

IN THE HON'BLE NATIONAL GREEN
TRIBUNAL EASTERN ZONE BENCH AT
KOLKATA

IN

ORIGINAL APPLICATION NO. 192/2024/EZ

IN THE MATTER OF:

Pradeep Singh Shekhawat

..... Applicant

-Versus-

State of Assam & Ors.

..... Respondents

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Place: Guwahati

Date: 30-01-2025

For Respondent No. 4

Filed through

Anamika Pandey
Adv
F/748/2009

Ms. Anamika Pandey

Advocate

**IN THE HON'BLE NATIONAL GREEN
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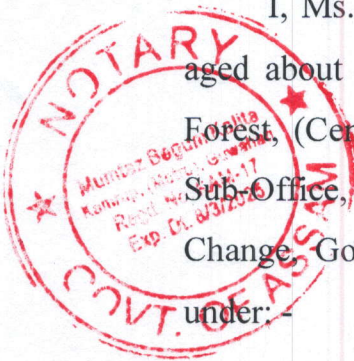
..... Respondents

**Counter Affidavit on Behalf of the Respondent No. 4, Ministry of
Environment, Forest and Climate Change through Secretary, New
Delhi.**

MOST RESPECTFULLY SHOWETH:

I, Ms. Laetitia Jean Syiemiong, daughter of (Late) Andrew Ranee aged about 48 years, holding the post of Deputy Inspector General of Forest, (Central), holding dual charge of Regional Office, Shillong and Sub-Office, Guwahati, Ministry of Environment, Forest & Climate Change, Government of India do hereby solemnly affirm and state as under: -

1. That I am duly authorized to swear this affidavit and as such I am conversant with the facts of the present case and competent to swear the present affidavit.



30 JAN 2025
Notary
Mumtaz Begum Kalita
Kamrup (Metro), Guwahati
Regd. No. KAM-17

उप वन महानिरीक्षक (केंद्रीय)/
Deputy Inspector General of Forests (Central)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

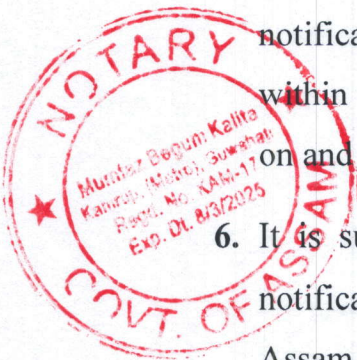
STATEMENT OF FACTS:

3. Original Application has been filed by the applicant being aggrieved by the illegal constructions, including the illegal construction of road to Bhuban Hill, within the Barak Bhuban Wildlife Sanctuary located in Cachar District, Assam, without obtaining prior approval from the Central Government as mandated by the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.

REPLY ON MERIT:

4. It is submitted that, Wild Life (Protection) Act, 1972 has been enacted with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country.
5. It is submitted that as per section 26A 1 (b) of the Wild Life (Protection) Act, 1972, when any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification.

6. It is submitted that the State Government of Assam has issued a notification dated 25th July, 2022 published in the official gazette of Assam notifying 320 sq km comprised within the boundaries described in the notification as Barak Bhuban Wildlife Sanctuary in Cachar District of Assam.



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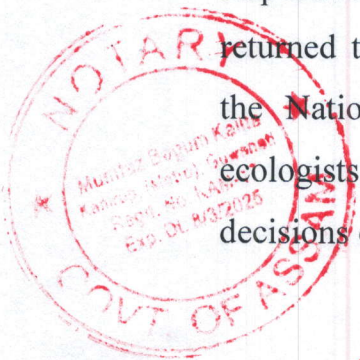
उप वन महानिरीक्षक (केंद्रीय)/
Deputy Inspector General of Forests (Central)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

The copy of Notification dated 25.07.2022 is annexed herewith and marked as **Annexure- I.**


7. It is further submitted that, the provisions of Section 29 of the Wild Life (Protection) Act, 1972 as follows:

No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the National Board that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wild life therein, authorises the issue of such permit."

8. It is submitted that such proposals are forwarded by State Governments to the Ministry of Environment, Forest and Climate Change for placing before the Standing Committee of the National Board for Wild Life after thorough scrutiny by the State/ Union Territory Governments/ Administrators and the State Boards for Wild Life headed by the respective Chief Ministers/Administrators. Incomplete proposals are returned to the States/Union Territories. The Standing Committee of the National Board for Wild Life, which also includes eminent ecologists, conservationists, and environmentalists, takes informed decisions on the proposals placed for its consideration.



