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

Original Application No. 84/2023/EZ

IN THE MATTER OF:

Abani Kumar Sahoo

.....Appellant

Versus

State of Odisha and Others

.....Respondents

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CUTTACK

Date: 03.09.2024

Pratik Dash

ADVOCATE

PRATIK DASH

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

Original Application No. 84/2023/EZ

IN THE MATTER OF:

Abani Kumar Sahoo

.....Appellant

Versus

State of Odisha and Others

.....Respondents

**REPLY TO THE ADDITIONAL AFFIDAVIT AND REJOINDER
AFFIDAVIT FILED BY THE RESPONDENT NO. 8 ASIT KUMAR
PARIDA**

I, Asit Kumar Parida, aged about 45 years, S/o- Late Umakanta Parida, At- Sanroutpada, P.O- Jamalpur, P.S- Jaleswar, Dist- Balasore, Pin- 756086, Odisha, do solemnly affirm and state as follows:

1. That, I am the respondent No. 8 in this case.
2. That, I am well versed of the facts and circumstances, and I have traversed through the records and contents of the rejpionder affidavit and additional affidavit filed by the applicant. Therefore, I am swearing this affidavit hereunder.
3. That, I am well acquainted with facts of the case and the relevant counter affidavits filed by the respective parties. Any contention, allegation or averments/paragraphs not dealt with in the present affidavit shall be construed as denied.
4. That, I have gone through the content of the Additional Affidavit and Rejoinder Affidavit filed by the Appellant and a comprehensive reply to

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these affidavits is given hereunder for placing the appropriate and correct/admitted materials as well as the facts before the Hon'ble Tribunal.

5. That, in Para 2 of the additional affidavit, the appellant agitates the demand notices dated 29.03.2022 & 12.05.2022 issued to the respondent no. 8 by the Tahasildar, Jaleswar for violating the terms & conditions of the Sand Mining Guidelines, 2016 and pursuant to the demand notices issued for respective payment of Fine amounting to Rs. 60,000/- & Rs. 2,50,000/- was duly made with all fairness and without any default. Copies of the Payment Receipts evidencing the payment of fine are marked and annexed herewith as **ANNEXURE-R-8/G Series**.
6. That, it is also pertinent to bring before this Hon'ble Tribunal that, the Tahasildar, Jaleswar issued a letter on 01.12.2022 requesting the Deputy Director of Mines, Baripada for a joint field visit to Rayanramchandrapur Sand Source (which is let out by the State Govt to the Respondent no. 8). The copy of the letter was also forwarded to the Respondent no. 8 on the same date. Accordingly, on 31st of January 2023, the joint field inspection was carried out by the Assistant Mining officer and Junior Mining Officer, Baripada Mining Circle along with the Tahasildar, Revenue Supervisor, RQP (Recognized Qualified Person) and R.I. of Jamalpur Circle under the Jaleswar Tahasil as well as the Respondent no. 8. Copy of the letter and the Joint Inspection report are marked and annexed herewith as **ANNEXURE-R-8/H Series**.
7. That, in further reply with regards to the contentions raised by the applicant in respect of the excessive mining, the issue was of the year 2022 and the enquiry was completed having no adverse finding in the report whatsoever against the Respondent no. 8. Further, the enquiry was completed on 31.01.2023 and the report was furnished on the same date.
Per contra, on the perusal of the applicant's Original Application, it is found that, the applicant's cause of action arose pursuant to a complaint

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petition dated 14.07.2023. Therefore, it is respectfully submitted that, the applicant has not made any declaration with respect to the date of cause of action in his averments or any of his pleadings. The applicant has approached this Tribunal without such pleadings and the application should be dismissed on that score itself.

It is further understood that, he has approached this Hon'ble Tribunal only after non-redressal of the grievance Petition dated 14.07.2023. Therefore, it can be understood implicitly that, the cause of action would run from 14.07.2023. It is improper and quite unnecessary to agitate the aspects and events which have occurred prior to 14.07.2023. Nevertheless, those issues have no adverse findings by the authorities and the Respondent no. 8 has deposited the fine amount levied upon him.

