

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

## INDEX

IN

## RESPONSE AFFIDAVIT

(On behalf of Divisional Forest Officer, Tehri, Uttarakhand)

(Respondent No. 4)

(In Compliance to the Hon'ble Tribunal's Order dated 23.10.2024)

IN

## O.A. No. 961 OF 2024

Nitin Dev

Applicant

Versus

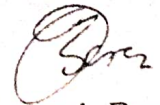
State of Uttarakhand &amp; Ors.

Respondents

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Dated: /02/2025

Filed By:



Deepak Bora

Advocate

Counsel for the State of Uttarakhand

17, New Lawyers Chambers,

Setalvad Block, Supreme Court of India,

New Delhi, 110001

Mobile No. 9971578987

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Affidavit of Puneet Tomar  
S/o Maya Ram Tomar, aged  
about 36 years, presently  
posted as Divisional Forest  
Officer (Acting), Tehri,  
Uttarakhand.

  
(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 (Acting), Tehri, Uttarakhand, and has been arrayed as a Respondent No.4 as such she is fully conversant with the facts of the case and competent to swear the present Affidavit.
2. That on 21.10.2024, after the course of hearing in the present matter, this Hon'ble Tribunal was pleased to pass certain directions and direct the deponent to file response affidavit The relevant paras of the said Order are being quoted here for kind perusal of this Hon'ble Tribunal:

*"5. In these facts and circumstances, we find it appropriate to implead following as respondents:-*

1. State of Uttarakhand through Principal Secretary, Environment Forestry and Climate Change, Dehradun;

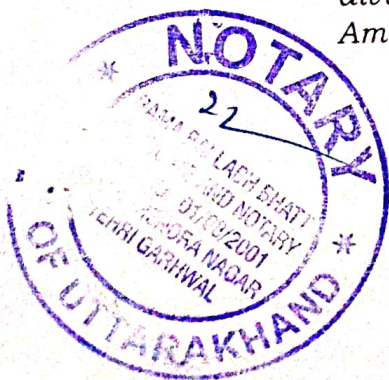


2. Uttarakhand Pollution Control Board, through its Member Secretary
  3. District Magistrate, Tehri Garhwal
  4. Divisional Forest Officer, Tehri Garhwal
  5. M/s Osho Gangadham (Janki Kutia), Patha No. 52, Brahmapuri, Tehri Garhwal.
  6. Shri. Kaushal Gautam, Additional Advocate General has accepted notices on behalf of respondents 1, 3 and 4. He prays for and allowed three weeks' time and to file reply".
3. After receiving the notice issued by this Hon'ble Tribunal in the present matter, a detailed report has been sought by the Forest Department through the Head of the Department. In order of the same the concerned Divisional Forest Officer i.e. the Divisional Forest Officer Narendra Nagar Forest Division Muni-Ki-Reti, Tehri Garhwal vide his letter 12.01/29-3(3) dated 16.11.2024 had furnished a detailed report in the present matter. Copy of the report dated 16.11.2024, furnished by the Divisional Forest Officer Narendra Nagar Forest Division Muni-Ki-Reti, Tehri Garhwal are already on record.
4. That as per the report dated 16.11.2024, furnished by the Divisional Forest Officer Narendra Nagar Forest Division Muni-Ki-Reti, Tehri Garhwal, some of the essential facts are quoted here for kind perusal of this Hon'ble Tribunal as follows:
- a) That a lease for 0.2089 Ha forest land in the reserved forest Brahmapuri compartment number-1 under Shivpuri range has been renewed/sanctioned in the name of Vivekanand Das for cottage/Kutiya purpose for 30 years under the prescribed conditions by the Government of India, Ministry of Environment and Forests, letter No. B/Uttaranchal/ 09/137/2001/FC/220, dated 18.06.2001 (Annexure-01) and by Uttaranchal Government, Forest and Environment, vide letter No. 303/7-1-2001-800/1999, dated 30.07.2001 (Annexure-02).
  - b) That in compliance with the order dated 17.09.2024 passed by this Hon'ble Tribunal, on 25.09.2024 a joint inspection was carried out of lease no. 52 by a joint team of Revenue and Forest Department. According to the joint inspection report, the total area of leased forest land was found to be 0.4146 Ha, which is 0.257 Ha more than the sanctioned lease area.
  - c) That thereafter, a notice has been issued to Swami Vivekanand Das, Lessee, Lease No. 52 under Section-61A of the Indian Forest (Uttarakhand Amendment) Act, 2001 and the lessee has been directed to submit his stand/counter reply on the matter vide letter no. 1017/29-3, dated 24.10.2024 (Annexure-03) issued by the Divisional Forest Officer, Narendra Nagar Forest Division.



