

6.	Photocopy of the order dtd.30.05.2023 issued by the Collector & DM, Balasore to the Tahasildar, Khaira. (ANNEXURE – R4/5)	
7.	Photocopy of sample copy of the consent to operate order granted in favour of M/s. Sarisua Stone Quarry No.75 with certain conditions for compliance valid upto 31.03.2024 issued vide consent order No.2544 dtd.31.08.2023 . (ANNEXURE – R4/6)	

By the Respondent No.4

Kolkata

Through

Date:

Smt Papiya Banerjee Bihani,
Advocates for the Respondent No.4
(State Pollution Control Board, Odisha)
e-mail:pbanerjeebihani@gmail.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 90 OF 2023 / EZ

05 OCT 2023

Rural Organisation for
Social empowerment (ROSE) ...Applicant

VERSUS

State of Odisha & Others ...Respondents

AFFIDAVIT ON BEHALF OF STATE
POLLUTION CONTROL BOARD, ODISHA
R.NO.4.



I, Dr. Kailasam Murugesan, IFS, son of late Paramasivam Kailasam aged around 55 years, at present working as Member Secretary, State Pollution Control Board, having my office at Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-VIII, P.O. Nayapalli, Bhubaneswar, Dist – Khurda, Odisha-751012, do hereby solemnly affirm and state as under:

- 1. That I am the Member Secretary of the Respondent No.4 Board and, as such, am well-acquainted with the facts and



circumstances with the case and competent to swear this affidavit.

2. That I have gone through the OA and understood the contents thereof.
3. That in this OA the applicant has prayed for issuance of direction to the Opp. Parties / Respondents to stop all mining activities within the Kuldiha Wildlife Sanctuary, the eco-sensitive zone linked to it and the conservation reserve as declared vide Notification No.1166 dtd.20.01.2023 issued by the Forest, Environment & Climate Change Department, Govt. of Odisha vide Annexure-A/7 of the OA and further not to grant any mining lease in the said area.
4. That at the outset, it is humbly submitted that the Hon'ble NGT, PB, New Delhi (through video conferencing) while adjudicating OA No.2/2019/EZ in the matter of Rural Organisation for Social Empowerment (ROSE) vs. State of Odisha & Others with OA No.3/2019/EZ- Associated Social Service Agency (ASSA) vs. State of Odisha & Ors vide



their judgment dtd.18.02.2020 while accepting the report of PCCF (HOFF), Odisha directed that the recommendation of the report be acted upon. Copy of the order dtd.18.02.2020 and dtd.16.10.2019 are annexed to this affidavit and marked as ANNEXURE – R4/1 and ANNEXURE – R4/2 respectively.

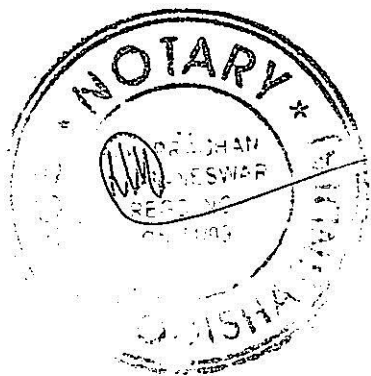
5. That in compliance to the aforesaid direction of the Hon'ble Tribunal, the Tahasildar, Khaira issued individual closure notice to the stone quarries operating in Sarisua, Kapilajhari, Bandhanata mouza under Khaira Tahasil and had stopped all quarries. Being aggrieved on the said direction, Sri Binay Kumar Dalei & others have approached the Hon'ble Apex Court in Civil Appeal No.1627-28 of 2022 and No.1529 of 2022, which was disposed of vide judgment dtd.02.03.2022, wherein direction has been issued to the State of Odisha to implement the Comprehensive Wildlife Management Plan as suggested by the standing committee of NBWL (National Board for Wildlife) before permitting any mining activities in the eco-



sensitive zone. The State is also directed to complete the process of declaration of the Traditional Elephant Corridor as Conservation Reserve as per Sec.36-A of the Wildlife (Protection) Act, 1972 expeditiously and mining operation of 97 quarries shall be permitted only thereafter. Copy of the said judgment has already been annexed to this OA vide Annexure-A/6.

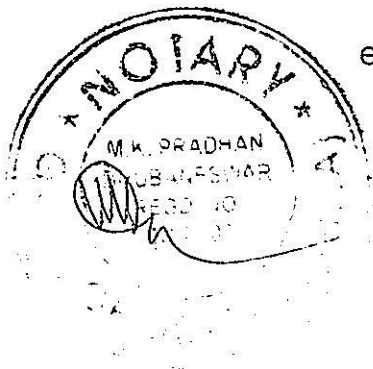
6. That in consonance with the direction of Hon'ble Apex Court, the State Govt. in the FE&CC Department vide Notification No.1166 dtd.20.01.2023 has notified the Similipal-Hadagada-Kuldia Traditional Elephant Corridor as Conservation Reserve to be known as Similipal-Hadagada-Kuldiha Conservation Reserve. Copy of the notification dtd.20.01.2023 has already been annexed to this OA vide Annexure-A/7.

7. That in the meanwhile Sri Binay Kumar Dalei and others has approached the Hon'ble High Court of Orissa in WPC No.5691/2023 which was disposed of vide order dtd.01.03.2023 with direction to the Collector & District



Magistrate, Balasore (OP No.3) to consider the representation filed by the petitioners and pass appropriate order in accordance with law within a period of 4 weeks from the date of production of certified copy of this order. A copy of the order dtd.01.03.2023 of the Hon'ble High Court of Orissa downloaded from the website is annexed to this affidavit and marked as ANNEXURE-R4/3.

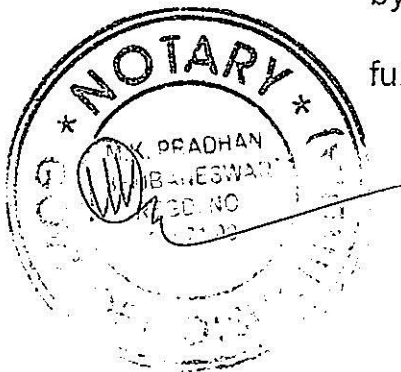
8. That pursuant to the order of the Hon'ble High Court of Orissa at Annexure-R4/3, the Collector & District Magistrate, Balasore has passed order on dtd.21.04.2023 with direction to the Tahasildar, Khaira (R.No.7) to extend the validity period of lease for a further period of 2 years 4 months 12 days or the actual number of days as per calculation w.e.f. the date of closure i.e. 21.10.2019 till validity period of such lease deed in respect of stone quarries No.101, 21 and 44 situated in Mouza – Sarisua – Kapilajhari – Bandhanata under Khaira Tahasil subject to observation of all other formalities as prescribed under the existing arrangement of Odisha Minor Mineral Concession



Rules, 2016 till the new system is put in. Copy of the order dtd.21.04.2023 of the Collector & DM, Balasore is annexed to this affidavit and marked as ANNEXURE-R4/4.

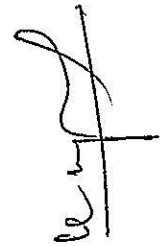
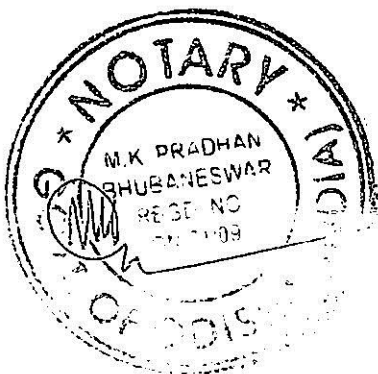
9. That it is further humbly submitted that the Collector & DM, Balasore while adjudicating OMMC Misc. Case No.13/2023 in respect of 33 individual petitions containing 48 Nos. of quarries vide order dtd.30.05.2023 directed the Tahasildar, Khaira to extend the validity period of lease for a further period of 2 years 4 months 12 days or the actual number of days as per calculation w.e.f. the date of closure 21.10.2019 till validity period of such lease deed in respect of stone quarries. Copy of the order dtd.30.05.2023 is annexed to this affidavit and marked as ANNEXURE-R4/5.

10. That the Regional Officer, Balasore of the R.No.4 Board who has been delegated with the power of grant / refuse / issuance of direction of closure in respect of stone quarries by the R.No.4 Board has in the meantime and in furtherance with the order of Collector & DM, Balasore at



Annexure-R4/4 and Annexure-R4/5 read with Lease Deed executed by the Tahasildar, Khaira (R.No.7) which were submitted by the lessee along with application for consent to operate has granted consent to operate in respect of 14 nos. of quarries on due consideration of their application for consent to operate submitted through online alongwith other documents, which are valid upto 31.03.2024. The details of which are given below:

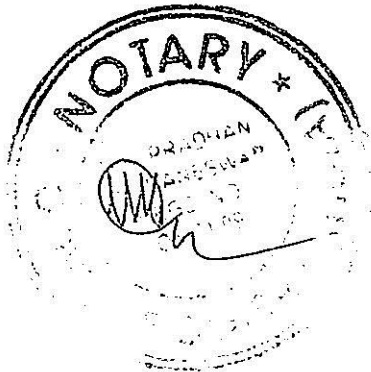
Sl.No.	Quarry No.
1.	44
2.	101
3.	51
4.	69
5.	75
6.	77
7.	97
8.	32
9.	74
10.	34
11.	30
12.	29

13.	33
14.	21

Out of the 14 quarries indicated above, Quarry No.44 and 101 have started operation as ascertained from the Tahasildar, Khaira by the Regional Officer, Balasore of the R.No.4 Board on 13.09.2023. For proper appreciation of the case a sample copy of the consent to operate order granted in favour of M/s. Sarisua Stone Quarry No.75 with certain conditions for compliance valid upto 31.03.2024 issued vide consent order No.2544 dtd.31.08.2023 is annexed to this affidavit and marked as ANNEXURE-R4/6.

