

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA.**

Original Application No.163 of 2023/EZ

In the matter of:

Santanu Kumar Bhukta... Applicant

-Versus-

State of Odisha & others... Respondents

**COUNTER AFFIDAVIT FILED BY THE
COLLECTOR & DISTRICT MAGISTRATE,
DHENKANAL. (Respondent No. 4)**

MOST RESPECTFULLY SHEWETH:

1. That, the Deponent respectfully submits that on dtd. 28.5.2024 an affidavit was filed by the Collector & District Magistrate, Dhenkanal, basing on the report of Administrative Officer, ORSAC. Accordingly this Hon'ble Tribunal was graciously be pleased to direct the Deponent to file additional details on affidavit.
2. That, it is respectfully submitted that for compliance of the orders of Hon'ble Tribunal, a detailed year wise report has been sought for from the Tahasildar, Gondia, on the permissible quantity of minor mineral to be extracted by the Lessee as per the approved mining plan.
3. That, the Tahasildar, Gondia, has submitted a detailed data on extraction of minor mineral from Nihalprasad Road Metal Quarry-1, by the Lessee vide

Santanu Kumar Bhukta

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his Letter No.1966 Dtd.7.8.2024. As per his report the Lessee was allowed to extract 42032 CuM of black stone during the year 2017-18, 44030 CuM during 2018-19, 46027 CuM during 2019-2020 i.e till 06.10.2020, 100019 CuM during the year 2022-23 considering the approved mining plan. Further, it is reported that the quarry was not leased out from 7.10.2020 to 03.06.2022. The Lessee has obtained temporary permit for extraction of 19300 CuM of minor mineral from the source during the period 16.11.2019 to 16.01.2020. Hence he has allowed for extracting 351443 CuM of minor mineral from the source in question from 2017 to till November-2023. (The report dtd.7.8.2024 is enclosed herewith as **Annexure-A/4 series.**)

4. That, as per the satellite survey report of ORSAC the Lessee has extracted 360865.059 M3 black stone from the quarry in question during the period 21.03.2017 to 16.10.2023 which has already been intimated by the Deponent through his affidavit Dtd. 28.5.2024. Hence after comparing both the report it is ascertained that the Lessee has extracted excess quantity of 9422.059 CuM minor mineral from the quarry site which is illegal.

5. That, it is respectfully submitted that on verification of official documents of the Lessee Sri Ajit Sahoo, the Joint Committee so constituted by the Hon'ble Tribunal vide its order dtd. 21.10.2023 has observed that the Lessee has possessed an Explosive license issued by the joint Chief Controller of Explosive,

Somesh Kumar Upadhyay

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East Circle, Kolkata vide License No. E/EC/OR/22/390(E-98095) which is valid up to 31.03.2025 (Copy of the License issued by PESO is enclosed here with as at **Annexure-B/4**).

5. That, the Deponent has taken each and every possible step to comply the order of this Hon'ble Tribunal with all sincerity and has never intended to put this Hon'ble Tribunal to any kind of inconvenience. To comply any order of this Tribunal is the sincere duty of the Deponent.

7. That, any order passed by this Hon'ble Tribunal will be carried out by the Deponent in letter and spirit.

8. That, the Deponent reserves the right to file further affidavit as and when required or directed by this Hon'ble Tribunal.

Cuttack

Date: 19.08.2024

By the Respondent No.4 through



Advocate

Somesh Kumar Upadhyay

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VERIFICATION

I, Shri Somesh Kumar Upadhyay, aged about 35 years, Son of Shri Upendra Kumar Upadhyay, at present serving as Collector & District Magistrate, Dhenkanal, At/PO/Dist. Dhenkanal, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge as derived from official records and that nothing material has been concealed there from.

Verified at Dhenkanal on this the 30.08.24 day of August, 2024.

Somesh Kumar Upadhyay

VERIFICANT

× SL.NO. 8014 / dt-30.8.2024



AFFIDAVIT

I, Shri Somesh Kumar Upadhyay, aged about 35 years, Son of Shri Upendra Kumar Upadhyay, at present serving as Collector & District Magistrate, Dhenkanal, At/PO/Dist. Dhenkanal, do hereby solemnly affirm and state as follows:-

1. That, I have been arrayed as Respondent No.4 in the aforesaid Original Application and competent to swear this affidavit.
2. That, the facts stated above are true to the best of my knowledge and based on official records.



Identified by

Sovan Mishra
Advocate

SOVAN K. MISHRA
Emol. No. 889/92.

Somesh Kumar Upadhyay

DEPONENT

AFFIDAVIT

The above deponent being personally known to me appeared before me on...30.8.2024 at ...11.00 AM. and stated on oath that the contents of the affidavit are true to the best of his knowledge and is based on official records.

