

Eighty-nine thousands forty-seven) as royalties and other charges, which is cristal clear from the Annexure-III (Page No. 359) of the Affidavit filled by the SEIAA, Odisha.

4. That the Environment Clearance (EC) was issued for the Damanbhuin Stone Quarry-A over a lease area of 10.23 acres or 4.139 Ha. at Mouza Damanabhuin, Tahasil – Tangi, and District- Khordha, Odisha by State Level Environment Impact Assessment Authority (SEIAA), Odisha vide letter no. 1660/SEIAA, dated 06.07.2021 in favour of Tahasildar, Tangi and valid till expiry of Lease Deed i.e from 24.04.2027.

5. That, the Tahasildar,Tangi requested to SEIAA, Odisha, Bhubaneswar to transfer of Environment Clearance (EC) in favor of the Present Respondent, who is the successful Bider under the Provision of OMMC Rules, 2016 for operationalization of the sairat source. The Proposal was considered by the SEIAA and EC was transferred in favour of this Respondent on 15.03.2022 as recommended by the Tahasildar, Tangi. The Consent to Establish (CTE) was issued in favor of the present Respondent on 29.06.2022 by the State Pollution Control Board(SPCB) and Consent to Operate (CTO) was issued on 15.07.2022 and 19.06.2023 for the said quarry i.e. Plot No. 2161(P), Khata No. 708.

6. That, the present Respondent operated only on the allotted plot as quarry with the norms and guidelines set by the appropriate authorities. The present Respondent have already paid the amount of the excess mining as obseved by the Tahasildar, Tangi time to time as per the calculation of Tahasildar, Tangi which is mentioned in Para No. 14 of

this affidavit. Other than that, the allegation of excess mining from the allotted plots and other plots is baseless and absurd.

7. That, the present Respondent has not violated any Environmental laws and provisions rather complied with all the terms and conditions set by the different authorities.

8. That, One Yudhistir Udaysingh, S/o Kunja Bihari Udaysingh and another Biswanath Behera, S/o Bula Behera, both are resident Village/PS – Jankia, Dist – Khordha was involved in illegal mining from Damanbhuin Laterite Stone Quarry –‘A’ and adjoining area. Even after the lease of the said quarry in favour of the present Respondent, they are forcefully and illegally extracting the minor minerals from the said quarry and adjoining area. Even they threatened the present Respondent and his attorney holder not to come to the mining area. The attorney holder of the present Respondent has submitted a representation dated 23.06.2022 to the Tahasildar, Tangi regarding the theft of minor minerals and illegal mining in the said area and requested for legal against them. This representation is on the record of this Hon’ble Court as Annexure – R/1(Page No. 123) of the Counter affidavit filled by the present respondent. The Tahsildar, Tangi is forwarded this representation to the Revenue Inspector, Achyutpur for inquiry and necessary action.

9. That, Revenue Inspector, Achutpur after due inquiry found the allegation against both Yudhistir Udaysingh and Biswanath Behera is true. As per the letter No. 236, dated 23.06.2022 sent by the RI, Achyutpur to the Tahasildar, Tangi, as per inquiry and measurement by the Geologist, it is found that both Yudhistir Udaysingh and Biswanath Behera excavated volume of 8162 MGQ of laterite stone from the said quarry. The Annexure-III (Page No. 360-363) of the Affidavit filled by the SEIAA, Odisha also relied upon the report of the RI, Achutpur.

10. That, The Tahasildar, Tangi lodge a complaint against both Yudhistir Udaysingh and Biswanath Behera in Jankia Police Station, Khordha on 24.06.2022 and request for stringent action them. The calculation of the demands for illegal minor minerals is Rs. 18,89,047/- (Rupees Eighteen Lakh Eighty-nine thousand forty-seven) as per the complaint of the Tahasildar, Tangi to the local police station. The Annexure-III (Page No. 359) of the Affidavit filled by the SEIAA, Odisha has relied upon this complaint of the Tahasildar, Tangi.

