

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

OA No 163 of 2024 and IA No 436 of 2025

Rasikh Rasool Bhat

.....Applicant/ Petitioner

Vs

UT of J&K and others

.....Respondents

In the matter of : Reply / Objections by Applicant to Compliance report of Chief Secretary of J&K Respondent No 1

I. PRELIMINARY SUBMISSIONS

1. That the compliance Report failed to in addressing the grave statutory, constitutional, and ecological violations committed in execution of the Handwara–Bangus Road Project of PWD.
2. That the report is discloses a shocking revelation that in the entire J&K 82,327 trees felled in the 154 projects Total CA liability: ₹80,73,37,720 and Unpaid dues: ₹45,33,50,710
3. That the compliance report fails the test of: Environmental rule of law Precautionary principle Public trust doctrine and Inter-generational equity as consistently upheld by the Hon'ble Supreme Court and this Hon'ble Tribunal.

II. FUNDAMENTAL CONTRADICTIONS IN PROJECT IDENTITY AND SCOPE

4. That the very identity of the project is uncertain, inconsistent, and manipulated:
 - a) At one instance, the road is described as an Other District Road (ODR) with a length of 29 km (Page 459).
 - b) At another instance, it is described as a Major District Road (MDR) with an enhanced length of 39 km (Page 462).
5. That such alteration in classification and length is a material change requiring: Fresh Forest clearance, Environmental impact appraisal, Wildlife clearance and Public consultation



6. That the unilateral enhancement of the road length to over 40 km, without statutory clearances, renders the entire project illegal ab initio

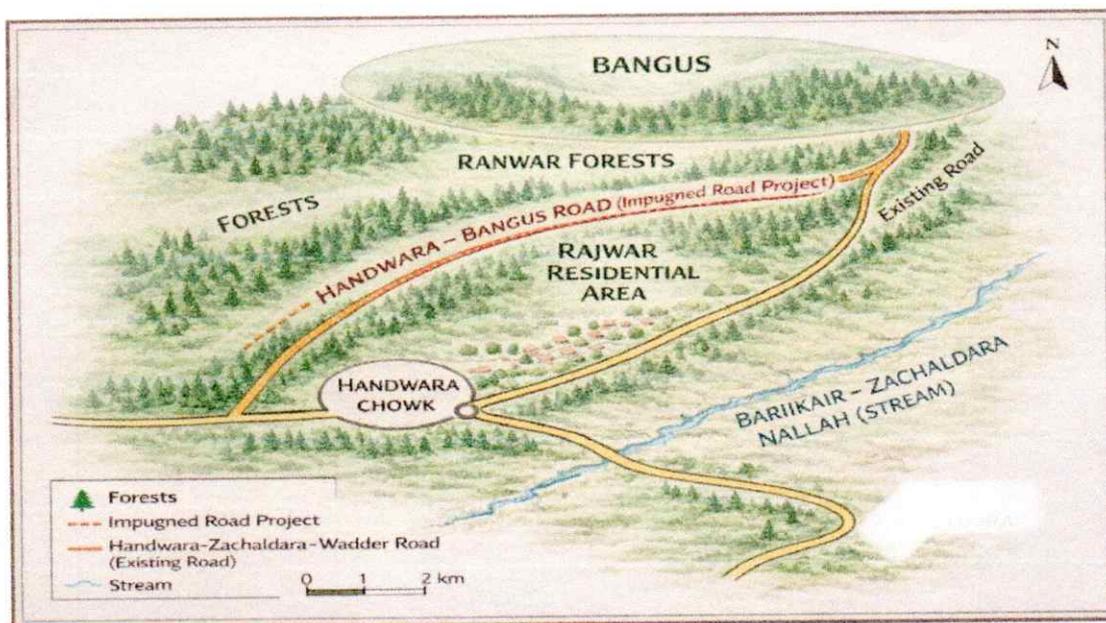
III. ILLEGAL COMMENCEMENT OF PHASE-I PRIOR TO FOREST APPROVAL

7. That tenders for Phase-I were floated on 01.06.2017, and allotment was issued on 21.07.2017 (Pages 465, 469, 470).
8. That the Forest Advisory Committee (102nd meeting) was convened only on 26.07.2017, i.e., after the project had already been awarded.
9. That the FAC approved the proposal in principle, solely on the ground that: "The work for the road has already been allotted" (Pages 473-475)
10. That such reasoning is wholly impermissible, as no authority can: Allow fait accompli, Grant post-facto environmental approvals, Subordinate statutory safeguards to administrative convenience