30 JAN 2025
Mumtaz Begum Kalita
Samrup (Metro), Guwahati
Regd. No. KAM-17


उप वन महानिरीक्षक (केंद्रीय)/
Deputy Inspector General of Forests (Central)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
केन्द्रीय कार्यालय, शिलांग / Regional Office, Shillong

9. It is further submitted that Section 33 of the Wild Life (Protection) Act, 1972 provides that the Chief Wild Life Warden shall be the authority to control, manage and protect all Sanctuaries.

10. It is also submitted that as per section 34A of the Wild Life (Protection) Act, 1972,

(1) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Conservator of Forests may,-

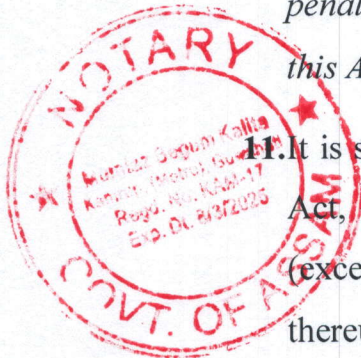
(a) evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;

(b) remove any unauthorised structures, buildings, or constructions erected on any Government land within any sanctuary or National Park and all the things, tools and effects belonging to such person shall be confiscated, by an order of an officer not below the rank of the Deputy Conservator of Forests:


Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.

(2) The provisions of this section shall apply notwithstanding any other penalty which may be inflicted for violation of any other provision of this Act.

11. It is submitted that as per section 51 (1) of the Wild Life (Protection) Act, 1972, any person who contravenes any provision of this Act (except Chapter VA and section 38J) or any rule or order made thereunder or who commits a breach of any of the conditions of any license or permit granted under this Act, shall be guilty of an offence



30 JAN 2025
NOTARY
Mumtaz Begum Kalita
Samrup (Metro), Guwahati
Regd. No. KAM-17


उप वन महानिरीक्षक (केंद्रीय)/
Deputy Inspector General of Forests (Central)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

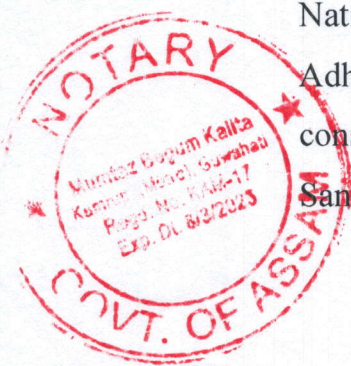
against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both.

12. It is further submitted that in accordance with section 55 (b) of the Wild Life (Protection) Act, 1972, the Chief Wild Life Warden, or any other officer authorized in this behalf by the State Government subject to such conditions as may be specified by that Government may file complaints in the Court against the offences under the Act.

13. It is further submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter-alia, being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned Judgments and directions of the Hon'ble Supreme Court.

14. It is submitted that prior approval of the Central Government under Section-2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is required for carrying out any non-forestry activity on forest land.

15. It is submitted that no proposal under either the Wild Life (Protection) Act, 1972 for consideration by the Standing Committee of the National Board for Wild Life or Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 for seeking approval of the Central Government for construction of road to Bhuban Hill, within the Barak Bhuban Wildlife Sanctuary has been received in the Ministry till date.



30 JAN 2025
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Regd. No. KAM-17

उप वन महानिरीक्षक (केंद्रीय)/
Deputy Inspector General of Forests (Central)
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Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

16. It is further submitted that in the case of unauthorized construction or illegal encroachments, the State Government is empowered to take action and initiate proceeding against the wrongdoers.

17. In view of the aforesaid facts, it is respectfully prayed that the Hon'ble Tribunal may be pleased to pass orders as deemed fit in the circumstances of the case.

VERIFICATION

Verified at Guwahati on this 30th day of January, 2025 that the contents of the above affidavit from paragraph 1 to 17 are true and correct to the best of my knowledge based on records and no part of it is false and nothing material has been concealed therefrom.

Identified by:

Mehboob Alam.

MEHBOOB ALAM

Advocate

Enrolment No. 571 of 2017

Gauhati High Court.

