

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE KOLKATA BENCH
Original Application No.122 of 2023/EZ.**

Ajay Kumar Behera

..... Petitioner / Appellant

Vs.

State of Odisha & Ors.

.....Respondent / Defendant

INDEX

Sl. No.	Description of the documents	Page Nos.
1.	Affidavit.	
2.	<u>ANNEXURE-R7/1</u> Photocopy of the inspection report dtd.13.07.2022.	

SPCB Odisha, R.No.7

Through

Kolkata

Date:

Smt Papiya Banerjee Bihani,
Advocates for the Respondent No.7
(State Pollution Control Board, Odisha)
e-mail: pbanerjeebihani@gmail.com
Phone No.:9831493390

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE KOLKATA BENCH
Original Application No.122 of 2023/EZ.**

26 JUN 2024

Ajay Kumar Behera

..... Petitioner / Appellant

Vs.

State of Odisha & Ors.

.....Respondent / Defendant

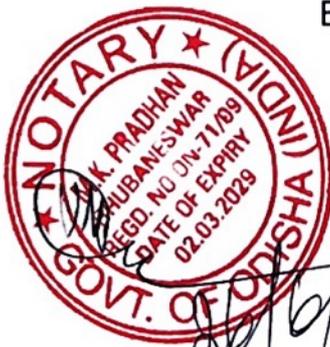


AFFIDAVIT ON BEHALF OF STATE POLLUTION CONTROL BOARD, RESPONDENT NO.7 & 8 IN RESPONSE TO THE REJOINDER AFFIDAVIT DATED 22.04.2024 FILED ON BEHALF OF THE APPLICANT.

I, Dr. Kailasam Murugesan, IFS, son of late Paramasivam

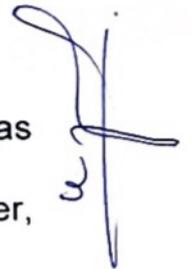
Kailasam aged around 56 years, at present working as Member Secretary, State Pollution Control Board, having my office at Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-VIII, P.O. Nayapalli, Bhubaneswar, Dist – Khurda, Odisha-751012, do hereby solemnly affirm and state as under:

1. That I am the Member Secretary of the Respondent No.7 Board and, as such, am well-acquainted with the facts and



circumstances with the case and competent to swear this affidavit.

2. That I have gone through the Rejoinder Affidavit dtd.22.04.2024 filed by the applicant in this case and understood the contents thereof. Further I say and submit that, the averments made by the appellant in any of the paragraphs of the Rejoinder Affidavit filed by the Appellant are denied by the R.No.7 Board which are contrary to the facts on record, and/or unless specifically admitted by the R.No.7 Board.
3. That in para-13 of the rejoinder affidavit, the appellant has alleged that the R.No.7 Board through the Regional Officer, Bhubaneswar, R.No.8 has not made any site visit and mechanically granted / renewed the consent to operate in favour of R.No.13. But as regards the allegation, it is humbly submitted that the R.No.8 has granted consent to operate under the provisions of Sec.25 of the Water (PCP) Act, 1974 and U/s-21 of the Air (PCP) Act, 1981 in favour of the R.No.13 for production of laterite stone of the quantity



mentioned in the said order vide order No.2033 dtd.15.07.2022, which was valid upto 31.03.2023. Copy of the consent to operate order dtd.15.07.2022 has already been annexed to the OA and marked as Annexure-6.

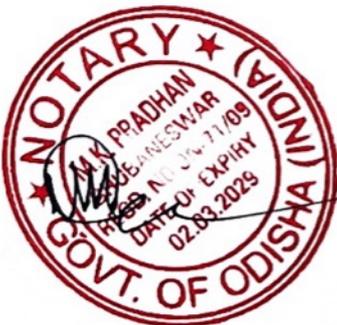
A. That it is humbly submitted that prior to grant of consent to operate on dtd.15.07.2022 vide Annexure-6 of the Appeal Memo, the R.No.8 has carried out inspection of the R.No.13 unit on dtd.07.07.2022 and the copy of the inspection report dtd.13.07.2022 is annexed to this affidavit and marked as ANNEXURE – R7/1.

