

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH,  
KOLKATA**

.....  
**ORIGINAL APPLICATION No. 47/2017/EZ  
(M.A. No. 93/2017/EZ)**

**IN THE MATTER OF:**

1. **Shri Iosterson Sun,  
S/o (L) J. Nongkynrih,  
President Raid Laban Dorbar,  
Office at Madan Laban,  
Shillong – 793004,  
District-East Khasi Hills,  
Meghalaya,**
  2. **Shri Glanding Lyngdoh,  
S/o (L) S.E. Syiemlieh,  
General Secretary, Raid Laban Dorbar,  
Office at Madan Laban,  
Shillong – 793004,  
District-East Khasi Hills,  
Meghalaya,**
- ....Applicant(s)**

**Versus**

1. **The State of Meghalaya,  
Through Chief Conservator of Forest,  
M.G. Road, Meghalaya Secretariat,  
(Main Building), Pin – 793001,  
District-East Khasi Hills, Meghalaya,**
2. **Forest and Environment Department,  
Government of Meghalaya,  
Through Principal Secretary,  
District-East Khasi Hills,  
Meghalaya, Shillong – 793001,**
3. **The Union of India,  
Ministry of Defence,  
Through Secretary Defence,  
South Block, Raisina Hills,  
New Delhi – 110001,**
4. **Station Commander,  
101 Area, 99 APO,**

**Upper Shillong,  
Meghalaya – 793005.**

**....Respondent(s)**

**COUNSEL FOR APPLICANT:**

**Ms. Paushali Banerjee, Advocate**

**COUNSEL FOR RESPONDENTS :**

**Dr. Ankit Todi, Advocate for Respondent No.1,  
Mr. Avijit Mani Tripathy, Advocate a/w Mr. Shaurya Sahay,  
Advocate for Respondent Nos. 2, State Respondents, Govt. of  
Meghalaya.**

**With**

**ORIGINAL APPLICATION No. 93/2017/EZ**

**IN THE MATTER OF:**

**Greater Laban Community Development Society (GLCDS),  
Through its General Secretary, Shri Anthony Marwein,  
Kench's Trace, Raid Laban,  
Shillong, East Khasi Hills District,  
Meghalaya – 793004.**

**....Applicant(s)**

**Versus**

- 1.. The State of Meghalaya,  
Through Principal Chief Conservator of Forest,  
Lower Lachumiere, Shillong,  
Meghalaya – 793001.**
- 2. The Union of India,  
Through Secretary, Defence,  
10-4, South Block,  
New Delhi – 110011,**
- 3. State of Meghalaya,  
Through Chief Secretary,  
New Secretariat, M.G. Road,  
Shillong, Meghalaya – 793001.**
- 4. Ministry of Environment, Forest and Climate Change,  
Govt. of India, through Secretary,  
Indira Paryavaran Bhavan,  
Jorbag Road, New Delhi – 110003.**

5. **Central Pollution Control Board,  
Through Member Secretary,  
Parivesh Bhavan, East Arjun Nagar,  
Delhi – 110032,**
6. **Meghalaya State Pollution Control Board,  
Through Member Secretary,  
Motinagar, Nongthymmai,  
Shillong, Meghalaya – 793014.**

....Respondent(s)

**COUNSEL FOR APPLICANT:**

**Ms. Malabika Roy De, Advocate**

**COUNSEL FOR RESPONDENTS :**

**Dr. Ankit Todi, Advocate for Respondent Nos.1 & 6,  
Mr. Avijit Mani Tripathy, Advocate a/w Mr. Shaurya Sahay,  
Advocate for Respondent Nos. 3, State Respondents, Govt. of  
Meghalaya.  
Mr.Gora Chand Roy Choudhury, Advocate for Respondent No.4,  
Mr. Surendra Kumar, Advocate for Respondent No.6,**

**JUDGMENT**

**PRESENT:**

**HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)**

**HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)**

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**Reserved On:- 7<sup>th</sup> July, 2021  
Pronounce On:- 13<sup>th</sup> July, 2021**

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1. Whether the Judgment is allowed to be published on the net? **Yes**
2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**

**JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)**

Both the matters are being taken up together for consideration as the questions involved in these Original Applications are identical in nature. The Original Application No. 47/2017/EZ is

being taken up as the leading case with the consent of the learned Counsel for the parties.

