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# BSOLS NATIONAL MOOT PROPOSITION

## NATIONAL MOOT COURT PROBLEM

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## NATIONAL MOOT COURT PROBLEM

Supreme Court of the Republic of Aurora

W.P. (Civil) No. 2024/2026

*EcoGuard Alliance & Ors. v. Union of Aurora & Ors.*

<b>Petitioners:</b>	EcoGuard Alliance   Tribal Harmony Collective   Future Generations Trust
<b>Respondents:</b>	Union of Aurora   State of Verdantia   MegaCorp Industries Pvt. Ltd.   NERA   Republic of Zenith (Intervener)
<b>Filed under:</b>	Article 32 of the Constitution of Aurora
<b>Date of Filing:</b>	17 January 2026

### STATEMENT OF FACTS

Deep in the southern peninsula of the Republic of Aurora lies a forest unlike any other. The Evergreen Rainforest Reserve — the ERR — stretches across 5,000 square kilometres of the Verdantia Highlands. It is a UNESCO World Heritage Site. Its rivers are internationally listed wetlands under the Ramsar Convention. Hidden within its canopy lives the Aurora Tiger, a species found nowhere else on earth, now down to fewer than 150 individuals and classified Critically Endangered.

The forest is not empty of people. Three indigenous communities — *the Woodfolk Clan, the River Spirits Group, and the Hillcrest Peoples* — have called the ERR home for centuries. Collectively numbering 10,000, they fish the Verdant River, gather forest produce, tend sacred groves, and pass down Traditional Ecological Knowledge that maps every mineral spring, every medicinal herb, every tiger trail. The Forest Rights Act, 2006 formally recognises their community forest rights over these lands.

Aurora itself is a federal democracy. It has signed virtually every major environmental treaty — the Paris Agreement on Climate Change, the Convention on Biological Diversity, the Ramsar Convention, ILO Convention No. 169 on Indigenous Rights, and the Nagoya Protocol on traditional knowledge. On paper, the forest and its people are among the most legally protected in the world.

In 2022, Aurora filed an updated climate pledge — its Nationally Determined Contribution (NDC) — with the United Nations. The promise was ambitious: net-zero emissions by 2070, 50% clean electricity by 2030, and 500 gigawatts of renewable energy. To get there, the government decided it needed two things that the Verdantia Highlands happened to have in abundance: fast-flowing rivers for hydroelectric power, and rare earth minerals for electric vehicle batteries.

So in 2018, the Union launched the National Green Energy Initiative and identified a site in the ERR for the HydroMine Nexus — a combined 2,000 MW hydroelectric dam and rare earth mining facility. The contract went to MegaCorp Industries Pvt. Ltd., an Aurora subsidiary of the Zenith-based MegaCorp Global S.A. The project was labelled 'green infrastructure.' Its purpose, officially, was to save the planet.

*Here is the first uncomfortable truth: the same government that pledged to protect 30% of Aurora's land by 2030, and specifically listed the ERR as a protected carbon sink in Annex III of its own NDC, simultaneously classified the HydroMine Nexus as a 'Tier 1 Priority Project' in Annex I of the same document. Both commitments cannot be kept at the same time.*

Before any large project can begin in Aurora it needs an Environmental Clearance. On 10 March 2022, MegaCorp submitted its Environmental Impact Assessment (EIA) to the National Environment Regulatory Authority (NERA). The report was written by GeoConsult Pvt. Ltd. a firm hired and paid by MegaCorp itself. It projected modest harm: displacement of 487 families, 10% forest cover loss, tiger habitat 'moderately' affected.

NERA granted clearance on 20 December 2022, citing 'overriding national interest.' But the clearance was issued without a public hearing in the tribal areas — a statutory requirement under the EIA Notification, 2006. The government claimed a 'national security' exemption. No one has been able to point to the law that creates this exemption.

