

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

I N D E X

IN

RESPONSE AFFIDAVIT

(On behalf of the Respondent No.4 i.e. Divisional Forest Officer, Mussoorie)

(In Compliance to the Hon'ble Tribunal's Order dated 05.12.2024)

IN

O.A. No. 753 OF 2023

Dr. Rajesh Bahuguna

.....Petitioner

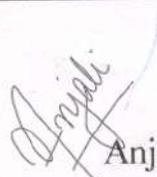
Versus

State of Uttarakhand & Ors.

.....Respondents

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Dated: 27/03/2025


 Anjali Rajput
Panel Counsel
 Government of Uttarakhand

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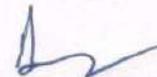
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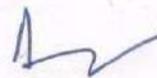


Affidavit of Amit Kanwar (Male),
aged about 36 years, S/o Sh. Laiq
Ram, presently posted as Divisional
Forest Officer, Mussoorie Forest
Division, Mussoorie.


(Deponent)

I, the above named deponent, do hereby solemnly affirm and state on
as of:

1. That the deponent is presently posted as Divisional Forest Officer, Mussoorie Forest Division, Mussoorie and has been arrayed as a Respondent No.4 and also authorized on behalf of Respondent No.3 to file the present affidavit as such he is fully conversant with the facts of the case and competent to swear the present Affidavit.

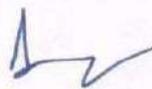


2. That the applicant Dr. Rajesh Bahuguna has approached to this Hon'ble Tribunal by submitting that a Sal reserve forest spread over 20.9270 acres in Aamwala Tarla, Dehradun, Uttarakhand within Ward No. 61 of the Municipal Corporation exists. The main grievance of the applicant is that the private builders have constructed a road inside the forest and they are cutting the trees and trying to sell the land of the forest.
3. That on 04.01.2024, after the due course of hearing in the present matter, this Hon'ble Tribunal was pleased to pass certain directions to form a committee comprising of the Principal Chief Conservator of Forests (PCCF), Uttarakhand, the head of the Regional Office of MoEF & CC, Dehradun and the District Magistrate, Dehradun. And in compliance of the same, a report has been filed on 29.02.2024. The conclusions of the said report was as under:-

"1. There was no illegal felling of trees and fresh cutting of kaccha path for widening in the area, as alleged by the petitioner.

2. Although there is a temporary kaccha pathway of around 200 mtr., but it has been in use by the locals and forest staff since past many years, which is also validated by Google Earth Imagery of past years.

3. On the issue of alleged encroachment in this area, as informed by the Range Officer. Raipur, there is no reported case of encroachment in this area. But to further ensure the protection of reserve forest land, a letter for a detailed survey has been sent to Director. Survey of India, Dehradun, so that few missing boundary pillars can be re-established and in case any land is found encroached then suitable legal action will be taken against the encroachers."



4. That since the above said report was not filed in terms of the Order dated 04.01.2024 passed by this the Hon'ble Tribunal, therefore, the Hon'ble Tribunal during the hearing on 10.05.2024, had shown its displeasure and again directed the committee to submit the joint report one week before the next date of hearing and next date 27.08.2024 was given by the Hon'ble Tribunal in the present matter.
5. That in compliance to the directions passed by the Hon'ble Tribunal vide Order dated 10.05.2024, the joint committee comprising of the Principal Chief Conservator of Forests (PCCF), Uttarakhand, the head of the Regional Office of MoEF & CC, Dehradun and the District Magistrate, Dehradun, had inspected the site in question on 25.06.2024. The joint committee had furnished its detailed joint report within time before the Hon'ble Tribunal.
6. That the petitioner had filed his objections affidavit to the joint committee report on 02.12.2024 wherein the petitioner has narrated certain objections in tabulated form. The response to the objections are being submitted here as under:



Objections by the Applicant	Comments
<p>1. The satellite imagery, referred to by the joint committee and publicly available on various platforms, clearly shows the cutting of trees and construction of a road through the Reserve Forest. Any person with bare eyes can see the difference between the pictures of 2013 and 2022 that show the removal of trees for construction of road. Clear pictures of the site along with Satellite Imagery of the years 2013 and 2022 are enclosed and marked as Annexure-1 to the objections against report of Joint Committee dated 04.01.24 and 10.05.25 and placed from page no. 89-97.</p> <p>There has been a series of encroachments on the land of the Reserve Forest. One such encroachment, as shown to the joint Committee, is the construction of a building by Mrs. Reena Gupta. She has not only encroached on the Reserve Forest but also removed a forest pillar from the site and rented the illegally constructed building for commercial activities. Geotagged Photograph enclosed and marked as to the objections against report of the Joint Committee dated 04.01.2024 and placed on page no. 98.</p> <p>Respondent requested the Survey of India to carry out the survey and demarcate the area in question.</p> <p>The response of the Director, Geo Spatial Directorate, letter vide letter no. 1455/39-A-Survey Dated: 31 July 2024, has been ambiguous in this regard. The Geo Spatial Policy, 2002 does not particularly state the inability of Survey of India to conduct such Data Survey. In this connection, copy of relevant portion of New Geo Spatial Policy 2022 is being marked and filed as Annexure (1). The response states that the Survey of India shall conduct</p>	<p>The site inspection of the area in question, Amwala Tarla, was conducted on 25.06.2024 by the joint committee. Field inspection was also carried out to verify the satellite imagery from the period between 2010 and 2022. The committee observed in its report that during the inspection no trees were found to have been felled on the site. The Raipur Range Officer also reported that no cases related to tree felling or encroachment, have been registered.</p> <p>The objection with regard to averment that one Mrs. Reena Gupta encroached on the reserve forest land and removed boundary pillars. It is submitted that the Survey of India has already been request to demarcate the area. In order to the said contention of the petitioner, recently, again on 10-03-2025 a letter has been sent to the Survey of India with request to demarcate the area in question.</p>

<p>DEM/ORI ABDB and Toponymy Data. This, in its purview, can include data that will reflect vegetation, including plants, water streams, elevations et al clearly. Reference; New Geo Spatial Policy 2022, 5.2.2.</p> <p>The letters are already part of the report submitted by the committee vide Annexure 2a and 2b and placed on Pg. No. 125 and 126 respectively.</p> <p>Respondent failed to submit to the committee the reasons and circumstances under which the subject survey work is not being carried out by the surveyors already on the roll of the respondent.</p>	
<p>2. It is not a pathway, but a complete motorable road constructed between the Reserved Forest. The Joint Committee accessed this road during the spot inspection to assess the ground situation on the spot. The Committee in its report has mentioned the length of this road as around 200 meters but not the breadth which is very important in the present matter. This is a complete motorable road with breadth of around 15 to 20 feet at the corners and up to 50 feet in between the forest. Geotag Photographs of the illegal road are enclosed and marked as Annexure - 3 to the objections against the report of the Joint Committee dated 04.01.24 and placed on page no. 99-102.</p> <p>The road is newly constructed by cutting of hill and removal of trees with the help of JCB. Geotagged Photographs of the spot with marks of JCB are enclosed and marked as Annexure 4 to the objections against the report of the Joint Committee dated 04.01.2024 and placed on page no. 103 & 104. The local people of the area who interacted with the Joint Committee</p>	<p>The objection of the petitioner is false and baseless. During the site inspection by the committee comprising of the Principal Chief Conservator of Forests (PCCF), Uttarakhand, the head of the Regional Office of MoEF & CC, Dehradun and the District Magistrate, Dehradun in the area in question, it was found observed in the report that there is an approximately 200-meter old dirt road that locals have been using for years for their convenience. Currently, the Raipur Range field staff has closed it by digging a trench, and there is no traffic on this road. This can be confirmed from the photographs provided by the field staff. Some of the current photographs of the said road are being annexed herewith this affidavit as <u>Annexure-1 (Colly)</u>.</p>

[Handwritten signature]

are the residents of the newly established colony called Krishna Enclave on a piece of agricultural land situated at the edge of the Reserved Forest. Real estate developers and builders have provided access to both the main road and connecting routes leading to Sharadha Road, which is merely 2 to 3 kilometers away from their properties. The Drone Photograph of the Krishna Enclave is enclosed and marked as Annexure 5. to the objections against the report of the Joint Committee dated 04.01.2024 and placed on page no. 105 & 106. The Joint Committee visited and verified the trenches dug by the Forest Department but has not reported the presence of hill cutting by the side of the trench which is contributing to tree falls. Moreover, two-wheelers have resumed usage of this road. The geotagged photograph of the site is enclosed and marked as Annexure 6 to the objections against the report of the Joint Committee dated 04.01.2024 and placed on page no. 107.

The Joint Committee has not reported the following forest offences related to the cutting of trees and considerable damage to the forest: -

Trees were intentionally dried by the residents/encroachers by using chemical or otherwise.

1. Geotag photograph of the site is enclosed and marked as Annexure- 7. to the objections against report of Joint Committee dated 4th January 2024 and placed on page no. 108-110

2. Residents/encroachers have surrounded Sal Trees within their boundaries and have dried them by digging roots or by using chemicals. Geotag photograph of the site is enclosed and marked as

The objection with regard to the cutting of trees and newly constructed colony 'Krishna Enclave' is not related to the deponent as the said colony is located on private land.