IV. VIOLATION OF J&K FOREST RULES AND SUPPRESSION OF ALTERNATIVE ALIGNMENT

11. That forest clearance was granted after substantial execution of work, in **direct violation of Rule 7(c) of the Jammu & Kashmir Forest (Conservation & Afforestation) Rules, 2000 (SRO-203 dated 13.06.2000)**. which reads as " Whether the Principal Chief Conservator of Forests had clarified that it has considered all other alternatives and no other alternate in circumstances are feasible and the required area is minimum needed for the purpose. Page No: 179 and 200.
12. That the minimum forest requirement certificate was given in violation of above rules. As, the existing road known as Handwara-Zachaldara-Wadder Bala Road was available and from Wadder Bala only 7 Kms from the forest land/area was required to connect the Bangus.
13. That the certificate of minimum use of forest land issued by Executive Engineers, PWD Division Handwara in consultation with then Assistant Executive Engineer now Executive Engineer and then Divisional Forest Officer (DFO) Langate vide No: 07/08/2017 . Page No: 332.
14. That the said certificate was also issued after the tender allotment of the road project by Chief Engineer PWD Kashmir dated: 21/07/2017. It is reflected on Page No.: 470.
15. That the below map is clearly showing that there was existing route available from Handwara-Zachaldara upto Wadder. The impugned road project via very dense forests of Rajwar area is also connecting at Wadder Bala with existing route which is evident also:

Ram Singh



16. That the impugned alignment was deliberately routed through **very dense forests of Rajwar**, causing irreversible ecological damage.
17. That the minimum forest use certificate was given in violation of the J&K State Forest Rules as well as Central Forest Acts and Rules.
18. That Forest Advisory Committee neglected the proposal of Forest Department that the area is having endangered species, wild animals and if the proposal is approved it will adversely affect the entire area and will impact the overall ecology
19. That no forest clearance was availed for the Phase Second of the impugned road project, as no such forest clearance is reflected in any respondents report / compliances.

V. PRE-CLEARANCE COMMENCEMENT OF WORK ,TREE FELLING AND FINANCIAL IRREGULARITIES

20. That forest clearance was granted only on 24.09.2019 (Pages 477-480).
21. That records at Pages 369-370 reveal:
Bills worth ₹738.37 crores drawn during 2017-18 , 2018-2019 and 2019-2020 Activities included tree felling earth cutting, blasting.
22. That trees were extracted even during 2020-2021, blatantly contradicting statutory timelines and clearance conditions. Page 370
23. That work was commenced not only on properties land but also on the forest land prior to grant of forest clearance which is evident with the records. Bills drawn at near

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about 738.37 crores tree felling, Earth cutting was done without forest clearance / environmental clearance and Environment Management Plan (EMP) and Wild Life Conservation Plan.

24. That such acts constitute:

- Criminal breach of Forest Conservation Act, 1980
- Environmental damage attracting the polluter pays principle
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VI. LAPSE OF FOREST CLEARANCE DUE TO NON-PAYMENT OF COMPENSATORY LEVIES

25. That Condition No.12 of the Phase 1 forest clearance clearly stipulates that failure to deposit compensatory levies within one year results in automatic cancellation. (Page 480)

"The approval will remain valid for one year and in case the amount against the project compensated is not paid within the stipulated period, the approval shall be deemed to have been cancelled."