Separately, the Ministry of Tribal Affairs — whose mandatory consultation is required under the Forest Rights Act before any forest diversion affecting tribal lands — was simply not invited to the inter-ministerial review. The omission was not an accident of paperwork; it was noticed, documented, and proceeded with anyway.

Meanwhile, in 2019, GeoConsult surveyors had visited the forest with tribal elders, asking them to identify mineral springs, salt licks, and natural outcrops. The elders complied, believing it was a heritage survey. Three years later, Section 4.3 of the EIA contained the precise coordinates of

those sacred sites — Kalpavriksha Konda, Naga Teerta, Bhumi Mata Maidan — as 'newly identified mineral deposit locations.' No consent was sought. No benefit-sharing was offered. The Traditional Ecological Knowledge of the Woodfolk Clan had been converted into a mining prospectus.

ILO Convention No. 169 — which Aurora ratified in 2005 — requires that indigenous communities give Free, Prior and Informed Consent before any project affecting their lands is approved. Section 4(2)(e) of Aurora's own Forest Rights Act requires gram sabha consent as a condition precedent for forest diversion. These are not procedural technicalities. They are substantive rights.

What happened instead: three consultation meetings were held in the national language — not in Aranyabhasa, Naditibhasa, or Girijanaboli, the languages of the three communities. The first meeting was announced five days in advance, on a notice board 85 kilometres from the nearest affected village. The venue required a full day of travel; fewer than 50 people from a community of 10,000 attended.

At Aranya Gram, MegaCorp representatives met the village Headman privately for two hours. Afterwards, the Headman reversed his position from opposition to support. Elder Mangal Aranya later swore in an affidavit that the Headman had told him privately that employment offers and a cash payment had changed his mind.

The gram sabha resolution of 14 June 2022 records unanimous consent. The tribal affidavit (Annexure B) states that of 62 members present, only 14 raised their hands; 31 sat in silence after being told silence would be recorded as consent; and 17 explicitly dissented. The presiding Revenue official recorded unanimity.

*In 2023, the UN Special Rapporteur on the Rights of Indigenous Peoples visited Aurora, reviewed the consultation records, and issued a formal communication (Annexure F) concluding: the process was procedurally and substantively inadequate; the language barrier was structural; the private inducements vitiated 'free' consent; and the gram sabha resolution does not reflect the actual will of the community.*

The National Green Tribunal, troubled by contradictions in the EIA, commissioned an independent report. Professor Delta Vega of the Aurora Institute of Ecology spent two years studying the ERR. Her findings (Annexure C) were, in the language of science, alarming:

- The Aurora Tiger: GeoConsult assessed only the area directly flooded by the reservoir. Prof. Vega looked at the whole picture — inundation, infrastructure, mining clearance, edge effects. The result: connected tiger habitat would fall from 4,500 sq. km to approximately 2,800 sq. km. The Central Corridor linking the two tiger sub-populations would be permanently drowned. Without that corridor, the northern and southern groups become genetically isolated. Inbreeding depression would push the species toward local extinction within 50 years, with 73% probability.
- Mercury in the river: Mining effluents would discharge into the Verdant River. GeoConsult's table showed figures within legal limits — but only measured water column concentrations at the discharge point, during dry season. Prof. Vega modelled what happens downstream over years: inorganic mercury settles in sediments, bacteria convert it to methylmercury, fish absorb it, communities eat the fish. By year 10–15, fish mercury levels would exceed WHO guidelines for pregnant women and children in Aquaria and Terranova — states downstream that were not even consulted.
- The climate paradox: The project was approved as 'green infrastructure.' Prof. Vega ran the numbers on what happens when you flood 410 square kilometres of tropical rainforest. Dead vegetation decomposes anaerobically. It releases methane — a greenhouse gas 80 times more potent than CO<sub>2</sub> over 20 years. For the first decade of operation, the reservoir would emit more greenhouse gases than the clean electricity it generates would save. The project Aurora was calling its climate solution would, during the critical 2030 NDC accounting window, be a net climate polluter.
- Earthquakes: The proposed reservoir sits 14 kilometres from the Verdantia Fault. Reservoir-induced seismicity is a known phenomenon — large water bodies change the stress on geological faults. The GeoConsult EIA contained zero assessment of this risk. Prof. Vega called this 'professionally indefensible.'

