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BEFORE THE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

ORIGINAL APPLICATION NO. OF 2017

IN THE MATTER OF:

VINDHYAN ECOLOGY AND NATURAL
HISTORY FOUNDATION

...Applicant

VERSUS

MINISTRY OF ENVIRONMENT, FORESTS
& CLIMATE CHANGE & ORS

... Respondents

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**BEFORE THE NATIONAL GREEN TRIBUNAL
AT NEW DELHI
MEMORANDUM OF APPLICATION
(under Section 18(1) read with Section 14 and 15 of
the National Green Tribunal Act 2010)
ORIGINAL APPLICATION NO. _____ OF 2017**

IN THE MATTER OF:

**VINDHYAN ECOLOGY AND NATURAL
HISTORY FOUNDATION**

Through its Managing Trustee
36/30, Shivpuri Colony
Station Road, Mirzapur, Uttar Pradesh -231001... .. Applicant

Versus

1. MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

Through Director-ESZ Division
Indira Paryavaran Bhavan
Jor Bagh Road
New Delhi - 110 003

2. PRINCIPAL SECRETARY

Department of Environment
State of Uttar Pradesh
Room No 601, Bapu Bhavan
Secretariat, Vidhan Sabha Marg
Lucknow-226001

3. DIVISIONAL COMMISSIONER-VINDHYACHAL

Patharahia, Mirzapur
Uttar Pradesh-231001

4. PRINCIPAL CHIEF CONSERVATOR OF FORESTS

State of Uttar Pradesh
17, Rana Pratap Marg
Lucknow, Uttar Pradesh-221001.... .. Respondents

- I. The address of the Applicant's counsels is given below for the service of notices of this Application.
- II. The addresses of the Respondents are given above for the service of notices of this Application.
- III. The Applicant above-named is filing the present application against the Notification No. S.O. 891(E) dated 20th March, 2017 issued by the Central Government declaring an area to an extent of 1 km all around the boundary of Kaimur Wildlife Sanctuary in the State of Uttar Pradesh as the Kaimur Wildlife Sanctuary Eco-

sensitive Zone. Copy of Notification No. S.O.891(E) dated 20th March, 2017 is annexed herewith and marked as Annexure A-1.

FACTS

It is most respectfully showeth –

1. That the present Application is filed raising issues with respect to the conservation and protection of the Kaimur Wildlife Sanctuary situated in the districts Mirzapur and Sonbhadra in Uttar Pradesh. The main concern of the applicant herein is that the Notification dated 20th March, 2017 declaring 1 km around the Sanctuary as "Eco –sensitive Zone" is arbitrary and lacks consideration of the significance of the fragile ecosystem which supports a unique integration of flora and fauna existing in this region. The main concern of the applicant is that the area falling beyond the said 1 km also forms part of the rich landscape and was therefore required to be brought under the considerations of eco sensitive zone. The applicant has approached this Hon'ble Tribunal challenging the said notification since the crucial aspect of protection of the eco fragile region which was the ultimate purpose of the notification has been completely ignored by the concerned authorities. If this notification is implemented, the same would lead to fragmentation of the ecological links which are the support system of the rich biodiversity of this region.
2. That the present Application is filed under Section 14(1) of the National Green Tribunal Act, 2010 as the subject matter relates to a substantial question relating to the environment as defined under section 2 (m) (i) (B) of the Act and there has been gross violation of the provisions of the Environment (Protection) Act 1986 and particularly Rule 5 of the Environment (Protection) Rules 1986 which provide for prohibition and restriction of location of industries and carrying on of processes and operations in different areas based on certain considerations. The application is also filed under section 15 for restitution of the environment

which has been damaged by the mining operations and other developmental activities carried out in the region.

3. The applicant is a non-governmental organization registered as a trust in the year 2012 in Mirzapur, Uttar Pradesh. The organization has been working for protection and conservation of the ecology and wildlife in Vindhyan range of eastern Uttar Pradesh through research, communication and supporting local environmentalists. The organization has published several research works highlighting the ecological significance of the area and have suggested measures to the local authorities for undertaking conservation measures for protection of the wildlife animals found in the area. The organization has also sent its objections/representations against the draft notification of the 'Eco-Sensitive Zone' of Kaimur Wildlife Sanctuary in December, 2015. The Managing trustee of the organization who is a permanent resident of Delhi has approached the Hon'ble Tribunal on behalf of the organization. Copy of the Resolution dated 5th August, 2017 is annexed herewith as **Annexure A-2**.
4. That the Central Government creates eco-sensitive zones (ESZs) around Protected Areas to prevent ecological damage caused due to developmental activities around National Parks and Wildlife Sanctuaries. This is in pursuance of the decision taken by the Indian Board for Wildlife in the year 2002 wherein a "Wildlife Conservation Strategy- 2002" was adopted which envisaged that the "lands falling within 10 kms of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under section 3 (v) of the Environment (Protection) Act and Rule 5 sub rule (viii) and (x) of the Environment (Protection) Rules".
5. That a PIL Writ Petition (Civil) No. 460 of 2004 titled as Goa Foundation versus Union of India was filed before the Hon'ble Supreme Court with respect to the issue of declaration of the eco sensitive zones wherein vide order dated 04.12.2006 the Hon'ble Court directed the Ministry to grant a final opportunity to the States/UT's to send proposals for declaration of the

eco sensitive zones around Protected Areas falling within their respective jurisdiction within four weeks from the date of the order. However, several States did not comply with the said directions for want of guidelines in this regard. This issue was subsequently considered by the Hon'ble Supreme Court in (I.A No. 2609-2610 of 2009) titled as Anand Arya & Anr versus Union of India filed in Writ Petition (C) No. 202 of 1995.

6. That the Ministry of Environment, Forests and Climate Change in order to facilitate the States/UT's issued the 'Guidelines for Declaration of Eco-Sensitive Zones', in February, 2011. The purpose of declaring the eco-sensitive zones around Protected Areas like National Parks, Wildlife Sanctuaries is to create some kind of "Shock Absorber" or transition zone or a buffer area where developmental activities are regulated with a view to conserve the floral and faunal biodiversity which exists in the protected area. Copy of the guidelines is annexed herewith as **Annexure A-3**.
7. That in 2011, the Chief Secretary, State of UP constituted a committee for declaring eco sensitive zone for the Kaimur Wildlife sanctuary (hereinafter referred to as KWLS). The first meeting of the Committee under chairmanship of Commissioner-Vindhyachal Division was held on 25 July 2011. Thereafter series of meetings and correspondences were held subsequent to which the Committee recommended for declaring 1 km around the KWLS as ESZ.
8. That the 'Draft Notification' dated 22.09.2015 proposing uniform 1 km radius of ESZ for Kaimur Wildlife Sanctuary was first published by Respondent No. 1, MoEFCC on its website on 6th October, 2015 for public comments. Copy of the Draft Notification is annexed herewith as **Annexure A-4**.
9. That the applicant organization submitted a detailed representation with its comments and objections on the draft notification on 3rd December, 2015 through email to all the members of the Committee. The same email was also marked to Principal Secretary (Environment & Forests) Govt. of India,

Principal Secretary-Forests Govt. of U.P, Chief Conservator of Forests-Kanpur Division, and Divisional Forest Officer-Kaimur Wildlife Division Mirzapur, U.P. The said representation was endorsed by eminent experts working on wildlife and ecology **Annexure A-5**.

