

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO --26--- OF 2023 2024

IN THE MATTER OF:

Jitendra Kumar Pradhan

APPLICANT

VERSUS

STATE OF ODISHA and Others ...

RESPONDENTS

INDEX

Sl NO	PARTICULARS	PAGE NO
1	Memorandum of Application	1-24
2	Copy of the Tahasildar's demand letter dated 20/08/2022 along with RTI reply dated 31/10/2022 as Annexure-1	25-27
3	Letter by Sarapancha dated 23/03/2022 as Annexure-2	28
4	Photographs of earth and morrum lifting dated Annexure-3	29
5	Copy of Newspapers clipping of various dates as ANNEXURE-4	30-31
6	Copy of MoEFCC letter dated 8/08/2022 as ANNEXURE-5	32-35
7	Copy of the Govt. circular dated 26/04/2019 as ANNEXURE-6.	36-41
8	Vaklatnama	42

PLACE: BHUBANESWAR

SANKAR PRASAD PANI

DATE: 7<sup>TH</sup> OCT 2023

ADVOCATE



Bubaneswar 751002, Cell-9437279278,  
email: sankarprasadpani@gmail.com

**SYNOPSIS**

That the Applicant is challenging the illegal lifting of Moorum/Murrum (weathered laterite), Sand, Stone AND Ordinary Earth in Jharsuguda Tahasil of Jharsuguda District from Government land without any Environment Clearance. The illegal mining is ongoing by felling big trees from Revenue Forest Land but no action has been taken by the District Administration and DFO, Jharsuguda despite of repeated complaints against the illegal mining by the private respondent. The Tahasildar has only issued a demand notice but took no deterrent action like Criminal Prosecution to prevent from further illegal mining. To summarise the violation of environmental norms it may be listed as follows

- a) Illegal Morrums and Soil Mining randomly from Forest and Non-Forest land in Jharsuguda Tahasil of Jharsuguda District without Environment Clearance.
- b) While Mining the Morrums and Soil various trees have been felled without permission from the competent authority
- c) Mining is being done indiscriminately without mining plan, environment management plan, and reclamation plan and environment clearance.

**LIST OF DATES**

- 26/04/2019 That in order to check the illegal mining, Government of Odisha has come out with a guideline dated **26/04/2019** where in instructions for prevention of illegal mining of minor minerals issued from time to time.
- 8/08/2022 Clarification on the applicability of EIA notification **MoEFCC OM dated 8/08/2022**
- 28/02/2022 Judgment of Honble NGT dated in OA 110 of 2020(Santanu Kumar Bhukta vs State of Odisha)
- 20/08/2022 Tahasildar's demand letter to the private party for the payment of royalty and compensation.
- 1/11/2023 Copy of newspapers clipping which was published in odia newspaper PRAMEYA.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**EASTERN ZONE BENCH, KOLKATA**

*(Under Section 14 , 15 r/w. Section 18(1) & (2) of the National Green Tribunal Act, 2010)*

**ORIGINAL APPLICATION NO ----- OF 2023**

**IN THE MATTER OF:**

1. Jitendra Kumar Pradhan, S/o Ram Chandra Pradhan, Aged about 36 years Resident of R Katapali, Po- R Kudopali PS- Brajarajnagar, Dist- Jharsuguda **APPLICANT**

**Versus**

1. **STATE OF ODISHA** Through Chief Secretary, Government of Odisha, Lokaseba Bhawan At/po-Bhuabneswar, Dist-Khurdha, 751002 email: [csori@nic.in](mailto:csori@nic.in)
2. **District Collector, JHARSUGUDA**  
  
Office of the District Magistrate and Collector Jharsuguda PIN- 768204 Odisha Email: [dm-jharsuguda@nic.in](mailto:dm-jharsuguda@nic.in),
3. **Member Secretary, Odisha State Pollution Control Board**  
  
A/118, Unit-VII, Nilakantha Nagar, Bhubaneswar, PIN-751012, Odisha Email: [paribesh1@ospcboard.org](mailto:paribesh1@ospcboard.org)

- 4. Member Secretary, State Environment Impact Assessment Authority (SEIAA) Odisha, Bhubaneswar, 5RF-2/1, Acharya Vihar, Unit – IX, 751022 Email: [seiaaorissa@gmail.com](mailto:seiaaorissa@gmail.com)**
- 5. Superintendent of Police, JHARSUGUDA** Office of the District Police  
Office At./P.O.: Jharsuguda, PIN- 768204, Dist.: Jharsuguda EMAIL-  
[spjds.orpol@nic.in](mailto:spjds.orpol@nic.in)
- 6. Tahasildar, Jharsuguda At/Po-Jharsuguda,**  
Dist-Jharsuguda,768204, Odisha, Email- [tah.jharsu-od@nic.in](mailto:tah.jharsu-od@nic.in)
- 7. DIVISIONAL FOREST OFFICER- JHARSUGUDA** Office of the  
Divisional Forest Officer AT/Po-Badmali, KM Road, Jharsuguda,  
Pin-768202 · [dfo.jharsuguda@odisha.gov.in](mailto:dfo.jharsuguda@odisha.gov.in).
- 8. Deputy Director General of Forests (C), Ministry of Environment,**  
Forest and Climate Change, Integrated Regional Office, A/3,  
Chandersekharpur, Bhubaneswar – 751023,Email: [roez.bsr-  
mef@nic.in](mailto:roez.bsr-mef@nic.in)
- 9. Principal Secretary, Revenue and Disaster Management,**  
Government of Odisha, Lokaseva Bhawan, Bhubaneswar, 751001,  
[revsec.od@nic.in](mailto:revsec.od@nic.in)
- 10. Director of Mines and Geology, Bhubigyan Bhawan ,**  
Bhubaneswar, Khordha, PIN-751001  
[dirmines\\_odisha@rediffmail.com](mailto:dirmines_odisha@rediffmail.com)

11.ADITYA CONSTRUCTION, REPRESENTED BY MANAGING  
DIRECTOR, plot no 496/3799, unit no 2, Hariom Bihar, Ward no  
17, Brajrajnagar, Jharsuguda,Odisha, 768126

**RESPONDENTS**

- I. The address of the Counsel of Applicant is given for the service of notices of this APPLICATION.
- II. The addresses of the Respondents are given above for the service of notices of this APPLICATION.
- III. That the Applicant is challenging the illegal lifting of Moorum/Murum (weathered laterite), Stone, Sand and Soil(Minor Minerals) in Jharsuguda Tahasil of Jharsuguda District from government land without any Environment Clearance. The illegal mining is ongoing by felling big trees from Revenue Forest Land but no action has been taken by the District Administration and DFO, Jharsuguda despite of repeated complaints against the illegal mining by the private respondent. The Tahasildar has only collected the royalty and penalty but took no deterrent action like Criminal Prosecution to prevent from further illegal mining.

**IT IS MOST RESPECTFULLY SHOWETH**

1. That the contractor namely AADITYA CONSTRUCTION is taking earth/morrum from various places including these places khata no 616, plot no-85,126,2018/5228 and from khata no-618, plot no-2017,81.
2. Applicant is a social worker and local villager concerned with the illegal mining in the locality. The applicant has brought the illegal mining to the notice of all concerned authorities, the authorities did not take stringent action to restrain the private respondent from illegal mining, for which the applicant has brought this application before the Hon'ble Tribunal.
3. That the Private Respondent is a infrastructure company engaging in various Construction works. That it is estimated around 56100 Cubic Meters of morrum has been illegally lifted / extracted from various places in Jharsuguda district.
4. That the private Respondent is also illegally extracting the morrum from government land in Jharsuguda Tahasil.
5. It is humbly submitted that the **illegal Moorum Mining carried out in Revenue Forest land** of different villages and Trees have been felled by the private respondent for mining of morrum.
6. That despite of public complaints, no action has been taken by the local officials of revenue department for which the illegal extraction of earth is continuing on day to day basis. The earth extracted is being used by the

contractor for various activities. This has led to erosion of soil in the reservoir area.

