

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 144 OF 2025**

IN THE MATTER OF:

VIJAYKUMAR KARSANBHAI GADHAVI AND ORS.

... APPELLANTS

VERSUS

UNION OF INDIA AND ORS.

... RESPONDENTS

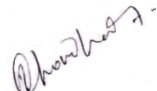
INDEX

S.N.	PARTICULARS	PAGE NO.
1.	REJOINDER ON BEHALF OF THE APPELLANTS TO THE AFFIDAVIT-IN-REPLY DATED 11.12.2025 FILED BY RESPONDENT NOS. 3 AND 4, FOREST AND ENVIRONMENT DEPARTMENT, GOVT. OF GUJARAT AND PRINCIPAL CHIEF CONSERVATOR OF FORESTS (PCCF) & HEAD OF THE FOREST FORCE (HOFF).	1-11
2.	Proof of Service	12

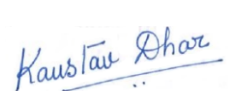
THROUGH



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PLACE: PUNE/NEW DELHI

DATE: 28.02.2026

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
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DATED 11.12.2025 FILED BY RESPONDENT NOS. 3 AND 4, FOREST AND
ENVIRONMENT DEPARTMENT, GOVT. OF GUJARAT AND PRINCIPAL CHIEF
CONSERVATOR OF FORESTS (PCCF) & HEAD OF THE FOREST FORCE (HOFF)**

MOST RESPECTFULLY SHOWETH:

1. The above-mentioned Appeal was filed under Section 16(e) of the National Green Tribunal Act, 2010 challenging the legality and correctness of the Government Order issued on 21.03.2025 by the Deputy Secretary of Forest and Environment Department, Gandhinagar, for the project involving the diversion of 0.9689 ha of forest land for laying part of seawater intake and effluent disposal pipeline and passage for related construction equipment movement in Kachhch District in favour of Chief Operating Officer, Greenfield Chemical Complex Ltd. Ahmedabad. That the impugned order dated 21.03.2025 granting working permission was passed pursuant to the grant of the Stage-I Forest Clearance dated 18.07.2023 and Stage-II Forest Clearance dated 04.01.2024 by the MoEF&CC under the Forest (Conservation) Act, 1980.
2. That the present Rejoinder is being filed in response to the Affidavit-in-Reply dated 11.12.2025 filed by Respondent Nos. 3 and 4 i.e., Forest and Environment Department, Govt. of Gujarat and Principal Chief Conservator of Forests (PCCF) & Head of the Forest Force (HoFF) respectively. The Appellants herein submit that

nothing should be assumed to be admitted for want of specific traverse and all averments in the Reply Affidavit should be assumed to be denied unless specifically admitted or part of the record. The Appellants reiterate all the facts and submissions made in the Appeal to be true and correct and the same may be read as part of the instant rejoinder and are not all being repeated for the sake of brevity.

3. At the outset, it is submit that the Respondent Nos. No. 3 and 4 are absolutely silent on all the categorical allegations raised by the Appellants in the Appeal. It is pertinent to note that the Appellants have raised the following allegations in the Appeal:

- i. False and misleading information in Form A Part II by the Deputy Conservator of Forests, Kachchh about no presence of wildlife and Turtles in and around the proposed project area;
- ii. False and misleading information in the Site Inspection Report by Deputy Conservator of Forest, Kachchh which wrongly denies the presence of wildlife and endangered species i.e., Green Sea Turtles and Olive Ridley and their nesting site in and around the proposed project;
- iii. Lack of reasoned justification in the recommendations for the proposed diversion by the Nodal Officer for Forest Conservation, Gujarat State, Gandhinagar, vide order dated 31.01.2022, and the Secretary, Forest and Environment Department, Gandhinagar, vide order dated 16.05.2023, whereby both these recommendations lack any detailed reasoning or discussion justifying the diversion of forest land;
- iv. The recommendation for forest land diversion has been made in clear violation of the Forest Conservation Rules, 2022, particularly Rule 9 Sub-Rule 5(e)(ii)(C), which mandates consideration of all direct and indirect impacts on forest land, wildlife, and the environment;
- v. The Deputy Conservator of Forest and the Regional Empowered Committee have failed to adequately assess the serious ecological consequences of

seawater intake and thermal discharge on coral reefs and marine life in the ecologically sensitive Gulf of Kachchh area;

