

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**EASTERN ZONE BENCH, KOLKATA**  
**ORIGINAL APPLICATION NO-2 of 2024/EZ**

**IN THE MATTER OF**

**TAPAS KUMAR BAL**

**APPLICANT**

Versus

**STATE OF ODISHA &Ors**

...

**Respondents**

**INDEX**

<b>SI NO</b>	<b>PARTICULARS</b>	<b>PAGE NO</b>
1	RESPONSE AFFIDAVIT ON BEHALF OF APPLICANT	1-14

PLACE: Bhubaneswar

DATE: 29/04/2024

**SANKAR PRASAD PANI**



ADVOCATE FOR APPLICANT

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****EASTERN ZONE BENCH, KOLKATA****ORIGINAL APPLICATION NO 2 OF 2024/EZ****IN THE MATTER OF:**

TAPAS KUMAR BAL

**APPLICANT****VERSUS**

STATE OF ODISHA AND OTHERS ...

**RESPONDENTS****RESPONSE AFFIDAVIT ON BEHALF OF APPLICANT TO THE  
REPORT FILED BY COMMITTEE**

I, TAPAS KUMAR BAL, S/o HRUSHIKESH BAL, Aged about 35 years Resident of AT-DEOGAON, Po-KUSHALESWAR, PS-GHASIPURA, KEOUNJHAR hereby solemnly affirm, and declare as under:

1. That I am the Applicant in the above mentioned Original Application. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit. That I have read over the contents of the accompanying Additional Affidavit and the same is true and correct and is drafted on my instruction
2. That except a two page sketchy committee report without addressing the issues raised in OA, no Counter affidavit has been filed by any of the

parties. It is needless to state that the members of committee are party to the lis and specific allegation have been made with relevant documents. Hence in the garb of Committee report the respondents avoiding to file parawise reply is not permissible (**Lohia Properties (P) Ltd., Tinsukia, Dibrugarh, Assam Vs. Atmaram Kumar(1993) 4 SCC 6**)

3. That the applicant further filed one additional affidavit with photographs on 11/03/2024 and same has also not been responded by the committee in its subsequent report.
4. **Quantum of illegal mining:** That the committee consisting Mining Officer, RQP a consultant engaged by the lessee and revenue department have measured the pits using **meter tape, an obsolete method of measurement** where in the DGPS and Drone survey has been the method **adopted in all such cases of illegal mining. No independent person rather measurement by the Agent of lessee makes it more murkier and the correctness of measurement is questionable. Similarly no references given which illegal mining pits have been measured though the illegal sites are both in Keounjhar and Jajpur district as the River separate both the district. As it appers the measurement of pits which are the adjoining the lesase while the allegation with geotagged photographs showing mechaniccil mining upto almost a kilometre strech from the lease area, hence the report not clear the photographs with the GPS locations have been measured.**In the additional affidavit it is alleged with geotagged photos

that around 2KM stretch of river has already been mined in different Mouzas such as Padiapal, Rekutia (Keshadura Pal RI circle), Kochianandim in Keounjhar District and Telibeda, Kumbhanagara and Bangarpata Mouza( Gobardhanpur RI Circle, Jajpur). While measuring the pits officers from Jajpur district were not involved though the committee in first report accept illegal mining done on the Jajpur revenue jurisdiction too.

5. That the report submitted by Mining Department assessing the illegal mining is as follows

a. Total sand mining done is **7365.162 Cum** out of which **6427.545 Cum** carried out within Lease area & **937.617 Cum** outside the Lease area (only Keonjhar side).

b. Sand Mining of **937.617 Cum** carried out outside the Lease area is illegal.

c. As per records (till verification) the Lessee has **dispatched 2496 Cum** of sand (604 Cum through manual TP i.e. Form Y + 1892 Cum through e TP on online Platform of Government).

d. So, **Total 4869.162 Cum of excess sand mining** has been done which includes the mining carried out within & outside the Lease area.