7. It is pertinent to mention that Earth being a minor mineral require to be extracted only after mining plan and environment clearance in respect of the source is obtained. Here no permission from any of the authorities has been obtained as of now.
8. That Morrur is characterized by a deep weathered layer from which silica has been leached. There is no humus, but an accumulation of aluminium and iron oxides and hydroxides. The reddish colour of these soils is imparted by the iron compounds. They are good material for building huts and paths, as they can be compacted easily to form hard surfaces. They are generally impervious. Murrur or Moram is typically an Indian term. And the geological equivalent term is **Lateritic soil**.
9. It is humbly submitted that Mining on Forest Land being a non-forest activity require prior approval under Forest Conservation Act 1980. forest Clearance .
10. That we are bringing this important issues from larger public interest of loosing of state revenues, blatant violation of laws and government orders, environmental degradation is also happening because of the rat hole mining in different patches leading to more abandoned sites without

responsibility of reclaiming those patches which in long run will be a death trap for stray animals and people passing through these areas, felling of hundreds of Trees and making the area more vulnerable to felling. Topsoil holds the essential micro nutrients for growth of plants are being removed and thereby affect the fertility of soil.

11. That for various construction purpose Thousands of truckloads of Morrum has been illegally lifted by the Contractor in Jharsuguda Tahasil by Aaditya Construction.
12. That Tahasildar , Jharsuguda vide its letter dated 20/08/2022 has informed that Aaditya Construction has illegally extracted Morrum from khata no 616, plot no-85,126,2018/5228 and from khata no-618, plot no-2017,81 through demand notice . Copy of the Tahasildar letter dated 20/08/2022 is annexed here unto as **ANNEXURE-1**
13. That the contractor, private respondent has been extracting earth and morrum randomly from different places which are not designated sites for quarrying or any permission from tahasildar for earth mining ,the contractor by engaging earth movers/ machines have been continuesly extracting earth / morrum from various places.
14. It is pertinent to mention that the Sarapancha of the concerned village from where the Aaditya Construction is lifiting soil and morrum ,The sarapancha wrote a letter on dated 23/03/2022 to the Project Manager of

Aaditya Construction to provide all the permission copies issued by the Govt. Authorities which were required for lifting soil and morrum. Copy of the letter dated 23/03/2022 is here unto annexed as Annexure-2.

15. The details of Khata no. and plot no. of land from where the Morrum and Soil were lifted in Jharsuguda Tahasil are as follows

**LAND SCHEDULE**

<b>Mouza</b>	<b>Khata No.</b>	<b>Plot No.</b>	<b>Area</b>	<b>Kissam</b>
Brajarajnagar Town Unit No. 1	616(Rakhit)	85	0.257	Gochar
		126	1.287	Gochar
		2018/5228	0.828	Bada Jungle
	618(Anabadi)	2017	0.630	Patit
		81	0.472	Nala

16. It is pertinent to mention that Morrum being a Minor Mineral cannot be lifted from any source whether government land or private land without environment clearance from State Environment Impact assessment Authority, Approved Mining Plan and Consent from State Pollution Control Board in addition to the agreement in case of Pvt land and lease in case of Govt land. Further no morrum can be lifted if the same is not in District Survey Report. In the present case no such documents are there prior to mining and the mining is being done randomly and indiscriminately from places which are not designated sources and not approved by government.

17.It is also evident from photographs that soils/morrhum have also been lifted around the trees leaving the same trees vulnerable to be uprooted even by lighter wind speed and ultimately subjecting the trees to dry and decay in addition to the soil erosion in that area. Photographs are annexed here unto as ANNEXURE-3

18.Similarly the illegal mining was also widely reported in leading Odia News Papers such as in Prameya on 31<sup>th</sup> oct 2022, 1<sup>st</sup> nov 2022,3<sup>rd</sup> nov 2022, Copy of the Newspapers clipping are annexed here unto as ANNEXURE -4

19.That in order to check the illegal mining, Government of Odisha has come out with a guideline dated **26/04/2019** where in instructions for prevention of illegal mining of minor minerals issued from time to time. The instructions include robust monitoring mechanism, **revenue and police administration shall seize the machine and vehicles, criminal proceedings**, temporary check gates, squads should be constituted, technical support of ORSAC may be taken for satellite based monitoring, all complaints of unauthorized quarrying be inquired buy Sub-Collector/Tahasildar **within 72 hours and** prompt remedial measures be taken and monthly review of violation cases are suggested in the guideline and none of the points have been followed by the District Adminstration and Tahasildar.

20. That the exemption of ordinary earth from environment clearance for highway projects is not applicable in the present case in view of the **MoEFCC OM dated 8/08/2022** and the Judgment of Honble NGT dated 28/02/2022 in OA 110 of 2020 (Santanu Kumar Bhukta vs State of Odisha) and order of Honble SC in Deepak Kumar case. Copy of MoEFCC letter dated 8/08/2022 is annexed here unto as **ANNEXURE-5**
21. Hence the lifting of Morrums and Soil from all the afore mentioned sources are illegal and warrants appropriate action by the Tahasildar to the extent of seizure of vehicles, criminal proceedings against the person concerned and prohibiting the persons from lifting the morrum. Further, collecting the royalty and allowing the miners to go on further quarrying is not sufficient and deterrent too.
22. That Aaditya Construction happens to be a Habitual Offender of illegal extraction of Minor Minerals and continues to illegally exploit the morrums and occasionally when get caught is being penalized to a minimum amount which does not have any deterrence on the illegal miner. Since this amount to theft of natural resources/government property, hence the appropriate section in Indian Penal Code should have been charged against the violator and the offence should have been notified to police station to apprehend and seize the illegal mined materials, vehicles and person concerned and same has not been done.

23. It is pertinent to mention that the Aaditya Construction has been fined **Rs.27,44,000.00** for illegal morrum mining on dated 20/08/2022 by the Tahasildar Jharsuguda.
24. It is submitted that no action has been taken since 20/08/2022, though the Govt. circular of 26/04/2019 says action has to be taken within 72 hours (3days) and till now no action has been taken as on date except for issuing demand notice. Copy of the Govt.circular dated 26/04/2019 is here unto annexed as **ANNEXURE-6**.
25. It appears that the Tahasil Office being in the helm of affairs and having obligation to ensure the laws are strictly followed has grossly failed in discharging the responsibilities.
26. Further in absence of all the requisites necessary for obtaining environment clearance, consent to operate, consent to establish, environment management plan, District Mineral Survey Report and mining plan all such illegal mining must be stopped.
27. As such all the illegalities are in violation of Supreme Court Judgment in Deepak Kumar Case of 2012, Environment Protection Act 1986, Forest Conservation Act 1980, The **Orissa Timber** and Other Forest Produce **Transit Rules**, 1980, Environment Impact Assessment Notification 2006 which warrants penalty along with imprisonment up to 5years.

28. That ODISHA MINOR MINERAL CONCESSION RULES, 2016 was notified on 14<sup>th</sup> December 2016 In exercise of the powers conferred by sub-section (1) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and in supersession of the provisions contained in the Odisha Minor Mineral Concession Rules, 2004.
29. Section 29. Environment clearance for grant of quarry lease: – (1) No quarry lease for minor minerals other than the specified minor minerals shall be granted without the approval of the appropriate authority under the provisions of the Environment (Protection) Act, 1986. (2) The Competent Authority may apply for and obtain the environmental clearance. (3) In case the clearance under sub-rule (2) has not been obtained by the Competent Authority, the selected bidder shall obtain the environmental clearance before executing the lease deed. (4) The lessee shall be responsible for obtaining environment clearance and implementing the environment management plan.
30. That Section 51 provides for Penalties:— (1) (i) Whenever any person is found extracting or transporting any minor mineral or on whose behalf such extraction or transportation is being made otherwise than in accordance with these rules, **shall be presumed to be a party to the**

