

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
MISCELLANEOUS APPLICATION NO.....2024
ORIGINAL APPLICATION NO.173 of 2017/EZ**

IN THE MATTER OF

Rama Chandra Mahanta

Applicant

Versus

M/S Serajuddin & Co. & Ors.

Respondent(s)

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PLACE: Bhubaneswar

DATE: 22/03/2024

SANKAR PRASAD PANI,

ASHUTOSH PADHY

S.Pani *A.Padhy*

ADVOCATES

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

(Under Section 26 read with Section 18 of the National Green Tribunal Act, 2010)

MISCELLANEOUS APPLICATION2024

**ARISING OUT OF Original Application No 173 OF 2027/EZ DISPOSED ON
21/04/2022**

IN THE MATTER OF:

**1. Rama Chandra Mahant, S/o Puran Mahant At-Banua, Po-Goobardhan, Via/PS-
Raisuan, District-Keonjhar, Odisha -758013** **APPLICANT**

VERSUS

1. **M/s Serajuddin & Co**, Represented by its Mines Manager, Balda Block Iron Ore Mining Project, At/po- Bada-Kalimati, PS- Bamebari, District-Keonjhar, Orissa, 758086
2. **State of Odisha**, Represented by Additional Secretary Forest and Environment, Government of Odisha, Secretariat Building, Bhubaneswar, 751001, Email fesec.or@nic.in
3. **District Collector, Kounjhar** At/Po/Dist-Kounjhar, Odisha, 758001
Email dm-keonjhar@nic.in
4. **Member Secretary**, Odisha State Pollution Control Board, A/118, Unit-VII, Nilakantha Nagar, Bhubaneswar, PIN-751012, Odisha, Email: paribesh1@ospcboard.org
5. **UNION OF INDIA**, Through the Secretary, Ministry of Environment and Forests and Climate Change, Indira Paryavaran Bhawan, Jorbagh
New Delhi – 110003, Email

6. Divisonal Forest Officer, Keounjhar AT/PO/Dist- Keounjhar, 758001, Email-
dfo.keonjhar@odisha.gov.in

MOST RESPECTFULLY SHOWETH:

- I. The address of the Applicant is given above 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.

FACTS

1. That the Original Application was filed Challenging the destructive activities and unscientific management of mines by the private respondent M/s Serajuddin and Co, and noncompliance of conditions in environment clearance letter dated 19th Nov 2013 leading to the obstruction of natural streams, underground water contamination and the unscientific management of mines overburden causing severe environmental hazard in the locality.
2. That the Original Application No 173 was disposed of on 21st April 2022 with direction's to the respondents

“Para6. In view of report of the MoEF&CC finding violations as above, the statutory regulators have to take further remedial action for compliance of the EC conditions as well as assessment and recovery of

compensation for the past violations, following due process of law. Compensation should be assessed by a joint committee of CPCB, State PCB and District Magistrate, with State PCB as nodal agency on polluter pays principle, considering the extent of violations, period of violations, cost of remediation and deterrent element, with reference to financial capacity of the violator. This may be done within three months.

3. That Section 26 in The National Green Tribunal Act, 2010 prescribes for Penalty for failure to comply with orders of Tribunal and same is reproduced as follows

“(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention: Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crores of rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh

rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

4. Similarly Section 28 in The National Green Tribunal Act, 2010 prescribes for Offences by Government Department. And same is reproduced as follows

“(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly”.

5. That since the Respondents has not executed the order of the Honble Tribunal and deliberately violating the same, appropriated action deemed under section 26 and 28 of the National Green Tribunal Act 2010.

Grounds

That, the applicant is therefore approaching this Hon'ble Tribunal in view of the of the Non-Compliance of order of Hon'ble NGT dated 21st April 2022

- a) That the non-implementation of the order invokes section 26 and 28 of the NGT Act 2010 where in stricter punishment such as 3years imprisonment or 10crores rupees penalty or both has been prescribed and knowing the same the respondents are willfully violating the order.

LIMITATION

That there is a subsisting cause of action because of the continuing violation of Hon'ble order of NGT dated 21/04/2022 and the respondents did nothing within 3 months of the order as per the deadline in the order, hence this Miscellaneous application is not barred by limitation.

