

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH NEW DELHI

ORIGINAL APPLICATION NO. 163/2024

IN THE MATTER OF:

Rasikh Rasool Bhat

.....Applicant

Versus

Govt of UT of J&K and others

.....Respondents

**Objections by the Applicant to the Report of ,Forest, Ecology and Environment Department of
UT Govt of J&K (Respondent No 3)****INDEX**

S.No	Particulars	Page No.
1.	Memo of the Parties	1 to 2
2	Statement of Objections	3 to 6
3	Affidavit	7 to 8

Place: Handwara J&K

Dated : 18th of May 2024
Rasikh Rasool Bhat

Applicant in person

Ahgam Rajwar Handwara

District Kupwara J&K 193221

Email: rasikhrasool@gmail.com

Mobile No: 9103097097

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL ,PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 163 OF 2024

IN THE MATTER OF:

Rasikh Rasool Bhat

....APPLICANT

VERSUS

Govt. of UT of J&K and Ors

.....RESPONDENTS

MEMO OF PARTIES

Rasikh Rasool Bhat

....APPLICANT

VERSUS

1. **Union Territory (UT) Government of Jammu and Kashmir**
Through Chief Secretary Civil Secretariat Jammu, Jammu and Kashmir- 180001
Email: cs-jandk@nic.in (Respondent no 1.)
2. **Administrative Secretary Public Works Roads and Buildings Department**
UT Government of Jammu and Kashmir,
Civil Secretariat Jammu Jammu and Kashmir- 180001
Email: compwd@rediffmail.com compwd1234@gmail.com (Respondent no. 2)
3. **Administrative Secretary to Forest Ecology and Environment Department**
UT Government of Jammu and Kashmir
Civil Secretariat Jammu Jammu and Kashmir- 180001
Email: pccfjkforest@gmail.com / aks-ict2018@jk.gov.in iro.jammu-merfcc@gov.in (Respondent no. 3)
4. **Deputy Commissioner, Kupwara**
DC Office Complex Kupwara J&K - 193222. Email: padckupwara@gmail.com (Respondent no. 4)
5. **Executive Engineer Public Works R&B Division Handwara**
Handwara J&K- 193221
Email: cepwdrnbkmr@yahoo.in xenrnbandwara@gmail.com (Respondent no. 5)
6. **Divison Forest Officer Langate**
Langate, Handwara J&K – 193302
Email: padckupwara@gmail.com jtdirk.jkfpf@gmail.com (Respondent no. 6)
7. **Administrative Secretary Mining Department UT Govt of Jammu and Kashmir**
Civil Secretariat Jammu Jammu and Kashmir- 180001
Email: jkmining2021@gmail.com (Respondent no. 7)

8. **Executive Engineer Irrigation and Flood Control Department**
Rajwar Road, Handwara J&K- 193221
Email: plansectionhyd@gmail.com se1-jkidfc@jk.gov.in (Respondent no. 8)
9. **District Mineral Officer Geology and Mining Department**
Kupwara Kupwara J&K- 193222
Email: dmokup@gmail.com (Respondent no. 9)
10. **Member Secretary J&K Pollution control committee**
Perivesh Bhawan ,Gladni Forest Complex Transport Nagar Jammu
Email: membersecretaryjkspcb@gmail.com , membersecy.pcb@jk.gov.in (Respondent no. 10)

Dated: 18th May 2024

Place : Handwara J&K



Rasikh Rasool Bhat

Applicant in person

Ahgam Rajwar Handwara

District Kupwara 193221 J&K

Email: rasikhrasool@gmail.com

Mobile no: 9103097097

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH NEW DELHI**

OA No. 163/2024

IN THE MATTER OF:

Rasikh Rasool Bhat

.....Applicant

Versus

Govt of UT of J&K and others

.....Respondents

Objections by the Applicant to the Report of ,Forest, Ecology and Environment Department of UT Govt of J&K (Respondent No 3)

MOST RESPECTIFULLY SHOWETH:-

A. That in the aforementioned OA, Applicant has raised the grievance that in the execution of the work on Handwara – Bangus road project (state highway) at Rajwar Forest Area of Kupwara District of J&K the environmental norms are being violated and extraction of gravel in the stream local Talri Nallah of Rajwar area is being done. Applicant further raised the issue that authorities have allowed extraction of gravel from local stream (Bakiaker – Zachaldara) of Rajwar area of Kupwara district for utilization in construction of the road, in result various Public and private properties like Bridges etc are at threat of Damage , It was further submitted that more than 25000 lush green forest trees were cut/uprooted and big mountains have been blasted and more than 14 hectares of forest land is being used to construct the road. Further more it was submitted that none of the respondents have applied for the mandatory Environmental Clearance and no information in this regard is available in dedicated PARIVESH Portal.and Forest clearance was granted without the consultation of local people. Applicant is praying for ban on construction of Road and imposition of penalties up-on the appropriate authorities,as the road for Bangus was already available via Rajwar Locality and there was no need to propose and construct new road via Rajwar Forests.