Objection with regard to the width of the dirt road is completely false and baseless. It is submitted that the site is an open Sal-forest area with a dirt road built years ago that people used for walking. There is no pucca/motor road. and no vehicle traffic on the said road. Presently, The said dirt road has been completely closed by digging a trench. (Photographs attached).

Annexure - 8. to the objections against report of Joint Committee dated 4th January 2024 and placed on page no. 111.

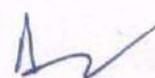
The Joint Committee has taken a very restricted interpretation of the term 'illegal felling of trees.' Even to the understanding of a person of common parlance, felling of trees includes not only cutting a tree with a sharp weapon like a saw or axe but also digging the roots of the tree so that it can fall with time, drying the tree by using chemical or otherwise and also by any other means capable to end the life of a tree. Geotag photographs of such forest crimes are enclosed and marked as Annexures 6 & 7 to the objections against the report of Joint Committee dated 04.01.2024 and placed on page no. 107 and on page no. 108- 110 respectively.

The Joint Committee has provided a partial description of the pathway that was constructed illegally in between the Reserve Forest. In their report, they mentioned the length of the road as 200 meters but have omitted to mention its breadth which is around 15 to 20 feet at the corners and up to 50 feet in between the forest. Geotag Photographs of the road are enclosed and marked as Annexure 3 to the objections-against report of Joint Committee dated 04.01.2024 and placed on page no. 99- 102. The Joint Committee has not taken cognizance of the cutting of hill and removal of trees with the help of JCB. Geotag photographs of the spot with marks of JCB are enclosed and marked as Annexure 4. to the objections against report of Joint Committee dated 04.01.2024 and placed from page no. 103- 104. On the encroachment, the Respondents failed to explain under what



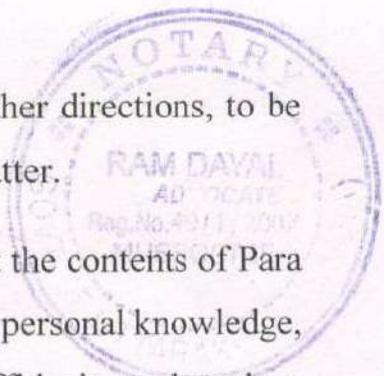
The Objection is absolutely false and baseless. With regard to the averment of digging up roots and chemically drying Sal trees, it is submitted that the joint committee and the field staff found no evidence of chemical use on the Sal trees at the site. Few of the Sal trees appear to have dried due to natural causes and still standing at their place.

<p>circumstances a private person was allowed to construct and run commercial activities on the land of the Reserve Forest, as the same has not been reflected by the Joint Committee in their report. Geotag Photograph enclosed and marked as Annexure - 2. to the objections against report of Joint Committee dated 4t January 2024 and placed on page no. 98.</p>	
<p>The extent of the damage assessed by the Joint Committee does not fully capture the damage inflicted upon this reserve forest. Joint Committee has taken cognizance of soil erosion on the 200 meter road illegally constructed between the forest for which respondents proposed plantation and eco-restoration but ignored damage caused to the trees which have been dried by the use of chemical or otherwise and are still standing near the houses of residents/encroachers and also the trees which have been taken within the four walls by the residents/encroaches and are on the verge of drying. Considerable damage to the forest property by way of encroachment has not been taken into consideration by the committee. The respondent has submitted the current count of trees in this forest i.e. 5899 trees (Page no. 57). The committee did not ask the respondent to submit an earlier tree count to assess real loss to the forest during the period for which they have submitted Satellite Imagery.</p>	<p>The objection is mere repetition of certain paras. It is further submitted that no remnants/evidence of illegal felling of Sal trees were found in the area, nor were any stumps or roots visible. Moreover, the trees on site in question, have been counted by the field staff on the direction of the Divisional Forest Officer, Mussoorie. Additionally, work related to Assisted Natural Regeneration (ANR), tree planting, soil and water conservation has been carried out in the area. Some of the Photographs are being annexed herewith as <u>ANNEXURE-2.</u></p> <p>Therefore, the complainant's objections on these points are baseless.</p>



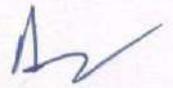
7. That the deponent undertakes to comply the further directions, to be passed by this Hon'ble Tribunal in the present matter.

I, the above named deponent, do hereby verify that the contents of Para nos. _____ of this affidavit are true to my personal knowledge, those of Para nos. _____ of this affidavit are based on records, those of Para nos. _____ of this affidavit are as per the legal advice received and those of Para nos. _____ of this affidavit are as per the information received which all I believe to be true. That no part of this affidavit is false and nothing material has been concealed.



So help me God




DEPONENT

I, Abhishek Sajwan, Davit Kuma, Mussoorie Forest Division, Uttarakhand, do hereby identify the deponent who has produced the records of the case before me and I am satisfied that she is the same person as alleged.