11. That, the most interesting fact of the case is the Petitioner of the present case is paternal nephew of the Biswanath Behera who is an accused in illegal mining and F.I.R vide No. 237, dated 25.06.2022 was lodged against him in Jankia Police Station U/s 21 of Mines and Minerals (Regulation of Development) Act 1957 and Sections 34 and

379 of IPC . Biswanath and his partner Yudhistir Udaysingh was involved in illegal mining from the said quarry and in was established after the due inquiry by the RI, Achyutapur with help of Geologist. As a counter blast against the present Respondent, Present petition is filled against the present Respondent as a result of peronal enmity and grudge as the Respondent had given complaint against them to the Tahasildar, Tangi and Tahasildar Tangi has initiated action against them. The copy of the FIR No. 237 dated 25.06.2022 at Jankia Police Station has annexed as Annexure – R/4(Page No. 128-132) in the Counter Affidavit dated 21.02.2024 filled by the present Respondent and already placed on the record of this Hon'ble Tribunal.

12. That, the uncle of the petitioner and his partners are habitual offenders with involvement crime related to illegal mining and other related crimes and there are many case registered against in Jankia Police Station. In 2021, FIR No. 127 was registered against the uncle of the Petitioner Biswanath Behera alias Bisia Behera and 14 others U/s 186,379,411 of IPC and section 12 of Orissa Minerals (Prevention of theft, Smuggling and other Unlawful Activities) Act 1989. Again another FIR is also lodged recently on 09.09.2023 vide FIR No. 301 in Jankia Police Station U/s 68 of Orissa Minor Minerals Concession Rules, 2004 and Sections 34, 379, 447 of IPC against the Yudhistir Udaysingh, the illegal partner of the uncle of the petitioner. So, they are

involving in illegal mining, theft and smuggling of minor minerals. After lease has been granted in favour of the present Respondent, they are became revengeful mood and started fake cases against the present Respondent. This Original Application before Hon'ble NGT is a part of it as the petitioner is the nephew of the one of the accused in several mining theft and smuggling cases. These FIRs are also part of the records of this Hon'ble Tribunal in the present O.A. as Annexure – R/5 (Page No.134 to 149) of the Counter affidavit dated 21.02.2024 filled by the present Respondent.

13. On the other hand the paternal uncle of the petitioner Biswanath Behera along with the other people listed below of the locality is doing illgal mining in the said quarry and adjacent areas : i) Yudhistir Udaysingh, S/o Kulamani Udaysingh, Village – Jankia, Dist – Khurdha, Odisha, ii)Biswanath Behera, S/o Bula Behera, Village – Jankia, Dist – Khurdha, Odisha, iii)Sachi Guman Singh, Village – Jankia, Dist – Khurdha, Odisha, iv)Kuna Jena, Village – Baligadia, Jankia, Dist – Khurdha, Odisha, v)Bisia Behera, Village – Baligadia, Jankia, Dist – Khurdha, Odisha, vi)Nagen Jena, Village – Baligadia, Jankia, Dist – Khurdha, Odisha, vii)Sanjay Udaysingh, Village – Baligadia, Jankia, Dist – Khurdha, Odisha, viii)Deepak Behera, Village – Baligadia, Jankia, Dist – Khurdha, Odisha, ix) Sipu Harichandan, Village – Baligadia, Jankia, Dist – Khurdha, Odisha, x)The Supervisor,

Cashew Development Corporation, Village – Jankia, Dist – Khurdha, Odisha, xi) Rakesh Champati, S/o Ashok Champati, Village – Mundambo, Jankia, Dist – Khurdha, Odisha. The present respondent has filled an I.A. dated 24.04.2024 with a prayer to Hon'ble Commission to implead these 11 persons as parties to the case as they are involved in illegal mining in the quarry in questions and legal and criminal proceedings are initiated against them. Therefore, for their illegal act they should be liable for any penalty or Environment Compensation, not the present Respondent.

