoWR&GR to get the draft zonal master plan, scrutinized by an 11 member expert group.*

*We the undersigned, are part of the Supreme Court appointed scrutiny group and/or part of the NGT appointed committee (as detailed below). Four of the undersigned NGT committee members were also part of the 11-member scrutiny group. We hereby clarify the following:*

1. That most of the suggestions, comments, recommendations of the members of the NGT committee were not considered and incorporated in the ZMP submitted for approval. The same was never presented to them for their consent or signature.

2. That the approved ZMP which has been recently uploaded to the website of the MoEF&CC at <http://moef.gov.in/rules-and-regulations/esa-notifications/> is the same old draft with which the undersigned had shown disapproval and given numerous written suggestions for improvements and rectification.

3. That the MoWR&GR did not convene any meeting of the Supreme Court appointed scrutiny group formed through the order dated 13.07.2018. It has not been scrutinized by the scrutiny group members sitting together and reviewing the draft ZMP.

4. That the suggestions, comments, recommendations of the members of the Supreme Court appointed scrutiny group, were also not considered and incorporated in the ZMP and the ZMP was given final approval by the MoEF&CC on 16.07.2020 without due scrutiny.

Among many examples, we would like to bring a few to your notice where major concerns raised by us were completely ignored in the 'approved' ZMP.

i. The NGT committee members repeatedly reminded the officials of Govt. of Uttarakhand (GoU) that according to the BESZ notification (Para 2.1), the ZMP was to be

*prepared "in consultation with local people particularly women". This was not done. The draft ZMP was not translated in Hindi and therefore was never put before the Panchayats and locals of the area for their comments and suggestions before finalization. We therefore had no inputs from locals and panchayats of the area for whom this ZMP was being prepared. Hence, the ZMP submitted for approval violates the letter and spirit of the BESZ notification.*

*ii. The ZMP which is approved is the same of two year old on which some of the undersigned categorically stated and concluded as follows:*

*a. "The present version of ZMP packages project reports prepared by various departments and emphasizes on modifying the Eco Sensitive Zone (ESZ) Notification rather than realizing the spirit of the same. I once again request that a meeting of only committee members be arranged and the present version of ZMP be reviewed and modified. Otherwise, it is not in order to state that the ZMP is endorsed by the committee....- Dr Vinod Tare"*

*b. "The draft ZMP still remains largely faithful to the rejected ZMP of October 2016. It lacks an integrated approach, as desired by the Union Ministries. Based on the foregoing it is not possible to accept the present ZMP draft....- Dr Ravi Chopra"*

*c. "I fully agree with Prof. Tare and all the updates/corrections provided by Dr Chopra. The committee*

*should have met atleast once independently that never happened. I kept on raising that the zone upstream of Uttarkashi and similar zone laterally in all the valleys are vulnerable to slope failures. This zone has the steepest rise in topography, steep slopes and receives focused rainfall which brought together increases vulnerabilities multifold. This is declared as ecozone and our the committees job is to see how all the elements of an ecozone are kept intact.....- Dr Pradeep Srivastava"*

*d. "The most important rural development chapter, which should actually integrate all other chapters with participatory plans including local community and hence should project the vision of Gram-Swaraj and equitable development, seems most poor and neglected. In my view a meeting is needed to first discuss the various aspects related to the fundamental participatory framework of ZMP. Local self governing bodies (panchayats) should be made aware and strengthened for proper implementation of schemes....- Dr Hemant Dhyani"*

*iii. The scrutiny group members also wrote to MoWR&GR that the draft ZMP is essentially a compilation of departmental proposals mainly based on current schemes and therefore the same cannot be accepted. This should be a people's plan not departmental. Therefore, first and foremost, framework of the ZMP along with vision, objectives of each and every chapter with their boundary conditions needs to be discussed and finalized. However,*

*the draft ZMP was not revised accordingly and this fundamental issue thus remained unaddressed.*

*iv. In order to comply the Para 3 b (xiii) of the notification, the ZMP should ensure the E- flow and it's monitoring from the existing Maneri Bhali I and II hydro-electric power projects. But the same was not complied with in spite of the special notification issued for river Ganga by MoWR&GR in November 2018 and concern raised by the undersigned.*

*v. The BESZ notification gives primary concern to the change of land use from green areas to non-green uses (Para 2.12 and 2.14). Yet the GoU has gone ahead with a proposal to expand the Barahat Nagar Palika area which will lead to massive land use conversion. Para 2.13 of the notification says, "All the human habitation areas with population of 5000 and above shall have Area Development Plan and shall be prepared under the guidance of local self Government". The NGT committee members have received representations from the 16 village panchayats that have been merged with Nagar Palika Uttarkashi that the action has been taken without any public consultations. This is also in violation of the BESZ notification.*

*Furthermore, to comply with the spirit of the BESZ notification (with special reference to para 2.1, 2.8, 2.12, 2.13), the undersigned raised their concerns about the land use change, local participation and scope for panchayats and municipality for delegating them the responsibility of developmental schemes through a participatory manner. This crucial part is completely unaddressed.*

vi. On the very crucial aspect of the carrying capacity study (in compliance of Para 2.18), members categorically commented that, "Carrying capacity in terms of the critical geographical and topographical limitations, the overall fragility of the area due to its unique terrain; ecology and environmental impacts, has not been considered" But it was not addressed and remains unchanged in approved ZMP.

vii. In view of Para 2.16 (protection of hill slopes) and 2.19 (hill roads) of the notification, on a critical plan of Highway widening the undersigned commented that, "Plan of widening of NH (Gangotri Highway) is not included. It was brought on record by MoRTH in NGT that 12,995 trees will be felled in Eco Sensitive Zone.

Almost 6000 trees are Devdar which will be felled between Gangotri to Jhala. The disaster management plan has given a detail list of about 40 active landslide sites on this NH route. This work needs to be discussed in detail on the basis of local requirement and limitations of the terrain." But the same was not addressed and remains unchanged in approved ZMP.

viii. Para 2.17 of the notification recommends identification and rejuvenation of natural springs in the BESZ. Despite repeated reminders by NGT committee members, no special plans have been included for same.

Therefore, the undersigned, who were entrusted with this task by the Hon'ble Supreme Court and by the Hon'ble

58

*NGT, hereby declare that the abovementioned 'approved ZMP' does not have our consent or approval, nor does it consist of our scrutiny. Therefore, the undersigned, despite their best efforts deeply regret that the current ZMP is a flawed document which is not in consonance with the ESZ notification.*

Shri Chandni Prasad Bhatt	Member of Scrutiny Group and NGT Committee	Sd/-
Dr. Ravi Chopra	Member of Scrutiny Group and NGT Committee	Sd/-
Dr. Pradeep Srivastava	Member of the NGT Committee	Sd/-
Prof. A.K. Gosain	Member of Scrutiny Group	Sd/-
Dr. D.P. Dobhal	Member of Scrutiny Group	Sd/-
Shri Jagat Singh 'Jangli'	Member of Scrutiny Group	Sd/-
Dr. Navin Juyal	Member of Scrutiny Group	Sd/-
Prof. Brij Gopal	Member of Scrutiny Group	Sd/-
Dr. Hemant Dhyani	Member of Scrutiny Group	Sd/-