10. That the draft notification was finalized by the MoEFCC's Expert Committee on ESZ in its meeting dated 4th February, 2016. Though the minutes show the names of some persons who submitted their comments. However, the same does not make any mention about the detailed representation sent by the applicant organization. Copy of the minutes dated 4th Feb, 2016 is annexed herewith as **Annexure A-6**.

11. That the applicant made an RTI request to the MoEFCC on 24th November, 2016 about the status of their representation and the status of the final notification. In response to the same, the Ministry informed that the notification is yet to be finalized and the representation sent by the applicant was forwarded to the State of U.P. for its response. However, the applicant received no response from the State of UP on the said representation and on 23rd March, 2017 the 'Final Notification' declaring ESZ of Kaimur Wildlife Sanctuary dated 20/03/2017 was uploaded on the MoEFCC website. Copy of the RTI application dated 24.11.2016 and the response of the Ministry is annexed herewith as **Annexure A-7 (Colly)**.

12. That to obtain the documents which formed part of the appraisal and decision making process for the ESZ proposal of the Sanctuary, the applicant filed an RTI application dated 24/03/2017 based on which he undertook a file inspection with the MoEFCC on 21/04/2017 at its office in New Delhi. However, the photocopies of the desired documents were denied to him. Subsequently even on submission of another RTI application dated 24/04/2017 when the applicant was denied information, he approached the appellate authority, the Additional Director-ESZ Division in first appeal and was finally provided the documents in person on 29 May, 2017. Copy of the RTI applications dated 24.03.2017 and 24.04.2017, first appeal dated

23.05.2017 and responses of MoEFCC are annexed herewith as **Annexure A-8 (Colly)**.

13. That after a careful deliberation of all the documents obtained under RTI, the applicant submits that there has been utter disregard of the ESZ guidelines and the entire purpose of declaring eco sensitive zone has been vitiated. The meetings of the Committee show least concern of the officials on the aspect of wildlife protection or conservation of the ecosystem rather the same shows that the eco sensitive zone of barely 1km has been kept in order to facilitate mining activities and other developmental activities which are rapidly increasing around the Sanctuary. The concerned authorities entrusted with the responsibility of declaring ESZ around the Sanctuary had not considered that the area outside the 1 km zone is also vital ecological corridor which observes movement of wildlife and support the rich ecosystem of forests, rivers, water bodies, floral and faunal biodiversity. The area outside this 1 km zone is also part of the landscape of the Kaimur WLS and serves as an important component of maintaining the ecological balance of this entire region, the fragmentation of which will lead to severe impact on the floral and faunal biodiversity and the rich ecosystem of the Sanctuary.

GROUNDS

14. That the Applicants are challenging the ESZ Notification of the Kaimur Wildlife Sanctuary on the following grounds which are necessary for the consideration of this Hon'ble Tribunal:

A. Decision to declare 1 km as ESZ around the KWLS is not based on ecological or environmental considerations but in order to ease out mining business and industrial activities carried out around the Sanctuary:

The applicant submits that there were two committees constituted for considering the proposal of ESZ of the Kaimur Wildlife Sanctuary. It is submitted that the entire consideration of both the Committees constituted

for the purposes of determining the Eco sensitive zone around the KWLS was on protecting mining and other industrial activities undertaken around the Sanctuary. The perusal of the minutes of the Committee meetings and the correspondences does not show any detailed discussion on protection and conservation of the eco fragile zones surrounding the Sanctuary. The applicant wish to highlight the following proceedings which shows that the entire process of declaring ESZ around the KWLS was vitiated:

- (i) A committee for determining the ESZ for the KWLS was constituted by the Chief Secretary, State of UP under the chairmanship of Commissioner, Vindhyaçal (hereinafter referred to as the Chairman of the Committee). The Divisional Forest Officer, Kaimur Wildlife Sanctuary vide letter dated 19.07.2011 informed the DM, Sonbhadra about the said committee further providing him details of the ongoing mining and industrial activities undertaken within 10 km radius from the boundaries of the Sanctuary which shows the region is dominated with industrial activities which includes sand and stone mining, cement plants, Power plants, Stone crushers and quarries etc.
- (ii) The Committee held its **first meeting** on 25 July 2011 in Sonbhadra District. The minutes of the meeting show the presence of members from Mining Department, District Industries Centre, Public Works Department, Electricity Corporation, Transport Department etc. with only one member from Forest Department. Copy of the minutes of the meeting dated 25.07.2011 is annexed as Annexure A-9/1.
- (iii) In the **second meeting** held on 24 August 2011, the officials from mining department submitted that if ESZ of 1 Km from the boundary of the sanctuary is proposed then the entire mining activity would be prohibited which would impact employment and availability of minerals such as sand, stone, limestone etc. It was also brought to the notice that in the radius of 1 km there is one power station, 22 stone mining leases, 2 sand mining leases, 1 stone mining lease of

Jaypee industries. The minutes further show that the officials from the mining department were asked to propose suggestions on what should be the extent of the ESZ around the Sanctuary. Copy of the minutes of the meeting dated 24.08.2011 is annexed as Annexure A-9/2.

- (iv) On 22 September, 2011 the District Mining Officer wrote to the Chairman of the Committee requesting to reduce the ESZ to 500 meters for the 35 km stretch of the Protected area along River Son for protection of 24 mining leases. The District Mining Officer further stated in this letter that in case 1km is declared as ESZ then all the mining leases within the said area will be cancelled. Copy of the letter dated 22.09.2011 is annexed as Annexure A-9/3.
- (v) In the **third meeting** of the Committee held on 24 September 2011, the Chairman and other members on the suggestions made by the mining officials, reduced the ESZ boundary from 1 km to 500 meters for the suggested 35 km stretch. However, the DFO, KWLS Mirzapur brought to the notice of the Committee, the information provided by the Principal Conservator of Forest (Wildlife), UP, Lucknow regarding the order of the Hon'ble Supreme Court dated 04.08.2006 in IA No. 1459 in WP (C) No. 202 of 1995 which prohibits mining activity within 1 km of the boundary of the protected area. The minutes also show the hand written note of DFO Mirzapur wherein he has showed his disagreement on reducing the ESZ to 500 meters:

"There is disagreement over Para A and B, therefore careful analysis of the same is required. Any approved proposal shall not be contrary to the directions of the Hon'ble Supreme Court. If mining activity in 1 km is prohibited since 2006 then,

1. What is the justification for having discussion on Eco sensitive zone for 0 to 1 km.?

2. What is the justification of the NOC given by the Forest Department in that area after 2006?

3. Why the NOC granted for mining activity going on since 2006 (in this area) till date has not been taken back?

Copy of the minutes of the meeting dated 24.09.2011 is annexed as Annexure A-9/4:

- (vi) On 7 October, 2011 the DFO-Mirzapur wrote to PCCF-Wildlife Lucknow informing him about the suggestion given by CCF-Mirzapur Division in the meeting of the committee dated 24.09.2011 for the need to carry an assessment by an expert organization on the harmful impacts on wildlife caused by mining activities carried out beyond 500 meters based on which the further course of action should be decided. He further sought query on two aspects: (i) if there will be any legal obstacle if mining activity is allowed to be undertaken beyond 500 meters from the boundary of the Sanctuary and (ii) if mining activity is prohibited within 1 km of the Sanctuary then the ongoing 24 leases shall be cancelled or not.