B. That the consent to operate order granted vide Annexure-6 of the Appeal Memo upto 31.03.2023 was renewed vide Annexure-6A of the Appeal Memo on dtd.19.06.2023 upto 31.03.2024. Both the consent to operate and renewal of consent to operate vide Annexure-6 and 6A of the Appeal Memo were granted in respect of R.No.13 over Plot No.2161(P) of Khata No.708, lease hold area of 4.139 ha. in Tahasil/PS – Tangi, Dist- Khurda.

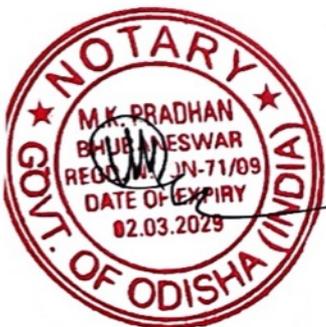


C. That after renewal of consent to operate on 19.06.2023 vide Annexure-6A of the Appeal Memo, the committee constituted by the Hon'ble Tribunal in their order dtd.22.09.2023, which also consist representative of the R.No.7 Board has carried out inspection on 11.10.2023 and the report reveals that environmental clearance, consent to establish and consent to operate have been issued only for Plot No.2161(P) and no mining activity was observed over the Plot No.2162. The report of the committee also does not disclose any violation of environmental norms by the R.No.13 after grant of renewal of consent to operate on dtd.19.06.2023. Copy of the report of the committee dtd.11.10.2023 has already been annexed to the affidavit dtd.25.01.2024 of the Collector & DM, Khurda (R.No.4) vide Annexure-D/4.

D. That as regards the allegation of illegal extraction much beyond the permitted quantity of 1500 Cum., it is humbly submitted that the committee constituted by the Hon'ble Tribunal has carried out inspection on



11.10.2023 and the report has already been filed by the R.No.4 in his affidavit dtd.25.01.2024 vide Annexure-D/4, verified the allegation raised in the OA and accordingly suggestion has been made that the Deputy Director Mines, Khurda Circle has to submit the assessment of quantum of minor minerals illegally excavated by the lessee as per Odisha Minor Mineral Concession Rules and stipulated condition imposed by SEIAA, Odisha, SPCB, Odisha, DDM, Khurda and Mining Officer, Khurda will scientifically calculate the volume of minor mineral and submit the report and accordingly, the Mining Officer, Khurda, Scientist, SEIAA, Odisha, Deputy Director Mines, Khurda Circle, Khurda in consultation with the Orissa Space Applications Centre (ORSAC) have submitted the report on 18.04.2024. Copy of the said report with regard to calculation of environmental compensation and penalty calculation has already been annexed vide Annexure-III of the Affidavit dtd.23.04.2024 of the SEIAA, Odisha (R.No.9).



E. That by the time, the report dtd.23.04.2024 was submitted by the R.No.9, the renewal of consent to operate issued by R.No.8 vide Annexure-6A of the Appeal Memo has already been expired on 31.03.2024 and no application for further consent to operate beyond 31.03.2024 has been submitted by the R.No.13 before the R.No.8 for consideration.

f. That as regards the allegation in para-14 of the Rejoinder Affidavit that the R.No.7 Board has taken no action as on date after the joint committee visit wherein the Officer of the SPCB is one of the members, it is humbly submitted that the joint committee report carried out on 11.10.2023 has already been filed by the R.No.4 before the Hon'ble Tribunal in the affidavit dtd.25.01.2024 vide Annexure-D/4, wherein suggestion has been made for assessment of quantum of minor mineral illegally excavated by the lessee by the Dy. Director of Mines, Khurda Circle and the same has in due course submitted before the Hon'ble Tribunal by the R.No.9 in the affidavit dtd.23.04.2024 vide Annexure-III. By the time, the report on assessment of environmental compensation



was submitted, the consent to operate renewed upto 31.03.2024 vide Annexure-6A of the Appeal Memo has already been expired and thereafter no application for renewal of further consent to operate has been made by the R.No.13 before the R.No.8 and as such no further action was initiated by the R.No.7 Board. Otherwise also the State Govt. in exercise of powers conferred by Sub-Section(1) of Section-15 of the Mines & Minerals (Development & Regulation) Act, 1957 has framed the Rules called The Odisha Minor Mineral Concession Rules, 2016 which exclusively deals with regulating the grant / refusal of lease of minor minerals and the R.No.7 Board is also not the enforcing authority of the said Rule.