True Copy of letter dated 8.8.2020 sent by e-mail Regarding 'approved' Zonal Master Plan (ZMP) of Bhagirathi Eco Sensitive Zone by the experts is annexed hereto and marked as Annexure A-19 (Pages 275 to Pages 278 )

## Monitoring Committee bypassed

xxxv. Ecological Sensitive Zone notification provides for constitution of a monitoring committee for monitoring the activities in the Ecological Sensitive Zone notification area. Relevant parts are herein:

*"4.1 A committee to be called the Monitoring Committee to monitor the compliance with the provisions of this notification is hereby constituted, in exercise of the powers conferred by sub section (3) of the Section 3 of the Environment Protection Act, 1986.*

*2.9 Pending the preparation of the Zonal Master Plan for the Eco-sensitive Zone and approval thereof by the Ministry of Environment and Forests all new constructions and other developmental activities shall be referred to the Ministry of Environment and Forests by the Monitoring Committee as per sub-para (4) of paragraph 4 of the notification."*

*2.18 (v) Till the Zonal Master Plan is approved, development for tourism and expansion of existing tourism activities shall be permitted by the Monitoring Committee only after a detailed examination and shall subject to the guidelines laid down by the State Government and the Central Government in this regard.*

*2.3 (b) xvi: Pending the preparation of the Zonal master plan and its approval by the Ministry of Environment and Forests, the Monitoring Committee shall have powers to regulate traffic within the Eco-sensitive Zone."*

### State sabotaged the functioning of the Monitoring Committee

xxxvi. As per the Ecological Sensitive Zone notification, Monitoring Committee was required to meet quarterly. However, the Monitoring Committee, under the Chairmanship of the Chief-secretary of the State of Uttarakhand isn't allowed to function. It is to be noted that the State of Uttarakhand has not convened the monitoring Committee's meeting since January 2019. Not a single site visit of the members has been organized since the formulation of the Committee. Such sabotaging of the functioning of the Committee is allowing the State to engage in violation after violation of the ESZ notification.

### Ongoing ESZ Violations

xxxvii. In absence of the monitoring committee and lack of ZMP, there have been several violations of the ESZ guidelines in terms of illegal hill cutting, muck dumping, damaging forest area, change of land use etc. Mandatory procedures and approval of the monitoring committee has been bypassed and projects have been permitted/ cleared illegally. Few examples of blatant violation due to non-functioning of the Monitoring Committee and absence of ZMP are as follows:

xxxviii. Illegal muck dumping due to road widening activities for which this Hon'ble tribunal in OA No. 100 of 2017 directed the implementing agency for restoration of the affected area. Due to the intervention of this Hon'ble Tribunal, State Forest Department thereafter fined the implementing agency, the summary extract of which from the record of OA. No 100 of 2017 is mentioned below.

S. No.	Road Stretch	Description of illegality/Blunders and poor quality work	Reference document
1.	NH-108 (inside BESZ) Varsu bend to Gangnani(Kms 57 to kms 69)	Muck dumped off the road in Tihar forest compartment no. 7 resulting in damage to trees and vegetation.	Violation of G.O. of land transfer dated 07.04.2017. Letter of forest department.
2.	Bhaironghati to Gangotri (116 kms to 124 kms)	Damage caused to deodar &Kail trees due to illegal muck dumping.	Letter dated 12.05.2017 of forest department with total fine of Rs. 6,09,050/- has been imposed.
3.	Gangotri Forest compartment no. 5A & 3A	Illegal dumping of muck off the road in Gangotri Forest compartment no. 5A & 3A resulting in damage to trees and vegetation.	Violation of G.O. of land transfer dated 07.04.2017. letter of forest department.
4.	Bhaironghati to Gangotri – (116 kms to 124 kms) Gangotri Forest Range	Road widening work has resulted in damage to 11 trees of Deodar &Kail.	Total fine of Rs. 46,420/- imposed on BRO.

62

5.	Bhaironghati to Gangotri – (116 kms to 124 kms) Gangotri Block – Compartment Nos. 3, 4, 5 & 6	Illegal dumping of muck off the road resulting in damage to 60 Deodar trees and vegetation.	Total fine of Rs. 1,11,800/- has been imposed on BRO by forest department.
6.	Bhaironghati to Gangotri – (116 kms to 124 kms) Gangotri Range	Illegal dumping of muck off the road resulting in damage to 28 Deodar trees and vegetation.	Total fine of Rs. 2,31,240/- has been imposed by forest department.
7.	Bhaironghati to Gangotri – (116 kms to 124 kms)	Rock blasting and Illegal dumping of muck/boulders off the road resulting in damage to 116 deodar trees and vegetation.	Total fine of Rs. 3,08,590/- has been imposed on BRO by forest department.
8.	Bhaironghati to Gangotri – (116 kms to 124 kms) – Gangotri Block	Uncontrolled rock blasting and Illegal dumping of muck/boulders off the road resulting in damage to 114 deodar trees and	Violation of G.O. dated 03.06.2010. and total fine of Rs. 48,97,234/- has been imposed.

	compartment nos. 3A, 4A, 5A & 6A	6.10 Ha. of forest land.	
9.	Varsu bend to Gangnani – (55 kms to 68kms) Tihar Compartment No. 7	Uncontrolled rock blasting and Illegal dumping of muck/boulders off the road resulting in damage to 5Chir trees and 0.69 Ha. of forest land.	22.05.2017 at page 292 / total fine of Rs. 4,58,142/- has been imposed. Violation of G.O. dated 03.06.2010.
		Finally Hon'ble NGT took cognizance and directed BRO to remove the muck from affected forest areas.	NGT order of July 2017 in OA No. 100/2017.

**Massive change of land use from green to non-green**

xxxix. Para 2.12 of the BESZ notification reads as follows;

*"No change of land use from green uses such as horticulture areas, agriculture, tea gardens, parks and others like places to non green uses shall be permitted in the Zonal Master Plan, except that strictly limited conversion of such lands may be permitted to meet the local needs including civic amenities and other infrastructure development in larger*

*public interest and national security with the prior approval of State Government with due study of Environmental Impacts and complying with their mitigation options and subject to finalisation of Zonal Master Plan."*

The spirit of the notification lies in maintaining the green cover of the area. As per the above clause environmental impact study with due mitigation measures is required for strict land use conversion. However, there are several activities of land use conversion are running in the area without having any environmental impact study or long term plan for maintaining the green cover. One such example is the merging of village panchayat areas into the Barahat municipality despite vehement opposition of panchayats. This act merges the panchayat area which also includes civil forest area of panchayats into the municipal area for expansion of the township. This was done in spite of vehement opposition of the village panchayats. Comments of the NGT committee expert members on this act are also recorded as follows;

*"The NGT committee members have received representations from the 16 village panchayats that have been merged with Nagar Palika Uttarkashi that the action has been taken without any public consultations. This is also in violation of the BESZ notification."*

Despite, the plan was approved in violation of clause 2.12, 2.13 and 2.14 of the BESZ notification.

### Illegal dumping of solid waste into National River Ganga

- xl. Dumping of solid waste and bio-medical waste directly into the river Ganga and other water bodies in the BESZ area is continuing till date. The clauses 2.3 b (xiv) of the BESZ notification which gives various guidelines and direction to make a proper plan for dealing with Solid Wastes has yet not been complied with. Few photographs of illegal dumping of solid waste in the forest area and in immediate proximity of river Ganga is annexed hereto.