Construction started on 15 April 2023. Within months, the river near tribal villages turned yellow-orange. Fish catches fell by 80%. By 2024, groundwater tests showed mercury at 4.2 times the WHO safe limit. Eleven children under five were diagnosed with neurological disorders consistent with methylmercury poisoning.

On 1 May 2024, at 6:15 in the morning, MegaCorp's blasting teams set off charges on the north face of Kalpavriksha Konda — the Wishing Tree Ridge, a sacred site of the Woodfolk Clan — in violation of their own safety protocols. The hillside gave way. The landslide buried one-third of Aranya Gram. Twenty people died, including Elder Mangal Aranya's daughter-in-law Sumitra and her two children, Ravi (age 6) and Meena (age 3). Three hundred people were displaced.

MegaCorp offered INR 5 crores as ex gratia payment to all affected families combined. The tribal leaders refused. The CBI confirmed MegaCorp's culpability. The Union invoked its 'Ease of Doing Business' policy and issued an informal Cabinet directive against criminal prosecution.

MegaCorp Global S.A., the Zenith parent company, did not sit quietly. It invoked the Aurora-Zenith Bilateral Investment Treaty of 2009 (the BIT), a contract between two governments designed to protect foreign investors from arbitrary treatment.

The BIT guarantees 'Fair and Equitable Treatment' — meaning the regulatory framework cannot be suddenly reversed to destroy an investor's legitimate expectations. It also protects against 'indirect expropriation' — meaning even a regulatory order that stops a project without physically seizing property can trigger compensation if it substantially destroys the value of the investment.

MegaCorp Global filed a Notice of Dispute, threatening ICSID international arbitration. Aurora's own Attorney-General estimated the liability at USD 2.8 billion. The Foreign Secretary filed an affidavit before the Supreme Court saying, in plain terms: if you quash the clearance, the state will owe USD 2.8 billion to a foreign corporation.

The Republic of Zenith filed its own intervention, citing Article 27 of the Vienna Convention on the Law of Treaties: a state cannot invoke its domestic law — not even its Constitution — to justify non-performance of a treaty obligation before an international tribunal.

*The bind is elegant and terrible: if the Supreme Court orders the project stopped to protect fundamental rights and a critically endangered species, it may hand MegaCorp a USD 2.8 billion arbitration award. If it allows the project to continue, twenty people are dead, a species is heading for extinction, children have mercury poisoning, and a tribe has lost its sacred land.*

The National Green Tribunal partially stayed mining but allowed dam construction. The High Court of Verdantia dismissed the tribal challenge, held NERA's clearance non-justiciable, and said tribal FRA rights were subordinate to Union powers over mines and inter-state rivers. The High Court did not address the international law arguments at all.

Three petitioners now stand before the Supreme Court of Aurora under Article 32 — the fundamental rights writ jurisdiction:

- EcoGuard Alliance — an international conservation NGO with observer status at the UNFCCC, the CBD, and Ramsar bodies;

- Tribal Harmony Collective — the apex body of the Woodfolk Clan, River Spirits Group, and Hillcrest Peoples;
- Future Generations Trust — established to represent the constitutional interests of those not yet born.

They ask the Court to do something genuinely difficult: to weigh a dying species against a climate promise, to weigh tribal consent against national energy security, to weigh corporate investment rights against the right to life, and to decide whether a project sold as green development is, in fact, a constitutional violation.