6. That this figure of total mining of 7365 CM is too low to believe for the following reasons. The applicant has submitted an account of one month data of sand loaded vehicles from the lease passed through the village in front of his house and same has been captured in CCTV. The one month data from inventory of vehicles engaged for transportation of sand by the lessee of Kusei Sand Sairat Deogaon suggests that at **least 960 truck load(Hyva) of sand** have been excavated and transported by the lessee

from **8th September 2023** till **8<sup>th</sup>October 2023**.for one moth at least **20, 000 cubic metre** and there by the mining operation continued till march 2024 for 7 months, so in a conservative estimate at least **1,40, 000 Cubic metre** of sand mined out using **4 JCB machines** beyond the lease area

7. The committee report admits that the mining commenced from the Kusei sand bed on dtd. **26.07.2023** by the Lessee under the **Tahasildar, Ghasipura** and then the Sand Mine **handed over to the Mines Department on dtd. 20.11.2023** as per Letter of Revenue & Disaster Management Department, Govt. of Odisha. That this paragraph confirms sand mining during monsoon season and further the responsibility of Tahasildar from 26/07/2023 till 20/11/2023 and there after responsibility of Mining Officer till date.
8. That the report further states that no seizure or fine imposed on the lessee for any illegal mining clearly suggests the collusion of Tahasildar Ghasipura, Mining Officer Anandpur, Deputy Director of Mines Keounjhar with the lessee for which **such a large scale illegal mining in the garb of a lease agreement could continue even after notice issued and brought to the knowledge of the state respondents.** Now the same people under whose nose illegal mining were carried and their inaction despite of complaint being part of the committee are under reporting the

figure of illegal mining and ignoring the GPS photographs of illegal mining.

9. It is further submitted that the mining operation from July till 15<sup>th</sup> October 2023 are completely illegal in view of ban of sand mining during monsoon season and this has been part of the OA but not responded by the committee.
10. It is further submitted that the mining is to be done by manually no JCB is allowed and in this case 4 JCBs were used for mining. **No inquiry about the JCB machines and its seizure as those were illegally used.** The committee observed the use of of JCB machine but also taken the statement of Lessee that same was used only for removing the grass which is contrary to the photographs placed in OA.
11. The applicant has also pointed out the involvement of ruling political party for which the lessee was being given protection by the authorities, hence such a case need to be transferred to Enforcement Directorate or any Central Agency for inquiry into the nexus of the officers and extent of illegal mining. Never the less **the cost of environment and the sand will exceed more than 100 Crores of rupees which is a huge one.**
12. The other surprising aspect is that though the lessee had permission to extract 7000CM but he has used only 2496 with valid transit permits, suggest the lessee was completely mining illegally and transporting the same also illegally without any permit. Despite of knowledge of illegal

mining no FIR has been lodged against the lessee and no steps taken to cancel the lease and revoke the Consent to Operate as well as Environment Clearance.

13. That the Honble NGT in OA 14 of 2023 disposed on 17/7/2023 has directed the SEIAA to revoke the environment Clearance for violation of EC conditions. This order has further been confirmed by a division bench of Honble High Court of Orissa at Cuttack in W.A. No.2051 of 2023, Bikash Swain vs. Krushna Chandra Khatua & Ors. in order dated 19/04/2024.. The relevant portion of NGT order is reproduced as follows

18. In this view of the matter, we find that the Respondent No.6 is guilty of brazenly acting in violation of the EC conditions and, therefore, is liable for payment of Environmental Compensation and other penal action as may be initiated against him by the State Respondents.

19. We accordingly direct the Respondent No.1, State Level Environment Impact Assessment Authority (SEIAA), Odisha, with the logistic support of the Collector & District Magistrate, Jajpur, and satellite imagery, to take steps for determination of Environmental Compensation against the Respondent No.6 for

illegally quarrying sand in violation of EC conditions and proceed to recover the same from the Respondent No.6. The amount of Environmental Compensation shall be recovered from the Respondent No.6 after giving him due notice of the amount so computed as also inviting his objections, if any, to the same and thereafter, proceed to recover the same within a period of three months.

