

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO.62 OF 2024 / EZ**

Bhagabat Sahoo & Ors. ...Applicant
VERSUS
State of Odisha & Others ... Respondents

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4.	Photocopy of the joint committee/ fact finding report of the committee. (ANNEXURE – R4/3 Colly)	

SPCB Odisha, R.No.4

Through

Sri Dipanjan Ghosh,
Advocates for the Respondent No.4
(State Pollution Control Board, Odisha)
e-mail: dpnjnghsh0@gmail.com
Phone No.:9903080977

Kolkata
Date:

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO.62 OF 2024 / EZ**

Bhagabat Sahoo & Ors. ...Applicant

VERSUS

State of Odisha & Others ... Respondents

**AFFIDAVIT ON BEHALF OF THE STATE
POLLUTION CONTROL BOARD, ODISHA,
RESPONDENT NO.4.**

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.4 Board and, as such, am well-acquainted with the facts and circumstances with the case and competent to swear this affidavit.



2. That this OA has been filed alleging that the R.No.16, who is the lessee of the Uteipur Sand Quarry-II under Dhamnagar Tahasil of Bhadrak district, Odisha is carrying on sand mining in violation of Environmental Clearance conditions, Consent to Operate conditions, Sustainable Sand Mining Guidelines 2016 and Enforcement & Monitoring Guidelines and Sand Mining, Odisha 2020, Odisha Sand Policy, 2021 and EIA Notification 2006.

3. That this Hon'ble Tribunal while adjudicating the OA vide their order dtd.20.03.2024 has been pleased to constitute a fact finding committee to elicit the veracity of the allegations comprising of the following members:

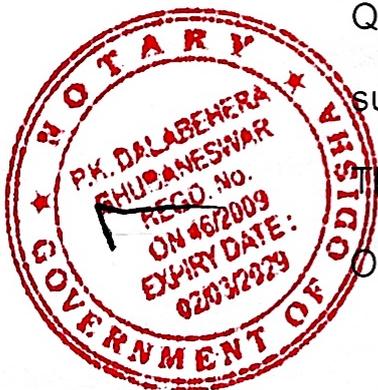
- i. Senior Scientist, Odisha State Pollution Control Board;
- ii. Senior Scientist, Central Pollution Control Board;
- iii. Senior Scientist, SEIAA, Odisha, and
- iv. Collector & District Magistrate, Bhadrak, or his representative not below the rank of Additional District Magistrate.



4. That after receipt of the copy of order dtd.20.03.2024 along with copy of OA from the counsel of the Board, we have forwarded the same to the Collector & District Magistrate, Bhadrak vide letter No.5021 dtd.04.04.2024 indicating therein that the Regional Officer, Balasore of this Board has been nominated to represent the Board in the committee constitute by the Hon'ble Tribunal. A copy of letter No.5021 dtd. 04.04.2024 is annexed to this affidavit and marked as ANNEXURE – R4/1.

5. That the Deputy Collector (Revenue), Bhadrak vide his letter No.3102 dtd.23.04.2024 has fixed the date of inspection to be 30.04.2024 and intimated the same to other members of the committee. Copy of the letter dtd.23.04.2024 is annexed to this affidavit and marked as ANNEXURE – R4/2.

6. That the fact finding committee constituted by the Hon'ble Tribunal has inspected the site of Utteipur Sand Quarry-II in Baitarani river on dtd.30.04.2024 and submitted a detail report with some overall observation. The said report has been forwarded by the Regional Officer, Balasore of this R.No.4 for further action at this



end. Copy of the joint committee/ fact finding report of the committee is annexed to this affidavit and marked as **ANNEXURE – R4/3 Colly**.

7. That this affidavit has been filed to bring on record the fact finding committee report in compliance to direction dtd.20.03.2024 read with order dtd.09.07.2024 of this Hon'ble Tribunal.
8. That the Respondent No.4 Board craves the leave of this Hon'ble Tribunal to file further affidavit if necessary for effective adjudication of this case.
9. That the annexures annexed to the present affidavit are true and correct copies of their originals.
10. 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.




DERONENT
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 19th day of July, 2024.

IDENTIFIED BY ME

ADV. BBSR
[Signature]

THE ABOVE NAMED DEPONENT BEING IDENTIFIED BY *P.K. Dalabehera* ADV. BBSR APPEARS BEFORE ME AND STATE AN OATH ON *19.7.24* AT ABOUTAM/PM THAT THE CONTAINTS OF THIS AFFIDAVIT ARE TRUE TO THE BEST OF HIS/ HER KNOWLEDGE

[Signature]

DEPONENT
Member Secretary
State Pollution Control Board
Odisha, Bhubaneswar



[Signature]
P.K. DALABEHERA
NOTARY, BHUBANESWAR
REGD. NO. ON-46/09



EPABX: 2561909/2562847

Tel: 2562822, 2560955

Email: Paribesh1@ospcboard.orgWebsite: www.ospcboard.org

STATE POLLUTION CONTROL BOARD, ODISHA

[DEPARTMENT OF FOREST AND ENVIRONMENT, GOVERNMENT OF ODISHA]

Paribesh Bhawan, A/118, Nilakanthanagar, Unit - VIII,
Bhubaneswar - 751 012, INDIA

No. 5021
VII - L - Misc - 1087

Date: 04.04.2024
Speed Post / E-mail

To

The Collector & District Magistrate
Bhadrak

Sub: OA No.62/2024/EZ - Bhagbat Sahoo & Others vs. State of Odisha & others regarding violation of environmental norms by the lessee of Utteipur Sand Quarry-II.