**illegal extraction or removal of such minor minerals and every such person shall be punishable with simple imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees or with both and in case of a continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after conviction for the first such contravention.** (ii) The Collector or Sub-Collector or Tahasildar or Director or Joint Director or Deputy Director or Mining Officer or Senior Inspector of Mines or Divisional Forest Officer or Assistant Conservator of Forest or Range Officer or Police Officer not below the rank of Sub-Inspector of Police may seize the minor minerals and its products together with all tools, equipments and vehicles used in committing such offence within their respective jurisdiction. (ii), not exceeding the maximum amount of fine prescribed under these rules and value of the mineral and other properties seized and on payment of such fine and value, the seized mineral and properties shall be released forthwith: **Provided that the accused shall be liable to furnish an undertaking or bond to the effect that he shall not commit such offence in future:** (2) Whenever any person trespasses into any land in contravention of the provisions of these rules, such trespasser may be served with an order of eviction by the Tahasildar or Sub-

Collector or Collector or Deputy Director or Mining Officer or Assistant Mining Officer or Divisional Forest Officer or Assistant Conservator of Forest or Range Officer within their respective jurisdiction and such Government Officer, if necessary, may obtain the help of the police to evict the trespassers from the land. (5) If the person committing an offence under these rules is a company, every person, who at the time the offence was committed, was in charge of and was responsible to the company for the conduct of business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished as per the provisions of the Act and these rules. (7) In case of breach of any condition of the lease deed, the Competent Authority may give notice of sixty days to the lessee to rectify the defects within the time specified and if the lessee fails to rectify the defects within the specified time, the Competent Authority may cancel the lease and/or levy a penalty not exceeding rupees fifty thousand. (8) In case of breach of any condition mentioned in rule 37 of these rules and other conditions which the Competent Authority might have specified while granting a quarry permit, the Competent Authority may impose a penalty which may extend to rupees five thousand per day and in the event of continuing contravention, the Competent Authority may cancel the permit and in such case the minerals lying on the land from which the

same are extracted shall thereafter become the property of the Government and be disposed of by public auction.

31. That despite of the provision for criminal prosecution which upon conviction will end in two year imprisonment, the Tahasildar simply penalized the peanuts and compounded the offence that encourages the offender to continue with the illegal mining.
32. That mining in forest land without prior approval of central government is an offence under Section 3 of Forest Conservation Act 1980
33. That the Hon'ble Tribunal while deciding the Original Application No 9 of 2021(**Saral Kumar Parida Vs District Collector Balasore** and others) vide order dated 13th October 2022 held that the illegally mining to be assessed using **scientific method** such as Satelite Imagery and further held that the Tahasildar will be responsible for illegal mining and **criminal prosecution has to be instituted against concerned Tahasildar**. The relevant paras 36, 37, 39, 41, 44 and 477 is reproduced as follows

“Para36 The Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM) issued by the Ministry of Environment, Forests and Climate Change (MoEF&CC) has laid

down the procedure for monitoring mechanism to check environmental damage due to illegal mining.

Para37. The Guidelines provide for establishment of a Task Force to be headed by an officer not below the rank of Additional District Magistrate who shall submit quarterly reports to the district administration

Para 39 The Guidelines further provide for lodging of F.I.R. against persons involved in illegal excavation, storage and/or transportation of minor minerals including sand and imposition of fine as also initiation of actions under the provisions of the Income Tax Act, 1961 for unaccounted income and under the Central Goods and Services Act, 2017 for non-payment of GST as well as action under the provisions of the Motor Vehicles Act, 1989 against the driver and permit holder of the vehicle.

Para-41 Be that as it may, the Tahasildar, Basta, within whose jurisdiction the sand quarry exists, is the representative of the district administration, who is responsible for ensuring that no illegal sand mining is being carried out within his Tahasil and if he finds that illegal sand mining is going on, it is his duty to report the matter to the District Magistrate concerned immediately

Para44-We, therefore, direct the State Level Environment Impact Assessment Authority (SEIAA), Odisha to re-determine Environmental Compensation for illegal extraction of sand by the Respondent No.10 for the five years period from 2017 (included) upto 2021 with the help of satellite imagery.

Para47. We further direct the Collector & District Magistrate, Balasore to lodge F.I.R. against the Tahasildar, Basta who was the Tahasildar during the period 2017 to 2021 during which the illegal extraction of sand has occurred according to the SEIAA, Odisha and such F.I.R. shall thereafter be carried to its logical conclusion. The Collector & District Magistrate shall also initiate departmental proceedings against the concerned Tahasildars in accordance with law.

34. That Extraction of Minor Minerals without prior Environment Clearance is an offence under Section 15 of the Environment Protection Act 1986 **and same is reproduced as follows**

“(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in case the failure

or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.”

35. That District Collector is the authority under the Environment Protection Act 1986 to initiate criminal prosecution under Section 19 of Environment Protection Act 1986 and the District Magistrate in the present case have not asserted his authority and thereby failed to discharge his duties and hence the Hon’ble Tribunal may call for a satisfactory reply and direct the Chief Secretary for necessary action to that effect.

36. That while upholding the Criminal Prosecution in a illegal sand mining case namely Jayant Etc Vs State of Madhya Pradesh, Criminal Appeal No 824-825 of 2020, Hon’ble Supremecourt on 3rd December 2020 has opined

that“ **violators cannot be permitted to go scot free on payment of penalty only. There must be some stringent provisions which may have deterrent effect so that the violators may think twice before comm**

enting such offences and before causing damage to the earth and the nature.

**GROUND**

- A. That the Private Respondent is illegally mining the morrums from forest and government land without Forest Clearance and Environment Clearance
- B. That the ongoing illegal morrum mining is in violation of Section 29 of Orissa Mineral Concession Rules (Amendment )2016 and Environment Impact Assessment Notification 2006
- C. That the right to Clean Air and Water which is guaranteed by expanding the scope of Article 21 of Constitution of India and same has been violated.
- D. That the ongoing illegal morrum mining destroying the local ecology is against the spirit of Article 48A and 51A(g) that mandates for protection of environment
- E. Indiscriminate and illegal morrum and soil mining is in violation of Environment (Protection) Act, 1986, Forest Conservation Act 1980, and Hon'ble Supreme Court Order in Deepak Kumar Vs State of Hariyana , W P (C) 202 of 1995(Godavarman Case)and Common Cause Case.
- F. That the present illegal mining is against the principle of Sustainable Development, Precautionary Principle and attracts the Polluters Pay Principle.

**LIMITATION**

That there is a subsisting cause of action because of the **ongoing mining activity in absence of valid Forest Clearance and environment clearance** and continuous damage caused by the illegal mining, hence the application is not barred by limitation.

**INTERIM PRAYER**

Direct the Respondents to stop mining of morrum and soil mining without forest and environment clearance till disposal of the Original Application

**PRAYER**

The Applicant humbly prays for the following reliefs in view of aforementioned facts and grounds

- I. Constitute an independent fact finding committee to assess the quantity of minor minerals extracted illegally and assessment of ecological loss and environment compensation, and trees felled for morrum and soil mining
- II. Direct the Private Respondent to Restore and reclaim the void created due to extraction of morrum and soil.
- III. Fix the accountability of the public authorities for their inaction in restraining the private respondent from illegal mining
- IV. Direct the authorities to initiate criminal proceedings against the private respondent under Environment Protection Act 1986 and Indian Penal Code(Section 379 and 414)

- V. Impose exemplary penalty and environmental compensation for grossly violating the environment norms and causing environmental damage
- VI. Pass such other orders/directions as may be deemed fit and proper (including appropriately moulding the reliefs) in the bonafide interests of justice.

And for this act of kindness, the petitioners as in duty bound shall ever pray.

**By the Applicant Through**

A handwritten signature in black ink, appearing to read 'S. Panigrahi', written over a horizontal line.

