

**BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL EASTERN ZONE, BENCH, KOLKOTA  
IN  
Original Application No. 122/2023/EZ**

Ajaya Kumar Behera ..... **Applicant(s)**  
Vrs.  
State of Odisha and Others ..... **Respondent(s)**

I N D E X

Sl. No	Description of Documents.	Pages
1.	Counter Affidavit filed by Respondent No. 10	1-7
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Cuttack

Dt. 21.06.24

  
Addl. Govt. Advocate

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

**Original Application No. 122/2023/EZ**

Ajaya Kumar Behera

..... Applicant(s)

Vrs.

State of Odisha and Others

..... Respondent(s)



**COUNTER AFFIDAVIT OF RESPONDENT NO. 10**

I, Sri Dillip Kumar Sahoo, aged about 52 years, Son of Late Sri Raghunath Sahu, residing AT: Qtr. No. D-9, Jaydev Vihar, Bhubaneswar, Dist: Khurdha, Pin-751013 at present working as Deputy Director of Mines (I/c), Circle Mining Office, Khordha, do hereby solemnly affirm and state as follows: -

1. That, in the instant Original Application, I have been duly authorized by Respondent No.10 to swear this affidavit for and on his behalf. I have read and understood the contents made in the Original Application. I am otherwise acquainted with the facts of the case and competent to swear this affidavit.

2. That, the petitioner in the aforesaid Original Application has prayed as follows: -

i) Direct the SEIAA and SPCB to withdraw the environment clearance and CTO for violation of EC

*[Handwritten signature]*

*Dillip Kumar Sahoo*

*[Handwritten signature]*  
**AMBIKA PRASAD RAY  
NOTARY, CUTTACK TOWN  
REGD. NO-ON-56/2004**

conditions and non-filing of quarterly environment compliance report.

ii) Show cause the SEIAA authority and SPCB for inaction despite of complaint dated 14/07/2023 and fix the responsibility of the erring officer.

iii) Director of Mines and Geology, Government of Odisha to assess the extent / quantum of Minor Minerals including morrum and laterite stone excavated illegally and its market value, **cost of restitution and environmental compensation and recover the same from the private respondent.**

iv) Fix the accountability/responsibilities of the concerned Govt. authorities and Tahasildar Tangi for their inaction and willful dereliction of duties causing loss to the state exchequer and damage to the environment.

v) Direct the District Collector to initiate criminal proceedings U/s 379, 420, 120B of IPC & Section 19 of Environment Protection Act., 1986 against the private respondent and Tahasildar, Tangi.

vi) Pass such other orders/directions as may be deemed fit and proper in the bonafide interests of justice.

3. That, the Original Application filed by the Applicants is not maintainable in law and is liable to be dismissed.

  
  
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*Dilip Kumar Sahu*

4. That, the Original Application involves disputed question of fact, as such the same is not maintainable in law and is liable to be dismissed.

5. That, regarding the brief facts of the case, it is humbly submitted that, the Damanbhuin Laterite Stone Quarry-A over 4.139 hecets in the plot No. 2161 (P) of Khata No. 708 under the Tangi Tahasil was granted executed in favour of Prahallad Biswal. In this regard it is submitted that the Director of Mines and Geology, Odisha had no role in respect of grant, execution, administration of the above, Laterite Stone Quarry-A area except the approval of the Mining Plan for the above lease area.

Regarding Mining plan, it is mentioned here that, Damanbhuin Laterite Stone quarry (A) of village Damanbhin under, Tangi Tahasil of Khordha dist., over an area of 10.230 AC or 4.139 Ha has been approved by Dr. P.C Mishra the then DDG of Directorate of Geology, Odisha in favour of Tahasildar Tangi, Dist., Khordha on 27.04.2020(Annexure 1). The Laterite Stone quarry has been situated on plot No. 2161(p) Khata No. 708 and Kissam of land is Gochar as certified by R.I in the Mining Plan. The annual production quantity approved in the mining plan was 1500 cum for each

*Dilip Kumar Saha*

*P. Biswal*

  
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year, so total production for the plan period of 5 (five) years from Damanbhuin Laterite quarry (A) was 7500 cum.

6. That, in reply to the averments made by the applicant in Para-1 to 29 of the Original Application, it is humbly submitted that the Respondent No. 10 have no comment to offer.

7. That, in reply to the averments made by the applicants in para 30 to 31, it is submitted that these Paras are relating to the OMPTS Act, 1988. Thereafter, State Govt., introduced OMPTS Rules 1989. Subsequently Govt. Odisha vide their SRO No. 412/2007 in exercise of power conferred by section – 23C of MMDR Act., 1957 has issued Orissa Minerals (Preventions of Theft, Smuggling & Illegal Mining & Regulation of Possession, Storage, Trading & Transportation) Rules, 2007 which is in force. The Minor Mineral (Laterite Stone) is not regulated by the OMPTS Rules, whereas, Major Minerals & Specified Minor Mineral are being regulated by OMPTS Rules.