Sir,

The Hon'ble NGT, EZB, Kolkata while adjudicating the aforesaid OA vide their order dtd.20.03.2024 has been pleased to constitute a committee to elicit the veracity of the allegations comprising of the following members:

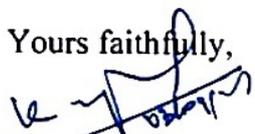
- (i) Senior Scientist, Odisha State Pollution Control Board;
- (ii) Senior Scientist, Central Pollution Control Board;
- (iii) Senior Scientist, SEIAA, Odisha;
- (iv) Collector & District Magistrate, Bhadrak or his representative now below the rank of Addl. District Magistrate.

and directed for inspection of the site in question and submit its report within four weeks with regard to the allegations made in the OA. The Collector & DM, Bhadrak has been declared as the Nodal Agency for all logistic purposes and the Board has been directed to produce the committee report on affidavit within four weeks. The case is posted to 6.5.24.

Er. Manmohan Murmu, Regional Officer of this Board at Balasore (Mob-9438025035 / 9438883909) has been nominated to represent the Board in the committee constituted by the Hon'ble Tribunal. A copy of the OA and order dtd.20.03.2024 of the Hon'ble Tribunal are enclosed for your information and necessary action.

Encl: As above.

Yours faithfully,

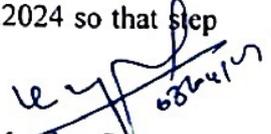

Member Secretary

Memo No. 5022 / Date: 04.04.2024

E-mail/Speed Post

Copy along with copy of enclosure forwarded to the Regional Officer, SPC Board, Balasore for information and necessary action. He is requested to follow up the matter and ensure that the committee report is received much prior to 06.05.2024 so that step will be taken by the Board for filing the committee report on affidavit.

Encl: As above.


Member Secretary



ANNEXURE- R4 / 2

**OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE, BHADRAK
(Touzi Section)**

Letter No 3102 /TouziDated 23.04.2024

To

The senior Scientist, Central Pollution Control Board,
The senior Scientist, Odisha State Pollution Control Board,
The senior Scientist, SEIAA, Odisha.

Sub: - OA No.62/2024/EZ- Bhagbat Sahoo & Others vs. State of Odisha & others regarding violation of environmental norms by the lessee of Uteipur Sand Quarry-II.

Ref: Letter No.5021 Dated. 04.04.2024 by Member Secretary, State Pollution Control Board, Odisha

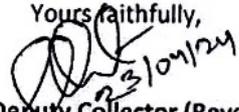
Madam/Sir,

In inviting a reference to the subject cited above, this is to inform you that, Collector, Bhadrak has been pleased to authorized Addl. District Magistrate (Revenue), Bhadrak as his representative for inspection of the site in question along with the concerned committee members. The date for inspection has been fixed to date 30.04.2024(Tuesday) at 4pm.

Hence, you are requested to make it convenient to present at the said site on scheduled date and time to elicit the veracity of the allegation raised by Bhagbat Sahoo and others (Applicants).

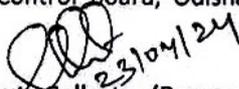
This is for your information and necessary action.

Yours faithfully,


23/04/24
Deputy Collector (Revenue),
Bhadrak

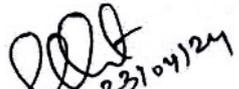
Memo No. 3103 /Touzi dt. 23.04.2024

Copy submitted to The Member Secretary, State Pollution Control Board, Odisha for kind information and necessary action.


23/04/24
Deputy Collector (Revenue),
Bhadrak

Memo No. 3104 /Touzi dt. 23.04.2024

Copy forwarded to Deputy Director of Mines, Bhadrak Circle, Bhadrak for information and necessary action.


23/04/24
Deputy Collector (Revenue),
Bhadrak

ANNEXURE - R4 / 3 Colly

Joint Committee report in the Hon'ble NGT (EZ) matter
OA 62 of 2024 (EZ) Bhagabat Sahoo and Ors Vrs State of Odisha & Ors

1. Background

The Original Application 62 of 2024/ EZ was registered at the Hon'ble NGT, Eastern Bench, Kolkata based on the petition received through post from Sri. Bhagabat Sahoo, resident of Anandpur Panchayat, Dhamnagar, District-Bhadrak, Odisha.

In the petition, it is enumerated that *"illegal operation of sand mine is being carried out by Sarat Chandra Majhi, the lessee of Uteipur Sand Quarry 2 under DHAMNAGAR Tahasil of BHADRAK District and the said sand mining operation is in violation of Environment Clearance Conditions, Consent To Operate (CTO) Conditions, Sustainable Sand Mining Guideline 2016 and Enforcement and Monitoring of Sand Mining Guidelines 2020, Odisha Sand Policy 2021, Sand Mining Framework 2018(Ministry of Mines Govt of India) EIA Notification 2006 and Amendment 2016, Odisha Minor Minerals Concession Rules 2016 and Supreme Court Order in Deepak Kumar Case and Order of Hon'ble NGT in Sudarsan Das Case(OA 173 of 2018/PB)"*.