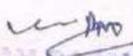

IDENTIFIER
(Abhishek Sajwan)

Solemnly affirmed before me today, the 27 day of March, 2025 at 11-0 am/pm by the deponent who has been identified by the aforesaid person.

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

OATH COMMISSIONER/NOTARY

This affidavit is sworn before me by
Shri. Davit Kuma
who is identified by Abhishek Sajwan


RAM
Advocate
Reg. No. 4311/2017
MUSSOORIE (Utd.)
P No 40

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2 brothers

Luke's House

IDOL Private Limi



161

March-2017

 30°19'51.65"N 78° 4'16.93"E

162

April-2018

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April-2019

163

30°19'51.65"N 78° 4'16.93"E

May-2020⁴

164

 30°19'51.65"N 78° 4'16.93"E

April-2021¹⁵

165

 30°19'51.65"N 78° 4'16.93"E

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166

 30°19'51.65"N 78° 4'16.93"E

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167

30°19'51.65"N 78° 4'16.93"E

March-2023

168

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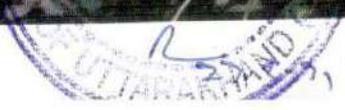


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Official circular stamp: NATIONAL COMMISSION FOR PROTECTION OF CHILDREN (NCP) INDIA

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कार्यालय उप वन संरक्षक, मसूरी वन प्रभाग, मसूरी

ANM-1

32

E-mail: dfo_mussoorie@rediffmail.com

Telefax- 0135-2631765

पत्रांक- 3191/29-3

मसूरी,

दिनांक- 10/03/2025

सेवा में,

निदेशक,
भारतीय सर्वेक्षण विभाग,
ईस्ट कनाल रोड़, देहरादून।

विषय:- मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित मूल आवेदन सं0-753/2023 डॉ राजेश बहुगुणा बनाम उत्तराखण्ड राज्य व अन्य में आमवाला तरला स्थित आरक्षित वन लाडपुर क0सं0 4ए में सर्वे सीमांकन कर स्थिति स्पष्ट करने के संबंध में।

संदर्भ:- प्रमुख वन संरक्षक (HoFF), उत्तराखण्ड, देहरादून के अर्द्धशासकीय पत्रांक-ख-144/29-3(3) दिनांक 06-08-2024, इस कार्यालय के पत्रांक 2691/1-1 दिनांक 13-02-2024, 4076/24-1 दिनांक 27-06-2024।

महोदय,

उपर्युक्त विषयक संदर्भित पत्रों के कम में अवगत कराना है कि मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित मूल आवेदन सं0-753/2023 डॉ राजेश बहुगुणा बनाम उत्तराखण्ड राज्य व अन्य में मा0 न्यायालय के आदेश दिनांक 10-05-2024 के कम में मसूरी वन प्रभाग के आमवाला तरला स्थित आरक्षित वन, लाडपुर क0सं0-4ए में इस प्रभाग की रिपोर्ट के अनुसार मौके पर वर्तमान में लगभग 50 से अधिक सीमा स्तम्भ उपलब्ध न होने के कारण आरक्षित वन भूमि की मौके की स्थिति स्पष्ट नहीं हो पा रही है, जिससे उक्त वाद के कम में कार्यवाही करना सम्भव नहीं हो पा रहा है।

अतः आप से अनुरोध है कि उक्त आरक्षित वन क्षेत्र का सर्वे-सीमांकन करवाते हुए सीमा स्तम्भों की मौके पर लोकेशन से अवगत करायें ताकि उनकी पुनः स्थापना की कार्यवाही यथाशीघ्र करायी जा सके।

भवदीय,

(अमित कंवर, L.F.S.)

प्रभागीय वनाधिकारी,

मसूरी वन प्रभाग, मसूरी।

प्रतिलिपि:-निम्नलिखित को सादर सूचनार्थ/आवश्यक कार्यवाही हेतु प्रेषित।

1. प्रमुख वन संरक्षक (HoFF), उत्तराखण्ड, देहरादून।
2. अपर प्रमुख वन संरक्षक, गढ़वाल जोन, उत्तराखण्ड, देहरादून।
3. वन संरक्षक, यमुना वृत्त, उत्तराखण्ड, देहरादून।
4. उप प्रभागीय वनाधिकारी, देहरादून एवं वन क्षेत्राधिकारी, रायपुर रेंज को इस निर्देश के साथ प्रेषित कि आप अपने स्तर से सर्वेक्षण विभाग से संपर्क कर आवश्यक कार्यवाही करना सुनिश्चित कर अनुपालन आख्या से इस कार्यालय को अवगत कराना सुनिश्चित करें।

(अमित कंवर, L.F.S.)

प्रभागीय वनाधिकारी,

मसूरी वन प्रभाग, मसूरी।