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- d) That the Forest Range Officer, Shivpuri Range, in his report dated 16.11.2024 sent vide letter no. 261/29-3 has mentioned that the original lease holder Swami Vivekananda Das (Udayraj Singh) S/o Bhagwant Singh died on 28.06.2011 (copy of death certificate is Annexure-04). And since his death, Prem Chaitanya is illegally in possession of the said leased forest area.
- e) That in condition number-2 of the lease renewal sanction order, it is mentioned that 'even after being leased, the forest land in question will be used by the said proposer only for the stated purpose and the said land or any part of it will not be transferred to any other department, institution or person'. Thus, it is clear that the lease no. 52 in question cannot be transferred to any other department, institution or person. It is noteworthy that the original lease holder Swami Vivekanand Das died on 28.06.2011, using the lease/reserved forest area in question after his death falls under the category of illegal encroachment, which is a violation of Section 20 of the Indian Forest (Uttarakhand Amendment) Act, 2001 and the provisions of the Forest Protection Act, 1980.
- f) That the Government of Uttarakhand vide letter no. 1125/X-3-21/2(04)2018, dated 14.09.2021 (Annexure-05) has formulated a policy for renewal of leases given on forest land and approval of new leases. In paragraph no. 3.3.3 of the said policy, it has been mentioned that 'Forest land given on lease, whose leaseholder has not used the forest land himself but has sold it to any other person or has sublet/transferred it under any agreement, such leases will not be renewed and the Forest Department/Revenue Department will get the forest land vacated and take it in its possession and criminal cases will be registered against the lessee under the Indian Forest Act, 1927 and Forest Protection Act, 1980'. Thus, it is clear that the original leaseholder Swami Vivekanand Das died on 28.06.2011. and using the leased/reserved forest area in question after his death is a violation of Section 26 of the Indian Forest (Uttarakhand Amendment) Act, 2001 and the provisions of the Forest Conservation Act, 1980.
- g) That in relation to the encroachment in question, Forest range Officer, Shivpuri Range has registered Rajivad (case) No. 09/ Shivpuri/2024-25 under relevant forest laws against Prem Chaitanya who is illegally in possession of the leased/reserved forest land in question and further action is being taken. And at the same time, eviction proceedings are also underway at the division level under Section 61A of the Indian Forest (Uttarakhand Amendment) Act, 2001.




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5. That the office of the deponent has taken appropriate action against the illegal encroachment. The copy of the same are annexed herewith for kind perusal of the Hon'ble Tribunal as **Annexure A**.
6. That the State Government has been vigilant on the issue of encroachment on the Forest land for last more than one year and the Government had also launched campaign to remove the encroachments from the forest land across the State. With regard to the present matter, detailed directions have already been issued to the department and the eviction process is being carried out by the department in accordance with law in the present matter.
7. That the deponent undertakes to comply the 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 this affidavit are true to my personal knowledge, 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**

L.H.T  
Duneet Tomar



R.T.

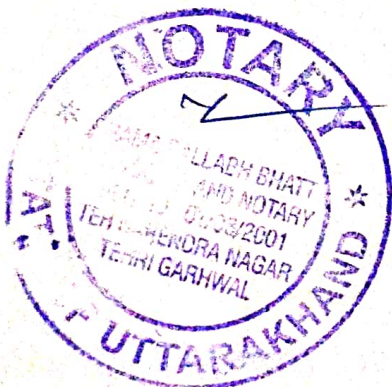
**DEPONENT**

I, \_\_\_\_\_ do hereby identify the deponent who has produced the records of the case before me and I am satisfied that he is the same person as alleged.