The Hon'ble NGT, EZB heard the case on 20/03/2024 and directed the following:

"Considering the allegations made, we deem it appropriate to constitute a fact-finding Committee to elicit the veracity of the allegations comprising of the following Members:-(i) Senior Scientist, Odisha State Pollution Control Board, (ii) Senior Scientist, Central Pollution Control Board, (iii) Senior Scientist, SEIAA, Odisha, and (iv) Collector & District Magistrate, Bhadrak, or his representative not below the rank of Additional District Magistrate,"

"The Committee shall inspect the site in question and submit its Report within four weeks on affidavit with regard to the allegations made". **Copy of order attached as Annexure-I.**

2. Formation of the Joint Committee

In compliance to the Hon'ble NGT directions, the Joint Committee was constituted with following members:

Sl	Name	Department	Designation
1.	Sri M. Murmu	Odisha State Pollution Control Board, Regional Office, Balasore	Regional Officer
2.	Sri Sandeep Roy	Central Pollution Control Board, Regional Directorate, Kolkata	Scientist 'D'
3.	Dr. P. K. Nayak	SEIAA, Odisha	Environmental Scientist
4.	Representative of District Magistrate, Bhadrak	District Magistrate, Bhadrak	Tehsildar, Dhamnagar

3. Site Inspection

The Joint Committee visited the alleged site of Uteipur sand quarry-2, in Baitarani River at Village –Uteipur, Khata No.479, Plot No.208, and Area of 12.02 Acres for the mineable reserve sand of 28916 Cubic Meters on 30th April, 2024.

4. Observation of the Committee during the Inspection

The Respondent No.16, Private Respondent, who is lessee of Uteipur Sand Quarry 2 under Dhamnagar Tahasil of Bhadrak District, Odisha, is carrying on sand mining in violation of Environmental Clearance conditions, Consent of Operate conditions, Sustainable Sand Mining Guidelines, 2016, and Enforcement and Monitoring Guidelines for Sand Mining, 2020, Odisha Sand Policy, 2021, and EIA Notification, 2006.

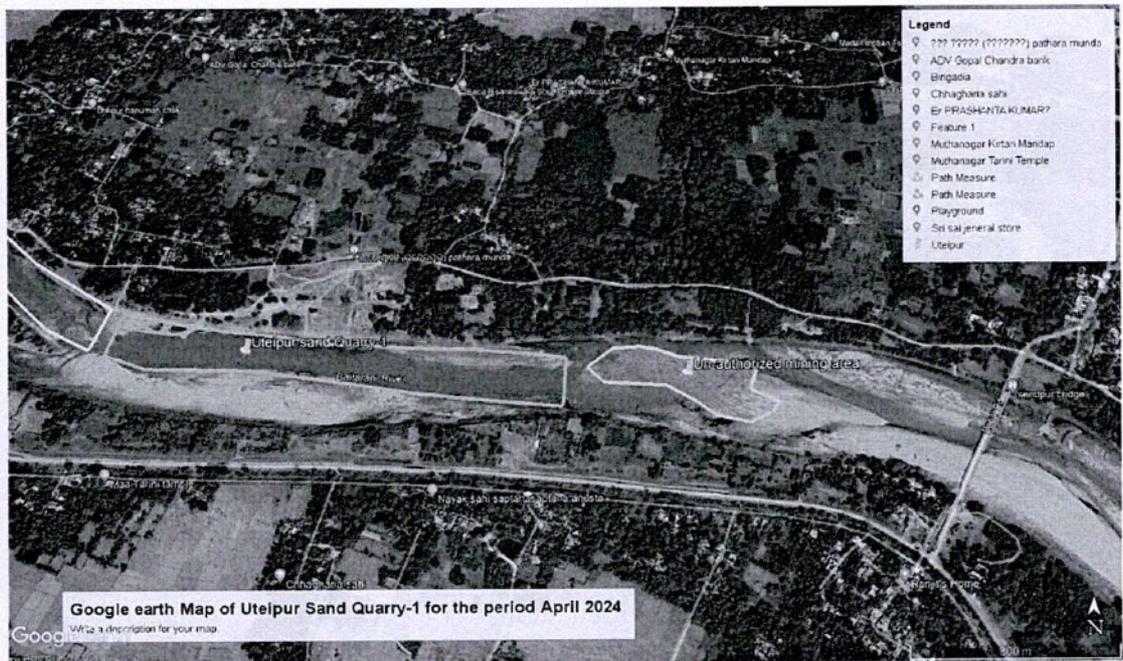
Point-wise observation and reply of committee to the Hon'ble NGT in regard to O.A.

