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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 404 OF 2025

IN THE MATTER OF:

Ram Kishore Yadav

...Petitioner

Versus

Ministry Of Environment,

Forests & Climate Change & Ors.

...Respondents

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OFFICE OF AMBER SACHDEVA
CHAMBER NO 116 RK JAIN BLOCK
SUPREME COURT COMPOUND
NEW DELHI 110001

NEW DELHI

13.04.2026

1761

BEFORE THE NATIONAL GREEN TRIBUNAL
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Ram Kishore Yadav

...Petitioner

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**REJOINDER ON BEHALF OF THE PETITIONER TO
THE COUNTER AFFIDAVIT FILED BY MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE/
RESPONDENT NO.1**

MOST RESPECTFULLY SHOWETH:

A. PRELIMINARY SUBMISSIONS:

1. At the outset it is most respectfully submitted that the Counter Affidavit filed by the Respondent No.1 is evasive, misleading and bereft of material particulars, in the guise of which the Respondent No.1 seeks to deliberately dilute its responsibility in a matter involving grave, continuing and irreversible violations. The Counter Affidavit filed by Respondent No.1/Ministry of Environment, Forest and Climate Change (*hereinafter referred to as 'MoEF&CC'*) attempts to portray MoEF & CC as a mere advisory body and contends that MoEF & CC deals with policy and regulatory issues at a broader level, which is a deliberate abdication of statutory responsibility.

2. The Hon'ble Supreme Court in *T.N. Godavarman Thirumulpad (Reconstitution of Central Empowered Committee) v. Union of India, (2024) 15 SCC 302* has held that environmental bodies, authorities, regulators, and officers are constituted with persons having expertise in the field. They have the requisite knowledge to take appropriate decisions about contentious issues of the environment, forests, and wildlife, and also to ensure effective implementation of environmental laws. These bodies constitute the backbone of environmental governance in our country. They need to function with efficiency, integrity, and independence. As duty-bearers, they are also subject to accountability.
3. Further, the plea taken by MoEF & CC that the felling of tress and excavation/construction on forest lands falls under the state domain is legally untenable. It is pertinent to mention at this juncture that the alleged violation in the present Original Application pertains to the direct violations under the Environment (Protection) Act, 1986, EIA Notification, 2006 and the Forest Act, 1980. The Hon'ble Supreme Court in *Vellore District Environment Monitoring Committee v. Vellore District, 2025 SCC OnLine SC 207* has clearly laid down that it is equally important to recognize the role of the Government and other regulatory bodies as well to impose upon them, a responsibility with penalizing consequences in ensuring strict compliance with the orders and directions given by the Courts as well as the applicable environmental laws and principles. ...its effectiveness is inherently tied to the vigilance and enforcement mechanisms of the Government and regulatory bodies, and thus, in situations where authorities fail to regulate polluters adequately, the

resultant environmental degradation underscores a shared responsibility.

4. The MoEF & CC failed to consider the core issue that the DLF Dahilas Project (*hereinafter referred to as 'Project'*) site is located deep within the Wazirabad Pahadi and its surrounding ecological belt which includes forested ridges adjoining Bandhwari, Ghata, and Gwal Pahadi form part of the crucial Aravalli forest zone for Gurugram and NCR region. Therefore, lands in the Aravalli hill range that are hilly, rocky, undisturbed, naturally vegetated, or adjacent to wildlife habitats must be treated as forest land or at least ecologically sensitive zones requiring the application of all relevant forest, wildlife and environmental protection laws.
5. The reliance placed by the MoEF & CC on *T.N. Godavarman Thirumulpad v. Union of India* is wholly misinterpreted and in fact operates against its case. The said judgment significantly expands the ambit of the term "forest" to include not only statutorily notified forests but also areas recorded as forest in government records and those that satisfy the dictionary meaning of the term. The effect of the said judgment is to widen the scope of protection afforded to forest lands, thereby reinforcing the Petitioner's case that the land in question qualifies as forest/deemed forest and cannot be put to non-forest use without prior approval under the applicable statutory framework.
6. It is contended that the MoEF & CC has taken a technical and untenable plea that its role is limited to policy making and that the implementation and regularization of such policies lies with the State Authorities. Pertinently, the MoEF & CC is the nodal authority under Section 3 of Environment (Protection)

