

SL No. 27

BEFORE THE NATIONAL GREEN TRIBUNAL**EASTERN ZONE BENCH KOLKATA****OA No. 167/2023/EZ****IN THE MATTER OF:****SRIKANTA KUMAR PAKAL & ORS****...APPLICANTS****VERSUS****STATE OF ODISHA & ORS****...RESPONDENTS****INDEX**

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Mrinal Kanti Biswas
Mrinal Kanti Biswas

Regional Director & Scientist E,
 CPCB, Kolkata

Surendra Kumar
 Filed through Counsel (Advocate)

Dated: 16/21, 2024

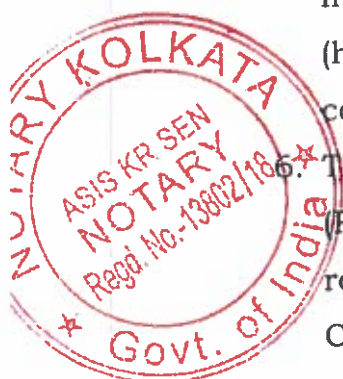
Place: Kolkata

BEFORE THE NATIONAL GREEN TRIBUNAL**EASTERN ZONE BENCH KOLKATA****OA No. 167/2023/EZ****IN THE MATTER OF:****SRIKANTA KUMAR PAKAL & ORS****...APPLICANTS****VERSUS****STATE OF ODISHA & ORS****...RESPONDENTS****COUNTER AFFIDAVIT ON BEHALF OF CENTRAL POLLUTION****CONTROL BOARD i.e. RESPONDENT NO. 11**

I, Mrinal Kanti Biswas S/o Saroj Kumar Biswas, aged about 42 years, employed as Regional Director do hereby solemnly affirm and state as follows:

1. I am presently working as Regional Director, Regional Directorate (East), Central Pollution Control Board (hereinafter referred to as CPCB), Kolkata and have been authorized to file the present affidavit. I am acquainted with the facts and circumstances of the case, and I am competent to affirm this affidavit on behalf of the Respondent No.11
2. That I affirm this Affidavit in terms of the directions passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata.
3. That nothing contained in this Affidavit shall be construed as admission of any statement unless specifically admitted by me. I reserve the right to deal with legal position of the matter at the time of hearing.
4. That the Original Application is inter alia related to railway track from Bhadrak to Nergundi in Cuttack, Odisha and allegedly, illegal Morrum mining for construction of this track.

5. That the answering respondent submits that as per Clause 2 of the Environmental Impact Assessment Notification, 2006 (hereinafter referred to as EIA Notification, 2006) provides for the "Requirements of prior Environmental Clearance (hereinafter referred to as EC)" and as per the above mentioned clause, the projects or activities which are falling under the category "A" of the Schedule of the EIA Notification, 2006; the project proponent shall obtain the EC from the Ministry of Environment, Forest and Climate Change (hereinafter referred to as 'MoEF&CC') and the projects which are falling under the 'B' category of the Schedule of the EIA Notification, 2006; the project proponent shall obtain EC from the State Environment Impact Assessment Authority (hereinafter referred to as 'SEIAA') before carrying out the construction works.



6. That it is further submitted that as per provisions of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as 'Water Act, 1974') and the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'Air Act, 1981'), all new intending Projects (Developmental and Industrial) are required to obtain "Consent to Establish" (hereinafter referred to as 'CTE') from the concerned State Pollution Control Board and all the running units and the units starting operation after establishing as per CTE issued by the State Pollution Control Board have to apply for "Consent to Operate" (hereinafter referred to as 'CTO'); depending upon the pollution and hazard potential of industrial activities, the industries are categorized as red, orange, green and white.

7. It is submitted at the very outset that this Respondent No. 11 deny each averment and submission made in the Original Application, that are contrary to and inconsistent with the averments made and facts stated in the present Counter Affidavit. It is submitted that nothing stated in the petition may be deemed to have been admitted by this Respondent unless and until the same is expressly admitted in the present Counter Affidavit.
8. Now dealing with the para wise comments the answering respondents states that the paragraph 1 to 3 of OA concerning information about the applicant and description of the impugned

sites, are matters of record and do not need comments from this answering Respondent No. 11, Central Pollution Control Board (hereinafter referred to as 'CPCB').