14. The stone quarry is operating with due process of law fulfilling all the terms and conditions prescribed under law. The respondent has been depositing Royalty and all other Government fees as per the the rules. In the affidavit of SEIAA, Odisha dated 23.04.2024, it is mentioned in Annexure – III (Page No. 353 to 358) how the respondent has complied the all demands of penalty by the Tahasildar time to time. The respondent deposited following amount towards excess quantity extraction of minor mineral as per the direction of Tahasildar Tangi which is undisputed facts. Date wise payment towards Royalty and Penalty is given below :

- 1) 18.01. 2023
 Royalty – Rs. 2,03,220/-
 Penalty – Rs. 1,71,780/-

Total – Rs. 3,75,000/- (Rupees Three Lakhs seventy five thousands only)

2) 25.01. 2023

Royalty – Rs. 2,03,220/-

Penalty – Rs. 1,46,780/-

Total – Rs. 3,50,000/- (Rupees Three Lakhs fifty thousands only)

3) 06.02. 2023

Penalty – Rs. 25,000/-

Total – Rs. 25,000/- (Rupees Twenty Five thousands only)

4) 20.05. 2023

Royalty – Rs. 4,98,620/-

Penalty – Rs. 1,80,000/-

Total – Rs. 6,78,620/- (Rupees Six lakhs Seventy Eight thousands Six hundred twenty only)

5) 31.05. 2023

Royalty – Rs. 2,98,620/-

Penalty – Rs. 1,80,000/-

Total – Rs. 4,78,620/- (Rupees Four Lakhs seventy eight thousands six hundred twenty only)

6) 26.05. 2023

Royalty – Rs. 2,00,000/-

Total – Rs. 2,00,000/- (Rupees Two Lakhs only)

This is also confirmed by the SEIAA, Odisha at Annexure- III (page No. 354-358) in its affidavit dated 23.04.2024. So, the respondent has already submitted Royalty and Penalty as above for excess mining as measured by the Tahasildar, Tangi. Now, for the same allegation the Respondent can not be liable for extra fine.

15. PARA WISE REPLY TO THE AFFIDAVIT OF RESPONDENT NO.4/DM, KHORDHA, DT. 25.01.2024:

- i. That, para 1 to Para 3 need not require any reply from the present Respondent.
- ii. That the contents of the para 4, It is fact that Joint Committee had visited the Site on 11.10.2023 and observed that the lease holder/Present Respondent has only operated in allotted plot No. 2161(P) and not not operated the adjoining forest Plot No. 2162. There was no tree falling was notice from plot No. 2162. The Committe also obeseved that no machinary equipment is found in the lease area. As the committee instructed Tahasildar, Dy. Director of Mines, Khordha Circle and Mining Officer, Khurdha to inspect the suit area frequently and remain careful for future compliance. So, the present respondent. So, from the report of the Joint Committe(Annexure-D/4 of the Affidavit of DM, Khordha, Page No. 99-102), there is no violation of any law and all the mining is done on allotted plot as per the law following all the terms and conditions prescribed by the various regulatory and monitoring authorities.
- iii. That, with regard to contents of para 5 to 11 on illegal mining is denied by the present Respondent as the mining operation was being done as per the provisions of law. On the other hand the paternal uncle of the petitioner Biswanath Behera along with the other persons of the locality is liable for the illegal mining in the said quarry area and adjacent areas against whom Tahasildar, Tangi has given FIR and also

imposed fine and police has registered several cases. An I.A. has been filled by the present Respondent to implead these persons as parties in the case.