11. That it is further humbly clarified that all averments, contentions and/or statement as contained in the OA filed by the Applicant, which may not have been specifically denied or traversed by me herein but are in essence, contrary to the substance of this affidavit, should not be deemed to be admitted by reason of mere non-traverse, but should be treated as expressly denied and the Applicant should be put to strict proof in respect thereof.



MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD. NO. ON-71109
PH: 9437627110

05/10/23

- 12. That the R.No.4 Board craves leave of this Hon'ble Tribunal to file further affidavit, if required, for proper adjudication of this case.
- 13. That the annexures annexed to the present affidavit are true and correct copies of their originals.
- 14. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from the official records, and that nothing material has been concealed therefrom.

[Handwritten Signature]

DEPONENT
Member Secretary
State Pollution Control Board
Cuttack, Bhubaneswar

VERIFICATION:

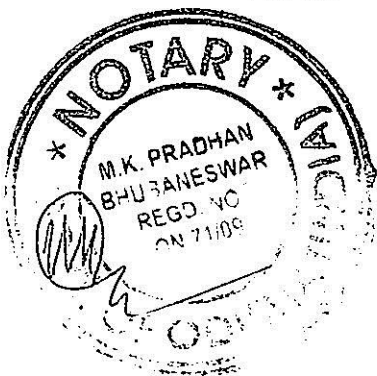
I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, as derived from official records, and that nothing material has been concealed therefrom.

Verified at Bhubaneswar on this the 5th day of October, 2023.

SWORN BEFORE ME

[Handwritten Signature]

DEPONENT



MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD. NO. ON-71109
PH: 9437627110

05/10/23

ANNEXURE-R4/1

Item No. 06 & 07

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)

Original Application No. 02/2019 (EZ)
(I.A. No. 01/2019(EZ), (I.A. No. 81/2019(EZ) & I.A. No. 12/2020(EZ))

WITH

Original Application No. 03/2019 (EZ)
(I.A. No. 02/2019(EZ) & I.A. No. 13/2020(EZ))

Rural Organisation for Social
Empowerment (R.O.S.E.)

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

WITH

Associated Social Service Agency (ASSA)

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 18.02.2020

CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE MR. SIDDHANTA-DAS, EXPERT MEMBER

For Appellant(s): Mr. Anindya Kumar Mishra, Advocate
For Respondent (s): Mr. Soubhagya Ketan Nayak, AGA for R-1, 5 & 6
Mr. Gora Chand Roy Choudhury, Adv for R-2&3
Mrs. Papiya Banerjee Bihani, Adv for R-4

ORDER

- In these applications, the applicants assail the grant of mining lease for sairat sources (Stone Mining) in the village of Sarisua Kapilajhari Bandhanata in Khaira Tehsil, District Balasore, Odisha as a consequence of an advertisement dated 17.08.2017 called therefor. It is stated that the quarrying began in the March, 2018. The primary

ground questioning the lease is that the area where the mining lease has been granted falls in the Eco-Sensitive Zone surrounding the Kuldiha Wildlife Sanctuary declared vide the notification No. S.O. 2539 (E), dated 09.08.2017 of the Ministry of Environment, Forests and Climate Change. The case of the applicant is that the activity is a prohibited activity under the said notification.

2. The next concern expressed by the Applicant is that as the area where lease had been granted lies adjacent to the traditional Similipal-Hadagarh-Kuldiha Inter District Wildlife Corridor, it poses imminent and definite threat not only to the ecology of the locality but also the Elephant Corridor. The Leased out sources is also stated to fall in the catchment area of a perennial natural water source located within the Eco-Sensitive Zone.

3. Having regard to the facts and circumstances set-out in the original application, a report was called-for from the PCCF (HoFF), Odisha after getting an inspection carried out to ascertain on the factual aspects. It was further directed that if the allegation are found to be correct, to take appropriate action in accordance with law to prohibit such activities. The question of environmental loss and damage was also left open including the cost of remediation, restitution and restoration for environment to be assessed later.

4. The report of the PCCF (HoFF), Odisha was filed before us and taken up on 16.10.2019, the relevant portion of which had been taken note of which we may reproduce below for convenience.

5. Report has been received from the PCCF (HOFF) according to which it has been observed as under:

"III. Frequent movement of elephants is reported from Kuldih Wildlife Sanctuary on the foothills of Sukhuapata hill of Mayurbhanj district up to Kalo reservoir of Kaptipada Range of Baripada. The corridor between Hadgarh & Kuldih is used round the year by the elephants for its movement. There is an evident threat to the habitat and the Elephant corridor due to quarrying because of its onsite and offsite environmental effects. The fact of existence of these quarries around the traditional Similipal - Hadgarh - Kuldih - Similipal elephant corridor was place by the State CWLW before the 40th Meeting of SC-NBWL which recommended the proposal for operation of 97 stone quarries with certain pre-conditions as detailed earlier at Para No. 1. Though, these 97 quarries form a cluster as requisite no environment management plan has been submitted by the Revenue Authorities yet.

IV. Accordingly, as per the recommendation of the 40th meeting of SC-NBWL, a comprehensive Wildlife Management Plan (CWLMP) to mitigate the impact to be caused by operation of all quarries & transportation of materials got approved by the Government of Odisha, F & E Department during July 2017 with a financial outlay of Rs. 677.13 lakh to be spent over a period of 10 years. Part of the proposal for taking of Bald hill plantation over 200 ha. At an estimated cost of Rs. 408.40 lakhs was proposed to be addressed through the CAMPA/other State Funding and rest funds of 677.13 lakh was to be allocated from Environment cost to be released from all quarries rationally in proportion to the quantity of production. However, it is observed that the payment of Environment Cost towards implementation of the CWLMP is yet to be made by the Revenue authorities. "

6. In addition to above, it has been further observed and recommended that:

"A. Those quarries those have made ingress into ESZ boundary must be penalized as per extent of ingress & destruction particulars. In this regard Mining Department and Revenue Department jointly in each of these observed cases may assess damage cost

/restoration cost, responsible quarries for the damage and realization of penalty amount etc. If needed, necessary services of expert organization like ICFRE, Dehradun /TERI, New Delhi may be taken in this regard. Till the completion of the exercise, the operation of these quarries may considered to be stooped.

- B. District Collector-cum-Chairman, DEIAA, Balasore may allow further quarry operation in the area only after obtaining specific clearance by SEIAA, Odisha as per order dated 11.12.2018 of the Hon'ble NGT in the Executive Application No. 55/2018 in O.A No. 520/2016, Vikrant Tongad Versus. Union of India, directing that the notification dated 15.01.2016 of MoEFF& CC will stand suspended till a fresh notification issued by the MoEFF& CC, New Delhi.

C. There is every likelihood in future of further higher ingress of quarries in the Eco Sensitive Zone, considering the close vicinity of these quarries to the ESZ. In order to avoid any further future ingress within the limit of ESZ, DGPS (Differential Global Positioning System) mapping should be immediately taken up for all the 97 quarries with permanent pillar posting. The vector polygon of the quarries may be shared with all concerned departments. The intactness of all the ESZ pillars for demarcation of ESZ must be ensured by the Revenue Department as some of the pillars during field visit were found missing. The Environment Management Plan for cluster of the quarries is yet to be finalized with ensuring its strict adherence. Further, implementation of Comprehensive Wildlife Management Plan by immediate deposit of Environment Cost by the District Administration needs to be ensured. A "Monitoring Committee" as recommended by NBWL & NTCA may be constituted immediately at the district level to look into the wildlife & environment issues on bi-monthly basis.

- D. As quarry operation is being carried out adjacent to the identified traditional Similpal - Hadgarh - Kuldiha - Similpal Elephant Corridor, process should be initiated with the pending proposal for declaration of the conservation Reserve in that area U/S - 36 of the Wildlife (Protection) Act 1972 by the Principal Chief conservator of Forests (Wildlife) & CWLW, Odisha in order to avoid further destruction in that corridor apart from other site specific restoration plan as deemed appropriate to mitigate the impact caused due to rampant quarry operation and maintain ecological balance."

7. From the above, it would be quite apparent that out of the 97 stone quarries, 11 of them ingress into the Eco Sensitive Zone and the rest were being operated adjacent to the identified traditional Similipal - Hadgarh - Kuldiha - Similipal Elephant Corridor. It had been suggested that process should be expedited in respect of the pending proposal for declaration of a Conservation Reserve in the area under Section 36 of the Wild Life (Protection) Act 1972 by the Principal Chief Conservator of Forests (Wildlife) & CWLW, Odisha in order to avoid further destruction in the corridor and carry out other site specific restoration plan as deemed appropriate for mitigation of the impact caused due to rampant quarry operations and to maintain ecological balance.