9. That with regard to the averments made in Paras 4 and 5 of OA concerning allegations against the Private Respondent, it is submitted that the same do not need comments from this answering Respondent No. 11.
10. That in reply to averment made in Para 6 of OA, it is submitted that as per EIA Notification 2006, project proponents of projects or activities shall obtain the mandatory Environmental Clearance as per 'Category' from concerned authorities, i.e. MoEF&CC or SEIAA. Also, it is the responsibility of the Lessee to get the CTO (if required as per State Mining Policy/Clearance) from the concerned State Pollution Control Board.
11. That with regard to the averment made in Para 7 of OA describing about Morrum, it is submitted that the same does not need comment from this answering Respondent No. 11.
12. That with regard to the averments made in Paras 8 to 10 of OA, it is submitted that the same do not pertain to CPCB and do not need comments from this answering Respondent No. 11.
13. That with regard to the averments made in Paras 11 to 14 of OA concerning allegations against the Private Respondent, it is submitted that the same do not need comments from this answering Respondent No. 11.
14. That with regard to the averment made in Para 15 of OA, it is submitted that CPCB reiterates the same mentioned in Para 7 of this Affidavit.
15. That with regard to the averment made in Para 16 of OA, it is submitted that the same do not pertain to CPCB and does not need comment from this answering Respondent No. 11.
16. That in reply to averment made under Para 17 of OA, it is submitted that violation / non compliance of stipulated conditions under EC and CTO may lead to environmental degradation and therefore, such activities if occurring ought to be regulated by concerned State Agencies.
17. That the averments made in Paras 18 to 20 of OA are concerning matters related to illegal mining in Odisha and actions taken by



the State Government w.r.t the same and hence, do not need any replies from this answering Respondent No. 11.

18. That with regard to the averments made in Paras 21 to 24 of OA concerning allegations against the Private Respondent, it is submitted that the same do not need comments from this answering Respondent No. 11.
19. That with regard to the averment made in Para 25 of OA, it is submitted that CPCB reiterates the same mentioned in Para 7 and Para 13 of this Affidavit.
20. That with regard to the averment made in Para 26 of OA concerning allegation against the Private Respondent, it is submitted that the same does not need comment from this answering Respondent No. 11.
21. That the averments made in Paras 27 to 29 of OA concerning statutory rules and regulations, are matters of record and do not need replies from this answering Respondent No. 11.
22. That with regard to the averments made in Paras 30 and 31 of OA, it is submitted that the same do not pertain to CPCB and do not need comments from this answering Respondent No. 11. That the averment made in Para 32 of OA concerning another Hon'ble NGT matter mentioned by the applicant as reference, is a matter of record and does not need reply from this answering Respondent No. 11.
23. That with regard to the averment made in Para 33 of OA, it is submitted that CPCB reiterates the same mentioned in Para 7 and Para 13 of this Affidavit.
24. That with regard to the averment made in Para 34 of OA, it is submitted that the same does not pertain to CPCB and does not need comment from this answering Respondent No. 11.
25. That the averment made in Para 35 of OA concerning a Supreme Court matter mentioned by the applicant as reference, is a matter of record and does not need comments from this answering Respondent No. 11.
26. That with regard to the averments made in Grounds 'A' to 'F' of the OA, it is submitted that the same have been replied in the Paras above and need no further comments from CPCB. However,



CPCB reserves its right to deal with the said Grounds properly at the time of hearing of this Original Application.

27. In view of the above facts indicated in earlier paras, it is respectfully prayed that this Respondent No. 11 shall abide by any order or direction, passed by this Hon'ble Tribunal.

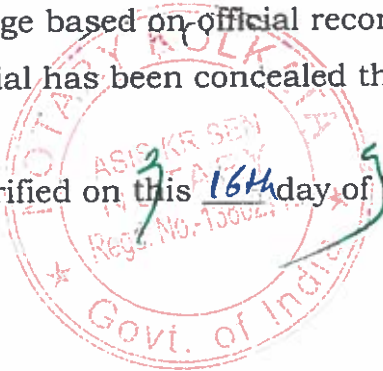
Ajit Das

DEPONENT

VERIFICATION

I, Mrinal Kanti Biswas, the above named deponent do hereby verify that the contents of the above affidavit are true and correct to my knowledge based on official records no part of it is false and nothing material has been concealed there from.

Signed and verified on this 16th day of February, 2024 at Kolkata.



Ajit Das

DEPONENT

Solemnly affirmed and declared
before me on Identification
ASIS 20th *Sen*
ASIS KUMAR SEN
City Civil Court
Kolkata
Reg No -13802/18

Identified by me
Surendra Kumar
Advocate
WB-535A/1998

16 FEB 2024