5. That the Respondent No.7 Board craves the leave of this Hon'ble Tribunal to file further affidavit if necessary for proper adjudication of the case.
6. That the annexure annexed to the present affidavit is true and correct copy of its original.



MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD.NO.ON-71/2009
PH:-9437627119 (M)



7. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from the official records, and that nothing material has been concealed therefrom.



DEPONENT
Member Secretary
State Pollution Control Board
Odisha, Bhubaneswar

VERIFICATION:

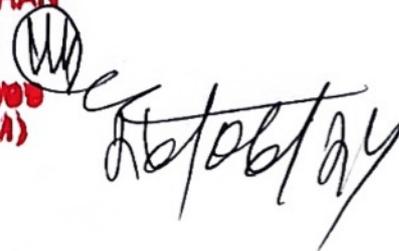
I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, as derived from official records, and that nothing material has been concealed therefrom.

Verified at Bhubaneswar on this the 26th day of June, 2024.

SWORN BEFORE ME



MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD.NO.ON-71/2009
PH:-9437627119 (M)



DEPONENT
Member Secretary
State Pollution Control Board
Odisha, Bhubaneswar

**INSPECTION REPORT OF M/S. M/S. DAMANBHUIIN LATERITE STONE QUARRY - A
AT DAMANBHUIIN, TAHASIL: TANGI IN KHORDHA DISTRICT**

District: Khordha/Odisha

Date of Inspection: 7.7.2022

A. General Information

01	name of the minor mineral mine	:	M/s. Damanbhuin Laterite Stone Quarry - A
02	Name & Address of the Lessee	:	Sri Prahallad Biswal, Lessee M/s. Damanbhuin Laterite Stone Quarry - A, Damanbhuin At: Kaithapalla, Po: Biribadi, PS: Tangi Dist: Khordha
03	Name of the inspecting officer of the Board with designation	:	Dr. S. Giri, Regional Officer
04	Mine's Person present during inspection	:	Sri Dillip Kumar Badajena, Quarry in charge
05	Consent to establish (CTE) status	:	Granted
06	Consent to operate (CTO) status	:	Applied for Consent to Operate for the 1 st time
07	CTO applied for the period and consent fee status	:	Sri Prahallad Biswal, Lessee has applied online vide his application no. 4196847, dt. 6.5.2022 for grant of Consent to Operate both under Water & Air (PCP) Act for M/s. Damanbhuin Laterite Stone Quarry - A for production of Laterite Stone at a quantity of 1500 Cubic Meter/Annum or 3615 MT/Annum. The proponent has deposited CTO fees of Rs. 4500.00 for the period 2022-23 (one year) vide receipt No. 634052255, dt. 6.5.2022) through online which is adequate both under Water & Air (PCP) Act. The fee is calculated basing on mining lease area.

B. STATE OF AFFAIRS OF THE QUARRY:

01	Name & location of the stone quarry	:	M/s. Damanbhuin Laterite Stone Quarry - A At Damanbhuin mouza, Village: Damanbhuin,
02	Type of minor minerals	:	Laterite Stone
03	Plot and Khata No., Kisam, Mouza & tahasil)	:	On Plot No. 2161(P) of Khata No. 708; Kissam: Puratana Patita Tahasil/PS: Tangi, Dist: Khordha
04	Total lease hold area of the mine (in Hectares & in Acres)	:	Lease hold area of 4.139 Ha or 10.23 Acres;