PRAYER

In light of the present facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may be please to

- a) Direct the Respondents to show cause why the criminal proceedings shall not be initiated for violation of the Order of the Hon'ble Tribunal dated 21st April 2022 paragraph 6.
- b) Direct the Respondent to show cause what steps they have taken to implement the order of Hon'ble NGT dated 21st April 2022 paragraph 6.
- c) Direct PCB to file their compliance report.
- d) Failure to provide satisfactory explanation the Hon'ble Tribunal may direct for the appropriate proceedings as provided under Section 26 and 28 of NGT Act 2010.
- e) Pass such order/s as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case.

For this act of kindness the applicant shall remain grateful
for ever

APPLICANTS THROUGH

A handwritten signature in black ink, appearing to read 'Spami Apaty', with a horizontal line drawn underneath the name.

ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA
MISCELLANEOUS APPLICATION.....OF2024
ORIGINAL APPLICATION NO 173 OF 2017

IN THE MATTER OF:

Ramchandra Mahant

Applicant

VERSUS

M/s Serajuddin & Co and Others ...

Respondents

AFFIDAVIT

22 MAR 2024

I, Rama Chandra Mahant, S/o Puran Mahant aged about 55 years, At-Banua, Po-Goobardhan, Via/PS-Raisuan, District-Keonjhar, Odisha -758013 do hereby solemnly affirm and declare as under:

- 1. That I am the applicant in the abovementioned misc application and I am fully conversant with the facts and circumstances of the case.
- 2. That I have read over the contents of the accompanying MISCELLANEOUS APPLICATION and the same is true and correct and is drafted on my instruction.

Rama chandra mahanta

DEPONENT

VERIFICATION:-

Verified on this the 22 MAR 2024 day of 2024 at BHUBANESWAR that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Rama chandra mahanta

DEPONENT



Identified By Advocate

The above named deponent(s) being duly identified by me at Bhubaneswar.

Appears before me and deposes that the contents of the above affidavit are true to the best of their knowledge and belief.

Deponent(s)

22 MAR 2024
[Signature]

JANMEJAYA RAUTRAY
NOTARY PUBLIC
BHUBANESWAR
REGD. NO-UN-1202
Mob. No. - 9337121273

Item No. 02

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 173/2017/EZ

Rama Chandra Mahanta & Anr.

Applicant(s)

Versus

M/S Serajuddin & Co. & Ors.

Respondent(s)

Date of hearing: 21.02.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE B. AMIT STHALEKAR JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA EXPERT MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant(s): Mr. Sankar Prasad Pani, Advocate

Respondent(s): Mr. S.K. Nayak, Addl. Govt. Advocate for R-2,
Ms. Papiya Banerjee Bihani, Advocate for R-4,**ORDER**

1. Grievance in this application is against violation of Environmental Clearance (EC) conditions by the Project Proponent (PP) - M/s Serajuddin & Co. in District Keonjhar, Odisha in the course of expansion of the Balda Block Iron Mining Project. The PP *inter-alia* caused obstruction of natural streams, underground water contamination and the unscientific management of mines overburden, causing severe environmental hazard in the locality. Waste generated during the mining was to be used for road making and back filing in terms of EC condition but the PP dumped the entire waste near the mined pits. The PP did not create green barriers in five stratified rows towards Betajhari and Jalapa nalla. The DFO did not monitor the plantation activities. Absence of green plantation

resulted in air pollution due to transportation of mined material through 15,0000 trucks. The roads were not properly maintained. Over burdens near the pits were not stabilized. While enhancing the production capacity, due diligence was not done.

2. The Application first came up for hearing on 28.11.2017. The Tribunal issued notice and directed the Ministry of Environment, Forest & Climate Change (MoEF&CC) to enquire into the allegations of the applicant and to submit a report. Apart from MoEF&CC, respondents are the State of Odisha and State PCB. Replies have been filed by the MoEF&CC, State PCB and DFO.