8. By order 16.10.2019, we had expressed our anxiety on the fact that 86 stone quarries admittedly were actively in operation adjacent to the declared elephant corridor which would be deleterious to the environment as it was likely to cause obstruction in the corridor resulting in man-animal conflict. We, therefore, were of the considered opinion that the entire corridor should be brought within the ambit of the Eco Sensitive Zone and accordingly directed the State Government to take immediate steps towards that direction after due consultation with the experts. It was further directed that operation of any of the quarries which were either ingressing into the Eco Sensitive Zone or in operation adjacent thereto should not be permitted. A direction also was issued for urgent implementation of the recommendation made by the PCCF (HOFF), Odisha in his report. The State respondent had also been directed to file a report on the actions

taken with regard to the matters in question and against the various directions issued by the Tribunal.

9. As per the consequent report filed by the State, it was stated that pursuant to the directions of the Tribunal, pillar posting in respect of DGPS survey of 97 quarries and preparation of cadastral map had been completed recently. As regards 11 ingress points, all 12 cases had been submitted for cancellation vide letter dated 07.11.2019. The environmental compensation against damage/restoration of environment was being assessed by a joint team comprising of Revenue, Forest and Mining Officials. An amount of Rs. 36,59,649/- had been collected from the illegal miners towards compensation Comprehensive Wild Life Management Plan and Rs. 76,51,568/- towards Environment Management Fund. Since, the DGPS survey was under process, further report was directed to be submitted giving the current status of the action being taken by the Tahasildar, Khaira.
10. Today, Mr. Soubhagya Kefan Nayak, learned Additional Government Advocate submits that report has been filed by the State which in substance conveys that the DGPS survey had since been completed by the State.

11. The PCCF (HoFF), Odisha in his report referred to earlier has provided the details of the 11 quarries ingressing into the Eco Sensitive Zone which is reproduced below:

"	ORSAC Map	Sl.No.	Ingress between pillars	Nearest quarry No.	Ingress area (in Ha.)	Activities
	Part-I	01	263 to 264	11&15	0.22	Excavation has been made within ESZ

-do-	02	253 255	to	16&17	0.14	Formation of a road by digging soil & breaking stone inside ESZ for movement of machinery
Part-II	03	236 237	to	41&42	0.13	Excavation has been made within ESZ
-do-	04	230 232	to	44	0.45	Formation of a road by digging soil & breaking stone inside ESZ for movement of machinery
-do-	05	217 219	to	53	0.06	Excavated & made a road inside ESZ for movement of machinery and blasting inside ESZ area.
-do-	06	207 209	to	56&60	0.98	Dumped excavated soil & debris within the limit of ESZ.
-do-	07	223 226	to	46&48	0.96	Road formation inside ESZ area.
Part-III	08	202 203	to	70	0.31	Excavated & formed a road within ESZ
-do-	09	191 192	to	88	0.96	Made a road by digging soil & breaking stone inside ESZ for movement of machinery.
-do-	10	197 199	to	2	0.09	Quarry No. 2 & 6 are now non-operational as per decision taken
	11	197 199	to	6	0.76	by district administration of Mayubhanj district and closed on 23 rd July, 2018.

12. It is further stated that all quarries are less than 5 hectares and are located in the vicinity of Sarisua Kapilajhari Bandhanata village under Khaira Tahasil & spread over an area of Ac. 173.5 and on the other side of the hillock, a part of the traditional Elephant Corridor "Similipal-Hadgarh-Kuldiha-Similipal" is situated.
13. In respect of the traditional Elephant Corridor, the following is the finding given in the report:

"i. This link between Kuldiha & Hadgarh Wildlife Sanctuary with this traditional Elephant Corridor is coming under the Mayurbhank Elephant Reserve notified by the Govt. of Odisha, F&E Deptt. Vide their Notification No. SF(W)-42/2001 15806/F&E dt. 29.01.2001 comprising portion of Mayurbhanj, Balasore, Bhadrak & Keonjhar district under the Central Scheme "Project Elephant". Portion of the corridor pertaining to Balasore District is Govt. land, other than forest kassam in village Suasuri-Kapilajhari-Bhandhanahata&Kaithangadia. Copy of the Notification dtd. 29.01.2001 is annexed herewith as Annexure-8.

ii. Frequent movement of elephant is reported from Kuldiha Wildlife Sanctuary on the foothills of Sukhuapata hill of Mayurbhaj district up to Kalo reservoir of Kaptipada Rangae of Baripada. The corridor between Hadgarh & Kuldiha is used round the year by the elephants for its movement. There is an evident threat to the habitat and the Elephant corridor due to quarrying because of its on-site and off-site environmental effects. The fact of existence of these quarries around the traditional Similipal-Hadgarhy-

Kuldiha-Similipal Elephant corridor was place by the State CWLW before the 40th Meeting of SC-NBWL which recommended the proposal for operation of 97 stone quarries with certain pre-conditions as detailed earlier at Para No.1. Though, these 97 quarries form a cluster as requisite no environment management plan has been submitted by the Revenue Authorities yet.

iii. Accordingly, as per the recommendation of the 40th Meeting of SC-NBWL, a Comprehensive Wildlife Management Plan (CWLMP), to mitigate the impact to be caused by operation of all quarries & transportation of materials got approved by the Govt. of Odisha, F&E Department during July 2017 with a financial outlay of Rs. 677.13 lakh to be spent over a period of 10 years. Part of the proposal for taking of Bald hill plantation over 200 ha. at an estimated cost of Rs. 408.40 lakhs was proposed to be addressed through the CAMPA/other State Funding and rest funds of 6.77/13 lakh was to be allocated from Environment Cost to be released from all quarries rationally in proportion to the quantity of production. However, it is observed that the payment of Environment Cost towards implementation of the CWLMP is yet to be made by the Revenue authorities."

14. In view of the his observations, the PCCF (HoFF), Odisha has made the recommendations reproduced earlier in paragraphs 6 and 7 which we find were well considered and is accordingly accepted.
15. In view of the above, we direct that the recommendations of the PCCF (HoFF), Odisha given in its report be acted upon having been accepted by us.

16. The 11 quarries ingressing into the Eco Sensitive Zone shall be directed to confine their activities outside the Eco Sensitive Zone. All activities within the ingress area shall be stopped forthwith.
17. The environmental compensation shall be recovered from the trespassing mining units as assessed by the PCCF (HoFF), Odisha as per the guideline prescribed by the CPCB in accordance with law.
18. No mining activity shall be permitted within and in the vicinity of the Similipal-Hadgarh-Kuldiha-Similipal Elephant Corridor. Process under Section 36 of the Wildlife (Protection) Act, 1972 for declaration of conservation reserve in respect of the identified traditional elephant corridor shall be completed within a period of three months or within the timeline prescribed under the Act.
19. With the above directions, both the original applications stand disposed off with no order as to cost.
20. Consequently, all the I.As also stand disposed off.

S. P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

Siddhanta Das, EM

18th February, 2020
Original Application No. 02/2019 (EZ)ag

ANNEXURE - R4/2

Item No. 05 & 06

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)

Original Application No. 02/2019 (EZ)
(I.A. No. 01/2019)

WITH

Original Application No. 03/2019 (EZ)
(I.A. No. 02/2019)

Rural Organisation for Social
Empowerment (R.O.S.E.)

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

With

Associated Social Service Agency (ASSA)

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 16.10.2019

CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

For Applicant(s): Mr. Anindya Kumar Mishra, Advocate

For Respondent(s): Mr. Soubhagya Ketan Nayak, AGA for R-1, 5 & 6
Mr. Gora Chand Roy Choudhury, Advocate for
R-2&3
Ms. Papiya Banerjee Bihani, Advocate for R-4

ORDER

1. In this application, the applicant assails the grant of mining lease for sairat sources (Stone Mining) in the village of Sarisua Kapilajhari Bandhanata in Khaira Tehsil, District Balasore,

Odisha following an advertisement dated 17.08.2017 called therefor and the quarrying actually began in the March, 2018. The primary reason for questioning such lease is that the area where the mining lease has been granted falls in the Eco-Sensitive Zone of the Kuldiha Wildlife Sanctuary declared vide the notification No. S. O. 2539 (E), dated 09.08.2017 of the Ministry of Environment, Forests and Climate Change. The case of the applicant is that the activity is prohibited under the said notification.

2. The next concern expressed is that, as the area where lease had been granted lies adjacent to the traditional Similipal-Hadagarh-Kuldiha Inter District Wildlife Corridor, it poses imminent and definite threat not only to the ecology of the locality but also to the Elephant Corridor. The area is also stated to fall in the catchment area of a perennial natural water source located within the Eco-Sensitive Zone.

3. The Principal Chief-Conservator of Forest (Hq), Odisha was directed to cause an inspection of the area to be undertaken and to enquire and ascertain on the factual aspects indicated in the original application. It was further directed that if the allegations were found to be correct, appropriate action be taken in accordance with law to prohibit such activity.