Act, 1986. It is also the statutory body to regulate, interpret and enforce the guidelines/directions issued in EIA Notification, 2006. It ought to perform supervisory jurisdiction, more particularly in cases involving forest land, deemed forest areas and eco-sensitive zones. It is a matter of record that in terms of the EIA Notification of proposed projects, projects are divided into two categories in the EIA Notification. EC for Category A projects is granted by the MoEF & CC due to their scale and impact while Category B activities are granted EC by the respective State Environmental Impact Assessment Authority (*hereinafter referred to as 'SEIAA'*) Respondent No. 5 herein. It is submitted that the stand of the MoEF & CC that it performs merely a policy-making or advisory role is wholly misconceived and legally untenable. Under the statutory scheme of the Environment (Protection) Act, 1986, read with the EIA Notification, 2006, the Respondent is not merely a passive authority but is vested with substantive regulatory, supervisory and enforcement functions. The attempt to dilute its role in the guise of a policy framer is depicts its clear shyness from the statutory responsibility, particularly in cases involving patent environmental violations. The MoEF & CC cannot evade its obligation to ensure compliance with environmental laws by shifting the burden onto state authorities.

7. The Counter Affidavit filed by MoEF & CC does not dispute that the project site lies within the Wazirabad Pahadi range which is located near Aravalli hill system that constitutes to be the deemed forest area. The ecological sensitivity of the area remains uncontroverted/ unrebutted, including wildlife

presence, groundwater recharge importance and forest-like terrain.

8. Pertinently, prior Environmental Clearance is mandatory before commencement of any construction. The MoEF & CC has admitted the fact that it has not accorded any approval for the land in question under section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyan, 2023 (erstwhile Forest (Conservation) Act, 1980) (*hereinafter referred to as the 'Forest Act'*). The relevant extract of Section 2 of the Forest Act is reiterated as under:

2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.—

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

- (i) *that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;*
- (ii) *that any forest land or any portion thereof may be used for any non-forest purpose.*

Explanation.—For the purposes of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for any purpose other than reforestation.

9. It may not be out of place to mention herein that the forest areas notified as per Sections 4 and 5 under the PLPA in Haryana (which restricts breaking of land, construction etc.) amount to about 74,000 acres (30,000 hectares) i.e. 33% of the effective forest cover in the state. About 60,000+ acres of these PLPA protected forests are in the Aravalli hills in South Haryana and 10,000 plus acres are in the Shivalik hills around Chandigarh. No non-forest activity (real estate development or mining etc.) is allowed on forest areas protected under the Special Sections 4 and 5 under the PLPA in Haryana.
10. The MoEF & CC has selectively relied upon the judgments to suggest that not all parts of lands as notified under Punjab Land Preservation Act, 1900 are considered to be as forest. However, in accordance to various PLPA notifications no environmental clearance should be considered based solely on revenue entries or private affidavits; the ground reality, ecological condition, topography, wildlife proximity, and historical conservation status should be used to determine forest or eco-sensitive status. The said position now stands judicially recognized and affirmed by the Hon'ble Supreme Court in *Narinder Singh & Ors. v. Union of India Civil Appeal No. 10294 of 2013 (judgment dated 21.07.2022)*, wherein it has been held that such lands bear the trappings of forest land and cannot be put to non-forest use without prior approval of the Central Government.
11. It is further submitted that the MoEF & CC, in several proceedings before the Hon'ble Supreme Court *qua* Aravalli and PLPA lands, has consistently averred that lands notified under Sections 4 and 5 of the Punjab Land Preservation Act, 1900, particularly in the Aravalli region of Haryana, possess

characteristics of forest land and are required to be governed by the provisions of the Forest Act.

12. It is further submitted that the MoEF & CC has, in unequivocal terms, admitted that no approval under Section 2 of the Forest Act has been granted in respect of the land in question. In view of such categorical admission, any diversion or use of forest or deemed forest land for non-forest purposes is *ex facie* illegal and in direct contravention of the statutory mandate. The Counter Affidavit is conspicuously silent on how, despite the absence of mandatory approval, the alleged activities are being permitted to continue, thereby rendering the stand of MoEF & CC unsustainable.

