

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

MEMORANDUM OF APPLICATION

**(UNDER SECTION 18(1) READ WITH 14, 15, 16 & 17 OF NATIONAL
GREEN TRIBUNAL ACT, 2010)**

ORIGINAL APPLICATION No. 112 OF 2024

IN THE MATTER OF:-

CHAUDHARY YASHWANT SINGH

...**APPLICANT**

Versus

UNION OF INDIA AND OTHERS

...**RESPONDENTS**

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PLACE: Lucknow

DATED: 13th January 2025



**DIVYADEEP
CHATURVEDI**

**ABHISHEK
DWIVEDI**

**AYUSH
JAIN**

COUNSELS FOR THE RESPONDENT No. 5

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**AT NEW DELHI****MEMORANDUM OF APPLICATION**

**(UNDER SECTION 18(1) READ WITH 14, 15, 16 & 17 OF NATIONAL
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IN THE MATTER OF:-

CHAUDHARY YASHWANT SINGH

...APPLICANT

Versus

UNION OF INDIA AND OTHERS

...RESPONDENTS

**APPLICATION FOR DISMISSAL OF THE ORIGINAL
APPLICATION FILED BY THE APPLICANT UNDER
AND FOR TAKING COUNTER- AFFIDAVIT ON RECORD**

The Respondent above-named most respectfully submits as under:-

For the facts, reasons and circumstances stated in the accompanying Counter Affidavit, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to dismiss the instant Original Application filed by the Applicant in the interests of justice.

Further, such other order/s as may be deemed fit and proper protecting the rights and interests of the Respondent in the facts and circumstances of the case, may also be passed by this Hon'ble Court in the interest of justice.

PLACE: Lucknow

DATED: 13th January 2025



**DIVYADEEP
CHATURVEDI**

**ABHISHEK
DWIVEDI**

**AYUSH
JAIN**

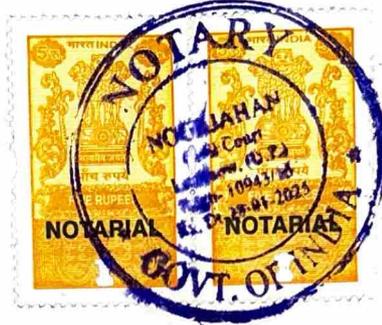
COUNSELS FOR THE RESPONDENT NO. 5

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

MEMORANDUM OF APPLICATION

**(UNDER SECTION 18(1) READ WITH 14, 15, 16 & 17 OF NATIONAL
 GREEN TRIBUNAL ACT, 2010)**

ORIGINAL APPLICATION NO. 112 OF 2024



IN THE MATTER OF:-

CHAUDHARY YASHWANT SINGH

...APPLICANT

Versus

UNION OF INDIA AND OTHERS

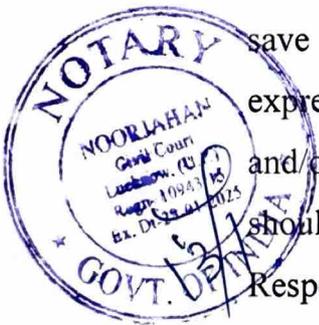
...RESPONDENTS



COUNTER AFFIDAVIT FOR AND ON BEHALF OF
RESPONDENT NO. 5

I, Shrinivas Tripathi, aged about 56 years, son of Shri. Satyanarayan Tripathi, being Member (Finance) of the Uttar Pradesh State Highways Authority, the Respondent No. 5, having his office at Fourth Floor, Kisan mandi Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, post-graduate by education and government servant by occupation, the deponent, do hereby solemnly affirm and state on oath as under:

1. That the deponent is the Member (Finance) and the authorized signatory of the Respondent No. 5, authorized *vide* Authority Letter dated 26.07.2024 and as such has access to the records maintained by the Respondent No. 5 in the usual course of business. A copy of the Authority Letter is annexed hereto as **ANNEXURE NO. R-5/1**.
2. That the deponent has read the contents of the Original Application and is therefore well-traversed with the facts of the present case to state as follows:
3. That at the very outset, before adverting to a para-wise reply to the instant Original Application (OA) filed by the Applicant, it is submitted that the contents of the OA filed by the Applicant are false, misconceived and devoid of any merit. The contents of the OA are denied in their entirety, save and except those facts/assertions which have been expressly admitted herein after in this Counter Affidavit and/or are a matter of record. Nothing contained in the OA should be deemed to have been admitted by the answering Respondent for lack of specific denials or otherwise.



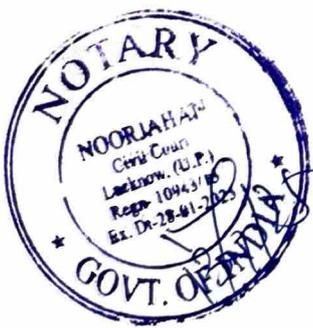
PARA-WISE REPLY

4. That the contents of Paragraph 1, being formal in nature, merits no response.
5. That the contents of Paragraph 2 are false, baseless and devoid of any merit, and are categorically denied to the extent that it alleges a collusion between the Uttar Pradesh

State Highway Authority ('UPSHA') and Respondent No. 8.

In reply to the same, it is submitted that:-

- (i) UPSHA and the Respondent No. 8 entered into a Concession Agreement ('Agreement') dated 08.12.2011 for 'Four Laning (with paved shoulders) of Varanasi-Shaktinagar Road upto Hathi Nala (SH-5A)' in the state of Uttar Pradesh on Design, Build, Operate and Transfer Basis. Copy of the relevant extracts of the Concession Agreement executed between Respondent No. 5 and Respondent No. 8 is annexed herewith as ANNEXURE NO. R-5/2.
- (ii) The Respondent No. 5 has duly obtained the forest and environment permissions for the purposes of the execution of the works. For this purpose, under Section 2 of the Forest (Conservation) Act, 1980, the Ministry of Environment and Forests vide its notification "F. No. 8-86/2012-FC" dated 14.11.2013 granted in-principle approval for diversion of 129.251 ha of forest land in favor of UPSHA for the specific purposes of widening/ upgradation of Varanasi-Shaktinagar Section of SH-5A in Mirzapur, Sonbhadra, Obra, Renukut Forest Divisions and Kaimur Wildlife Sanctuary in State of Uttar Pradesh subject to fulfillment of prescribed conditions. Further, the Uttar Pradesh Forest Department vide letter no. 3308/ 14-2-2013-800(70)/2013 dated 31.03.2014 granted its approval and provided the conditions while approving the layout. The notification/ letters dated 31.05.2013, 14.11.2013 and

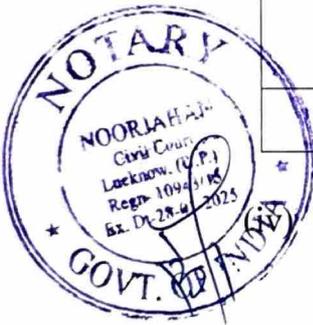


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31.03.2014 in this regard are collectively annexed hereto as **Annexure No. R-5/3**.

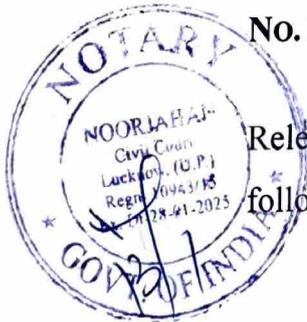
- (iii) In terms of the Concession Agreement, the Authority *vide* letter dated 30.10.2015 (annexed as Annexure No. R-8/5 of the Counter-Affidavit by the Respondent No. 8) granted approval to Respondent No. 8 for installation/ operation of toll collection plazas for collection of toll fees as prescribed under the Concession Agreement and notification for levying toll tax published in gazette notification dated 16.08.2013 by Uttar Pradesh Shasan Lok Nirman, Anubhag-2. The three toll plazas installed and functional are as follows:

TOLL PLAZA No.	LOCATION	CHAINAGES
1	KM 3.97 to 4.97	CH 0.00 to CH 64.00
2	KM 3.97 to 4.97	CH 67.275 to CH 68.275
3	KM 3.97 to 4.97	CH 97 to CH 115



Thereafter, in pursuance to Clause 27.8 read with Clause 27.9 of the Concession Agreement, the Respondent No. 8 requested for establishment of a Temporary Fee Collection Booth (TFCB-1A) at km 23+700 on Varanasi-Shaktinagar Road (SH-5A) as part of Toll Plaza-1 to plug the leakage due to presence of a sideway road.

- (v) Subsequently, the request for establishment of Temporary Fee Collection Booth was approved by the Executive Committee of Respondent No. 5 *vide* letter dated 08.03.2024 with 'terms and conditions' including provisioning of an undertaking by Respondent No. 8 of the prescribed terms. The letter dated 08.03.2024 is already annexed as Annexure No. R-8/8 of the Counter-Affidavit filed by the Respondent No. 8.
- (vi) The Respondent No. 8 *vide* letter dated 09.03.2022 accepted the terms and conditions and allowed for operating the Temporary Fee Collection Booth (TFCB-1A) on the stated SOP and terms and conditioned mentioned by the authority by its letter dated 08.03.2024 with no risk and cost to UPSHA with effect from 11.03.2022. The letter dated 09.03.2022 is annexed herewith to the instant counter-affidavit on behalf of Respondent No. 5 as ANNEXURE No. R-5/4.