26. That the user agency failed to deposit the amount between: 24.09.2019 to 23.09.2020

27. That payment was made only on 08.01.2025, after intervention by this Hon'ble Tribunal.

28. That the project was in the year 2017 without forest clearance and after expiry of Forest clearance granted in the year 2019 for nearly six years, the project continued without a valid forest clearance, rendering all actions during this period illegal

VII. SYSTEMIC FAILURE OF ENVIRONMENTAL GOVERNANCE IN J&K VIS-À-VIS OTHER PROJECTS

29. That it is shocking revelation in the Compliance Report that on pages 498 to 509 that 82,327 trees were felled in Jammu and Kashmir (erstwhile State J&K) under the Forest Conservation Act, summarising a total of 154 projects amount ₹ **80,73,37,721** (Eight Hundred Seven million Three Hundred Thirty Seven Thousand Seven Hundred Twenty One)

30. Total due calculated as CA for the number of 154 projects] out of which ₹ **35,39,87,011**

(Three Hundred Fifty Three million Nine Hundred Eighty Seven Thousand Eleven) are paid

31. While ₹ **45,33,50,710** (Four Hundred Fifty Three million Three Hundred Fifty Thousand Seven Hundred Ten) are unpaid

32. That this revelation is a major setback to the Environmental Governance in J&K. While all the norms of the Environmental compliances were violated and it is evident that huge reduction of forests has occurred without balancing the development and environment and ecology.”

VIII. ILLEGAL SHIELDING OF ERRING OFFICERS

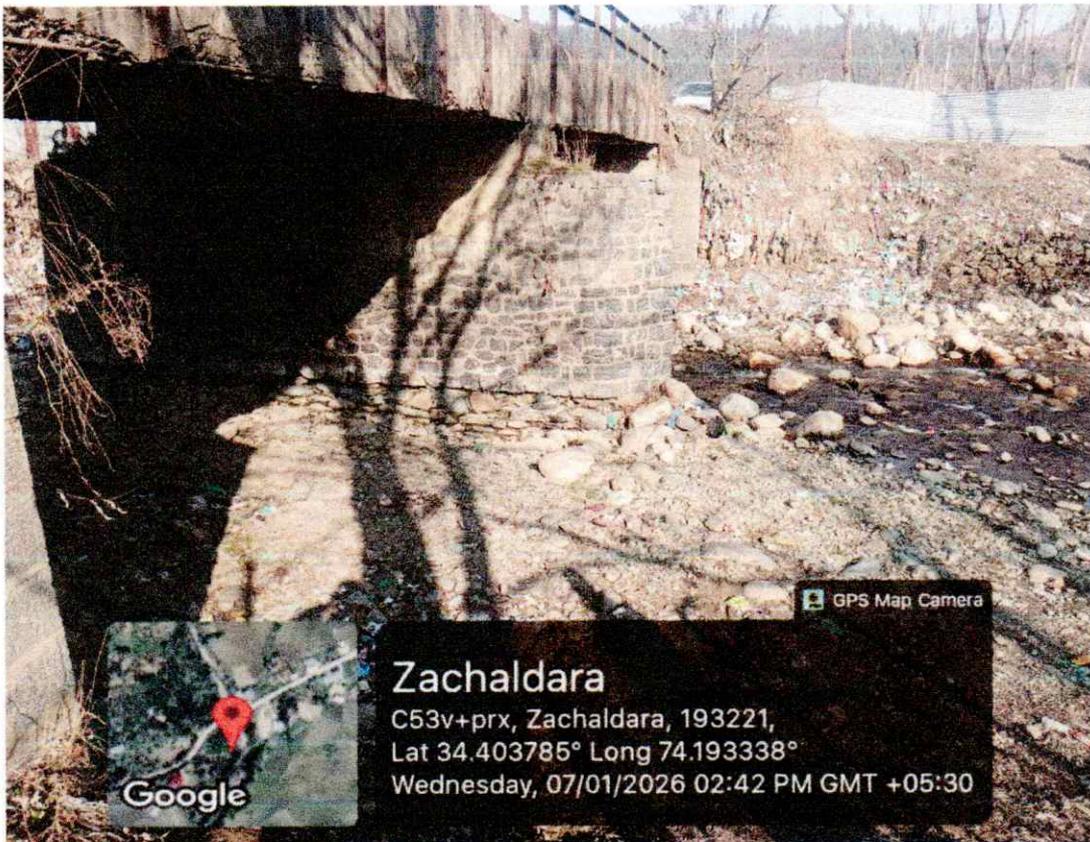
33. That The compliance report is not in alignment with erstwhile J&K State and Central Environment Protection laws or forest acts and their allied laws giving impunity to the environment violations on the backdrop of con orders of J&K Govt order reflected on page no. 510
34. That It's not only the violation of the Environmental Protection Laws but also direct violation and disobedience of Article 48A (a directive principle of state policy of the states), and Article 51A (g) (Fundamental duties for citizens) and Article 21 of the Constitution of India which is right to clean and healthy environment.
35. That no disciplinary or criminal action has been initiated against erring officials.
36. That reliance on the **State Administrative Council order dated 30.07.2019** is legally untenable, as:
37. It applies only to projects already granted forest clearance prior to its issuance
38. Forest clearance for the present project was granted on **24.09.2019**
39. That the said order is being misused as a **protective shield for illegality.**
40. That the order reflecting on page 90 dated 30-07-2018 is not applicable for the impugned road project that is Handwara–Bangus road constructed by the PWD Kashmir, as this order of State Administrative Council was meant for the projects where forest clearance were already granted. prior to its issuance date i.e. 30-07-2019. And this order was applicable for the projects already executed or had been already given forest clearances. The subject of this order reads:
“Modification of Cabinet decision number 31/03/2014 and approval for issuance of Govt sanction order for use of forest land for non-forestry purposes where whole/partial compensation amount is pending for the payment by intending agencies”
41. That forest clearance for Handwara–Bangus road project was granted out of preview of above mentioned order as the same was issued on 24/08/2019 that is after the State Administrative Council decision.

