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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH NEW DELHI
ORIGINAL APPLICATION NO.560 OF 2015

IN THE MATTER OF:

PUSHP JAIN

...PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

... RESPONDENTS

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2.	<u>ANNEXURE R-1</u> A copy of translate version of the said notification.	
3.	<u>ANNEXURE R-2</u> A copy of framework plan of action for inventory and preparation of brief document has been formulated.	
4.	<u>ANNEXURE R-3</u> A copy of the list for protection and better management of these wetlands, Management plans.	

Filed on: 9.3.2015

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 560 OF 2015

IN THE MATTER OF:

Pushp Jain ... Applicant

Vs.

Union of India & Ors. ... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 7

I, Bharat Jyoti, son of Late Shashidhar Prasad, aged about 52, resident of New Colony, Chitragupta Nagar, P.O. Lohia Nagar, Patna, at present in New Delhi do hereby solemnly affirm and state as under:



1. That I am posted as Director, (Ecology & Environment), Department of Environment & Forests, Government of Bihar, Patna and as such I am well aware of the facts of the present matter.
2. That I state that I have been duly authorized to swear the present affidavit on behalf of the Respondent No. 7.
3. That I submit that I have gone through and read the contents of the Application under reply and have understood the same.
4. That the matter relates to the protection of wetlands as required under the Environment Protection Act, 1986 and Wetlands (Conservation and Management) Rules, 2010 and the observations of the applicant regarding inaction by the Respondents with regard to the process

of identification and protection of wetlands in the country.

5. That in this regard it is submitted that the Government of Bihar has constituted the Bihar State Wetland Development Authority vide notification No. Vanya Prani 16/2012 dated 16.1.2015 in the light of the directions of Ministry of Environment, Forests and Climate Change, Government of India for the objectives of protection of wetland areas and preventing the degradation of aquatic systems under integrated management of the wetlands. A translated version of the said notification is annexed hereto as Annexure R-1.
6. That the functions and role of the State Wetland Development Authority are as under:
 - (i) Formulation of policy for conservation and sustainable management of wetlands;
 - (ii) Identification of the wetlands of the State and recommending the same for recognition under National Aquatic Systems Protection Programme and as of international significance (RAMSAR sites);
 - (iii) Advise the State Government for conservation and sustainable management of wetlands;
 - (iv) Recommend for ensuring compliance of extant National Wetland Conservation And Management Rules, 2010 and the state level regulatory framework;



- (v) Recommending identification and classification of wetlands in the jurisdiction of different departments pursuant to the norms prescribed by the State Government;
 - (vi) Resolve the multi stakeholder disputes regarding border of wetlands and the catchment areas;
 - (vii) Accessing support of state, national and international institutions for conservation and sustained management of wetlands.
7. That the first meeting of the State Wetland Development Authority was held on August 3, 2015, in which the substantive issues of wetland conservation in the State have been deliberated and recommendations for actions including those concerning the issues of the present Application under reply have been made.
8. That the main recommendation made by the State Wetland Development Authority which are relevant in the context of the issues raised in the present O.A. under reply is as follows:

All wetlands or wetland complexes with an extent of 100 hectare or more in non-urban areas are to be inventoried and necessary survey and studies are to be conducted for:

- a) Delineation of the wetlands and their influence zone;
- b) Recording the land use features and the rights and privileges therein;



- c) Assessing the ecological characteristics and status of the wetlands;
 - d) The threats and opportunities in the context of the conservation of the wetlands.
9. That in this context, it is relevant to point out that the Rules provide for conservation of wetlands of extent of 500 hectare in the plain areas. However, the State Wetland Development Authority, considering the intense pressure of competing or conflicting land use practices and processes including agriculture, habitation, urbanization and infrastructure developments hitherto, has suggested that the threshold extent for inventorying of wetlands should be 100 hectare so as to enlist the maximum number of the wetland landscapes and then select and recommend the appropriate significant wetlands from amongst these for statutory protection under the Rules. The technical reports are to be prepared for such inventoried wetlands and submitted to the State Wetland Authority for consideration for recommending such of these which are found to be of significant conservation values for notification under the wetland rules.
10. That further recommendations of the State Wetland Authority are as under:
- (i) All wetlands of whatever extent in the urban areas are to be inventoried and actions for their conservation are to be initiated.



(ii) It has also been recommended that till such time the process of inventory and selection of wetlands with the requisite information and notification under the Wetland (Conservation and Management) Rules, 2010 is completed, anticipatory protection measures should be devised in respect of several wetlands which are recognized as important according to available information.

11. That in this context this is to submit that for preparation of the "Brief Documents" for each of the identified and selected wetlands and wetland complexes, the information on prevalent land use, rights and privileges therein, delineation of the influence zones of each of the enlisted wetland, ecological characterization and evaluation of current bio-physical and ecological status with the assessment of threats etc. is necessary to bring forth the adequate and precise information based upon which the State Wetland Authority could identify and select the ecologically significant wetlands and recommend for notifying these under the Rules. Such precise and analysed information would also be required for prescribing appropriate practicable measures consisting of restrictive, regulative and supportive activities and interventions to be undertaken post notification to meet the envisaged purposes.
12. That in this context, it is submitted that in the State of Bihar, due to heavy population density attendant with

incumbent pressure of community and public purposes land use which are competing and many a times conflicting with retention of the landscapes as wetlands in the plains of river Ganga basin which contain almost all of the natural wetlands of substantial extent (500 ha. or above) which are generally to be given statutory protection as per the Rules, the information related to private ownership (tenancy) information, rights and privileges of community use of the wetland areas and status of land use for public purposes are to be collected in precise manner for each of the wetlands enlisted.