In reply to the same, The PCCF vide letter dated 20.10.2011 stated that there is a complete ban on mining activities within 1 km distance from a wildlife sanctuary and allowing the same will be in violation of the Supreme Court order. He further stated that any leases which were operational prior to SC order will function only till termination of their lease period. He further made it clear that any activity in violation of the Court's order should be immediately stopped and action should be taken against the violators.

Copy of the letters dated 07.10.2011 and 20.10.2011 is annexed as Annexure A-9/5.

- (vii) On 3 November, 2011 the DFO-KWLS sent a reminder to Mining officer-Sonbhadra seeking details on the mining leases within 500 m and 1 km radius of KWLS. The same day, the Chairman of the

Committee wrote to the Principal Secretary, (Forest) Govt. of UP seeking further clarification on whether there is any legal obstacle in allowing mining activities outside 500 meters radius from KWLS boundary in view of the guidelines for declaration of the eco sensitive zones. Copy of the letters dated 03.11.2012 by the DFO-KWLS and Commissioner Vindhayachal is annexed as Annexure A-9/6.

(viii) The DIG (WL) MoEFCC on 07/02/2012 wrote to the Chief Wildlife Warden Govt. of UP reminding to expedite the submission of ESZ proposal and also pointing out the following 7 key points to be specifically included while considering the proposal:

(i) *"The radius/ mean radii/ range of radius of the proposed Eco sensitive zone clearly indicating the area covered by the Eco sensitive zone around the protected area along with a map for the same in A4 size*

(ii) *The requirement of such a zone to act as a shock absorber*

(iii) *The best method for management of the Eco sensitive zone*

(iv) *The broad based thematic activities to be included in the master plan for the region, which may be in the form of a table as given in the guidelines of the ministry of environment and forests on Eco sensitive zone published on 9th February 2011*

(v) *Details of land use pattern of the region within the proposed Eco sensitive zone and list of different categories of industries including mine and stone crushing unit operating in the proposed Eco sensitive zone*

(vi) *Natural Habitat and important corridor present in the protected areas and the proposed Eco sensitive zone*

(vii) *Boundary description of the proposed Eco sensitive zone and list of villages falling within the proposed Eco sensitive zone along with the latitudes and longitudes of the same. the boundary description shall include the list of villages, clearly*

indicating the exception and exemption in the delineated buffer Zone area."

Copy of the letter dated 07.02.2012 is annexed as Annexure A-9/7.

- (ix) That in pursuance of para 6.2 of the guidelines for determining ESZ for the Sanctuary, another committee (Small Expert Committee) of four members was constituted by Additional Commissioner, Mirzapur appointing ADM Sonbhadra, Dr. Sarita Sinha from NBRI, Lucknow (as an ecologist nominated by District Magistrate, Sonbhadra), Wildlife Warden KWLS and Additional Chief Officer, Zila Panchayat, Sonbhadra. The DFO-KWLS wrote a letter dated 17.01.2012 to the District Magistrate, Sonbhadra bringing the said fact to his notice alongwith the CV of the nominated ecologist. Copy of the same is annexed as Annexure A-9/8.
- (x) The said small expert committee held only two meetings on 1 March, 2012 and 30 March, 2012. The minutes of the meetings shows that the main concern of the members was on protecting the mining leases and the industries which were operating in the region and the extent of the eco sensitive zone was discussed considering the location of the said activities. Copy of the minutes of the meetings dated 01.03.2012 and 30.03.2012 is annexed as Annexure A-9/9.
- (xi) A Site Visit by the ecologist Dr. Sarita Sinha was undertaken on 2 March, 2012 in Gurma block and two other sites namely Rajpur and Mahuwaria. The site visit report dated 06.03.2012 is not supported by any scientific observation or photograph. The perusal of the report further shows that the site visit was very generic and infact a very brief visit during midday. However, the expert member made an observation that the "ESZ shall be based on site of fragile ecosystem and different buffer zones must be made as per Guideline of MOEF". The site visit seems to be a mere formality since considering the area of the Sanctuary which runs in more than 500 sq.km. and outer

perimeter running over 350 Km, it is impossible for the officials to determine the status of wildlife or eco fragile zones of this region merely observing it for a couple of hours. Copy of the site visit report dated 06.03.2012 is annexed as Annexure A-9/10.

(xii) On 09/04/2012, the Principal Secretary, GoUP wrote to Chairman of the Committee (Commissioner-Vindhyachal Division) informing him that permitting mining within 1 km of the Protected Area boundary will be violation of the Supreme Court order. Copy of the letter dated 09.04.2012 is annexed as Annexure A-9/11.

(xiii) The **fourth meeting** of the Committee headed by Commissioner Vindhyachal was held on 11/05/2012 wherein the chairman apprised all the members of the Committee about the Supreme Court order. Pursuant to the same the members agreed on proposing 1 km minimum ESZ around some areas of Gurma Range. However, the suggestion for increasing ESZ to 2 km in the remaining area by the small expert committee was questioned. It was stated that the notification of different ESZ distances may lead to conflict between villagers and will also affect development activities. Copy of the minutes of the meeting dated 11.05.2012 is annexed as Annexure A-9/12.

(xiv) On 21 May 2012, the nominated ecologist Dr. Sarita Sinha sent a note proposing for a uniform eco sensitive zone of 1 km width around the Sanctuary. The said observation of the expert member was based on an arbitrary reasoning that keeping variable distances for ESZ will create social conflicts among the villages as they would be affected by the restrictions imposed on different variations at different places.

It is submitted that the said reasoning was completely vague in light of the guidelines which states that the extent of regulation may not be uniform all around and it could be of variable width and extent. Further, no question of social conflict could have arisen since notifying

an eco-sensitive zone does not restrict the villagers from moving in the region or carrying out day to day activity. Copy of the Note dated 21.05.2012 is annexed as Annexure A-9/13.