IX ILLEGAL MINERAL EXTRACTION AND DAMAGE TO RIVER SYSTEMS

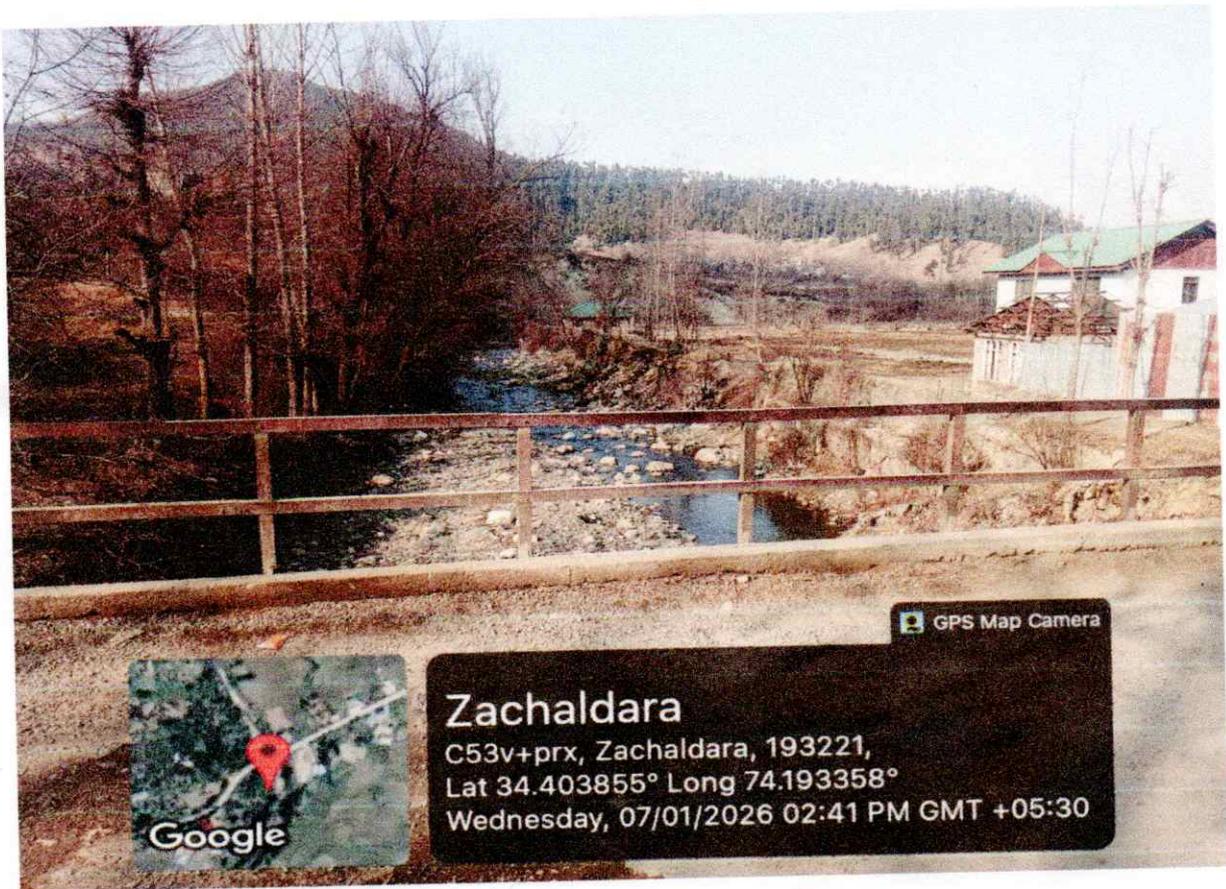
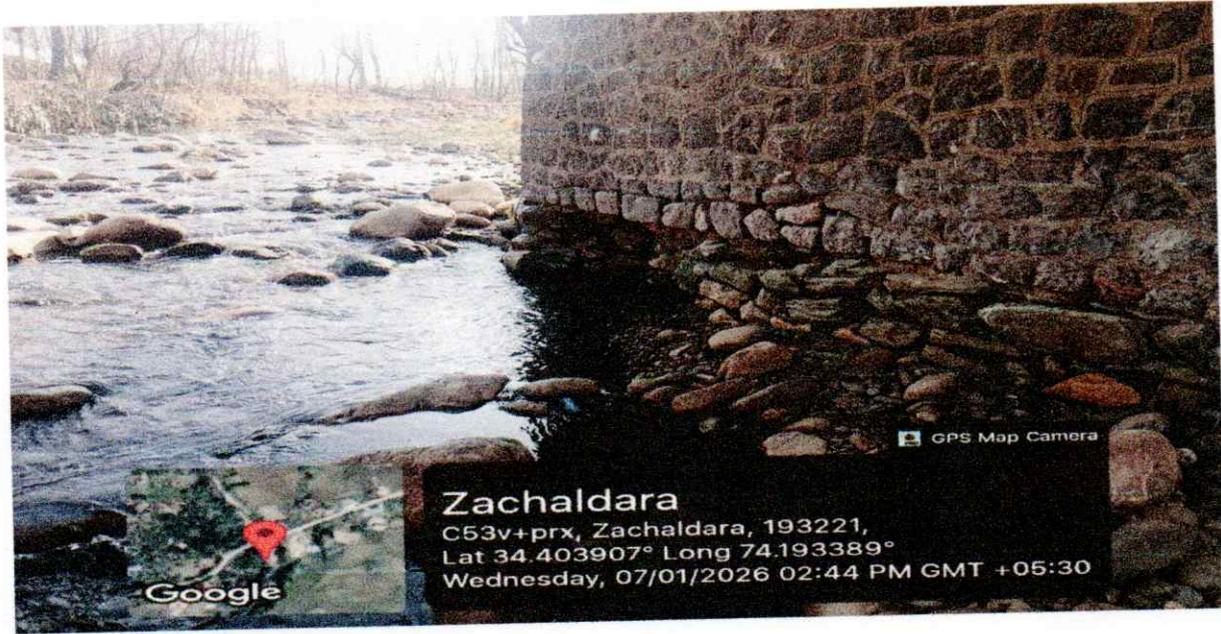
42. That the detailed report / objections has been on record before the Hon'ble Tribunal which can be reflected on page no. 379 to 388.
43. That the report submitted by the DMO Kupwara is misleading. As, the physical position of the Dobigat is clearly only 200 meters downstream the bridge located at Zahaldara on Zahaldara–Satkoji road.

