

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

**APPEAL NO. 64 OF 2025**

**IN THE MATTER OF:**

VIJAY KUMAR PADALIA

...APPELLANT

VERSUS

STATE OF UTTARAKHAND & ORS.

...RESPONDENT(S)

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Place: New Delhi

Date: 15.01.2026

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**REJOINDER ON BEHALF OF THE APPELLANT TO THE COUNTER  
AFFIDAVIT ON BEHALF OF RESPONDENT NOS. 6, 7 AND 8 (PUBLIC  
WORKS DEPARTMENT)**

**MOST RESPECTFULLY SHOWETH:**

1. This Rejoinder is being filed by the Appellant to the Counter Affidavit dated 15.12.2025 that has been filed on behalf of Respondent Nos. 6, 7 and 8 (the Public Works Department, Uttarakhand, hereinafter, the “**PWD**”) in Appeal No. 64 of 2025, filed by the Appellant before this Hon’ble Tribunal.
2. At the outset, it is submitted that the contents of the Counter Affidavit dated 15.12.2025 have not been able to provide any meaningful response to the blatant inaccuracies, cover-ups and explicit fabrications undertaken by Respondent State authorities in obtaining permissions and sanctions, as highlighted by the Appellant in Appeal No. 64 of 2025. It is submitted that receipt of the impugned permissions for construction of the road and sanction for diversion of reserved forest land does not, *per se*, sanctify the illegalities in the procedure followed and the overtly false and misleading information provided, in order to obtain these permissions and sanction.
3. The Counter Affidavit dated 15.12.2025 is replete with mere denials and bald averments, which do not address, or even engage with, the multiple instances of

inconsistency in, and falsification of, data and the blatant disregard of due process, as has been pointed out by the Appellant. It is submitted that such bald denials of PWD should not be considered as any denial at all. It is well-settled in terms of Rules 3 to 5 of Order VIII, CPC that a vague or evasive denial is not sufficient and may be treated to be an admission in which event the Court may pass a decree in favour of the plaintiff. This is an established position of law, reiterated by Courts on numerous occasions. Certain observations of the Hon'ble Supreme Court in ***Sushil Kumar v. Rakesh Kumar*** (2003) 8 SCC 673, are particularly pertinent in the context of the Counter Affidavit filed by PWD and are reproduced below for ease of reference:

*“69. In terms of Order 8 Rule 3, a defendant is required to deny or dispute the statements made in the plaint categorically, as an evasive denial would amount to an admission of the allegation made in the plaint in terms of Order 8 Rule 5 of the Code of Civil Procedure.*

*70. Under Section 58 of the Indian Evidence Act a fact admitted need not be proved.*

*71. In paragraph 15 of the written statement, the respondent has not specifically contended that the statements made in paragraph 18 of the election petition are incorrect or how they are so. Merely the said allegations have been denied as being imagination of the election petitioner... Such an evasive denial attracts Order 8 Rule 5 of the Code of Civil Procedure. The statements made in paragraph 18 of the election petition must, therefore, be deemed to have been admitted...”*

(emphasis supplied)

4. In particular, the PWD has not given any clarity or explanation, or even attempted to substantiate with appropriate documents, on the following discrepancies demonstrated by the Appellant in Appeal No. 64 of 2025:

- (i) Suppression of the list of trees surveyed, as appended to the only joint inspection conducted on 10.01.2012;

- (ii) In the online proposal form, response of “0” to entry seeking details of “non-forest land required for this project”;
- (iii) In the online proposal form, response of “no” to entry seeking “copy of map indicating location of alternative examined” with the reason “more oak tree and forest land”, when the letter dated 18.03.2015 sent by the Addl. Chief Forest Conservator and Nodal Officer notes rejection by PWD of alternate alignment through agricultural fields having no forest area and with no tree-felling involved;
- (iv) No joint inspection conducted despite recommendation in the above letter of 18.03.2015;
- (v) List of 73 trees mentioned in the online proposal form, when the report of site inspection conducted by PWD alone on 01.03.2013 lists number of affected trees to be 91. Additionally, the Counter Affidavit now lists the number of affected trees as 96;
- (vi) Inconsistency in the width of the proposed road which is of 9 meters, as per the sanction obtained for diversion of forest land, but a reduced width of 7 meters has been considered at the time of site inspection conducted by PWD alone on 01.03.2013 for survey of trees that stand to be affected;
- (vii) In the online proposal form, response of “*not vulnerable to erosion*” to entry seeking “Brief note on vulnerability of the forest area to erosion”;
- (viii) In the online proposal form, response of “no” to entry asking “whether the forest land proposed for diversion is located within eco-sensitive zone (ESZ) of the Protected Area notified under Wildlife (Protection) Act, 1972” with the note “in case, ESZ of a Protected Area is not notified, then, 10 kms distance from boundary of the Protected Area should be treated as ESZ”. This response has been given despite the forest area being located at a distance of 8 kms from the Naina Devi Himalayan Bird Conservation Reserve, which is a notified Protected Area;