- vi. Non-consideration of environmental and ecological direct and indirect impacts upon coral reefs and sea turtles in grant of Work Permission Order and Forest clearances;
 - vii. Overlooking the ecological importance of the coastal areas as prime foraging sites for turtles which are rich in algal.
4. It is submitted that the Stage–I and Stage–II Forest Clearances, as well as the State Government Order issued under Section 2 of the Forest (Conservation) Act, 1980, were granted without due consideration of the fact that the proposed project area is one of the turtle nesting sites in India for Olive Ridley and Green Sea Turtles. Further, the Respondent No. 3 & 4, i.e., the Forest and Environment Department, Govt. of Gujarat and Principal Chief Conservator of Forests (PCCF) & Head of the Forest Force (HoFF) respectively who is the custodian of the forest has granted the impugned Order in completely overlooking the direct and indirect impacts of the project of such nature on the environment, wildlife, and the fragile coastal ecology.
5. It is further submitted that the Affidavit-in-Reply filed by Respondent No. 3 & 4 who is the custodian of the forest of the State of Gujarat and is the authority who issued the impugned order dated 21.03.2025, is conspicuously silent on the categorical and specific allegations raised by the Appellants. Notably, the said affidavit dated 11.12.2025 fails to deal with, rebut, or even advert to the material issues raised by the Appellants. It is pertinent to note that Respondent Nos. 3 and 4 are silent on the crucial and material fact concerning the presence of Olive Ridley and Green Sea Turtles in and around the proposed project area.
6. It is respectfully submitted that it is the statutory duty of Respondent Nos. 3 & 4 to specifically address all material facts, issues, and allegations raised by the Appellants and to furnish a clear and reasoned response thereto. Each allegation is required to be expressly denied or admitted with cogent justification. A vague,

evasive, or blanket denial, or the absence of any response to specific grounds of Appeal, is in law treated as an admission of such uncontroverted grounds. That Order VIII Rule 3 and 5 of the Civil Procedure Code, 1908 clearly states that denial to be specific:

"ORDER VIII:

3. Denial to be specific – *It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal specifically with each allegation of fact of which he does not admit the truth, except damages.*

5. Specific denial – *Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability".*

7. That in this regard, the Hon'ble Supreme Court in the matter titled **Thangam and Anr. vs. Navamani Ammal (2024) 4 SCC 247** vide order dated 04.03.2024 has laid down that written statement must have para-wise reply to plaint:

"22. Before we part with the judgment we are constrained to observe the manner in which the pleadings have been filed in the trial courts or may be in some cases in the High Courts.

23. A perusal of the plaint filed by the respondent shows that it contains ten paragraphs besides the prayer. In the written statement filed by the appellants, no specific para-wise reply was given. It was the own story of the respondent containing fifteen paragraphs besides the prayer in Para 16.

24. In the absence of para-wise reply to the plaint, it becomes a roving inquiry for the Court to find out as to which line in some paragraph in the plaint is either admitted or denied in the written statement filed, as there is no specific admission or denial with reference to the allegation in different paragraphs.

25. Order 8 Rules 3 and 5CPC clearly provides for specific admission and denial of the pleadings in the plaint. A general or evasive denial is not treated as sufficient. Proviso to Order 8 Rule 5CPC provides that even the admitted facts may not be treated to be

admitted, still in its discretion the Court may require those facts to be proved. This is an exception to the general rule. General rule is that the facts admitted, are not required to be proved.

26. The requirements of Order 8 Rules 3 and 5CPC are specific admission and denial of the pleadings in the plaint. The same would necessarily mean dealing with the allegations in the plaint para-wise. In the absence thereof, the respondent can always try to read one line from one paragraph and another from different paragraph in the written statement to make out his case of denial of the allegations in the plaint resulting in utter confusion.

8. It is pertinent to note here that the Respondent Nos. 3 & 4, have remained completely silent in its Affidavit on all the allegations raised by the Appellants. That it is the own story of the Respondent Nos. 3 & 4 containing eight (8) paragraphs none of which specifically addresses all material facts, issues, and allegations raised by the Appellants and instead merely deals with the chronology of events pertaining the grant of Forest Clearance and Work Permission order and the recommendations granted at each stage by the respective Forest Departments. The Forest Department has failed to furnish any information pertaining the crucial allegation raised by the Appellants i.e., with regard to the presence of Olive Ridley and Green Sea Turtles in and around the proposed project area.
9. The Appellants herein submit that in the matter titled **Thangam and Anr. vs. Navamani Ammal (Supra)**, the Hon'ble Supreme Court has further reiterated its earlier decisions whereby it was categorically laid down that the written statement must deal specifically with each allegation of fact in the plaint and when a defendant denies any such fact, he must not do so evasively, but answer the point of substance. If his denial of a fact is not specific but evasive, the said fact shall be taken to be admitted. That in the present case, the Forest Department has failed to respond to each allegations raised by the Appellants. The relevant extracts of the order is hereby reproduced:

*"28. The issue regarding specific admission and denial of the pleadings was considered by this Court in **Badat & Co. v. East***