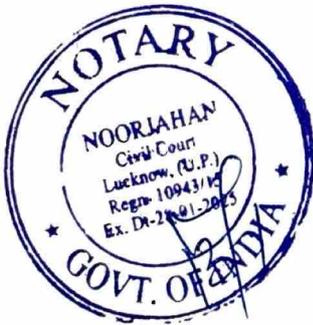
Relevant terms of undertaking include, *inter-alia*, the following:

“...4. No additional land shall be procured by the Authority for establishment of Temporary Fee Collection booth at said location. Concessionaire will establish the same within available ROW of the project.

5. *If any additional land is required, Concessionaire has to arrange procure that with his own const without any additional financial burden to the Authority.*

10. *The Authority will reserve the right to withdraw the permission at any time if observed any inconvenience to the road user or any law-and-order problem arise at TCFB-1A location without any financial burden to the Authority. No claim from Concessionaire, whatsoever, will be entertained by the UPSHA in this regard*

13. *If due to any administrative order or litigation or any judgement of the competent Court, the operation of the Temporary Fee Collection booth is held up/suspended, or terminated, UPSHA will not be responsible for any loss to the Concessionaire because of the reasons there is or whatsoever the reason may be...*"



(vii) Therefore, it is submitted that there is no toll plaza as alleged by the Petitioner and only a temporary toll booth has been permitted within the ROW already diverted to and available with the Authority.

(viii) No permission for any residential/official houses or any kind of building has been granted along/for the toll booth. The Respondent No. 5 has no concern with the alleged construction of any kind along the ROW

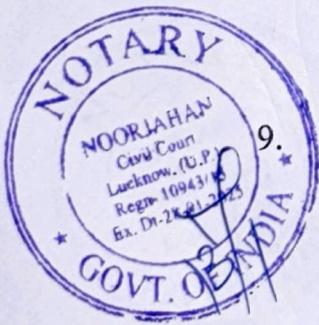
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as the said construction is not within the ROW/land diverted to or under control of Respondent No. 5.

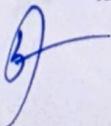
6. That the contents of Paragraph 3 are formal in nature and do not call for any reply by the answering Respondents.

7. That the contents of Paragraph 4 to the extent of operation of temporary toll booth as alleged has been specifically addressed in Paragraph 6 of the instant counter-affidavit. The Respondent No. 5 has no concern with the land identified as Arajai no. 291Mi in Village Belkhara, Pargana-Ahraura, Tehsil Chunar, District Mirzapur and has no power to either authorize or punish any construction of any kind on the said land. The remaining allegations put forth in Paragraph 4 do not pertain to the answering Respondent and therefore merit no response.

8. That the contents of Paragraph 5 do not merit any response. The Respondent No. 5 has acted in accordance with law at all times.

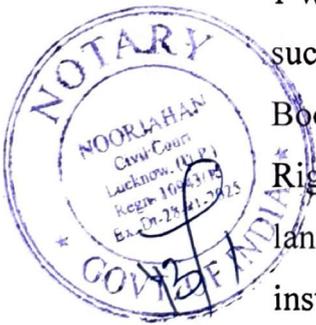


9. That the contents of Paragraph 6 to the extent of operation of temporary toll booth as alleged has been specifically addressed in Paragraph 6 of the instant counter-affidavit. The Respondent No. 5 has no concern with the land identified as Arajai no. 291Mi in Village Belkhara, Pargana-Ahraura, Tehsil Chunar, District Mirzapur and has no power to either authorize or punish any construction of any kind on the said land. The remaining allegations put forth in Paragraph 4 do not pertain to the answering Respondent and therefore merit no response.



10. That the contents of Paragraphs 7 to 11 do not specifically pertain to the answering respondent and therefore, merit no response. The Respondent No. 5 has always acted in accordance with law at all times.

11. That the contents of Paragraphs 12 & 13 are false and baseless/ bereft of true factum to the extent that it alleges collusion between the answering Respondent and the Respondent No. 8/ violation of any conditions imposed in No-Objection Certificate and is thereby denied. The complete length of project was put on commercial operation on Varanasi Shakti Nagar Marg (SH-5A) by granting approval of three toll plazas in pursuance to the agreement, as also admitted by the Applicant. It is submitted thereafter, in conformity with the Concession Agreement (Cl. 27.8 & Cl. 27.9), the answering Respondent had further accepted the request by the Respondent No. 8 for installation of a Temporary Fee Collection Booth only as a part of Toll Plaza-1 with certain terms and conditions. It is also pertinent that such permission for installation of Temporary Fee Collection Booth to the Respondent No. 8 is only limited within the Right of Way (RoW) of the project and no other/adjoining lands. Further, since the approval was only for installation/operation of a Temporary Fee Collection Booth (TFCB-1A) in pursuance to Cl. 27.8 of the Agreement, as a part of Toll Plaza-1, it is not antithetical Rule 8(2) of the Uttar Pradesh State Highways "The Determination of Rates and Collection of Toll" Rules, 2011 as falsely alleged by the Applicant. Furthermore, any other allegation related to

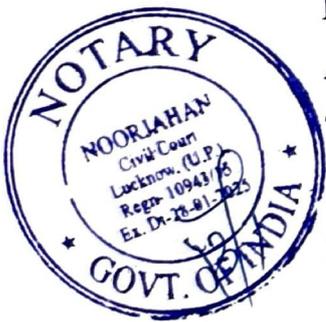


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land/usage of land adjoining the RoW does not pertain to the answering Respondent and merits no response.

12. That the contents of Paragraphs 14 are false and therefore denied. As has been already stated above, the approval was granted by the answering Respondent for installation of Temporary Fee Collection Booth only as a part of Toll Plaza-1 within the already existing ROW and therefore, no additional land acquisition was done. The Respondent No. 5 has no concern with the land identified as Araji no. 291Mi in Village Belkhara, Pargana-Ahraura, Tehsil Chunar, District Mirzapur and has no power to either authorize or punish any construction of any kind on the said land. The remaining allegations put forth in Paragraph 14 do not pertain to the answering Respondent and therefore merit no response.

13. That the contents of Paragraphs 15 to 17 do not pertain to the answering Respondent. However, it is clarified that the Respondent No. 5 has no concern with the land identified as Araji no. 291Mi in Village Belkhara, Pargana-Ahraura, Tehsil Chunar, District Mirzapur and has no power to either authorize or punish any construction of any kind on the said land.



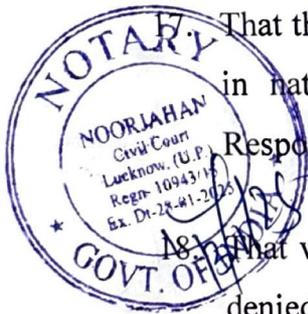
14. That the contents of Paragraphs 18 to 32 are merely restatement of environment/ enviro-legal principles which require no reply from the answering Respondent.

15. That the contents of grounds raised in Paragraph 33 is denied to the extent that as aforementioned, the approval for

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installation of temporary toll booth as part of Toll Plaza- 1 by UPSHA was in conformity with the terms of Concession Agreement with proper undertaking as to the installation and collection of fees. The other allegations raised do not pertain to the answering Respondent and therefore do not merit any response. It is yet again clarified that The Respondent No. 5 has no concern with the land identified as Araji no. 291Mi in Village Belkhara, Pargana-Ahraura, Tehsil Chunar, District Mirzapur and has no power to either authorize or punish any construction of any kind on the said land. The remaining allegations put forth in Paragraph 33 do not pertain to the answering Respondent and therefore merit no response.

16. That vis-à-vis the contents of Grounds raised in Paragraphs 34 to 47, the same are reiteration of principles of environmental law/ science and therefore merits no response from the answering Respondent



That the contents of Paragraphs 48, 49, 50 & 51 are formal in nature and merits no response from the answering Respondent.

That with respect to the contents of Prayers, the same are denied for being vague, and legally untenable. The reliefs claimed are devoid of true facts and no specific reliefs have been sought and therefore, the Application is liable to be dismissed.

In view of the submissions preferred above, it is humbly prayed that the aforesaid original application be dismissed with costs.

PLACE: Lucknow

DATED: 13th January 2025



DEPONENT

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of Paragraphs 1, 2, 4, 8, 17, 18 part of this affidavit are true to my personal knowledge, and those of paragraphs 5 (part), 6-7,9, 10-13,15, are believed to be true based on perusal of the relevant records and information gathered from those records as and those of paragraphs 3, 5 (part), 14, 16, 18 (part) are believed to be true based on legal advice received by me. No part of it is false and nothing material has been concealed. **SO, HELP ME GOD.**

PLACE: Lucknow

DATED: 13th January 2025



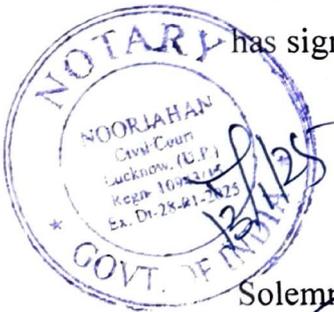
DEPONENT

I identify the deponent based on record produced by him that who has signed this affidavit before me.