- (ix) In the online proposal form, response of “*kakar*” only for entry seeking “Details of wildlife present”, when the reserved forest area is home to diverse wildlife including leopards, foxes, porcupine, nilgais, wild boars and land otters, some of which are protected species under the Wildlife (Protection) Act, 1972. In effect, permission, necessary under the said Act for impact assessment of the proposed construction on the wildlife and their habitat, has been evaded;
- (x) Incorrect certification by the forest officials that 60 persons and 500 families (the entire population at the time) would be benefited from the road, as the village stretches over 3 kms but the road is proposed to be only for 1.5 kms connecting only few houses inside the village, without any clarity as to why the road starts or ends where it does.
5. Importantly, no information has been proffered on any concrete steps taken till date, in accordance with law, to ensure that the *naap* land (privately-owned land) that is required for the construction of a 1.5 km long road, as allegedly intended, has been acquired. No proposals or notifications for acquisition have been brought forward by the PWD to substantiate that the proposal in question is for construction of a *bona fide* motor road of 1.5 km length and not a fraud sought to be perpetuated on the inhabitants of Malla Niglat. As things stand, the proposed road of 9 metres width would only be constructed over 0.54 ha of reserved forest land, thus, coming up to 600 metres in length and ending at a private individual’s residential bungalow.
6. Without prejudice to the above submissions, a para-wise reply has been given as below:
- (i) The contents of paragraph nos. 1 and 2 require no comment from the Appellant.

- (ii) The contents of paragraph nos. 3 and 8 in Preliminary Submissions are denied, as these are bald averments made by the PWD, without any data or document to substantiate their claim. As urged by the Appellant, the village spans a stretch of 3 kms, and is situated on NH-87 (now NH-109), with the closest house in the village only 5 metres from the NH and the furthest dwelling being about 80 metres away from the NH. The proximity to the NH, along with the RCC concrete paths running through the village, clearly indicate good connectivity. It is submitted that the PWD's claims of the proposed road being necessary, in public interest and being of assistance in prevention of forest fire are not supported by any evidence establishing that the existing infrastructure has proved to be inadequate for these purposes. Further, as submitted, these claims fall flat when it is noted that a proposed road of 900 meters long (as 600 meters will pass through reserved forest land which have no houses around) is supposed to service the entire population of a village spanning at least 3 kms.
- (iii) The contents of paragraph nos. 4, 5 and 6 in Preliminary Submissions are admitted only to the extent supported by public records and not beyond. However, it is reiterated that the fact of receiving the administrative and financial sanction, the in-principle approval and the formal sanction for diversion of reserved forest land do not validate or authenticate the illegal and improper procedures employed in obtaining these. On account of such irregularities and falsehoods, the in-principle approval dated 21.05.2016, the Stage II Forest Clearance dated 28.11.2016 and the sanction granted by the State Government for diversion of the reserved forest land dated 14.03.2017, are the subject-matter of challenge in the present Appeal. In addition, no amount of funds for compensatory afforestation would justify an entirely unnecessary construction, sought to be undertaken for specious and deceptive

motives, affecting invaluable forest cover and resulting in loss of habitat of protected species of wildlife and heightened risks of landslides.