20. The SEIAA, Odisha, shall also take immediate steps for revocation of the Environmental Clearance (EC) included the amended EC granted in favour of the Respondent No.6.

14. That the Applicant had brought to the knowledge of the authorities namely Deputy Director of Mines Officer, Keonjhar District Collector, Keonjhar, Superintendent of Police, Keonjhar and Chief Secretary Government of Odisha, Tahasildar Ghasipura on 7/11/2023 and there after the local goons of lessee have threatened the brother of applicant, hence one FIR lodged with local IIC of Ghasipiura on 10/11/2023 but no action taken,

15. It is evident from the KML file uploaded in the SEIAA website that the lease area is on the Bank of the River Kushei where very less sand deposition

is there. However the lessee and his local agents continue to extract the sand from different stretches of Kushei River both in Keonjhar and Jajpur District by engaging 4 Machines which are evident from photographs annexed with the OA as well as in the present Affidavit. It is further submitted that after the order passed by Honble NGT on 19<sup>th</sup> January 2024 and same is brought to the knowledge of the authorities, the Lessee and his agents have extracted more vigorously using four machines in broad day light suggesting the authorities are hand in glove with the lessee and illegal miners. Never the less the Mining Officer Keonjhar and Deputy Director of Mining Keonjhar along with the Tahasildar Ghasipura has an inherent duty to see no illegal mining takes place. Here is the case the illegal mining continued even after same is brought to the knowledge of the concerned authorities. This inaction and the silent support of the authorities to the illegal miners are also in contempt of the order of this Honble Tribunal dated 19/01/2024.

16. That the day before the inspection on 16/02/2024, one board depicting the sand sairat details was installed and so also few pillars were randomly posted by the lessee which was not existent prior to the visit.

17. That the inspection was carried on 16/02/2024 when the mining operation were completely stopped. That **during inspection the mining officer and the team had not visited the illegal mining site despite of request by the applicants.** Applicant was not informed and when he came to know about the visit, he appraised the team but all his concerns were brushed aside and

completely ignored. On the contrary the Police Officials threaten the applicant to forward him in false cases in any complaint made in respect of illegal mining. Hence the applicants prays for an independent inquiry with members of **CPCB and MoEFCC along with District Collector jajpur or his representative in the team and in presence of applicant.** Further the applicant prays before the Honble Tribunal to call for a report from Superintendent of Police, Keounjhar after visiting the illegal mining sites in presence of applicant.

18. It is submitted that the Local IIC Ghasipura and Sub-divisional Police Officer, Anandpur has a duty to to check illegal sand mining per the 2019 Government order and further the illegal mining amounts to theft of government property, hence the **rampant large scale illegal mining in the garb of a lease agreement is failure of the concerned authorities and involvement in the illegal mining.** All these illegal sand mining and transportation takes place during broad day light and same is impossible without collusion of local police with Mafias. All across the country, Illegal sand mining has been considered to be a **serious crime and offence under Prevention of Money Laundering Act** have been registered against the Mafias as well as the officers who failed to discharge their duties and hand in gloves with the mafias. Hence the applicant prays for a direction to DGP Odisha for inquiry into the roles of local IIC Ghasipura and SDPO Anandpur in the illegal sand mining at Kushei.

19. That the transportation of sand use to take place forcefully on the private land of applicant and his family members. The lessee and his agent namely Niranjan Sahoo with support from local ruling politicians had forcefully constructed road on the private plots of applicants Khata No 119, Plot No 1281, 1282. The road also constructed on land meant for village graveyard and Kushaleswar Temple on plot no 1204, Khata No350. This road is illegally constructed in deviation of road mention in the mining plan. In this regard a complaint has been made to Tahasildar, Ghasipura, Sub-Collector Anandpur, Superintendent of Police, Keounjhar, Deputy Director of Mines Keounjhar, Chief Secretary, Odisha on 7<sup>th</sup> November 2023 through grievance portal and same has been acknowledged by the authorities. However no action has been taken as of now and on the contrary false cases have been filed against the applicant and his family members for pursuing the litigation before Honble NGT.