Abhishek Dwivedi

Advocate



Solemnly affirmed before me by the deponent on 13/1/25 at 11.00 a.m. / p.m. who has been identified by **Abhishek Dwivedi** **Advocate**, High Court, Lucknow.

NOTARY

NOTARY

I have satisfied myself by examining the deponent that he understands the contents of this affidavit, which have been read over and explained to him by me.

Sworn and Verified
before me.

OATH COMMISSIONER

[Handwritten Signature]
NOOR JAHAN
& Notary
Lucknow
Registration No. 1094378



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ANNEXURE NO. R-5/1

**Uttar Pradesh State Highways Authority,**

4th Floor, KisanMandiBhawan,
VibhutiKhand, Gomti Nagar, Lucknow-226010

Ph:- 0522-4150377

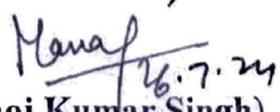
Website: <http://www.upsha.in>

Ref. No. 524/Pravit8/2024-25/UPSHA/Lko. Date: 26/7/2024.

**LETTER AUTHORIZING MR. SHRINIVAS TRIPATHI AS
AUTHORISED SIGNATORY OF UTTAR PRADESH STATE
HIGHWAYS**

AUTHORITY

I, Manoj Kumar Singh, the Chief Executive Officer of Uttar Pradesh State Highways Authority, do hereby authorize MR. SHRINIVAS TRIPATHI, the Member (Finance) of Uttar Pradesh State Highways Authority with office address at Fourth Floor, Kisan Mandi Bhawan, Vibhuti Khand Gomti Nagar, Lucknow-226010 to be the authorized singatory on behalf of Uttar Pradesh State Highways Authority in any and all cases, litigations, filings etc. authority to sign, execute, verify and swear documents, affidavits, pleadings, Vakalatnamas, applications and other documents, and to instruct advocates or legal representatives in the all cases.


(Manoj Kumar Singh)
Chief Executive Officer



ANNEXURE NO. R-5/2**UTTAR PRADESH STATE HIGHWAYS
AUTHORITY****Government of Uttar Pradesh**

**FOUR LANING (WITH PAVED SHOULDERS) OF VARANASI-
SHAKTINAGAR ROAD UPTO HATHI NALA (SH-5A) IN THE STATE
OF UTTAR PRADESH ON DESIGN, BUILD, FINANCE, OPERATE
AND TRANSFER
(DBFOT) BASIS**

CONCESSION AGREEMENT**Between**

**UTTAR PRADESH STATE HIGHWAYS AUTHORITY
4th Floor, Kisan Madi Bhawan,
Vibhuti Khand, Gomti Nagar, Lucknow-226010**

And

**M/s ACP Tollways Pvt. Ltd.,
B-9, Vibhuti Khand, Gomti Nagar Lucknow-226010**

8 December, 2011

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27.6 Reappropriation of excess Fee

27.6.1 In the event that the average daily traffic of PCUs in any Accounting Year shall have reached a level equivalent to 120% (one hundred and twenty per cent) of the designed capacity specified in Clause 29.2.3 (the "Traffic Cap"), the Fee levied and collected from the traffic exceeding the Traffic Cap shall, notwithstanding anything to the contrary contained in this Agreement, be deemed to be due and payable to the Authority in accordance with the provisions of Clause 27.6.2.

27.6.2 If traffic in any Accounting Year exceeds the Traffic Cap, the Concessionaire shall be entitled to collect and appropriate the Realisable Fee for traffic not exceeding the Traffic Cap and for all traffic exceeding the Traffic Cap, the Concessionaire shall collect and deposit the same into the Safety Fund within 60 (sixty) days of the close of the relevant Accounting Year; provided that the balance remaining in respect of the excess traffic of the last Accounting Year of the Concession Period shall be credited to the Safety Fund within 30 (thirty) days of the Transfer Date.

27.7 Tolling Contractor

The Concessionaire may appoint a Tolling Contractor or any other person to collect the Fee for and on behalf of the Concessionaire, provided that notwithstanding such appointment, the Concessionaire shall be and remain solely liable and responsible for the collection of Fee in accordance with this Agreement and its deposit into the Escrow Account and for compliance with the provisions of this Agreement.

27.8 Fee collection points

Fee shall ordinarily be collected at the Toll Plazas from vehicles crossing the Toll Plazas and using the whole or part of the Project Highway; provided that for preventing evasion of Fee by any vehicle circumventing one or both of the Toll Plazas and using the whole or part of the Project Highway located between such Toll Plazas, the Concessionaire shall be entitled to set up at its own risk and cost, and in consultation with the Independent Engineer, its temporary or permanent Fee collection booths, or impose such other restrictions on entry to the Project Highway, as may reasonably be necessary for preventing such evasion. For the avoidance of doubt, the Concessionaire hereby acknowledges and agrees that it shall not determine or collect Fee from Users who only use part of the Project Highway, which is situated between the two Toll Plazas OR only use part of the Project Highway situated on any one side of the Toll Plaza. It is further acknowledged and agreed that the restrictions hereunder shall not extend beyond a distance of 10 (ten) kilometres from the Toll Plazas and the provisions of this Clause 27.8 shall be so enforced as to minimise inconvenience to Users who are not liable to payment of Fee.



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27.9 Additional charge for evasion of Fee

In the event that any vehicle uses the Project Highway without payment of Fee due, the Concessionaire shall be entitled to determine and collect from such vehicle the Fee due and an equivalent amount towards predetermined liquidated damages for unauthorised use of the Project Highway; provided that the determination and collection of such liquidated damages shall be at the risk and cost of the Concessionaire and the Authority shall not in any manner be liable on account thereof; provided that upon failure of the driver of such vehicle to pay Fee, the Concessionaire may prevent such vehicle from using the Project Highway and may have such vehicle removed therefrom.

27.10 Additional fee for overloaded vehicles

Without prejudice to the liability incurred under the Applicable Laws by any person driving a vehicle that is loaded in excess of the permissible limit set forth in such laws, the Concessionaire may recover Fee for such overloaded vehicle at the rate applicable to the next higher category of vehicles.

Provided that such Fee shall be levied on the basis of actual Gross Vehicle Weight as measured by a standardised static weighing machine to be installed by the Concessionaire at each of the Toll Plazas and where no such weighing machine has been installed, the Concessionaire shall not be entitled to collect Fee for the next higher category of vehicles.

Provided further that upon detection of overloading, the Concessionaire shall prevent the vehicle from using the Project Highway until the excess load has been removed from such vehicle and the Authority shall not be liable for any act of omission of the Concessionaire in relation to such vehicle or person driving such vehicle.

27.11 Display of Fee rates

27.11.1 The Concessionaire shall, one kilometre before the Toll Plaza, 500 (five hundred) metres before the Toll Plaza and 50 (fifty) metres before entry to the Toll Plazas, prominently display the applicable rates of Fee for information of Users approaching the Toll Plaza and shall also publish and display such other information in such manner as may be prescribed under the Fee Rules.

27.11.2 The Concessionaire shall, from time to time, inform the Authority of the applicable Fee and the detailed calculation thereof. Such information shall be communicated at least 15 (fifteen) days prior to the revision of Fee under and in accordance with the Fee Notification.

27.11.3 The Concessionaire shall not revise, display or collect any amounts in excess of the rates of Fee payable under the Fee Notification. In the event any excess amounts are collected by or on behalf of the Concessionaire, it shall, upon receiving a notice to this effect from the Authority, refund such excess amounts to the Authority along with Damages equal to 25% (twenty five per cent) thereof.



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ANNEXURE R-5/3

F. No. 8-86/2012-FC
Government of India
Ministry of Environment & Forests
(F.C. Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110510.
Dated: 27/ May, 2013.

To

The Principal Secretary (Forests),
Government of Uttar Pradesh,
Lucknow.

Sub: Diversion of 129.251 ha of forest land in favour of Uttar Pradesh State Highway Authority (UPSHA) for widening / upgradation of Varanasi-Shaktinagar section of NH-5A in Mirzapur, Sonbhadra, Obra, Renukut Forest Divisions and Kaimur Wild life Sanctuary in the State of Uttar Pradesh - regarding.