3. Stand of the MoEF&CC with regard to compliance of EC conditions has been given in a tabular form with regard to point-wise compliance status of conditions stipulated in letter dated 19.11.2013. The items of non-compliance/partial compliance are as follows:-

Sl. No.	A. Specific Conditions	Status of compliance
v.	<p>Effective safeguard measures shall be taken to ensure that the AAQ level at various locations including crushing zone, area within permissible limit as prescribed by CPCB. The standards prescribed for stone crushers shall be followed.</p> <p><i>It was observed during site visit that regular monitoring of fugitive dust emissions is being carried out. The monitoring is being carried out on 24 hourly basis at different site locations in the core zone. It is reported that 04 nos. of mobile water tankers (each capacity 12 KL) are being used for suppression of dust. But, it has been noted that fugitive emissions are high within the mine area due to transport of ore by the dumpers. The water spraying on the haul roads is insufficient to contain dust generation.</i></p>	Partially complied
x.	<p>Mineral handling area shall be provided with adequate number of high efficiency dust extraction system. Loading & unloading areas including all the transfer points should also have efficient dust control arrangements. These should be properly maintained and operated.</p>	Partially complied

	<p>During monitoring, it was observed that water sprinkling is being carried out by engaging 04 nos. of mobile water tankers (04 no. 12 KL) and One (01) no. of mist spray system have been provided at workshop, loading and unloading points, in and around the crusher and screening plants and other strategic dust generating areas including mines haul and mineral dispatch roads. Apart from that auto fixed water sprinkling arrangement of 7.0 KMs length has been provided for mineral dispatch roads. It has been noted that dust emissions due to plying of trucks transporting mineral ores from the mine to the outside was high. The frequency of water spraying on the roads should be increased by the project authorities</p>	
xi.	<p>Effective safeguard measures such as regular water sprinkling should be carried out in critical areas prone to air pollution and having high levels of particulate matters such as around crushing & screening plant, loading and unloading point and transfer points. Extensive water sprinkling shall be carried out on haul roads. It should be ensured that the Ambient Air Quality parameters conform to the norms prescribed by the Central pollution Control board in this regard.</p> <p>During site visit, it was observed that 04 nos. of mobile water tankers (04 no. 12 KL) and Haul roads are being maintained with the help of grader to avoid generation of dust during movement of vehicles and ruts and potholes. The frequency of water spraying on the roads should be increased by the project authorities.</p>	Partially complied
xix.	<p>Dimension of the retaining wall at the toe of the temporary over burden dumps and OB benches within the mine to check run-off and siltation should be based on the rain fall data.</p> <p>During site visit, it was observed that all the sub grade and OB/Waste dumps are maintained with proper heights with terracing and proper slope with adequate protection measures i.e. a total length of 7049 m retaining wall followed by garland drain of 5400 m has been made at the toe of the dumps with proper dimensions i.e. 1.2 m x 1.0 m for stabilization of critical areas of dump slopes, coir matting with mixed grass seeds also applied towards green vegetation throughout the year. Garland drain and sedimentation pits need to be de-silted and the retaining wall damaged at places needs to be repaired and strengthened.</p>	Partially complied
xxvi.	<p>Sewage treatment plant shall be installed for the colony. ETP shall also be provided for workshop and waste water generated during mining operation.</p> <p>No STP has been observed during monitoring at site. Oil and grease separation unit and ETP had also been provided within the mining lease area, but during the date of site visit it is found to be not functional. The project authorities have assured that renovation and upgradation of the system is proposed to be</p>	Assured to comply

	undertaken shortly.	
<i>xviii.</i>	<p>Pre-placement medical examination & periodical medical examination of the workers engaged in the project shall be carried out & records maintained. For the purpose, schedule of health examination of the workers should be drawn and followed accordingly.</p> <p><i>It was reported by the project authorities that Initial Medical Examination and Periodical Medical Examination of the workers engaged in the project is being undertaken periodically for permanent and outsider employees along with the premedical examination of persons employed, who are engaged in the process of mining and are likely exposed to dust to observe any contractions due to exposure to dust. This is being carried as per in compliance to Mines Act 1952 & rules 1956 and amendments thereto. The last such examination was held for the 32 Nos. of employees of the project during the year 2019-20. It is requested to submit latest pre-placement medical examination & periodical medical examination to this office.</i></p>	Partially complied

