

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

O.A. No.02 of 2024/EZ.

Sri Tapas Kumar Bal. ... Applicant.

-Versus-

State of Orissa & others. ... Respondents.

**COUNTER AFFIDAVIT FILED ON BEHALF
OF THE RESPONDENT/OPP.PARTY NO.9.**

I, Sri Bishnupada Rout, aged about 52 years, Son of Bansidhar Rout, at present working as Deputy Director, Mines, Keonjhar, Dist: Keonjhar, Odisha, do hereby solemnly affirm and state as follows:-

1. That I am Respondent/Opp.Party No.9 in this case and swearing this affidavit for self.

2. That I have gone through the abovementioned original application and have understood the contents thereof. In my official capacity I am well acquainted with the facts of the case and thus competent to swear this affidavit.

3. That the aforesaid original application has been filed by the applicant before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata challenging the action of the State Respondents in

Prady
PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995



Bishnupada Rout

Tapas Kumar Bal

curbing the illegalities and violation of Sustainable Sand Mining Management Guidelines 2016, environment norms by the private respondent in operating the Kusei Sand Bed, Deogaon over an area of 11.50 acer 4.654 ha in village: Deogaon of Ghasipura Tahasil under Keonjhar district and the said sand mining operation is in violation of Standard Environment Clearance Conditions and Sustainable Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020, Odisha Sand Policy 2021, EIA Notification and Supreme Court order and order of Hon'ble NGT.

4. That the averments made in paragraph-1 of the original application call for no reply from this deponent.

5. That in reply to the averments made in paragraph-2 of the original application, it is humbly submitted that the Sand lease over an area of 11.5 Acres / 4.56 Hects. in Kusei River Sand Bed, Deogaon under Ghasipura Tahasil has been Granted & Executed on 10.07.2023 and allowed operation on 26.07.2023 by the Tahasildar, Ghasipura and handed over to the Mining Officer-cum-Competent Authority of Anandapur Sub-Division on 17.11.2023 pursuant to order No.698 dated 6.10.2023 issued by the Director of


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Regd. No-ON-04/1995

Bachchanda Pat

PKM

Minor Mineral, Steel and Mines Department, Government of Odisha. So prior to hand over the same, entire Administration and Statutory compliance was responsibility with Revenue Department i.e Tahasildar, Ghasipura. Copies of the hand over Check-List dated 17.11.2023 and Letter No.698 dated 6.10.2023 are annexed herewith as **Annexures-A/9 & B/9** respectively.

6. That the averments made in paragraphs-3 to 11 of the original application call for no reply from this deponent.

7. That in reply to the averments made in paragraph-12 of the original application, it is humbly submitted that at the time of taking possession from the Revenue Department, the boundary pillar has been posted in the leasehold area in presence of Revenue Officials as per the boundary co-ordinates of mining plan prepared by the "Recognised Qualified Person" (in short RQP and the RQP is the qualified person granted recognition under Orissa Minor Mineral Concession Rule, 2016 for preparation of Mining Plan of Sairat Sources) in consultation with the Government in Revenue Department and approved by the Authorized Officer-cum-Geologist, Office of the Joint Director, Geologist, Keonjhar. As per the Check-List under Annexure-A/9 jointly signed by the Revenue

Discharge Part

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Regd. No-ON-04/1995

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Department, there is no mention of any discrepancies the lease boundary of sairat sources.

8. That the averments made in paragraph-13 of the original application call for no reply from this deponent.

9. That in reply to the averments made in paragraph-14 of the original application, it is humbly submitted that the Pillar Nos-8 & 9 are situated near by the river bridge but there is a 300 mts. safety zone area within the lease area from pillar Nos-8 & 9 to pillar Nos- 4 & 13 which is debarred from Mining work as reported by the Competent Authority-cum-Mining Officer, Anandapur Sub-Division, Keonjhar.