Sir,

I am directed to refer to the State Government's letter no. 2636/14-2-2012-800(70)/2012 dated 12th October, 2012 and D.O. letter no. 664/Forest Conservation Act dated 25th March, 2013 on above mentioned subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the said Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of the Forest Advisory Committee, the Central Government hereby conveys the 'in-principle' approval for diversion of 129.251 ha of forest land in favour of Uttar Pradesh State Highway Authority (UPSHA) for widening / upgradation of Varanasi-Shaktinagar section of NH-5A in Mirzapur, Sonbhadra, Obra, Renukut Forest Divisions and Kaimur Wild life Sanctuary in the State of Uttar Pradesh subject to fulfilment of the following conditions:-

1. Legal status of the diverted forest land shall remain unchanged.
2. (i) The Compensatory Afforestation (CA) over double degraded forest land as proposed shall be undertaken at the cost of the User Agency.
(ii) The area identified for Compensatory Afforestation shall be clearly depicted on SOI toposheet of 1:50,000 scale.
(iii) The User Agency shall transfer the cost (incorporating the current wage structure) for raising and maintaining Compensatory Afforestation to the State Forest Department.
3. User Agency shall deposit the Net Present Value (NPV) of the diverted forest land with the State Forest Department as per the orders of the Hon'ble Supreme Court dated 30.10.2002, 01.08.2003 and 28.03.2008 in I.A. No. 566 in WP(C) No.

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202/1995 and the guidelines issued by this Ministry vide letter No. 5-1/98-FC(Pt.II) dated 18.09.2003 and 22.09.2003 in this regard.

4. Additional amount of the NPV of the diverted forest land, if any, becoming due after finalization of the same by the Hon'ble Supreme Court of India on receipt of the report from the Expert Committee, shall be charged by the State Government from the User Agency. The User Agency shall furnish an undertaking to this effect.
5. All the funds received from the User Agency under the project shall be transferred to Ad-hoc CAMPA in saving accounts pertaining to the State concerned.
6. The User Agency shall arrange to raise strip plantation on either sides of the road and central verge at project case, as per IRC specifications, with maintenance of 7-10 years. The User Agency shall also submit design of providing at least 2-3 rows of long rotation indigenous species, as per provisions of IRC - SP - 21 2009 (Guidelines on Landscaping and tree plantation) on either side of the road before final clearance.
7. Wherever possible and technically feasible, the User Agency shall undertake afforestation measures along the roads within the area diverted under this proposal, in consultation with the State Forest Department.
8. The reclamation of quarry should be done and completed under the supervision of the State Forest Department and it shall be afforested completely before the Project is closed.
9. Overburden shall not be dumped outside the width of the road. The muck generated in the earth cuttings will be disposed off at the designate dumping sites and in no case the muck/debris will be allowed to roll down the hill slopes.
10. The User Agency will provide retaining walls, breast walls and drainage as per requirement to make the slope stable.
11. The User Agency will undertake comprehensive soil conservation measures at the project cost in consultation with the State Forest Department.
12. The User Agency will assist the State Government in conservation and preservation of flora and fauna of the area in accordance with the plan prepared by the Chief Wildlife Warden of the State. Attention will be particularly given to providing safe crossing and corridors for wildlife species and protecting sensitive habitat like wetlands, grasslands and woodlands from degradation. Where canopy continuity is required for particular species, special measures shall be prescribed by the CWLW for providing crossing points. Where certain trees used for nesting/rookeries of species like 'birds' of prey, herons, storks, hornbills, etc. are to be destroyed, alternative structure shall be provided and the trees transplanted.
13. The User Agency shall not collect any toll from the vehicles carrying forest officers on duty.
14. The designing of culverts/bridges, if any, over the natural streams/rivers/canals should be done in such a manner that it does not hamper the natural course of water, does not give rise to water-logging, and also does not hamper movement of wild animals.
15. Any trees shall be felled only when it becomes necessary and that too under strict supervision of State Forest Department, and at the cost of the User Agency.
16. No labor camp shall be established on the forest land. The User Agency shall also provide fuels preferably alternate fuels to the labourers and staff working at the site so as to avoid any damage to the nearby forest areas.
17. The boundary of the diverted forest land shall be demarcated on the ground with four feet high cement concrete pillar with its serial number and forward and back bearing inscribed on it.
18. The layout and plan shall not be changed without prior approval of the Central Government.

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19. This is subject to the requisite Environmental Clearance and other consequential clearances, if required.
20. Ex-situ conservation of endemic species of flora/fauna lost/disturbed in the process of execution of the project may be ensured.
21. No damage to the flora and fauna of the area shall be caused.
22. The user agency in consultation with the State Government shall create and maintain alternate habitat/home for the avifauna, whose nesting trees area to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project.
23. The forest land shall not be used for any purpose other than that specified in the proposal and shall, under no circumstances, be transferred to any one without prior approval of the Central Government.
24. All other conditions proposed by the State Government at the time of submission of the proposal to the Central Government shall be complied with by the User Agency.
25. The provisions of the Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 shall be complied with in accordance with relevant Guidelines issued by the MoEF.
26. Rehabilitation of project affected families, if any, shall be done as per the National Rehabilitation policy / State Rehabilitation policy whichever is better in consultation with the State Forest Department at the cost of user agencies.
27. Any other condition that the Addl. PCCF (Central), Regional Office, Lucknow may impose from time to time for the protection and improvement of flora and fauna in the forest area.
28. All other conditions under different rules, regulations and guidelines including environmental clearance shall be complied with before transfer of forest land.
29. The transfer of forest land to the User Agency shall not be affected by the State Government till formal orders approving the diversion of forest land are issued by the Central Government.
31. The User Agency shall submit the annual self-compliance in respect of the above conditions to the State Government and to the concerned Regional Office of the Ministry regularly.

Over and above conditions, the following additional conditions as recommended by the Forest Advisory Committee and accepted by the Central Government shall be fulfilled before Stage-II approval:-

- (i) The user agency shall submit a revised scheme for creation and maintenance of compensatory afforestation (CA) over 106.391 hectares of non-forest land free from encroachments/encumbrance and 45.72 hectares of degraded forest land. The CA scheme shall *inter alia* contain a Survey of India toposheet, in original, in 1:50,000 scale indicating location and boundary of forest land identified for creation of CA and suitability/non-encumbrance certificate duly signed by competent authority. In case estimated cost for creation and maintenance of CA as per the revised scheme is less than the same indicated in the original proposal, detailed reasons for the same may also be provided;
- (ii) The user agency shall acquire additional non-forest land (except for the portion of highways passing through Reserved Forest) and provide funds to raise strip plantation along both sides of road so as to ensure that average width of right of way of the highways is 45 meters. In case it is not feasible to acquire entire

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additional non-forest land along right of way of the highways, the shortfall may be met by acquiring non-forest land elsewhere to raise plantations in lieu of the strip plantations required to be raised along the highways.

- (iii) The State Government shall raise penal compensatory afforestation over degraded forest land equal in extent to the forest land transferred from the Public Works Department to the UPSHA without obtaining prior approval of Central Government under the FC Act; and
- (iv) The user agency shall provide funds for establishment of a forest nursery having the capacity to raise 1 lakh plants per annum in each of the Forest Divisions in which the forest land proposed for diversion is located to ensure distribution of seedling to farmers and other villagers at concessional rates.

After receipt of the compliance report on fulfilment of the conditions mentioned above, the proposal shall be considered for final approval under Section-2 of the Forest (Conservation) Act, 1980. Till receipt of the said final/Stage-II approval of the Central Government from this Ministry, transfer of the said forest land to the User Agency shall not be affected by the State Government.

Yours faithfully,

B. K. Singh
(B. K. Singh)
Director

Copy to:-

- ✓ 1. The Principal Chief Conservator of Forests, Government of Uttar Pradesh, Lucknow.
2. The Addl. Principal Chief Conservator of Forests (Central), Regional Office, Lucknow.
3. The Nodal Officer, Forest Department, Government of Uttar Pradesh, Lucknow.
4. User Agency.
5. Monitoring Cell, FC Division, MoEF, New Delhi.
6. Guard file.

B. K. Singh
(B. K. Singh)
Director

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F. No. 8-86/2012-FC
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
 CGO Complex,
 Lodhi Road, New Delhi - 110510
 Dated: 14th November, 2013

To

The Principal Secretary (Forests),
 Government of Uttar Pradesh,
 Lucknow.

Sub: Diversion of 129.251 ha of forest land in favour of Uttar Pradesh State Highway Authority (UPSHA) for widening/ upgradation of Varanasi-Shaktinagar section of NH-5A in Mirzapur, Sonbhadra, Obra, Renukut Forest Divisions and Kaimur Wild life Sanctuary in the State of Uttar Pradesh.

Sir,

I am directed to refer to the State Government of Uttar Pradesh's letter no. 2636/14-2-2012-800 (70)/2012 dated 12.10.2012 on the above mentioned subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980. After careful examination of the proposal by the Forest Advisory Committee (FAC) constituted under Section-3 of the said Act, 'in-principle' approval was granted vide this Ministry's letter of even number dated 31.05.2013 subject to fulfilment of certain conditions prescribed therein. The State Government has furnished compliance report in respect of the conditions stipulated in the 'in-principle' approval and has requested the Central Government to grant final approval.