True Copy of the photographs showing illegal dumping is annexed hereto and marked as Annexure A-20 (Pages 279 to Pages 280)

### Various ongoing damaging activities

- xli. Various other construction activities like mining, crushing, blasting, forest cutting are going on without due approval or monitoring by the monitoring committee. Examples in which the forest clearance was granted by the MoEF&CC in violation of the BESZ notification is well documented. Here the violation of clause 2.9 of BESZ is established and MoEF&CC had to issue directions to stop the construction of the project. All this is happening due to defunct Monitoring Committee and lack of proper ZMP.

4. Grounds:

- a. Because, in an action, which did not follow the due process and was perhaps in contempt of court, the Union of India proceeded as follows:
- i. The State of Uttarakhand did not complete the process of preparing the ZMP as per the order dated 26.07.2017 of this Tribunal. No ZMP was approved or signed by the NGT committee members. The State overruled the authority of the NGT committee and submitted an unauthorized draft in the name of ZMP before this Hon'ble Court as well as to MoEF&CC for the approval.
  - ii. The Ministry of Environment and Forests and Climate Change considered the unauthorized draft (signed and consented by none of the expert members) submitted by the State of Uttarakhand, displaced the Ministry of Water Resources from the entire scrutiny process contrary to the order of this Hon'ble Court dated 13.7.18.

- iii. The Ministry of Water Resources took no steps to call for a meeting for the scrutiny of the ZMP submitted, despite the order of this Hon'ble Court.
- iv. No meeting of the 11 experts for the scrutiny was called by either by MoWR&GR or by the Ministry of Environment and Forests and the comments/suggestions of the experts were not considered and incorporated.
- v. By way of a formality and a pretence of compliance, the members were told to send their comments over emails to the MoWR. It appears that many of them did so, strongly criticizing the ZMP and also requested for a meeting to be convened for collective and appropriate scrutiny, to which no response was received.
- vi. Without any scrutiny by the 11 experts the MoEF & CC approved the ZMP without even a single line considering the views of the 11 experts, as was communicated over respective emails.
- vii. Even within the government when the decision of approval was taken MoWR & GR was excluded from

the meeting. Not only is it unjustified, considering that this is the only pristine stretch of the river Ganga and therefore the concerned ministry responsible for Ganga rejuvenation is required to participate, but also absolute non-compliance of the orders of National Green Tribunal dated 26.07.2017 and this Hon'ble Court dated 13.07.2018.

- b. Because NGT while deciding the matter through its order dated 11.11.2020, on one hand acknowledges the facts and sequence of events as mentioned above in this appeal but on other side it ignores the consequential illegality as pointed out in above para xxxv (I-VII). Surprisingly, while acknowledging all the facts and events related to the case, the NGT order dated 11.11.2020, in its operational part states as under; *"in view of the above, we direct that the MoEF&CC to expressly consider the views of the 11 Member Expert Committee, based on their scrutiny of the draft ZMP and, if necessary, issue amended approval within three months from today. If amendment is not found necessary, at least brief reasons may be recorded."*

c. Because the above order of Ld. NGT gives choice to MoEF&CC whether to consider the 11 member scrutiny or not. By this way, it undermines the order of this Hon'ble Court which directs that 11 member committee shall do the scrutiny of the ZMP. Moreover the impugned order dated 11.11.2020 is neither correct nor proper and therefore impractical in nature because of the following reasons:

I. Based on the scrutiny by 11 member committee, the amendments should be done in the ZMP and not in the 'amended approval' as incorrectly mentioned in the impugned order. As per current status, the 9 member expert committee constituted by the NGT itself through its order dated 26.07.2017 is the authority to carry out any amendment in the ZMP. The role of MoEF&CC is limited to judge that whether ZMP fulfils the guidelines given in the ESZ notification or not. The procedure for any rectification/amendment in the ZMP shall be as following:

i. Scrutiny of the ZMP by 11 member committee.

- ii. Refer the report to 9 member committee for incorporation.
  - iii. Amendment and finalization of the ZMP by 9 member committee.
  - iv. Submission of amended ZMP to MoEF&CC by 9 member committee.
  - v. Approval of amended ZMP by MoEF&CC as well as MoWR&GR.
- d. Because the collective opinion of field experts appointed by this Hon'ble Court or by the NGT in the 11 member and in the 9 member committees respectively cannot be considered optional as the impugned order of Ld. NGT would believe. In fact, the entire 5 year background of the case and joint report submitted by the MoWR&GR as well as MoEF&CC on 31.12.2016 establishes the non-negotiable role of expert committee for ZMP preparation and thereby MoEF&CC has no choice or option besides accepting the experts opinion. MoEF&CC therefore has no role and authority to overrule the expert opinion against an unauthorized and incomplete submission in the name of ZMP.

- e. Because there is no procedure of granting 'amended approval' in case of the ZMP of Bhagirathi Eco Sensitive Zone. Earlier submission of ZMP in 2016 was disapproved by the ministry itself. Now even the majority of experts are saying that this 2020 ZMP is more or less similar to 2016 and do not consists of their consent, signature or scrutiny. If the fundamental question is against the preparation of the ZMP then without rectifying the ZMP any approval (or amended approval) would have no stand or meaning.
- f. Because by giving entire authority to MoEF&CC, NGT in its impugned order undermines the constitution and authority of 9 member committee and order of this Hon'ble Court dated 13.07.2018. The impugned order thus renders entire exercise meaningless and infructuous by legitimizing an unauthorized and flawed document as an 'approved ZMP'.
- g. Because the approval is in wilful disregard of the order of the Hon'ble Supreme Court dated 13.7.18 and this Tribunal dated 26.07.2017.

- h. Because the ZMP contravenes the provision of the Ecological Sensitive Zone Notification dated 18.12.12 as set out in the table in Para 3 of the Facts.
  - i. Because the NGT undermines the order of this Hon'ble Court dated 13.07.2018 and therefore compromise the compulsory directions and due procedure set out in earlier orders.
5. The Appellants craves leave to add to the grounds mentioned herein above and submit that the contentions herein above are in the alternative and without prejudice to one another.
  6. That the Appellants state that no other appeal against the impugned order dated 11.11.2020 in O.A. 256/2020 passed by the Hon'ble National Green Tribunal Principal bench at New Delhi has been filed by the Appellants before this Hon'ble Court or any other Court.
  7. Section 22 of the National Green Tribunal Act, 2010 provides that any person aggrieved by an order may file an appeal to this Hon'ble Court within ninety days from the date of communication of such order. That the Appellants have accordingly filed the present appeal.

8. That the Appellants submits that the Appellants have paid the requisite court fees in the appeal.

Prayer

In the premise, it is most respectfully prayed that this Hon'ble Court maybe pleased to:

- a. Admit and Allow the present Civil Appeal under Section 22 of the National Green Tribunal Act, 2010 and set aside the impugned final order dated 11.11.2020 in Original Application No. 256/2020 passed by the Hon'ble National Green Tribunal (Principal bench) at New Delhi
- b. For any other order or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE APPELLANTS AS IN DUTY BOUND SHALL EVER BE GRATEFUL

Place: New Delhi

Drawn By: Advocate Tanya Agarwal

Drawn on:

Filed on: 10.6.2021

  
Satya Mitra

(Advocate for Appellants)



True Copy

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPEAL (CIVIL) No.5025 of 2021**

IN THE MATTER OF:

Keshar Singh Panwar & Ors.