- (xv) In the **fifth meeting** dated 10th June, 2012 there was only discussion on demarcation of the boundary of the KWLS on the revenue map and regarding the same different sub-committees were formed. Copy of the minutes of the meeting dated 10.06.2012 is annexed as Annexure A-9/14.
- (xvi) The **sixth and final meeting** of the Committee was held on 11.07.2012. the meeting was also attended by the nominated ecologist. The minutes show that there was clear disagreement between Revenue Department and Forest Department regarding the boundary of the Sanctuary. The Revenue Dept. showed the boundary of the KWLS 1 km less than what was original on which Forest Dept. objected that the same cannot be done without recommendation of National Board of Wildlife. In this meeting all, the members reached to a consensus for 1 km as ESZ for the Sanctuary. Copy of the minutes of the meeting dated 11.07.2012 is annexed as Annexure A-9/15.
- (xvii) That thereafter the said proposal recommending 1 km as uniform ESZ around the boundary of the KWLS was forwarded to the State Government. In a note-sheet dated 11th September, 2012 by DFO-KWLS Sushant Sharma stated that "the ESZ for KWLS has been prepared according to the Guidelines received from Government of India. The Discussion Paper is based on the observations and decisions taken by the committee time to time. The said Discussion paper has been examined by the PCCF-WL (Secretary of the ESZ Proposal Committee) and has been sent as three signed copies. The Commissioner-Vindhyachal Block, Mirzapur (Chairman of the ESZ Proposal Committee) is requested to send the proposal to

Government of Uttar Pradesh through Chief Wildlife Warden for further proceedings". Copy of the notesheet dated 11.09.2012 by DFO-KWLS is annexed as Annexure A-9/16.

The applicant submits that in the entire proceedings of the Committees, the only major concern was protecting the interests of mining lobby. The Chairman of the Committee, Commissioner Vindhyaachal was adamant to reduce the ESZ area to 500 meters for the mining activities, until he was specifically directed by Principal Secretary, Government of UP that the same is not legally permissible due to the order and direction of the Hon'ble Supreme Court. In almost all the meetings the discussions, the focus was mainly on protecting mining and other developmental activities rather than wildlife, ecology and environment of the region. The minutes show that the Revenue Department and Mining Department even attempted to push the boundary of the Sanctuary to 1 km less so that the mining leases operating in the said area should not get affected. It is submitted that in the entire proceeding there has been hardly any discussion on the wildlife of the Sanctuary, their habitats, their movement pattern and wildlife diversity outside the KWLS which should have been the basic point of discussion. In absence of any such exercise, the ultimate purpose of declaring Eco sensitive Zone for the Sanctuary has been defeated.

Copy of all the meetings and correspondences by the Committees referred to by the Applicant are annexed herewith as **Annexure A-9 (Colly)**.

B. Guidelines for Declaration of Eco-Sensitive Zones not followed by the Committee:

The Guidelines prescribes a detailed procedure which is to be adopted by the States/UT's for identifying and determining the extent of the ESZ around a protected area. The basic aim of the guidelines is to regulate certain activities around protected areas so as to prevent the negative impacts of such activities (like mining, power projects, polluting industries etc.) on the fragile ecosystem encompassing the protected areas. It is pertinent to

mention that the Ministry had asked all States and Union Territories to forward site-specific proposals to set up ESZs. But only a few states forwarded the proposal. The guidelines were therefore prepared so that the states/UT's can start the process of identifying ESZ's according to the procedure laid down in the guidelines. The guidelines not only provides a framework but also focuses on the need of protecting and conserving the ecology and biodiversity existing around the protected areas. It is thus, necessary that the States while processing the proposals for declaring the ESZ in their respective areas have to take a decision in view of the objective laid down in the guidelines. The procedure to be adopted for declaring an area as ESZ under the guidelines is provided as follows:

"6.1 As has been indicated in the forgoing paras, the basic aim is to regulate certain activities around National Park and Wildlife Sanctuary so as to minimise the negative impacts of such activities on the fragile ecosystem encompassing the Protected Area. As a first step towards achieving this goal, it is a prerequisite that an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area (National Park, Sanctuaries) as well as important Corridors be made. The inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 km of his range.

6.2 For the above purpose, a small committee comprising the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area. could be formed. The said committee could suggest

the:

i) Extent of eco-sensitive zone for the Protected Area being considered.

ii) The requirement of such zone to act as a shock absorber

iii) *To suggest the best methods for management of the eco-sensitive zones, so suggested.*

iv) *To suggest broad based thematic activities to be included in the Master Plan for the region."*

The applicant submits that the Committee while appraising the proposal for Kaimur ESZ has utterly failed to consider the negative impact of the commercial and developmental activities on the fragile ecosystem surrounding the Protected Area, it in fact considered the interests of mining activities which could have been banned in case the Committee had demarcated the ESZ beyond the 1 km zone.

Constitution of the Committee chaired by Commissioner, Vindhyachal completely contrary to the procedure laid down under the guidelines:

It is further submitted that the constitution of the Committee was done in blatant disregard of the procedure laid down under the guidelines. The Committee chaired by Commissioner- Vindhyanchal Division had members from Mining Department, District Industries Centre, Public Works Department, Electricity Corporation, Transport Department etc which were completely in conflict with the issue in consideration. The list of members provided in the minutes of meeting dated 25th July, 2011 (**annexed as Annexure A-9/1 above**) shows that within the 10 km radius of the Sanctuary, the region is dominated with industrial activities which includes sand and stone mining, cement plants, power plants, stone crushers and quarries etc. The meetings also show that there were undue pressures from the members to reduce the ESZ to the minimum extent possible. It is submitted that if representatives from such departments would be involved in the decision making process, undoubtedly the interests of commercialization and industrialization would gain preference over wildlife and environment conservation. It is further important to mention that the 1 km zone has been demarcated as ESZ only because of the order dated

04.08.2006 passed by the Hon'ble Supreme Court in I.A No. 1459 in W.P (C) No. 202 of 1995 in view of which all mining activities within 1 km from the boundaries of Wildlife Sanctuary was prohibited. Thus, had there been no such order of the Hon'ble Supreme Court, the Committee would not have declared even 1 km as ESZ.

No research and assessment undertaken by the Forest Department for identification of the extent of ESZ:

The applicant submits that even though there have been several irregularities in the manner in which the ESZ proposal has been appraised by the said Committee, yet the Forest Department was responsible to conduct extensive research and assessment of the Sanctuary with the help of experts in wildlife and ecology domain to identify the extent of the ESZ before succumbing to the suggestions made by other members. However, no such assessment on wildlife was done which shows that there was no substantial basis for determining 1 km as ESZ. In fact, the whole exercise was diverted on other considerations such as demarcation of the KWLS boundary, identification of revenue villages and mining leases instead of identification of the fragile ecological links, wildlife corridors and habitats, the protection and conservation of which was the ultimate aim.