In this connection, I am directed to say that on the basis of the compliance report furnished by the State Government vide Nodal Officer (FCA) Forest Department, Uttar Pradesh's letter No. 477/11/C-Lucknow dated 3.09.2013, final approval of the Central Government is hereby granted under section-2 of the Forest (Conservation) Act, 1980 for Diversion of 129.251 ha of forest land in favour of Uttar Pradesh State Highway Authority (UPSHA) for widening/ upgradation of Varanasi-Shaktinagar section of NH-5A in Mirzapur, Sonbhadra, Obra, Renukut Forest Divisions and Kaimur Wild life Sanctuary in the State of Uttar Pradesh subject to fulfilment of the following conditions:

- (i) Legal status of the diverted forest land shall remain unchanged;
- (ii) Compensatory afforestation over the degraded forest land of 45.72 ha i.e. twice in extent to the forest land being diverted (22.86 ha; ownership of which rests with UPSHA) and over equivalent non-forest land in lieu of 106.391 ha of forest land being diverted (ownership of which rests with the State Forest Department), shall be raised and maintained by the State Forest Department from the funds already deposited by the User Agency;
- (iii) The non-forest land transferred and mutated in favour of the State Forest Department shall be notified by the State Government as RF under Section-4 or PF under Section-29 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act, 1927 latest within a period of six months from the date of issue of this letter. The Nodal Officer shall report compliance in this regard along with a copy of the original

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notification declaring the non-forest land under Section 4 or Section 29 of the Indian Forest Act, 1927, as the case may be, within the stipulated period to the Central Government for information and record;

- (iv) The User Agency shall pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
- (v) Plantation should be raised and maintained over an area of 19.05 ha identified by the State Government in lieu of strip plantation as per the approved scheme from the funds already deposited by the user agency;
- (vi) Wherever possible and technically feasible, the user agency shall undertake afforestation measures along the road within the area diverted under this approval, in consultation with the State Forest Department at the project cost
- (vii) The layout plan of the proposal shall not be changed without the prior approval of the Central Government.
- (viii) No labour camp shall be established on the forest land;
- (ix) The forest land shall not be used for any purpose other than that specified in the proposal and under no circumstances be transferred to any other agency, department or person
- (x) The reclamation of quarry should be done and completed under the supervision of the State Forest Department and it shall be afforestation completely before the project is closed.
- (xi) Overburden shall not be dumped outside the width of the road. The musk generated in the earth cutting will be disposed off at the designate dumping sites and in no case the musk/debris will be allowed to roll down the hill slopes.
- (xii) The user agency will provide retaining walls, breast walls and drainage as per requirement to make the slope stable.
- (xiii) The user agency will undertake comprehensive soil conservation measures at the project cost in consultation with the State Forest Department.
- (xiv) The user agency will assist the State Government in conservation and preservation of flora and fauna of the area in accordance with the plan prepared by the Chief Wildlife Warden of the State. Attention will be particularly given to providing safe crossing and corridors for wildlife species and protecting sensitive habitat like wetlands, grasslands and woodlands from degradation. Where canopy continuity is required for particular species. Special measures shall be prescribed by the CWLW for proving crossing points. Where certain trees used for nesting/rookeries of species like 'birds' of prey, herons, storks, hornbills, etc. Are by be destroyed, alternative structure shall be provided and the trees transplanted.
- (xv) The user agency shall not collect any toll from the vehicles carrying forest officers on duty.
- (xvi) The designing of culverts/bridges, if any, over the natural streams/rivers/canals should be done in such a manner that it does not hamper the natural course of water, does not give rise to water-logging, and also does not hamper movement of wild animals.

- (xvii) Any tree shall be felled only when it becomes necessary and that too under strict supervision of State Forest Department, and at the cost of the User Agency.
- (xviii) No labour camp shall be established on the forest land. The User agency shall also provide fuels preferably alternate fuels to the labourers and staff working at the site so as to avoid any damage to the nearby forest areas.
- (xix) The boundary of the diverted forest land shall be demarcated on the ground with four feet high cement concrete pillar with its serial numbers and forward and back bearing inscribed on it.
- (xx) Ex-situ conservation of endemic species of flora/fauna lost/disturbed in the process of execution of the project may be ensured.
- (xxi) No damage to the flora and fauna of the area shall be caused.
- (xxii) The user agency in consultation with the State Government shall create and maintain alternate habitat/home for the avifauna, whose nesting trees area to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being.
- (xxiii) The user Agency shall submit the annual self-compliance in respect of the above conditions to the State Government and to the concerned Regional Office of the Ministry regularly.
- (xxiv) Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife;
- (xxv) The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations and Guidelines, for the time being in force, as applicable to the project.

Yours faithfully,

(Priya Ranjan)
Sr. Assistant Inspector General of Forests

Copy to:-

1. The Principal Chief Conservator of Forests Government of Uttar Pradesh, Lucknow.
2. The Addl. PCCF (Central), Regional Office, Lucknow.
3. The Nodal Officer (FCA), O/o the PCCF, Government of Uttar Pradesh, Lucknow.
4. The Chief General Manager (Land Acquisition), National Highway Authority of India, Ministry of Road Transport & Highway, G-5 & 6, Sector-10, Dwarka, New Delhi - 110 0075.
5. User Agency (UPSHA 4th Floor Kisan Mandi Bhawan Vibhuti Khand Gomti Nagar Lucknow - 226010)
6. Monitoring Cell, FC Division, MoEF, New Delhi.
7. Guard file.

(Priya Ranjan)
Sr. Assistant Inspector General of Forests

प्रतियोगिता
विशेष सचिव
उत्तर प्रदेश शासन।
सेवा में,

मुख्य वन संरक्षक,
नोडल अधिकारी
उत्तर प्रदेश,
लखनऊ।

वन अनुभाग-2

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02/4/2014

Vinod 4:00pm

MAILED
07-04-2014
03:50 P.M.

MAILED
02/4/2014

लखनऊ, दिनांक 2 मार्च 2014

विषय:- उ०प्र० राज्य राजमार्ग प्राधिकरण (उपशा) एन०एच०-5ए के चौड़ीकरण एवं उच्चिकरण हेतु गिर्जापुर, सोनभद्र, ओबरा, रेनूकूट वन प्रभागों एवं कैमूर वन्य जीव अभ्यारण में 129.251 हे० वनभूमि के गैर वानिकी प्रयोग तथा 18632 वृक्षों के पातन की अनुमति के सम्बंध में।

महोदय,

उपर्युक्त विषयक कृपया अपने पत्र संख्या-1024/11सी-44, दिनांक 19-11-2013 तत्कम में भारत सरकार, पर्यावरण एवं वन मंत्रालय, नई दिल्ली के सैद्धांतिक स्वीकृति एफ०नं०-8-86/2012-एफस, दिनांक 31-5-2013 तथा विधिवत स्वीकृत एफ.नं०-8-86/2012-एफसी, दिनांक 14-11-2013 का सन्दर्भ ग्रहण करें।

2- इस सम्बंध में मुझे आपसे यह कहने का निवेश हुआ है कि महामहिम राज्यपाल उ०प्र० राज्य राजमार्ग प्राधिकरण (उपशा) एन०एच०-5ए के चौड़ीकरण एवं उच्चिकरण हेतु (1) गिर्जापुर वन प्रभाग, गिर्जापुर में किमी० 0 से 39.00 तक 21.727 हे० आरक्षित एवं 22.860 हे० हे०संरक्षित वनभूमि कुल 44.587 हे० वनभूमि के गैर वानिकी प्रयोग एवं बाधक 3670 वृक्षों का पातन (2) सोनभद्र वन प्रभाग, सोनभद्र में किमी० 72.00 से 73.00 किमी० तक 7.517 हे० आरक्षित वनभूमि (3) कैमूर वन्य जीव प्रभाग, जनपद गिर्जापुर में किमी० 76.00 से 87.00 किमी० तक 19.80 हे० रक्षित वन वन भूमि बाधक 1465 वृक्षों के पातन (4) ओबरा वन प्रभाग, जनपद सोनभद्र में किमी० 87.00 से 115 तक 52.577 हे० रक्षित वनभूमि एवं बाधक 10388 वृक्षों का पातन (5) रेनूकूट वन प्रभाग, जनपद सोनभद्र में किमी० 15.60 से 117.650 किमी० तक 4.77 हे० आरक्षित वन भूमि एवं बाधक 3111 वृक्षों का पातन परियोजना के समेकित प्रस्ताव में कुल 34.014 हे० आरक्षित वन भूमि, 72.377 हे० रक्षित वन भूमि, 22.860 हे० संरक्षित वन भूमि कुल 129.251 हे० (आरक्षित/रक्षित/संरक्षित) वनभूमि के गैर वानिकी प्रयोग एवं कुल बाधक 18632 वृक्षों के पातन के समेकित प्रस्ताव के अनुमति भारत सरकार द्वारा प्रदत्त शर्तों एवं राज्य सरकार की निम्नलिखित शर्तों का समावेश करते हुये प्रदान करते हैं:-

(1) Legal status of the diverted forest land shall remain unchanged.

भा.स.

प्रत्यावर्तित वनभूमि की वैधानिक स्थिति में कोई परिवर्तन नहीं होगा।

(2)

भा.स.