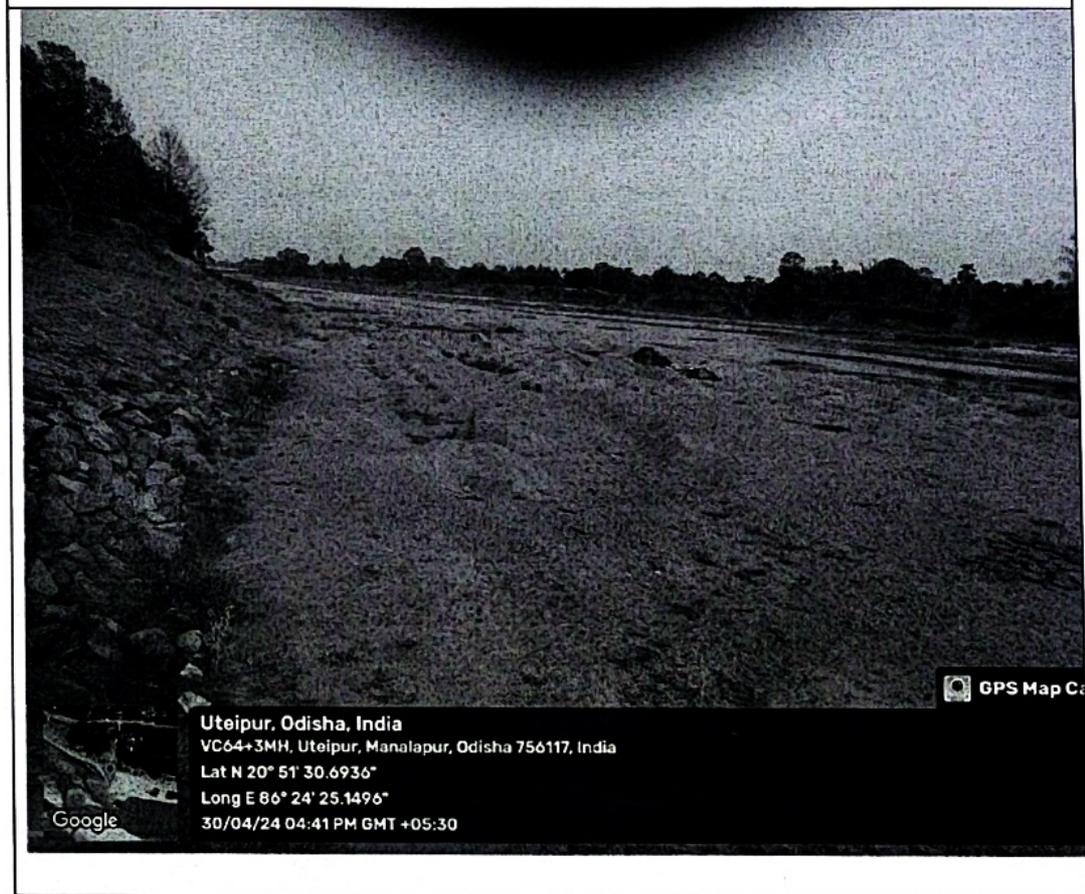
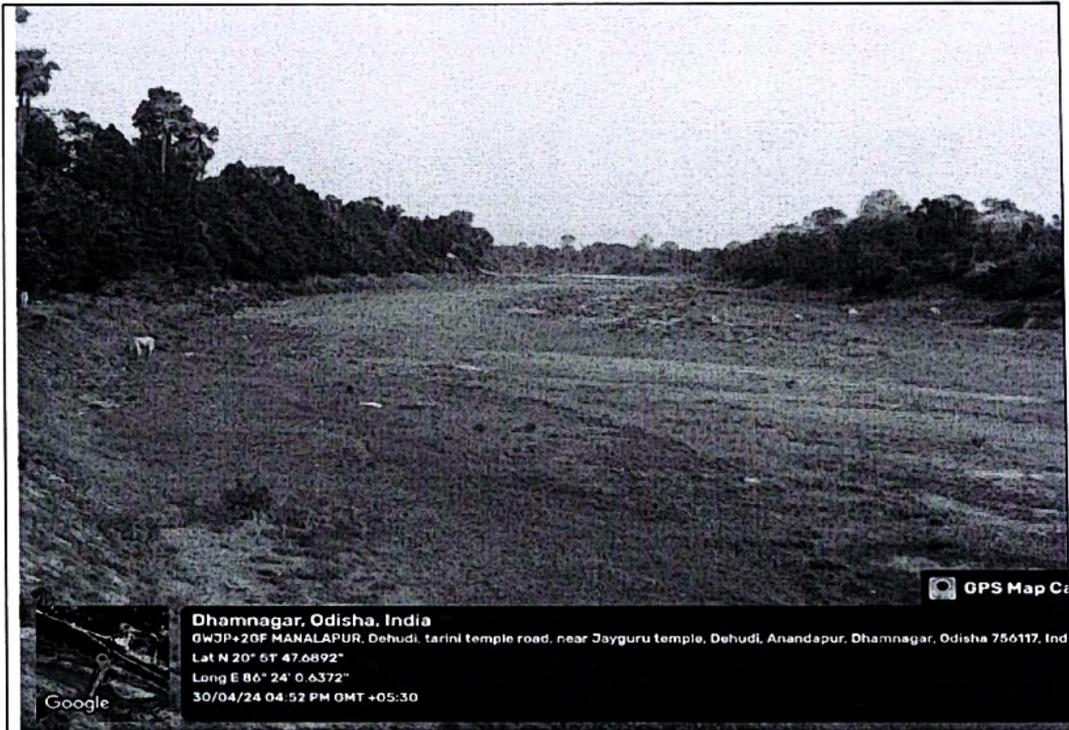
After due field inspection and on verification of documents (relevant files and case record) duly produced by the Tahasildra, Dhamnagar and RI, Dhamnagar, the committee observed following with respect to the allegation made in the O.A.:

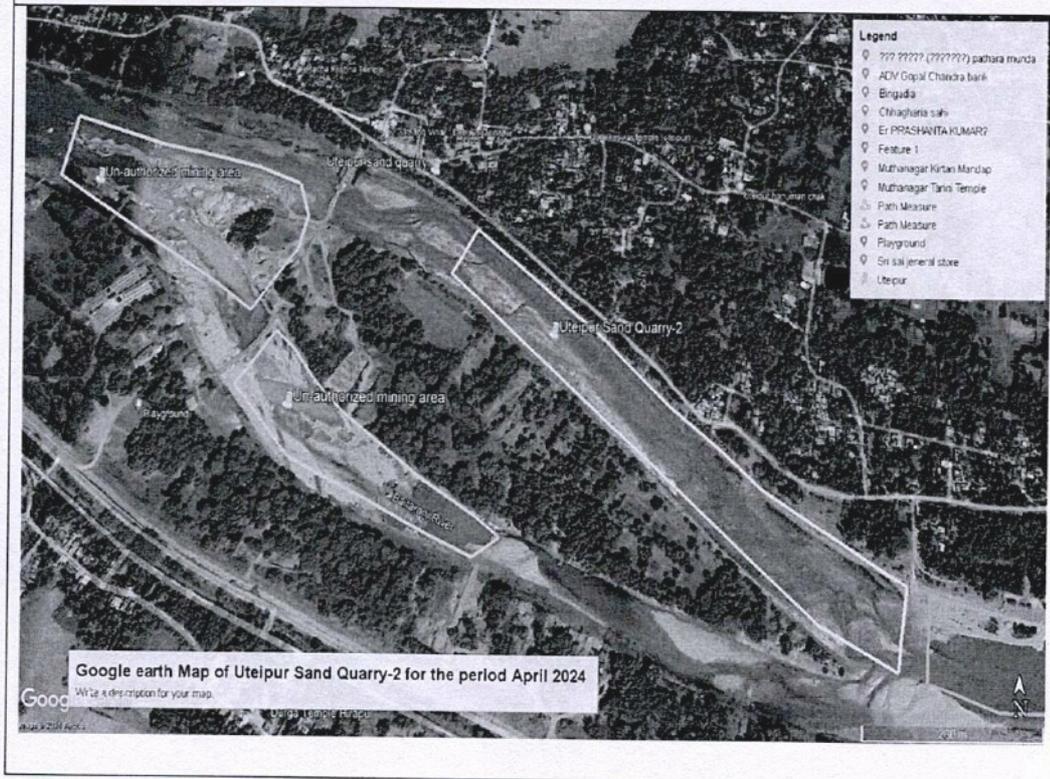
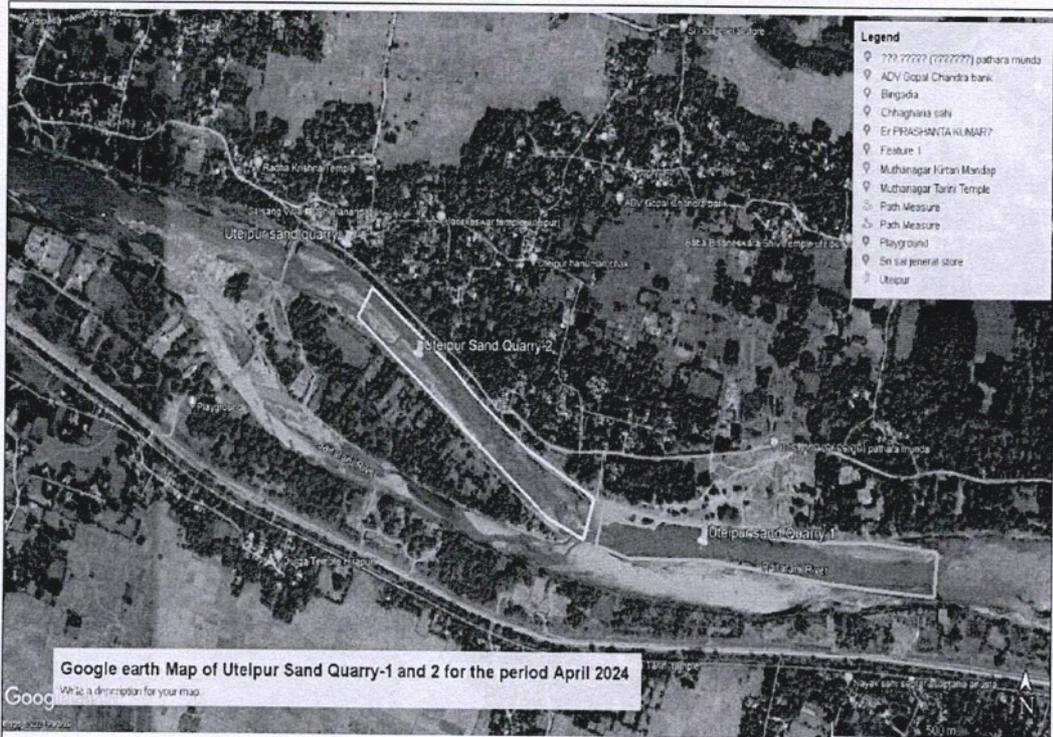
1. **Allegation that Sand lifting outside the lease area in Uteipur-2 Sand quarry in Uteipur Mouza (Anandapur GP) of Sodhar RI circle of Dhamnagar Tahasil.**
 - i) The joint committee observed that there are two quarries i.e. Uteipur Sand Quarry-2 and. Uteipur Sand Quarry-1 in Baitarani River at Village –Uteipur.
 - ii) Environmental Clearance (EC) was issued vide letter 4957/SEIAA dt. 28.05.2018 by SEIAA, Odisha for Uteipur Sand Quarry-1 over an area of 12.45 acres or 5.03 Ha bearing Khata no. 479, Plot no. 01 & 208 at village-Uteipur, Tahasil-

Dhamnagar, Dist-Bhadrak in favour of Sri Babuli Majhi for the period 2017-18 to 2021-22 allowing annual production quantity of sand 7900 cum/annum. Presently, the lease period of Uteipur Sand quarry-1 is over since 2022 as intimated by Tahasildar, Dhamnagar.