The original proposal for declaration of ESZ upto 10 kms was deliberately ignored under the garb of human habitations: The Wildlife Conservation Strategy-2002 has envisaged for declaring lands upto 10 kms from the boundaries of protected areas as ESZ and in some cases this could be beyond considering the landscape linkage of that particular region. However, various States submitted that many human habitations, including important cities, would in this case come under the purview of Eco-sensitive zone, and that would adversely affect their development. Thus, the ESZ in some regions could be less than 10 kms also depending upon the extent of human habitation existing there. However, in case of Kaimur WLS, the scenario is entirely different since the only nearby town is Robertsganj which

is approximately 3 km. from the northern tip of the eastern zone of the Wildlife Sanctuary. This comprises hardly 2 km of the approximately 350 km peripheral boundary of KWLS. Sharing a miniscule percentage of the KWLS boundary with a town can't be a deprecating reason for applying a uniform 1 km ESZ across the Sanctuary. Except this semi-urban town of Robertsganj, there is hardly any city even within 35 km of KWLS. As far as the question of human habitation, the habitations inside the KWLS and adjacent forest areas are rural-agricultural in nature and can co-exist with the Protected Areas. Such human settlements are adapted to the ecosystem, already living in harmony with nature for decades. Thus, considering a uniform 1 km Zone on the ground that there are numerous human settlements in the area was highly unreasonable and unjustified.

The nominated Expert Member-Dr. Sarita Sinha did not hold any expertise in Ecology:

That as per the guidelines, the small committee constituted for declaring ESZ must comprise of an "Ecologist". For this purpose, Dr. Sarita Sinha was appointed as an ecologist. However, the CV of the said expert member (annexed as Annexure A-9/8) does not show that she is an expert in ecology or hold any experience in forests and wildlife. Her profile is more of a biochemist with experiences in phytoremediation and aquatic plants. A mere observation made in the site visit report dated 06/03/2012 stating '*in my opinion, dry conditions without vegetation do not support wildlife in the area*' clearly reflects her poor understanding of the dry deciduous ecosystems. Because of her limited knowledge in the subject and poor assessment of the sensitive ecosystem, the widespread flora and fauna of the region could not be properly analyzed and remained ignored and unobserved. Her role as a nominated ecologist in the entire process has been non-existent in absence of any categorical and significant suggestion which was required for determination of the ESZ area of the Sanctuary.

C. No Consideration of Sensitive Corridors, Connectivity and Ecologically Important patches outside the Wildlife Sanctuary:

It is submitted that the purpose of declaring Eco sensitive zone around the National park or a Wildlife Sanctuary is to protect the eco fragile areas, biodiversity, forests, the landscape which though exists outside the boundaries of the protected areas yet are part of the same ecosystem functions. The ESZ also provide a link for the animals to move in the adjacent forests and therefore serves as a vital corridor. The ESZ and the protected areas cannot be separated through geographical boundaries. The ESZ is a part of the protected area and acts as a buffer in order to protect the region from any disturbances created by developmental or industrial activities. The 'Guidelines for Declaration of Eco-Sensitive Zones', issued by MoEFCC in February, 2011 states:

"1.2.1 The National Wildlife Action Plan (NWAP) 2002-2016 indicates that "Areas outside the protected area network are often vital ecological corridor links and must be protected to prevent isolation of fragments of biodiversity which will not survive in the long run. Land and water use policies will need to accept the imperative of strictly protecting ecologically fragile habitats and regulating use elsewhere."

1.2.2 The Action Plan also indicates that "All identified areas around Protected Areas and wildlife corridors to be declared as ecologically fragile under the Environment (Protection) Act, 1986."

4.1 Many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. Some of the protected Area actually lying in the urban setup (Eg. Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc). Therefore, defining the extent of eco-sensitive zones around Protected area will have to be kept flexible and Protected Area specific. The width of the Eco-sensitive Zone and type of regulations will differ from Protected Area to Protected Area. However, as a general principle

the width of the Eco-sensitive Zone could go upto 10 Kms around a Protected Area as provided in the Wildlife Conservation Strategy-2002.

4.2 In case where sensitive corridors, connectivity and ecologically important patches, crucial landscape linkage, are even beyond 10 kms width, these should be included in the Eco-sensitive Zone.

4.3 Furthermore, even in context of a particular Protected Area, the distribution of an area of Eco-sensitive Zone and the extent of regulation may not be uniform all around and it could be of variable width and extent."

The applicant submits that the Kaimur Wildlife Sanctuary is contiguous with several other Forest Ranges and Wildlife Sanctuary and part of a larger landscape which is very rich in floral and faunal diversity which includes hundreds of medicinal plants and several Schedule-I animals. However, the importance of adjacent forests, the rivers originating from this region and the critical wildlife corridors have been completely ignored while considering the ESZ proposal. The Sanctuary is contiguous with Patehara Forest Range and Dramadganj Forest Range of Mirzapur Forest Division, Bagdara Wildlife Sanctuary of Madhya Pradesh and Son Gharial Sanctuary of Madhya Pradesh. The ecological corridors extend till Ranipur Wildlife Sanctuary in district Banda of U.P., Marihan-Sukrit-Chunar forest ranges of Mirzapur Forest Division, Chandraprabha Sanctuary of district Chandauli of U.P. and Kaimur Wildlife Sanctuary of Bihar.

(1) No consideration of the important forest ranges adjacent to

KWLS: The Kaimur Wildlife Sanctuary (KWLS) is surrounded by several forests, many of which are Notified Reserve Forests, that are rich in diversity, and that extend beyond 10 km. Another fact that cannot be ignored is that the Kaimur Wildlife Sanctuary is a heavily disturbed landscape that has numerous human settlements. The forests are under huge pressure from agricultural expansion and

livestock population within the sanctuary. It is all these forests in the fringe areas that act as a cushion or extended habitat for wildlife, and because of which the survival of animals has been made possible. For example, on the north-eastern boundary of KWLS is Patehara Forest Range which is a critical forest range and home to a variety of animals including Schedule I species. Similarly, the dense Drammadganj Forest Range lying to the north-western boundary is not only one of the finest wildlife habitats but it also connects Kaimur WLS directly with Ranipur WLS (Banda, U.P.) through a continuous stretch of mountainous forests. Such areas need to be given special protection, however, the notification does not make any mention of this.

The 1 km ESZ that the notification proposes mostly constitutes such areas that are already notified Reserve Forests which have higher regulatory provisions. In such a case, what is the justification of declaring the ESZ within a Reserve Forest and what special protection it will provide to wildlife remains unanswered. To a large extent it appears that the notification has a serious lack of empathy towards the ecology of the region and the rich biodiversity that this landscape holds. The forests adjacent to KWLS need a stronger protection regime as these forests are facing severe threats from mining, fuelwood collection, livestock grazing and other anthropogenic pressures. Along with all the adjacent forests, it is crucial that the wildlife corridors are protected.