- (iv) The averments made in paragraph no. 7 in Preliminary Submissions are denied. It is submitted that the number of trees affected on account of the proposed project has varied across documents issued or filed by the Respondent State authorities since 2013. Pertinently, the list of trees appended to the only joint site inspection carried out by officials across departments on 10.01.2012 has been suppressed and is yet to see the light of day. In light of this, it is submitted that the new figure of affected trees is meaningless, without substantiating if this is the outcome of a joint inspection, as should have been undertaken all along or is merely a reduced number that has been suggested considering the pendency of this matter.
- (v) As regards the contents of paragraph no. 7 of Para-Wise Reply, averments on survey and inspection by a geologist are vague and unsubstantiated and hence, denied. Even till this date, the list of trees appended to the joint inspection carried out by officials across departments on 10.01.2012 has not been brought on record. It is submitted that in light of such blatant suppression, mere statements on survey and inspection do not meet the requisite standards of due diligence and due process. In addition, the PWD has admitted that landslides during heavy rainfall in mountainous regions are a “normal process”. In light of this admission, it is submitted that it is entirely unconscionable and reckless on the part of the Respondent authorities to push for a completely unnecessary project that would increase the risk of further landslides and exacerbate geological vulnerability of the area. Moreover, this admission is wholly inconsistent with and contradictory to the response of the Deputy Conservator of Forest in the online proposal form that the area is not vulnerable to erosion (Point 6 of Part II of the form, page 373 of the Appeal). This is further proof that there was deliberate misrepresentation on

the vulnerable nature of the area, amongst other data submitted, while obtaining the requisite permissions and sanction.

- (vi) The contents of paragraph no. 8 of Para-Wise Reply are denied, as these are bald averments unsubstantiated in any manner. Assuming, demarcation has been re-done as claimed by the PWD, it is submitted that “re-doing of demarcation of non-forest land” at this juncture for a project which received administrative and financial sanction in 2011, casts the legality of the entire project into doubt. There is no explanation as to why demarcation of non-forest lands had to be re-done, after nearly 14 years, and there is no doubt that a newly demarcated route on the non-forest lands cannot be considered to be approved under the 2011 sanction. More importantly, if demarcation had never been undertaken prior to the sanction received, not only does it completely invalidate the sanction where the route of a supposedly-approved road is unknown, but it also strengthens the case of the Appellant that the proposed road was never intended to be completed up to 1.5 kms, even though approvals and sanctions have been received on this basis. Further, the Appellant has learnt that certain properties in the village have changed hands in December 2025, and the new landowners are not in favour of construction of the road through their lands. In addition, it is submitted that consent of landowners is not the only or a relevant requirement under law for acquisition of private land for a public project, as the PWD is well-aware.
- (vii) The contents of paragraph no. 12 of Para-Wise Reply are wholly denied, as queries being routine in the approval process does not mean that those queries go unaddressed or are resolved by dubious means. It is reiterated with emphasis that no action was taken by the PWD pursuant to the letter dated 18.06.2012 from the Divisional Forest Officer, Nainital Forest Division requesting PWD to pay personal attention to the objections of the residents

*(pages 74-77 of the Appeal)*, and such inaction, constituting gross dereliction of duty, cannot be lightly brushed off by the PWD labelling it as “routine”.

- (viii) The contents of paragraph no. 16 and 17 in Para-Wise Reply on the RCC path are completely baseless and are denied, as it has never been the suggestion of the Appellant to convert the same to a motor road. Rather, the need for a motor road keeping in mind proximity of the village to NH-109 and the existence of the RCC path in the village, which is used by 2-wheelers and smaller vehicles, has been questioned by the Appellant.
- (ix) The contents of paragraph no. 32 are denied. The specific query on rejection of alternate alignment through agricultural fields having no forest areas was recommended to be resolved by a joint inspection of officials of the PWD, revenue department, geologist and the Divisional Forest Officer (*pages 387-388 of the Appeal.*). However, no such joint inspection was carried out pursuant thereto and, in any event, none has been brought on record, showing stark disregard of the law and due process.
- (x) The contents of paragraph nos. 2 to 5, 9 to 11, 13 to 15, 19 to 21, 24 to 27, 31, 33, 35, 37 and 40 of Para-Wise Reply are repetitive and have been addressed above. It is submitted that the PWD has been woefully inadequate in addressing the various illegalities and misrepresentations found throughout the entire process leading up to the impugned permissions and sanction, as illustrated in detail by the Appellant. Repeated insistence by PWD on having complied with applicable law without specifically addressing the inaccuracies and misrepresentations pointed out in their online proposal should lend credence to the Appellant’s case that the impugned permissions and sanction have, in fact, been obtained in gross violation of applicable law. At the cost of repetition, it is urged that such bald and evasive

denial by the PWD would amount to admission of the allegations made out by the Appellant in the Appeal.