Heard the learned Counsel for the Applicant as well as the learned Counsel for the Respondents and perused the documents on record.

2. The Original Application 47/2017/EZ has been filed by the Applicants seeking the following reliefs:-

- 1. "The Respondent to take immediate steps to ensure that the provision of Protection of Catchment Area Act, 1990 is strictly complied to preserve the water sources and to make provisions matter connected therewith particularly in relation to the petitioners area.**
- 2. That the Respondent to take immediate time bound action plan to restore the stream, tributaries, etc. having its passage in and around the areas as well as to undertake afforestation.**
- 3. That to direct the Defence Authorities or any other authorities not to undertake any construction activities in and around the area.**
- 4. That to direct the authorities to take steps to cover up the damage caused by huge soil erosion.**
- 5. That to impose cost or any penal action on persons due to whose negligence that catchment area is in verge of extinction.**
- 6. That to direct the Respondent state to identify the catchment area particularly around the flowing streams considering all practical aspect of the matter.**
- 7. Pass such further Order/Orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."**

3. The Original Application No. 93/2017/EZ has been filed by the Applicant seeking the following reliefs:-

- a. ***“Admit the instant Application and thereby direct the concerned respondent authorities, specially Respondent no.1 to restore the forest and critical catchment area of Lawsohtun, Shillong to its original status as was seen last in 1998, and be further pleased to direct the Respondent No:2 to stop all activities which are being carried on in and around the Lawsohtun Forest Areas, and report the same to this Hon’ble Tribunal;***
- b. ***Direct the Respondent No:1 to declare the Lawsohtun area as the critical Catchment area of Shillong;***
- c. ***Direct the Respondent No:02 to immediately stop all its activities of digging, felling trees etc. in the Lawsohtun area, and thereby pass an interim order to stay of all such similar illegal activities of felling trees and making construction in the forest areas;***
- d. ***Pass any such other or further order as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”***

4. The Applicant No.1 is the President and the Applicant No.2 is the Secretary of the ‘Raid Laban Dorbar’ and belong to ‘Khasi Schedule Tribe’ of the State of Meghalaya, residing in Shillong. The Raid Laban Dorbar is stated to be a conglomeration of eight village council known as ‘Dorbar Shnong’ under the Syiem of Myllem, and erstwhile Khasi State known as such in pre-independence India.

5. It is stated that the entire area is covered with forest from time immemorial containing a large variety of flora and fauna and several streams and rivulets flow through this area from the Shillong Peak and these streams and rivulets are the primary source of drinking water for the city of Shillong. It is also stated that this eco-system has been preserved by the local Dorbar, the

Applicants herein, who are maintaining the sanctity of the forest in spite of the ever increasing human population.

6. The allegation in this Original Application is that the Army Authorities located in the vicinity of the area started fencing a part of the forest with felling of trees in the 1990s which caused great resentment in the local population who protested such construction and felling of forest trees. It is also alleged that the Army Authorities tried to construct some residential complex in the area by felling trees in large numbers. The protests of the local Dorbar reached the Government of Meghalaya which vide its communication dated 20<sup>th</sup> September, 2001 observed as follows:-

***“Further, it would in any case be appropriate that the ecological balance in the Lowsotun Area is not disturbed through any kind of construction or human activity, in view of the fact that this area is not only a catchment area providing water sources for a number of localities in Shillong, but it is also one of the few gradually decreasing ‘LUNGS’ of Shillong city. No matter what the legal status of the land is, it would thus be in the overall public interest if all further construction activity in the area, either on the part of the public or on the part of the Government, including the Military Authorities is banned. Moreover, this plot of land has been lying vacant for more than sixty years and any activity in this area at present is undesirable. This recommendation is in the conformity with those of the High Powered Committee constituted by the Prime Minister in 1986.***