**IDENTIFIER**

Solemnly affirmed before me today, the 9th day of February, 2025 at Munilkantpur 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.



This affidavit is sworn before me  
 By Shri. Duneet Tomar to Shri. \_\_\_\_\_ NOTARY  
 Who is identified by Shri. 9  
 at Narendra Nagar T.G. on 8/2/25 Munilkantpur

R. S. BHATT  
 Advocate & Notary  
 Narendra Nagar (T.G.)

R.T.



कार्यालय वन क्षेत्राधिकारी, शिवपुरी राजि, मुनिकीरेती,  
Phone/fax No.- 0135-2442052

पत्रांक- 470 / 12-1, मुनिकीरेती, दिनांक 18 - 02 - 2025  
E-Mail Add.-dfonnagar-forest-uk@nic-in

सेवा में,

प्रभागीय वनाधिकारी,  
नरेन्द्रनगर वन प्रभाग,  
मुनिकीरेती।

द्वारा :- उप प्रभागीय वनाधिकारी,  
देवप्रयाग उप वन प्रभाग।

विषय :- लीज संख्या-52 में हुए अतिक्रमण के विरुद्ध वन विभाग द्वारा की गई कार्यवाही के सम्बन्ध में जाँच  
आख्या।

महोदय,

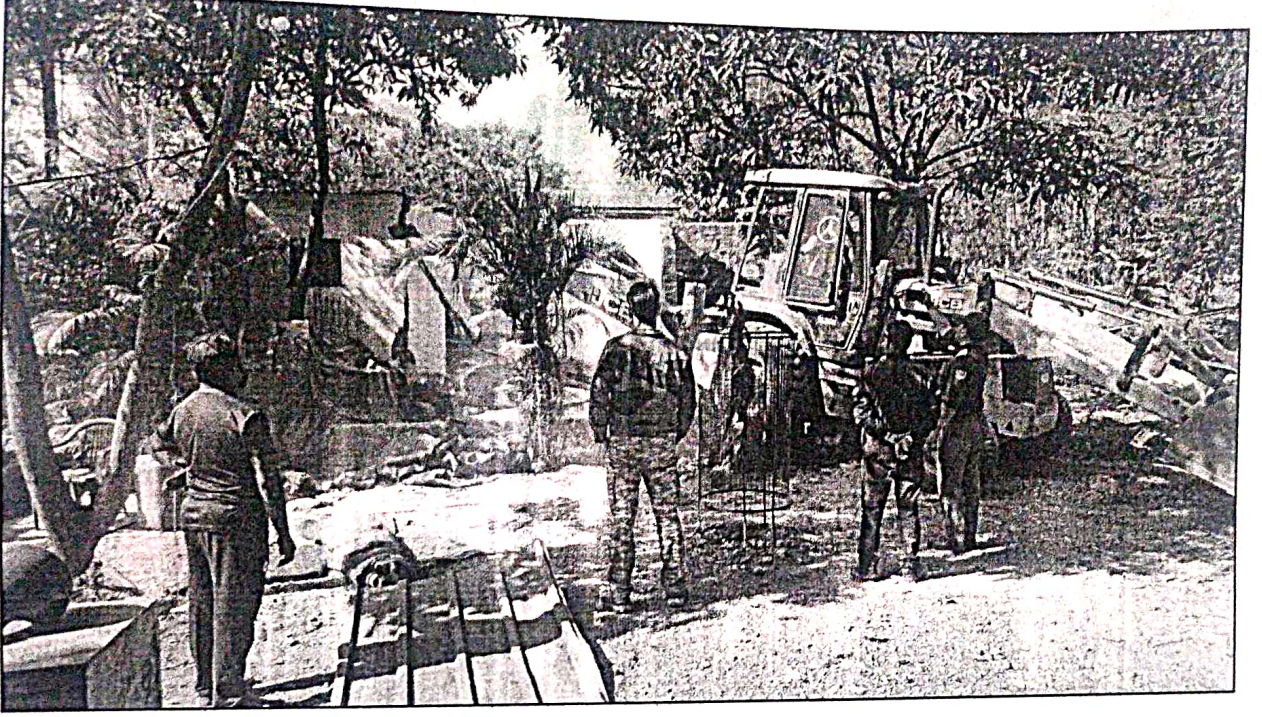
सादर अवगत कराना है कि लीज संख्या-52 का दिनांक 25.09.2024 को निरीक्षण किया गया, जिसमें लीज संख्या-52 में कुल 0.4146 हे0 आरक्षित वन भूमि पर अध्यासन पाया गया, वर्तमान में विभागीय टीम द्वारा 0.2057 हे0 आरक्षित वन भूमि जिसमें प्रवेश द्वार एवं प्रवेश द्वार के आगे दाईं ओर निर्मित टिन शेड युक्त भवन को हटा दिया गया है तथा खुला क्षेत्र, पार्किंग स्थल एवं आंगन को वन विभाग द्वारा अपने कब्जे में ले लिया गया है। वर्तमान में अवशेष अध्यासन 0.2089 हे0 आरक्षित वन भूमि पर है।

