

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

**IN  
ORIGINAL APPLICATION No. 560 of 2023**

**IN THE MATTER OF**

MANOJ SINGH .....APPLICANT  
VERSUS  
PRINCIPAL CHIEF CONSERVATOR OF FOREST-UTTARAKHAND &  
OTHRs ...RESPONDENTS

**AFFIDAVIT**

I, Manoj Singh S/O Matwar Singh, aged about 51 years at First floor, 3 PC Chambers, Village Mamura, Noida-201301 presently at Delhi, do solemnly affirm as under:

1. That I am the original applicant in the present application, and conversant with the facts of the case and thus competent to depose.
2. That the contents of the accompanying objection / application are true and correct.



*Mi*

**DEPONENT**

**VERIFICATION**

Verified at New delhi on this 12th day of December 2023, that the contents of the above affidavit are true and correct and nothing has been concealed there from.

*Mi*

**DEPONENT**

**ATTESTED**  
*Mi*  
**MAHAVIR SINGH  
NOTARY  
G B NAGAR**

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**OBJECTIONS TO THE REPORT OF DISTRICT  
MAGISTRATE NAINITAL DATED 12.12.2023 BY  
ORIGINAL APPLICANT**

**Next date of hearing: 12.12.2023**

To,  
The Honorable Chairman of National Green Tribunal,

Respectfully Showeth,

1. That the current application is being filed by the original applicant for bringing the deficiencies in the report of District Magistrate of Nainital in the current OA.
2. That the google earth image of 2010 enclosed at ANNEXURE 1 in the report of District Magistrate doesn't show the illegal road; as the road is hidden below the trees canopies.
3. That the report doesn't disclose the cutting of slanting hills for the construction of the said road.
4. That the report only discloses the name of the 5 users of this road, but does not disclose the name of the people who constructed this road and penalties for them despite having provision of penalties for violators in clause 3 A of FCA-1980 and clause 33 of Forest Act 1927.
5. That the report doesn't disclose about other ancient paths



inside revenue land available as the right of way to the users of this illegal road.

6. That the name of the forest staff involved in the said offense and penalties for them have not been disclosed in the report. However there is provision of penalties for the forest staff/Government officers in the clause 3B of the FCA-1980. In its plain reading the said clause speaks that if a violation happens and forest staff deputed in the area remain negligent then forest staff has to be penalized. In the current violation the forest staff remained negligent for so many years with the fact that there is a forest post just 100 meters away from the site of the current violation. The vehicles kept on plying and use of forest land for non forestry purposes for so many years and forest staff could not determine the offense, which clearly indicates their involvement in the current violation. Relevant Excerpts of the FCA-1980 are enclosed at ANNEXURE-7 with the main application.
7. That the report does not reflect about the initiation of the consideration of the approval of the said illegal road by Government authorities under FCA ACT-1980. In the month of November & December of 2022 and in the month of January and February of 2023, Gram Pradhan, Revenue department, Forest Department, rural development department had initiated the process of post facto approval of the said illegal road without taking action against the violators. Exchange of many letters for process of approval among different departments happened and a joint site visit was also done by authorities for the same. One such letter by Gram Pradhan-Budhlakot is enclosed with Original Application at ANNEXURE-9. One such letter by CDO-Nainital is enclosed at ANNEXURE-12 of the Original application. Gram Pradhan had illegally initiated the process of approval of the said illegal road in a meeting of Gram Sabha held on 15.11.2023. Despite the objections by the villagers the BDO, CDO, Revenue department and Forest Department kept the approval process in motion. However there are provisions of strict penalties for the violators & disciplinary actions against the government officers who are considering the proposal of diversion of forest land for non forestry purposes for which physical diversion of forest land has already been done. The provisions of penalties are enforced in the clause 1.21(ii) of Part B of Chapter 1 contained in the guidelines issued by the "Ministry of Environment,

Forests & climate change” dated 28.03.2019, The said clause 1.21 speaks:

**1.21 Ex-post Facto approval and Penal Provisions:**  
*Proposals seeking ex-post-facto approval of the Central Government under the Forest (Conservation) Act, 1980 are normally not to be entertained. The Central Government will not accord approval under the Act unless under exceptional circumstances that may justify condonation. In such cases Central Government shall ensure penalty from user agencies/State as follows:*

*(ii) In cases where the proposal under FC Act is under consideration and forest land is diverted before grant of FC:*  
*a. The penalty for violation shall be equal to NPV of forest land per hectare for each year of violation from the date of actual diversion as reported by the inspecting officer with maximum up to five (5) times the NPV plus 12 percent simple interest till the deposit is made. b. In case of public utility projects of the government the penalty shall be 20 % of the penalty proposed in para (a) above. c. State government will initiate disciplinary action against the official concerned for not being able to prevent use of forest land for non-forestry purpose without prior approval of Government of India. d. User agency responsible for violation shall be prosecuted under local Act of the State for unauthorized use of forest land without the permission of State authority*

In its plain reading, the clause states that any diversion proposal for forest land need not to be considered where physical diversion of the proposed land had been done and Further the clause provides the provision of disciplinary action against the Government officers involved in considering the diversion proposal of forest land without taking action against the earlier violators in the proposed forest land. Relevant excerpts of the guidelines issued by the “Ministry of Environment, Forests & climate change” dated 28.03.2019 are attached as ANNEXURE-8 in the main OA.

8. That the report does not reflect the measures to be taken for use of this illegal road again in future.
9. That the report states that no trees were cut during the construction of the said road. However the density of trees canopy on the sides of the road is very dense and suddenly on the road there are no trees. In a similar matter in OA No.

*W/M-*

748/2022 “news item published in the Newspaper The Hindu dated 02.10.2022 titled “Over 6,000 trees illegally cut for tiger safari project in Corbett Reserve, says FSI report” The Honorable Tribunal considered the report of forest survey of India and joint committee in determining the numbers of trees felled in the violated land considering the trees canopy area of the adjacent forest land.

10. That report does disclose that the restoration of the violated area is to be done by forest department but doesn't disclose the deadline date for the completion of the restoration and who will bear the cost of restoration.

### **Prayer**

It is humbly prayed that above mentioned facts and grounds of the applicant to be taken on record by the Honorable Tribunal in the interest of justice.



**MANOJ SINGH**  
**ORIGINAL APPLICANT**

Dated: 12.12.2023