India Trading Co. [Badat & Co. v. East India Trading Co., 1963 SCC OnLine SC 9: AIR 1964 SC 538] While referring to Order 8 Rules 3 to 5 CPC it was opined that the aforesaid Rules formed an integrated Code dealing with the manner in which the pleadings are to be dealt with. Relevant parts of para 11 thereof are extracted below:

*"11. Order 7 of the Code of Civil Procedure prescribes, among others, that the plaintiff shall give in the plaint the facts constituting the cause of action and when it arose, and the facts showing that the court has jurisdiction. The object is to enable the defendant to ascertain from the plaint the necessary facts so that he may admit or deny them. Order 8 provides for the filing of a written statement, the particulars to be contained therein and the manner of doing so; ... These three rules form an integrated code dealing with the manner in which allegations of fact in the plaint should be traversed and the legal consequences flowing from its non-compliance. **The written statement must deal specifically with each allegation of fact in the plaint and when a defendant denies any such fact, he must not do so evasively, but answer the point of substance. If his denial of a fact is not specific but evasive, the said fact shall be taken to be admitted. In such an event, the admission itself being proof, no other proof is necessary.**"*

10. In this regard, the Appellants submit that the Forest Department has, on multiple occasions, furnished information in response to RTI applications confirming the presence of turtles in and around the proposed project area. However, in stark contradiction thereto, the Forest Department has remained completely silent on this crucial aspect in its Affidavit-in-Reply, despite such information being directly within its knowledge and custody.

List of RTIs filed to Forest Department Kutchch shows nesting site within 15 km radius around project area:

<u>DATE</u>	<u>PARTICULARS</u>
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<u>23.03.2022</u>	<p>RTI reply received from the Forest Range Officer Mandvi, Kutch West Forest Division clearly shows year wise data from 2011 to 2021 with regard to the number of eggs found, as well as the details of number the of dead turtles found between 2019 to 2022 which clearly makes it evident about the presence of Green Sea Turtles along the coast of Mandvi and Bada i.e., the proposed project site.</p> <p>(Annexure A/10 Pg. 126 – 137)</p>
<u>06.02.2025</u>	<p>RTI response received from the Range Forest Officer, Mandvi-Kachchh dated 06.02.2025 demonstrates that a total of 8,682 turtle eggs were recorded between 2011 and 2024, and 33 dead turtles were found along the seashore of Mandvi Taluka. These figures, officially provided by the Forest Department, establish the presence of turtles in the proposed project area.</p> <p>(Annexure A/1 Additional Affidavit dated 31.07.2025 Pg. 328-331)</p>
<u>15.05.2025</u>	<p>Forest Department has provided information only regarding the total number of eggs hatched on the seashore in Mandvi Range from the year 2011 to 2024, however, they did not provide any Location Details, Map, and Geo-Coordinates of Turtle Nesting Sites. In this regard, a RTI Application was filed on 18.04.2025 seeking exact locations of the turtle nesting sites on the beach of Mandvi Taluka. That the RTI Response from Range Forest Officer, Mandvi dated 15.05.2025 has stated that the location cannot be shared due to the risk/fear of poaching.</p>

	(Annexure A/2 Additional Affidavit dated 31.07.2025 Pg. 332)
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11. Furthermore, it is pertinent to note that the Geo Coordinates Images of Turtle Eggs in the nesting sites taken of Dec, 2022, 2.6 kms from project site, March, 2025, 3 kms from project site and July, 2025, 6 km from project site which are fenced by the Forest Department for protection. Thus, from the above instances, it is evident that turtle nesting has been consistently witnessed around the proposed project site which clearly demonstrates that the Forest Department is well aware and have full knowledge about the presence of turtle. (Annexure A/4, @ Pg 316, 337 & 338 of Additional Affidavit filed in Appeal 144 of 2025).

12. That in this regard, the Appellants herein submit that Forest Department of Gujarat in both the Site Inspection Reports as well as the Form A Part II remained completely silent about and provided incorrect and misleading information regarding the presence of turtles. That the entire Forest Clearance proposal as well as the work permission order was initiated based on falsehoods from the authorities, namely the Forest Department, entrusted with safeguarding the forest and mandated to protect it constitutionally thereby concealing crucial information necessary for evaluating the proposal in stark contradiction to the very RTI Information provided by the same department, thereby disregarding the law laid down by the Hon'ble Supreme Court in **Narender Singh vs. Divesh Bhutani (2022 SCC OnLine SC 899)** has held:

"49. After all, the forest department is the custodian of forests. It is this department of the State which is under an obligation to protect the forests for upholding the constitutional mandate".

