

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

**O.A NO.26 OF 2024/EZ**

JITENDRA KUMAR PRADHAN. ... APPLICANT.

-VERSUS-

STATE OF ODISHA  
AND OTHERS.

...RESPONDENTS.

**I N D E X**

| <b>Sl. No.</b> | <b>Description of documents</b>   | <b>Pages</b> |
|----------------|---|--------------|
| 1.             | Counter Affidavit filed on behalf of the Opp.Party Nos.2 & 6.             | 1-6          |
| 2.             | <u>Annexure-A/6.</u><br>True copy of Letter No.3389,<br>dated 20.08.2022. | - 7 -        |
| 3.             | <u>Annexure-B/6.</u><br>True copy of Letter No.6030,<br>dated 02.11.2022. | - 8 -        |

**CUTTACK.**

**DATE: 14.03.2024**

*Shousi Kumar Das*  
**ADDL. GOVT. ADVOCATE.**

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

**O.A NO.26 OF 2024/EZ**

JITENDRA KUMAR PRADHAN. ... APPLICANT.

-VERSUS-

STATE OF ODISHA  
AND OTHERS.

...RESPONDENTS.

**COUNTER AFFIDAVIT FILED  
ON BEHALF OF THE RESPONDENT NOS.2 & 6**

I, Takshakraj Bhitria, aged about 38 years, Son of Sri Parkhit Bhitria, at present working as Tahasildar, Jharsuguda, At/Po/Dist: Jharsuguda, do hereby solemnly affirm and state as follows:-

1. That I am working as Tahasildar, Jharsuguda, hereinafter referred to as the answering Respondent No.6 and have been duly authorised by the Respondent No.2 to swear this affidavit on his behalf also.


2. That I have gone through the contents of the Original Application as well as the annexures appended thereto and have understood the contents thereof. I am well acquainted with the facts of the case.

3. That in reply to the averments made in Para-1, 3, 4, 5 and 15 of the original application, it is humbly submitted that it is a fact the contractor namely Aditya

Constructions (Respondent No.11) has extracted



Takshakraj Bhitria.

  
14-03-24  
AMBIKA PRASAD RAY  
NOTARY, CUTTACK TOWN  
REGD. NO-ON-58/2004

morrums unauthorizedly from the following land schedule as detail below.

| Mouza                   | Khata No. | Plot No.  | Kisam         | Area         | Morrums excavated |
|-------------------------|-----------|-----------|---------------|--------------|-------------------|
| Brajrajnagar<br>TU No.1 | 616       | 85        | Gochar        | Ac.<br>0.257 | 56000<br>Cum.     |
|                         |           | 126       | Gochar        | Ac.<br>1.287 |                   |
|                         |           | 2018/5229 | Bad<br>Jungle | Ac.<br>0.828 |                   |
|                         | 618       | 2017      | Patita        | Ac.<br>0.630 |                   |
|                         |           | 81        | Nala          | Ac.<br>0.472 |                   |

4. That as regards the averments made in Para-2 of the original application, the Respondent No.6 has nothing to comment.

5. That in reply to the averments made in Para-6 and 23 of the original application, it is humbly submitted that one Misc. Sairat Case bearing No.37/2022-23 has been instituted and royalty, penalty has been imposed for unauthorized excavation of morrum. Demand notice has also been issued by the office of the Respondent No.6 vide Letter No.3389, dated 20.08.2022 and Letter No.6030, dated 02.11.2022. True copies of Letter No.3389, dated 20.08.2022 and Letter No.6030, dated 02.11.2022 are filed herewith as **Annexure-A/6** and **Annexure-B/6** respectively.

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

Takshakraj Bhattacharya

Further, M/s. Aditya Construction has paid the royalty, penalty and interest as detail below.

**Assessment made.**

| Item              | Assessment       |
|-------------------|------------------|
| Royalty           | Rs. 22,44,000.00 |
| Penalty           | Rs. 5,00,000.00  |
| Interest          | Rs. 78,000.00    |
| <b>G. Total:-</b> | Rs. 27,44,000.00 |

**Payment made.**

| Item                        | Amount paid      | MR Number and date.   |
|-----------------------------|------------------|---|
| Royalty, Penalty & Interest | Rs. 13,78,000.00 | MR No. 104349 dt. 16.03.2023 and MR No. 104559 dt. 18.10.2023 |
| Balance                     | Rs. 14,44,000.00 |   |

6. That as regards the averments made in Para-7 to 11, 14 and 16 to 20 of the original application, the Respondent No.6 has nothing to comment.