05	Forest area of the mine	:	No forest area exists within the mine lease hold area and belong to non-forest land.
06	Detail of the other areas. (Non-Forest Area, Waste Land and Agricultural Land etc)	:	The entire quarry lease area of belongs to Non-Forest land
07	Mine lease validity period	:	Mine lease quarry agreement made on 25.4.2022 between the Tahasildar, Tangi period of 5 years (i.e. 25.4.2022 to 24.4.2027).
08	Type of mining operation (manual /semi mechanized/ mechanized)	:	Semi-mechanized open cast mining
	If semi mechanized/ mechanized, Number, type and capacity of machines to be used		<p>Mining will be done by both manually and by machineries i.e. excavators.</p> <p>Cutting of laterite stone will be done by power cutters.</p> <p>The excavated laterite stone will be loaded into tippers/hyva, tractors by loaders and dispatched to project site.</p>
08	Total manpower deployed	:	10
09	Details of the mineral processing activity, i.e. Crushers/Screen (Give nos. & capacity)	:	Not applicable.
10	Details of mines surrounding like other stone quarry, villages etc within 500meters	:	No human habitation within 500 meters.
11	Distance of other project sites, Railway line, roads (National Highway, State Highway, Major District Road, Other Road), Electric transmission line tower /pole.	:	The lease area is located at a distance of 2.0 Km from National Highway (Kolkatta-Chennai) and other village connecting road passes within 500 meters.
12	Distance of water bodies like reservoir, water streams, ponds, canals, check dams, rivers, bridges etc.	:	No water bodies like reservoir, water streams, ponds, canals, check dams, rivers, bridges etc. within 200 meters.
14	Source of water for mine use	:	Ground water sourced through borewell by contract from outside.
15	Ground water (bore well/ dug well/ other sources)	:	Procurement of water by water tanker to the site.
16	Quantity of water use for various purposes i. Water sprinkling ii. Dust suppression iii. Domestic	:	Water sprinkling for dust suppression on transportation road: 5 KLD and Domestic: 0.5 KLD.
17	Production figure	:	Production as per mining plan. Not yet started commercial production.

(C) OTHER INFORMATION:

01	Drilling & Blasting method	:	Not applicable
02	Overburden/ top soil/ Solid Waste management	:	No OB generation will be generated as per the mining plan. Waste during excavation will be generated to be used by the lessee for making mine road and allied infrastructure. Remaining waste will be stored in a temporary dump inside the quarry area.
03	Provision of check dam and garland drains with sedimentation basin to prevent direct flow of runoff.	:	As per the mining plan the land is situated at a height from the general ground level and run off water will follow its natural path on the surface of the earth. No artificial drainage is required.
04	Haulage roads details (Nos., type of roads and its length), Dust Suppression methods.	:	Haulage road is Kachha road and dust suppression will be done by water tanker sprinkling.
05	Transportation road details (Nos., type of roads and its length).	:	The lease area is located at a distance of 2.0 Km from National Highway and other connecting facilities are good for transportation from this lease area.
06	Measures taken for control of fugitive emission (i.e. Water sprinkling arrangements provided like permanent water sprinklers, mobile water tankers (length, sprinklers numbers, mobile tanker capacity, etc.)	:	Mobile water tanker will be used for dust suppression on haul road of lease area.
07	Mine drainage water & Management practice for surface run off	:	No mine drainage water will be generated from the mine as per the approved mine plan.
08	Plantation activity	:	The unit will undertake plantation in the safety zone of the lease area. Around 250 nos. sapling will be undertaken during the mining plan period of 5 years.
09	Management of hazardous waste, if any (type quantity, treatment practice, disposal practice and status of authorization).	:	There is no workshop is exist for vehicle maintenance inside the mine lease. Hence, no hazardous waste will be generated from the mine and authorization under Hazardous waste (M, H & TM) Rule is not applicable for the laterite stone quarry.
10	Measures taken for control of noise levels below 85 dBA in the work environment of the mine.	:	The unit will take steps to maintain the noise level within the permissible limit.

(D) DOCUMENTS STATUS OF VARIOUS DEPARTMENTS

01	Consent to establish (CTE) status	:	Consent to Establish granted from RO, BBSR vide letter No. 1891, dt. 29.6.2022.
02	Consent to operate (CTO) status	:	-

03	Environmental Clearance (EC) status	:	Environmental Clearance obtained from the State Environmental Impact Assessment Authority (SEIAA), Orissa, Bhubaneswar vide letter No. 1660/SEIAA, Dt. 6.7.2021 and No. 4216/SEIAA, Dt. 15.3.2022).
04	Mining lease status	:	Mine lease granted by Tahasildar, Tangi and the same is valid for the period for a period of 5 years (i.e. 25.4.2022 to 24.4.2027).
05	Mining plan Approval status	:	Mining plan for a period of 5 years and approved by Deputy Director Geology, Directorate of Geology, Bhubaneswar.
06	Forest clearance status	:	The entire quarry lease area belongs to Non-Forest Govt. land. Hence no Forest clearance is required.