B .That Hon'ble Court of NGT on 21st Feb 2024 pleased to order the issuance of Notice to all the Respondents and listed the case for directions on 25th of April 2024

C. That Report on behalf of Respondent No 3, Department of Forest, Ecology and Environment, Government of J&K, discloses illegal felling of trees and illegal earth cutting.

D That on 25th of April 2024 ,Learned Counsel for Forest Department of J&K was directed by the Hon'ble Tribunal to supply a copy of the report to the applicant within three days. That will be open to the applicant to file objection to the report within two weeks thereafter, if required.

E. That Applicant has received the copy of Report from the Standing counsel on behalf of Respondent No 3 via email on 7th of May 2024

OBJECTIONS

1. That first and foremost in response to the para (III) and it's sub-para (I) of the Report, Objections of the applicant are that; sanction of accorded to Forest clearance and decision of State Administrative council were granted in the year of 2019 during the times of Preventive Security lockdown and communication blackout in Jammu & Kashmir, which was imposed by the Government during the intervening night of 4th of August 2019 in the interest of law and order following the abrogation of Article 370 of the Constitution of India, that remained strictly enforced for more than a year, in result General public remained unaware about the Government/Administrative orders and decisions etc and they couldn't object/critic the same.
2. That the objectives of the Forest clearance is in contravention to Conservation of Forest Act 1980 and it's Rules as the impugned Road Project is in the promotion of tourism on the cost of Forest and Environment which is not benefiting the 80000 population of the Area ,in-fact it mars the expected avenues of Employment for unemployed youth and Economy of more than 73000 population of Rajwar area as the road for Bangus was already available via their locality known as Handwara-Zachaldara-WadderBala -Bangus route which was de-sanctioned due to the approval of impugned Road Project via Rajwar forests which by-passes the complete Rajwar Locality.
3. In response to Sub-Para (ii), (iii) and (iv) of Para (III) of the Report , Applicant is bringing his own researched facts for record that 14 hectares of land from the dense ,Virgin/first-growth forests which is old-growth forests that have never been logged. Containing the diverse tree structure includes multi-layered canopies and varying big/small diverse tree species and classes and size including medicinal plants. It's untouched one hectare of land is containing at-least 1800 diverse big/small trees and diverse plants, in that prospective if the 14 hectares is multiplied by 1800 it sums-up 25200 so, technically it can be established that more than 25200 trees were cut/uprooted or mixed with soil, which was excavated by earth cuttings or transported out of forest area which sans records and auction notice, prima-face it is evident that User agency and concerned public servants of Forest Department in the year 2017 and 2018 in a criminal modus-operandi had concealed the facts and recorded that only 1023 trees/poles etc were marked for felling/cut
4. The Applicant further put objections on record that tree cutting/felling/uprooting and earth cutting process was initiated by the User Agency prior to Sanction of Forest clearance and State Administrative Decision in the year 2017 and 2018 as the report of Forest Ecology and Environmental of J&K vide sub para (iii) of para (III) reveals lodgement of First information Report (FIR) against User/Construction Agency in Police Station Handwara J&K vide FIR number 449 registered in the year 2018 for illegally damaging 5number of "Fir" trees in the compartment number 26a of Rajwar Forest Area. The lodgement of FIR in the year 2018 is clearly establishing

that execution of work by the User Agency ie respondent no 5 in league with respondent no 6 in the year 2018 was done/started prior to sanction of Forest clearance and State Administrative council Decision, as the Forest clearance was sectioned and accorded vide Govt order number 281-FST of 2019 Dated 24/09/2019 and State Administrative Council Decision was taken vide no 189/19/2019 on 30.07.2019 ,one year after the lodgement of FIR.