Somesh Kumar Upadhyay

Deponent

[Signature]
20/08/24
Executive Magistrate
Dhenkanal.
Executive Magistrate,
Dhenkanal.



TAHASIL OFFICE, GONDIA

Letter No. 1966 /Dt. 07/08/2024

To,

The Addl. District Magistrate (Revenue)

Dhenkanal

Sub:- Submission of information on extraction of minor mineral from Nihalprasad Road metal Quarry-I in connection with O.A No-163/2023 of National Green tribunal, Estern Zone Bench, Kolkata.

Madam,

With reference to the subject cited above, I am to furnished here with the detailed data on extraction of Minor mineral from Nihalprasad Road Metal Quarry-I as per the information available in office record as follows:-

EXTRACTION OF MINOR MINERAL FROM NIHALPRASAD ROAD METAL QUARRY- 1 FROM 2017 TO 2023		
YEAR	QUANTITY OF EXTRACTION AS PER APPROVED MINING PLAN	LEASE HOLDER
2017-2018	42032 Cum	Ajit Sahu
2018-2019	44030 Cum	Ajit Sahu
2019-2020 Till 06.10.2020	46027 Cum	Ajit Sahu
2022-2023	100019 Cum	Ajit Sahu
2023-2024	100035 Cum As on November- 2023	Ajit Sahu
Total	332143 Cum	
Temporary Lease/ Enforcement	Quantity of extraction	Name of Lease holder/
Temporary Permit transportation of excavated quarry overburden soil/stone vide Touzi Misc case No- 42/2019 From dt. 16.11.2019 to 16.01.2020	17800 Cum	Ajit Sahu

True copy attached
[Signature]
Dy. Collector, Touzi
 Collectorate, Dhenkanal

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Illegal dumping and auction	1*1500 Cum= 1500 Cum	Auctioned to Ajit Sahu
Total	17800+ 1500 =19300 Cum	

Grand Total 332143+ 19300= 351443.00 Cum

As per the report submitted by the Admirative Officer, ORSAC, the quantity of 360865.059 Cum has been extracted from Nihalprasad Road Metal Quarry-I from the period from 21.03.2017 to 16.10.2023. The following calculation has made as per the information available in office record.

Total Extraction as per ORSAC survey report	360865.059 Cum
	(-)
Total Extraction as per office record	351443.000 Cum
Difference	= 9422.059 Cum

It is further submitting that, the quarry was not leased out to any person from dt. 07.10.2020 to 03.06.2022. Hence, the excess quantity of 9422.059 Cum of minor mineral may be treated as illegally extraction from quarry site.

This is for favour of kind information and necessary action.

True copy attested
[Signature]
Dy. Collector, Iouzi
Collectorate, Dhenkanal

Yours faithfully

[Signature]
 07/08/2024
Tahasildar, Gondia

अनुज्ञप्ति प्ररूप एन.ई.-3 | LICENCE FORM LE-3

(विस्फोटक नियम, 2008 की अनुसूची V के भाग 1 के अनुच्छेद 3(क) से (घ) देखिए।)
(See article 3(a) to (d) of Part I of Schedule IV of Explosives Rules, 2008)

(ग) उपयोग के लिए एक समय पर वर्ग 1, 2, 3, 4, 5 या 6 के विस्फोटक या किसी मैगजीन में वर्ग 6 के विस्फोटक रखने
Licence to possess for use, explosives of class 1, 2, 3, 4, 5, 6 or 7 in a magazine

अनुज्ञप्ति सं. (Licence No.): E/E/C/OR/22/390(E98095)
वार्षिक फीस रूपर (Annual Fee Rs): 9800/-

1. Licence is hereby granted to

Shri AJIT SAHU (अभिभागी / Occupier : AJIT SAHU), S/o Late Gokul Chandra Sahu, PO & PS-Nihalprasad, Town-Village - NIHALPRASAD, District - NIHALPRASAD, State-Odisha, Pincode - 759016

को अनुज्ञप्ति अनुदत्त की जाती है।

2. अनुज्ञप्तिधारी की प्रास्थिति Status of licensee Individual

3. अनुज्ञप्ति निम्नलिखित प्रयोजनों के लिए विधिमान्य है।
Licence is valid only for the following purpose.