10. That in reply to the averments made in paragraph-15 of the original application, it is humbly submitted that the Mining plan was approved by the Geologist-cum-Authorized Officer, Office of the Joint Director of Geology, Keonjhar vide letter No.418 dated 23.02.2023. Copy of letter No.418 dated 23.02.2023 is annexed herewith as **Annexure-C/9**.

11. That the averments made in paragraphs-16 to 21 of the original application call for no reply from this deponent.

Bishampada Rout

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12. That in reply to the averments made in paragraph-22 of the original application, it is humbly submitted that the said Sairat source has taken over on 17.11.2023 from Revenue Department by the Mining Officer-cum-Competent Authority under Orissa Minor Minerals Concession Amendment Rules, 2023 who is in-charge of Anandapur Sub-Division, Keonjhar for management of Minor Minerals as per the above said Rules. At the time of hand over, Government in Revenue Department has not reported any irregularity/illegality/excess in mining etc.

The lessee has obtained Environmental Clearances (EC) vide EC23B001OR180821 dated 27.04.2023 for a period of 2(Two) years with permitted quantity of river sand of 7000 CUM for the 1st year and 1750 CUM for the 2nd Year respectively.

As per SEIAA Guideline, the lessee has to made replenishment study report by December, 2024 for grant of Environmental Clearance for further period.

13. That the averments made in paragraphs-23 to 30 of the original application call for no reply from this deponent.

14. That in reply to the averments made in paragraph-31 of the original application, it is humbly submitted that the mining plan has not been approved

Biswajit Das

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by the Deputy Director of Mines, Keonjhar. In this context, it is respectfully submitted here that, the Mining plan has been approved by the Geologist-cum-Authorized Officer, Office of the Joint Director Geology, Keonjhar vide letter No.418/CZ/ dated 23.02.2022 for a period of 5(Five) years under Annexure-C/9.

15. That the averments made in paragraphs-32 to 40 of the original application call for no reply from this deponent.

16. That in reply to the averments made in paragraphs-41 and 42 of the original application, it is humbly submitted that the Government in Steel & Mines Department has already implemented the Technical software platform such as Integrated Minor Mineral Mining Management System (in short I4MS) is an centralized automated system to track and monitor the Minor Mineral activities in an effective and efficient manner from source to destination by generation of e-transit passes having barcode as a Security features.

It is further humbly submitted that after taken over the source by the Mining Officer-cum-Competent Authority, Anandapur Sub-Division, Keonjhar (Steel & Mines) on 17.11.2023, the lessee has dispatched 1924

Pradipta Kumar Mohanty

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995

Bishnu Prasad Rout

CUM by using 100 numbers of e-transit pass through I4MS system portal till 31.03.2024.

17. That the averments made in paragraphs-43 to 50 of the original application call for no reply from this deponent.

18. That the Respondent carves the leave of the Hon'ble Court to file fresh affidavit, it required in the interest of the lis.

19. That the original application is otherwise improper unjustified and as such is liable to be dismissed.

20. That the facts stated above are true to the best of my knowledge and belief based on official records.

Bisnupada Rout

Identified by:-

Sowati Palwaik
Advocate

Bisnupada Rout
Deponent. 29/4/24

Certificate

Certified that the cartridge papers are not readily available.

Kolkata

Date: 29.04.2024

Sowati Palwaik
Addl. Government Advocate.

Solemnly sworn to by me by..... *Bisnupada Rout*
being Identified by..... *S. Patraik Advocate*
at Cuttack Town Dated..... *29/04/2024*

P.K. MOHANTY, Notary, Cuttack Town
Regd. No-ON-04/1995



CHECK LIST FOR TRANSFER OF FILES OF SAIRAT SOURCES (SAND & STONE etc.)