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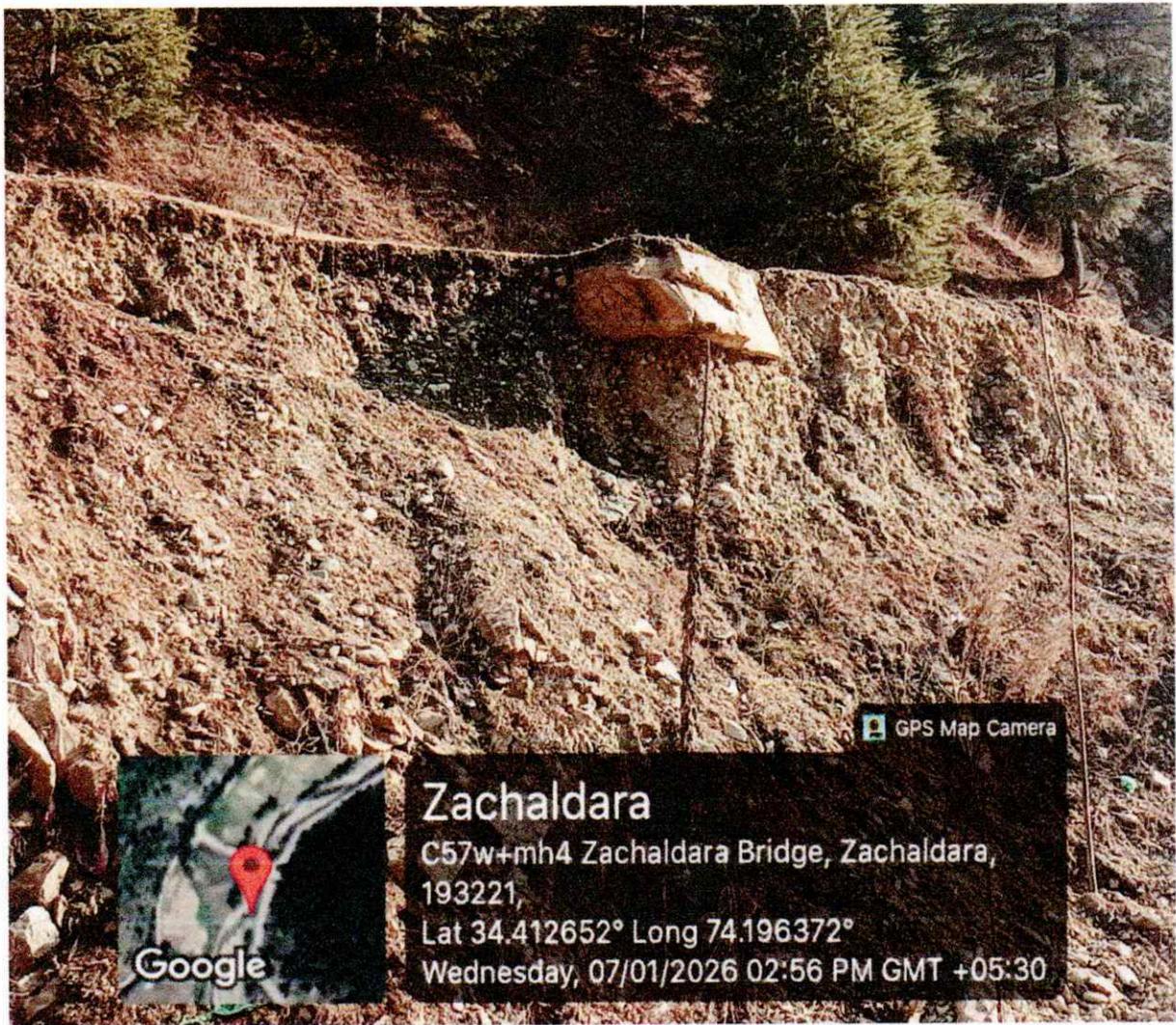
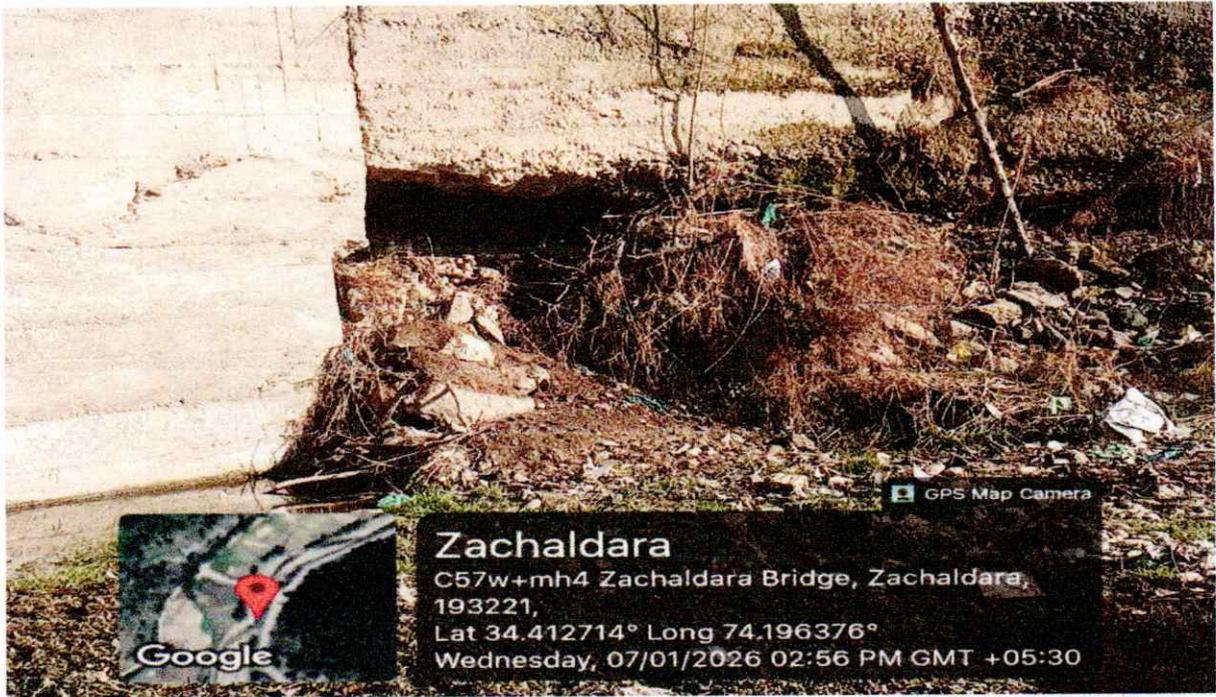
44. That the bridge has inflicted great damage to column supports and embankments vandalized.
45. That the present position of Nallah at Dobigat is in shambles as huge river bed material was excavated without environmental clearances on the persistent requests by the Executive Engineers PWD Hoshiarpur to Irrigation and Flood Control Department.
46. That Despite Irrigation and Flood Control department's repeated reluctance, Executive Engineers PWD Handwara identified site himself near and between the two vital bridges. Same can be reflected on page no. 331.
47. That the letter of District Mineral Officer Kupwara reflected on page no. 528-529 is not only misleading but a deliberate shield for environment compliance violations and mineral and mining concession rules.
48. That the destruction caused in the river nallah has damage to column support of bridges and embankments is clearly visible by below latest geo-tagged photographs.