B.	General Conditions	
<i>x.</i>	<p>The project authorities should inform to the Regional Office located at Bhubaneswar regarding date of financial closures and final approval of the project by the concerned authorized and the date of start of land development work.</p> <p>It is requested that Environmental Statement for the year 2020-21 should be submitted to this office.</p>	Not complied
<i>xii.</i>	<p>The project proponent shall submit six monthly reports on the status of compliance of the stipulated environmental clearance conditions including results of monitored data (both in hard copies as well as by e-mail) to the ministry of Environment and Forests, its Regional Office, Bhubaneswar, the respective zonal office of Central pollution Control Board and State pollution Control Board. The proponent shall upload the status of compliance of the environmental clearance conditions, including results of the monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of the ministry of Environment and Forests, Bhubaneswar, the respective zonal officer of Central pollution Control Board and the State pollution Control Board.</p> <p><i>It was reported by the project authorities that they are uploading the six monthly EC Compliance reports in the website www.serajuddin-bbim.com.</i></p> <p>However, while clicking on the said website, it is observed that the same not opening. The project</p>	Not complied

	authorities should provide information on the above matter.	
xiii.	<p>A copy of clearance letter shall be sent by proponent to concerned Panchayat, Zila Parishad/Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions / representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the company by the proponent.</p> <p><i>Though it was stated by the project authorities that the clearance letter has been uploaded in the website of the company. However, while clicking on the said website, it is observed that the same not opening. The project authorities should provide information on the above matter.</i></p>	Partially complied
xv.	<p>The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of environmental clearance conditions and shall also be sent to the respective Regional Office of the Ministry of Environment and Forests, Bhubaneswar by e-mail.</p> <p><i>The project authorities have submitted environmental statement for the year 2018-19. The project authorities should submit Environmental Statement for the year ending 3e March, 2021 to this Office.</i></p>	Not complied

4. Recommendations of the MoEF&CC in the status report are:-

“11. Recommendations:

This project can be put up in the following tick-marked category of compliance status.

- *Compliance status could not be judged as the project was shut down / not in operational during the site visit.*
- *No non-compliances detected. No any further action is required.*
- **Minor non-compliances detected (not of immediate danger to health & safe!), of the people). Letter issued to project authorities for taking corrective measures.**
- **Serious non-compliances detected. Recommended to issue a Show-Cause Notice to Project Authorities.”**

5. The stand of the State PCB is that remedial measures were taken and air quality was within norms. The stand of the Forest Department is

that 94685 nos. of seedlings have been planted inside the Mining Lease area.

6. In view of report of the MoEF&CC finding violations as above, the statutory regulators have to take further remedial action for compliance of the EC conditions as well as assessment and recovery of compensation for the past violations, following due process of law. Compensation should be assessed by a joint committee of CPCB, State PCB and District Magistrate, with State PCB as nodal agency on polluter pays principle, considering the extent of violations, period of violations, cost of remediation and deterrent element, with reference to financial capacity of the violator. This may be done within three months.

The Application is disposed of.

A copy of this order be forwarded to CPCB, State PCB, MoEF&CC, and District Magistrate Keonjhar by email for compliance.

Adarsh Kumar Goel, CP

B. Amit Sthalekar, JM

Saibal Dasgupta, EM

Prof. A. Senthil Vel, EM

April 21, 2022
Original Application No. 173/2017/EZ
AB

BEFORE THE NATIONAL GREEN TRIBUNAL

Miscellaneous Application No. _____ of 2024

In re:

Ramchandra Mahant

APPLICANT

Versus

M/s Serajuddin & Co and Others

RESPONDENTS

KNOW ALL to whom these present shall come I, Rama Chandra Mahant, S/o Puran Mahant aged about 59 years, At-Banua, Po-Goobardhan, Via/PS-Raisuan, District-Keonjhar, Odisha -758013 I am the applicant in the abovementioned application and authorized to sign this, do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :- **Sankar Prasad Pani**, Advocates, Plot No 2132/4814 B, Nageswartangi, Bhubaneswar, 751002, Mob-no.9437279278, Email- sankarprasadpani@gmail.com Enrollment no. O-785/07 and **Ashutosh Padhy**, Enrollment no. O-1018/23.

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

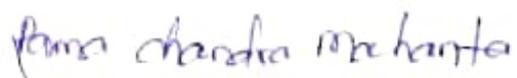
And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 22ND day of March 2024.

Accepted subject to the terms of fees.

 A Padhy

Advocate



Client