File Number		02/2021-22		
Name of Tahsil/ District		GHANPURA/ KONDUR		
Name of the lease of Sairat Source		KUCBI RIVER SAND BED, DEOGAN		
Mineral Name:		SAND		
In which river (if sand)		KUCBI		
Location of the Source		Area: 11.50	Mouza Deogam	
		Land Schedule Enclosed in Separate Sheet		
Present status of the lease/Sairat		operational.		
1 (A).	Status of Boundary Pillars: (Whether pillars have been posted and DGPS (ORSAC) Survey done.)	1		
(B).	Co-ordinates of Boundry pillars	P1 - 21° 09' 25.63" 86° 02' 40.93" P2 - 21° 09' 28.48" 86° 02' 40.25"	P3 - 21° 09' 40.48" 86° 02' 52.92"	P4 - 21° 09' 39.33" 86° 02' 59.26"
2	Case Record file contains number of pages/C.R note sheet etc.			
3 (A).	Whether the source is Virgin or was operational in past: If virgin mention the Reserve quantity			
(B).	Details of operational history of the source.			
4 (A).	Last Auctioned details (DD-MM-YYYY)	Period	From	To
			10.07.2023	09.07.2028
(B)	Additional information on Auction			
(C)	MGQ details of above mentioned auctioned sources	Period: From.....to MGQ..... Additional amount and additional quantity etc of the auction may be annexed.		
(D)	Performance details (permitted Quantity of mineral allowed)			
5	Mining Plan Period	Date of Approval	Validity From	Validity To
			10.07.2023	09.07.2028

Some Copy attached

Sd/-
02/29/24

	Copies of all Mining plans available till date			
	Copies of lease deed executed			
7	Status of DGPS Survey by ORSAC	Surveyed date	Authenticated by	Whether any mismatch with the land schedule / village sheet; if found what action has been taken.
8	Status of Statutory Clearances (EC, CTO, CTE) and related documents	Date of Grant and Quantity per Annum	Validity From	Validity To
(A)	Environmental Clearance details	Ec available in e/f		
(B)	CTO Details	C.T.O available in e/f		
(C)	CTE Details with copies	⊙ —		
9	Replenishment Study Report	Date and year of study. Replenishment factor. Reference.		
10	Violation Compliance	No of violations Complied by the lessee	No of violations Raised	Action taken
11	Form-P (Quarterly Return)			
12	Form-K (Annual Return)			
13	Accident Incident Report			
14	Bank Guarantee			
15	Outstanding dues if any (Dead Rent/Surface Rent/Royalty etc.) Deposit Details			
16	Form-W (Quarry Lease Register)	Regulatory check as per M.T.A		
17	Enforcement/ Check measurement under taken by DGPS/Drove/ Total Station survey and findings if any. Action taken. Survey reading data may be furnished.			
18	Legal complicity/ litigation/Court cases (if any)			
19	Remaining Resource/reserve.			
20	Other/ additional Informations/ documents if any			

7 mms 6/11/21

D.A.
29/11/21

Certified that the above information are true to the best of my knowledge.

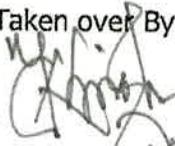
Certified that the Govt. dues like Royalty, Surface Rent, Dead Rent, DMF, NMET, TDS etc. have been demanded as due and recovered from the above Sairat.

Certified that the above Sairat is free from litigation and no case is pending in any Court of Law, violations have been duly complied by the lessee.

I do undertake that I shall withdraw the unused Transit books and counter foils of used transit books (Y-From) of the above sairat and deposit with the competent authority within a period of two weeks.

The above file of sairat is being handed over to the Competent authority, Office of the Deputy Director of Mines, Keonjhar Circle as per the order of Steel and Mines Department vide letter No. 4395, Dt. 01.05.2023 and as discussed in the V.C. on 04.05.2023..

Taken over By


14/11/23
Competent Authority-cum-
Mining Officer,
O/o The Dy. Director Mines
Keonjhar

Handed over by


TAAHAIL DAR
CHASHIRA

True Copy


29/11/23

**GOVERNMENT OF ODISHA,
STEEL & MINES DEPARTMENT
DIRECTORATE OF MINOR MINERALS**

File No. SM-DMM-0078-2023-

698

Dated: 06/10/2023

From

**The Director of Minor Mineral, Odisha
Bhubaneswar**

To

**All Deputy Director of Mines (except Joda, Koira)
All Mining Officer**

Sub:- Declaration of Competent Authority for management of Minor Mineral as per OMMC (Amendment) Rule, 2023.