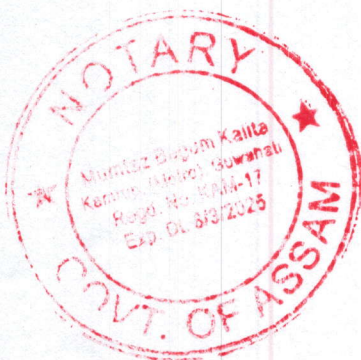
*Mehboob Alam
Advocate
Gauhati High Court*




DEPONENT

उप वन महानिरीक्षक (केंद्रीय)/

Deputy Inspector General of Forests (Central)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong



30 JAN 2025


Mumtaz Begum Kalita
Kamrup (Metro), Guwahati
Regd. No. KAM-17

পঞ্জীভুক্ত নম্বৰ - ৭৬৮ / ৯৭

Registered No.-768/97



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 551 দিশপুৰ, বুধবাৰ, 27 জুলাই, 2022, 5 শাওণ, 1944 (শক)
No. 551 Dispur, Wednesday, 27th July, 2022, 5th Sravana, 1944 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
ENVIRONMENT AND FOREST DEPARTMENT

NOTIFICATION

The 25th July, 2022

No. FRW.11/2020/30.- In exercise of the power conferred by Section 35 of Wildlife (Protection) act, 1972 as amended upto date, the Governor of Assam is pleased to declare its intention to constitute the area described in the Schedule annexed hereto as to the Barak Bhuban Wildlife Sanctuary.

The Governor of Assam, further hereby appoints the Deputy Commissioner, Cachar, Silchar to enquire into and determine the existence, the nature and extent of any rights /claims alleged to exist in favour of any person or persons, in or over any land within the limit described in the Schedule below. The enquiry into the above will be as per procedure laid in the section 19 to 26-A (both inclusive except clause (c) of sub-section (2) of section (24) of the Wildlife (Protection) Act, 1972 read with section 35 of the said Act.

SCHEDULE-A

LOCATION

District (Civil) Cachar
Subdivision (Civil) Sonai
Name of the Forest Division Cachar Forest Division, Silchar
Name of Range Monierkhal Range, Sonai
Area 320.00 Sq km
Name of the area Barak Bhuban Wildlife Sanctuary

SCHEDULE-B

- A. Wildlife :** The Barak Bhuban Wildlife Sanctuary is an hot spot for Primates, reptiles and rare & endangered medicinal plants. The area has **eight recorded species of primates, highest in India** and Assam (except Dampa Tiger Reserve in Mizoram which also has eight species). They are Slow loris (*Nycticebus coucang*), Rhesus Macaque (*Macaca mulatta*), Pig tailed Macaque (*Mnemestrina*), Stump-tailed Macaque (*Macaca arcloides*), Assamese Macaque (*M. assamensis*), Capped langur (*Trachypithecus pileatus*), Phayre's Leaf Monkey (*T. phayrei*) and Hoollock Gibbon (*Hylobates hoolock*).

The area is also good habitat for King Cobra and various other species of reptiles. Four species and Hornbills are found. Assam's last Green Peafowl is recorded in the area. There are also presence of **both Gorals and Himalayan Serow** in this area. The Barak river systems is an excellent habitat for Gangetic River Dolphin.

- B. Biodiversity and Conservation Significance :** The proposed Barak Bhuban Wildlife Sanctuary act as an important for micro fauna and is a repository of rare and endangered flora of medicinal importance.

C. Map : A map of Barak Bhuban Wildlife Sanctuary attached herewith as Annexure-I

D. Area : The Area of the proposed Barak Bhuban Wildlife Sanctuary is 320.00 square kilometers (Approx.)

E. Concessions: There are no rights and concessions within the said area.

F. Boundary description of the Barak – Bhuban Wildlife Sanctuary

1. The boundary runs downs stream along Pan Chhara Nallah from the intersection at Assam Mizorum Border till the point where it takes a sharp westward bend at -

Point ID	Latitude	Longitude
1	24°27'09.69" N	92°52'39.09" E

2. From GPS Point A, the boundary runs along an unknown Nallah(1) along the GPS points given below :

Point ID	Latitude	Longitude
2	24°27'10.45" N	92°52'40.26" E
3	24°27'12.03" N	92°52'41.52" E
4	24°27'16.40" N	92°52'43.25" E
5	24°27'19.29" N	92°52'44.67" E
6	24°27'31.91" N	92°52'49.61" E