Compensatory afforestation over the degraded forest land of 45.72 ha i.e. twice in extent to the forest land being diverted (22-86 ha: ownership of which rest with UPSHA) and over equivalent non-forest land in lieu of 106-391 ha of forest land being diverted (ownership of which rests with the State Forest Department), shall be raised and maintained by the State Forest Department from the funds already deposited by the User Agency;

प्रयोक्ता अभिकरण द्वारा प्रत्यावर्तित वनभूमि के दुगुने अर्थात् 45.72 हे० अवनत वन भूमि पर (जो 22.86 हे० उपशा के स्वामित्व में है) और 106.391 हे० समतुल्य वन भूमि के बदले गैर वन भूमि (जो राज्य वन विभाग के स्वामित्व में है) पर प्रयोक्ता अभिकरण के पूर्व में जमा किये गये निधि से वन विभाग द्वारा वृक्षारोपण एवं रख रखाव किया जायेगा।

(3)

भा.स.

The non-forest land transferred and mutated in favour of the State Forest department shall be notified by the State Government as RF under Section 4 and PF under section 29 of the Indian Forest Act, 1927 under the relevant Section (s) of the local Forest Act, 1927 latest within a period of six months from the date of issue of this letter. The Nodal Officer shall report compliance in this regard. The Nodal Officer shall report compliance in this regard along with a copy of the original notification declaring the non-forest land under Section 4 or /section 29 of the Indian Forest Act, 1927, as the case may be, within the stipulated period to the Central Government for information and record:

हस्तांतरित, गैर वन भूमि का राज्य वन विभाग को पक्ष में अमलदरामद है, को भारतीय वन अधिनियम, 1927 की धारा-4 / 29 या अन्य सुरांगत अधिनियम/अधिनियमों के अन्तर्गत आदेश निर्गत होने की तिथि से 6 माह के भीतर अधिसूचित किया जायेगा। इस सम्बंध में नोडल अधिकारी द्वारा आख्या उपलब्ध कराते हुये भारतीय वन अधिनियम, 1927 की धारा 4/29 के अन्तर्गत निर्गत अधिसूचना की मूल प्रति केन्द्र सरकार को समयावधि के अन्तर्गत रिकार्ड हेतु उपलब्ध कराया जायेगा।

- (4) भा.स. The User Agency shall pay the additional amount of NPV, if so determined, as per the final decision of the Hon ble Supreme Court of India:
भा.स. मा० उच्चतम न्यायालय के अंतिम निर्णय के अनुसार, यदि अतिरिक्त वर्तमान वार्षिक मूल्य (एन०पी०वी०) निश्चित की जाती है तो प्रयोक्ता एजेंसी को इसका भुगतान करना होगा।
- (5) भा.स. Plantation should be raised and maintained over an area of 19.05ha identified by the State Government in lieu of strip plantation as per the approved scheme from the funds already deposited by the user agency.
भा.स. अनुमोदित कार्ययोजना के अनुसार प्रयोक्ता अभिकरण द्वारा पहले से जमा की गयी निधि से वन विभाग द्वारा चिन्हित क्षेत्र 19.05 हे० में पट्टरी वृक्षारोपण एवं रखरखाव किया जायेगा।
- (6) भा.स. Wherever possible and technically feasible, the User Agency shall undertake afforestation measures along the roads within the area diverted under this approval in consultation with the State Forest Department at the project cost
भा.स. प्रयोक्ता अभिकरण द्वारा जहाँ तक सम्भव हो एवं तकनीकी दृष्टिकोण से सुगम हो, वन विभाग के परामर्श से इस अनुमति से आच्छादित प्रत्यावर्तित भूमि पर सड़क के किनारे परियोजना की लागत पर वृक्षारोपण करायेगा।
- (7) भा.स. The layout plan of the proposal shall not be changed without the prior approval of the Central Government.
भा.स. प्रस्तावित परियोजना का ले-आउट प्लान बिना केन्द्र सरकार की पूर्वानुमति से परिवर्तन नहीं किया जायेगा।
- (8) भा.स. No labour camp shall be established on the forest land.
भा.स. प्रयोक्ता अभिकरण द्वारा वनभूमि पर श्रमिक कैम्प नहीं स्थापित किया जायेगा।
- (9) भा.स. The forest land shall not be used for any purpose other than that specified in the proposal under no circumstances be transferred to any other agency, department or person .
भा.स. प्रयोक्ता अभिकरण द्वारा प्रत्यावर्तित वनभूमि को प्रस्ताव में उल्लिखित प्रयोजन के अतिरिक्त अन्य प्रयोजन हेतु प्रयोग नहीं करेगा और किसी भी परिस्थितियों में किसी अन्य संस्था, विभाग को हस्तान्तरित नहीं किया जायेगा।
- (10) भा.स. The reclamation of quarry should be done under the supervision of the State Forest Department .The quarry shall be reclaimed and afforested completely before the project is closed.
भा.स. प्रयोक्ता अभिकरण द्वारा राज्य सरकार के वन विभाग के पर्यवेक्षण में गड्ढों का भराव/पत्थर-बजरी आदि का निपटारा/स्थल सुधार आदि से सम्बंधित कार्य परियोजना समाप्ति के पूर्व पूर्ण कर लिये जायेगे।
- (11) भा.स. Overburden shall not be dumped outside the width of the road . The muck generated in the earth cutting will be disposed off at the designate dumping sites and in no case the muck/ debris will be allowed to roll down the hill slopes.
भा.स. प्रयोक्ता अभिकरण द्वारा सड़क के बाहर दोनों ओर कम्पा आदि नहीं बनाया जायेगा व कटान के समय हुई गंदगी व विजातीय पदार्थों का उस स्थान से हटाकर डंपिंग क्षेत्रों में दबाया जायेगा।
- (12) भा.स. The user agency will provide retaining walls breast walls and drainage as per requirement to make the slope stable.
भा.स. प्रयोक्ता अभिकरण द्वारा यथा आवश्यकता भूमि ढलान को स्थायित्व प्रदान करने हेतु अवरोधक व ड्रेनेज आदि की व्यवस्था की जायेगी।

- (13) भा.स. The User Agency will undertake comprehensive soil conservation measures at the project cost in consultation with the State Forest Department .
प्रयोक्ता अभिकरण द्वारा परियोजना स्थल पर राज्य के वन विभाग के परामर्श से वृहद मृदा संरक्षण उपाय सुनिश्चित किये जायेंगे।
- (14) भा.स. The use agency will assist the State Government in consultation and preservation of flora and fauna of the area in accordance with the plan prepared by the Chief Wildlife Warden of the State. Attention will be particularly given to providing safe crossing and corridors for wildlife species and protecting sensitive habitat like wetlands, grasslands and woodlands from degradation. Where canopy continuity is required for particular species, special measures shall be prescribed by the CWLW for providing crossing point. Where certain trees used for nesting/rockerries of species like birds of pray, herons, storks, hornbills, etc, are to be destroyed, alternative structure shall be provided and the trees transplanted
प्रयोक्ता अभिकरण द्वारा राज्य के मुख्य जीव प्रतिपालक की सहायता से क्षेत्रीय जीव जन्तु के संरक्षण कार्य में सहयोग किया जायेगा। मुख्यतः सुरक्षित पारगमन हेतु जंगली प्रजातियों व संवेदनशील वास स्थान यथा डेटलैंड, चारागाह व जंगल को क्षति न पहुंचाने हेतु सावधानी बरती जायेगी। यथा आवश्यकता विशिष्ट प्रजातियों की कैनोपी की निर्वाधता सुनिश्चित करने हेतु सी डब्ल्यू एल डब्ल्यू मानकों के अनुरूप आवश्यकता व्यवस्था की जायेगी। परियोजना स्थल पर जहां भी स्ट्रोक्स, हार्नबिल के वृक्षों पर स्थित प्राकृतिक वास स्थान अथवा घोंसला बने वृक्षों को यदि विनिष्ट किया जाना आवश्यक हो तो वहां उनके स्थान पर वैकल्पिक ढांचा / उपयुक्त वृक्षारोपण का प्राविधान प्रयोक्ता अभिकरण द्वारा किया जायेगा।
- (15) भा.स. The user agency will not collect any toll tax from the vehicles carrying forest officers on duty.
प्रयोक्ता अभिकरण द्वारा शासकीय कार्यों के दौरान वन अधिकारियों के वाहनों से टोल टैक्स नहीं लिया जायेगा।
- (16) भा.स. The designing of culverts/bridges' if any , over the natural streams/rivers/canals should be done in such a manner that it does not hamper the natural course of water, does not give rise to water-logging, and also does not hamper movement of wild animals.
प्रयोक्ता अभिकरण द्वारा यह भी सुनिश्चित किया जायेगा कि यदि प्राकृतिक नदी, नहर आदि पर पुल इत्यादि का विनिर्माण आवश्यक हो तो इस प्रकार के निर्माण से जल बहाव बाधित न हो साथ ही जल भराव की समस्या भी उत्पन्न न हो एवं जंगली जानवरों के विघरण में कोई बाधा न हो।
- (17) भा.स. Any tree shall be felled only when it becomes necessary and that too under strict supervision of State Forest Department and at the cost of the User Agency.
वृक्षों का पातन यदि आवश्यक हो, तो राज्य वन विभाग के कड़े पर्यवेक्षण में प्रयोक्ता अभिकरण के व्यय पर पातन किया जायेगा।
- (18) भा.स. No labour camp shall be established on the forest land. The User agency shall also provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas.
वन भूमि पर श्रमिक आवास स्थापित नहीं किया जायेगा। प्रयोक्ता अभिकरण द्वारा सड़क निर्माण में स्थल पर कार्यरत मजदूरों एवं स्टाफ को जली-पी लकड़ी से अतिरिक्त अन्य कोई वैकल्पिक ईंधन उपलब्ध कराया जायेगा, ताकि समीप के वन क्षेत्र में न किसी प्रकार का क्षति हो तथा न वन क्षेत्र पर दबाव पड़े।
- (19) भा.स. The boundary of the diverted forest land, shall be demarcated on ground with four feet high cement concrete pillars with its serial numbers, forward and back bearing inscribed on it.
परियोजना के व्यय पर प्रत्यावर्तित वन भूमि को 04 फीट ऊंची भजबूत सीमेण्ट कंकरीट पिलर्स द्वारा सीमांकन किया जायेगा। प्रत्येक पिलर पर पिलर्स पर क्रमांक, बैकवर्ड व फारवर्ड बियरिंग अंकित की जायेगी।