RECOMMENDATION & SPECIAL CONDITIONS TO BE GIVEN:

Consent to Operate is considered for the 1st time upto 31.3.2023 both under Water & Air (PCP) Act with special conditions given below:

1. The mine shall comply with the stipulated conditions of Environmental Clearance obtained from the State Environmental Impact Assessment Authority (SEIAA), Orissa, Bhubaneswar vide letter No. 1660/SEIAA, Dt. 6.7.2021 and No. 4216/SEIAA, Dt. 15.3.2022).
2. Any change in mining technology/scope of working shall not be made without prior approval of the State Environmental Impact Assessment Authority (SEIAA).
3. Any change in the calendar plan including excavation, quantum of mineral and waste shall not be made and also shall comply with the stipulated conditions specified in the Environmental Clearance order issued by SEIAA.
4. Mining activity shall be carried out as per approved mining plan prepared for this project.
5. The consent to operate granted under Section 25 of Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of Air (Prevention & Control of Pollution) Act, 1981 subject to the mining plan approved by the Director of Mines, Bhubaneswar under Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007.
6. The industry shall comply to the provisions of Environment Protection Act, 1986 and the rules made there under with their amendments from time to time such as the Hazardous and Other Wastes (Management and Trans-boundary Movement) Rules, 2016 as amended from time to time. Hazardous Chemical Rules/ Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 etc. and amendments there under. The industry shall also comply to the provisions of Public Liability Insurance Act, 1991, if applicable.
7. No mining activity shall be carried out in the vicinity of natural/manmade archeological sites.
8. It shall be ensured that quarrying is not carried out within 500 meter of structures, bridges, embankment, dams, weirs, ground water extraction points, water supply head works, extraction points for irrigation and any other cross drainage structures.

9. The lessee shall obtain NOC from CGWA and permission from WR department, Govt. of Odisha for use of ground water/surface water, if any required for the project.
10. It shall be ensured that quarrying shall not be carried out below ground water table under any circumstances. If ground water table occurs/intervenes within the permitted depth, then also quarrying shall be stopped.
11. No mining activity shall be undertaken beyond Six (06) meters below ground level.
12. No transportation of the minerals shall be allowed on any road passing through villages/habitation without prior explicit permission.
13. The project proponent shall take necessary measures to ensure no adverse impact is caused due to mining activities on the human habitation existing nearby.
14. The industry shall abide by all the provisions of Environment (P) Act, 1986 and Rules framed there under.
15. Domestic waste water shall be discharged to septic tank followed by soak pit constructed as per BIS specification.
16. The mining shall not affect the existing sources of irrigation or drinking water for industrial purposes.
17. Water sprinkling arrangements shall be provided at all haulage roads, transportation roads, mining areas, stack yard and other dust generating points to control fugitive dust emission.
18. Surface runoff shall be allowed to flow through garland drain and to a settling pond provided inside the lease hold area to allow the silt to be settled before final discharge to the surrounding environment.
19. The wastewater generated shall be treated and reused in the mining activities or used for water sprinkling and plantation.
20. Laterite stone cutting machine shall have the provision of wet cutting to control fugitive dust emission.
21. Water sprinkling shall be done on internal transportation roads and working area to suppress fugitive dust generation.
22. The vehicles should not be overloaded and shall be covered with Tarpaulin.
23. The industry shall provide adequate pollution control measures for controlling the fugitive emission and the ambient air quality inside the premises shall be maintained as per National Ambient Air Quality standard.
24. Road shall be graded and made pot hole free to avoid dust generation during transportation of materials.
25. The unit shall install DG set in an acoustically enclosed room over anti vibration pad to control noise and vibration.
26. The height of the stack attached to DG set shall be $H = h + 0.2 \sqrt{KVA}$, where h = Height of the building where it is installed in meter, KVA = Capacity of D.G. Set, H = Height of the stack in meter above ground level.

27. The mine shall maintain the ambient noise standards as prescribed in the Noise Pollution (Regulation and Control) Rules, 2000.
28. Top soil shall be stacked properly and proper slope shall be maintained with adequate measures and should be used for plantation purposes.
29. The Over Burden (OB) shall be properly stacked in the earmarked area as per the approved mining plan and it should not cause any environmental problems in the surroundings.
30. Mineral rejects shall be disposed off as per the approved mining plan in proper manner without causing any environmental pollution.
31. An Annual Return of the production undertaken shall be submitted at the end of financial year.

ASG
13/7/22

(Dr. Sohan Giri)
Regional officer