***It may be mentioned that the State Government had earlier made available an area of 1400 acres of land at Rangmen to the army authorities and therefore if any construction was required, the place would be ideal***

*rather than the Lawsohtun area, being not so far from Shillong.”*

7. Thereafter, the Meghalaya Protection of Catchment Area Act, 1990 (hereinafter referred to as ‘Meghalaya Act, 1990’) was enacted. Section 5 of which provided for protection of these areas and declaring the same to be a ‘critical catchment area’ prohibiting any kind of illegal human activity in the area. Subsequently, in view of the strong public protest against the construction activities by the Army Authorities, the Government of Meghalaya vide its order dated 24.09.2002 constituted an Advisory Committee to examine the following aspects:-

- 1) “The Committee will examine the status of the Government land in Shillong acquired at different time since 1863.*
- 2) The Committee will examine the status of the defence land acquired by the Defence Authority from time to time.*
- 3) The Committee will suggest remedial measures to overcome the present problems arising out of the claims of the different clans/organizations about the status of land mentioned under 1 and 2 above.”*

8. It is stated that when nothing positive happened in respect of constitution of the Advisory Committee, the Applicants approached the Hon’ble Guwahati High Court Shillong Bench by way of a PIL being PIL No.6 (SH) of 2005, seeking a direction to restore the area in question to its original catchment area and to stop the Army Cantonment from encroaching/making construction in the said area. The said PIL was disposed of by the Hon’ble Guwahati High Court vide its judgment and order dated 23.02.2007. The directions

contained in paragraphs 27, 28 & 29 of the said judgment are reproduced herein below:-

**27. In view of the submission made by the learned counsel for the parties, the decisions rendered by the Hon'ble Supreme Court in M.C. Mehta (Supra) and Sachidanand Pandey and another (Supra) and also taking into consideration the submission made by Mr. Chullai, learned senior Government Advocate, that the area in question has not yet been recommended by the Advisory Board to be declared as catchment area, we are of the considered opinion that to protect and preserve the catchment area vis-à-vis the ecological balance of the area in question, the Advisory Board will sit and take a decision as to whether the Lawsohtun area should be declared as a catchment area or not. If the decision arrived at by the Advisory Board that Lawsohtun area falls within the definition of catchment area as defined under Act, 1990, the State Government shall issue a notification to that effect and shall take measures for protection of catchment area as per provision of Act, 1990.**

**28. It is made clear that whole exercise is to be completed within a period of 60 days from today. During this period no construction work shall be carried out by the Army Authority in the area in question.**

**29. With the above observations and directions, this PIL petition stands closed. However, taking into consideration of the facts and circumstances of the case, there shall be no order as to cost."**

9. During the period of 60 days as granted by the Hon'ble Guwahati High Court to the Advisory Committee to comply with the directions given in the judgment **it was directed that no construction work shall be carried out by the Army Authority in the area in question.**



10. In compliance of the directions of the Hon'ble Guwahati High Court, the State Respondents vide its notification dated 10<sup>th</sup> April, 2007 constituted an Advisory Board. Professor B. Marboh, an expert in environmental matters representing the Department of Chemistry and Principle Investigator, Biodiversity Cell of North Eastern Hill University, submitted his observations/comments with regard to the Water Sources on the Slopes of Shillong Peak which are as under:-

***“Observations/Comments on the Water Sources on the North Facing Slopes of Shillong Peak***

- 1. As far as I can remember, the North Facing Slopes of the Shillong Peak was and still is a thick forest, forming a dense canopy over the entire slopes. The tree species consist mainly of Pine, Quercus, Oaks and a mix variety of other hard woods.***
- 2. The entire North Facing Slopes of Shillong Peak is known to the native as Ka Kymmiew - the area where sun light never reaches the ground due to dense vegetation. This area stretches from Um Jynriew in the East to Nong Lyer in the West.***
- 3. Ka Dymmiew is also known as Ki Khyndai Umdiah, meaning the nine sources of drinking water. The then British administration demarcated the whole area into Laitkor Protected Forest, Riat Laban Protected Forest and Upper Shillong Protected Forest.***
- 4. The names of these nine sources of water are***
  - a. Um Jasai***
  - b. Um Sohkhlor***
  - c. Um Mawlong***
  - d. Um Kynrut***
  - e. Um Shaw Shaw***
  - f. Wah Risa***
  - g. Wah Kdait***
  - h. Wah Dienglieng***
  - i. Um Jynriew***
- 5. According to the Shillong Guide Map of 1946, third revised edition, it clearly indicates the existence of five official water reservoirs located between Wah***