**Date-07/10/2023**

**ADVOCATE**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO ..... OF 2023/EZ

IN THE MATTER OF:

JITENDRA KUMAR PRADHAN

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

Affidavit

07 OCT 2023

I, Jitendra Kumar Pradhan, S/o Ram Chandra Pradhan, Aged about 36 years  
Resident of R Katapali, Po- R Kudopali PS- Brajarajnagar, Dist- Jharsuguga  
hereby solemnly affirm, and declare as under:

1. That I am the Applicant in the abovementioned Original Application. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying Affidavit and the same is true and correct and is drafted on my instruction

*Jitendra pradhan*  
DEPONENT

**VERIFICATION**

Verified on this the ..... day of 07 OCT 2023 at Bhubaneswar that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Identified By

*Jitendra pradhan*  
DEPONENT



The above named deponent(s) being duly identified by Sri. *S.P. Saha* at *Bhubaneswar*.  
Appears before me on 07 OCT 2023 at 10:40 AM on oath that the contents of the above affidavit are true to the best of his/her own knowledge and belief.

**GANMEJAYA RALTRA**  
NOTARY, GOVT. OF ODISHA  
BHUBANESWAR  
Deponent(s) Notary, Bhubaneswar, Regd. No-ON-86/2012  
Mob N 9337121273

25  
TAHASIL OFFICE: JHARSUGUDA

ANNEXURE-1

No. 6594 /Date 31.10.2022

From:

Public Information Officer  
Tahasil Office, Jharsuguda

To

Sri Jitendra Pradhan  
S/O – Ramchandra Pradhan  
R. Katapali, PO - Kudopali  
Ps – Brajrajnagar, Dist - Sambalpur

Sub: Supply of RTI information on the application of Sri Jitendra Pradhan under RTI Act, 2005.

Sir,

With reference to the subject cited above, I am to supply herewith the information submitted by the Touzi Section, Tahasil Office, Jharsuguda sought by you under RTI Act, 2005 in your application.

This is for your information.

Yours Faithfully

31/10/22  
Public Information Officer  
Tahasil Office, Jharsuguda

Public Information Officer  
Tahasil Office, Jharsuguda

To

Public Information Officer  
Tahasil Office, Jharsuguda

Sub: Submission of RTI information on the application of Sri Jitendra Pradhan under RTI Act, 2005.

Sir,

With reference to the subject cited above, I am to submit herewith the point wise information sought by Sri Jitendra Pradhan under RTI Act, 2005 as given below.

1 & 2. Tahasil Office letter No. 3389, dt. 20.08.2022 regarding lifting of Morrums (common earth) by M/S Aditya Construction under Brajrajnagr RI Circle is attached.

3. No any permission has been issued by this office for lifting of Morrums in favour of the M/S Aditya Construction over case land.

This is for your kind information and necessary action.

Yours Faithfully

*[Handwritten Signature]*

Dealing Asst., Touzi Section  
Tahasil Office, Jharsuguda

*Subject under  
RTI Act, 2005*  
*21/10/22*  
Public Information Officer  
Tahasil Office, Jharsuguda

27  
TAHASIL OFFICE: JHARSUGUDA

No. 3389 / Date 20.08.2022

To

Sri Arun Kumar Barma  
M/S - Aditya Construction  
Korba (Chhatishgarh)  
Ha. Nl. Hairlom Bihar,  
Brajrajnagar, Jharsuguda  
Mob: 7974889411

Sub: Regarding deposit of Royalty and penalty for illegal extraction of Minor Mineral.

**Whereas**, it has come to the notice of the undersigned that, you have extracted 56100 cum soil (common earth) from following schedule of land without prior permission of the Competent Authority.

**LAND SCHEDULE**

Mouza	Khata No.	Plot No.	Area	Kisam
Brajrajnagar Town Unit No. 1	616 (Rakhit)	85	0.257	Gochar
		126	1.287	Gochar
		2018/5228	0.828	Bada Jungle
	618 (Anabadi)	2017	0.630	Patit
		81	0.472	Nala

**Whereas**, as per Rule 51 of OMMC Rules, 2016, the penalty should be imposed up on you for illegal extraction of minor mineral.

**Whereas**, you have been directed to submit a show cause vide this office letter No. 1710, dt. 10.05.2022. However, three months have been passed and no reply have been received yet.

**Whereas**, as per Rule 51 of OMMC Rules, 2016, you are liable to deposit the penalty for illegal extraction of minor mineral as assessed below.

Sl No.	Assessment	Amount
1.	Royalty & Addl. Charges for 56100 Cum sand @ 40.00 per Cum	Rs. 22,44,000.00
2.	Penalty	Rs. 5,00,000.00
	<b>TOTAL</b>	<b>Rs. 27,44,000.00</b>

(Rupees twenty seven lakh forty four thousand only)

Therefore, you are directed to deposit the above amount within seven days after receipt of this letter, failing which action as per Rule 51 of OMMC Rules, 2016 will be initiated against you.

Sudhakar Kumar  
20/08/2022  
Public Information Officer  
Tahsil Office, Jharsuguda

S. M. Jaiswal  
Tahasildar, Jharsuguda  
Tahasildar  
Jharsuguda

LETTER FROM SARAPANCH

**କୁଦୋପାଳି ଗ୍ରାମପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ**  
ପଞ୍ଚାୟତ ବନିତ, ଝାଉସୁଗୁଡ଼ା  
ଘୋ: ଆର. କୁଦୋପାଳି, ଜିଲ୍ଲା : ଝାଉସୁଗୁଡ଼ା (ଓଡ଼ିଶା) ୭୬୮ ୨୨୫

ପଠୁ ବାସନା... ୧୦୦୦.....      ୦/c      ତାରିଖ... ୨୩/୦୩/୨୦୨୨

To  
The Project Manager  
Aditya Construction  
Contractor under S.O.C.P. of Ib Valley Area,  
Mahanadi Coal Field Limited.

Sub- SUPPLY OF COPIES OF PERMISSION LETTER ISSUED BY THE GOVT. IN  
RESPECT OF LIFTING OF MORRUM FROM PLAYGROUND OF UPENDRA  
DIXIT HIGH SCHOOL AND DE-FORESTATION IN YOUR PLANT SITE  
ORAMPADA.

Dear Sir,

It is brought to your notice that a huge quantum of morrum have  
been lifted for your establishment from the playground of Upendra Dixit  
High School, Bundia Colony as well as there is a large deforestation have  
been taken place in your plant site Kudopali Orampada for your  
establishment.

On public demand the copies of permission from the competent  
Authority for the above purpose if any, you please supply the xerox copy  
same to us within 3 (Three) days of receipt of this letter.

Plases treat it most urgent.

Yours sincerely  
Kalyani Dixit  
Sarpanch  
Kudopali Grampanchayat  
Rashmita Pradhan  
Kudopali Block  
Kudopali Grampanchayat  
Rashmita Pradhan  
Panchayat Samiti Member