- iii) The proceeding of the meeting of District Level Environmental Impact Assessment Authority (DEIAA) was held on 22.09.2018 and decided to issue EC for Uteipur Sand Quarry-2 but no EC was issued for said quarry. The mining Plan has been prepared for Uteipur Sand Quarry-2 over an area of 12.02 acres/4.86 Ha bearing khata No.479, Plot No.208 at village-Uteipur, Tahasil-Dhamnagar, Dist-Bhadrak in favour of Sri Sarat Chandra Majhi for the period 2017-18 to 2021-22 allowing production quantity of sand 7880cum/annum.
- iv) Consent to Operate (CTO) was issued by SPCB, Balasore for Uteipur Sand Quarry-2 vide letter no.490 dt.19.03.2019 valid upto 31.03.2022.
- v) During the Joint inspection, it was observed that the midline of river Baitarani serves as the boundary line between the Bhadrak and Jajpur districts of Odisha. Further, the alleged site Uteipur Sand Quarry-2 falls under the Jurisdiction of Bhadrak district.
- vi) In the alleged site/plot, any type of sand mining was not observed for Uteipur Sand Quarry-2 during the Joint Committee visit.
- vii) The river Baitarani was found in dry state.
- viii) The Committee members also interacted with the local populace/villagers in the area, and according the information provided by the villagers, no type of sand mining activities has been carried out since last 9 to 10 months in the Uteipur Sand Quarry-2 area.
- ix) The concerned Tahasiladr has intimated the committee member that both Uteipur Sand Quarry-2 and Uteipur Sand Quarry-1 lease period is over in year 2022.
- x) During joint inspection the committee observer that there is no sand deposit in Uteipur Sand Quarry-2 lease area and the quarry is not in operation since last 09 to 10 month as reported by local villagers of that of Uteipur area.









- 2. Allegation that uses of machines (excavators) when permission is only for manual mining (only through labour and no machine to be used for mining the sand.**
- i) During joint visit the committee observed that the lease period of Uteipur Sand Quarry-2 is over from March 2022 and the quarry is not in operation since last 9 months as informed by the local villagers of that area and there is no sand available in the Uteipur Sand Quarry-2 for mining and sand may be available after replenishment during monsoon.
 - ii) The committee has not observed any machinery present in the quarry area. Hence, mechanical mining of Uteipur Sand Quarry-2 has not been assertion.
- 3. Allegation that, excess mining beyond the permissible limit and mining throughout day and night and beyond the designated lease area. As per approved mining plan for the sand quarry the lease area is having Latitude: N20° 51' 33.22" to N20° 51' 39.12" Longitude: E86° 24' 15.73" to E86° 24' 24.35". But Mr. Sarat Chandra Majhi lifting and extracting sand from 300 mtr east of said location. He has theft all the sands deposited in this area, which is beyond lease area.**
- i) During visit of the alleged site, any type of mining activity was not found in Uteipur area.
- 4. Allegation that, Mining during Monsoon season while the same is banned.**
- i) As per the Sustainable Sand Mining Guidelines- 2016 and Enforcement & Monitoring Guide lines for Sand Mining by Ministry of Environment, Forest and Climate change. January, 2020 there is no provision for mining beyond the 3.0 meter(maximum) or upto the water level whichever is earlier.
 - ii) The committee has not observed any mining during monsoon season as already the lease period of Uteipur Sand Quarry-2 is over since March 2022.
 - iii) The Concerned Authority must ensure that the new sand mining guide lines of Sustainable sand mining 2016 and 2020 (*Enforcement & Monitoring Guide lines for Sand Mining by Ministry of Environment, Forest and Climate change. January, 2020*) are strictly followed while granting the lease to a lease holder as well as before, during and after the execution of the sand mining.
- 5. Allegation that, no monitoring by the revenue officials to ensure the lease conditions are complied in letter and spirit. Daily Mining Register not maintained.**
- i) The Tahasil staff has informed to the committee member that there is no excess mining occurred during lease period of the said quarry but there is no record in regard to quantity of sand permitted and actual quantity of sand extracted from the source and daily sand extraction from source has not maintained.

6. Allegation that, no pillar posting in lease area.

- i) The committee member has not observed any pillar posting were present in both Uteipur Sand Quarry-2 and Uteipur Sand Quarry-1. The Tahasil staff has identified the source in the field as per the topo map.

7. Allegation that, the CTO of the said Uteipur-2 sand quarry is expired on 31st March of 2022. As per guidelines, the lease holder should apply for CTO 90 days before expire of previous CTO. OSPCB had issued the CTO on 2019 March 19 vide letter no.490/CTO-3194/2019 and CTO no. 165/2018-2019.”

- i) The CTO of the said Uteipur-2 sand quarry has expired on 31st March of 2022 and the Tahasil staff has informed that the quarry operation was not allowed to the lessee after 31.03.2022.

8. Allegation that, illegally extracting sand without valid EC, CTO, Mining plan.

- i) The committee has not observed any illegal extraction in the said lease area. The committee has no information that whether the quarry operated after March 2022 or not and also it is not appears in the KML file.

9. Allegation that, use of heavy machines (Excavators) and Hyva when Mechanical Mining and use of Machine in sand Mining is prohibited. Earlier five machines used and now two machines are used for sand mining and loading.