3. The boundary further runs along the below GPS Coordinates to meet the ridge line.

Point ID	Latitude	Longitude
7	24°27'56.23" N	92°53'06.64" E
8	24°28'02.30" N	92°53'08.15" E
9	24°28'04.00" N	92°53'11.27" E

4. Along the ridge line the boundary runs along the coordinates given below:

Point ID	Latitude	Longitude
10	24°28'04.36" N	92°53'11.30" E
11	24°27'58.40" N	92°53'19.42" E
12	24°27'53.08" N	92°53'22.54" E
13	24°28'00.50" N	92°53'34.89" E
14	24°27'59.30" N	92°53'44.51" E
15	24°28'03.33" N	92°53'51.20" E

5. From the last coordinate mentioned under Sl. No 4. The boundary runs eastwards along the GPS coordinates given below till it meets the Sonai River.

Point ID	Latitude	Longitude
16	24°28'03.33" N	92°53'50.68" E
17	24°27'50.38" N	92°54'11.46" E
18	24°27'47.39" N	92°54'28.38" E
19	24°27'52.91" N	92°54'32.78" E
20	24°27'52.53" N	92°54'40.88" E
21	24°27'52.58" N	92°54'48.00" E
22	24°27'50.83" N	92°54'49.91" E
23	24°27'54.27" N	92°54'52.78" E
24	24°27'55.81" N	92°54'56.23" E
25	24°27'55.71" N	92°55'01.86" E
26	24°28'00.56" N	92°55'05.15" E
27	24°28'01.12" N	92°55'06.50" E
28	24°28'02.76" N	92°55'12.00" E
29	24°28'01.15" N	92°55'18.23" E
30	24°28'01.37" N	92°55'25.33" E
31	24°28'03.01" N	92°55'30.01" E
32	24°28'02.34" N	92°55'35.36" E
33	24°28'01.09" N	92°55'38.18" E
34	24°27'57.31" N	92°55'43.44" E
35	24°27'54.52" N	92°55'50.80" E
36	24°27'57.05" N	92°55'55.64" E
37	24°27'58.50" N	92°56'00.61" E
38	24°28'00.22" N	92°56'08.85" E

6. Thence the boundary runs north i.e downstream of the Sonai River till the point –

Point ID	Latitude	Longitude
39	24°29'08.47" N	92°56'47.52" E

7. From the (GPS point) the boundary goes eastward along the coordinates given below till it meets an unknown Nallah(2) at –

Point ID	Latitude	Longitude
40	24°29'09.63" N	92°56'52.65" E
41	24°29'07.13" N	92°56'59.45" E
42	24°29'06.22" N	92°57'04.59" E

8. Thence the boundary runs along the unknown Nallah till it meets (confluence) another unknown Nallah(3) at –

Point ID	Latitude	Longitude
43	24°29'35.65" N	92°57'18.89" E

9. The boundary further runs along the upstream of the unknown Nallah(3) till it meets the foothills of the Bhuban range at –

Point ID	Latitude	Longitude
44	24°29'32.59" N	92°57'41.22" E

10. The boundary runs along the foothills of the Bhuban range in most parts except at Bhuban temple area where the boundary runs around it. The boundary coordinates are given below :

Point ID	Latitude	Longitude
45	24°29'32.61" N	92°57'41.16" E
46	24°29'33.12" N	92°57'41.75" E
47	24°29'33.01" N	92°57'42.34" E
48	24°29'34.37" N	92°57'43.02" E
49	24°29'35.11" N	92°57'44.23" E
50	24°29'38.96" N	92°57'44.65" E
51	24°29'40.56" N	92°57'46.54" E
52	24°29'42.42" N	92°57'48.05" E
53	24°29'44.27" N	92°57'50.17" E
54	24°29'47.04" N	92°57'51.62" E
55	24°29'47.54" N	92°57'51.86" E
56	24°29'48.24" N	92°57'52.57" E
57	24°29'49.48" N	92°57'53.12" E
58	24°29'51.25" N	92°57'53.75" E
59	24°29'53.76" N	92°57'54.02" E
60	24°29'57.34" N	92°57'54.93" E
61	24°30'01.11" N	92°57'57.36" E
62	24°30'03.84" N	92°57'57.79" E
63	24°30'08.55" N	92°58'01.40" E
64	24°30'08.81" N	92°58'01.89" E
65	24°30'10.34" N	92°58'02.53" E
66	24°30'12.28" N	92°58'04.40" E
67	24°30'16.81" N	92°58'04.36" E
68	24°30'19.58" N	92°58'06.75" E
69	24°30'24.21" N	92°58'09.78" E
70	24°30'30.90" N	92°58'09.16" E
71	24°30'33.08" N	92°58'17.22" E
72	24°30'27.00" N	92°58'28.11" E
73	24°30'30.91" N	92°58'36.27" E
74	24°30'35.61" N	92°58'42.98" E
75	24°30'42.13" N	92°58'48.64" E
76	24°30'51.26" N	92°58'53.74" E
77	24°30'52.51" N	92°58'54.57" E