Appellants

Versus

Union of India & Ors.

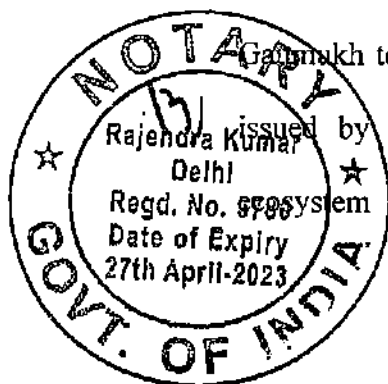
Respondents

**REPLY AFFIDAVIT ON BEHALF OF MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE (RESPONDENT NO.1)**

**MOST RESPECTFULLY SHOWETH:**

I, W. Bharat Singh s/o Shri W. K Singh, aged about 54 years, presently working as Scientist 'F'/Director in the Ministry of Environment, Forest & Climate Change (hereinafter referred to as MoEFCC) do hereby, in my official capacity, solemnly affirm and state as follows:-

1. That I am acquainted with the facts and circumstances of the instant case and duly competent to swear the present affidavit on behalf of the MoEFCC on the basis of the official records maintained therein.
2. It is submitted that the notification for Bhagirathi Eco-Sensitive Zone declaring the entire watershed of about 100 kilometers (kms) stretch of the river Bhagirathi from

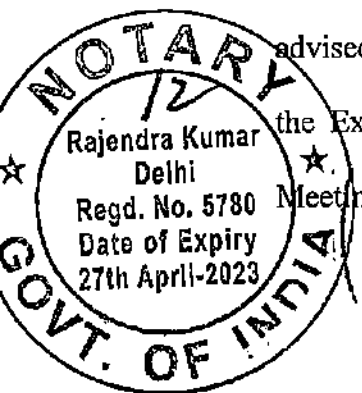


Gangotri to Uttarakashi covering an area of 4179.59 square kilometer (sq.km) was issued by the MoEFCC on 18<sup>th</sup> December, 2012, keeping in view the unique system of River Bhagirathi and its catchment and also keeping in mind the

requirements of the local people, their rights and privileges and for ensuring eco-friendly development of the region and in order that the livelihood and security of the local inhabitants are not adversely affected. That based on the representation of the State Government of Uttarakhand and after due consultation with the Ministry of Road, Transport and Highways, Government of India and Indian Road Congress, the notification was subsequently amended on 16<sup>th</sup> April, 2018.

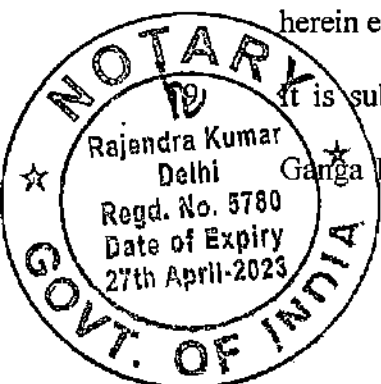
3. It is humbly submitted that the aforesaid notification on Bhagirathi Eco-Sensitive Zone mandated the State Government of Uttarakhand to prepare a Zonal Master Plan (ZMP) to be implemented under the supervision of a Monitoring Committee.
4. It is submitted that the initial ZMP was submitted to MoEFCC by the State Government of Uttarakhand *vide* its letter dated 02.03.2016 [ANNEXURE-1] and the same was subsequently forwarded for comments to the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR); Wildlife Institute of India; G.B. Pant Institute of Himalayan Environment and Development, Zoological Society of India; Central Pollution Control Board; Indian Council of Forestry Research and Education; Forest Survey of India, Town & Country Planning Organization, Government of India; Ministry of Rural Development; and Indian Institute of Remote Sensing.
5. It is further humbly submitted that the aforesaid initial ZMP of Bhagirathi Eco-sensitive Zone (ESZ) was also circulated to the members of the Expert Committee of ESZ constituted by MoEFCC and was placed for consideration in its 21<sup>st</sup> Meeting held on 31.08.2016. That, in the said meeting of the Expert Committee (ESZ), the State Government officials were duly represented and the Expert Committee had advised that the ZMP shall be revised in accordance with the observations made by

the Expert Committee in the said meeting. Copy of the minutes of the said 21<sup>st</sup> Meeting held is herein enclosed as ANNEXURE-2.



6. It is submitted that this Hon'ble Court *vide* its order dated 13.07.2018 in Civil Appeal No. 2365-2367 of 2018 had taken note of the contents of the Order dated 23.10.2017 of the National Green Tribunal in O.A. No. 151 of 2013 and O.A. No. 80 of 2015, regarding approval of the ZMP by MoEFCC, as well as, the Ministry of Water Resources and had disposed of the said Civil Appeal with certain directions.
7. It is submitted that the ZMP submitted to MoEFCC by the State Government of Uttarakhand *vide* its letter no. 800/X-3-18-15(41)/2013, dated 27.09.2018 [ANNEXURE-3], was thereafter placed for consideration in the 34<sup>th</sup> Meeting of the Expert Committee (ESZ) held on 06<sup>th</sup> March, 2019, wherein, it was again deliberated at length. The Expert Committee in the said 34<sup>th</sup> meeting observed that approval from the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) is still awaited and in addition there are still gaps in the ZMP, in so far as requisite plan to mitigate adverse environmental impacts are concerned and the state Government need to supplement these as an addendum to the ZMP made available then. Relevant extract of the said minutes of the 34<sup>th</sup> meeting of the Expert Committee held on 06.03.2019 is herein annexed as enclosure at ANNEXURE-4.
8. It is humbly submitted that *vide* letter dated 16.04.2019, MoEFCC wrote to the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR), for its considered opinion on the ZMP submitted by the Government of Uttarakhand *vide* its letter dated 02.03.2016. That, this was followed up again by MoEFCC *vide* its letter dated 16.07.2019. Copy of MoEFCC letters dated 16.04.2019 and 16.07.2019 are herein enclosed as ANNEXURE-5.

It is submitted that meanwhile, the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) *vide* its letter dated 08.05.2019 informed MoEFCC

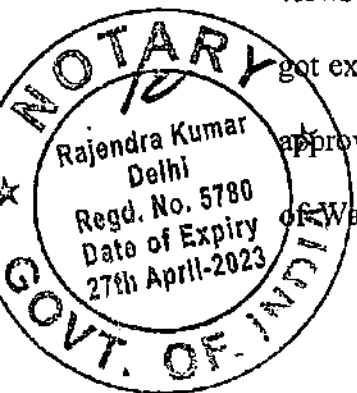


that the considered opinion of their Ministry would be communicated once the views of the Government of Uttarakhand is received by them.

10. It is submitted that MoEFCC vide its letter dated 30.01.2020 followed up again with the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) for expediting furnishing requisite information to enable MoEFCC in taking further necessary action towards finalization of the ZMP.