8. That, while replying to the averments made in Para-19 of the additional affidavit and Para-13 of the Rejoinder affidavit filed by the applicant, it is pertinent to mention here that, there is no stacking of sand by the lessee i.e the Respondent no. 8 as alleged by the Applicant. Further, no excess mining of sand was done crossing the limit of 5000cm i.e. the maximum permissible quantity to be extracted as per the approved mining plan, which is taken into record by this Hon'ble Tribunal vide Annexure- R-8/F Series of the counter affidavit filed by the Respondent no. 8.
9. That, replying to the averments made in Para-14 of the Rejoinder affidavit, it is stated here that, the Respondent no. 8 had strictly adhered to the approved mining plan, the EC & CTO conditions while performing the mining activity and the violations as to the EC Conditions alleged by the applicant is devoid of merit and reflects the arbitrariness of the applicant to deviate this Hon'ble tribunal.
10. That, it is worthwhile to mention here that, the Tahasildar, Jaleswar vide Touzi Misc. Case no. 186/2022-23, 188/2022-23, 189/2022-23 & 190-2022-23 issued demand notices dated 12.09.2023, imposing fine against



the Respondent no. 8 for illegal stacking of sand. It is further submitted that, subsequent to the receipt of the demand notices, the Respondent no. 8 being aggrieved of the notices, challenged the legality and validity of the same before the Hon'ble High Court of Orissa vide W.P. (C) No. 32637/2023, W.P. (C) No. 32636/2023, W.P. (C) No. 32634/2023 & W.P. (C) No. 32451/2023. Further, the Hon'ble High Court was pleased to hear the matter and after listening to both the parties passed orders on merit staying the operation of the demand notices issued by the Tahasildar which is continuing till date. Copies of the orders of the High Court of Orissa in W.P. (C) No. 32637/2023, W.P. (C) No. 32636/2023, W.P. (C) No. 32634/2023 & W.P. (C) No. 32451/2023 are marked and annexed herewith as **ANNEXURE- R-8/I Series**.

11. That, the Respondent no. 8 on 29.03.2023, furnished a letter to the Collector-cum-District Magistrate, Balasore requesting to add the Operational Rayan Ramchandrapur Sand Quarry to the Fresh District Survey Report (DSR) for smooth functioning of the sand mining, which is still pending for approval before the Collector. The copy of the letter dated 29.03.2023 is marked and annexed herewith as **ANNEXURE- R-8/J Series**.

12. That, the Respondent no. 8 vide W.P. (C) No. 5466/2024 approached the Hon'ble High Court of Orissa seeking appropriate direction to the Deputy Director of Mines, Bhadrak and Mining Officer, Balasore to issue Transit Pass in Form-Y under the Rule 58(1) of OMCC Rules for operating the sand source for which he possesses the statutory requirements for operation & extraction of Minor Minerals and has a valid lease up to 31.03.2026.

It is submitted that, the Hon'ble High Court was pleased to hear the matter and passed an order on 12.03.2024 disposing of the writ petition directing the Mining Officer, Balasore to act upon the issuance of Transit Pass in Form-Y within a period of 3 months from the date of production of the

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certified copy of the order. The copy of the Order of dated 12.03.2024 is marked and annexed herewith as ANNEXURE- R-8/K.

13. That, it is submitted that the Respondent no. 8 was allowed by the Hon'ble High Court of Orissa to operate the sand quarry in pursuance of the order dated 08.12.2020 directing therein the award of the work in favour of the Respondent No.8 shall remain subject to outcome of the writ petition bearing W.P.(c) No. 16117 of 2020 in I.A. No. 9911 of 2020. However, this fact has been materially suppressed by the applicant in order to mislead this Hon'ble Tribunal.
14. That the respondent is a law-abiding citizen and has never intended to cause damage to environment as well as the river ecology system of Subranrekha River. Further, the respondent prays for a expeditious disposal of the present matter.
15. That, the present affidavit is filed bona fide and in the interest of justice.
16. That the facts stated above are true to the best of knowledge and based upon official records.