Received  
C.F. 279  
27/3/22

Copy to: - Project Officer S.O.C.P. Ib Valley Area

SAVIS  
RECEIPT  
No. 27/3/22

PHOTOGRAPH OF ILLEGAL MINING



# ବେଆଇନ ମୋରମ ଖନନ ପାଇଁ ୨୭ ଲକ୍ଷ ଜରିମାନା ଆଦେଶ

## କୁଦୋପାଳି ପଞ୍ଚାୟତ ଅଞ୍ଚଳରେ ଠିକା ସଂସ୍ଥାର ମନମାନା

ଝାରସୁଗୁଡ଼ା,୩୧୧୦(ଆପ୍): ସରକାରୀ ରାଜସ୍ୱ କିଲି ହରିଲୁଚ୍ କରାଯାଇ ଘରୋଇ ଠିକା ସଂସ୍ଥା ମାଲେମାଲ୍ ହେବାକୁ ଭାଗିଛନ୍ତି ତାହାର ପ୍ରକୃତ ଭାବନାର ଦେଖିବାକୁ ମିଳିଛି ଝାରସୁଗୁଡ଼ା ତହସିଲର କୁଦୋପାଳି ପଞ୍ଚାୟତ ଅଞ୍ଚଳରେ । ଆଇ ଏକଲି ହରିଲୁଚ୍ ଏବଂ ବେଆଇନ କାର୍ଯ୍ୟକୁ ରାଜସ୍ୱ ବିଭାଗ ବି ଆଖି ବଦ କରି ସମର୍ଥନ ଦେବା ରହସ୍ୟାକନକ । ବିଶ୍ୱାସ୍ ସରକାରୀ ଜମିରେ ବେଆଇନ ମୋରମ ଖନନ କରିବା ଘଟଣା ଦୀର୍ଘ ଦୁଇ ବର୍ଷ ପର୍ଯ୍ୟନ୍ତ ରାଜସ୍ୱ ବିଭାଗର ଦୃଷ୍ଟିକୁ ନ ଆସିବା ଏବଂ ପଞ୍ଚାୟତର ଜନ ପ୍ରତିନିଧି ଏନେଇ ରାଜସ୍ୱ ବିଭାଗକୁ ଜଣାଇବା ପରେ ଜରିମାନା ଆଦାୟ ଲାଗି ବିକଳରେ ନେତୃତ୍ୱ କରି କରାଯିବା ଘଟଣା ଏଠାରେ ଠିକାଦାର ଏବଂ ପ୍ରଶାସନର ମଧୁଚନ୍ଦ୍ରିକାର ଆଇ ଏକ ପର୍ଯ୍ୟନ୍ତ ଉଦ୍ଦେଶ୍ୟ କରିଛି । ଗତ ମାର୍ଚ୍ଚ ମାସ ୨୩ ତାରିଖ କୁଦୋପାଳି ଗ୍ରାମ ପଞ୍ଚାୟତ ପକ୍ଷରୁ ସରପଞ୍ଚ ଏବଂ ସମିତିସଭାଙ୍କ ସ୍ୱାକ୍ଷରରେ ଏକ

ନେତୃତ୍ୱ ସଂପୂର୍ଣ୍ଣ ଠିକା ସଂସ୍ଥା ଉଦ୍ଦେଶ୍ୟରେ ଜାରି କରାଯାଇ କେଉଁ ଭିତ୍ତିରେ କୁଦିଆ କଲୋନା ଲାଲକରେ ଥିବା ଉପେନ୍ଦ୍ର ଦାକ୍ଷିତ ହାଲସ୍ୱଳ



ଖେଳ ପଡ଼ିଆର ବିସ୍ତୃତ ଜମିରେ ଗଛ କାଟି ମୋରମ ଖନନ କରାଯାଇଛି ତାହା ଜାଣିବାକୁ ଚାହିଁବା ପରେ ଏହି ପ୍ରସଙ୍ଗକୁ ନେଇ ହଲଚଳ ସୃଷ୍ଟି ହୋଇଥିଲା । ଏହା ସଂଗ୍ରହ ପଞ୍ଚାୟତ ପ୍ରତିନିଧି ଝାରସୁଗୁଡ଼ା ତହସିଲଦାରଙ୍କୁ ଏକଲି ବେଆଇନ କାର୍ଯ୍ୟ ସଂପର୍କରେ ଜଣାଇବା ପରେ

କାଳକ୍ଷେପଣ ନୀତି ଆପଣେଇ ରାଜସ୍ୱ ବିଭାଗ ପକ୍ଷରୁ ମୋରମ ଖନନର ମାପତୁପ ଆରମ୍ଭ ହୋଇଥିଲା । ହେଲେ ଦୀର୍ଘ ଦିନ ହାତ ବଞ୍ଚି

ବସିବା ପରେ ଶେଷରେ ଗତ ଅଗଷ୍ଟ ମାସ ୨୦ ତାରିଖ ଦିନ ଝାରସୁଗୁଡ଼ା ତହସିଲଦାରଙ୍କ କାର୍ଯ୍ୟାଳୟ ପକ୍ଷରୁ ଆଦିତ୍ୟ କନସ୍ଟ୍ରକ୍ସନ୍ ନମକ ଛତିଶଗଡ଼ କୋରା ଅଞ୍ଚଳର କମଳିକୁ ନେତୃତ୍ୱ ସଂଖ୍ୟା ୩୩୮୯ କରି କରାଯାଇଥିଲା । ସେହି

ନେତୃତ୍ୱ ଅନୁଯାୟୀ ବୁକରାଜନଗର ଗଭନ ସୁନିଚ ନଂ ଅଭ୍ୟୁକ୍ତ ଖାରା ନଂ ୬୧୬(ରକ୍ଷିତ) ର ତିନିଟି ପୂର୍ବ ସହାର ପରିମାଣ ମିଶି ପ୍ରାୟ ୨.୩୭୨ ଏକର ଗୋଟର ଓ ବଡ଼ ଜଙ୍ଗଲ କ୍ଷେତ୍ର ଜମି ଏବଂ ଖାରା ନଂ ୬୧୮(ଅନାଦି)ର ଦୁଇଟି ପୂର୍ବ ସହାର ପରିମାଣ ମିଶି ପ୍ରାୟ ୧.୧୦୨ ଏକର ପଟିତ ଓ

ନଳା କ୍ଷେତ୍ର ଜମିରେ ରହିଛି ଏବଂ ଜେରିମାନା ବାବଦକୁ ସମୁଦାୟ ୨୭ ଲକ୍ଷ ୪୪ ହଜାର ଟଙ୍କା ପୈଠ କରିବାକୁ ନେତୃତ୍ୱ କରି କରାଯାଇଛି । ନେତୃତ୍ୱ କରି ହେବାର ସାତ ଦିନ ମଧ୍ୟରେ ପୈଠ କରିବାକୁ ସଂପୂର୍ଣ୍ଣ ସଂସ୍ଥା ଉଦ୍ଦେଶ୍ୟରେ ଜାରି ନେତୃତ୍ୱରେ ଦର୍ଶାଯାଇଥିବା ସ୍ତରଣ ଅଧିକାର ଆଇନ ଅନୁଯାୟୀ ମରା ଯାଇଥିବା ତଥ୍ୟରେ ଉଲ୍ଲେଖ କରାଯାଇଛି । ରାଜସ୍ୱ ବିଭାଗ ପକ୍ଷରୁ କରାଯାଇଥିବା ଆକଳନ ତଥା ଧାର୍ଯ୍ୟ କରାଯାଇଥିବା ରହିଛି ଏବଂ ଜେରିମାନାକୁ ନେଇ ମଧ୍ୟ ପ୍ରଶ୍ନ ଉଠାଇଛି ସ୍ଥାନୀୟ ସମିତିସଭା ରକ୍ଷିତ ପ୍ରଧାନ । ବିପୁଳ ପରିମାଣର ମୋରମ ଖନନ କରାଯାଇ ଚାଲିଛି ହେଉଥିବା ବେଳେ ତାହା ଠିକ ଭାବେ ଆକଳନ କରାଯାଇନାହିଁ ବୋଲି ଦର୍ଶାଇବା ସହ ଜିଲ୍ଲାପାଳ ଏଥିରେ ହସ୍ତକ୍ଷେପ କରି ଆଇ ଥରେ ରାଜସ୍ୱ ବିଭାଗ ଏବଂ ଜଙ୍ଗଲ ବିଭାଗର ଜିଲ୍ଲାପାଳ ଅଧିକାରୀଙ୍କ ଦ୍ୱାରା ମିଳିତ ଭାବେ ସଞ୍ଚ କରାଯାଇ ଆକଳନ କରାଯିବାରୁ ଦାବି କରିଛନ୍ତି ।