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X. PHASE-II: COMPLETE ABSENCE OF FOREST, ENVIRONMENTAL AND WILDLIFE CLEARANCES

49. That work on the Phase Second road project is executed in complete absence of the Forest clearance as no forest clearance for Phase Second is reflected in the respondent No. 01's compliance report or any other compliance reports, which as admitted by silence in the compliance report
50. Mountains were blasted without mandatory environment clearances and the road project was enhanced in length from approved 29 kms to more than 40 kms without any forest clearance and environment and wildlife compliances.

XI. ADVERSE IMPACT ON WILDLIFE AND HUMAN LIFE

51. The wildlife protection in our country is primarily guided by Article 48A (States' duty to protect environment and wildlife) and Article 51A(f) (Citizens' duty to protect environment and wildlife).
52. That proposal put forth before the Forest Advisory Committee, reflected on page 320, was clearly mentioning that:
 - (e) There is presence of Himalayan Black Bear, Leopard, Jackal, Himalayan Goral, Himalayan Snow-cock.
53. That proposal also mentioned that 'The proposed project will have adverse effect on flora and fauna by way of disturbing natural habitat of indigenous/rare species of flora and fauna. Ecological balance and authenticity of the area will be adversely affected'
54. That Forest Advisory Committee, without consulting / deliberating on Schedule One and Schedule Second wildlife animal presence in the very dense forest area, only on the principal view:

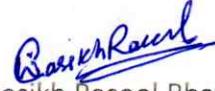
"The proposal was approved in principal in view of the request of Chief Engineer, PWD (R and B)."
55. That the work for the road has already been awarded and funds allocated, the Chief Secretary / Chairman, FAC directed that efforts be made to reduce the number of trees coming in the alignment by 20%. Same is reflected on Page No. 475, Agenda No. 102.12.
56. That proposal put forth before the Forest Advisory Committee was also indicating that nothing was documented that the area is a breeding ground of any endangered species.
57. That since the inception of the said Road Project, since the year 2017, sudden spike of human and wild animal conflict were reported in the Rajwas local residential areas. Since 2017 to March 15th, 2025, 128 numbers of human-animal conflict incidents occurred in the Rajwas area. Four persons have been killed by wild animals, while nine were injured, and more than 136 SOS calls have been received by the Wildlife Department. Same can be reflected on Page No. 321.
58. That wild animals are often seen/observed in the Rajwar area, who have been displaced by the Handwara-Bangus road project.

PRAYER

It is therefore humbly prayed that objections/reply on behalf of the applicant to the compliance report of respondent no. 1, Chief Secretary, UT of J&K. may be placed on record and

- a) Declare all actions taken without valid forest clearance as illegal;
- b) Order independent enquiry / Probe by the CBI (Central Bureau of Investigation)
- c) Grant all prayers in OA No.163 of 2024 and I.A. No.436 of 2025; and
- d) Pass any other order deemed fit in the interest of justice and environmental protection.

Dated: 08-01-2025



Rasikh Rasool Bhat
Applicant in Person

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Mobile No.: 9103079097

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI
Original Application No. 163 of 2024 (IA No 436 of 2025)

Rasikh Rasool Bhat

Applicant

VERSUS

Union Territory of Jammu & Kashmir & Others

...Respondents

**IN THE MATTER OF: AFFIDAVIT IN SUPPORT OF ACCOMPANING
REPLY /OBJECTIONS TO THE COMPLIANCE /REPORT OF THE RESPONDENT NO 1**

I, Rasikh Rasool Bhat, S/o Gh Rasool Bhat, aged 36 years, R/o Ahgam Rajwar, Handwara, Kupwara 193221, J&K, do hereby solemnly affirm and declare as under:

1. I am the Applicant/Petitioner in the above Original Application and am well conversant with the facts and circumstances of the case.
2. I have read and understood the contents of the accompanying reply/objections to the report of Chief Secretary of J&K (Respondent No 1) and I state that the facts stated therein are true to the best of my knowledge.
3. The averments of facts stated here in above are true to the best of my knowledge. No part of it is false, and nothing material has been concealed therefrom.

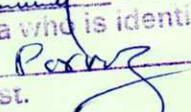

DEPONENT

VERIFICATION :

I, Rasikh Rasool Bhat (Deponent) , do hereby verify that the contents of the foregoing affidavit are true and correct to the best of my knowledge

*Parviz Shafi
S/o: Mohd Shafi Bhat
R/o wadipara Rajwar*

Certified that the contents of this
Affidavit were read over and explained
to the deponent today 08th DEPONENT
Month January Year 20 26
at handwara who is identified before
me by Parviz Shafi Bhat
which I attest.


Adv. Bashir Ahmad Khan
Public Notary
Add. Dist. & Jms
Court Handwara

08/01/2026