Place: Cuttack

By Respondent No.8 Through

Date:03.09.2024



Advocate

X

SL No. 1509
Vol. No. 1 Dt. 2.9.24



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA.
ORIGINAL APPLICATION NO. 84 OF 2023.

IN THE MATTER OF:

ABANI KUMAR SAHOO

...APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS

...RESPONDENTS

AFFIDAVIT

I, Asit Kumar Parida, aged about 45 years, S/o- Late Umakanta Parida, At- Sanroutpada, Po- Jamalpur, Ps-Jaleswar, Dist- Balasore Pin-756086, State Odisha do hereby solemnly affirm and declare as under: -

1. That I have been impleaded as RESPONDENTS NO 08 in the abovementioned original application and 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.

Asit Kumar Parida
DEPONENT

[Handwritten signature]

[Handwritten signature]
Swadha Devi Bhanja
Notary
Jaleswar(Odisha)India

VERIFICATION

Verified on dated 02/09/2024 at Jaleswar 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

Advocate

Sujib Kumar Dutta
(Adv.)
dt 2.9.24

Solemnly Sworn before me
by Asit Kumar Parida
being identified by
Sujib Kumar Dutta Adv.
on dt. 2.9.24 at 11:50 AM

Asit Kumar Parida
DEPONENT

[Handwritten signature]

Swadha Devi Bhanja
Notary, Jaleswar(Odisha)

ଋ ରସିଦ ପୁସ୍ତକ

Rg Jamalpur



RECEIPT BOOK

0100556

ଫା. ANNEXURE- R-8/ G Series

[ଓଡ଼ିଶା ନିକାଜତ ପୁସ୍ତକ ପୁସ୍ତକ, 1963 ନିୟମ 31(ii) ଦ୍ରଷ୍ଟବ୍ୟ]

ପୁସ୍ତକ ଫା. 01/22-23 ମସିହା 20

କାହାଠାରୁ ପ୍ରାପ୍ତ ହେଲା Aset Kumar Paroda

କେଉଁ ବାବଦରେ ଶ୍ରୀ- Umakanta Paroda
of San Rout Padra

Saral case No - 46/15-16 ପରିମାଣ ଟ. ପ.

ନଗଦ ଆକାରରେ Penalty for violating Rs 60,000.00

ସ୍ଥାପ ଆକାରରେ terms condition for
operation of lease
R.R per Total- R, 60,000.00

(ଅକ୍ଷରରେ Rupen seventy thousand only ବୈଜ୍ଞାନିକ ମାତ୍ର)

ତା 13/04/2022

ଗୃହଣ କରିଥିବା ଅଧିକାରୀ
Nazir,
Jaleswar Jamalpur

ରସିଦ ପୁସ୍ତକ
RECEIPT BOOK

Rs Jamalpur



0100576

ସଂ. _____

[ଓଡିଶା ନିକାରତ ପୁନରାମ ପୁସ୍ତକ, 1963 ନିୟମ 31(ii) ଦ୍ରଷ୍ଟବ୍ୟ]

ପୁସ୍ତକ ସଂ. 01/22-23 ମସିହା 20

କାହାଠାରୁ ପ୍ରାପ୍ତ ହେଲା Asit Kumar Parida

କେଉଁ ବାବଦରେ Sr. Umekanta Parida
of Sarwatpada

ନଗଦ ଆକାରରେ Sarwat case no. - 46/15-16. ପରିମାଣ ସ.