13. It is pertinent to note that despite being a custodian of the forest, Respondent Nos. 3 & 4 did not consider the direct as well the indirect impact of the project of such nature upon the environment and wildlife namely Oliver Ridley Turtles, Green Sea Turtles, and other Schedule I Species like Indian Monitor Lizard, Black

Shoulder Kite, Eurasian Spoonbill, Indian Peafowl, Chinkara, Peacock, Marsh Harrier, Oriental Honey Buzzard, Gugal etc. located in and around the proposed project area.

14. Furthermore, the Appellants herein submit that the Forest Department have committed a patent breach of public trust as held in **M.C. Mehta vs. Kamal Nath (1997) 1 SCC 388** whereby the Apex Court has held that that Public Trust Doctrine is part of the law of country and that the state is custodian of the natural resources.

*"The State is the trustee of all natural resources which are by nature meant for public use and enjoyment. **Public at large is the beneficiary of the sea- shore, running waters, airs, forests and ecologically fragile lands. The State as a trustee is under a legal duty to protect the natural resources. These resources meant for public use cannot be converted into private ownership.**"*

15. That the Respondent Nos. 3 & 4 in Para No. 6.16.2 of the Affidavit-in-Reply has submitted that the Memorandum/Work Permit i.e., the impugned order is mere formal permission to commence the work and hence is a mere administrative document which is merely communication or directives. That the Appellants hereby denies the same in its entirety. It is respectfully submitted that the Work Permission Order is issued under Section 2 of the Forest (Conservation) Act, 1980 and constitutes the final and operative permission granted by the State Government, namely the Forest Department. Notwithstanding the grant of Stage-I and Stage-II Forest Clearances, no work can lawfully commence unless and until such final permission is issued by the State Government. Consequently, the assertion of Respondent Nos. 3 and 4 that the said Work Permission Order is merely a communication or a set of directives is wholly erroneous.

16. Thus, in the light of the above facts, circumstances and submissions, the Hon'ble Tribunal shall be pleased enough to allow the prayers of the Appeal.

17. Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.



APPLICANT NO.1

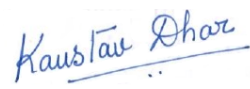
THROUGH



RITWICK DUTTA



RAHUL CHOUDHARY



**KAUSTAV DHAR
ADVOCATES**

COUNSELS FOR THE APPELLANTS

VERIFICATION

Verified by Vijaykumar Karsanbhai Gadhavi, S/o Karsanbhai Gadhavi, aged about 63 years, R/o Village-Panchotiya Vadi Visar, P.O. Mota Layaja, Pincode-370465, that the contents of Paragraphs 1 to 17 are true to my personal knowledge and that I have not suppressed any material fact.



APPLICANT NO.1

Place: Pune/New Delhi

Date: 28.02.2026

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE**

APPEAL NO. 144 OF 2025

NOTARIAL REGISTEE
SR. No. : 531
DATE : 27 FEB 2026

IN THE MATTER OF:

VIJAYKUMAR KARSANBHAI GADHAVI AND ORS.

....APPELLANTS

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

AFFIDAVIT

I, Vijaykumar Karsanbhai Gadhave, S/o Karsanbhai Gadhave, aged about 63 years, R/o Village - Panchotiya Vadi Visar, P.O. Mota Layaja, Pincode - 370465, do hereby solemnly affirm and state as follows:

1. I am the person authorized by the Appellant No. 1 in the above titled Appeal and conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.




DEPONENT

VERIFICATION

Verified on this 27 day of February, 2026 that the contents of the above mentioned Affidavit are true and correct and nothing material has been concealed therefrom.



SOLEMNLY AFFIRMED
BEFORE ME


BHARAT H. MEHTA
ADVOCATE & NOTARY
LAYJA ROAD,
MANDVI - KACHCHH


DEPONENT

27 FEB 2026



Copy of Rejoinder on behalf of the appellants to Respondent Nos. 3 and 4 in Appeal No. 144/2025 - Vijaykumar Karsanbhai Gadhavi & Ors. v. Union of India & Ors.

1 message

Litigation . <litigation@dclawchambers.com>

Sat, Feb 28, 2026 at 12:14 PM


To: ENVIRO LEGAL DEFENCE FIRM <eldflegal@gmail.com>, office@bhattandco.in, maulik@nanavatico.com, Pushkal Mishra <pushkalm6@gmail.com>

Cc: Kol Office <kol_office@dclawchambers.com>

Dear Sir/Madam,

Please find attached-Copy of Rejoinder on behalf of the appellants to Respondent Nos. 3 and 4 in Appeal No. 144/2025 - Vijaykumar Karsanbhai Gadhavi & Ors. v. Union of India & Ors.

Thanks & Regards
Counsel for the Appellant

 **REJOINDER TO R3 & R4 FOREST DEPT.pdf**
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