4. Apart from the above, environmental loss and damage as well as cost of remediation, restitution and restoration were also directed to be assessed after receipt of the report.
5. Report has been received from the PCCF (HOFF) according to which it has been observed as under:

"III. Frequent movement of elephants is reported from Kuldiha Wildlife Sanctuary on the foothills of Sukhuapata hill of Mayurbhanj district up to Kalo reservoir of Kaptipada Range of Baripade. The corridor between Hadgarh & Kuldiha is used round the year by the elephants for its movement. There is an evident threat to the habitat and the Elephant corridor due to quarrying because of its onsite and offsite environmental effects. The fact of existence of these quarries around the traditional Similipal - Hadgarh - Kuldiha - Similipal elephant corridor was place by the State CWLW before the 40th Meeting of SC-NBWL which recommended the proposal for operation of 97 stone quarries with certain pre-conditions as detailed earlier at Para No. 1. Though, these 97 quarries form a cluster as requisite no environment management plan has been submitted by the Revenue Authorities yet.

IV. Accordingly, as per the recommendation of the 40th meeting of SC-NBWL a comprehensive Wildlife Management Plan (CWLMP) to mitigate the impact to be caused by operation of all quarries & transportation of materials got approved by the Government of Odisha, F & E Department during July 2017 with a financial outlay of Rs. 677.13 lakh to be spent over a period of 10 years. Part of the proposal for taking of Bald hill plantation over 200 ha. At an estimated cost of Rs. 408.40 lakhs was proposed to be addressed through the CAMPA/other State Funding and rest funds of 677.13 lakh was to be

allocated from Environment cost to be released from all quarries rationally in proportion to the quantity of production. However, it is observed that the payment of Environment Cost towards implementation of the CWLMP is yet to be made by the Revenue authorities. "

6. In addition to above, it has been further observed and suggested that:

A. Those quarries those have made ingress into ESZ boundary must be penalized as per extent of ingress & destruction particulars. In this regard Mining Department and Revenue Department jointly in each of these observed cases may assess damage cost, restoration cost, responsible quarries for the damage and realization of penalty amount etc. If needed, necessary services of expert organization like ICFRE, Dehradun / TERI, New Delhi may be taken in this regard. Till the completion of the exercise, the operation of these quarries may considered to be stopped.

B. District Collector-cum-Chairman, DEIAA, Balasore may allow further quarry operation in the area only after obtaining specific clearance by SEIAA, Odisha as per order dated 11.12.2018 of the Hon'ble NGT in the Executive Application No. 55/2018 in O.A. No. 520/2016, Vikrant Tongad Versus. Union of India, directing that the notification dated 15.01.2016 of MoEFF & CC will stand suspended till a fresh notification issued by the MoEFF & CC, New Delhi.

C. There is every likelihood in future of further higher ingress of quarries in the Eco Sensitive Zone, considering the close vicinity of these quarries to the ESZ. In order to avoid any further future ingress within the limit of ESZ, DGPS (Differential Global Positioning System) mapping should be immediately taken up for all the 97 quarries with permanent pillar posting. The vector polygon of the

quarries may be shared with all concerned departments. The intactness of all the ESZ pillars for demarcation of ESZ must be ensured by the Revenue Department as some of the pillars during field visit were found missing. The Environment Management Plan for cluster of the quarries is yet to be finalized with ensuring its strict adherence. Further, implementation of Comprehensive Wildlife Management Plan by immediate deposit of Environment Cost by the District Administration needs to be ensured. A "Monitoring Committee" as recommended by NBWL & NTCA may be constituted immediately at the district level to look into the wildlife & environment issues on bi-monthly basis.

- D. As quarry operation is being carried out adjacent to the identified traditional Similipal - Hadgarh - Kuldiha - Similipal Elephant Corridor, process should be initiated with the pending proposal for declaration of the conservation Reserve in that area U/S - 36 of the Wildlife (Protection) Act/1972 by the Principal Chief conservator of Forests (Wildlife) & -GWLW, Odisha in order to avoid further destruction in that corridor apart from other site specific restoration plan as deemed appropriate to mitigate the impact caused due to rampant quarry operation and maintain ecological balance.

7. From the above, it is quite apparent that out of the 97 stone quarries, 11 of them ingress into the Eco Sensitive Zone and the rest are being operated adjacent to the identified traditional Similipal - Hadgarh - Kuldiha - Similipal Elephant Corridor. It has been suggested that process should be expedited in respect of the pending proposal for declaration of a Conservation Reserve in the area under Section 36 of the Wild Life (Protection) Act 1972 by the Principal Chief Conservator of Forests (Wildlife)

& CWLW, Odisha in order to avoid further destruction in the corridor and carry out other site specific restoration plan as deemed appropriate for mitigation of the impact caused due to rampant quarry operations and to maintain ecological balance.

8. Mr. S.K. Nayak, learned Additional Advocate General appearing for the State of Odhisa submits that appropriate action has been initiated against the quarries which ingressed into the Eco Sensitive Zone and prays that he may be granted time to file an affidavit on the action taken.

9. While allowing the prayer made by the Mr. Nayak, we are perturbed by the fact that 86 stone quarries admittedly are actively in operation adjacent to the declared elephant corridor which in our considered opinion would be deleterious to the environment as it is likely to cause obstruction in the corridor resulting in man-animal conflict.

10. We, therefore, are of the considered opinion that the entire corridor should be brought within the ambit of the Eco Sensitive Zone towards which direction the State Government shall take immediate steps after due consultation with the experts.

11. In the meanwhile, there shall be no operation of any of the quarries which are either ingressing into the Eco Sensitive Zone or are in operation adjacent thereto. We also direct that the State Respondent shall initiate the process for implementation

of the suggestions made by the PCCF (HOFF), Odhisa in its report taken on record today. It is needless to observe that action for closure of the quarries shall be taken following the due process of law.

12. A report shall be filed by the State Respondents within one month from hence.

13. List on 04.12.2019

S.P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

16th October, 2019
Original Application No. 02/2019 (EZ)
sg



ANNEXURE - R4/3

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.5691 of 2023

<i>Binay Kumar Dalei & others</i>	<i>Petitioners</i>
		<i>Mr.Sridhar Rath, Advocate.</i>
	Vs.	
<i>State of Odisha & others</i>	<i>Opposite Parties</i>
		<i>Standing Counsel</i>

CORAM:

DR. JUSTICE B.R. SARANGI
MR. JUSTICE M.S.SAHOO

ORDER
01.03.2023

Order No.
01.

This matter is taken up through hybrid mode.

2. Heard.
3. The present Writ Petition has been filed with the following prayer:-

"Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon'ble Court may graciously be pleased to:

(i) admit/allow this writ application;

(ii) direct/order to extend the Stone Quarry Lease tenure of Stone Quarries No.101, 21 and 44 of the petitioners for 2 years and 101 days to compensate the losses incurred due to closure of the aforesaid Stone Quarries operation w.e.f. 21.10.2019 till its expiry on 31.03.2022 in mouza-Sarisua Kapilajhari Bandhnata in Khaira Tahasil in the district of Balasore for the interest of justice;

(iii) direct/order to dispose of the representation, dated 25.01.2023, submitted the opposite party no.3 in the light of the Hon'ble Apex Court judgment as at Annexure-4, read with Annexures-7, 8 and 9 respectively."

4. In course of hearing, learned counsel for the Petitioners states that highlighting their grievances, the Petitioners have made

a representation to Opposite Party No.3 vide Annexure-6 and the same may be directed to be considered taking into consideration Annexures-7, 8 & 9 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.3 to consider the representation filed by the petitioners vide Annexure-6, and pass appropriate order taking into consideration Annexures-7, 8 & 9 in accordance with law within a period of four weeks from the date of production of certified copy of this order.

Issue urgent certified copy as per Rules.

(DR. B.R. SARANGI)
JUDGE

(M.S. SAHOO)
JUDGE

ANNEXURE - R4/A

IN THE COURT OF THE COLLECTOR & DISTRICT MAGISTRATE, BALASORE

Present:- Shri Dattatraya Bhausahab Shinde, I.A.S.
Collector & District Magistrate, Balasore

Misc Case No. 15/2023
Arising out of W.P.(C) No. 5691/2023

1. Binay Kumar Dalei, S/o- Basude Dalei
At- Gadapokhari, PO- Guapal, P.S- Khaira, Balasore
2. Snehalata Mishra, W/o- Laxman Mishra
At/PO- Apartibindha, PS/Dist- Bhadrak
3. Pritish Kumar Mohapatra, S/o- Pradeep Kumar Mohapatra
At/PO- Kupari, P.S- Khaira, Dist-Balasore.....Petitioners.
(Vrs)
1. State of Odisha represented through its Commissioner-cum-Secretary Revenue & Disaster Management, Bhubaneswar.
2. Commissioner-Cum-Secretary to Government of Odisha, Forest, Environment and Climate Change Department, Bhubaneswar
3. Collector & District Magistrate, Balasore
4. Tahasildar, Khaira.....Opposite Parties.

Sri Bijay Kumar Panda & Associates, AdvocatesFor the Petitioners
Sri Ashok Kumar Senapati, AGP ...For the State.

ORDER

21.04.2023

This case is taken up today. The Learned Counsel on behalf of the petitioner is present. The Learned A.G.P. on behalf of the State is also present. Heard both the parties. Perused the materials available in the case record.