भा.स. Ex-situ conservation of endemic species of flora/fauna lost/disturbed in process of execution of the project may be ensured

प्रयोक्ता अभिकरण द्वारा यह भी सुनिश्चित किया जायेगा कि परियोजना में कार्य के दौरान फ्लोरा / फौना के प्रजाति का नुकासान हुआ हो, उसका यथा सम्भव संरक्षण किया जायेगा।

(21) भा.स. No damage to the flora and fauna of the adjoining area shall be caused.

प्रयोक्ता अभिकरण द्वारा परियोजना के कारण परिक्षेत्र में उपलब्ध फ्लोरा और फौना को क्षति नहीं पहुंचायी जायेगी।

(22) भा.स. The user agency in consultation with the State Government shall create and maintain alternate habitat/ home for the avifauna, whose nesting trees are to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements adjoining the forest area being diverted for the project.

यथास्थिति घोंसलायुक्त वृक्षों के कटान के दौरान प्रयोक्ता अभिकरण द्वारा राज्य सरकार के परामर्श से वैकल्पिक पक्षीजात वास स्थान का निर्माण यथा किया जायेगा। पक्षियों के वैकल्पिक घोंसलों आदि के विनिर्माण में पर्यावरण हितैषी सामग्री का प्रयोग किया जायेगा।

(23) भा.स. The User Agency shall submit the annual self-compliance in respect of the above conditions to the State Government and to the concerned Regional Officer of the Ministry regularly:

प्रयोक्ता अभिकरण उपरोक्त शर्तों के अनुपालन की वार्षिक रिपोर्ट राज्य सरकार और भारत सरकार के सम्बंधित मंत्रालय के क्षेत्रीय अधिकारियों को नियमित रूप से प्रेषित करेगा।

(24) भा.स. Any other condition that the the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forest & wildlife.

मंत्रालय के क्षेत्रीय कार्यालय द्वारा वन एवं वन्य जीवों के संरक्षण, सुरक्षा एवं विकास के लिये, समय-समय पर, कोई अन्य शर्त लगायी जा सकती है।

(25) भा.स. The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations and Guidelines, for the time to time being in force, as applicable to the project.

प्रस्तुत परियोजना हेतु वर्तमान में लागू आवश्यक सभी अधिनियम, नियम/विनियम एवं दिशा-निर्देश का अनुपालन राज्य सरकार एवं प्रयोक्ता अभिकरण द्वारा सुनिश्चित किया जायेगा।

(26) प्रस्तावक विभाग को संरक्षित वनभूमि के भू-स्वामित्व वाले विभाग से कार्य आरम्भ करने के पूर्व अनापत्ति प्रमाण-पत्र प्राप्त करना होगा।

(27) आरक्षित एवं रक्षित वन भूमि (106.391 हे०) हेतु

(क) प्रश्नगत भूमि का वर्तमान बाजार दर पर जिलाधिकारी से मूल्य निश्चित कराकर मूल्य के बराबर प्रीमियम एवं प्रीमियम का 10 प्रतिशत वार्षिक लीज रेंट लेकर पट्टाधारक को वनभूमि का कब्जा दिया जायेगा।

(ख) पट्टाधारक द्वारा उक्त शर्तों एवं अन्य सामान्य शर्तों को सम्मिलित करते हुए एक पट्टाविलेख का आलेख्य प्रस्तुत किया जायेगा, जिसे शासकीय हस्तान्तरक से विधीक्षित करवाया जायेगा। ऐसे पट्टाविलेख के विधीक्षण हेतु न्याय (कन्वेसिंग) कोष्ठक के शासनादेश संख्या-198/7जीसी-90-3-89, दिनांक 19-6-1989 के अनुसार निर्धारित विधीक्षण शुल्क विलेख विधीक्षण से पूर्व लेखा शीर्षक-0070-अन्य प्रशासनिक सेवायें-01-न्याय प्रशासन-601 सेवायें और फीस-01 की गयी सेवाओं के लिए भुगतान की उगाही के अन्तर्गत ट्रेजरी चालान की प्रि. पट्टाविलेख के आलेख्य के साथ उपलब्ध करायी जायेगी।

(ग) प्रश्नगत आरक्षित वनभूमि प्रथम बार 25 वर्षों के लीज पर दी जायेगी, जो वन(संरक्षण) अधिनियम, 1980 के अन्तर्गत नवीनीकरण के पश्चात पुनः समय-समय पर बढ़ाया जायेगा।

(28) मा० उच्चतम न्यायालय के रिट पिटीशन (सिविल) 202/1995 के अन्तर्गत आई०ए० संख्या-568 एवं भारत सरकार के पत्र संख्या-5-3/2007-एफ०सी०, दिनांक 05-02-2009 के तहत दिये गये आदेशानुसार शुद्ध

वर्तमान मूल्य (एन0पी0वी0), क्षतिपूर्क वृक्षारोपण की धनराशि एवं अन्य अनुमन्य देयक, प्रतिपूर्ति पौधारोपण निधि प्रबन्धन तथा योजना प्राधिकरण (Compensatory Afforestation Fund, Management and Planning Authority) में वन विभाग के माध्यम से जमा की जायेगी।

- (29) प्रस्तावक विभाग के सम्बन्धित अधिकारी, कर्मचारी अथवा ठेकेदार या उक्त व्यक्तियों के अधीन या उनसे सम्बन्धित कोई भी व्यक्ति किसी भी वन सम्पदा को क्षति नहीं पहुंचायेगी और यदि उक्त व्यक्तियों से वन सम्पदा को कोई क्षति पहुंचती है अथवा पहुंचायी जाती है, तो उसके लिए सम्बन्धित प्रभागीय वनाधिकारी द्वारा निर्धारित प्रतिकर प्रस्तावक विभाग पर वाध्यकारी होगा।
- (30) उक्त वनभूमि प्रस्तावक विभाग के उपयोग में प्रश्नगत अवधि के अन्दर तब तक रहेगी जब तक कि प्रस्तावक को उसकी उक्त हेतु आवश्यकता रहे। यदि प्रस्तावक को उक्त वनभूमि अथवा उसके किसी भाग की आवश्यकता न रहेगी तो यथास्थिति उक्त वनभूमि अथवा उसका ऐसा भाग जो प्रस्तावक विभाग के लिए आवश्यक न रहे, वन विभाग, उ0प्र0 सरकार को किसी प्रतिकर का भुगतान किये यथास्थिति वापस प्राप्त हो जायेगी।
- (31) वन विभाग के अधिकारी/कर्मचारी अथवा उसके अधिकारियों को किसी भी समय जब वे आवश्यक समझे प्रश्नगत वनभूमि का निरीक्षण करने का अधिकार होगा।
- (32) प्रस्तावित वनभूमि स्थित बाधक वृक्षों का पातन सिर्फ उ0प्र0 वन निगम द्वारा ही किया जायेगा तथा पातन की विभिन्न प्रक्रिया हेतु प्रस्तावक विभाग द्वारा कटिंग, फीलिंग लीगिंग एवं ट्रांसप्लांटेशन चार्ज वन निगम को भुगतान करना होगा। वृक्षों के छपान का व्यय प्रस्तावक विभाग द्वारा वन विभाग को प्रदान करना होगा। यह व्यवस्था भारत सरकार के पत्रांक-5-1/2007-एफ0सी0, दिनांक 11-12-2008 में दिये गये निर्देशों के अनुपालन में उल्लिखित है।
- (33) प्रयोक्ता अभिकरण को यह वचनबद्धता देनी होगी कि यदि एन0पी0वी0 की धनराशि में इस अवधि में वृद्धि होती है तो इसका भुगतान किया जायेगा।
- (34) भारत सरकार के पत्र संख्या-5-3/2007-एफसी(पीटी), दिनांक 19-8-2010 तथा पत्र संख्या- J-11013/41/2006-IA-II(I), दिनांक 02 दिसम्बर, 2009 के अनुसार प्रस्तावक विभाग को कार्य प्रारम्भ करने से पूर्व यह सुनिश्चित करना होगा कि उन्होंने, यदि लागू है तो (if applicable), कार्य प्रारम्भ करने के पूर्व सक्षम स्तर से पर्यावरणीय अनापत्ति/अनुमोदन तथा वन्य जीव की दृष्टि से स्टैंडिंग कमेटी ऑफ नेशनल बोर्ड ऑफ वाइल्ड लाइफ से अनुमोदन अलग-अलग प्राप्त कर लिया गया है।
- (35) यदि प्रश्नगत भूमि सेन्चुरी/नेशनल पार्क में सम्मिलित है, तो मा0उच्चतम न्यायालय से अलग से अनुमति प्राप्त करने की कार्यवाही कर ली गयी है।
- (36) समस्त वैधानिक/प्रशासनिक अनापत्ति प्राप्त करने के उपरान्त ही कार्य प्रारम्भ किया जायेगा।
- (37) प्रस्तावित परियोजना में नेशनल बोर्ड ऑफ वाइल्ड लाइफ के द्वारा लगायी गयी शर्तों एवं नेशनल मोन्यूमेंट अथारिटी द्वारा दिये गये निर्देशों का अनुपालन भी प्रस्तावक विभाग को करना होगा।
- (38) उपरोक्त के अतिरिक्त समय-समय पर केन्द्र सरकार/राज्य सरकार/मा0 न्यायालयों द्वारा दिये गये निर्देशों का अनुपालन प्रस्तावक विभाग द्वारा किया जायेगा।
- (39) आदर्श चुनाव आचार संहिता के अन्तर्गत यदि अनुमति आवश्यक हो तो प्रस्तावक विभाग द्वारा अपने स्तर से निर्वाचन आयोग से अनुमति प्राप्त कर ली जाय।