78	24°31'00.47" N	92°58'56.71" E
79	24°31'16.63" N	92°59'00.42" E
80	24°31'35.85" N	92°59'07.18" E
81	24°31'45.95" N	92°59'04.91" E
82	24°31'53.99" N	92°59'10.39" E
83	24°31'57.69" N	92°59'13.55" E
84	24°32'06.28" N	92°59'17.23" E
85	24°32'16.35" N	92°59'18.83" E
86	24°32'20.12" N	92°59'21.40" E
87	24°32'28.61" N	92°59'19.12" E
88	24°32'31.50" N	92°59'20.25" E
89	24°32'42.73" N	92°59'17.50" E
90	24°32'56.67" N	92°59'08.24" E
91	24°33'07.59" N	92°58'58.98" E
92	24°33'30.14" N	92°59'03.73" E
93	24°34'01.24" N	92°59'21.01" E
94	24°34'36.47" N	92°59'26.79" E
95	24°35'27.88" N	92°59'40.62" E
96	24°36'46.74" N	92°59'51.18" E
97	24°36'49.96" N	93°00'11.93" E
98	24°37'10.88" N	93°00'35.93" E
99	24°37'28.25" N	93°00'38.62" E
100	24°37'52.69" N	93°00'26.20" E
101	24°38'48.64" N	93°00'06.41" E
102	24°39'17.86" N	93°00'01.45" E
103	24°39'49.59" N	93°00'11.52" E
104	24°40'22.68" N	93°00'11.88" E
105	24°40'50.66" N	93°00'24.93" E
106	24°41'02.03" N	93°00'26.31" E
107	24°41'10.29" N	93°00'31.75" E
108	24°41'25.96" N	93°00'44.40" E
109	24°41'40.92" N	93°00'44.79" E
110	24°41'42.59" N	93°00'54.35" E
111	24°41'44.93" N	93°01'03.71" E
112	24°42'06.48" N	93°01'19.95" E
113	24°42'57.91" N	93°02'02.43" E
114	24°42'51.98" N	93°02'22.29" E
115	24°43'09.43" N	93°02'50.27" E
116	24°43'31.14" N	93°03'13.15" E
117	24°43'36.11" N	93°03'14.98" E

11. Thence, the boundary runs along the Barak river till Assam Mizorum Border, except in three sections – hereby called section I, II, III where the boundary takes a circuitous route, to avoid Revenue area and Forest Villages and after that, again runs along the Barak river, at the end of the said sections.

The detour coordinates of section I:

Point ID	Latitude	Longitude
118	24°43'27.15" N	93°03'46.82" E
119	24°43'02.70" N	93°04'03.93" E
120	24°42'51.36" N	93°04'19.18" E
121	24°42'42.95" N	93°04'29.27" E

The detour coordinates of section II:

Point ID	Latitude	Longitude
122	24°35'53.35" N	93°04'15.08" E
123	24°35'18.48" N	93°04'03.21" E
124	24°34'55.04" N	93°03'41.41" E
125	24°34'31.46" N	93°03'28.18" E

The detour coordinates of section III:

Point ID	Latitude	Longitude
126	24°29'42.38" N	93°01'51.42" E
127	24°28'58.89" N	93°01'38.95" E
128	24°28'19.63" N	93°02'11.25" E
129	24°27'48.80" N	93°02'19.46" E

12. For the (N 24°24'42.23" E 93°00'30.94" – tri-junction point of Assam, Manipur and Mizoram) the BBWLS Boundary runs along the Assam Mizoram Border till it touches the entry point of Pan Charra Nallah.

R. S. PRASAD,

Additional Chief Secretray to the Govt. of Assam,
Environment and Forest Department.