This misc case has been instituted pursuant to the kind orders dated-01.03.2023 passed in W.P.(C) No. 5691/2022 wherein the Hon'ble High Court directing O.P. No. 3 to consider the representation filed by the petitioners vide Annexure-6, and pass appropriate order taking into

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consideration Annexure-7, 8 & 9 In accordance with law within a period of four weeks from the date of production of certified copy of this order.

As per Annexure-6 the representation on 25.01.2023 presented by the Petitioners in the Grievance Cell stating the fact that, the petitioners are the Lessees namely, Binaya Kumar Dalei, Snehalata Mishra and Pritish Kumar Mohapatra of 51 (fifty one) hard granite stone quarries which were auctioned & were operational in Mouza : Sarisuakapilajharibandhata under Khaira Tahasil on the strength of recommendation of the Standing Committee of NBWL (SC-NBWL). In its 40th meeting held on dt. 03.01.2017, Environmental Clearance issued by DEIAA, Balasore and subsequent consent to operate issued by the Tahasildar, Khaira. On the strength of Environmental Clearance issued by the DEIAA, Balasore under Chairmanship of the Collector & DM, Balasore, the Tahasildar, Khaira had auction & issued consent to operate of 51 (fifty one) hard granite stone quarries in Mouza: Sarisuakapilajharibandhata under Khaira Tahasil. As per provision 3 lessees were deposited the environment cost rationally in proportion on the quantity of production with the Tahasildar, Khaira as stipulated. With an interpretation to the order dated 18.02.2020 of the Hon'ble NGT, PB, New Delhi arising out of O.A. No. 02/2019/EZ and O.A. No. 03/2019/EZ, all the stone quarries operation in Sarisuakapilajharibandhanata mouza under Khaira Tahasil had been stopped and individual closure notice had been issued to the leases vide Office Order No. 55 dated 21.10.2019 of the Tahasildar, Khaira. In the aforesaid OA filed before NGT, the mentioned lease are not respondents/ opposite parties to it, although the quarry lease holders are directly affected with huge financial investment and loss thereof. That, being affected by such auction of the District Administration & deprived of

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natural justice, necessary Civil Appeal had been filed before the Hon'ble Supreme Court of India in Civil Appeal No. 1627-1628 of 2022 & (Diary No. 19961 of 2020): Binay Kumar Dalei & Ors –Versus- State of Odisha & Ors challenging the said order of the Hon'ble NGT. On disposal of the said civil appeal, the Hon'ble Supreme Court of India vide judgement dated 02.03.2022 directed the State of Odisha to implement the comprehensive wildlife management plan as suggested by the Standing Committee of NBWL. Complete the process of declaration of the traditional elephant corridor as conservation reserve as per 36-A of Wildlife Protection Act, 1972 expeditiously. The mining operation 97 quarries shall be permitted only thereafter. In the meantime, Govt of Odisha in Forest, Environment & Climate Change Department, Bhubaneswar have notified the Simlipal-Hadgarh- Kuldiha traditional elephant corridor as Conservation Reserve to be known as "Similipal-Hadgarh-Kuldiha Conservation Reserve vide Notification No. FE-WL-WLF-0011-2022/1166/FE&CC dated 20.01.2023 under section 36(A) of the Wildlife (Protection) Act, 1972. The Divisional Forest Officer, Balasore Wildlife Division, being the executive the said plan distributing free seedlings to the local villagers as a component to the plan which got approved by the Government of Odisha in Forest & Environment Department vide their Letter No. 15336/F & E dated 20.07.2017 meeting the expenditure from funds rationally collected from the concerned quarry lease holders. With an investment of such sum of money, purchase of necessary machineries, tools & vehicles etc with the bank finance, the concerned quarry lease holders are sustaining huge financial loss and simultaneously running with financial distress in addition to legal expenditure incurred thereof. In pursuance of Judgement date 02.03.2022 passed by the Hon'ble Supreme Court of India in Civil Appeal

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No. 1627-1628 of 2022 Diary No. 19961 of 2020 the matter need to be considered.

In view of the above, the petitioners further pray for issuance of quarrying operational order in respect of Stone Quarry No. 101 in favour of Petitioner No.1, Stone Quarry No. 21 In favour of Petitioner No. 2 and Stone Quarry No. 44 in Favour of Petitioner No. 3 out of 51 hard granite stone quarries situated in Mouza- Sarisuakapilajhari-bandhanata under Khaira Tahasil extending the period of lease of 02 years and 101 days with immediate effect. All the quarries shall continue being operational on the strength of the Environmental Clearance issued by the DEIAA, Balasore under the Chairmanship of Collector & D.M Balasore. Further it is pray that the suspension period of the quarry operation i.e. from the date individual closure notice issued to the lessees vide Office Order No. 55 dated 21.10.2019 of Tahasildar, Khaira till date of commencement of operation shall be added to the quarry lease period extending the consent to operate as well as environment clearance.

In the counter reply the Assistant Collector, Touzi Section, Collectorate, Balasore reported that with reference to the connected matter Revenue and Disaster Management Department, Government of Odisha was requested to issue necessary instruction for operationalization of 97 stone quarries in Khaira Tahasil vide Office Letter No. 936/Tz dt.01.02.2023. In response to the above letter, the Additional Secretary to Government, Revenue and Disaster Management Deptt. has moved the matter to Steel and Mines Department vide their Letter No. 5337/R & DM dt. 09.02.2023 for issuance of necessary instruction to the Collector, Balasore as the subject "Minor Mineral" has been transferred to Steel and Mines Department. The Additional Secretary, Steel and Mines Department has

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also been requested vide this Office Letter No. 2529/Tz dt. 14.03.2023 for issuance of necessary instruction in the matter.

Notwithstanding the fact that the present case of the petitioners for extension of stone quarry lease tenure with effect from 21.10.2019 till date of commencement of operation under Khaira Tahasil of Balasore District by virtue of order dated 01.03.2023 of the Hon'ble High Court of Orissa passed in W.P. (C) No. 5691 of 2023 arising out of order dated 02.03.2022 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 1627-1628 of 2022 (@Diary No. 16691 of 2020) : Binay Kumar Dalei & Ors-Vrs-State of Odisha & others challenging order dated 18.02.2020 of the Hon'ble National Green Tribunal, Principal Bench, New Delhi passed in O.A. No. 02/2019/EZ with O.A. No. 03/2019/EZ.

It is also the admitted position of the fact that due to ban imposed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi vide Order dated 18.02.2020 the closure of quarry operation affected for an indefinite and uncertain period of 02 years 04 months 12 days out of the lease period of 05 years as per registered quarry lease under Rule -27 of Odisha Minor Minerals Concession Rules 2016. The existence of such ground for extension would be clear from the decisions cited as per Annexure-7 [case law of Hon'ble High Court of Orissa reported in 2015 (1) OLR 1017 between Sri Abhaya Samantaray Vrs. the Collector, Puri & Ors], Annexure-7 [case of law of Hon'ble High Court of Orissa between Duryodhan Singh & others Vrs. Sub-Collector, Panposh, Rourkela] and Annexure-9 [case law of Hon'ble High Court of Orissa between Rajesh Kumar Mohapatra-vrs-State of Odisha & others, W.P. (C) No. 36083 of 2020].

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In this connection the points thus raised for consideration for extension of the validity period of lease for such period and subject to such condition as provided under the provision of Odisha Minor Mineral Rules- 2016 lies with the jurisdiction of the Collector of respective jurisdiction as the controlling authority or lies to the jurisdiction of the Deputy Director of Mines of respective jurisdiction as per the Odisha Minor Minerals Concession (Second Amendment) Rules 2022. In fact, the amendment of Odisha Minor Minerals Concession Rules 2016 came into force on 27th December 2022 vide Gazette Notification No. 3603 wherein it is stipulated as per Para 13 in the said rules, in rule 66, after sub-rule (2) , the following sub-rule shall be inserted, namely:- (3) Notwithstanding anything to the contrary contained in the amended provision, till the new system is put in place, the existing arrangement would continue. The State Government may take necessary steps for effective transition of minor minerals from Revenue & DM Department to Steel & Mines Department.

In view of the aforesaid materials and the decision of the Hon'ble Supreme Court of India, Hon'ble National Green Tribunal, Principal Bench, New Delhi alongwith the series of decisions of the Hon'ble High Court of Orissa as well as in consideration of the Odisha Minor Minerals Concession Rules- 2016 and Odisha Minor Minerals Concession (Second Amendment) Rules -2022 indicating the parameters for exercising the power as the Controlling Authority, this Court has no hesitation to admit this case for extension of the validity period of respective leases duly granted by the Tahasildar, Khaira under Rule-27 of Odisha Minor Minerals Concession Rules- 2016.

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In the result, this Misc Case is allowed and accordingly the Tahasildar, Khaira is directed to extend the validity period of lease for a further period of 02 years 04 months 12 days or the actual number of days as per calculation w.e.f the date of closure 21.10.2019 till validity period of such lease deed in respect of stone quarries No. 101, 21 & 44 situated in Mouza- Sarisua-kapilajhari-bandhanata under Khaira Tahasil subject to observance of all other formalities as prescribed under the existing arrangement of Odisha Minor Minerals Concession Rules- 2016 till the new system is put in.