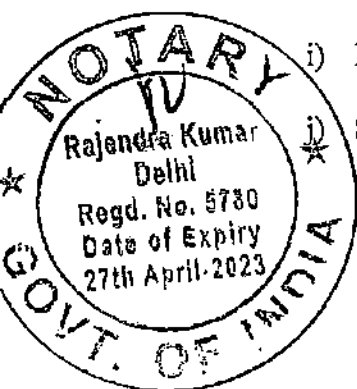
11. It is submitted that finally, the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) vide its letter dated 06.03.2020 [ANNEXURE-6] conveyed its concurrence to the water related issues of the ZMP of Bhagirathi Eco-sensitive Zone subject to compliance of the comments of the eleven Experts and remarks of D/o WR, RD & GR. The said letter dated 06.03.2020 of the Ministry of Jal Shakti also stated that the ZMP had been circulated to the eleven experts identified by the Hon'ble Supreme Court in its order dated 13.07.2018 and the comments received from the eleven experts were furnished to the Government of Uttarakhand for their views. That, the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) have vide their aforesaid letter dated 06.03.2020, have also communicated the views of Government of Uttarakhand received in respect of the comments received from the 11 Experts which were forwarded by the Ministry of Jal Shakti to the Government of Uttarakhand. That, the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) further stated in its aforesaid letter dated 06.03.2020, that the examination of the ZMP by them and the Ministry of Jal Shakti's views are only in respect of water portion and that other aspects of the ZMP may be

got examined by MoEFCC through the multi ministerial Expert Committee. The said approval/concurrence of the aforesaid ZMP by the Ministry of Jal Shakti, Department of Water Resources, RD&GR, and the comments of Experts and its response by the



Government of Uttarakhand along with remarks by Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) is furnished herein are annexed at ANNEXURE-6.

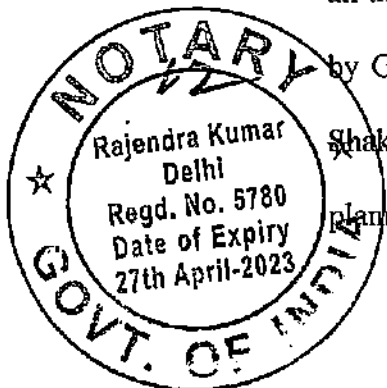
12. It is therefore humbly submitted that the allegation that MoEFCC has eluded or not taken necessary concurrence/approval of the Ministry of Jal Shakti, River Development & Ganga Rejuvenation (RD&GR) in the process of approval of the ZMP is baseless and vehemently denied.
13. It is submitted that the ZMP concurred by the Ministry of Jal Shakti and conveyed to the Ministry vide their aforesaid letter dated 06.03.2020 [ANNEXURE-6] was thereafter taken up for consideration in the 41<sup>st</sup> meeting of the Expert Committee of MoEFCC on ESZ held during 23-24 June, 2020, wherein, the State Government of Uttarakhand was duly represented including its Principal Secretary, Department of Forest & Environment. That participants in the said meeting of the Expert Committee also include amongst others, representatives of:
- a) Indian Institute of Remote Sensing/Indian Space Research Organization.
  - b) Central Water Commission (Ministry of Water Resources).
  - c) Forest Survey of India.
  - d) National Tiger Conservation Authority
  - e) Wildlife Institute of India.
  - f) GB Pant Institute of Himalayan Environment & Development.
  - g) World Wildlife Fund.
  - h) Zoological Survey of India.
  - i) Botanical Survey of India.
  - j) SACON.



14. It is humbly submitted that in the aforesaid 41<sup>st</sup> meeting of the Expert Committee on ESZ of MoEFCC held during 23-24 June, 2020, the Expert Committee have observed that in preparation of the ZMP, there was involvement of experts at Central level (Ministry of Jal Sakti) as well as in the State level. It was also emphasized that features of the ZMP has to be taken in the light of ESZ notification, wherein, primary focus has been given to conservation and protection of biodiversity of entire catchment area which supports the Bhagirathi riverine eco-system including wildlife of the areas. The Committee therefore stated that multiple features of ZMP have to be seen, commensurate with the provisions of the ESZ notification for Bhagirathi River.
15. It is humbly submitted further that the Expert Committee in the aforesaid 41<sup>st</sup> meeting based on the deliberations held, recommended its approval to the ZMP subject to following conditions for strict compliance by the state Government:

- a) State has to strictly comply the provisions of ESZ notification for Bhagirathi river specifically given under Prohibited and regulated activities.
- b) State has to fulfil and comply the suggested points and remarks made by Department of WR, RD&GR, Jal Shakti including maintaining the e-flow of the Bhagirathi river.
- c) Regarding demarcating all the existing village settlements, types & kinds of forests, agricultural areas, fertile lands, green areas, horticultural areas, orchards, lakes, natural heritage sites and water bodies, the clearer map on demarcation of all these features need to be generated so called as Base Map. Further, as agreed

by Govt. of Uttarakhand as given in the concurrence report of Ministry of Jal Shakti, the Geo-morphological & Geological map shall be drawn at micro level planning.

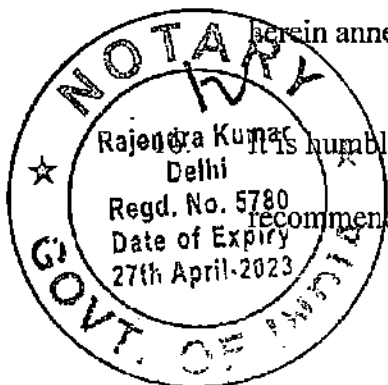


- d) Regarding conservation, protection and management of natural springs, water bodies including drying up springs, the ZMP shall be extended to prepare the micro level planning, which shall demarcate the catchment area of each stream in catchment of Bhagirathi river, particularly dried up stream. A dedicated micro level plan should also be drawn for rejuvenation of streams and it shall become part of ZMP.
- e) A comprehensive long term plan for conservation on natural boundaries of river bank needs to be drawn by State apart from retaining wall construction and in view of disaster management situation.
- f) With regard tourism activities, ZMP shall be extended for finalization of comprehensive long term Eco-Tourism Master Plan and activities shall not be beyond the carrying capacity of catchment area. Tourism Master Plan shall be prepared as per the guidelines of Ministry of Tourism, and shall be followed strictly. In this regard, State Government shall submit its concurrence to MoEFCC on the Eco-Tourism Master Plan, which is meeting the requirement of ESZ notification as well as fulfilling the carrying capacity of tourist/pilgrims.
- g) No expansion/activities shall be performed above and beyond the carrying capacity of the catchment area.

The minutes of the 41<sup>st</sup> meeting held during 23-24 June, 2020, has been sent to the State Government for their perusal and needful action. Relevant extract of the said minutes of the 41<sup>st</sup> meeting of the Expert Committee held during 23-24 June, 2020 is

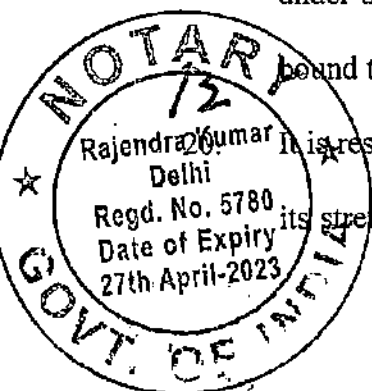
herein annexed as enclosure at ANNEXURE-7.

It is humbly submitted that the Competent Authority in MoEFCC in acceptance of the recommendation of the Expert Committee finally accorded its approval to the ZMP



subject to certain conditions and the same was conveyed to the state Government vide letter no. 25/3/2010-ESZ, dated 16.07.2020. A copy of the said letter is herein annexed as enclosure ANNEXURE-8.