ପନାଳୀ ଆକାରରେ Penalty for violating Rs 2,50,000 = 00
the terms and conditions /

of permission for operation
of R.R. Pur sand source Total - Rs 2,50,000 = 00

(ଅକ୍ଷରରେ Rupees Two Lakh fifty thousand ଟଙ୍କା ମାତ୍ର) only

ତା 21/05/2022

ଗ୍ରହଣ କରିଥିବା ଅଧିକାରୀ
Nazir,
Jaleswar Taluk

OFFICE OF THE TAHASILDAR, JALESWAR

Letter No.

Date:

To

The Deputy Director Mines,
Circle Mining Office, Baripada,

Sub: Request for assessment of sand extracted by lessee from Rayamramchandrapur sand sairat source.

Sir,

With reference to the subject cited above, I am to intimate you that, after going through the R.I. report and demand assessed by the then Tahasildar it is found that, excess quantity of sand has been extracted from the R.R.Pur sand sairat source by the lessee than the quantity approved in respective mining plan and stored the sand nearby area.

Therefore, I would request you to kindly make a joint field visit to the R.R.Pur sand sairat source and report the actual quantity of sand has been extracted by the lessee during the financial year 2022-23.

Yours faithfully,

Tahasildar, Jaleswar.

Memo No:

Date:

Copy submitted to the Additional District Magistrate, Balasore, for favour of kind information and necessary action.

Tahasildar, Jaleswar.

Memo No: 5519

Date: 01/12/2022

Copy to Sri Asit Kumar Parida, (Lessee of Rayanramchandrapur Sand sairat source),
S/o- Lt. Umakanta Parida At- Sanroutpada, P.O.-Jamalpur, P.S.- Jaleswar for information.

Tahasildar, Jaleswar.

Received
Asit K. Parida
dt 1/12/22

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**REPORT ON JOINT FIELD INSPECTION OF LIFTED MINOR MINERAL(SAND) AT
R.R PUR SAND SOURCE UNDER JAMALPUR RI CIRCLE IN JALESWAR TAHASIL
OF BALASORE DISTRICT**

One day joint field inspection regarding assessment on lifting of minor mineral (sand) from R.R. Pur sand quarry was conducted by Assistant Mining Officer, Junior Mining Officer, Circle Mining Office Baripada and Representative of RQP in presence of Tahasildar, Jaleswar, Revenue Supervisor of Jaleswar tahasil and Revenue Inspector of Jamalpur R.I. Circle of Jaleswar tahasil, Concerned Lessee and 20.01.2023 with reference to the invitation made by the Competent Authority.

Findings:

Khata No. 1070, Plot No. 2824, Area: 20.38 Ac, Kisam: Nadi



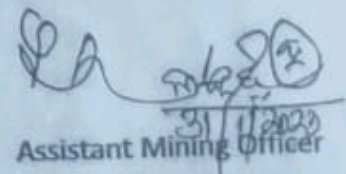
The team visited the spot and inspected the nature and extend of excavation of sand from the said source. Presently neither excavation nor any sign of transportation found inside the lease area. And the quantum of excavated material (before rainy season) was not feasible for assessment because of sand already replenished and water logging condition.


21/1/2023

Representative of
Concerned RQP


31/1/23

Junior Mining Officer
Circle Mining Office, Baripada


31/1/2023

Assistant Mining Officer
Circle Mining Office, Baripada

**OFFICE OF THE DEPUTY DIRECTOR OF MINES,
BARIPADA MINING CIRCLE, BARIPADA**

e-mail Id:-mo.baripada@orissaminerals.gov.in
No. 419 //Mines, Date 8.2.2023 //

From

The Deputy Director of Mines,
Baripada Circle, Baripada.

To

The Tahasildar, Jaleswar,
Dist- Balasore.

Sub:

Assessment of sand extracted by lessee from Rayanramchandrapur Sand Sairat Source.

Ref:

Your good Office letter No. 5517, Dt. 01.12.2022 & this Office letter No. 178/Mines, Dt. 17.01.2023.