Accordingly the kind order of the Hon'ble High Court is complied with. Send a copy of this order to the Registrar High Court Odisha, Cuttack.

Issue instructions to the Tahasildar, Khaira for compliance of the order as indicated to the above extent.

Pronounced the order in the open Court on this the day of 21st April, 2023.

Dictated & corrected

by me

Collector, Balasore

Collector, Balasore

ANNEXURE - R4/5

IN THE COURT OF THE COLLECTOR & DISTRICT MAGISTRATE, BALASORE

Present: -Sri Dattatraya Bhansaheb Shinde, IAS,
Collector & District Magistrate, Balasore

QMMC Misc Case No.13/2023

1. Brahamananda Panda S/o-Chakradhar Panda Quarry No. 10,11,29,30,37,
At-Itamundei, Po Kupari, Dist-Balasore 102,93 & 94
2. Rabindra Ku. Sahoo S/o-Balakrushna Sahoo Quarry No 15
At/po-Bangur, Dist-Keonjhar.
3. Sudip Ku. Ghadei S/o-Debendra Ghadei Quarry No.16 & 41
At-Kamarpur, PS-Soro,Dist-Balasore.
4. Sanjib Ku. Das S/o-Sashankar Sekhar Das Quarry No.17
At-Mangalpur, Ps-soro, Dist-Balasore
5. Mrutyunjay Das S/o-Parameswar Das Quarry No.22
At/po-Kuruda, Dist-Balasore.
6. Sudam Châran Swain S/o-Laxmidhar Swain Quarry No.23
At-Bageipur, Po-Kupari,Dist-Balasore
7. Bibekananda Rout S/o-Binod Bihari Rout Quarry No.26
At/po-Dhanurjajpur,Dist-Balasore.
8. Shiba Shankar Mohanty Quarry No.27
S/o-Harekrushna Mohanty
At-Raipur, Po-Soro, Dist-Balasore.
9. Mohapatra Jajati Keshri Kar Quarry No.28
S/o-Ramachandra Kar
At/Sarasati, Po-Ranital, Dist-Bhadrak
10. Gajendranath Barik S/o-Chintamani Barik Quarry No.31,32 &100
At-Baunshagadia, Po-Haripur, Dist-Balasore.
11. Prahalad Sahoo S/o-Balpyanath Sahoo Quarry No.33
At-Purusottampur, Po-Khaira, Dist-Balasore.
12. Manash Kanyan Mohapatra Quarry No.34
S/o-Kalandi Mohapatra
At-Jaganathpur, Po soro Dist-Balasore
13. Sanjay Kumar Sahoo Quarry No.35
S/o Balanupada Sahoo
At-Purusottampur, Po-Khaira, Dist-Balasore
14. Narendra Balla Mishra S/o Radha Dhan Quarry No 36 & 62
At/po-Rubani, Po-Balasore
15. Soroj Ku. Galabandharay Quarry No.39
S/o Ratanadramall Balabandharay
At/po Kupari, Dist-Balasore

16. Rajendra Ku. Das S/o-Ramakrushna Das Quarry No.43 & 90
At-Dobagadia, Po-Kupari, Dist-Balasore.
17. Amulya Prasad Das S/o-Gopinath Das Quarry No.51
At-Toranipada, Po-Khaira, Dist-Balasore.
18. Pabitra Mohan Peda S/o-Gangadhar Mohanty Quarry No.48
At/po-Bangura, Dist-Keonjhar.
19. Amaresh Mohanty S/o-Gangadhar Mohanty Quarry No.50 & 97
At-Palasa, Po-Kaithgadia, Dist-Balasore.
20. Birabhadra Jena S/o-Upendra Jena Quarry No.53 & 61
At-Mundahota, Po-Kaithgadia, Dist-Balasore.
21. Madhab Dhada S/o-Naba Dhada Quarry No.54
At-Chatrapur, Po-Soro, Dist-Balasore
22. Pradeep Ku. Jena S/o-Birabhadra Jena Quarry No.103 & 69
At-Mundahota, Po-Kaithgadia, Dist-Balasore.
23. Kamalakanta Bhoi S/o-Rabindra Bhoi Quarry No.57
At-Achak, Po-Balaramprasad , Dist-Dhenkanal.
24. Ratikanta Roul S/o-Rohit Ku. Roul Quarry No.58
At-Patia, po-BalaramPrasad, Dist-Dhenkanal
25. Niranjana Sahoo S/o-Gobinda Sahoo Quarry No.60
At-Godapokhari, Po-Guapal, Dist-Balasore.
26. Sabitri Nayak W/o-Santosh ku. Nayak Quarry No.70
At/po-Uttareswar, Ps-Soro, Dist-Balasore.
27. Sarat Ku. Nayak S/o-Bhagaban Nayak Quarry No.74
At-Mahulapankha, Po-Kahaligadia, Dist-Keonjhar
28. Bimbadhar Nayak S/o-Manmath Nayak Quarry No.75
At/po-Guapal , Dist-Balasore.
29. Ashesh Ku. Jena S/o-Purna Chandra Jena Quarry No.77
At/po-Kaithgadia, Dist-Balasore.
30. Niranjana Padhi S/o-Ananta Padhi Quarry No.79
At-Dahi, Po-Sundarpur, Dist-Balasore.
31. Jayanta Ku. Rout S/o Mabin Ku. Rout. Quarry No.82
At/po-Kupari , Dist Balasore.
32. Italanprava Sharma S/o-Srikrishna Sharma Quarry No.88
At/po Chandrasekharpur, Dist-Bhadrak.
33. Nityananda Padhi S/o-Bandhar Padhi Quarry No 96
At/po-Batabata, Dist Keonjhar

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(All the abovementioned Stone Quarries are situated in Mouza-Sarisua Kapilajhari Bandhanata under Khaira Tahasil of District -Balasore)

.....Petitioners.

Vrs

State of Odisha represented by the

Collector, Balasore.....Opposite Party

Sri Bijay Kumar Panda, Advocate

For the Petitioners.

Sri Ashok Kumar Senapati, AGP,

For the State.

30.05.2023

This case is taken up today. Advocate for the petitioners as well as the AGP on behalf of the State are present. Heard and perused the materials found in the Case Record.

This OMMC Misc Case is instituted on the basis of 33 nos. individual petitions supported with photo copy of registered Agreement of Quarry Leases in total of 48 Stone Quarries situated in Mouza-Sarisua Kapilajhari Bandhanata under Khaira Tahasil to extend the Stone Quarry Lease tenure w.e.f. 21.10.2019 till its recommences i.e. 2 years 101 days due to closure of operation at the instance of the Opposite Party State.

The question involved in this 33nos. OMMC Misc Case petitions being similar, they were heard analogously and are being disposed of by this common judgement and order.

The 33nos. of petitioners, who were operating hard granite stone quarries against valid registered Agreement of Quarry Lease under Rule 39 of OMMC Rule, 2016 duly granted by the Tahasildar, Khaira in respect of Stone Quarry Nos. 10, 11, 29, 30, 37, 102, 93, 94, 15, 16, 41, 17, 22, 23, 26, 27, 28, 31, 32, 100, 33, 34, 35, 36, 62, 39, 43, 90, 51, 48, 50, 97, 53, 61, 54, 103, 59, 57, 58, 60, 70, 74, 75, 77, 79, 82, 88 & 96 (in total 48nos.) being situated in Mouza-Sarisua Kapilajhari Bandhanata under Khaira Tahasil had been stopped and individual closure notice had been issued to the petitioners/tenees vide Khaira Tahasil Office Order No 55 dated 21.10.2019 as per order dated 18.02.2020 of the Hon'ble National Green Tribunal, Principal Bench, New Delhi passed in O.A. No 0272019/ET with O.A. No.03/2019/ET

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The Learned Advocate on behalf of the petitioners in support of his contentions further submitted that on closure of quarry operation for an indefinite & uncertain period, the quarry lease holders are directly & absolutely affected, where the State may not be. Under such premises, the quarry lease holders approached the Hon'ble Supreme Court of India in Civil Appeal No.1627-1628 of 2022 (@ Diary No.16691 of 2020) : Binay Kumar Dalai & Ors -Versus -State of Odisha & Others challenging the said order Dated-18.02.2020 of the Hon'ble National Green Tribunal, Principal Bench, New Delhi passed in O.A. No.02/2019/EZ with O.A. No.03/2019/EZ. The Hon'ble Supreme Court of India disposed off the aforesaid Civil Appeal vide order dated-02.03.2022 inter-alia for mining operation of 51 out of 97 Stone Quarries after observing the necessary formalities by the State Government.