*Risa in the East and Um Jasai in the West. The water from these reservoirs was supplied to different localities of Shillong, viz. Lum Iewduh, Mawlai Iewrynghep, etc.*

*6. At present almost all the perennial springs and water sources from Ka Dymmiew have been tapped and developed by the various Localities located at the foot hills of Ka Dymmiew.*

*7. From the environmental aspect Ka Dymmiew, because of its dense vegetation also acts as a CO<sub>2</sub> sink which, to a large extent absorbs the carbon dioxide generated by anthropogenic activities in the city. In other words it reduces the green house effect, which otherwise would have made the city more difficult to live in.*

*8. From the biodiversity aspect, Ka Dymmiew is a potential gene pool in terms of the number of plant species, medicinal or otherwise that can be found here. Worth mentioning area *Panax pseudoginseng*, *Begonia josephi*, *Cinnamomum glandiferum*, *Gaultheria fragrantissima* to name but a few.*

*9. That the whole area is natural water trap, one has to only stand from a vantage point in the city in the early morning and look towards Ka Dymmiew. Wisp of moisture laden cloud could be seen hanging over the tree tops.*

*Of late it is observed that the unscrupulous and illegal felling of trees has adversely affected the water sources as can be seen by the drying up of some of them and the decrease in the volume of water in the existing streams during the dry season.*

*Therefore, unless stringent measures are immediately adopted, the entire North Facing Slopes of Shillong Peak which till now serves as a catchment area, will be destroyed permanently and will lead to irreparable loss of the most precious gift of nature.*

*It is suggested that all kinds of logging activities, construction of roads and buildings in and around the periphery of this green belt be stopped forthwith.”*

11. It is stated by the Applicants that in the meantime Professor B. Marboh resigned from the Advisory Committee which was then re-constituted under the Chairmanship of Shri A.H. Scott Lyngdoh.

It is also stated that the State Government failed to take any action in the matter as a result of which the Army Authorities started construction activity in the close proximity of the catchment area in spite of the prohibition of Section 6 of the Meghalaya Act, 1990.

Aggrieved Raid Laban Dorbar, Applicants herein, filed Miscellaneous Case No. 124(SH) of 2008 in 6<sup>th</sup> May, 2008 which was disposed of by the Hon'ble High Court vide its order dated 17.02.2010. The order of Hon'ble High Court dated 17.02.2010 passed in Miscellaneous Case No. 124(SH) of 2008 is reproduced herein below:-

**“MC No. 124(SH) 2008  
In PIL 6 (SH) 05**

**BEFORE  
THE HON'BLE MR. JUSTICE B.K. SHARMA  
THE HON'BLE MR. JUSTICE A POTSANGBAM**

**17.02.2010**

***This petition was filed basically seeking implementation of the judgment and order dated 23.02.2007 passed by this Court in PIL No. 6(SH)/2005. Several adjournments were granted to the State respondents to do the needful in this regard. today Mr. N.D. Chullai, learned State Counsel has produced the copy of the letter dated 24.09.2009 addressed to him by the Government of Meghalaya, Forest and Environment Department, under the signature of the Deputy Secretary intimating about the steps taken towards implementation of the said judgment and order. Mr. Kar, learned counsel appearing for the petitioner on perusal of the said letter dated 24.09.2009 submits that the grievance raised in this petition has been met with.***

**However, he submits that necessary follow up action should be taken up by the departmental authorities.**

**In view of the above, this PIL stands disposed of with the direction to the respondents to take necessary follow up action in terms of the aforesaid judgment and order.”**