Sir,

With reference to the letter on the subject cited above, I am to enclose herewith the report on joint field verification of "Rayanramchandrapur Sand Sairat Source" under Jaleswar Tahasil of Balasore Dist. which was conducted on Dt.20.01.2023 in presence of the Tahasildar, Jaleswar, Revenue Supervisor of Jaleswar Tahasil, Revenue Inspector of Jamalpur R.I. Circle under Jaleswar Tahasil of Balasore Dist. and representative of concerned RQP.

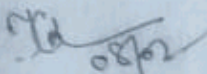
This is for favour of your kind information and necessary action.

Encl: As above.

Yours faithfully


Deputy Director of Mines,
Baripada Circle, Baripada

Memo No. 420(2) //Mines, Dt. 8.2.2023 //
Copy forwarded to the Collector, Balasore/Addl. Dist. Magistrate,
Balasore for favour of kind information and necessary action.


Deputy Director of Mines,
Baripada Circle, Baripada

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OFFICE OF THE TAHASILDAR, JALESWAR

Letter No. 292 Date: 19/01/23

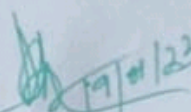
To

Asit Kumar Parida
S/o-Lt.Umakanta Parida,
At-Sanroutpada, Po- Jamalpur, Ps- Jaleswar
Dist: Balasore.

Sub: Joint field verification at Rayanramchandrapur sand source.

It is to inform you that, a joint field verification will be held by the authorities on 20.01.2023 to the Rayanramchandrapur sand sairat source.

Therefore you are requested to remain present at your lease out sand source Rayanramchandrapur.


19/01/23
Tahasildar, Jaleswar



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 32636 of 2023AndI.A. No. 15812 of 2023*Asit Kumar Parida*

.....

*Petitioner**Mr. Pratik Dash, Advocate*

Vs.

State of Odisha and others

.....

*Opposite Parties**Mr. P.P. Mohanty, AGA***CORAM:****ACTING CHIEF JUSTICE DR. B.R. SARANGI****MR. JUSTICE MURAHARI SRI RAMAN****ORDER****09.10.2023****Order No.**

01.

This matter is taken up by hybrid mode.

2. Heard Mr. P. Dash, learned counsel appearing for the petitioner and Mr. P.P. Mohanty, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 31.08.2023 passed by opposite party no.2 under Annexure-12 and further seeks to set aside the demand notice dated 12.09.2023 issued by opposite party no.3 under Annexure-13.

4. Mr. P. Dash, learned counsel appearing for the petitioner contended that the order dated 11.07.2022 under Annexure-3, by which the demand of penalty amounting to Rs.4,92,000/- has been raised, was not communicated to the petitioner, though as per the provisions, it should have been communicated to the petitioner. Apart from the same, it is contended that the petitioner got information under the Right to Information Act, 2005 and on receipt of the order, though the petitioner filed appeal, the same was not entertained by the authority on a frivolous ground stating inter alia that as per the provisions contained under Rule 46 (2) of the OMMC Rules,

2016 no appeal shall be admitted unless the amount, if any assessed in accordance with the provisions of the rules, has been deposited. It is contended that since the order, which is required to be communicated, has not been communicated, non-entertainment of the appeal preferred by the petitioner cannot be sustained in the eye of law. As a consequence thereof, the demand so raised by the authority under Annexure-13 to pay Rs.4,92,000/- also cannot be sustained in the eye of law

5. Issue notice to the opposite parties.
6. Three extra copies of the writ petition be served on learned State Counsel appearing for opposite parties no.1 to 3 within three days enabling him to obtain instructions or file counter affidavit.
7. Steps for service of notice on the opposite party no.4 by speed post be taken by day after tomorrow (10.10.2023). Office shall send notice to the said opposite party fixing an early returnable date.
8. List this matter along with W.P.(C) No.32451 of 2023 on the date fixed therein.
9. As an interim measure, there shall be stay operation of the order dated 12.09.2023 under Annexure-13, till 31.10.2023.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE

Signature Not Verified

Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: SECRETARY-IN-CHARGE
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 09-Oct-2023 18:10:02

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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 32637 of 2023AndI.A. No. 15813 of 2023*Asit Kumar Parida*

.....