In the self same issue, the Hon'ble High Court of Odisha vide order dated-01.03.2023 passed in W.P.(C) No.5691 of 2023 (Binay Kumar Dalai & two Others-Versus - State of Odisha & Others) directed this Hon'ble Court to take appropriate decision for extension of the Stone Quarry tenure w.e.f. 21.10.2019 till its commencement of operation of the above said 51 out 97 Stone Quarries situated in Mouza- Sarisua Kapilajhari Bandhanata under Khaira Tahasil has been closed by virtue of order dated 18.02.2020 of the Hon'ble NGT, PB, New Delhi arising out of O.A. No. 02/2019/EZ and O.A. No. 03/2019/EZ. However, vide Misc Case No.15/2023 arising out of W.P.(C) No.5691 of 2023 (Binay Kumar Dalai & two Others-Versus - State of Odisha & Others) has been considered and allowed by this Hon'ble Court vide its Order dated-21.04.2023 allowing to operate the Stone Quarry No 101, 21 & 44 situated in Mouza- Sarisua Kapilajhari Bandhanata under Khaira Tahasil Relying upon the said judgement, the case of the petitioners is required to be allowed for the interest of justice

In analysis of the facts & circumstances of this specific case, from the ratio of the judgement passed by the Hon'ble Supreme Court of India, Hon'ble National Green Tribunal, Principal Bench, New Delhi, as well as

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Hon'ble High Court of Odisha, Cuttack and the order dated-21.04.2023 passed by this Court in Misc Case No.15/2023 arising out of W.P.(C) No.5691 of 2023 (Binay Kumar Dalai & two Others-Versus – State of Odisha & Others) it has been explicitly clear that on the ground for extension of lease tenure granted in favour of Lessees in respect of Stone Quarries No. 101,21 & 44 situated in Mouza- Sarisua Kapilajhari Bandhanata under Khaira Tahasil, the benefit should have been given to these 33 nos. of petitioners claiming for extension of lease tenure.


In the result, the applications succeeded and allowed in the light of the order dated-21.04.2023 passed in Misc Case No.15/2023 arising out of W.P.(C) No.5691 of 2023. The Tahasildar, Khaira is directed to extend the validity period of lease for a further period of 02 years 04 months 12 days or the actual number of days as per calculation w.e.f the date of closure 21.10.2019 till validity period of such lease deed in respect of stone quarries No. Quarry No. 10, 11, 29, 30, 37, 102, 93, 94, 15, 16, 41,17, 22, 23, 26, 27, 28, 31, 32, 100, 33, 34, 35, 36, 62, 39, 43, 90, 51, 48, 50, 97, 53, 61, 54, 103, 69, 57, 58, 60, 70, 74, 75, 77, 79, 82, 88 & 96 situated in Mouza- Sarisua- kapilajhari-bandhanata under Khaira Tahasil subject to observance of all other formalities as prescribed under the existing arrangement of Odisha Minor Minerals Concession Rules- 2016 till the new system is put in. Further all the Lessees are directed to make the quarry operational within 15 days from the date of pronouncement of this order.

Accordingly, this Misc case is disposed of.

Issue instructions accordingly to the Tahasildar, Khaira for compliance of the order as indicated to the above extent.

Pronounced the order in the open Court on this the day of 30th May, 2023.

Dictated & corrected
by me
Collector, Balasore


Collector, Balasore

ANNEXURE - R4/6

Page-

Tel : 06782-244110

E-mail: rospcb.balasure@ospboard.org

Website: www.ospboard.org

REGIONAL OFFICE, BALASORE
STATE POLLUTION CONTROL BOARD, ODISHA
 [FOREST, ENVIRONMENT & CLIMATE CHANGE DEPARTMENT, GOVERNMENT OF ODISHA]
 Plot No.1602, Ganeswarpur, Balasore-756019, Odisha

No 2544 /CTO/3206Date 31/08/2023
By Regd. PostCONSENT ORDERCONSENT ORDER NO. 67 /2023-24 (APC & WPC)

Sub: Consent to operate U/S 25/26 of Water (PCP) Act, 1974 and U/S 21 of Air (PCP) Act, 1981 and the Rules framed there under for existing / new operation of the plant/Mine.

Ref: Your online Application No. 5093982 and Consent to Operate issued vide letter No. 1183, dt.12.07.2019

Consent to operate is hereby granted under section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and under section 21 of Air (Prevention & Control of Pollution) Act, 1981 and rules framed thereunder to:

Name of the Mine : M/s Sarisua Stone Quarry No.75
 Address : At. Sarisua Kapilajhari Bandhanata over Plot No. 520 of Khata No. 245 measuring an area Ac. 1.29 (0.5220 Ha) under Khaira Tahasil, Dist. Balasore

Name of the Occupier & Designation: Sri Bimbadhar Nayak, Lessee

This consent order is valid for the period up to 31.03.2024.

This consent to operate is granted based on Environmental Clearance issued by DEIAA, Balasore vide Letter No. 246/DEIAA dtd. 31.08.2018 and Modified Mining plan approved by the Deputy Director of Mines, Baripada Circle, Mayurbhanj on 09.08.2023 & subjected to validity of lease issued by the competent authority.

This consent order is valid for the product quantity, specified outlets, discharge quality and quality, specified chimney/stack, emission quantity and quantity of emissions as specified below This consent is granted subjected to the general and special conditions stipulated therein

A. Details of Products to be Manufactured:

Sl. No.	Product	Quantity
1	Stone(Road) metals	5130 m ³

CONSENT ORDER

B. Discharge permitted through the following outlet subject to the standard

Outlet No	Description of outlet	Point of dis-charge KLD or KU/hr	Prescribed standard			
			pH	TSS mg/l	COD mg/l	BOD (mg/l) (3 days at 27°C)
--	--	--	--	--	--	--

C. Emission permitted through the following stack subject to the prescribed standard.

Chimney Stack No.	Description of stack	Stack height(m)	Quantity of emission	Pre-scribed Standard		
				PM ₁₀	SO ₂	NOx
--	--	--	--	--	--	--

D. Disposal of solid waste permitted in the following manner

Sl No	Type of solid waste	Quantity generated (TPD)	Quantity to be reused on site (TPD)	Quantity to be reused off site (TPD)	Quantity disposed off (TPD)	Description of disposal site
1	Over burden/ top soil	As per mining plan	--	--	--	As per approved mining plan

E. GENERAL CONDITIONS:

- 1 The consent is given by the Board in consideration of the particulars given in the application. Any change or alteration or deviation made in actual practice from the particulars furnished in the application will also be the ground liable for review/variation/revocation of the consent order under section 27 of the Act of Water (Prevention & Control of Pollution) Act, 1974 and section 21 of Air (Prevention & Control of Pollution) Act, 1981 and to make such variations as deemed fit for the purpose of the Acts
- 2 The mine/industry would immediately submit revised application for consent to operate to this Board in the event of any change in the quantity and quality of raw material / and products / manufacturing process or quantity /quality of the effluent /rate of emission / air pollution control equipment / system etc
- 3 The applicant shall not change or alter either the quality or quantity or the rate of discharge or temperature or the route of discharge without the previous written permission of the Board
- 4 The application shall comply with and carry out the directives/orders issued by the Board in this consent order and at all subsequent times without any negligence on his part. In case of non-compliance of any order/directives issued at any time and/or violation of the terms and conditions of this consent order, the applicant shall be liable for legal action as per the provisions of the Law/Act.
- 5 The applicant shall make an application for grant of fresh consent at least 90 days before the date of expiry of this consent order
- 6 The issuance of this consent does not convey any property right in either real or personal property or any exclusive privileges nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Central, State laws or regulation
- 7 This consent does not authorize or approve the construction of any physical structure or facilities or the undertaking of any work in any natural water course
- 8 The applicant shall display this consent granted to him in a prominent place for perusal of the public and inspecting officers of this Board
- 9 An inspection book shall be opened and made available to Board's Officers during the visit to the factory
- 10 The applicant shall furnish to the visiting officer of the Board any information regarding the construction, installation or operation of the plant or of effluent treatment system / air pollution control system / stack monitoring system any other particulars as may be pertinent to preventing and controlling pollution of Water / Air