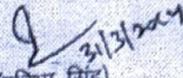
यह आदेश वित्त विभाग के अशासकीय पत्र संख्या- ई0-7/516/दस-2014, दिनांक 28 मार्च, 2014 में प्राप्त उनकी सहमति से जारी किये जा रहे हैं।

भवदीया,

(प्रतिभा सिंह)
विशेष सचिव।

संख्या व दिनांक लंदन

- प्रतिनिधि विभक्तिके लिए सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-
- 1- भारत सरकार, पर्यावरण एवं वन मंत्रालय, सी०जी०ओ० कम्पलेक्स, लोदी रोड, नई दिल्ली।
 - 2- मुख्य वन संरक्षक (केन्द्रीय) भारत सरकार, पर्यावरण एवं वन मंत्रालय क्षेत्रीय कार्यालय, केन्द्रीय भवन
पंचम तल सेक्टर एच, अलीगंज विस्तार, लखनऊ।
 - 3- महानिरीक्षक, उत्तर प्रदेश, इलाहाबाद।
 - 4- प्रमुख सचिव, लोक निर्माण विभाग, उपशासन।
 - 5- जिलाधिकारी, मिर्जापुर एवं सोनभद्र।
 - 6- प्रभागीय निदेशक, सामाजिक चानिकी प्रभाग, मिर्जापुर एवं सोनभद्र।
 - 7- उपरो राज्य राजमार्ग प्राधिकरण (उपशा) चतुर्थ तल किरान मण्ड भवन, विद्युत खण्ड, गोमतीनगर, लखनऊ।
 - 8- गार्ड फाइल।

आज्ञा से

 (प्रतिमा सिंह)
 विशेष सचिव।



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1:00 PM



ACP TOLLWAYS PRIVATE LTD.

SPV FOR VARANASI - SHAKTINAGAR HIGHWAY (SH-05A)

CIN NO: U45400UP20031202047755

Date: 09-03-2022

Ref - ACRTPL/UPSHA/LKO/2021-22/122

To,

The C.E.O.

Uttar Pradesh State Highway Authority

4Th Floor 'Kisan Mandi-Bhawan'

Vibhuti Khand, Gomti Nagar,

Lucknow-226010

Sub: Regarding Installation of additional temporary toll booth on Varanasi-Shaktinagar Road (SH-5A) project.

Ref.

1. Concessionaire letter no ACPTPL/CMEC/CAMP/2021-22/112, Dt. 28.02.2022.
2. Concessionaire letter no ACPTPL/CMEC/CAMP/2021-22/112, Dt. 28.02.2022.
3. IE letter no. CMEC/V-S/IE/O&M-499 Dt. 13.11.2021.
4. Authority letter no. 921/Pravi-18(4-T.Booth)/(V-S)/2021-22/Lko, Dt.08.03.2022.

Dear Sir,

Reference may please be made to the Authority letter under ref no 4 dated 08/03/2022 where is Installation of additional temporary toll booth on Varanasi-Shaktinagar Road (SH-5A) projects at km 23+700 are approved subject to providing Undertaking with term and condition.

Accordingly, Concessionaire undertake and accepted the following term and conditions.

1. Concessionaire will establish Temporary fee collection booth with risk and cost of the Concessionaire without giving any liability to the Authority and without creating any inconvenience to the road users.

2. No inconvenience will occur to the road user in the process of collection of Toll fee at new proposed location. Utmost care shall be taken by the Concessionaire to minimise the waiting time at proposed fee collection booths.

3. Concessionaire will not claim anything in this account from the Authority in future.

Page 1 of 3

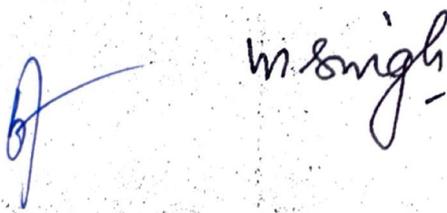
M Singh

REGISTERED OFFICE

B-9, VIBHUTI KHAND, GOMTI NAGAR, LUCKNOW - 226 010 (U.P.)
PHONE : +91-522-4036111, 2720 520/21, FAX : +91-522-4036100

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4. No additional land shall be procured by the Authority for establishment of Temporary Fee Collection booth at said location. Concessionaire will establish the same within available ROW of the project.
5. If any additional land is required, Concessionaire has to arrange procure that with his own cost without any additional financial burden to the Authority.
6. Pertaining to Clause 27.9 of the Concession Agreement, Collection of Fees at these proposed Temporary Fee Collection Booth shall be at risk and cost of the Concessionaire.
7. Additional manpower and security personnel will be deployed by the Concessionaire to maintain the smooth flow of traffic through the proposed Fee Collection Booth.
8. Concessionaire will ensure the proper road safety arrangement including road signage and proper highway lighting at the Temporary Booth area and both side approaches.
9. The volume of Traffic which will pass through these Temporary Fee Collection Booths will also be computed during annual traffic sampling and be taken in to consideration for determining the actual traffic on the project highway as explained in clause 22.3.1 of the CA.
10. The Authority will reserve its right to withdraw the permission at any time if observed any inconvenience to the road user or any law & order problem arise at TECB-1A location without any financial burden to the Authority. No claim from Concessionaire, whatsoever, will be entertained by the UPSHA in this regard.
11. Due intimation will given to the Authority & Independent Engineer after completion of the installation & permission will be taken before commencement of the fee collection.
12. Temporary Fee Collection booth will have the facility of Fastag at all lanes with the own cost of the Concessionaire.

 M. Singh

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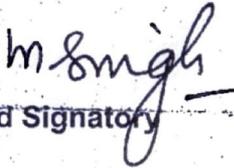
13. If due to any administrative order or litigation or any judgment of the competent Court, the operation of the Temporary Fee Collection booth is held up/suspended or terminated, UPSHA will not be responsible for any loss to the Concessionaire because of the reasons there is or what so ever the reason may be.

14. The Concessionaire will notify well in advance the information regarding operation of additional Temporary Fee Collection booth in newspapers published from District Varanasi/Mirzapur/Sonebhadra for public information on its own cost.

In view of the above, the concessionaire are hereby requested, issue final approval for operation of temporary fees collection booth-1A (TFCB-1A) at km 23+700 as earliest please.

Thanking You,

For ACP Tollways Private Limited



Authorized Signatory

1. The Member (Technical), 4th Floor Kishan Mandi Bhavan, Gomti Nagar, Lucknow-
for kind information
2. The Team Leader, CMEC Consulting Engineers, Varanasi.

भारतीय विधिष्ट पहचान प्राधिकरण
Unique Identification Authority of India

श्रीनिवास त्रिपाठी
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पता:
सत्यनारायण त्रिपाठी, ए703जनेकर ब्लॉक
जानकीपुरम, सेक्टर-जे एक्सटेंशन कुर्सी रोड, सेंट मैरी
पॉलीक्लीनिक, सखनक, सखनक,
उत्तर प्रदेश - 226021

Address:
C/O: Satyanarayan Tri...
JANESHWAR ENCLAV...
SECTOR-J EXTENS...
MARY POLYCLINIC
Uttar Pradesh - 2...

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GOVERNMENT OF UTTAR PRADESH
12/7/25