



Notary, Cuttack Town
Regd.No-ON-04/1995

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

O.A No. 26 of 2024/EZ

Jitendra Kumar Pradhan Applicant
Vs
State of Odisha & Others Respondents

5/21/24

**Preliminary Counter Affidavit filed by the
Respondent No.11**

I, Shri K.P. Balayya, aged about 47 years, Son of K. Narayan, At present working as Manager, Aditya Construction, Plot No.496/3799, Unit No.2, Hariom Bihar, Ward No.17, Brajarajnagar, Jharsuguda, Odisha do hereby solemnly affirm and state as follows-

1. That I am the respondent no.11 in this original application and I am swearing this affidavit after going through the contents of the original application and I am competent to swear this affidavit.
2. That the original application is thoroughly misconceived and has been filed in the guise of a Public Interest Litigation to ventilate the personal grievance. The applicant who is the local person has filed this original application to indulge arm twisting method to put pressure on the respondent no.11.
3. That the original application lacks materials to warrant any order involving the jurisdiction of this Hon'ble Tribunal in exercising power conferred under

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law. The allegations are thoroughly misconceived and lack materials.

4. That the applicant has filed this original application with a prayer :-

- I. Constitute an independent fact finding committee to assess the quantity of minor minerals extracted illegally and assessment of ecological loss and environment compensation and trees felled for morrum and soil mining.
- II. Direct the Private respondent to restore and reclaim the void created due to extraction of morrum and soil.
- III. Fix the accountability of the public authorities for their inaction in restraining the private respondent from illegal mining.
- IV. Direct the authorities to initiate criminal proceedings against the private respondent under Environment Protection Act, 1986 and Indian Penal Code (Section 379 and 414).
- V. Impose exemplary penalty and environmental compensation for grossly violating the environment norms and causing environmental damage.
- VI. Pass such other orders/directions as may be deemed fit and proper (including appropriately

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molding the reliefs) in the bona-fide interests of justice.

5. That in reply to the Para-1 of the original application the deponent has no comment to offer.

6. That in reply to the Para-2 of the original application the deponent humbly submits that the deponent has not carried any illegal mining rather the deponent has carried on construction of road by taking earth murrum from the land. The other contention made in para-2, the deponent has no comment to offer and required to be proved by the applicant.

7. That in reply to the Para-3 of the original application the deponent humbly submits that it is fact that the respondent is a infrastructure partnership Firm engaging in various construction work but the allegation that the deponent has illegally lifted or extracted around 56,100 Quebec meter of murrum and that he has illegally lifted the same. That in reply to the Para-4 of the original application that the respondent no.11 has illegally extracted murrum from Govt. land under Jharsuguda Tahasil is not correct.

8. That, in reply to Para-5 of the original application, the deponent humbly submitted that the allegation made in the para-5 is totally false and fabricated which needs strict proof.

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9. That in reply to the Para-6 of the original application, the deponent humbly submits that there was no public complain against the deponent before the local officials of Revenue Department.

10. That, in reply to the Para-7, Para-8, Para-9 & Para-10 of the original application, the deponent has no comment to offer.

11. That, in reply to the Para-11, 12 & 13 of the original application, the deponent humbly submitted that the respondent has excavated murrum earth from the area while constructing road and during excavation due to improper demarcation by the authority, the labour engaged in excavation work had inadvertently excavated more than the permitted soil. As a result of which, there was a notice from the Tahasildar, Jharsuguda under Annexure-1 and pursuant to that notice, the respondent no.11 deposited assessed royalty along with penalty before the authority as per Section-51 of the OMMC Rules. So the allegation that the respondent no.11 by engaging thousands of truck has illegally lifted murrum is absolutely not correct hence denied by the deponent and furthermore, the allegation that the respondent has extracted earth and murrum randomly from different places, which are not designated or permitted from Tahasildar is not absolutely correct hence denied by the respondent.

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12. That, in reply to the Para-14, 15 & 16 of the original application, the deponent has no comment to offer.

13. That, in reply to the Para-17 & 18 of the original application, the allegation made in that paragraphs are absolutely false and the photographs does not relate to the present respondent and required to be strict proved by the applicant. The applicant has published in the news paper by editing photographs only to defame the private respondent.

14. That, in reply to the Para-19, 20 & 21 of the original application, the deponent had no comment to offer.

15. That, in reply to the Para-22 of the original application, the deponent humbly submitted that there was no prior allegation from any authority and therefore the allegation that the Aditya Construction happens to be habitual offender of illegal extracting of minor mineral is totally false and fabricated allegations and furthermore the allegation made in that paragraph is required to be strict proved by the applicant.

16. That, in reply to the Para-23 & 24 of the original application, the respondent humbly submitted that the respondent has already deposited royalty and penalty for extracting excess common earth while constructing

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road and it has not violated any circular or Government guidelines as mentioned in para-5 & 6.

17. That, in reply to the Para-25 to 30 of the original application, the deponent has no comment to offer.

18. That, in reply to the Para-31 to 36 of the original application, the deponent has no comment to offer. Since all are based on law. The applicant is required to strict proof of that.

19. That the deponent further humbly submitted that the private respondent i.e. Aditya Construction has not violated any Govt. Guidelines or rules as alleged by the applicant. During excavation work, inadvertently excess earth was excavated for which, the private respondent had already paid royalty as well as penalty as per the OMMC Rules.

20. That, the deponent further humbly submitted that there was no allegation from the authority that the private respondent has excavated from the Govt. land or prohibited land. Therefore allegation as made by the applicant is totally false and fabricated only to harass the private respondent and to defame its goodwill. Furthermore, there was no allegation from any corner that the private respondent has ever violated any Govt. guidelines as alleged by the applicant.

21. That it is humbly submitted that from the land murrum was excavated, no trees were there rather only

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bushes were there i.e grass up to 3ft. Further there was survey from the forest authority and from the spot survey there was no allegation from the forest authority and no complaint has been made by the Forest Authority regarding damage of any plant or tree by the private respondent. Even other authorities have also visited the spot and so far no one has ever alleged that the private respondent has damaged any plant or trees or caused damage to the environment.

22. That the private respondent reserves its right to file further affidavit as and when it will be required or directed by the Hon'ble tribunal.

23. That, since there is no substance of truth in the application of the applicant, the private respondent humbly submits that the original application may kindly be dismissed with exemplary cost.

Identified by

Sen. Zafarulla

Advocate

K.P. 1999

Deponent

Certificate

Certified that due to non-availability of cartridge papers white papers have been used

Cuttack
Date- 29-08-2024

for
Advocate

SK.ZAFARULLA

Enrolment No. O-3695/1999

Solemnly sworn before me by..... *K.P. Balayya*
being identified by..... *SK. Zafarulla Advocate*
at Cuttack Town Dated..... *29/08/2024*

P.K. MOHANTY, Notary, Cuttack Town
Regd. No-ON-04/1995



Service of Counter Affidavit - Respondent No. 11 - OA 26 of 2024/EZ

1 message

Lalit K. Maharana <lalitikumarana@gmail.com>

11 November 2024 at 09:15

To: Sankar Pani <sankarprasadpani@gmail.com>, Dipanjan Ghosh <dpnjnghsh0@gmail.com>

Dear Sir/Madam,

Please find attached the copy of the Counter Affidavit on behalf of Respondent No. 11 in the captioned matter.

best

Regards

Lalit Kumar Maharana
Advocate
enrolled with Odisha State Bar Council
Contact no. +91-75049 14976

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