*Petitioner**Mr. Pratik Dash, Advocate*

Vs.

State of Odisha and others

.....

*Opposite Parties**Mr. P.P. Mohanty, AGA***CORAM:****ACTING CHIEF JUSTICE DR. B.R. SARANGI****MR. JUSTICE MURAHARI SRI RAMAN****ORDER****09.10.2023****Order No.**

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3. The petitioner has filed this writ petition seeking to quash the order dated 31.08.2023 passed by opposite party no.2 under Annexure-12 and further seeks to set aside the demand notice dated 12.09.2023 issued by opposite party no.3 under Annexure-13.

4. Mr. P. Dash, learned counsel appearing for the petitioner contended that the order dated 11.07.2022 under Annexure-3, by which the demand of penalty amounting to Rs.1,30,000/- has been raised, was not communicated to the petitioner, though as per the provisions, it should have been communicated to the petitioner. Apart from the same, it is contended that the petitioner got information under the Right to Information Act, 2005 and on receipt of the order, though the petitioner filed appeal, the same was not entertained by the authority on a frivolous ground stating inter alia that as per the provisions contained under Rule 46 (2) of the OMMC Rules,

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2016 no appeal shall be admitted unless the amount, if any assessed in accordance with the provisions of the rules, has been deposited. It is contended that since the order, which is required to be communicated, has not been communicated, non-entertainment of the appeal preferred by the petitioner cannot be sustained in the eye of law. As a consequence thereof, the demand so raised by the authority under Annexure-13 to pay Rs.1,30,000/- also cannot be sustained in the eye of law

5. Issue notice to the opposite parties.
6. Three extra copies of the writ petition be served on learned State Counsel appearing for opposite parties no.1 to 3 within three days enabling him to obtain instructions or file counter affidavit.
7. Steps for service of notice on the opposite party no.4 by speed post be taken by day after tomorrow (10.10.2023). Office shall send notice to the said opposite party fixing an early returnable date.
8. List this matter along with W.P.(C) No.32451 of 2023 on the date fixed therein.
9. As an interim measure, there shall be stay operation of the order dated 12.09.2023 under Annexure-13, till 31.10.2023.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE

Signature Not Verified

Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: ~~PA~~ SECRETARY-IN-CHARGE
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 09-Oct-2023 18:10:02

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 32634 of 2023AndI.A. No. 15811 of 2023*Asit Kumar Parida*

.....

*Petitioner**Mr. Pratik Dash, Advocate*

Vs.

State of Odisha and others

.....

*Opposite Parties**Mr. P.P. Mohanty, AGA***CORAM:****ACTING CHIEF JUSTICE DR. B.R. SARANGI****MR. JUSTICE MURAHARI SRI RAMAN****ORDER****09.10.2023****Order No.**

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4. Mr. P. Dash, learned counsel appearing for the petitioner contended that the order dated 11.07.2022 under Annexure-3, by which the demand of penalty amounting to Rs.1,35,000/- has been raised, was not communicated to the petitioner, though as per the provisions, it should have been communicated to the petitioner. Apart from the same, it is contended that the petitioner got information under the Right to Information Act, 2005 and on receipt of the order, though the petitioner filed appeal, the same was not entertained by the authority on a frivolous ground stating inter alia that as per the provisions contained under Rule 46 (2) of the OMMC Rules,

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9. As an interim measure, there shall be stay operation of the order dated 12.09.2023 under Annexure-13, till 31.10.2023.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE

Signature Not Verified

Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: SECRETARY-IN-CHARGE
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 09-Oct-2023 18:10:02

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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 32451 of 2023AndI.A. No. 15692 of 2023*Asit Kumar Parida*

.....

*Petitioner**Mr. P. Dash, Adv.*

Vs.