16. PARA WISE REPLY TO THE AFFIDAVIT OF RESPONDENT NO.9/SEIAA,ODISHA DT. 23.04.2024:

- i. That, para 1 to Para 3 need not require any reply from the present Respondent.
- ii. That, with regard to contents of Para 4, It is fact that Joint Committee had visited the Site on 11.10.2023 and observed that the lease holder/Present Respondent has only operated in allotted plot No. 2161(P) and not not operated the adjoining forest Plot No. 2162. There was no tree falling was notice from plot No. 2162. The Committe also obeseved that no machinary equipment is found in the lease area.
- iii. That, with regard to contents of Para 5, it is correct and as far as compliace part is concerned all the conditions of Environmental Clearance have been complied and the present Respondent is ready to submitted any compliance as and when it is required by the Respondent No. 9 and other regulatrory bodies.
- iv. That with regard to contents of Para 6, it is denied as far as excess mining is concerned the present Repondent has already submitted Royalty and Penalty as mentioned in Paragraph No. 14 above for excess mining as measured by the Tahasildar, Tangi. Now,

for the same allegation the Respondent can not be liable for extra fine, where as real mining mafias are moving freely though penalty is imposed against them and FIRs are registered against them.

v. That, para 7 to Para 9 does not require any reply.

17. That the facts which are not specifically admitted here in above is deemed to have been denied. The present Respondent reserves his right to file additional affidavit and documents if need arises at the time of hearing.

18. That in view of the above facts and legal position the present Original Application is liable to be dismissed with cost and the present Respondent is not liable for fine and Environmental Compensation for excess mining if any as pointed out by the Joint committee as the paternal uncle of the petitioner Biswanath Behera and other persons are being illegal extracted mines from the said land and adjacent land as per the reports of Tahasildar and police.

CUTTACK
DATE:- 14.05.2024

By the Respondent -13 through Counsel



Akhand, Advocate
B.C.E. No.O-269/2023. Ph:7008816891

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 122 /2023/EZ

IN THE MATTER OF: -

Ajay Behera Applicant
-VERSUS-
State of Odisha & Ors. Respondents

AFFIDAVIT

I, Sri Prahallad Biswal, aged about 32 years, S/o- Purna Chandra Biswal At- Kaithapalla, Po-Biribadi, Dist- Khordha, State- Odisha, do hereby solemnly affirm and state as follows:-

1. That I am the Respondent No. 13 in the above mentioned application and competent to swear this affidavit.
2. That I have read over the contents of the accompanying affidavit and the same are true to the best of my knowledge and belief and is drafted on my instruction.

Prahallad Biswal
DEPONENT

VERIFICATION

Verified on this the 14th day of May 2024 at CUTTACK 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:
Akhanda
Advocate

Prahallad Biswal
DEPONENT

The above named Deponent
Solemnly affirm on.....
..... Being identified
by.....

Surendra Prasad Dhal
Advocate
NOTARY, CUTTACK



P. P. S. Roy
Akhanda
Surendra Prasad Dhal
24/5/2024

Proof of Service

The screenshot displays a Gmail email interface. At the top, the browser address bar shows '1 of 782' and navigation icons. The email subject is 'Copy of Objection Affidavit by R-13 in OA No. 122/2023/EZ served' with an 'Inbox' label. The sender is 'Akhand, <akhand111@gmail.com>' with a list of addresses: 'to: csori, revsec.od, fsec.or, dm-khordha, spkda.orpol, dfokhordha, member.secy, rospcb.bhubaneswar, tah.tangkh-od, roez.bsr-mef, dimines_odisha, seiaaodisha'. The email is timestamped '9:40 PM (0 minutes ago)'. The body text reads: 'Sir/Madam, Please see the copy of Objection Affidavit by R-13 in OA No. 122/2023/EZ. regards Akhand, Advocated for R-13 M. 7008816891'. Below the text, there is one attachment: 'Scanned by Gmail' with a PDF icon and the title 'Objection Affidavi...'. At the bottom, there are buttons for 'Reply', 'Reply all', 'Forward', and a smiley face icon.