# ଝାରସୁଗୁଡ଼ା

## ଗଛ କାଟି ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲରେ ବେଆଇନ ବେଟିଂ ପ୍ଲାଣ୍ଟ

ଝାରସୁଗୁଡ଼ା,୧୧୧୦(ଆପ୍): ପ୍ରାୟ ଦୁଇ ଏକରରୁ ଉର୍ଦ୍ଧ୍ୱ ପରିମିତ ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲ ଜମିକୁ ବର୍ଷଧିକ କାଳ ମାଡ଼ି ବସି ସେଥିରେ ବେଆଇନ ଭାବେ ବେଟିଂ ପ୍ଲାଣ୍ଟ ଚାଲିଛି । ଝାରସୁଗୁଡ଼ା ତହସିଲ ଅନ୍ତର୍ଗତ କୁଦୋପାଳି ମୌଜାଞ୍ଚଳରେ ପ୍ରାୟ ଦୁଇ ବର୍ଷ ହେବ ଏଭଳି ଏକ ବେଆଇନ ପ୍ରକଳ୍ପ ବାହାର ରାଜ୍ୟର ଠିକା ସଂସ୍ଥା ଦ୍ୱାରା ଗଠି ଉଠିଛି । ବହୁ ସଂଖ୍ୟାରେ ଗଛ କାଟି ସେଠାରେ ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ସହ ବହୁ ପରିମାଣର ବାଲି ଏବଂ ଚିପ୍ (ଗୋଡ଼ି) ଆଦି ତମ୍ପା କରି ରଖାଯାଇଛି । ବିସ୍ତୃତ ଜମିରେ ଏଭଳି ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ଦ୍ୱାରା ସବୁଜିମା ଉତ୍ତୁଡ଼ି ଯାଇଛି । ସବୁଠାରୁ ଆଶ୍ଚର୍ଯ୍ୟକରଣ ହେଉଛି ଯେଉଁ ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲ ଜମିର ଜଙ୍ଗଲ ସଫା କରି ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ହୋଇଛି ତାହାର ବ୍ୟବହାର ଲାଗି ରାଜସ୍ୱ ବିଭାଗ କୌଣସି କିଛି ପ୍ରଦାନ କରିନାହିଁ । ହେଲେ ଏହି ବାହାର ରାଜ୍ୟ ସଂସ୍ଥା ବିନେଧରେ ପ୍ରଶାସନ ପଦକ୍ଷେପ ନେବା ପରିବର୍ତ୍ତେ ନୀରବତା ପାଳନ ରହସ୍ୟାକନକ ।

ବାହାର ରାଜ୍ୟର ଠିକା ସଂସ୍ଥାକୁ ବେଟିଂ ପ୍ଲାଣ୍ଟ ପ୍ରତିଷ୍ଠା କରିବା ଲାଗି କୁଦୋପାଳି ମୌଜା ଅନ୍ତର୍ଗତ ଖାରା ନଂ ୬୧ ଏବଂ ପୂର୍ବ ନଂ ୬୧.୬ ରୁଚ୍ ଜମିକୁ ଭିତ୍ତିରେ ବିଆସଇ ନାହିଁ । ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲ ଜମିକୁ ବିନାପ୍ରମାଣରେ ବ୍ୟବହାର କରିବା ସହ ଜଙ୍ଗଲ କାଟି ସଫା କରିବା ପରେ ବି ଏବେ ଦିନ ଧରି ପ୍ରଶାସନ କିଛି କିଛି ଦୂପ ରହିଛି ବୋଲି

### ଠିକା ସଂସ୍ଥାକୁ ଅଭୟ ବର, ପ୍ରଶାସନ ରୂପ

ଅନେକେ ପ୍ରଶ୍ନ ଉଠାଇଛନ୍ତି । ଜଙ୍ଗଲ ସଫା କରି ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲ ଜମିରେ ବେଆଇନ ପ୍ଲାଣ୍ଟ ପ୍ରତିଷ୍ଠା ସଂପର୍କରେ କି ପଦକ୍ଷେପ ଗ୍ରହଣ କରାଯାଇଛି ବୋଲି ବୁକରାଜନଗରର ବନ ବିଭାଗ ରେଖ ଅଧିକାରୀ ଆରତୀ ନେତ୍ରାକୁ ପଚରା ଯିବାରୁ ସେ ଏ ସଂପର୍କରେ ଜଣି ନ ଥିବା ସହ ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲ ଜମିରେ ବେଟିଂ ପ୍ଲାଣ୍ଟ ଚାଲିଥିବା ବିଷୟ ତାଙ୍କ ଦୃଷ୍ଟିକୁ ଅଣା ଯାଇନଥିବା କହିଛନ୍ତି । ଝାରସୁଗୁଡ଼ା ବିଏପିଟି ଲିମିଟେଡ଼ ଦ୍ୱାରା ପ୍ରକଳ୍ପ ପଚରା ଯିବାରୁ ଏ ସଂପର୍କରେ ସେ ଅବଗତ ନ ଥିବା ସହ ଗ୍ରାମ୍ୟ



ଜଙ୍ଗଲ ଜମି ରାଜସ୍ୱ ବିଭାଗ ଅଧିନରେ ଥିବାରୁ ତହସିଲଦାର ଏଠିରେ ଛମତାପ୍ରାପ୍ତ ବୋଲି କହିଛନ୍ତି । ମାତ୍ର ଏହି ପ୍ରସଙ୍ଗରେ ସେ ଅନୁଧ୍ୟାନ କରି ପଦକ୍ଷେପ ନେବେ ବୋଲି କହିଛନ୍ତି । ଝାରସୁଗୁଡ଼ା ତହସିଲଦାର ବସନ୍ତ ହାତୀକୁ ପଚରା

ଯିବାରୁ ଏନେଇ ତଦନ୍ତ କରାଯାଇ ପଦକ୍ଷେପ ନିଆଯିବ ବୋଲି କହିଛନ୍ତି । ବର୍ଷଧିକ କାଳ ହେଲା ଏଠାରେ ବେଆଇନ ପ୍ରକଳ୍ପ ଚାଲିଥିବା ବେଳେ ବନ ବିଭାଗର ସ୍ଥାନୀୟ ଅଧିକାରୀ ଅବା ରାଜସ୍ୱ ବିଭାଗର ଅଧିକାରୀ ନ ଉଠିବା ଆଶ୍ଚର୍ଯ୍ୟକରଣ । ଏହି ବେଟିଂ ପ୍ଲାଣ୍ଟ ପ୍ରତିଷ୍ଠା କରି ଏଠାରେ ସିନେଟ୍ କମ୍ପ୍ଲିକ୍ସ ମିଶ୍ଟ୍ରି ପ୍ରକଳ୍ପ ପୂର୍ବକ ରାଜ୍ୟ ବିନାଶ ଏବଂ ଅନ୍ୟାନ୍ୟ ବନଜ କାର୍ଯ୍ୟରେ ବ୍ୟବହାର ହେଉଛି । ପ୍ରତ୍ୟହ ବିପୁଳ ପରିମାଣର ବାଲି, ଚିପ୍, ସିନେଟ୍ ଆଦିର ମିଶ୍ଟ୍ରି ପ୍ରକଳ୍ପ ହେଉଥିବାରୁ ଏଠାରେ ବହୁ ପ୍ରକଳ୍ପ ସଂପର୍କିତ ପ୍ରକଳ୍ପ ପକାଇବେ ବୋଲି । ଆଖପାଖରେ ସଛକଟା, ସରଦ୍ୱାର, ଜଳାଶୟ ଉପରେ ଧୂଳିସ୍ତରଣ ଆସିବାରୁ ଦେଖିବାକୁ ମିଳୁଛି । ସ୍ଥାନୀୟ ଜନ ପ୍ରତିନିଧି ଏହି ବେଆଇନ ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠାକୁ ନେଇ ଆପଣି ଉଠାଇଛନ୍ତି । ମାତ୍ର ପ୍ରଶାସନ ଏଥିପ୍ରତି ଏପର୍ଯ୍ୟନ୍ତ ପଦକ୍ଷେପ ଗ୍ରହଣ କରିନାହିଁ । ବିପୁଳ ସରକାରୀ ଜମି ତଥା ଗ୍ରାମ୍ୟ ଜଙ୍ଗଲ ଜମିର ଏଭଳି ବ୍ୟବହାର ତଥା ସଫା କରାଯିବା ଘଟଣାର ତଦନ୍ତ କରାଯିବାରୁ ସ୍ଥାନୀୟ ଭାବେ ଦାବି କରିଛନ୍ତି । ଜିଲ୍ଲାପାଳ ଦୂରତ୍ର ଏନେଇ ପଦକ୍ଷେପ ନେବାକୁ ଦାବି ହୋଇଛି ।



F. No. 3-70/2020-IA.III [141127]  
 Government of India  
 Ministry of Environment, Forest and Climate Change  
 (IA Division)

Indira Paryavaran Bhawan  
 Jor Bagh Road, Aliganj,  
 New Delhi - 110003

Dated: 8<sup>th</sup> August, 2022

OFFICE MEMORANDUM

**Subject: Clarification on the applicability of EIA Notification 2006 for excavation of Ordinary Earth from borrow area for linear projects - reg.**

The Ministry, vide Notification S.O. 1224 (E) dated 28.03.2020, amended the appendix IX of EIA Notification to inter-alia provide exemption from Environmental Clearance (EC) for "*extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc.*"

2. Subsequently, the above mentioned Notification was challenged before the National Green Tribunal, Principal Bench in Original Application No. 190/2020 in the matter of Noble M. Paikada Vs. Union of India & Ors., wherein the Hon'ble Tribunal while disposing of the application vide order dated 28/10/2020, *inter-alia* held that "*.....the exemption should strike balance and instead of being blanket exemption, it needs to be hedged by appropriate safeguards such as the process of excavation and quantum...*" and directed to revisit the impugned notification dated 28.03.2020.