(2) No consideration of ecological importance of River Belan, Son and other tributaries: River Belan is known as the site for one of the ancient civilizations of India. The entire basin is globally renowned for its ancient rock paintings, and Paleolithic to Neolithic artifacts. The fact is that this amazing river, and several other streams and tributaries, originate from the KWLS and its surrounding areas, and the ecological sensitivity of this region must be taken into consideration while making

any decision on its management. Similarly, in the area between the southern boundary of KWLS and river Son, that also forms part of Son Gharial Sanctuary, innumerable streams originate and flow through the area making it a sensitive ecosystem called an 'ecotone'.

(3) No consideration of the important Wildlife corridors with neighboring PAs & wildlife habitats: The continuous stretch of forests running parallel to Son river which extends up to Kaimur WLS-Bihar is a critical wildlife corridor which is part of this important ecotone. The following corridor links forms part of the landscape:

a. *Kaimur-Son-Kaimur Corridor.* The Kaimur Wildlife Sanctuary of Bihar lies just 38 km downstream of river Son and shares the boundary with Uttar Pradesh's Chandoli and Sonbhadra District.

The Kaimur WLS of Bihar shares the southern, south eastern and western boundaries with Uttar Pradesh. In the notification for Eco-sensitive zone of Kaimur WLS-Bihar, the Bihar government has not declared the ESZ as it was stated that the region is part of Uttar Pradesh. The same fact is clearly stated in the gazette notification for Kaimur-WLS-Bihar vide S.O. 274 (E) dated 28th January, 2015. Therefore, it is the responsibility of the State of U.P. to declare the forests and river adjoining the Kaimur WLS of Bihar under the ESZ.

The western boundary of Kaimur WLS-Bihar constitutes very dense forests of the Chandoli district, with great diversity of flora and fauna, and extends to Chandraprabha WLS. These forests deserve to be protected not only as ESZ but under a stronger regulatory framework. However, in the context of only Kaimur WLS-U.P, the wildlife corridor stated above must be considered which is a very important link between the two sanctuaries, which were once part of a single contiguous landscape. Thus, this stretch has all the

qualities to be included within the Sanctuary and must not be ignored.

b. **Halia-Drammadganj-Ranipur Corridor:** Ranipur Wildlife Sanctuary falls in Banda district of Uttar Pradesh and is a biodiversity rich Protected Area of similar landscape as Kaimur. Drammadganj is the adjacent Forest Range lying towards the western boundary of the KWLS and is surrounded by hilly escarpments. The Drammadganj range is known for leopards, crocodiles and bears. The villages of Patehara and Drammadganj are active sites of man-animal conflicts as the range forms an integral part of the wildlife corridor that extends up to Ranipur WLS. The 2 km. wide and approximately 145 km. long stretch of forests from Drammadganj Forests is very critical to the movement of wildlife. The mountainous forests of this stretch are also sloth bear habitat, which are reported from nearly every village near to the stretch.

c. **Kaimur-Mirzapur-Chandraprabha Corridor:** The DFO-Mirzapur Forests Division in reply to a representation by the applicant organization on the decline of wildlife in Mirzapur Forest Division, dated 12.12.2014, has specifically stated that there is continuous movement of wild animals between Kaimur WLS and Chandraprabha WLS, through the Mirzapur Forests Division. It is very clear that the Forest Department is aware of this fact and it was their duty to include such corridors which exist between Mirzapur Forest Division (which constitutes 8 Forest Ranges- Marihan, Sukrit, Drammadganj, Patehara, Chunar, Mirzapur Wyndhamfall and Lalganj) and Kaimur WLS. Yet, this notification is completely silent on this issue and takes no cognizance of the importance of these corridors.

(4) No consideration of the presence of rich wildlife in the region:

The Patehara Forest range which shares north-eastern boundary of KWLS supports a number of animals including Schedule I species like Sloth Bear, Chinkara, Blackbuck, Monitor Lizard, and Mugger Crocodile. In the wildlife census of Patehara Forest Range in the years 2009, 2011 and 2013, the Mirzapur Forest Division have also reported the presence of Swamp Deer. Swamp Deers are not only classified as 'Schedule-I' under WPA but is also 'Critically Endangered' under IUCN Red List.

It is also important to point out the observations made in the 22nd meeting of the Standing Committee of National Board of Wildlife dated 25th April, 2011 by one of the member Ms. Prerna Singh Bindra while considering a proposal for a cement plant situated near the Kaimur WLS, the same has been reproduced here for ready reference:

"The Vindhya—also called the Kaimur range—is the watershed of two major rivers, Son and Tons that flow into peninsular India. The sanctuary has very rich biodiversity which includes wolves, leopard, blackbuck, lesser cats, white-backed vulture, and is the breeding site of long-billed vultures. Kaimur sanctuary has prehistoric caves dating back to 4,000 years which depict elements of nature, ie, stars, moon, river and animals which interestingly includes rhinos. The cement plant will also be fed by mining which will devastate the ecology of the sanctuary....

.....There is already tremendous pressure on the Vindhya range with stone crushing and limestone industry—leases have been given, and large scale illegal mining and stone crushing is reported. The sanctuary represents perhaps the last protected tract in this mountain range."

It is evident from the above stated minutes that the region has rich wildlife which needs to be protected from polluting industries like cement plants and mining activities. The applicant is also providing a list of the following animals which have been reported as per the census from KWLS Forest Division in 2013 and website of Uttar Pradesh forest department:

S.No.	Fauna Species	Source of information	Schedule under Wildlife (Protection) Act, 1972 with IUCN threat level
1	Gharial	Forest Dept. census	Sch I (Critically Endangered)
2	Sloth bear	Forest Dept. census	Sch I (Vulnerable)
3	Mugger Crocodile	Forest Dept. census	Sch I (Vulnerable)
4	Fishing cat	Forest Dept. census	Sch I (Vulnerable)
5	Chinkara	Forest Dept. census	Sch I
6	Blackbuck	Forest Dept. census	Sch I
7	Ratel/Honey Badger	Forest Dept. census	Sch I
8	Bengal Monitor	Forest Dept. census	Sch I
9	Indian Wolf	Forest Dept. census	Sch I
10	Leopard	Website of Forest Dept.	Sch I
11	Peafowl	Forest Dept. census	Sch I
12	Red Fox	Forest Dept. census	Sch II
13	Golden Jackal	Forest Dept. census	Sch II
14	Jungle Cat	Forest Dept. census	Sch II
15	Langur	Forest Dept. census	Sch II
16	Monkey	Forest Dept. census	Sch II
17	Hog Deer	Forest Dept. census	Sch III (Endangered)
18	Sambar	Forest Dept. census	Sch III (Vulnerable)
19	Hyaena	Forest Dept. census	Sch III (Near Threatened)
20	Cheetal	Forest Dept. census	Sch III
21	Wild Boar	Forest Dept. census	Sch III

22	Nilgai	Forest Dept. census	Sch III
23	Porcupine	Forest Dept. census	Sch IV

It is submitted that despite sharing boundaries with Bagdara Wildlife Sanctuary and Son Gharial Sanctuary in south and sharing forest corridors with several other forest areas and ranges sharing similar floral and faunal diversity, there has been absolutely no discussion on wildlife and the need of conserving this eco fragile zone for declaring 1 km as ESZ for this Sanctuary. Further, not only the presence of other forests, wildlife and ecological areas outside the Sanctuary has been deliberately ignored, but the other ranges inside the Sanctuary such as Halia, Robertganj and Ghorawal has also not been taken into consideration. If a proper assessment and research with detailed site visits by people having expertise in the field of wildlife and ecology would have undertaken, then the focus should have been on preserving and conserving the rich ecosystem of the area instead of the opposite.