CONSENT ORDER

- 11 Meters must be affixed at the entrance of the water supply connection so that such meters are easily accessible for inspection and maintenance and for other purposes of the Act provided that the place where it is affixed shall in no case be at a point before which water has been tapped by the consumer for utilization for any purposes whatsoever
- 12 Separate meters with necessary pipe-line for assessing the quantity of water used for each of the purposes mentioned below.
 - a) Industrial cooling, spraying in mine pits or boiler feed,
 - b) Domestic purpose
 - c) Process
- 13 The applicant shall display suitable caution board at the place where the effluent is entering into any water-body or any other place to be indicated by the Board, indicating therein that the area into which the effluents are being discharged is not fit for the domestic use/bathing
- 14 Storm water shall not be allowed to mix with the trade and/or domestic effluent on the upstream of the terminal manholes where the flow measuring devices will be installed
- 15 The applicant shall maintain good house-keeping both within the factory and the premises. All pipes, valves, sewers and drains shall be leak-proof. Floor washing shall be admitted into the effluent collection system only and shall not be allowed to find their way in storm drains or open areas
- 16 The applicant shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems install or used by him to achieve with the term(s) and conditions of the consent.
- 17 Care should be taken to keep the anaerobic lagoons, if any, biologically active and not utilized as mere stagnation ponds. The anaerobic lagoons should be fed with the required nutrients for effective digestion. Lagoons should be constructed with sides and bottom made impervious
- 18 The utilization of treated effluent on factory's own land, if any, should be completed and there should be no possibility of the effluent gaining access into any drainage channel or other water courses either directly or by overflow.
- 19 The effluent disposal on land, if any, should be done without creating any nuisance to the surroundings or inundation of the lands at any time
- 20 If at any time the disposal of treated effluent on land becomes incomplete or unsatisfactory or create any problem or becomes a matter of dispute, the industry must adopt alternate satisfactory treatment and disposal measures.
- 21 The sludge from treatment units shall be dried in sludge drying beds and the drained liquid shall be taken to equalization tank.
- 22 The effluent treatment units and disposal measures shall become operative at the time of commencement of production
- 23 The applicant shall provide port holes for sampling the emissions and access platform for carrying out stack sampling and provide electrical outlet points and other arrangements for chimneys/stacks and other sources of emissions so as to collect samples of emission by the Board or the applicant at any time in accordance with the provision of the Act or Rules made therein.
- 24 The applicant shall provide all facilities and render required assistance to the Board staff for collection of samples / stack monitoring / inspection.
- 25 The applicant shall not change or alter either the quality or quantity or rate of emission or install, replace or alter the air pollution control equipment or change the raw material or manufacturing process resulting in any change in quality and/or quantity of emissions, without the previous written permission of the Board.
- 26 No control equipments or chimney shall be altered or replaced or as the case may be erected or re-erected except with the previous approval of the Board
- 27 The liquid effluent arising out of the operation of the air pollution control equipment shall be treated in the manner and to ion of standards prescribed by the Board in accordance with the provisions of Water (Prevention and Control of Pollution) Act, 1974 (as amended)
- 28 The stack monitoring system employed by the applicant shall be opened for inspection to this Board at any time
- 29 There shall not be any fugitive or episodal discharge from the premises.
- 30 In case of such episodal discharge/emissions the industry shall take immediate action to bring down the emission within the limits prescribed by the Board in condooons/stop the operation of the plant. Report of such accidental discharge /emission shall be brought to the notice of the Board within 24 hours of occurrence
- 31 The applicant shall keep the premises of the industrial plant and air pollution control equipments clean and make all hoods, pipes, valves, stacks/chimneys leak proof. The air pollution control equipments, location, inspection chambers, sampling port holes shall be made easily accessible at all times
- 32 Any upset condition in any of the plant/plants of the factory which is likely to result in increased effluent discharge/emission of air pollutants and / or result in violation of the standards mentioned above shall be reported to the Headquarters and Regional Office of the Board by fax / speed post within 24 hours of its occurrence
- 33 The industry has to ensure that minimum three varieties of trees are planted at the density of not less than 1000 trees per acre. The trees may be planted along boundaries of the industries or industrial premises. This plantation is stipulated over and above the bulk plantation of trees in that area

CONSENT ORDER

34. The solid waste such as sweeping wastage packages, empty containers residues, sludge including that from air pollution control equipments collected within the premises of the industrial plants shall be disposed off scientifically to the satisfaction of the Board, so as not to cause fugitive emission, dust problems through leaching etc., of any kind.
35. All solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board by:
- i) Land fill in case of inert material, care being taken to ensure that the material does not give rise to leachate which may percolate into ground water or carried away with storm run-off.
 - ii) Controlled incineration, wherever possible in case of combustible organic material
 - ix) Composting, in case of bio-degradable material
36. Any toxic material shall be detoxicated if possible, otherwise be sealed in steel drums and buried in protected areas after obtaining approval of this Board in writing. The detoxication or sealing and burying shall be carried out in the presence of Board's authorized persons only. Letter of authorization shall be obtained for handling and disposal of hazardous wastes.
37. If due to any technological improvement or otherwise this Board is of opinion that all or any of the conditions referred to above requires variation (including the change of any control equipment either in whole or in part) this Board shall after giving the applicant an opportunity of being heard, vary all or any of such condition and thereupon the applicant shall be bound to comply with the conditions so varied.
38. The applicant, his/hers/legal representatives or assignees shall have no claim whatsoever to the condition or renewal of this consent after the expiry period of this consent.
39. The Board reserves the right to renew, impose additional conditions or condition, revoke change or alter the terms and conditions of this consent.
40. Notwithstanding anything contained in this conditional letter of consent, the Board hereby reserves to it the right and power under section 27(2) of the Water (Prevention & Control of Pollution) Act, 1974 to review any and/or all the conditions imposed herein above and to make such variations as deemed fit for the purpose of the Act by the Board.
41. The conditions imposed as above shall continue to be in force until revoked under section 27(2) of the Water (Prevention & Control of Pollution) Act, 1974 and section 21 A of Air (Prevention & Control of Pollution) Act, 1981.
42. In case the consent fee is revised upward during this period, the industry shall pay the differential fees to the Board (for the remaining years) to keep the consent order in force. If they fail to pay the amount within the period stipulated by the Board the consent order will be revoked without prior notice.
43. The Board reserves the right to revoke/refuse consent to operate at any time during period for which consent is granted in case any violation is observed and to modify/ stipulate additional conditions as deemed appropriate.

F. SPECIAL CONDITIONS:

A. GENERAL:

1. The mining shall be carried out as per the approved Modified mining plan.
2. The mine shall maintain the ambient noise standards as prescribed in the Noise Pollution (Regulation and Control) Rules, 2000.
3. The mine shall abide by the provisions of E (P) Act 1986 and Rules framed there under.
4. The mine shall obtain NOC from the Central Ground Water Authority for withdrawal of ground water for project requirement if any and shall submit the same to the Board.
5. The annual production shall not exceed the consented quantity. Copy of the annual return (Annual return submitted to the competent authority) shall be submitted every year to the Board. Environmental statement report shall also be submitted every year to the Board in prescribed format.
6. Mining operation is subject to availability of all other statutory clearances required under relevant Acts/Rules and fulfillment of required procedural formalities.
7. Greenbelt shall be developed as per the approved Mining Plan.
8. The unit shall pay differential fees if any as per the Odisha Gazette Notification dtd. 16.07.2012 of Forest and Environment Department, Government of Odisha.



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- 9 The Board may impose further conditions or modify the conditions as stipulated in this order during installation and may revoke this order in case the stipulated conditions are not implemented and / or information are found to have been suppressed / wrongly furnished in the application form.
10. The Lessee shall get the Environment Clearance (EC), issued by DEIAA, reappraised through SEAC/SEIAA and obtain the fresh EC within a period of one year from the date of issue of the Office Memorandum of MoEF&CC dated 28.04.2023.
- 11 This Consent is granted subject to the order of the Collector & District Magistrate, Balasore in the matter of OMMC Misc Case No.13/2023.
- 12 The following measures are to be implemented to reduce noise pollution.
 - i. Proper and regular maintenance of vehicles and other equipment.
 - ii. Limiting time of exposure of workers to excessive noise.
 - iii. The workers employed shall be provided with protection equipment and earmuffs etc.

B. WATER POLLUTION:

- 1 Domestic waste water, if any shall be discharged to soak pit via septic tank constructed as per BIS specification.
- 2 The surface runoff shall be allowed to flow through garland drain and the accumulated water shall be treated in series of settling tanks before discharge to natural drainage systems.

C. AIR POLLUTION:

- 1 The unit shall maintain ambient air quality in order to meet the prescribed standard as per National Ambient Air Quality Standard prescribed in the Environment (Protection) Rules, 1986.
- 2 Water sprinkling arrangements shall be provided at all haul roads, transportation roads, mining areas, stack yard and other dust generating points to control fugitive dust emission.
- 3 Loading and unloading activities shall have efficient dust control system arrangements and shall be maintained and operated.
- 4 The vehicles hired for transportation shall be in good condition and shall have PUC certificate and shall conform to air and noise emission standards and shall be operated during non-peak hours.
- 5 Speed of trucks entering or leaving the mine is to be limited to moderate speed of 25 KMPH to prevent undue noise. The haul road shall be graded to mitigate dust emission.

CONSENT ORDER

6. The truck in which mineral is to be transported shall be covered with tarpaulin to prevent spillage and from getting minor mineral airborne.
7. The following measures are to be further implemented to reduce air pollution during transportation of mineral
- a) Road shall be graded to mitigate the dust emission.
 - b) Overloading on transportation vehicles and consequent spillage on the road shall be avoided.

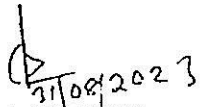
D. SOLID & HAZARDOUS WASTE:

- 1 Mineral rejects shall be disposed of as the approved mining plan in proper manner without causing any environmental pollution.

The occupier must comply with the conditions stipulated in section A, B, C, D, E and F to keep this consent order valid.

To,

Sri Bimbadhar Nayak, Lessee
S/o Manmath Nath Nayak
M/s Sarisua Stone Quarry No. 75
At/PO. Guapal, Dist. Balasore, Odisha 756059


31/08/2023
REGIONAL OFFICER

Memo No 2545¹⁶ /dt. 31/08/2023 /

Copy forwarded to:

- 1 The Member Secretary, SPC Board, Odisha, Bhubaneswar
- 2 The Collector & District Magistrate, Balasore
- 3 The D. F. O., Balasore
- 4 The D.D.M., Baripada Circle, Baripada, Mayurbhanj
- 5 The Tahasildar, Khaira, Balasore
- 6 Copy to Guard File


31/08/2023
REGIONAL OFFICER