7. That in reply to the averments made in Para-12 and 21 of the original application, it is humbly submitted that demand notice has been issued by the Office of the Respondent No.6 vide letters under Annexure-A/6 and Annexure-B/6 respectively.

8. That in reply to the averments made in Para-21, 22, 24 and 25 of the original application, it is humbly submitted that joint committee enquiry has been

constituted as per the direction of Hon'ble National Green Tribunal in O.A. No.26/2024/EZ comprising of the Additional District Magistrate, Jharsuguda, Deputy Environment Scientist, State Pollution Control Board, Odisha, Jharsuguda, Assistant Conservator of Forest, Jharsuguda, Addl. Tahasildar, Jharsuguda, Range Officer, Brajrajnagar Range and Revenue Inspector, Brajrajnagar and the committee has recommended as follows:-

1. M/s Aditya Constructions may be directed to develop plantation on the above plots for damaging the natural vegetation without the permission of the competent authority.
2. It may be directed to obtain required permissions from the concerned authority for excavation of soil and morrum.
9. That as regards the averments made in Para-26 to 35 of the original application, the Respondent No.6 has nothing to comment.
10. That the averments/assertions/allegations made in the Original Application which are not specifically admitted by this deponent shall be deemed to have been denied. This deponent craves leave of the Hon'ble Tribunal to file further affidavit, if required at the time of hearing.

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

Takshakraj Barik

11. That in view of the above submissions made by the Respondent No.6, the prayer made in the Original Application is devoid of any merit and liable to be rejected.

12. That the facts stated above are true to the best of my knowledge and based on official records.

Takshakraj Bhitria.  
Deponent Dt. 14.3.24

**VERIFICATION**

**TAHASILDAR  
JHARSUGUDA**

I, Takshakraj Bhitria, aged about 38 years, Son of Sri Parkhit Bhitria, at present working as Tahasildar, Jharsuguda, At/Po/Dist: Jharsuguda, do hereby verify and states 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 there from.

Verified at Cuttack on this the 14<sup>th</sup> day of March, 2024.

Identified by:

Takshakraj Bhitria.  
Dt. 14.3.24

**VERIFICANT**

*Shashi Kumar*  
**ADDL. GOVT. ADVOCATE.**

**TAHASILDAR  
JHARSUGUDA**

**AFFIDAVIT**

*Takshakraj Bhitria* I, Takshakraj Bhitria, aged about 38 years, Son of Sri Parkhit Bhitria, at present working as Tahasildar, identified by *S. P. A.* Adv. *Addl. Govt. Adnl* solemnly affirm and states before me that the contents of this *Cover MA* are true to the best of *me* knowledge and belief. *14.03.24*

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



Jharsuguda, At/Po/Dist: Jharsuguda, do hereby solemnly affirm and state as follows:-

1. That I am the Respondent No.6 in this Original Application. I have been duly authorised by the Respondent No.2 to swear this affidavit on his behalf also.
2. That the facts stated above are true to the best of my knowledge and based on official records.

Identified by:

*hw*

**ADDL. GOVT. ADVOCATE.**

*Takshakraj Bhatia.*  
Dt. 14.3.24

**VERIFICANT**

**TAHASILDAR  
JHARSUGUDA**

*AB*  
14.03.24

**NOTARY, CUI JACK TOWN  
REGD. NO-ON-562004**

- 7 -

ANNEXURE - A/6

**TAHASIL OFFICE: JHARSUGUDA**

No. 2389 / Date 20.08.2022

To

**Sri Arun Kumar Barma**  
M/S - Aditya Construction  
Korba (Chhatishgarh)  
Ha. Ni. Hairiom 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<br>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<br>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.

Sm  
Tahasildar, Jharsuguda  
20/08/2022

**True Copy Attested**

14.3.24

**TAHASILDAR  
JHARSUGUDA**

8  
**TAHASIL OFFICE: JHARSUGUDA**

No. 6630 /Date 02.11.2022

31/2022-23  
ANNEXURE-13/6

To

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

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

Ref: This Office letter No. 3389, dt. 20.08.2022.

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<br>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. Accordingly, you have been directed to deposit the penalty and other Govt. dues for illegal extraction of minor mineral as assessed below vide this office letter under reference.

| Sl No. | Assessment  | Amount                  |
|--------|---|-------------------------|
| 1.     | Royalty & Addl. Charges for 56100<br>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)**

However, more than two months have been passed and you have not yet deposited the above amount.

Therefore, you are once again 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.

  
Tahasildar, Jharsuguda  
**TAHASILDAR**  
JHARSUGUDA

True Copy Attested

14.3.24  
**TAHASILDAR**  
**JHARSUGUDA**

Received  
14/03/24