

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

**WRITTEN ARGUMENTS
On behalf of Applicant
IN**

Original Application NO. 961 OF 2024

Nitin Dev

..... Applicant

VERSUS

State of Uttarakhand & others

..... Respondents

**WRITTEN ARGUMENTS ON BEHALF OF APPLICANT I.E.
NITIN DEV**

Respected Sir,

1. That the instant case was graciously registered and taken up by this Hon'ble Tribunal while exercising powers under Section 14 and Section 15 of the National Green Tribunal Act, 2010, upon the letter/complaint filed by the Applicant on dated 23-11-2023.
2. That the Applicant herein however concisely submits Written Arguments in furtherance of the submissions made in the precious proceeding.
3. That the Applicant while moving a complaint against the Respondent No. 5, *inter alia* has mainly alleged the following:
 - i. Encroachment in forest land;
 - ii. Illegal possession of forest land;
 - iii. Illegally using commercial land for Commercial activities;
 - iv. Running commercial activities without any proper permissions/NOCs;

Nitin Dev

- v. Environmental pollution etc.
4. That the relevant outer pages of the record are being highlighted for the kind assistance of this Hon'ble Court wherein the violations and gross misconduct on the part of the Respondent No. 5 (project proponent) is visible.
5. That firstly, the Compliance report placed by District Magistrate had cleared the air at the inception only, out of which the following points are vital:
- i. Page No. 24 – Point No. 5: Land Possession Status: excess land was found to be in possession of the project proponent.
 - ii. Sewer System: Point No. 6: No sewage treatment plant. Unauthorized Septic tank constructed near River Ganga. Neither any consent under Section 25 and 26 of Water Pollution Act, 1974 nor any consent under Section 21 of the Air Pollution Act, 1981 was taken.
 - iii. Page 25: Point No. 9: No fire safety system installed.
 - iv. Page No. 10: Point No. 10: No food license was obtained.
 - v. Page No. 25: Point No. 12: Installation of AC and usage of the same.
 - vi. Page No. 26: Point No. 13: Hall, residential cottages, temporary tin sheds have been constructed within the flood plain zone which are merely 63 meter away from the center of River Ganga.
6. That thereafter the Response affidavit filed by the Additional Secretary, Forest and Environment, Uttarakhand also reveals certain important facts which are as follows:
- i. Page No. 53: Point No. 3 (a): Lease granted to original lease Holder "Vivekanand Das" was granted for cottage/Kutiya purpose.

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- iv. Page No. 105: Point No. 6: No arrangement for disposal of waste in the premises.
 - v. Page No. 105: Point No. 8: Commercial activity carried out in the premises, which is violation of lease conditions as well as Indian Forest Act. While charging tariffs from domestic and foreigner tourists, the property is being used for commercial purposes.
 - vi. Page No. 105: Point No. 9: No fire safety equipment installed.
 - vii. Page No. 105: Point No. 10: No food license.
 - viii. Page No. 105: Point No. 13: Construction done in Flood Plain Zone.
 - ix. Page number 109: Respondent No. 5 is violating the provisions of water prevention and control of pollution act, 1974 as well as Air prevention and control of pollution act 1981. It is also very clearly mentioned that **Respondent No. 5 has not obtained any consent under provisions of Air and Water act because of which this Hon'ble Tribunal directly has a jurisdiction to deal with the violations being made by Respondent No. 5.**
8. That there also exists contradictions in the statements made by the Respondent No. 5 as well as the forest officials in their Response Affidavit at page No. 121 for the reason that the Respondent No. 4 i.e. DFO, Tehri Garhwal in its Response Affidavit, at paragraph number 5, has stated that the office of the Forest department has taken appropriate action against the illegal encroachment done by the Respondent No. 5. It is further relevant to state that the attached report with the said affidavit simply makes it apparent that the forest officers **had demolished certain construction done on the encroached area.**
9. That another report was uploaded on 3rd March 2025, on behalf of respondent No. 4, (page number 144) which tells that in eviction suit

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- ii. Page No. 53: Point No. 3 (b): 0.257 Hectare (2570 Square meter) land was found to be in excess illegal possession than what was leased.
 - iii. Page No. 54: Point No. 3 (d): Original Lease Holder died in the year 2011 and the Respondent No. 5 (project proponent) through Prem Chaitanya is in illegal possession.
 - iv. Page No. 54: Point No. 3 (e): Clause No. 2 of the concerned lease mentions 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*". Leased area was found to be in illegal possession of Respondent No. 5 and thus falls under illegal encroachment.
 - v. Page No. 55: Point No. 3 (f): As per paragraph No. 3.3.3 of the letter No. 1125/X-3-21/2(04)2018 dated 14-09-2021 issued by the Government of Uttarakhand, the Respondent Np. 5 has made a violation of Section 26 of Indian Forest (Uttarakhand Amendment) 2001 as well as Provisions of Forest Conservation Act, 1980.
7. That thereafter in compliance affidavit filed by the Respondent No. 2 i.e. Member Secretary, UKPCB, the following violations come out:
- i. Page No. 105: Point No 2: Clearly mentions that the impugned lease is in the name of Swami Vivekananda Das, however, he has expired in the year 2011.
 - ii. Page No. 105: Point No. 4: Respondent No. 5 is in possession of excess land than what was granted in the lease.
 - iii. Page No. 105: Point No. 4: No sewage treatment plant and the septic tank has been made near to the river Ganga.

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number 02 of 2024, pending before the Court of DFO, NARENDRA NAGAR, the Respondent No. 5, in the proceeding held on dated 05-02-2025 had himself given an undertaking that the encroachment done by Respondent No. 5, in excess of the land originally given on lease to Swami Vivekananda Das, i.e. 0.2089 hectare, will be vacated till 16th of February 2025.

10. That it is quite surprising that the forest officials on one hand, while submitting their response affidavit, state that the encroached area has been taken into possession and on the other hand have requested the Respondent No. 5 to vacate the land as per his undertaking, whereas Respondent No. 5 in his own affidavit dated 30-01-2025 (Page No. 113 Pont No. 3(i)) has falsely stated that he is not in possession of any excess land apart from what was granted on lease to the original lease holder i.e. Swami Vivekananda Das.
11. That all these points were raised in the arguments held on the previous date, however for the aid and assistance of this Hon'ble Tribunal, the written Arguments are also being submitted so that the Tribunal could get a clear picture of the ground reality.
12. That the Respondent No. 5 needs to be held accountable for the violations that have been done by the Respondent No. 5 and the damage that has been caused to the forest/environment. It is also prayed that as it has been clearly mentioned that the Respondent No. 5 is in illegal possession of the forest land, the Hon'ble Tribunal may kindly order the eviction of the Respondent No. 5 from the leased premises, illegally held by the Respondent No. 5, which is also in violation of the enactments mentioned under Schedule – I of the National Green Tribunal Act, 2010.

Dated: 23/03/2025


NITIN DEV
Applicant