## PART II PARTIES, JURISDICTION & LEGAL FRAMEWORK

### Parties

Role	Party	Capacity / Interest
Petitioner 1	EcoGuard Alliance	Registered NGO; UNFCCC/CBD/Ramsar observer; environmental and indigenous rights advocacy
Petitioner 2	Tribal Harmony Collective	Apex body of Woodfolk Clan, River Spirits Group & Hillcrest Peoples (10,000 individuals); Forest Rights Act title-holders
Petitioner 3	Future Generations Trust	Incorporated trust litigating intergenerational rights under Article 21
Respondent 1	Union of Aurora (MENR / MEA)	Project promoter; NDC commitment-holder; BIT signatory
Respondent 2	State of Verdantia (DFE)	Forest clearance authority; initially opposed project; withdrew opposition
Respondent 3	MegaCorp Industries Pvt. Ltd.	Project proponent; Aurora-incorporated subsidiary of MegaCorp Global S.A. (Zenith)
Respondent 4	NERA	Apex statutory body that granted the contested Environmental Clearance

Role	Party	Capacity / Interest
Intervener	Republic of Zenith	Invoking BIT rights; parent company's home state; filed separate submissions on VCLT Art. 27

### Jurisdiction

This petition is filed under Article 32 of the Constitution of Aurora, which grants the Supreme Court original and extraordinary jurisdiction to enforce fundamental rights. The Petitioners submit that the following intersecting bodies of law are engaged:

<b>Constitutional Law</b>	Arts. 14, 19(1)(g), 21, 48A, 51A(g) — Fundamental Rights; Directive Principles; Fundamental Duties
<b>Environmental Statutes</b>	Environment Protection Act 1986; Forest Conservation Act 1980; Biological Diversity Act 2002; Forest Rights Act 2006; Water (Prevention & Control) Act 1974
<b>International Treaties</b>	Paris Agreement 2015; CBD 1992; Ramsar Convention 1971; ILO Convention No. 169; UNDRIP 2007; Nagoya Protocol 2010; CITES; CMS
<b>Investment Law</b>	Aurora-Zenith BIT 2009 (Arts. 3, 5, 12); VCLT Arts. 26, 27, 31(3)(c)
<b>Customary Int'l Law</b>	Precautionary Principle; Polluter Pays; Sustainable Development; Intergenerational Equity; ICJ Advisory Opinion on Climate Obligations (2024)

## ISSUES FOR ADJUDICATION

### Issue I — Validity of the Environmental Clearance

*Was NERA's environmental clearance of 20 December 2022 lawful — given that the EIA was proponent-commissioned, omitted a seismic risk assessment, made no lifecycle GHG calculation, and was granted without a public hearing in tribal areas? And if the project's reservoir turns out to be a net greenhouse gas emitter during Aurora's own 2030 NDC window, can it legitimately be called 'green infrastructure' at all?*

## **Issue II — Tribal Rights, FPIC, and TEK Misappropriation**

*Did the HydroMine Nexus project violate the fundamental rights of the Forest Dweller tribes under Articles 14, 19, and 21, by failing to obtain genuine Free, Prior and Informed Consent under ILO Convention No. 169, the FRA 2006, and UNDRIP — and does MegaCorp's use of Traditional Ecological Knowledge to identify mineral deposits without consent independently vitiate the project clearance?*

## **Issue III — Corporate Liability, Federalism, and the BIT Impasse**

*Does MegaCorp Industries attract absolute liability for the Aranya Gram deaths, and can this Court pierce the corporate veil to reach the Zenith parent — without triggering the BIT's indirect expropriation provisions and exposing Aurora to USD 2.8 billion in arbitration liability? And did the Union's use of Entry 52 (Mines) and Article 253 (Treaty Implementation) unconstitutionally override Verdantia's concurrent powers over forests?*

## **Issue IV — Climate Justice, Intergenerational Equity, and the Right to a Healthy Environment**

*Does the right to a clean, healthy, and sustainable environment under Article 21 — including the right of future generations — impose a constitutional duty on the State to ensure that infrastructure labelled 'green' actually delivers net climate benefit? And does the public trust doctrine require the State to maximise ecological benefit per unit of development, rather than merely passing an environmental clearance threshold?*



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