Copy of the relevant extract from the 22nd meeting of the Standing Committee of National Board of Wildlife dated 25th April, 2011 is annexed herewith as **Annexure A-10** and Copy of the wildlife census of Kaimur Wildlife Division and Mirzapur Forest Division for the year 2013 is annexed herewith as **Annexure A-11**.

D. Detailed Suggestions and comments sent by the applicant organization deliberately ignored by the MoEFCC and State of UP:

The MoEFCC invited comments from public on its draft notification S.O. 2601 (E) dated 22/09/2015 after publication of the same on their website on 6th October, 2015. The applicant submitted a detailed representation on 03.12.2015 highlighting the shortcomings in the draft notification and also provided certain suggestions for protection of this region. The representation was based on extensive research and site visits undertaken by the applicant

organization for a long duration. The said representation was also endorsed by reputed wildlife expert and a former member of NBWL Dr. Asad Rahmani (Former Director, Bombay Natural History Society), Mike Pandey (Director, Earth Matters Foundation) and Prof. A.S. Raghubanshi (Professor and Former Director, Institute of Environment & Sustainable Development at Banaras Hindu University). However, the representation was neither acknowledged nor considered in the following meeting in February 2016 (annexed as Annexure A-6 above) and the expert committee of MoEFCC recommended for finalization of the draft notification. The following suggestions were provided by the applicant organization in the said representation:

"We are of the strong view that given the unique landscape of Vindhya in Mirzapur, Sonbhadra and adjoining districts, which are fast getting fragmented, there is a need to implement stronger regulatory framework for the protection of the forests without affecting economic services to the local people. While notifying new Protected Areas and extending boundaries of existing Protected Areas can be a good step, the entire region needs to be protected as a single entity to ensure the survival of the biodiversity of this ecosystem. The Vindhyan forests of Sonbhadra, Mirzapur, Chandoli and adjoining districts are known for medicinal plants that can be a huge economic boost to the people and add revenue to government. One suggestion is to declare the entire region as a Biosphere Reserve with the Reserve Forests being the satellite core areas. However, in context of the immediate notification which relates to only Kaimur Wildlife Sanctuary-Mirzapur and Sonbhadra, we suggest the following amendments:

- 1) The ESZ must include the totality of all the forests and rivers adjoining/neighboring the KWLS boundary as these areas are an integral part of Kaimur WLS and are freely used by wild animals for habitat, prey and drinking water sources. The extent of the ESZ

- must be 5 km from the boundary of such forests and rivers. For eg. The entire Patehara Forest Range and Drammadganj Range plus 5 km from the outer boundary should be included in the ESZ.
- II) The 'ecotones' in and around the Sanctuary area must be protected with the highest possible provision as they are not only rich ecosystems but have significant importance in maintaining the ecological balance of the entire region. For example, the region between Belan River-KWLS and Son River-KWLS must be protected from any type of human interference.
- III) The ESZ must include the reservoirs which are within 10 Km of the KWLS which includes Meja Reservoir, Sirsi Reservoir, Sukhra Reservoir and other small water bodies as these water bodies are known to harbour Muggers Crocodiles and turtles and are also important sources of drinking water for wild animals. Intensive afforestation of local species must be taken up to improve the connectivity. Special care must be taken that the reservoirs are not fenced and any concrete construction does not take place on the banks as these are important nesting zones for crocodiles and turtles. Fishing here must be prohibited, and crocodile and turtle nesting sites must be assessed with help of experts from institutes like the Wildlife Institute of India, National Centre for Biological Sciences.
- IV) Wildlife Corridors between the adjoining forest ranges, sanctuaries and water bodies must be protected. The 2 km wide stretch of mountainous forests between Drammadganj Range and Ranipur WLS, the 18 km-wide stretch of forests between Kaimur WLS-UP and Kaimur WLS-Bihar along the northern bank of River Son must be protected. A separate assessment of important wildlife habitats and corridors must be prepared in consultation

- with the Forest Department of Madhya Pradesh and Chhattisgarh for identification of ESZ south of River Son.
- V) Agricultural activities must be regulated inside the Reserve Forests and strict action must be taken on any encroachments or illegal possession of land. The rights of traditional forest dwellers and tribal people must be protected and they should be made active participants and stakeholders in the management of forest resources. A wildlife task force comprising members from each village, with equal participation of women, must be formed under guidance of local environmental NGOs, eco clubs of nearby schools/colleges and forest staff.
- VI) The grasslands and scrublands are also an important ecosystem in the Vindhyan landscape. They are often seen as barren land by the revenue department though that is not true. They play a vital ecological role and the diversion of such lands for other development purposes must be prevented.
- VII) Regulated grazing can be beneficial to the ecology and it is particularly true for species like Blackbuck and other herbivores that live in lightly grazed areas. Therefore, livestock grazing may be allowed in the ESZ with certain regulations.
- VIII) The diversity of threatened plants and animals in KWLS and adjoining forest ranges must be assessed scientifically and their habitats and corridors must be documented with help of premier wildlife institutes like Wildlife Institute of India. A strong action plan must be prepared under guidance of WII and other reputed institutions that have worked in this area for conservation of threatened taxa.
- IX) Research on wild flora and fauna must be actively promoted and encouraged. The presence of Banaras Hindu University's South Campus in Mirzapur can be beneficial, and efforts must be made

to pro-actively encourage and support young researchers by uplifting the existing Forest Rest Houses, pro-actively sharing knowledge with students etc.