4. अनुज्ञप्ति विस्फोटकों के निम्नलिखित किस्मों, प्रकार और मात्रा के लिए विधिमान्य है।
Licence is valid for the following kinds and quantity of explosives -- (क) (a)

क्र. सं. Sr. No.	नाम और विवरण Name and Description	वर्ग और प्रभाग Class & Division	उप-प्रभाग Sub-division	मात्रा किसी एक समय में Quantity at any one time
1.	Nitrate Mixture	2, 0	0	4500 Kg.
2.	Detonating Fuse	6, 2	0	20000 Mtrs
3.	Safety Fuse	6, 1	0	10000 Mtrs
4.	Electric and/or Ordinary Detonators	6, 3	0	44000 Nos.

(ख) किसी एक कलेंडर मास में खरीदे जाने वाले विस्फोटक की मात्रा [अनुच्छेद 3(ख) और (ग) के अधीन अनुज्ञप्ति के लिए]

3 times
as above.

5. निम्नलिखित रेखाचित्र (रेखाचित्रों) से अनुज्ञप्त परिसर की पुष्टि होती है।
The licensed premises shall conform to the following drawings.

रेखाचित्र क्र. (Drawing No.) E/E/C/OR/22/390(E98095)
दिनांक (Dated) 17/06/2020

6. अनुज्ञप्ति परिसर निम्नलिखित पते पर स्थित है। The licensed premises are situated at following address:

Plot No. 1833, 1961, 1833/9736, Khata No. 1433/957, 1433/1111 गाँव (Town/Village): NIHAL PRASAD
जिला (District) DIHANKANAL जिला (District) NIHAL PRASAD
दूरभाष (Phone) 09938206689 स्टेशन (Station) Odisha पुलिस थाना (Police Station): NIHAL PRASAD
दि. में (of) (Main) के.एस. (K.S.) पिनकोड (Pincode) 759016 फैक्स (Fax)

7. अनुज्ञप्ति परिसर में निम्नलिखित सुविधाएं अंतर्भूत हैं।
The licensed premises consist of following facilities.

Regular Magazine

8. अनुज्ञप्ति समय-समय पर यथासंशोधित विस्फोटक अधिनियम 1884 और उनके अधीन विरचित विस्फोटक नियम, 2008 के उपबंधों, शर्तों और अतिरिक्त शर्तों और निम्नलिखित उपबंधों के अधीन रहते हुए अनुदत्त की जाती है।
The licence is granted subject to the provision of Explosives Act 1884 as amended from time to time and the Explosives Rules, 2008 framed there under and the conditions, additional conditions and the following Annexures

1. उपर्युक्त क्रम सं. 5 में बयां किये रेखाचित्र (स्थान, संरचना, संधी और अन्य विवरण दर्शित करते हुए)।
Drawings (showing site, constructional and other details) as stated in serial No. 5 above.
2. अनुज्ञप्ति प्राधिकारी द्वारा हस्ताक्षरित इस अनुज्ञप्ति की शर्तों और अतिरिक्त शर्तों।
Conditions and Additional Conditions of this licence signed by the licensing authority.
3. दूरी प्ररूप DE-2 Distance Form DE-2.

9. यह अनुज्ञप्ति तारीख 31 मार्च 2025 तक विधिमान्य रहेगी। This licence shall remain valid till 31st day of March 2025.

यह अनुज्ञप्ति अधिनियम या उसके अधीन विरचित नियमों या अनुसूची V के भाग 1 के प्रति निर्दिष्ट सेट-VII के अधीन तथा उपर्युक्त इस अनुज्ञप्ति की शर्तों का अधिकरण करने या यदि अनुज्ञप्त परिसर गंजा या उससे संबंधित उपबंधों में दर्शित विवरण के अनुरूप नहीं पाए जाने पर निलंबित या प्रतिबंधित की जा सकती है, जहाँ वह लागू हो।
This licence is liable to be suspended or revoked for any violation of the Act or Rules framed there under or the conditions of this licence as set forth under Set VIII, wherever applicable, referred to in Part I of Schedule V or if the licensed premises are not found conforming to the description shown in the plans and Annexure attached hereto

तारीख | The Date - 17/06/2020

संयुक्त मुख्य विस्फोटक नियंत्रक | Joint Chief Controller of Explosives
East Circle office, Kolkata

नवीनीकरण के पकड़ाने के लिए स्थान
Space for Endorsement of Renewal

नवीकरण की तारीख
Date of Renewal

समाप्ति की तारीख
Date of Expiry

अनुज्ञापन प्राधिकारी के हस्ताक्षर और स्टाम्प
Signature of licensing authority and stamp

कानूनी चेतावनी : विस्फोटकों को गलत ढंग से चलाने या उनका दुरुपयोग विधि के अधीन गंभीर दंडित अपराध होगा।
Statutory Warning : Mishandling and misuse of explosives shall constitute serious criminal offence under the law.

Prove copy attached

19/01/2024

TAHASILDAR
GONDIA