State of Odisha and others

.....

*Opposite Parties**Mr. P.P. Mohanty, AGA***CORAM:****ACTING CHIEF JUSTICE DR. B.R. SARANGI****MR. JUSTICE MURAHARI SRI RAMAN****ORDER****04.10.2023****Order No.**

01.

This matter is taken up by hybrid mode.

2. Heard Mr. P. Dash, learned counsel appearing for the petitioner and Mr. P.P. Mohanty, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 31.08.2023 passed by opposite party no.2 under Annexure-12 and further seeks to set aside the demand notice dated 12.09.2023 issued by opposite party no.3 under Annexure-13.

4. Mr. P. Dash, learned counsel appearing for the petitioner contended that the order dated 11.07.2022 under Annexure-3, by which the demand of penalty amounting to Rs.2,20,000/- has been raised, was not communicated to the petitioner, though as per the provisions, it should have been communicated to the petitioner. Apart from the same, it is contended that the petitioner got information under the Right to Information Act, 2005 and on receipt of the order, though the petitioner filed appeal, the same was not entertained by the authority on a frivolous ground stating inter alia that as per the provisions contained under Rule 46 (2) of the OMMC Rules,

2016 no appeal shall be admitted unless the amount, if any assessed in accordance with the provisions of the rules, has been deposited. It is contended that since the order, which is required to be communicated, has not been communicated, non-entertainment of the appeal preferred by the petitioner cannot be sustained in the eye of law. As a consequence thereof, the demand so raised by the authority under Annexure-13 to pay Rs.2,20,000/- also cannot be sustained in the eye of law

5. Issue notice to the opposite parties.

6. Three extra copies of the writ petition be served on learned State Counsel appearing for opposite parties no.1 to 3 within three days enabling him to obtain instructions or file counter affidavit.

7. Steps for service of notice on the opposite party no.4 by speed post be taken by day after tomorrow (06.10.2023). Office shall send notice to the said opposite party fixing an early returnable date.

8. As an interim measure, there shall be stay operation of the order dated 12.09.2023 under Annexure-13, till 31.10.2023.

Ashok

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE

Signature Not Verified

Digitally Signed
Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
Designation: Personal Assistant
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 05-Oct-2023 13:48:46



ANNEXURE- R-8/ J Series

sub: - Requesting for Adding of Operational Rayaramchandrapur Sand Quarry Under Jaleswar Tahasil to Fresh District Survey Made by your good office.

Ref: - Your Good Office Notice No- 2028/Touzi. Dated- 01.03.2023.

Respected Sir,

I, Asit Kumar Parida, S/o- Late Umakanta Parida, AT- Sanroutpada, PO- Jamalpur, PS-Jaleswar, DIST- Balasore PIN-756086, State Odisha would like to draw your kind attention towards the following few lines:

1. That I am the lease holder of Rayaramchandrapur Sand quarry Over an area of 20.38 acres or 8.247 ha, is located in Village / Mouza - Rayaramchandrapur, bearing Khata No - 1070, Plot No - 2824, Kissam- Nadi of Jaleswar Tahasil, Balasore District of Odisha, The Rayaramchandrapur sand quarry lease has been granted by Tahasildar -cum- Competent Authority, Jaleswar to me for minor mineral sand Quarry Operation from 2020-21 to 2025-26.

2. That it is to mention here that I have obtaining approved Mining Plan, Environment Clearance (EC) Certificate and Consent to Operate certificate (CTO) in favour of Rayaramchandrapur Sand quarry under Jaleswar Tahasil, Balasore District and your good office prepared the report and up-loaded in the public domain i.e., district web portal www.baleswar.nic.in of the final District Survey Report (DSR) of Balasore District, Odisha for River Sand as per

received
Date
29/3/23
Central Received
General Mlac
Collectorate, Balasore

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ation No. S.O.-3611(E) New Delhi dated- 25th July 2018 of
stry of Environment, Forest & Climate Change(MoEF & CC). As
the final DSR of the Rayaramchandrapur Sand quarry name,
area, portion of the river of stream recommended for Mineral
concession with GPS co- ordinate village, khata no, plot no, kism,
name of lessee with address, etc ditas report mention. Copy of the
District Survey Report (DSR) of Balasore District, Odisha is
annexed here with as **ANNEXURE - 1** .