12. It is stated that during the pendency of the said case, the Army Authorities shelved their project of construction of 700 family quarters in the area which would also be evident from the communication of the Government of Meghalaya, Department of Forests and Environment, dated 12<sup>th</sup> March, 2009. By another notification dated 18.11.2009 issued by the Government of Meghalaya, Department of Forests and Environment, demarcated/delineated the boundary of the critical catchment area at Lawsohtun in exercise of powers under Section 6 of the Meghalaya Act, 1990. The demarcation/delineation in the boundary of Lawsohtun catchment area is as under:-

**“The following ridge points connected and marked on the survey map are reproduced below for the purpose of delineation/demarcation on the map of the catchments boundary of Lawsohtun area:**

**i) Western Boundary:-**

**a) The ridge point appearing between the Bench Marks (BM) 1887 and 1552 of the Survey of India’s Survey Map (NO 3) of Greater Shillong drawn in 1:5000 Scale.**

**b) Ridge point close to BM 1619.1**

**c) Ridge point close to BM 1591**

**ii) Southern Boundary:**

**(a) Ridge point at BM 953.2**

**(b) Ridge point at BM 1909.9**

**iii) Eastern Boundary**

**a) Ridge point between BM 1607.1 and 1617.9 near Upper label of the map.**

**b) Ridge point adjacent to Bishnupur label.**

**iv) Northern Boundary:**

**a) Ridge point between BMs 1523.8 and 1523.5**

**The above referred ridge points when connected would constitute the boundary of catchments of Lawsohtun which is duly depicted in the survey map.**

**The Advisory Board recommends that this area be declared as “Critical Catchment Area” under Section 6(2) Protection of the Catchment Area Act, 1990.**

**However, before declaring the area as such, you are therefore requested to submit the consent of the land owners in the area and the Ministry of Defence, who owns a part of the cantonment area, where the critical area falls in writing as required under Section 5 of the Act.”**

13. It is also stated that the Applicants’ body also vide its letter dated 02.06.2010 communicated to the Government of Meghalaya, Department of Forests and Environment, specifically pointing out that a study of the Map prepared by the Advisory Committee would show that a major part of Madan Laban, Lawsohtun and Bishnupur would come within the catchment area whereas these areas are all residential areas and thickly populated as shown in the Map. It was also stated in their letter that about 1500 odd trees had been marked in red for felling by the Forest Department and that this was done to accommodate the Defence Authority to construct over 700 residential houses in the area. It was also pointed out that this area has also been inspected by the Hon’ble Judges of the High Court before delivering their judgment. It was submitted by the Applicants that in the meeting between the Raid Laban Dorbar and

the Government officials, an assurance had been given by the Government that these trees will never be cut in order to protect the water resources. However, the letter issued by the Government vide No. FOR.66/2006/215 dated 12.03.2009 simply stated that the Defence Authorities had informed the Government that they have shelved the project. It is stated by the Applicants that mere shelving of a project does not mean that the proposal to construct 700 residential houses by felling of trees has been completely given up and that it will not be resumed on a later date. The Raid Laban Dorbar, however, suggested that if the Government so desires, it may declare the boundary of the catchment area along the road from Sericulture Office to the gate of the Sericulture Farm shown in Black. As regards the area on the right side of the road leading to Lawsohtun, the Government may consider preserving the area as Green Belt.

14. It is alleged by the Applicants that taking advantage of the inaction of the State Government, the Army Authorities again started construction work in the area in the month of February, 2017 which was brought to the notice of the Government by the Raid Laban Dorbar, Applicants herein, vide its letter dated 21.02.2017 and it was prayed that the Army personnel at Lawsohtun be directed to stop the work for fencing the area without any delay.

15. An affidavit has been filed on 17.05.2017 by the Respondent No.2, Forest and Environment Department, Govt. of Meghalaya,

wherein it is stated that a letter was issued on 23.03.2017 by the Joint Secretary, Govt. of Meghalaya, Forest and Environment Department, to the Station Commander, Station Cell, Headquarter 101 Area, C/O 99 APO, informing them that the Army Authorities were constructing a fence in the said area at Lawsohtun which is proposed to be notified as a Catchment Area as per the judgment and order of the Guwahati High Court.