13. It is most respectfully submitted that the Counter Affidavit filed by MoEF & CC does not cater the crucial aspects of regulatory compliance, including *inter alia* site inspections, monitoring mechanisms as employed, enforcement actions or preventive directions issued in respect of the project in question. The said stand taken by MoEF & CC is not merely incidental but goes to the root of the matter, demonstrating a complete failure on part of the MoEF & CC to discharge its statutory and supervisory obligations. It is a settled position of law that regulatory inaction, particularly in environmental matters cannot be countenanced and this Hon'ble Tribunal has consistently held that failure of authorities to take *prima facie* action in case of violations; warrants judicial intervention and fixation of accountability. The continued inaction of MoEFCC, has effected the direct violation of the Public Trust Doctrine, which mandates that natural resources are to be protected and preserved by the Union and State as a trustee for the benefit of the general public.

PARA-WISE REPLY:

14. The contents of Para 1 of the Counter Affidavit are formal in nature and pertain to the designation and authority of the deponent. The same do not call for any specific reply.
15. The contents of Para 2 and 3 are matter of record to the extent they reproduce the case of the Petitioner .
16. The contents of Para 4 summarize the reliefs sought by the Petitioner herein. It is reiterated that the prayers arise out of grave environmental violations in the Aravalli region and warrant urgent intervention by this Hon'ble Tribunal.
17. The contents of Para 5 and 6 refer to the issuance and scope of the EIA Notification, 2006 and the same are the matter of records. It is further submitted that MoEF & CC, being the issuing and supervisory authority under the said Notification ought to ensure compliance and cannot evade responsibility by merely reciting the legal framework.
18. The contents of Para 7 and 8 are not denied to the extent they describe the categorization of projects under the EIA Notification.
19. The contents of Para 9 and 10, wherein the MoEF & CC attempts to shift responsibility to the State Authorities are misconceived and denied. The contents of preliminary submissions are reiterated and not being repeated herein for the sake of brevity.
20. The contents of Para 11 wherein MoEF & CC states that no approval under Section 2 of the Forest Act has been granted are the matter of record.
21. The contents of Para 12 and 13 are admitted to the extent it forms the part of judicial records. However, it is submitted that MoEF & CC has selectively placed its reliance upon the

said judgment. It is submitted that the said judgment expands the definition of "forest" inter alia not limiting it to mere notifications of the Government and rather including all the areas satisfying the dictionary meaning.

22. The contents of Para 14 and 15 wherein MoEF & CC claims that it deals with policy and regulatory issues at a broader level and that tree protection is primarily a State subject, are vehemently denied. The contents of preliminary submissions are reiterated and not being repeated herein for the sake of brevity.

23. The contents of Para 16 and 17, being prayer clause seeking for dismissal of the Original Application are denied *in toto*. It is submitted that the present case warrants quick intervention of MoEF & CC, hence it is prayed that necessary directions may be passed by this Hon'ble Tribunal.


DEPONENT

VERIFICATION

I, Ram Kishore Yadav, the abovenamed deponent do hereby verify that the contents of the above Rejoinder Para No 1 and 23 are true and correct to the best of my knowledge. Verified at New Delhi on this 13th day of April 2026


DEPONENT


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...Respondents

AFFIDAVIT

I, Ram Kishore Yadav S/o Lt. Shri. Surat Singh, aged about 52 years, petitioner having his residence at SR-29, First Floor, DLF Phase III, Gurugram do hereby solemnly affirm and state as under:

1. That I am Petitioner in the captioned case.
2. That as such, I am well conversant with the facts and circumstances of the present rejoinder and am competent to swear this affidavit.
3. That I have been read over and explained the accompanying rejoinder and I say the same has been drafted by my Counsels on my instructions. I state that the contents of the same are true and correct to my knowledge and belief and nothing material has been concealed therefrom.
4. That the contents of the accompanying rejoinder may be read as part and parcel of this Affidavit and the same are not repeated for the sake of brevity.



DEPONENT



VERIFICATION

Ambu
D/523/2018

IDENTIFIED

I, Ram Kishore Yadav, the abovenamed deponent do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge. Verified at New Delhi on this 13th day of April 2026

13 APR 2026

Ram Kishore Yadav
DEPONENT



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ATTESTED
NOTARY PUBLIC DELHI
Govt. of India

1772

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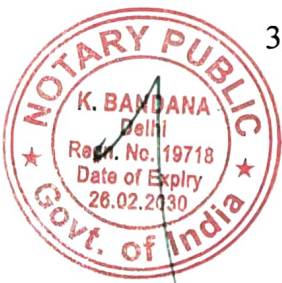
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DEPONENT

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DEPONENT

13 APR 2026

IDENTIFIED



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Govt. of India