13. That the Atlas of Wetlands - Bihar published in 2010 by SAC, ISRO, Ahmedabad and Institute of Environmental Studies and Wetland Management, Kolkata under a project study commissioned by MoEF & CC, Govt. of India gives a report of 3003 natural and 1413 artificial wetlands of extent of more than 2.5 hectare with aggregate area of 3.85 lakh hectare in the State of Bihar being 4 percent of geographical area of the State. From the data recently procured from SAC, ISRO, Ahmedabad, sourced from the study under reference, there are 133 wetlands above 100 hectares in extent of which 117 are natural lakes, cut-off meanders and waterlogged depressions and 16 are man-made reservoirs. Amongst these, 16 wetlands have extent over 500 hectares that include 5 natural lakes, 5 natural waterlogged areas and 6 man-made reservoirs.

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14. That in addition to the above information about the number, areas and classifications of the wetlands, more detailed information related to land uses and rights and privileges are also required in case of each the wetland to be notified. Further, more specific surveys and detailed studies and information are required for delineating the influence zone of each of the wetlands envisaged to be notified under Wetland (Protection and Management) Rules 2010.
15. That in the light of above observations regarding the practical aspects of the task of inventory, conducting surveys and studies to prepare and finalize the technical reports and selection of wetlands and compile their respective "Brief Documents" for notifying under the Rules pursuant to the recommendations of the State Wetland Development Authority and the measures to be undertaken post such notifications, an organized work plan is being initiated. A framework plan of action for inventory and preparation of brief document has been formulated, which is annexed as Annexure R-2. The task envisaged therein is multi-disciplinary and involves association of different agencies and expert professionals. An inception workshop/consultative meeting is to be organized shortly to deliberate on the framework plan, finalize the action plan and thereafter commence the same. In the meantime compilation of relevant information from available sources is underway. The district authorities have also been

No
brief doc.
All action
to be initiated
none done

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directed to compile the information regarding the various kinds of wetlands with the break-up of ownership and current land use situation so that information regarding rights and privileges are made available to include in the "Brief Documents".

16. That it is submitted that the exercise and process require detailed survey and study works utilizing the information available from ISRO reports of 2010 and other sources, and generating additional information on the aspects as indicated above. Such works would take considerable time and it is expected that in about a year a substantial number of wetlands would be duly identified along with "Brief Documents" to be recommended for notification under the relevant provisions of Wetland Rules.
17. In this context, it is also submitted that 6 wetlands - 4 natural lakes and 2 man-made water bodies (reservoirs) in the State of Bihar are already notified as sanctuary under the Wildlife (Protection) Act 1972. A list of the same is annexed as Annexure R-3. For protection and better management of these wetlands, Management Plans of these 6 wetlands are being prepared and their final drafts have been submitted to be approved by the month of March, 2016 and put in operation.
18. That the respondent State of Bihar shares the perceptions and concerns regarding the critical ecological significance of wetland landscapes and other values associated therewith and also the fact of

shrinkage, loss and degradation of wetlands emphasized and highlighted in the application. At the same time, it is also to be submitted that the task of protecting, conserving and restoring wetland landscapes is also beset with the constraints of extremely dense and as yet growing population in Bihar that entails intensely human dominated land use which confront secluding and sanitizing threshold minimum areas of natural wetlands, already burdened with the legacy of habitations, dominant draining out and conversion of wetlands for agriculture, urban expansion, infrastructure development and other such competing or conflicting land uses and processes not conforming to retention of wetland characters till recent times. As such, notifying the wetlands under the Wetland (Conservation and Management) Rules also requires deliberative consideration of all these practical constraints indicated as above and to formulate comprehensive implementable strategy and framework.

19. That the measures on institutional, organizational and capacity building fronts and awareness raising and community involvement aspects are also required to undertake the protection in a comprehensive and effective manner. It is to be submitted that action on these dimensions are also being initiated.
20. That the averments made in Paragraph Nos. 1, 2, 3, 4 and 5 are the matters of record and observations and do not require any reply at this stage.



21. That the contents of Paragraph Nos. 6 and 7 in so far as these relate to the Respondent No. 7, the averments made hereinabove are reiterated with regard to them.
22. That the contents of Paragraph No. 8 and 9 are to be responded mainly by Respondent No. 1. As for Respondent no. 7, the response regarding State level authority in Bihar has been given in the foregoing paragraphs.
23. That with regard to the averments made in paragraph No. 10, 13, 14, the response in respect of Bihar given in the foregoing paragraphs are reiterated.
24. That the contents of para 12 and 13 do not relate to State of Bihar.
25. That the contents of para 15 to 21 are regarding highlighting the critical ecological and environmental significance of wetland landscapes, the facts of their shrinkage, degradation and loss due to various factors and continuing threats of such nature, the statutory provisions for protection and management of wetlands and judicial observations and pronouncements related thereto. In this regard the response and submissions in respect of the State of Bihar given in the foregoing paragraphs and the realistic assessment indicated therein are reiterated.



Bharat
(DEPONENT)

VERIFICATION:

Verified at New Delhi on this the 8th day of March, 2015 that the averments made in the present affidavit are true and correct, no part of it is false and nothing material has been concealed therefrom.

Bharet
(DEPONENT)



ATTESTED

NOTARY PUBLIC DELHI

08.03.15

[Signature]
[Signature]
IDENTIFIED