16. Another letter was issued on 05.05.2017 by the Under Secretary, Govt. of Meghalaya, Forest and Environment Department to the General Secretary, Raid Laban Dorbar, Shillong, informing the Applicant that in order to enable the Government to declare the area at Lawsohtun as Catchment Area, the consent of all the private owners of the land located at the proposed area is required and the Applicants were also required to submit its consent in the requisite format for necessary action of declaring the area as Catchment Area. A similar letter was also issued on 05.05.2017 by the Under Secretary, Govt. of Meghalaya, Forests and Environment Department, to the Station Commander, Station Cell, Headquarter 101 Area, C/O 99 APO, requesting him to submit his consent to the Government. So far as the Applicants are concerned, they have submitted their consent for declaration of the area at Lawsohtun as Catchment Area through their letter dated 10.05.2017 in the prescribed format.

17. An affidavit was also filed by the Respondent No.1, Principal Chief Conservator of Forest, wherein it was admitted that the Army

Authorities had started construction of a cement boundary wall along the existing barbed wire fencing during the month of February, 2017 without obtaining 'No Objection Certificate' from the Forest Department, Respondent No.1, and, therefore, the Divisional Forest Officer (DFO), Khasi Hills, Territorial Division immediately interfered and stopped the said construction. The relevant para 8 of this affidavit is reproduced herein below:-

***“8. That in reply to the averments made in paragraph 13 of the application the humble answering Respondent states that the Defence Authority started the construction of the cemented boundary wall along the existing barbed wire fencing during the month of February 2017 without obtaining the No-Objection Certificate from the Forest Department (Respondent No.1), therefore, the Divisional Forest Officer (DFO) Khasi Hills Territorial Division immediately stopped the construction work which was being carried out by the defence authorities. Further, the humble answering Respondents states that the defence authority has not felled any trees for the construction of the cemented wall.”***

This affidavit was sworn by the Principal Chief Conservator of Forests & HoFF, Meghalaya and the clear stand of the Respondent No.1 was that the Defence Authority had not felled any trees for the construction of the cemented wall.

18. Another affidavit was filed on 15.09.2017 by the Under Secretary, Govt. of Meghalaya, Forests and Environment Department, Respondent No.1, stating therein that the earlier consent given by the Raid Laban Dorbar was cancelled by the



Applicants and a fresh consent was given on 07.08.2017 for declaration of the area of the Raid Laban Forest as Catchment Area.

19. An affidavit has also been filed on 18.09.2017 by Respondent No.3, Ministry of Defence, sworn by Lt. Col. Shishir Pandey, Eastern Command Signal Regiment, C/o 99, APO and in paragraph 5 (vi) at page no. 119 of the paper book, it is stated that the area in question has not been notified as 'Catchment Area'/'Critical Catchment Area' till dated. Nevertheless, the Army suo-moto shelved its project of construction of 700 family quarters which was to be constructed on "its own land" existing in the area only to ensure maintenance of environmental and ecological balance. In para 5 (vii) it is again stated that though the land around which the perimeter wall is being constructed does not qualify nor is covered by the definition of 'Catchment Area'/'Critical Catchment Area' as provided in Section 2 (c) & (d) of the Meghalaya Protection of Catchment Areas Act, 1990, and the Raid Laban Dorbar and GLCDS, Applicants herein, have been selectively opposing the move and causing hindrance in the construction of perimeter wall. The relevant sub-paragraphs 5 (vi), 5(vii) & 5(viii) of the said affidavit are reproduced herein below:-

***"vi) The answering respondent no.3 state and submit that the instant case is yet another case in the series and is based on false statement and imagination of petitioner. The fact as on date is that though the area in question has not been notified as 'Catchment Area'/'Critical Catchment Area' till date, and while Army suomoto shelved its much needed and almost finalized project of***

*construction of 700 family quarters which were to be constructed on its own land existing in the area only to ensure maintenance of environmental and ecological balance, whereas rampant construction is carrying on unchecked/unreported in civil areas adjoining A1 defence land.*

