

SL. NO. 36

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

**O. A. No. 77/2024/EZ
(Earlier O.A. No. 179/2024/PB)**

IN THE MATTER OF:

NEWS ITEM titled "six workers killed
in fire inside Nagaland rat-hole mine
"appeared in the Hindu Bureau Dated
27.01.2024.

...APPLICANT(S)

Vs.

Nagalang Pollution Control Board & Ors.

.....Respondent(s)

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Through :



Ashok Prasad
(Ashok Prasad)
Advocate,
Counsel for U.O.I.

Place : KOLKATA
Dated : 29/05/24

29 MAY 2024

BEFORE THE NATIONAL GREEN TRIBUNAL,
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**COUNTER AFFIDAVIT / REPLY FOR AND ON BEHALF OF THE
RESPONDENT NO. 3**

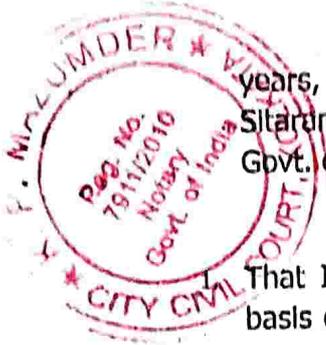
MOST RESPECTFULLY SHOWETH:

I, SH. GIMMEDI SANJAY KUMAR, Son of Sh. Ushanna, aged about 49 years, employed / appointed as the Director of Mines Safety, Eastern Zone, Sitarampur, Dhanbad, Jharkhand, Under Ministry of Labour and Employment, Govt. of India, do hereby solemnly affirm and declare as under:-

1. That I am the authorised signatory in the aforementioned matter. On the basis of records, I am well conversant with the facts of the case and hence, competent to swear this affidavit.

2. That I have read and understood the order dated 28.11.2023 of Hon'ble NGT, Eastern Zone Bench, and filed this Counter Affidavit in compliance of directions under Para 6 of the order dated 30.04.2024.

3. That I have read and understood the contents of the present Affidavit and state that the contents mentioned in the Affidavit are true and correct to the best of my knowledge.



4. That the deponent craves liberty to raise additional submission or file supplementary affidavits in case need arises during the course of arguments.

BRIEF SUBMISSIONS

5. This original application is registered suo-motu on the basis of the news item titled "Six workers killed in fire inside Nagaland rat-hole coal mine" published in "The Hindu Bureau" dated 27.01.2024. The news item reveals that six workers have been killed and four seriously injured after a fire broke out in a rat-hole coal mine in Wokha district of Nagaland. As per the said news item illegal rat-hole mining is in progress rampantly in the area concerned. Rat-hole mining entails a tunnel big enough for a mid-sized adult to crawl through squat and extract coal with a pickaxe.

Statutory Provisions

A. The Owner, Agent or Manager of the mine must submit "notice of opening" of the mine at least one month before the commencement of the any mining operations to the Director General of Mines and Safety(**In short DGMS**) in the prescribed form as required under section 16 of the Mines Act, 1952 and Regulation 3 of the Coal Mines Regulations, 2017. The form shall be accompanied by a plan showing the boundaries of the mine and the shafts or openings of the mine, trijunction or revenue pillars and other prominent and permanent surface features to the Chief Inspector and a copy thereof to the Regional Inspector.

B. When a mine has been opened, the Owner, Agent or Manager shall forthwith communicate the actual date of opening to the chief inspector, the Regional Inspector and to the District Magistrate and in case of Accident in Mines, the Owner, Agent or Manager of the mine must give "Notice of Accident/Inform DGMS about the accident by telephone, fax, email or by special messenger and shall also, within twenty four hours of such occurrence, give notice thereof in Form TO DGMS, as required under section 23 of the Mines Act, 1952 and regulation 8 of the Coal Mines Regulation, 2017.

6. It is submitted that neither the notice of the mining activity in question was never given nor the notice of the accident was submitted by the Owner, Agent or Manager of the mine to the Directorate. The existence of said coal mine and/or the occurrence of the accident therein were also not informed



by Nagaland State Govt. Authorities. Thus the mine in question may be considered as an illegal mine in the eye of Mines Act, 1952.

7. The activities of illegal rat hole mining is an administrative and law and order issue to be looked after by State Government authorities and does not come within the purview of DGMS, as the role of DGMS comes into play only after receiving the notice opening of the mines from respective mine operators.

8. In view of the above facts indicated in earlier paras, it is respectfully prayed that this Respondent shall abide by any order or direction, passed by the Hon'ble Tribunal.



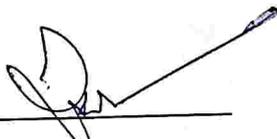

DEPONENT

29 MAY 2024

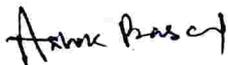
VERIFICATION

I, SH. GIMMEDI SANJAY KUMAR, Son of Sh. Ushanna, aged about 49 years, the above-named deponent, do hereby verify that the contents of above this Counter Affidavit are true and correct on the basis of official record maintained by the answering respondent in the daily course of its business and state that neither any material has been concealed there from nor is any part of it false.

Signed and verified on this 29th Day of May, 2024 at Kolkata.


DEPONENT

Identified by Me


Advocate

(GIMMEDI SANJAY KUMAR)
Director of Mines Safety



Solemnly Affirmed & Declared
Before me on Identification


K. P. MAZUMDER, NOTARY
City Civil Court, Calcutta
Reg. No. 7911/2010 Govt. of India

29 MAY 2024

VAKALATNAMA

BEFORE THE NATIONAL GREEN TRIBUNAL, KOLKATA/EZ

O.A. No. 77 of 2024

NEWS ITEM titled "six workers killed in fire inside Nagaland rat-hole mine" appeared in the Hindu Bureau Dated 27.01.2024.

..... Plaintiff
Petitioners

-Versus-

Nagaland State Pollution Control Board & ORS.

.....Defendant
Opposite Party

On behalf of R-3

Know all men by these presents that by Vakalatnama I/We appoint the Advocates noted below or any of them my/our lawful Advocate or Advocates for filing the Memorandum of appeal or petition in the
for entering Appearance

above matter for appearing in conducting and arguing the same, for depositing or withdrawing any money in connection therewith for moving the Court in any matter connected therewith, for preparing the paper book in the case and for putting in papers petitions etc. on my/our behalf for filing taking back any documents for withdrawing suits or appeals or petitions with permission to institute fresh suits etc. For signing and filing petitions of compromise in connections with said matter and for taking copies of paper form the Record and I/We further say that any act, done by my/one said Advocate or Advocates or by any of them after accepting this Vakalatnama, shall be considered as my/our true and lawful act.

And I/we further hereby agree and undertake to pay the said Advocates his or their fees are settled and all others sums that may be necessary to carry out the requisition of the Court and otherwise to enable the said Advocates to conduct property. Failing which the said Advocates after notice to me/us will be liberty to withdraw from the further conduct to the case.

IN WITNESS WHERE OF I/We sign and execute this Vakalatnama on this the 29TH day on May, 2024.

NAME OF ADVOCATE:
ASHOK PRASAD, ADVOCATE

Vakalatnamy
received and accepted
for the Advocate
9882069404


(GIMMEDI SANSAI KUMBOR)
Director of Mines Safety