Consequent upon promotion and transfer of Mining Officer vide Govt. Order No.9688/SM dt.22.09.2023 the following officers are declared as Competent Authority of respective districts of Odisha in suppression of all the previous Order, as per OMMC (Amendment) Rule, 2023.

This order shall come into force with immediate effect.

Sl No.	Name of the Circle Office	Name of the District	Name of Subdivision	Name of Competent Authority.
1	Kalahandi	Kalahandi	All	Sri Mularidhara Nayak, MO
		Nuapada		Sri Durga Prasad Pani, MO
2	Bolangir	Bolangir	All	Sri Chandrakanta Mohanta, Geologist
		Subarnapur		Sri Udayabhanu Sahoo, MO
3	Phulbani	Kandhamal	All	Sri Iswar Chandra Pradhan, MO
		Nayagarh		
		Boudh	All	Sri Manohara Mohanta, MO

The list attached

*BB
29/10/23*

4	Bhadrak	Mayurbhanj	All	Sri Dillip Kumar Mahana, MO
		Bhadrak	All	Sri Anil Kumar Das, MO
		Balasore	All	Miss Santosheeprava Sethy, Geologist
5	Talcher	Angul	All	Sukesmita Majhi, Geologist
		Dhenkanal		Sri Dambarudhara Mahanta, MO
6	Sambalpur	Jharsuguda	All	Sri Chudamani Biswal, MO
		Deogarh Sambalpur	All	Sri Bijaykumar Sahoo, MO
		Baragarh	All	Sr Ajaya Pradhan, MO
7	Rourkela	Sundargarh	Sundargarh	Sri Samyak Das, Geologist
			Banei	Preetipriyambada Mohapatra, Geologist
			Panposh	Sri Bira Kishore Trikey, MO
8	Cuttack	Cuttack	All	Sri Sambit Kumar Sahoo, MO
		Kendrapada	All	Sri Rajendra Prasad Khuntia, MO
9	Khordha	Khordha	All	Sri Jagan Behera, Geologist
		Puri	All	Sri Samir Mishra, MO
10	Jajpur	Jajpur	All	Sri Jhasketan Sethy, Geologist
		Jagatsinghpur	All	Sri Satish Kumar Tarai, MO
11	Keonjhar	Keonjhar	Keonjhar	Sri Antaryami Sahoo, MO
			Anandapur	Sri Tarini Kumar Singh, MO
			Champua	Suprava Subhadarsini Nayak, Geologist

Time left attached

29/7/24

12	Jaipur	Koraput	All	Sri Krushna Chandra Khuntia, MO
		Rayagada	All	Sri Parsuram Pradhan, Geologist
		Malkanagiri	All	Sri Satyendra Sardar, Geologist
		Nabarangpur	All	Sri Aditya Acharya, MO
13	Berhampur	Ganjam	Berhampur, Chatrapur	Sri Kriti Ranjan Seth, MO
			Bhanjanagar	Sri Akshya Samal, MO
		Gajapati	All	Sri Dipen Parida, Geologist

Yours faithfully,


DIRECTOR OF MINOR MINERAL, (O)

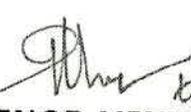
Memo No. 699 /DMM, dt. 06/10/2023

Copy forwarded to Spl. Secretary, Steel & Mines Department for kind information.


DIRECTOR OF MINOR MINERAL, (O)

Memo No. 700 /DMM, dt. 06/10/2023

Copy forwarded to Director of Mines & Geology, Odisha for information.


DIRECTOR OF MINOR MINERAL, (O)

Memo No. 701 /DMM, dt. 06/10/2023

Copy forwarded all Collectors for information and necessary action.


DIRECTOR OF MINOR MINERAL, (O)

The copy attached Page 3 of 3


29/10/23

ANNEXURE-C/9.

