

N.D.O.H:- 16.08.2024

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 739 OF 2023

IN THE MATTER OF:-

ENVIRONMENT PROTECTION SOCIETY (REGD.) S.A.S. NAGAR &

ANR.

...APPLICANTS

VERSUS

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE &

ORS.

...RESPONDENTS

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Place: New Delhi

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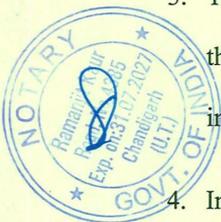
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE AND ORS.

.....RESPONDENT No.1

REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1, (MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE), GOVERNMENT OF INDIA, NEW DELHI

I, Nand Kishor Dimri, S/o J P Dimri, aged about 37 years, working as Technical Officer (Gr-I) in the Regional Office of Ministry of Environment, Forest and Climate Change (hereinafter referred to as the MoEF&CC) at Chandigarh do hereby solemnly affirm and state as follows;

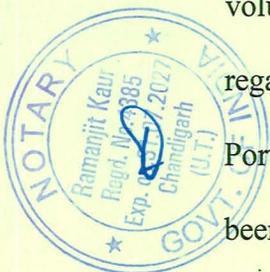
1. That, the present affidavit is filed by the MoEFCC, who is arrayed as the Respondent No. 1 (hereinafter referred to as Answering Respondent) and I submit the basic stand and role of the MoEFCC in the case.
2. That, the Answering Respondent is submitting the present initial reply with a view to enable this Hon'ble Tribunal to appreciate the issues involved in the petition in their correct perspective.
3. That, the Answering Respondent is the Nodal Ministry in the administrative structure of the Government of India, for the planning, promotion, coordination, and overseeing the implementation of India's environmental and forestry policies and programmes.
4. In this regard, it is humbly submitted that the 'land' is a subject matter of the State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That being the repository of land



Nand Kishor Dimri

records, the State Government has the primary responsibility to determine the status of any parcel of land, giving due regard to gazette notifications, provisions under State and Central Acts, and relevant judgments and directions of the Hon'ble High Courts and the Hon'ble Supreme Court of India.

5. That, it is submitted that the present application has been filed seeking quashing of order issued vide letter no. Revenue/1455 dated 07.06.2023 by Divisional Forest Officer, Department of Forests and Wildlife Preservation, Mohali, and consequential actions, fixation of reasonable value of fully grown trees, and issuance of directions to the respondents to deposit the same.
6. That, it is submitted that the State Government authorities are responsible for giving permission for the felling of trees and for the relocation/transplantation of trees which is done by bearing in mind the prevalent climatic and edaphic factors as well as the physiological condition of the trees. It may be noted that the permission for felling of trees is accorded by the concerned State/UT Government authorities as per the State Specific Acts, Rules, Guidelines and the orders of Hon'ble Courts.
7. However, prior approval of the Central Government i.e. MoEF&CC under Section 2 of Van (SanrakshanEvamSamvardhan) Adhiniyam, 1980 earlier known as Forest (Conservation) Act, 1980 is required for diversion of forest land for non-forestry purposes which is accorded with a general condition that the "User agency shall restrict the felling of trees to minimum number in the diverted forest land and the trees shall be felled under the strict supervision of the State Forest Department and the cost of felling of trees shall be deposited by the User Agency with the State Forest Department."
8. It is also alleged by the applicant that the Greater Mohali Area Development Authority (GMADA) has proposed widening of inner roads of the city without carrying out traffic volume studies as well as Environmental Impact Assessment of the project. In this regard, it is submitted that as per records available in the Ministry and on the PARIVESH Portal, neither any proposal for diversion of forest land for the project in question has been received in the Ministry from the State Government nor has any approval been granted by the Ministry as on date regarding the project.



(Signature)

9. Moreover, it is the contention of the applicant that he made representations dated 21.08.2023 and 09.11.2023 to the Divisional Forest Officer, Mohali, and representations dated 22.08.2022, 29.08.2023 and 17.09.2023 to the Chief Administrator, GMADA, and held personal meetings with the officials. In this regard, it is submitted that no such representation has been received in this office of answering respondent as per the records maintained. However, a complaint vide email dated 06.05.2022 received from Mr. HS Minhans FIE, Chief Engineer (Retd), President, Environment Protection Society regarding Illegal cutting of trees, poaching, and destruction of the habitat of the National Bird "Peacock" and encroachment of natural forest in Sector 69, Mohali, Punjab. The complaint of the applicant was forwarded to the State Government vide letter No. 25-506/2022-ROC dated 27.10.2022, with a request to look into the matter on a priority basis and direct the concerned DFO to visit the site and apprise the answering respondent with ground status within a fortnight. However, no reply has been received from the State Government.

10. That, I crave liberty to rely on the present reply affidavit and thereafter reserve the right to file additional information before the Hon'ble Tribunal, if required, till Pendente-Lite.

11. Thus, in light of the above submissions, it is most humbly prayed that the present affidavit may kindly be taken on record and this Hon'ble Tribunal may pass such appropriate order in the interest of justice as deemed fit in the facts and circumstances of the case.



[Handwritten Signature]

DEPONENT

VERIFICATION

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

Verified at... *cn*on this *48* of, 2024.

[Handwritten Signature]

DEPONENT

The contents of this Affidavit/Document has been explained to the deponent/Executants. He/She has admitted the same to be correct. The deponent/Executant has signed Register at Sr. No. *024* P. No. *53* Date *11/8/2024*

ATTESTED
[Signature]
RAMANJIT KAUR
 Notary, Dist. Courts, Chandigarh

11 AUG 2024

Reply affidavit on behalf of the Respondent No. 1 (MoEF& CC) in O.A. No. 739 of 2023 Environment Protection Society (Regd.) S.A.S Nagar & Anr. Vs. MoEF & CC & Ors.

1 message

rahul pratap <rahulpratap.adv@gmail.com>

Wed, Aug 7, 2024 at 4:28 PM

To: advskrattan@yahoo.com, Prashant Manchanda <prashant.manchanda05@gmail.com>, cs@punjab.gov.in

Dear Sir/Madam,

Please find attached herewith reply affidavit on behalf of the respondent in the subject matter.

Regards

(Rahul Pratap)
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 **Reply Affidavit.pdf**
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