3. That a few days before I aware that your good office Issued Notice bearing No- 2028/ Touzi. Dated- 01.03.2023 for Notice of the general public that a Fresh District Survey of Minor mineral Sairat sources (Sand, Murrum, Road metal and Brick) has been made in the Balasore District against the Tahasils, Notice for necessary inclusion in the Final District Survey Report (DSR) for their settlement and operational. Objections are being invited from the public if any within 30 days from the date of publication of the notice i.e., from 01.03.2023 for settlement and operationalization of the source. Copy of the Notice of a Fresh District Survey of Minor mineral Sairat sources (Sand, Murrum, Road metal and Brick) is annexed here with as **ANNEXURE - 2**.

Under the aforesaid backdrop of the matter since there was in objection invited to the preliminary DSR by your good self-authority. When I Could not find name of my sand sairat which is let out to me in the year 2020 and the agreement steals Bing in subsistence more over the fact remaining the Kism of the land Bing in the nature of Nadi and the sand sairat Bing a complete fitting category to the DSR report could not have been excluded by any manner. Therefore, it is to my humble request to kindly incorporate my sand sairat of the Rayaramchandrapur Sand quarry

in the final DSR report other wise the same would Cause serious 393
prejudice to me as am running the sand sairat and there is no
illegal mining or violation of the any rules and norms that could
warnt the removal of the particular sand sairat from the said source
for this act of the kindness I shall ever be grateful.

Yours faithfully.

Date- 29-03-2023

Balasore.

Asit Kumar Panda

Enclose: -

1. Agreement Copy.
2. E.C. Certificate issued by the SEIAA, Odisha.
3. Replenishment study Report.

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5466 of 2024*Asit Kumar Parida*

.....

*Petitioner**Mr. P. Dash, Advocate*

Vs.

State of Odisha and Others

.....

*Opposite Parties**Mr. P.P. Mohanty, AGA***CORAM:****DR. JUSTICE B.R. SARANGI****MR. JUSTICE G.SATAPATHY****ORDER****12.03.2024****Order No.**

01.

This matter is taken up through hybrid mode.

2. Heard.

3. The Petitioner has filed this writ petition with the following prayer:

“Under the above circumstances, it is therefore humbly prayed that this Hon'ble court may be graciously pleased to direct the Deputy Director of Mines, Bhadrak and Mining Officer, Balasore to issue transit pass in nature of Form-Y under the Rule 58(1) of OMCC Rules to the petitioner for operating the sand source for which the petitioner possesses the statutory requirements for operation & extraction of Minor Minerals and has a valid lease up to 31.03.2026;

And/or pass any others appropriate writ/writs, order/orders and direction/directions in the fitness of the case.”

4. In course of hearing, learned counsel appearing for the Petitioner states that the Petitioner has already made representation before the Opposite Party No.6 vide Annexures-14&15, and the same may be directed to be disposed of within a stipulated time, to which

learned Counsel for the State has no objection.

5. As agreed by learned counsel for the parties and after going through the records, this Court, without expressing any opinion on the merits of the case, disposes of the Writ Petition directing Opposite Party No.6 to consider and dispose of the representation filed by the Petitioner vide Annexures-14 & 15 and pass appropriate order as early as possible within a period of three months from the date of production of certified copy of this order.

(DR. B.R. SARANGI)
JUDGE

(G.SATAPATHY)
JUDGE

Priyajit



Signature Not Verified

Digitally Signed
Signed by: PRIYAJIT SAHOO
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 13-Mar-2024 18:55:16