3. Subsequently vide order dated 31/05/2022, the Hon'ble NGT in M.A. No. 07/2022(WZ) & M.A. No. 08/2022(WZ) in Original Application No. 68/2020(WZ) titled Shri Rajiv Babasaheb Waman & Ors. vs. Ministry of Environment, Forest & Climate Change & Ors inter-alia held that "*... that excavation of earth and mining of sand and other minor minerals being hazardous activity having serious adverse impact on environment in view of 'Precautionary' and 'Sustainable Development' principles, such activity cannot be left unregulated by statutory enforceable mechanism. Blanket exemption is against ecologically sustainable development norms and judgment of Hon'ble Supreme Court...*"

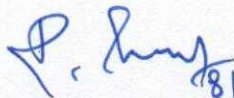
4. The matter was referred to the concerned Expert Appraisal Committee (EAC) for deliberation. After due deliberation, the EAC was of the opinion that if such linear project has obtained EC based on EIA studies incorporating such sourcing of construction material or other activities, necessary safeguards are already incorporated in the EC appraisal process. However, if such sourcing of material is not considered in the EIA or such linear project does not attract provisions of EC, then

such individual activities will be subject to extant environmental regulations as per EIA Notification 2006, as amended and/or applicable environmental safeguard related directions issued by the State Government /SPCB which need to be observed while sourcing construction material.

5. Based on the recommendations of the EAC and keeping in view the direction of Hon'ble NGT, the matter has been examined by the Ministry in detail and it has been decided that the exemption from EC provided vide S.O. 1224 (E) dated 28.03.2020 for "*extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc.*" shall be subject to Standard Operating Procedure (SOP) as enclosed to this Office Memorandum.

6. This is issued with the approval of the Competent Authority.

Encl: as above.

  
8/8/22  
(Sundar Ramanathan)  
Scientist 'E'

To

1. Chairman and Member Secretaries of SEIAA/ SEACs.
2. Chairman, Central Pollution Control Board (CPCB).
3. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
4. All the Officers of I.A. Division

**Copy for information to:**

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/PPS to JS (SKB)
6. Website, MoEF&CC/Guard file

**SOP for Borrow Area Identification; its operation, safety and redevelopment**

The activity relates to identification of borrow areas to obtain earth/soil materials; its operation, safety and redevelopment shall be carried out as per the following criteria:

**1. Selection of site, operation and site-specific measures to adopt**

- i. Environmental issues like siting borrow pit location, soil erosion aspects, accumulation of run-off and associated problems, disposal of debris by local community in open borrow area, transport of borrow earth to construction site, preservation of top soil of 15m depth and reuse for plantation, reinstatement of borrow pits and sites shall be considered before selection of site.
- ii. Guidelines, Manuals, Notifications etc issued by various agencies from time to time like IRC, MoRTH, MoEFCC etc shall be followed.
- iii. For selection of the site for the borrow area, agricultural land, cut material available from other road construction projects, dredging material from dredging operations of ponds, lakes, rivers and canals, material from barren land or land without tree cover outside the road RoW, material from excavation of proposed culverts can be considered. Provided further that, highly productive top-soil shall be stored separately and used for plantation activity.
- iv. Borrowing shall be avoided on the lands close to toe line, irrigated agricultural lands, grazing land, lands within settlements, 1 Km from environmentally sensitive areas such as Reserve Forests, Protected Forests, Sanctuary, National Parks, Conservation Reserve, Wetlands etc, unstable and fragile side-hills, streams and seepage areas, areas supporting rare plants/ animal species. It should be ensured that unsuitable soft rock is not prominent within the proposed depth of excavation which will render rehabilitation difficult.

**2. The General Guidelines**

- i. The preservation of topsoil will be carried out in stockpile.
- ii. A 15 cm topsoil will be stripped off from the borrow pit and this will be stored in stockpiles in a designated area for height not exceeding 2m and side slopes not steeper than 1:2 (Vertical: Horizontal).
- iii. Preservation of Top Soil of 15cm depth and its reuse for plantation
- iv. Validation of the work of re-use of Top Soil by the AE/IE. Competent authority to check the re-use anytime if warranted.
- v. Borrowing of earth will be carried out up to a depth of 2m from the existing ground level.
- vi. Borrowing of earth will not be done continuously throughout the stretch.
- vii. Ridges of not less than 8m widths will be left at intervals not exceeding 300m.
- viii. Small drains will be cut through the ridges, if necessary, to facilitate drainage.
- ix. Depends upon the location of borrow areas, the safeguard measures & management specific treatment as a particular borrow area depending upon its

location viz Agriculture Land, Elevated Land, Waterbody, near Settlement and along the alignment.

### 3. Re-development of Borrow Areas

The objective of the rehabilitation programme is to return the borrow pit sites to a safe and secure area, which the general public should be able to use safely. Securing borrow pits in a stable condition is fundamental requirement of the rehabilitation process. This could be achieved by filling the borrow pit approximately to the road level. Following measures shall be taken for Rehabilitation:

- i. Borrow pits shall be backfilled with rejected construction wastes (unserviceable materials) including fly ash, compacted and will be given a turfing or vegetative cover on the surface. If this is not possible, then excavation slope should be smoothed, and depression is filled in such a way that it looks more or less like the original ground surface.
- ii. During works execution, the Contractor shall ensure preservation of trees during piling of materials; spreading of stripping material to facilitate water percolation and allow natural vegetation growth; re-establishment of previous natural drainage flows; improvement of site appearance; digging of ditches to collect runoff; and plantation may be carried out wherever feasible or pit may be developed for water storage as per Amrit Sarovar Scheme of MoRTH.

### 4. Development of Amrit Sarovar

Under Amrit Sarovar Programme, water bodies are being developed by MoRT&H/NHAI/other road development agencies and the desilting of existing water body is also being taken up for water harvesting and re-charge of ground water. The earth available from development of such water bodies is to be utilised for road works and plantations as per suitability of soil. The State Authorities have already been advised not to levy any royalty for borrowing of earth for development of water bodies under Amrit Sarovar Programme.

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By e-Mail/Fax

GOVERNMENT OF ODISHA  
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

\*\*\*\*\*

RDM-MMS-EXINST-0001-2019-

12611

/R&amp;DM Dated 26.04.2019

From

Shri Nikunja B. Dhal, IAS  
Principal Secretary to Government

To

All Collectors

**Sub: Guidelines for regulating the sand quarrying in the State.**

Madam/Sir,

Sand is the most important minor mineral used for various development projects and construction of buildings. Increase in demand of sand has put immense pressure on the sand sources, at times leading to illegal quarrying activities.

Unscientific sand quarrying and illegal lifting not only causes revenue loss to the state exchequer but also distorts the natural equilibrium of rivers. Indiscriminate sand mining may also lead to change of the course of rivers and embankment cave-in thereby threatening the life of inhabitants of villages situated along the river bank.

A number of instructions/guidelines have been issued by this Department from time to time to prevent illegal lifting of minor minerals. Grant of quarry lease is regulated as per the provisions of Chapter-IV of OMMC Rules, 2016.