7. It is submitted that all statements, claims and averments made in the Counter Affidavit dated 15.12.2025, which are contrary to and/or are inconsistent with what is stated hereinabove, are denied, as if the same were specifically traversed and denied. Nothing stated in the said Counter Affidavit shall be deemed admitted unless the same has been specifically admitted.
8. In light of the above, it is imperative that this Hon'ble Tribunal reject the prayer made in the said Counter Affidavit and allow Appeal No. 64 of 2025 and set aside the Theoretical Permission from the MoEFCC dated 21.05.2016, the Stage II Forest Clearance dated 28.11.2016 and the sanction from the State Government for diversion of forest land dated 14.03.2017, with respect to the proposed road from Dakaroli to village Malla Niglat, off NH-87 (now NH-109).

  
(Appellant)

Place: New Delhi

Date: 15.01.2026

  
(Bidya Mohanty)

Advocate for the Appellant

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DELHI

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VERSUS

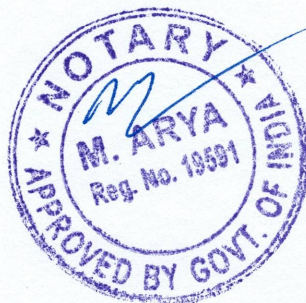
STATE OF UTTARAKHAND & ORS.

...RESPONDENT(S)

**AFFIDAVIT**

I, Vijay Kumar Padalia, s/o Chandra Dutt Padalia, aged about 56 years, residing at 57, Malla Niglat Bhowali, Nainital – 263 132, Uttarakhand, and presently in Delhi, do hereby solemnly affirm and state as under:

- 1) That I am the Appellant in Appeal No. 64 of 2025 and am fully conversant with the facts and circumstances of the said Appeal and am competent to swear this affidavit before this Hon'ble Tribunal.
- 2) That the accompanying Rejoinder has been drafted by my counsel at my instance. I further state that the contents of the accompanying Rejoinder have been read out and explained to me in Hindi and I state that the same are true and correct to the best of my knowledge and are in accordance with my instructions, briefing and narration.



*Vijay Kumar Padalia*  
DEPONENT

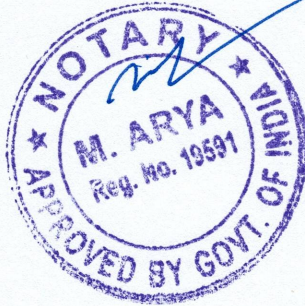
**VERIFICATION**

I, the deponent above named, do hereby verify that the contents of the above Affidavit are true to the best of my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at \_\_\_\_\_ on this 13 JAN 2026 day of January, 2026.

*Wodalia*  
**DEPONENT**

**I Identify the Deponent who  
has Signed in my Presence**



**ATTESTED**  
*[Signature]*  
NOTARY PUBLIC

**13 JAN 2026**



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**Appeal No. 64 of 2025 | Vijay Kumar Padalia v. State of Uttarakhand & Ors. | Rejoinder to Counter Affidavit filed by Public Works Department**

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**From** Bidya Mohanty <bidyamohanty19@outlook.com>  
**Date** Thu 2026-01-15 13:03  
**To** dhruv tamta <tamtaadvocates@outlook.com>  
**Cc** Sumedha Ray Sarkar <sumedharaysarkar@gmail.com>

1 attachment (2 MB)

Rejoinder - Appeal No. 64 of 2025 - PWD.pdf;

Dear Mr. Tamta,

Attached, please see the Rejoinder Affidavit sought to be filed on behalf of the Appellant to the Counter Affidavit filed by the Public Works Department in Appeal No. 64 of 2025.

This e-mail may be treated as a record of service on Respondent Nos. 6 to 8 (Public Works Department, Dehradun, Public Works Department, Haldwani and Public Works Department, Nainital).

Regards,  
Bidya Mohanty  
Advocate  
+91 9603742644