*vii) The answering respondent no.3 state and submit that in spite of Army not carrying out any construction on the A1 defence land owned by it, the construction by the civilians in the area has been going on unchecked, which has resulted not only in encroachment of lots of area that belonged to Army but also in rampant tree cutting, and same is on going till date. Few photographs of such activities are attached as (Enclosed herewith as 6R). In order to prevent further encroachment of army land and security concerns it has been decided to construct a perimeter wall around the A1 defence land which belongs to Army. Though, the land around which the perimeter wall is being constructed does not qualify/is covered by the definition of 'Catchment Area'/ 'Critical Catchment Area' as provided in the Sec 2(c)&(d) of 'The Meghalaya Protection of Catchment Areas Act, 1990', the Raid Laban Dorbar and GLCDS are selectively opposing the move and causing hindrance in the construction of perimeter wall. The instant case has also been filed with same motive.*

*viii) .....xxx.....xxx.....xxx.....*

*The Hon'ble High Court while disposing off the PIL had directed that the Government should constitute an Advisory Board as per the provisions of the Meghalaya Protection of Catchment Areas Act, 1990 and if the Advisory Board arrives at the decision that Lawsohtun area falls within the definition of Catchment Area/Critical Catchment Area, as defined under Act 1990, the State Government shall issue a notification to that effect and shall take measures for protection of Catchment Area as per provision of Act 1990."*

20. In para 5 (ix) at page no. 121 of the paper book, it is stated that the matter is still pending with the Government since till date i.e., 18.09.2017, due to non-availability of consent of land owners, joint survey with all stake holders of the area in question, and also due to disagreement /difference of opinion between members of the organization i.e., Raid Laban Dorbar, the Applicants herein, and the Advisory Board with regard to the boundaries of the Catchment Area/Critical Catchment Area, as proposed by the Advisory Board as per Section 4 of the Meghalaya Protection of Catchment Areas Act, 1990, no decision has been taken till date for declaration of the area as Catchment Area. The relevant para 5 (ix) of the said affidavit is reproduced herein below:-

***“ix) The humble respondent no.3 further submit that the OA is liable to be dismissed on the grounds that as mentioned in the earlier para above, in spite of all measures being taken by the Government the matter is pending till date due to non-availability of consent of land owners, joint survey with all stake holders of area proposed to be declared Catchment area and also due to disagreement/difference of opinion between members of organization i.e. Raid Laban Dorbar (initial petitioner) and Advisory Board with regard to boundaries of Catchment Area/Critical Area, which was proposed by Advisory Board, which as per provisions of Sec 4 of The Meghalaya Protection of Catchment Areas Act, 1990 is competent authority to advise on such matters.”***

21. According to the Respondent Nos. 3 & 4, Ministry of Defence, the matter regarding the provisions of the Meghalaya Protection of Catchment Area Act, 1990 being imposed in the area and direction to stop the Army Authorities from making construction of perimeter wall around the A1 defence land owned by them is within the jurisdiction of the Government which alone is the competent authority which can take a decision on the advice of the Advisory Board constituted under Section 4 of the Meghalaya Act, 1990.

22. A rejoinder affidavit has been filed on 27.10.2017 by the Applicants in response to the affidavit of Respondent No. 3, Ministry of Defence, dated 18.09.2017 and though the averments made in paragraphs 8 & 9 of the said affidavit have been denied but we find that only a bald denial has been made without any material to back such denial. It is stated in the rejoinder affidavit by the Applicants that the forest situated in the area mentioned in the Original Application is treated as a 'Sacred Grove' where no habitation is permitted and which is protected zealously. It is also alleged that since last 10 years Army activities have been noticed in the area which has affected the ecology of the entire area.

23. In the rejoinder of the Applicants, it is also stated that there was a barren land opposite the forest land wherein the Army Authorities had attempted to plant some saplings thereafter they have constructed a multi-storied building in the area including a water storage for the Territorial Army unit.

24. The case of the Applicants' further is that the contention of the Army Authority is that the perimeter wall is being constructed over defence land, is absolutely false and so called Defence Land actually falls within the Catchment Area.