To ensure scientific quarrying, transparent distribution and to prevent illegal lifting / theft of minor minerals, a scheme namely '*prevention of theft of minor minerals and eviction activities*' was launched during 2018-19 vide Resolution No. 23225/R&DM dated 28.06.2018. To implement the scheme, funds to the tune of Rs. 5.00 Crore was initially placed with Collectors vide this Department sanction order no. 25548 dated 11.07.2018.

In continuation of various instructions issued in the past, the following guidelines and instructions are issued for streamlining the process of sand quarrying and preventing illegal lifting of sand:

**A. Identification of sources:**

- i. Tahasildar shall conduct joint verification with Assistant Executive Engineer/ Executive Engineer of Water Resources Department for identification of specific river stretches having proper access for grant of quarry leases.
- ii. The boundaries of sand sources should be properly demarcated by pillar posting as instructed vide this Department letter No.15640 dtd. 15.05.2017.
- iii. In no case the lessee should be allowed to extract sand beyond the lease area.

**B. Mining plan and environment clearances / approvals:**

- i. Tahasildar (Competent Authority) shall get the mining plans prepared in advance through Registered Qualified Persons (RQP) in respect of the sources within his jurisdiction.
- ii. While preparing mining plan the distance of hydraulic structures including dams, barrages, check dams, bridges etc., location from habitations, heritage sites, monuments and public infrastructure facilities should be taken into consideration. Sand quarrying operation should not endanger the safety of these structures & imperil the lives of the people.
- iii. The Tahasildar shall apply for and obtain the Environmental Clearance (EC). The selected bidder shall bear cost of the preparation of mining plan and also the costs incurred for obtaining the EC.
- iv. In case the approval of mining plan and the Environmental Clearance have not been obtained by the Competent Authority, the selected bidder shall obtain the same before executing the lease deed.
- v. State Pollution Control Board (SPCB), Odisha vide their Notice dated 12.05.2016 (copy enclosed) have informed all concerned that the lease holders of all minor mineral mines (irrespective of lease hold area) in the State are brought under the consent administration of the Board under the Water (PCP) Act, 1974 and Air (PCP) Act, 1981 and that for

operation of any minor mineral mines in the State, consent from the SPCB shall be obtained. The operation of any minor mineral mines in the State without obtaining consent from the SPCB will be considered as violation under section 25 of Water (PCP) Act, 1974 and under section 21 of Air (PCP) Act, 1981 and would lead to initiation of appropriate legal action.

- vi. It shall be the responsibility of the lessee to obtain the Consent to Operate (CTO) from State Pollution Control Board (SPCB) before commencement of the quarrying operation.
- vii. Care should be taken to follow all the environmental norms issued from time to time by the Ministry of Environment, Forest and Climate Change (MoEF&CC), Govt. of India and Forest & Environment Department, Govt. of Odisha prior to lease of any sand source and during operation of the same. The lessee shall be responsible for implementing the Environment Management Plan (EMP).

**C. Quarrying/Mining operation:**

- i. Quarrying operation should be done strictly within the mining area as per the Mining plan. It should be undertaken only after putting in place the required environmental safeguards.
- ii. The depth of the quarry shall be restricted to three meters or water level, whichever is less.
- iii. The lessee shall not damage the embankment of the river.
- iv. No quarrying operation of sand shall be allowed through mechanized means and suction method.
- v. The lessee shall not dispatch the sand without a valid transit pass in Form-Y issued by the Tahasildar.
- vi. Since Hon'ble High Court in the order dated 19.07.2012 in WP (C) No. 12232 of 2012 have observed that the transport permit is issued only to transport the sand extracted from the sand sairat within the state of Odisha, the lessees should be instructed not to transport sand outside the State. Clarification in this regard has already been issued from this Department vide letter No. 36404 dated 02.12.2014.

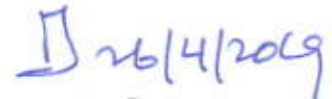
**D. Steps for prevention of illegal sand quarrying/mining:**

- i. District Administration shall put in place a robust monitoring mechanism to continuously monitor the quarrying activities of sand sources.
- ii. If any incidence of extraction of sand beyond the lease area by lessee is found, the same shall be treated as unauthorized and the lessee be penalized as per section 21(5) of MMDR Act, 1957 and the provisions of Rule 51 of OMMC Rules, 2016.
- iii. If any damage to embankments of the rivers comes to the notice, the lease shall be cancelled on obtaining the report from Assistant Executive Engineer / Executive Engineer of Water Resources Department.
- iv. The Revenue Administration and Police Administration shall seize all machines, vehicles, etc. used for carrying out illegal sand quarrying.
- v. Apart from instituting appropriate criminal proceedings against those carrying out illegal quarrying activities and transporting sand without valid 'Y' Form, maximum penalty should be imposed against them.
- vi. The District Administration should remain vigilant to prevent any incidence of interstate transportation of sand. If any such incidence comes to notice, the lease should be cancelled.
- vii. Temporary check gates may be set up during peak constructions season at common exit points to be decided by the Collectors. Care should be taken not to set up these posts on the National Highways and State Highways so that the general vehicular traffic is not affected and the commuters are not put to trouble.
- viii. Squads should be constituted at district and sub-divisional levels to conduct surprise checks in the sand quarrying areas and check the vehicles transporting sand. Raid/checking should always be done with adequate security arrangement to ward off any untoward situation.
- ix. Technical support of ORSAC may be taken for satellite based monitoring of very important sand sairats.

- x. All the complaints of unauthorized sand quarrying should be enquired by the Sub-Collector/ Addl. Sub-Collector/Tahasildar within 72 hours and remedial measures should be taken promptly.
- xi. Status of cases detected and action taken thereon for violation of provisions of OMMC Rules, 2016 and the Environmental Regulations should be reviewed in the monthly district level revenue meetings, and the issues arising thereon should be sorted out.

You are, therefore, advised to take all necessary measures for enforcing the above mentioned guidelines for preventing illegal and unauthorised sand quarrying in the State. Any deviation in implementation and enforcement of the provisions of the OMMC Rules, 2016 and the environmental regulations shall be viewed seriously and action deemed proper shall be initiated against the erring officer(s).

Yours faithfully,



Principal Secretary to Government

Memo No. 12612 /R&DM Dated 26.04.2019

Copy forwarded to Steel & Mines Department / Forest and Environment Department / Water Resources Department / Member Secretary, SPCB / CEO, ORSAC for information and necessary action.

  
26.4.2019  
Additional Secretary to Government


Memo No. 12613 /R&DM Dated 26.04.2019

Copy forwarded to Secretary, Board of Revenue, Odisha, Cuttack/ All Revenue Divisional Commissioners for information and necessary action.

  
26.4.2019  
Additional Secretary to Government

Memo No. 12614 /R&DM Dated 26.04.2019

Copy forwarded to all Sub-Collectors/ all Tahasildars for information and necessary action.

  
26.4.2019

Additional Secretary to Government

Memo No. 12615 /R&DM Dated 26.04.2019

Copy forwarded to e-Governance Branch of this Department for uploading the same in the Department Website.

  
26.4.2019

Additional Secretary to Government

42  
BEFORE THE NATIONAL GREEN TRIBUNAL, KOLKATA

Original Application No. \_\_\_\_\_ of 2023

In re:

Jitendra Kumar Pradhan

APPLICANT

VERSUS

STATE OF ODISHA AND Others ...

RESPONDENTS

KNOW ALL to whom these present shall come – Jitendra Kumar Pradhan, S/o Ram Chandra Pradhan, Aged about 36 years Resident of R Katapali, Po- R Kudopali PS- Brajarajnagar, Dist- Jharsuguga above named APPLICANT do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :-**Sankar Prasad Pani, Advocate, Plot—2132/4814, Nageswartangi, Bhubaneswar, 751002**, Ashutosh Padhy, Advocate, Enrollment no O-1018-2023

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents to admit and/or deny the documents of opposite party. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

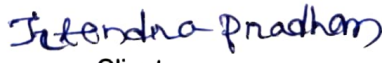
And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 7th day of OCT 2023

Accepted subject to the terms of fees.

  
Advocate

Client

  
Client