8. That, in reply to the averments made by the applicant in Para- 32 to 38 of the Original Application, it is humbly submitted that the Respondent No. 10 have no comment to offer.

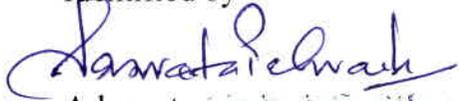
  
  
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Dillop Kumar Sahoo

9. Under the facts and circumstances stated above the Original Application, filed by the applicant against the Respondent is fictitious and devoid of merit as well as liable to be rejected by this Hon'ble Court.

10. That, the facts/ averments made in the Original Application are not specifically admitted by the deponent are deemed to be denied and further this deponent craves leave to submit further affidavit, if necessary, at the time of hearing.

Identified by

  
Advocate

*Dillip Kumar Sahoo*  
21.06.2024

Deponent

Deputy Director Mines (I/c)  
O/o. Deputy Director Mines  
Khordha Circle, Khordha

### VERIFICATION

I, Sri Dillip Kumar Sahoo, aged about 52 years, Son of Late Sri Raghunath Sahu, at present working as Deputy Director of Mines (I/c), Circle Mining Office, Khordha, do hereby solemnly affirm and verify the statements made above in Paragraphs- 1 to 4 are true to the best of my knowledge and belief and those statements made in Paragraphs-5 to 8 are true to my information derived from the records and the



  
AMBIKA PRASAD RAY  
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statements made in Paragraphs-9 & 10 are my submissions to this Hon'ble Court. I believe the information to be true as per available official records.

Dillip Kumar Sahu  
21.06.2024

VERIFICANT Deputy Director Mines (I/c)  
O/o. Deputy Director Mines  
Khordha Circle, Khordha

CERTIFICATE

Certified that cartridge papers are not available.

Sarwata Palwadi  
Addl. Govt. Advocate.



D.K. Samy

The above named deponent being identified by Sahu Adv. solemnly affirm and states before me that the contents of this Case are true to the best of his/her/their knowledge and belief.

21.06.24

AMBIKA PRASAD RAY  
NOTARY, CUTTACK TOWN  
Regd. No.-ON-56/2004

**AFFIDAVIT**

The above deponent being personally known to me appears before me on dt. \_\_\_\_\_ at \_\_\_\_\_ AM/PM and states on oath that the contents of the show cause reply are true to the best of my knowledge based on official records.

*Dilip Kumar Sohan*

Deponent  
Deputy Director Mines (I/c)  
O/o. Deputy Director Mines  
Khordha Circle, Khordha

*AB*  
*21.06.24*  
AMBIKA PRASAD RAY  
NOTARY, CUTTACK TOWN  
REGD. NO-ON-56/2004

**GOVERNMENT OF ODISHA**  
**DIRECTORATE OF GEOLOGY**  
**BHU- BIGYAN BHAWAN, BHUBANESWAR-751001**  
Phone: 06742392374; Fax: 06742391776 ; Email: directorgeology\_odisha@yahoo.co.in

Letter No. GXVII(g)- 265/19 \_\_\_\_\_ / DG

Dt:

From

Dr P.C. Mishra, A.O. & Deputy Director Geology  
Directorate of Geology, Odisha  
Bhubaneswar -751001

To

The Tahasildar, Tangi  
Dist:-Khordha, Odisha.

Sub : Approval of Mining Plan for Damanabhuin Laterite Stone Quarry (A) over an area 10.230. Acres or 4.139 ha in village Damanabhuin under Tangi Tahasil of Khordha District.

Sir,

In inviting a reference to the mining plan submitted on 24.4.2020 by Saidatta Das, RQP appointed by you, it is informed that the mining plan is here by approved as per Rule- 28 of OMMC Rule 2016 in respect of Damanabhuin Laterite Stone Quarry(A) over an area 10.230 Acres or 4.139 ha in village Damanabhuin under Tangi Tahasil of Khordha District.

You are request to adhere to the commitments made in the mining plan for the plan period as per the above Rule and subsequent amendments made by the Govt. In case of additional production than the commitment within the plan period., the mining plan needs to be modified and approved by the competent authority. Any breach or violation in the provisions of the OMMC Rule the above quarry will be seriously viewed.

Encl: Approved Mining Plan of the above sources (2 Copies)

Yours faithfully,

(Authorised Officer)

Memo No. 2447 / DG. Dt. 27.04.2020

Copy to Shri Saidatta Das, RQP; House No. 405, Nageswar Residency, Kalarahanga, Patia, Bhubaneswar, Dist: Khordha 751024 for his kind information alongwith a copy of the approved mining plan for reference and necessary action. He is requested to monitor the commitments made in the mining plan periodically during the concession period as per the provisions of OMMC Rule – 2016 and subsequent amendments in the interest of public work.

  
27.4.2020  
(Authorised Officer)