उल्लेखनीय है कि शासकीय पत्र संख्या-1125/X-3-21/2(04)2018, दिनांक 14.09.2021 से वन भूमि पर दी गयी लीजों के नवीनीकरण तथा नई लीजों की स्वीकृति हेतु नीति का निर्धारण किया गया है, उक्त नीति के पैरा संख्या-3.3.3 में उल्लेख किया गया है कि "लीज पर दी गयी ऐसी वन भूमि जिस के लीज धारक द्वारा वन भूमि का स्वयं उपयोग न करके किसी अन्य व्यक्ति को विक्रय कर दिया गया है अथवा किन्हीं अनुबन्धों के अन्तर्गत सबलेट/हस्तान्तरित किया गया है, ऐसी लीजों को नवीनीकृत नहीं किया जायेगा तथा वन विभाग/राजस्व विभाग द्वारा वन भूमि को खाली करवाकर अपने कब्जे में लिया जायेगा तथा लीज धारक के विरुद्ध भारतीय वन अधिनियम, 1927 तथा वन संरक्षण अधिनियम, 1980 के अन्तर्गत आपराधिक मामले रजिस्ट्रीकृत किये जायेंगे।" इस प्रकार से स्पष्ट है कि दिनांक 28.06.2011 को मूल लीजधारक स्वामी विवेकानन्द दास की मृत्यु हो चुकी है, उनके मृत्यु के पश्चात् प्रश्नगत लीज/आरक्षित वन क्षेत्र का उपयोग करना, भारतीय वन (उत्तरांचल संशोधन) अधिनियम, 2001 की धारा-26 तथा वन संरक्षण अधिनियम, 1980 के प्राविधानों का उल्लंघन है।

वन भूमि को अपने कब्जे में लेने के दौरान की गई कार्यवाही की फोटोग्राफ्स



R.B BHATI  
Advocate & Notary,  
Narendra Nagar TG (U.K.)



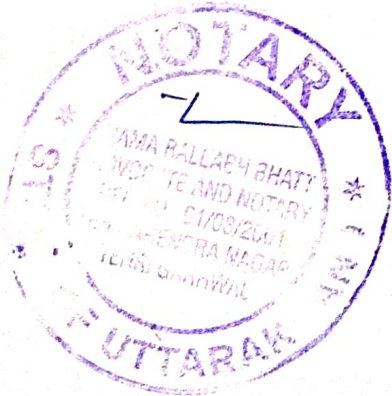
उक्त के सम्बन्ध में शिवपुरी रेंज द्वारा भारतीय वन (उत्तरांचल संशोधन) अधिनियम 2001 की धारा-26 के तहत राजिवाद सं०-09/शिवपुरी/2024-25 दिनांक 14.01.2025 पंजीकृत कर अग्रिम वैधानिक कार्यवाही की जा रही है।

अतः उक्त सूचना महोदय की सेवा में सादर प्रेषित है।

भवदीय

वन क्षेत्राधिकारी,  
शिवपुरी राजि मुनिकीरेती।

२/



ATTESTED  
R.B BHATTI  
Advocate & Notary,  
Marendra Nagar T.G. U.K.