- X) The monitoring committee must be constituted under three heads- Ecological; Social and Administrative. The three committees must be independent of each other but work in close coordination.
- XI) Committee on Ecology must constitute ecological experts who are of similar grade and status of professors from Banaras Hindu University and Allahabad University who have worked in this region. This is very important as forest officers get transferred frequently and there is a great knowledge gap that leads to inefficient management of the forests and biodiversity. We suggest that 25% of the members be experts on Vindhyan ecology with proven expertise of research in this region, 25% of the members elected from local gram panchayats, 25% of the members nominated by DFO-Kaimur Wildlife & DFOMirzapur and 25% representation from local NGOs working for environment & wildlife. The committee can recommend, with mutual consent, the appointment of other experts in the field such as sloth bear experts, reptilian experts, taxonomic experts etc. Committee on Social issues can be formed on the same criteria as discussed in above para where the experts will be selected based on their experience in social science. Local institutes such as G.B. Pant Institute of Social Science, Allahabad University must be included. The Administrative Committee can comprise different administrative officers from the State government including District Magistrates, Pollution Control Board Members, Revenue officers and other senior members of Forest Department.
- XII) It has come to our notice that the adjoining forests of KWLS which comes under Mirzapur Forest Division is under immense scarcity

of human resources. There is an urgent need to appoint more forest guards in Patehara and Drammadganj range as protection of these forests are very critical to the survival of wildlife in KWLS. Therefore, there must be sufficient number of forest guards and equipment be provided to them to carry out their duty effectively in such forest ranges. An independent committee must be set up by the Central Government to study the administrative functioning of the Forest Divisions and what measures are needed to correct the crisis.

XIII) The area should be under continuous monitoring for any land use change with special attention to mining, deforestation, illegal expansion of human settlements and unlawful expansion of agricultural areas with help of local remote sensing centers such as Remote Sensing Applications Centre-Lucknow. The important big mammals such as leopards, sloth bears, and swamp deer may be geo-tagged to monitor their movement in the area and understand their behavior, which will help the forest department to take required measures for protection of their habitats and corridors. Modern technology must be used suitably to maximize protection of the forests and wildlife from poachers and fuelwood mafia.

XIV) The forest department in Mirzapur is divided into Mirzapur Forests Division and Mirzapur Kaimur Wildlife Division. While the Kaimur Wildlife Division has jurisdiction inside the Wildlife Sanctuary, the Mirzapur Forest Division has jurisdiction over the adjoining forests of Patehara and Drammadganj Forest Range. For effective conservation and management of the wildlife of KWLS there has to be full involvement of Mirzapur Kaimur Wildlife Division and other forest divisions such as Mirzapur Forest Division and other

divisions which control the forests and wildlife of Sonbhadra and Chandoli districts.

XV) The villages in and around KWLS consist of tribal communities who are yet to be recognized as Scheduled Tribes. As the local communities are quite poor, there is an urgent requirement of initiating training centers to develop their vocational and entrepreneurial skills. The tourism to waterfalls around KWLS has the potential to be developed as eco-tourism sites and must be actively promoted at national level.

XVI) We urgently request to be granted the opportunity to represent our views before the Ministry in person before a final decision on the matter is taken."

The representation along with the above stated suggestions were duly submitted to the concerned authorities including the ESZ division of the MoEFCC and State of UP. However, none of the minutes of the MoEFCC meetings show that the said representation was deliberated upon. It is pertinent to mention here that as per sub rule 3 (d) of Rule 5 of the Environment (Protection) Rules, it is incumbent upon the Central Government to consider the objections received against the draft notification within 120 days from the date of publication of the said notification in the official gazette. However, in the instant case the State and MoEFCC chose to sit over silently on the representation for more than a year till the applicant filed an RTI application with the Ministry on 24th November, 2016 inquiring about the status of his representation. In pursuance of the same, the official concerned of the MoEFCC (ESZ division) sought the response of the Principal Secretary, Government of UP on the objections filed by the applicant vide letter dated 23.12.2016. Under the RTI documents received from the Ministry in May 2017, the applicant came to know the response of the DFO-KWLS on his representation which was only forwarded to the MoEFCC. The said response has not dealt with the objections of the

applicant under the pretext that the area is inhabited by human population and meeting out the objections would not be practically and administratively feasible and it would further delay finalization of the notification. It is submitted that the officials concerned were under the obligation to carefully consider the representation and place the same before the ESZ Expert Committee of the MoEFCC instead of thrashing out the same without any proper reasoning and justification.

Copy of the letter dated 23.12.2016 and the response of the DFO-KWLS on the representation of the applicant as forwarded to the Ministry is annexed herewith as **Annexure A -12 (Colly)**.

15. That based on the aforementioned facts and grounds, the applicants submits that the impugned Notification contravenes the Principle of Intergenerational equity, sustainable development and Precautionary Principle. If the notification is implemented, then there would be large scale irreversible destruction of the eco fragile areas which exists beyond the 1 km zone. It was the duty of the concerned authorities to identify the eco sensitive zone on the basis of the rich biodiversity, environment and ecology which exists around the Sanctuary. The Notification clearly violates the constitutional provisions and the aforesaid principles which ensure protection of the rich biodiversity, wildlife, environment and ecology and should therefore be set aside.

LIMITATION

As per section 14(3) of National Green Tribunal Act, 2010, the application for adjudication of dispute under this section has to be filed within a period of six months from the date on which the cause of action for such dispute first arose.

In this case the cause of action has arisen on 23.03.2017 when the impugned Notification No. S.O. 891(E) dated 20th March, 2017 was uploaded on the website of the MoEFCC bringing the same into the knowledge of the applicant. The prescribed period of six months has expired

on 22nd September, 2017. Thus, the application is being filed with a delay of 10 days under the proviso of section 14 (3). The applicant has filed a separate application for condonation of delay and craves leave of the Hon'ble Tribunal to refer the same for the purposes of limitation as prescribed under section 14.

PRAYER

In view of the above facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) Quash the Notification No. S.O. 891(E) dated 20th March, 2017 issued by the Central Government declaring an area to an extent of 1 km all around the boundary of Kaimur Wildlife Sanctuary in the State of Uttar Pradesh as the Kaimur Wildlife Sanctuary Eco-sensitive Zone.
- b) Direct the Respondents Nos. 2, 3 and 4 to take appropriate steps for identification of the eco-sensitive zone de-novo and till such identification is done, the 10 km distance from the boundary of the Sanctuary shall be maintained as ESZ as per the directions passed by the Hon'ble Supreme Court in Writ Petition (C) No. 460 of 2004 vide order dated 04.12.2006.
- c) Direct the Ministry of Environment, Forests and Climate Change and the State of Uttar Pradesh not to grant any permissions/clearances for mining, industrial or any other activity within 10 km of the Sanctuary without the recommendation of Standing Committee of NBWL as per the direction of Hon'ble Supreme Court in the matter stated as above.
- d) Direct the Respondents to restore the region around the Sanctuary which is being damaged due to the mining, industrial and other developmental activities.

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(e) Pass any such order, as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

Debadityo Sinha

Applicant

Through

P. Gupta

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VERIFICATION

I, Debadityo Sinha, S/o Mrs. Durba Roy, aged 27 years, R/o House No 28/1, Ground Floor, Govindpuri, Kalkaji New Delhi -110019 hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and para 14-15 are believed to be true on legal advice and that I have not suppressed any material facts.

Debadityo Sinha

Applicant

Date:

Place: New Delhi