17. It is therefore most humbly submitted that necessary deliberations with the stakeholders has taken place within the Ministry of Jal Shakti, MoEFCC and Government of Uttarakhand and others in the process of approval of the ZMP and the allegation that MoEFCC have eluded necessary concurrence/approval of the Ministry of Water Resources, RD&GR in the process is baseless and denied.
18. It is submitted that while according its approval by MoEFCC vide the aforesaid letter dated 16.07.2020, has specifically stated that **the State Government is required to fulfill and comply with the suggestions and remarks, as stipulated in the Ministry of Water Resources, RD&GR letter dated 06.03.2020, wherein, concurrence on the ZMP, including maintaining e-flow of the Bhagirathi river, long term conservation plan for natural springs and boundaries of Bhagirathi river bank keeping in view of disaster management situations etc. have been accorded.** That the State Government was also specifically advised to inter-alia ensure effective implementation of the provisions of the Bhagirathi ESZ Notification issued vide S.O. 2930 (E), dated 18.12.2012 and to finalise on priority a comprehensive long term eco-tourism Master Plan and carrying capacity assessment of catchment area etc.
19. It is respectfully submitted that as stated in para no.3, the Zonal Master Plan (ZMP) in respect Bhagirathi Eco-Sensitive Zone is to be implemented by the State Government under the supervision of the Monitoring Committee and the State Government is duty bound to implement the provisions of the said notification in its true spirit.



It is respectfully submitted that preservation and rejuvenation of Bhagirathi River and its stretches is of utmost priority of the Central Government and concerted effort by

the State Government in realizing this goal is necessary in order that the spirit of the said notification is executed at ground level.

21. It is respectfully submitted that this respondent Ministry has written a letter dated 04.03.2022 [ANNEXURE-9] to the Government of Uttarakhand seeking status of compliance to the conditional approval accorded to the ZMP by MoEFCC vide its letter dated 16.07.2020, as well as, status of compliance to approval to the ZMP accorded by the Ministry of Jal Shakti vide its letter dated 06.03.2020. A copy of the letter of ANNEXURE-9 has also been marked to the Ministry of Jal Shakti. Reply of the Government of Uttarakhand to the letter at ANNEXURE-9 is enclosed as ANNEXURE-10.

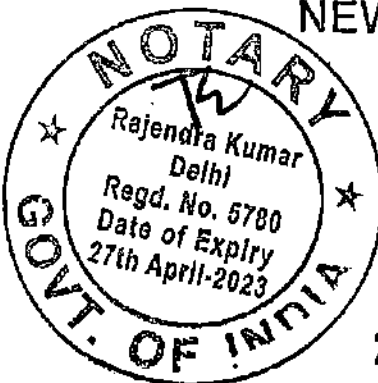
22. It is respectfully submitted that in view of the above mentioned facts, this answering respondent Ministry humbly prays that the matter may be considered on merits of the present Civil Appeal. The respondent Ministry is duty bound to comply with directions of this Hon'ble Court.

(डॉ. बभूत सिंह)  
(W. BHABHAT SINGH)  
DEPONENT  
वैज्ञानिक 'एफ' / Scientist 'F'  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
Mo/Environment, Forest and Climate Change  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

VERIFICATION

I, the above named Deponent, do hereby verify that the contents of the above affidavit are true and correct to my knowledge as per the records of the answering respondent and that no part of it is false and nothing material has been concealed there from.

Verified at.....on this.....**24 MAR 2022**..., 2022.  
**NEW DELHI**



CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON.....  
IDENTIFIED BY  
**24 MAR 2022**  
I, THE EXECUTANT / DEPONENT WHO HAS SIGNED IN MY PRESENCE

(डॉ. बभूत सिंह)  
(W. BHABHAT SINGH)  
DEPONENT  
वैज्ञानिक 'एफ' / Scientist 'F'  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
Mo/Environment, Forest and Climate Change  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

ATTESTED  
RAJENDRA KUMAR  
NOTARY, DELHI-R-5780  
GOVERNMENT OF INDIA  
SUPREME COURT OF INDIA  
COMPOUND, NEW DELHI  
Register Pg./Sl. No. ....  
Mobile No.: 8899446208  
**24 MAR 2022**

IDENTIFY THE EXECUTANT / DEPONENT WHO WAS SIGNED IN THE PRESENCE OF

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No. 107559/2021 - EX-PARTE STAY  
IA No. 107561/2021 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 107555/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 119776/2022 - EXEMPTION FROM FILING O.T.  
IA No. 107557/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 19-12-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s)

Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Zain Haider, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s)

Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Chitrangda Rashtravara, Adv.  
Ms. Swarupama Chaturvedi, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B K Satija, Adv.  
Dr. N. Visakamurthy, AOR

Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Ms. Anubha Dhulia, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We direct the appellants to produce a copy of the Original Application as well as counter/reply filed to the Original Application. We also direct the appellants to file a copy of the Original Application filed earlier. The documents shall be filed within a period of four weeks.

List for hearing on 5<sup>th</sup> February, 2205.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL NO(S). 5025/2021

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(IA No. 107559/2021 - EX-PARTE STAY, IA No. 107561/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 107555/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 119776/2022 - EXEMPTION FROM FILING O.T. AND IA No. 107557/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 05-12-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s)

Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Manik Gupta, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s)

Ms. Aishwarya Bhati, A.S.G.  
Ms. Archana Pathak Dave, A.S.G.  
Ms. Ruchi Kohli, Sr. Adv.  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Chitrangda Rashtravara, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B K Satija, Adv.  
Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Ms. Rachna Gandhi, Adv.Mrs. Aishwarya Bhati, A.S.G.  
Mrs. Archana Pathak Dave, A.S.G.  
Mrs. Ruchi Kohli, Sr. Adv.  
Mrs. Swarupama Chaturvedi, Sr. Adv.  
Mrs. Suhashini Sen, Adv.  
Mrs. Chitrangda Rashtravara, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B.K. Satija, Adv.  
Dr. N. Visakamurthy, AOR

113

UPON hearing the counsel the Court made the following  
O R D E R

List on 19<sup>th</sup> December, 2024.

(ASHISH KONDLE)  
COURT MASTER (SH)

(ANU BHALLA)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL NO(S). 5025/2021

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Date : 19-11-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIHFor Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AORFor Respondent(s) Ms. Aishwarya Bhati, A.S.G.  
Ms. Archana Pathak Dave, A.S.G  
Ms. Ruchi Kohli, Sr. Adv.  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Chitrangda Rashtravara, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B K Satija, Adv.  
Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Ms. Rachna Gandhi, Adv.Mrs. Aishwarya Bhati, A.S.G.  
Ms. Archana Pathak Dave, A.S.G  
Ms. Ruchi Kohli, Sr. Adv.  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Mrs. Suhashini Sen, Adv.  
Mrs. Chitrangda Rashtravara, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B.K. Satija, Adv.  
Dr. N. Visakamurthy, AOR

115

The Court made the following  
O R D E R

Not taken up.