- i) The committee has not observed any machines present in the lease area.

10. Allegation that, as per the Mining Plan the depth of mining will be 1 Metres but on ground its exceeding beyond 10 metres by using excavators.

- i) As the quarry is not in operation since last 9 months and river is in dry condition also there is no sand available in the sand bed. Thus, the depth of mining beyond 1.0 meter cannot be assertion.

11. Allegation that, mining carried out in Safety Zone and on River Bank which is prohibited as per the mining plan.

- i) The committee member has not observed any pillar posting in both Uteipur Sand Quarry-2 and Uteipur Sand Quarry-1 and the lease period of the quarry is already over since March 2022. The mining carried out in Safety Zone and on River Bank which is prohibited as per the mining plan can not be avoided.

12. Allegation that, annual replenishment study and Pre-monsoon and Post Monsoon assessment has not been conducted while allowing the mine to operate.

- i) No such type annual replenishment study and Pre-monsoon and Post Monsoon assessment has not been conducted for the said quarry.

13. Allegation that, half yearly compliance reports were not submitted and not in public domain, no, greenbelt developed along the roadside or near mining site by the proponent.



- i) The project proponent/lessee has not submitted any compliance report to DEIAA, Bhadrak on the Uteipur Sand Quarry-2.

14. Allegation that, Tahasildar and local administration are hand in glove with the lessee and willfully violating the order of Hon'ble NGT as well as flouting the conditions of Mining Lease, Mining Plan, EC and CTO.

- i) In this case the Tahasildar informed that there is no such occurrence during operation of the Uteipur Sand Quarry-2.

15. Allegation that, there has been no monitoring of quantity of sand excavated and GPS Tracking of vehicles, Electronic Transit Pass, CCTV camera in mining site as prescribed in EIA Notification dated 15th January 2016 and Sand Mining Enforcement and Monitoring Guideline 2020.

- i) The Sand Mining Enforcement and Monitoring Guideline 2020 and Sand Mining Policy -2021 of Odisha Govt. are yet to be implement by the state govt. through each district administration.

16. Allegation that, vehicular transportation through densely populated villages and Rural Roads constructed by the Pradhan Mantri Gram Sadak Yojana (PMGSY) and on basis of the pavement strength and carrying capacity, Rural Development Department has fixed signage as—Heavy Vehicles Prohibited. Further the carrying capacity of the roads has not been assessed and as such the existing road cannot withstand the pressure of hundreds of sands loaded heavy vehicles.

- i) The committee has not observed any sand loaded vehicles passing in the village road or near the quarry area during joint visit. In the peripheral conditions it assumed that earlier transportation may occurred in the PMGSY village road located adjacent to the said quarry. The conditions of the village road not so bad but the lessee of the said sand quarry should maintain the village road during sand transportation after due approval from the district administration.

17. Allegation that, vehicles engaged in mining are overloaded and not covered with tarpaulin and the spill over of wet sands on road makes the road muddy and accident prone during rainy days and cause air pollution during non-monsoon days.”

- i) The committee has not observed any sand loaded vehicles passing in the village road or in the lease as the lease not in operation.

Overall Observation

1. During the Joint Committee inspection, it was observed that the midline of river Baitarani serves as the boundary line between the Bhadrak and Jajpur districts of Odisha. Further, the alleged site Uteipur falls under the Jurisdiction of Bhadrak district.

2. In the alleged site/plot, any type of sand mining was not observed during the Joint Committee inspection.
3. The river Baitarani was found in dry state.
4. During visit it was observed that neither any mining activities were carried out nor any heavy machinery (excavators) was engaged in any of the sources.
5. The Committee members also interacted with the local populace/villagers in the area, and according to the information provided by the villagers, no type of sand mining activities has been carried out in the last 9 to 10 months in the said area.

Sri Sandeep Roy
Scientist B, CPCB, Kolkata

Sri Manmohan Murmu
Regional Officer, SPCB,
Odisha, Balasore

Dr. P.K. Nayak
Environmental Scientist, SEIAA, Odisha

Sri Dipak Kumar Das
Tahasildar, Dhamnagar

Sri Anil Kumar Das
Mining Officer, Bhadrak



Annexure-I

Item No.03

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.62/2024/EZ

Bhagabat Sahoo & Ors.

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 20.03.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, (in Virtual Mode) a/w
Mr. Ashutosh Padhy, Advocate (in Virtual Mode)

ORDER

1. Heard Mr. Sankar Prasad Pani assisted by Mr. Ashutosh Padhy, learned Counsel appearing (in Virtual Mode) for the Applicants.
2. The present Original Application has been filed by the Applicants who are 5 in number, alleging that the Respondent No.16, Private Respondent, who is lessee of Uteipur Sand Quarry 2 under Dhamnagar Tahasil of Bhadrak District, Odisha, is carrying on sand mining in violation of Environmental Clearance conditions, Consent of Operate conditions, Sustainable Sand Mining Guidelines, 2016, and Enforcement and Monitoring Guidelines for Sand Mining, 2020, Odisha Sand Policy, 2021, and EIA Notification, 2006.
3. The violations in the sand mining by the Respondent No.16 have been outlined in para 15 of the Original Application which read as under:-