20346
02.04.22

GOVERNMENT OF ODISHA
OFFICE OF THE JOINT DIRECTOR GEOLOGY,
KEONJHAR

Tel/Fax: 06766-255566 / E. mail Id- jdgkjr@gmail.com

Letter No. - 412 /CZ, dt. 22.03.22

From

Smt. A. Behera, Geologist & Authorised Officer,
O/o the Joint Director Geology, Keonjhar

To

The Tahasildar, Ghasipura Tahasil,
Dist.: Keonjhar, Odisha

Sub:

Approval of mining plan in respect of "KUSEI SAND BED" over an area of 11.50 Acres or 4.654 hectares in village Deogaon of Ghasipura Tahasil, Keonjhar district settled in favour of Tahasildar Ghasipura, Dist- Keonjhar, Odisha. Plan period for Five Years.

Sir,

In exercise of powers conferred by rules 28(5) of Odisha, Minor Mineral Concession (Amendment) Rules 2016. Read with Govt. of Odisha, Steel & Mines Department, order No. 2016/SM Dt. 10.03.2016, the Modified Mining Plan submitted by Sri Pabitra Kumar Swain, RQP. Regd. No. RQP/OD/041/2016 in respect of above cited quarry lease is hereby approved for Five Years. subject to the following conditions.

1. The mining plan is approved without prejudice to any other law applicable to the quarry/area from time to time, whether made by Central Government, State Government or any other authority.
2. The mining plan is approved without prejudice to any order or direction from the court of competent jurisdiction.
3. The approval of aforesaid mining plan does not in any way imply the approval of the Government in terms of any other provisions under Odisha Minor Mineral Concession (Amendment) Rules 2016 or any other laws.
4. The approval of mining plan is subject to provision of Forest (Conservation) Act.1980 and rules made there under and other relevant statutes and guidelines as they may be applicable to the lease area from time to time.
5. The approval of the mining plan is based on the information provided by the concerned RQP and if anything is found to be concealed in the contents of the mining plan, the approval shall be deemed to have been withdrawn with immediate effect.
6. The boundary pillars of the quarry area shall be maintained in good order throughout the subsistence of the lease.
7. The approval is subject to strict compliance by the lessee in respect of the observation made in the mining plan which shall be monitored during field visit by the competent authority.
8. Provision of the Mines Act,1952 and Rules & Regulations made there under including submission of notices of opening, appointment of managers and other statutory personnel as required by the Act, shall be complied with and if anything is found to be concealed in the contents of the mining plan, this approval shall be deemed to have been withdrawn with immediate effect.

For Govt. attested
SA
21/4/22

9. The approval of mining plan is subject to submission of required Financial Assurance in shape of Bank Guarantee in favour of the competent authority before execution of the quarry lease.

You are requested to monitor the commitments made by the concerned RQP on behalf of the applicant in the approved Mining Plan during the concession period. A copy of the approved Mining plan in respect of the above cited quarry lease is submitted herewith for necessary action.

Encl.: As above

Yours faithfully,

A. Behera
23.02.22

Smt. A. Behera, Geologist & Authorised Officer
O/o the Joint Director Geology, Keonjhar

Memo No. /CZ, dt.

Copy along with a copy of the approved mining plan submitted to the concerned RQP, Sri Pabitra Kumar Swain, RQP, Regd. No. RQP/OD/041/2016, Keonjhar for information and necessary action.

~~Smt. A. Behera, Geologist & Authorised Officer
O/o the Joint Director Geology, Keonjhar~~

Memo No. /CZ, dt.

Copy submitted to the Sub-collector, Keonjhar for information and necessary action.

~~Smt. A. Behera, Geologist & Authorised Officer
O/o The Joint Director Geology, Keonjhar~~

Memo No. /CZ, dt.

Copy along with a copy of the approved mining plan submitted to Smt. A. Behera, Geologist & Authorised Officer, O/o the Joint Director Geology, Keonjhar for information and necessary action.

~~Smt. A. Behera, Geologist & Authorised Officer
O/o The Joint Director Geology, Keonjhar~~

True Copy attested

29/1/22