List on 5<sup>th</sup> December, 2024.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL NO(S). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

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(IA No. 107559/2021 - EX-PARTE STAY, IA No. 107561/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 107555/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 119776/2022 - EXEMPTION FROM FILING O.T. AND IA No. 107557/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 24-09-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s)

Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s)

Ms. Aishwarya Bhati, A.S.G.  
Ms. Archana Pathak Dave, A.S.G.  
Ms. Ruchi Kohli, Sr. Adv.  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Chitrangda Rashtravara, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B K Satija, Adv.Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Ms. Anubha Dhulia, Adv.Mrs. Aishwarya Bhati, A.S.G.  
Ms. Archana Pathak Dave, A.S.G.  
Ms. Ruchi Kohli, Sr. Adv.  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Mrs. Suhashini Sen, Adv.  
Mrs. Chitrangda Rashtravara, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. B.K. Satija, Adv.  
Dr. N. Visakamurthy, AOR

UPON hearing the counsel the Court made the following  
O R D E R

List on 19<sup>th</sup> November, 2024.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

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VERSUS

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IA No. 107561/2021 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 107555/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 119776/2022 - EXEMPTION FROM FILING O.T.  
IA No. 107557/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 18-07-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s)

Mr. Colin Gonsalves, Sr. Adv.  
Mr. Satya Mitra, AOR  
Ms. Tanya Agarwal, Adv.

For Respondent(s)

Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Archana Pathak Dave, Adv.  
Ms. Chitrangda Rashtravara, Adv.  
Mr. Rohan Gupta, Adv.  
Mr. Rustam Singh Chauhan, Adv.

Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Ms. Madhura Chitnis, Adv.

Mrs. Aishwarya Bhati, A.S.G.  
Mrs. Ruchi Kohli, Adv.  
Mr. B K Satija, Adv.  
Mrs. Swarupama Chaturvedi, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Our attention is invited to paragraph 11 of the impugned judgment. The stand taken by the respondent-Union of India in the form of an affidavit filed on behalf of the respondent No.3-Ministry of Jal Shakti is that the exercise in terms of directions issued in paragraph No.11 of the impugned order passed by the National Green Tribunal was undertaken and the outcome of the said exercise is reflected in the Minutes of the meeting held on 17th August, 2022, a copy of which has been annexed to the said affidavit.

Before we go into the merits of the impugned order of the National Green Tribunal, it is necessary for us to scrutinize whether the exercise undertaken by the Union of India is in terms of paragraph No.11 of the impugned order or not. We are not foreclosing the challenge by the appellants to the impugned order. However, with a view to examine whether directions contained in paragraph No.11 have been complied with or not, we permit the appellants to file an Interlocutory Application incorporating their objections to the exercise undertaken in terms of the Minutes of the meeting held on 17th August, 2022.

We make it clear that all the objections which the appellants want to raise about the exercise done in the form of Minutes dated 17th August, 2022 may be incorporated in the IA.

The application to be filed within one week.

Time of two weeks is granted to the respondent-Union of India to file its response, if any.

List the matter on 5th September, 2023.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

ITEM NO.41

COURT NO. 121/15

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No. 107559/2021 - EX-PARTE STAY

IA No. 107561/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 107555/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT

IA No. 119776/2022 - EXEMPTION FROM FILING O.T.

IA No. 107557/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 12-05-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE RAJESH BINDAL

For Appellant(s) Mr. Satya Mitra, AOR  
Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agrawal, Adv.

For Respondent(s) Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Archana Pathak Dave, Adv.  
Ms. Chitrangda Rashtravara, Adv.

Ms. Vanshaja Shukla, AOR  
Mr. Abhishek Chatterjee, Adv.  
Mr. Vikas Negi, Adv.

Mrs. Aishwarya Bhati, A.S.G.  
Ms. Ruchi Kohli, Adv.  
Mrs. Swarupama Chaturvedi, Adv.  
Mr. B K Satija, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

List on 18.07.2023.

Signature Not Verified  
Digitally signed by  
SNEHA DAS  
Date: 2023.05.13  
12:49:13 IST  
Reason: 

(INDU MARWAH)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

ITEM NO.802

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

Date : 17-04-2023 This appeal was mentioned today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s)

Mr. Satya Mitra, AOR

For Respondent(s)

Mr. Gurmeet Singh Makker, AOR  
Ms. Vanshaja Shukla, AOR  
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Not to be deleted from the notified date i.e. 11<sup>th</sup> May, 2023.

(SONIA BHASIN)  
COURT MASTER (SH)

(VIRENDER SINGH)  
BRANCH OFFICER

Signature Not Verified

Digitally signed by  
SONIA BHASIN  
Date: 2023.04.17  
18:42:27 IST  
Reason: 

ITEM NO.44

COURT <sup>123</sup>  
NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 03-01-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MS. JUSTICE BELA M. TRIVEDIFor Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AORFor Respondent(s) Ms. Aishwarya Bhati, ASG  
Ms. Ruchi Kohli, Adv.  
Ms. Swarupama Chaturvedi, Adv.  
Mr. B.K. Satija, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Gurmeet Singh Makker, AORMs. Vanshaja Shukla, AOR  
Mr. Abhishik Chaterjee, Adv.  
Ms. Rachna Gandhi, Adv.

Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

List on 07.02.2023 (NMD).

Signature Not Verified

Digitally signed by  
Ashwani Kumar  
Date: 2023.01.04  
16:47:56 IST  
Reason:(VIRENDER SINGH)  
BRANCH OFFICER(ASHWANI KUMAR)  
ASTT. REGISTRAR-cum-PS

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 13-10-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Swarupama Chaturvedi, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. B.K. Satija, Adv.  
Mr. Raghav Shurma, Adv.  
Mr. Arvind Kumar Sharma, AOR  
Mr. Gurmeet Singh Makker, AOR  
  
Ms. Vanshaja Shukla, AOR

UPON hearing the counsel the Court made the following  
O R D E R

In view of the letter circulated by the learned counsel for the respondents, list on 17.11.2022.

(MONIKA DEY)

CLERK MASTER (NSH)

(ASHWANI KUMAR)

ASTT. REGISTRAR-cum-PS

ITEM NO.16

COURT NO.9

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**CIVIL APPEAL NO(S). 5025/2021**

KESHAR SINGH PANWAR &amp; ORS.

APPELLANT(S)

VERSUS

UNION OF INDIA &amp; ORS.

RESPONDENT(S)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 22-09-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG  
Ms. Archana Pathak Dave, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Rustam Singh Chauhan, Adv.  
Mr. Gurmeet Singh Makker, AOR

Ms. Vanshaja Shukla, AOR  
Mr. Sajal Singhai, Adv.

Ms. Aishwarya Bhati, Ld. ASG  
Ms. Swarupma Chaturvedi, Adv.  
Mr. B.K. Satija, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Signature Not Verified  
Digitally signed by  
POOJA SHARMA  
Date: 2022.09.24  
14:11:35 IST  
Reason: 

List on 13.10.2022.

(POOJA SHARMA)  
COURT MASTER (SH)

(MONIKA DEY)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 01-09-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MRS. JUSTICE B.V. NAGARATHNAFor Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Mr. Gurmeet Singh Makker, AOR

Ms. Vanshaja Shukla, AOR  
Ms. Rachna Gandhi, Adv.  
Mr. Sajal Singhai, Adv.Ms. Aishwarya Bhati, ASG  
Ms. Suhashini Sen, Adv.  
Mr. Mehul Gupta, Adv.  
Mr. R.S. Chauhan, Adv.  
Mr. B.K. Satija, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Sakshi Singh, Adv.  
Mr. G.S. Makker, AOR  
Ms. Swarupama Chaturvedi, Adv.  
Mr. Raghav Sharma, Adv.  
Ms. Archana Pathak Dave, Adv.  
Mr. Arvind Kumar Sharma, AORUPON hearing the counsel the Court made the following  
O R D E R

List on 22.09.2022.