20. That presently the illegal mining operation takes place during night using four machines which they park at Kochianandi Mouza and operate in the night, The impression of Tyre of Hyvas and machines, pond like pits in the river because of mining, heaps of sand stocked after mining and all these are evident from the photographs dated 8<sup>th</sup> March 2024 suggesting the illegal mining is ongoing, Such a large scale organised mining is not possible without collusion of government authorities.

21. That the involvement of Mining Officer Tarini Singh and Deputy Director of Mines, Keonjhar Mr Bishnupad Rout is evident from the fact that no action has been taken in terms of seizure of machine and vehicles which were operating on day to basis for illegally mining, So also role Tahasildar Ghasipura in whose jurisdiction all the illegal mining takes place is questionable. Even one incident of drowning of One child of Telibeda in the deep pits in river due to illegal mining was reported but no action against any body.

22. The letter of Superintendent Engineer Baitarani Irrigation Division Salapada dated 11/03/2024 is a one line statement that there is no change in flow of direction due to sand mining is without any study and without comparing the historical imagery of the river at the site suggesting the change for which no sand at the present lease area as the flow of the river has drifted to other side and this side does not get any sand as no flow..

23. That the illegal mining has resulted in loss of **more than 100 crores of rupees to the state exchequer** because of the inaction and involvement of government authorities in operation of illegal mining, the applicant prays for measurement of the quarry as well as the illegal sites mention in this affidavit through Drone Survey by an empanelled agency of ORSAC. Considering the illegal mining admitted by committee criminal prosecution against the lessee and against the the Tahasildar Ghasipura, Mining Officer Anandpur for direct involvement in supporting the illegal mining and resulting loss to state

exchequer. For dereliction of duty of post monitoring of EC and CTO conditions, the responsibility of erring officers in SEIAA and State Pollution Control Board Odisha may be fixed apart from revocation of EC and CTO.

APPLICANT THROUGH

A handwritten signature in black ink, appearing to read "S. Panigrahi", written over a horizontal line.

ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO 2 OF 2024/EZ

IN THE MATTER OF:

TAPAS KUMAR BAL

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

**Affidavit**

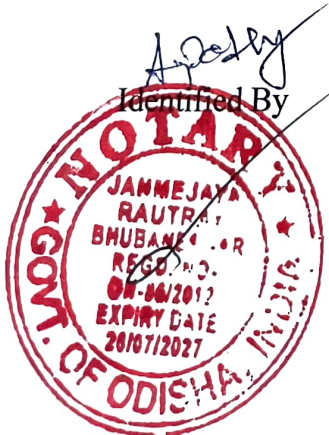
I, TAPAS KUMAR BAL, S/o HRUSHIKESH BAL, Aged about 35 years  
Resident of AT-DEOGAON, Po-KUSHALESWAR, PS-GHASIPURA,  
KEOUNJHAR hereby solemnly affirm, and declare as under:

1. That I am the Applicant in the above mentioned Original Application. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying Affidavit and the same is true and correct and is drafted on my instruction

*Tapas Kumar Bal*  
DEPONENT

**VERIFICATION**

Verified on this the *29th* day of *April*.... 2024 at *2024*.. 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.



Identified By *[Signature]*

The above named deponent(s) being  
tuly identified by Sri. *S.P. Jena*  
Advocate, Bhubaneswar

Appears before *[Signature]*  
a. *[Signature]* A.M. *29 APR 2024*  
on oath the contents of the above affidavit  
are true to the best of my personal  
knowledge and belief

Deponent(s) *Tapas Kumar Bal*  
Notary, Bhubaneswar *[Signature]*  
REGD. NO-UN-88/2012  
Mob. No. - 9337121273