- i) *“Sand Lifting outside the lease area in Uteipur-2 Sand quarry in Uteipur Mouza (Anandapur GP) of Sodhar RI circle of Dhamnagar Tahasil.*
- ii) *Use of machines (excavators) when permission is only for manual mining (only through labour and no machine to be used for mining the sand*
- iii) *Excess mining beyond the permissible limit and mining throughout day and night and beyond the designated lease area. As per approved mining plan for the sand quarry the lease area is having Latitude: N20° 51' 33.22" to N20° 51' 39.12" Longitude: E86° 24' 15.73" to E86° 24' 24.35". But Mr. Sarat Chandra Majhi lifting and extracting sand from 300 mtr east of said location. He has theft all the sands deposited in this area, which is beyond lease area.*
- iv) *Mining during Monsoon season while the same is banned.*
- v) *No monitoring by the revenue officials to ensure the lease conditions are complied in letter and spirit.*
- vi) *No pillar posting in lease area.*
- vii) *The CTO of the said Uteipur-2 sand quarry is expired on 31st*
- viii) *March of 2022. As per guidelines, the lease holder should apply for CTO 90 days before expire of previous CTO. OSPCB had issued the CTO on 2019 March 19 vide letter no.490/CTO-3194/2019 and CTO no. 165/2018-2019.”*

4. Further violations in the sand mining alleged to have carried out by the Respondent No.16 as stated in the Original Application are as under:-

- i) *“Illegally extracting sand without valid EC, CTO, Mining plan.*
- ii) *Use of heavy machines (Excavators) and Hyva when Mechanical Mining and use of Machine in sand Mining is prohibited. Earlier five machines used and now two machines are used for sand mining and loading.*
- iii) *As per the Mining Plan the depth of mining will be 1 Metres but on ground its exceeding beyond 10 metres by using excavators.*
- iv) *Mining carried out in Safety Zone and on River Bank which is prohibited as per the mining plan.*
- v) *Daily Mining Register not maintained.*



- vi) No Pillar Posting and Demarcation of Lease Area in the mining site.*
 - vii) Annual replenishment study and Pre monsoon and Post Monsoon assessment has not been conducted while allowing the mine to operate.*
 - viii) Half yearly compliance reports were not submitted and not in public domain, No greenbelt developed along the roadside or near mining site by the proponent.*
 - ix) Tahasildar and local administration are hand in glove with the lessee and willfully violating the order of Hon'ble NGT as well as flouting the conditions of Mining Lease, Mining Plan, EC and CTO.*
 - x) Operating the Sand Mine even after completion of the lease period that was up to 2021-22 financial year ended on 31st March 2022. Also the present ongoing mining is without consent to operate and valid environment clearance which is no more in force after 31st March 2022.*
 - xi) There has been no monitoring of quantity of sand excavated and GPS Tracking of vehicles, Electronic Transit Pass, CCTV camera in mining site as prescribed in EIA Notification dated 15th January 2016 and Sand Mining Enforcement and Monitoring Guideline 2020.*
 - xii) Vehicular Transportation through densely populated villages and Rural Roads constructed by the Pradhan Mantri Gram Sadak Yojana (PMGSY) and on basis of the pavement strength and carrying capacity, Rural Development Department has fixed signage as –Heavy Vehicles Prohibited!. Further the carrying capacity of the roads has not been assessed and as such the existing road cannot withstand the pressure of hundreds of sand loaded heavy vehicles.*
 - xiii) Sand mining operation during Monsoon seasons while the same is prohibited as per sustainable sand mining guideline 2016.*
 - xiv) Vehicles engaged in mining are overloaded and not covered with tarpaulin and the spill over of wet sands on road makes the road muddy and accident prone during rainy days and cause air pollution during non-monsoon days.”*
5. Matter requires consideration.
6. Issue notice to the Respondents, returnable within four weeks.



7. Mr. Dipanjan Ghosh, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.4, Odisha State Pollution Control Board.
8. Mr. Apurba Ghosh, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.5, SEIAA, Odisha.
9. Mr. Surendra Kumar, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.12, Central Pollution Control Board.
10. Mr. Sankar Prasad Pani, learned Counsel for the Applicant states that the Respondent Nos.13 & 14, Ministry of Environment, Forests and Climate Change, have wrongly been impleaded in the present proceedings, therefore, the same may be deleted from the array of Respondents.
11. We accordingly direct the Applicant to delete the Respondent Nos.13 & 14, Ministry of Environment, Forests and Climate Changed, from the array of Respondents within 48 hours.
12. Issue notice to the Respondent Nos.1, 2, 3, 6, 7, 8, 9, 10, 11, 15 & 16, returnable within four weeks.
13. Considering the allegations made, we deem it appropriate to constitute a fact finding Committee to elicit the veracity of the allegations comprising of the following Members:-
 - (i) Senior Scientist, Odisha State Pollution Control Board,
 - (ii) Senior Scientist, Central Pollution Control Board,
 - (iii) Senior Scientist, SEIAA, Odisha, and
 - (iv) Collector & District Magistrate, Bhadrak, or his representative not below the rank of Additional District Magistrate,



14. The Committee shall inspect the site in question and submit its Report within four weeks on affidavit with regard to the allegations made.
15. The Collector & District Magistrate, Bhadrak, shall be the Nodal Office for all logistic purposes.
16. The Committee Report on affidavit shall be filed by the Odisha State Pollution Control Board within four weeks.
17. The Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Dipanjan Ghosh, Apurba Ghosh and Mr. Surendra Kumar, Counsel for the Respondents, within 48 hours.
18. **List on 06.05.2024.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

March 20, 2024,
Original Application No.62/2024/EZ
AK