Signature Not Verified  
Digitally signed by  
POOJA SHARMA  
Date: 2022.09.02  
18:42:12 IST  
Reason: (MONIKA DEY)  
COURT MASTER (NSH)(ASHWANI THAKUR)  
ASTT. REGISTRAR-cum-PS

ITEM NO.15

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 24-08-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG  
Ms. Swarupama Chaturvedi, Adv.  
Mr. B.K. Satija, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR  
Ms. Suhashini Sen, Adv.  
Mr. Mehul Gupta, Adv.  
Mr. Rustam Singh Chauhan, Adv.  
Mr. Gurmeet Singh Makker, AOR

Ms. Vanshaja Shukla, AOR  
Mr. Vikas Negi, Adv.  
Mr. Sajal Singhai,  
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Signature Not Verified

Digitally signed by  
Rajni Mukhi  
Date: 2022.08.25  
17:12:48 IST  
Reason: 

List on 01.09.2022.

(MONIKA DEY)  
COURT MASTER (NSH)

(ASHWANI THAKUR)  
ASTT. REGISTRAR-cum-PS

ITEM NO.13

COURT NO.12

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

APPELLANT(S)

VERSUS

UNION OF INDIA &amp; ORS.

RESPONDENT(S)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 20-07-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG (NP)  
Ms. S. Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Archana Pathak, Adv.  
Mr. Mehul Gupta, Adv.  
Mr. Rustam Singh Chauhan, Adv.  
Mr. Gurmeet Singh Makker, AOR

Ms. Vanshaja Shukla, AOR  
Ms. Rachna Gandhi, Adv.  
Mr. Sajal Singhai, Adv.

Ms. Aishwarya Bhati, Ld. ASG (NP)  
Ms. Swarupama Chaturvedi, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. B.K. Satija, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Learned Counsel for the appellants wants time to file  
rejoinder affidavit.

List on 24.08.2022.

(POOJA SHARMA)  
COURT MASTER (SH)

(MONIKA DEY)  
COURT MASTER (NSH)

ITEM NO.14

COURT NO.13

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**CIVIL APPEAL NO(S). 5025/2021**

KESHAR SINGH PANWAR &amp; ORS.

APPELLANT(S)

VERSUS

UNION OF INDIA &amp; ORS.

RESPONDENT(S)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 20-04-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG,  
Ms. Archana Pathak Dave, Adv.  
Ms. Suhashini Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Mehul M. Gupta, Adv.  
Mr. Aniruddha Purushotham, Adv.  
Mr. Rustam Singh Chauhan, Adv.  
Mr. Gurmeet Singh Makker, AOR

Ms. Vanshaja Shukla, AOR  
Mr. Vikas Negi, Adv.  
Mr./Ms. Sajal S., Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Signature Not Verified  
Digitally signed by  
POOJA SHARMA  
Date: 2022.04.21  
18:59:01 IST  
Reason: I

Ms. Aishwarya Bhati, Ld. ASG is appearing on behalf of

Respondent nos. 1 and 3. Counter affidavit has already been filed

on behalf of respondent no.1. She wants time to file counter affidavit on behalf of respondent no.3.

Counter affidavit be filed within a period of four weeks. Rejoinder affidavit be filed within a period of two weeks thereafter, if so advised.

List on 20<sup>th</sup> July, 2022.

(POOJA SHARMA)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 16-03-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhasini Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Archana Pathak Dave, Adv.  
Mr. Mehul Gupta, Adv.  
  
Ms. Vanshaja Shukla, AOR  
Mr. Ashutosh Sharma Adv.  
Mr. Sajal Singhai Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Learned Counsel for the respondent(s) wants time to file counter affidavit.

Let counter affidavit be filed within a period of two weeks.

Rejoinder affidavit, if any, be filed within one week

hereafter.

List on 20.04.2022 (NMD).

(POOJA SHARMA)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)

ITEM NO.37

Court 14 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

APPELLANT(S)

VERSUS

UNION OF INDIA &amp; ORS.

RESPONDENT(S)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 03-01-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG  
Mr. G. S. Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Archana Pathak Dave, Adv.  
Mr. Mehul M Gupta, Adv.  
  
Ms. Vanshaja Shukla, AOR  
  
Ms. Rachna Gandhi Adv.

UPON hearing the counsel the Court made the following  
O R D E R

In view of the letter circulated by the learned Counsel for the respondent no.2, State of Uttarakhand seeking adjournment for filing counter affidavit, list after three weeks.

Signature Not Verified

Digitally signed by  
Charanjeet Kaur  
Date: 2022.01.04  
16:29:54 IST  
Reason: 

(POOJA SHARMA)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 5025/2021

KESHAR SINGH PANWAR & ORS.

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 23-11-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Archana Pathak Dave, Adv.  
Mr. Mehul Gupta, Adv.

Ms. Vanshaja Shukla, AOR

UPON hearing the counsel the Court made the following  
O R D E R

In view of the letter circulated by the learned Counsel for the respondent no.2 seeking adjournment to file counter affidavit, list the matter after four weeks.

Signature Not Verified  
Digitally signed by  
Anita Malhotra  
Date: 2024.11.23  
17:23:01 IST  
Reason: 

(POOJA SHARMA)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)

ITEM NO.44 Court 14 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

( IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 04-10-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKAFor Appellant(s) Mr. Colin Gonsalves, Sr.Adv  
Ms. Tanya Agarwal, Adv  
Mr. Satya Mitra, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

As per office report dated 01.10.2021, service is complete but no one has put in appearance on behalf of the respondents.

List on 23.11.2021.

(NIRMALA NEGI)  
COURT MASTER (SH)(BEENA JOLLY)  
COURT MASTER (NSH)

ITEM NO.3 Court 14 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5025/2021

KESHAR SINGH PANWAR &amp; ORS.

Appellant(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

( IA No.107555/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107559/2021-EX-PARTE STAY and IA No.107561/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.107557/2021-PERMISSION TO FILE LENGTHY LIST OF DATES )

Date : 06-09-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Colin Gonsalves, Sr.Adv.  
Ms. Tanya Agarwal, Adv.  
Mr. Satya Mitra, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

This Court vide order dated 13<sup>th</sup> July, 2018 in Civil Appeal

Nos.2366-2367 of 2018 observed as under:

"We find from the record that the names of such persons are mentioned at page 144 in the letter dated 07.08.2017. As per the order of the NGT, approval of the Ministry of Water Resources is also required. It would be in the fitness of things that the aforesaid draft plan which had been prepared by the Committee is looked into and scrutinized by the persons mentioned in the letter dated 07.08.2017. While considering the issue of approval, the Ministry of Water Resources shall have the same scrutinized from among the persons who were suggested by the Ministry itself."

Mr. Colin Gonsalves, learned senior counsel for the appellants submitted that the Tribunal, without taking into consideration the grievance of the appellants directed the MOEF & CC who is a wrong doer, to consider the use of 11 members Committee and amendment be made, if necessary.

Learned senior counsel submits that what being observed in paragraph 11 and its operative part of the order impugned is not in conformity with what was observed by this Court in its Order of which reference has been made and that needs to be interfered by this Court.

Issue notice, returnable on 04.10.2021.

Dasti service, in addition, is permitted.

(NIRMALA NEGI)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)



**True Copy**