5. In objection to the part 4 of the Forest clearance in question, applicant is submitting that in present position length of Road is more than 28000 Mtrs while on various locations its width is 10 to 15 Mtrs approximately

6. That in Response to below mentioned table Para 5 of the Forest clearance

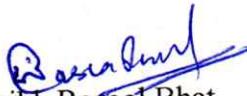
5	Crop density of the area	Very Dense
a	Whether the forest land proposed to be used for non forest purpose forms part of la natural reserve, national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or No threatened species of flora and fauna or any area lying in severely eroded catchment.	No
b	Whether the use of any forest land is for agriculture purposes or for the rehabilitation of displaced persons	No
c	Whether the Principal Chief Conservator of Forests had certified that it has, considered all other alternatives and that Yes no other alternative in circumstances are feasible and that the required area is the minimum needed for the purposes, and,	Yes
d	Whether the department or authority requisitioning forest land for non forest uses undertakes to provide at its own cost acquisition of an equivalent area and afforestation thereof	The User Agency requisitioning forest land for non-forest purpose has not undertaken to provide cost of acquisition at its own. It has however agreed to provide cost of afforestation on double the forest area. Further it has also undertaken to pay the NPV as per the Hon'ble Supreme court directions.

- A. In response to Part (a) of the aforesaid table of the Forest Clearance , Applicant is bringing objection on record that under construction impugned Road Project has created environmental havoc in the Rajwar Area in form of Soil liquefaction ,soil erosion,effect on hydrological cycle,wildlife habitat,micro-climate and upsetting of ecological balance.
- B. The applicant is bringing objection on record to part (c) of the Table .that alternate route for Bangus via Rajwar locality known as Handwara-Zachaldara-WadderBala Bangus Road was available that was well built fully Macadamised upto the wadder and thereafter Good baseline non macadamized Road upto Bangus near about 8to 11kms was available and there no need to propose a new road via Rajwar Forests parallel to already available Road via Rajwar locality, the impugned Road Project was proposed and granted only to benefit the owners of private land/property (Non-Forest land) whose lands are situated on the first 1-7 kms of the road project and its rate were minimal before the sanction of Handwara-Bangus Road project, moreover two more fully operational routes for Bangus were also available in the area jurisdiction of Kupwara District ,that are known as Handwara-Mawar-Nowgam Bangus Road and Kupwara-Chokibal Bangus Road.
- C. Further in response to part (d) of table applicant objects that user Agency requisitioning forest land for non forest uses has not provide at its own cost acquisition of an equivalent area.

In view of the above statement of objections cum Reply raised by the applicant, it is revealed that; Forest clearance was granted without the approval of central Government and in the utter violation of provisions of conservation of Forest Act 1980 and its rules and Indian Forest Act 1927, and work(Tree cutting/ earth cutting) on impugned Road Project was illegally started one and half year prior to grant of Forest clearance and without Environmental clearance and impugned Road Project that was proposed on the cost of Forest and Environment, is not in the interest/benefit of General Public of the Rajwar Area or Indian Nation.

Applicant most respectfully pray that Forest clearance should to be abrogated forthwith and it would be in the interest of justice that the prayers in OA No. 163/2024 may please be granted.

The Objections are filed on 18th of May, 2024



Rasikh Rasool Bhat
Applicant in person

R/o: Ahgam Rajwar Handwara 193221 J&K
Mobile: 9103097097 email.rasikhrasool@gmail.com



99

PAGE 8

INDIA NON JUDICIAL

Government of Jammu and Kashmir

सत्यमेव जयते

e-Stamp

Certificate No. : IN-JK96983175906582W
 Certificate Issued Date : 18-May-2024 03:00 PM
 Account Reference : NEWIMPACC (SV)/ jk12506704/ HANDWARA/ JK-KW
 Unique Doc. Reference : SUBIN-JKJK1250670483362055142186W
 Purchased by : Rasikh Rasool Bhat Resident of Ahgam Rajwar
 Description of Document : Article 4 Affidavit
 Property Description : Not Applicable
 Consideration Price (Rs.) : 0
 (Zero)
 First Party : Rasikh Rasool Bhat Resident of Ahgam Rajwar
 Second Party : Not Applicable
 Stamp Duty Paid By : Rasikh Rasool Bhat Resident of Ahgam Rajwar
 Stamp Duty Amount(Rs.) : 10
 (Ten only)



Please write or type below this line

QE 0009418741

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at www.shcilestamp.com or using e-Stamp Mobile App of Stock Holding Company of India.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.