25. From the affidavits and the counter-responses on record what emerges is that on the protest made by the Applicants herein, an Advisory Board had been set-up by the Government of Meghalaya to examine the issue regarding declaration/delineation of the area in question as Catchment Area/Critical Catchment Area. A notification was issued on 18.11.2009 by the Government of Meghalaya, Department of Forests and Environment, reproduced hereinabove, that the area so demarcated and notified had not yet become final since the notification of 18.11.2009 itself mentioned that before declaring the area as Catchment Area/Critical Catchment Area, consent of the land owners, in the area and the Ministry of Defence, which contains a part of the Cantonment area where the Catchment Area/Critical Catchment Area falls, in writing, is required in terms of the provisions of Section 5 of the Cantonment Area Act.

26. No doubt, about 1500 odd trees may have been marked for felling by the Forest Department but there is nothing on record to show that these trees were actually felled for accommodating the Army Authorities for construction of 700 family residential houses.

The photographs which have been filed as Annexure-13 to the Original Application show certain construction material lying in a forest area densely covered by trees and a cemented perimeter has

also been constructed and some logs are lying around the place but the perimeter wall is only half built and as per the contention of the State Respondents and the Army Authorities the said construction has been stopped till the dispute is resolved.

27. It is also noticed that the Applicants had been directed to submit their consent in the requisite format and they had submitted the same in the requisite format on 10.05.2017 to declare the area, viz., part of Madan Laban, Part of Bishnupur Village and Eastern part of Lawsohtun village as Catchment Area as would be evident from the affidavit of the Under Secretary, Govt. of Meghalaya, Forests and Environment Department dated 15.09.2017. But subsequently that consent was cancelled by the Applicants and they submitted another consent on 07.08.2017 for the area of Raid Laban Forest to be declared as Catchment Area which would be clear from the affidavit and the annexure filed thereto.

28. The affidavit of Respondent No.1 and the notification issued by the Government of Meghalaya further disclose that the area which is sought to be declared as Catchment Area also includes defence land and, therefore, consent of the Army Authorities was required along with consent of other owners of land in the area. **The consistent stand of the Army Authorities in their affidavit is that the perimeter wall which was sought to be constructed lay on defence land but in view of the dispute which has arisen for declaring the area in question as Critical Catchment Area and in order to**

maintain the ecosystem and ecological balance, the Army Authorities have themselves stopped further construction of the said perimeter wall.

29. It appears from the above that the matter is still pending consideration before the Government and as per the stand of the Army Authorities no decision has been taken since consent of large number of persons has to be taken.

30. We, therefore, direct the Respondent No.2, Govt. of Meghalaya, Department of Forests and Environment, to obtain the consents of the affected persons within the area which is sought to be declared as Catchment Area/Critical Catchment Area under the Meghalaya Act, 1990, i.e., the area in question, expeditiously as well as hear the version of the Army Authorities and thereafter take a decision on the question as to whether the entire area shown in the boundaries notified in the notification dated 18.11.2009 issued by the Government of Meghalaya, should be declared as Catchment Area/Critical Catchment Area. This exercise shall be completed by the Respondent No.2 within four months.

31. Needless to say that the State Government, Govt. of Meghalaya, while taking steps towards this exercise shall also consider whether the perimeter wall falls within the defence land and whether this defence land requires to be protected as an eco-sensitive forest and in this regard, the Respondent No.2 shall also consider the objections of the Army Authorities, if any.

32. We further direct that till such decision is taken by the Respondent No.2, no construction shall be carried out in the area in question by the Army Authorities.

33. In addition to the above direction, the Army Authorities are directed to remove the construction debris if lying within the Catchment Area after stoppage of work and restore the area to its original position.

34. With the above observations, both these Original Applications are disposed of.

35. There shall be no order as to costs.

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**B. AMIT STHALEKAR , JM**

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**SAIBAL DASGUPTA, EM**

**Kolkata**  
**13<sup>th</sup> July, 2021**  
**Original Application No.47/2017/EZ**  
**(M.A. No. 93/2017/EZ)**  
**With**  
**Original Application No. 93/2017/EZ**  
**AK**

**NGT**