

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO -109- OF 2023

IN THE MATTER OF:

SATRUGHAN MEHER

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

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PLACE: BHUBANESWAR

SANKAR PRASAD PANI

DATE- 25/11/2024

ADVOCATE

PLOT NO 2132/4814, NAGESWAR TANGI,  
BHUBANESWAR, 751002 CELL-9437279278

Email: [sankarprasadpani@gmail.com](mailto:sankarprasadpani@gmail.com),

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REJOINDER AFFIDAVIT ON BEHALF OF APPLICANT

I, SATRUGHAN MEHER, S/O, LATE LINGARAJ MEHER, AGED ABOUT 47 YEARS, AT- SALETIKIRA, PO-MARAKUTA, PS-JHARSUGUDA SADAR, DIST-JHARSUGUDA, 768202 hereby solemnly affirm, and declare as under:

1. That the Original Application is filed alleging the illegal ORDINARY EARTH/MORRUM mining for railway work in different Mouzas of Jharsuguda District.

2. That the page 12(Annexure-1) of the Affidavit submitted by State Pollution Control Board has provided a list of details of unauthorized lifting of soil from Badmal, Brundamal, Jamupali, Beherapali Pandaripathar and Kukur Jangha. The said tabular form also suggests that RSA Infra-project Pvt Ltd has unauthorized lifted around

3,40,000 CubicMetres of Ordinary Earth out of total 444907Cubic Metres. The joint venture has lifted the rest amount. Surprisingly Environment Compensation has been calculated in respect of only 45000CUBICMETRES.

3. It is submitted that the Private respondent has not furnished any documents in support of any kind of Valid permit/Lease, Mining Plan, Environment Clearance for extraction of soil/morrum from Jharsuguda Tahasil for its project work. Hence the entire morrum/soil required for the project work is illegally extracted

4. That the para 4 of the affidavit filed by SEIAA Odisha clearly sstated that no environment clearance was granted to the RSA Infra Project Private Ltd who is executing the 4<sup>th</sup> Line of Jharsuguda-Bilarpur Railway Track project. The affidavit further states that around 455000 cubic metre of soil has been extracted, Tahasildar Jharsiguda has calculated around 444907 CuM of earth extracted by RSA Infra Project. However environmental compensation is calculated only to the extent of 45018 Cubic metre. It is submitted that this environmental compensation is 1/10 of the total ordinary earth/morrum extracted by the private respondent which has been confirmed by the committee as well as the Tahasildar. Hence there is an apparent error in calculating the environmental compensation and needs re-computation of the total

environmental compensation in respect of volume of ordinary earth extracted.

5. It is further submitted that the the committee report further says that Singhabagha Village has not be inspected as the same was under submergence of water of Hirakud Reservoir. Hence a major part of the alleged quarry area has not been inspected and the volume of ordinary earth/morrum extracted has not been computed. Hence the Mines Department may be directed to assess the volume of earth extracted from Singhabagha Village by this private respondent.

6. It is submitted that the total extent of earth/morrum extracted from different places for the execution of the railway project by the private respondent will be around 20Lakh Cubic Metres considering the nature and extent and length of the project and the same may be verified by the committee. Needless to say that there has been no permission at all from Mines Department or SEIAA for any kind of excavation for the railway project by the private respondent.

7. It is further submitted that the project work is still ongoing by using the earth/morrum from different sites in Jharsuguda Tahasil and namely Badamal Mouza where in the land allotted to IDCO is being illegally mined and the Flyash from Vedant Alumina Jharsuguda is filled in the void created by the illegal mining of the Private Respondent.

8. It is further submitted that there has been no exemption of EIA Notification for Earh/Morrum Mining and even the OM of 8/08/2022 says that if the sourcing of material for the linear project has not been considered in environmental impact assessment of the project, then all such individual activities will be subject to extant of environment regulation. Further Honble SC has struck down the OM and SOP holding that sourcing of materials like ordinary earth and morrum is with in the purview of EIA Notification and prior EC is mandatory. Hence the extraction of morrum without EC is liable to Criminal Prosecution under Environment Law as well as the Indian penal Code/ Bharatiya Nyaya Sanhita. The applicant prays for a direction to the DM Jharsuguda to initiate criminal prosecution against the private respondent.

9. That on 4th December 2023, Honble NGT directed the District Magistrate Jharsuguda to ensure no further illegal mining is carried on. Surprisingly the the Private respondent is continuing the illegal earth/morrum mining from different patches of Jharsuguda Tahasil MOSTLY DURING NIGHT and sometimes during daytime also. This has been brought to the notice of DM Jharsuguda but no action has been taken.

10. That the affidavit submitted by the DM jharsuguda with inspection report of Sub-collector Jharsuguda dated 26/05/2024 is false

one as the Subcollector Jharsuguda and the Mining Officer have not visited the site at Badamal which is under possession of IDCO where in mining continues during night. Needless to say that report says there has been some material lying at the site which was extracted earlier.

11. That Honble Supremecourt in CIVIL APPEAL NOS. 1628-1629 OF 2021 Noble M. Paikada versus Union of India passed an judgement on 21/03/2024 while quashing the notification dated 28/03/2020 granting exemption to earth mining for linear projects had observed in para 25 as follows

“Para25-There is one more important ground for striking down item 6. But for item 6 in Appendix-IX to the impugned notification, for extraction, sourcing, or borrowing of ordinary earth for linear projects, prior EC would have been required in terms of the first EC notification. The very object of issuing the first EC notification incorporating the mandatory requirement of obtaining EC for projects was that the damage to the environment must be minimised while implementing projects. When an exception is sought to be carved out by incorporating Appendix-IX to the requirement of obtaining EC in the first EC notification, the exception must be specific. Item 6 grants exemption for “extraction or sourcing or borrowing of ordinary earth for linear projects, such as roads, pipelines, etc.” There is no specification about the quantum of ordinary earth, which

can be extracted on the basis of the exemption. There is no specification of the area which can be used to extract ordinary earth. It is also not provided that only that quantity of ordinary earth, which is required to implement the linear projects, is exempted. Importantly, “linear projects” have not been defined. Without the definition, it is difficult to imagine which projects will be termed linear projects. The term “linear projects” is very vague. The process to be adopted for excavation has not been set out. Thus, item 6 is a case of completely unguided and blanket exemption, which is, per se, arbitrary and violative of Article 14 of the Constitution of India. There is no provision for setting up an authority which will decide whether a particular linear project is covered by item 6.”

12. The applicant prays before the Honble Tribunal to direct the committee to recompute the environment compensation and show cause the DM Jharsuguda for failure to comply the Order of Honble NGT dated 4/12/2023. Further the applicant prays to direct the private respondents to stop earth mining till they obtain environment clearance for the said purpose.

APPLICANT THROUGH



ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO 109 OF 2023/EZ

IN THE MATTER OF:

SATRUGHAN MEHER

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

Affidavit

NOV 2024

I, SATRUGHAN MEHER, S/O, LATE LINGARAJ MEHER, AGED ABOUT 47 YEARS, AT- SALETIKIRA, PO-MARAKUTA, PS-JHARSUGUDA SADAR, DIST-JHARSUGUDA, 768202 hereby solemnly affirm, and declare as under:

1. That I am the Applicant in the abovementioned Original Application. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying Affidavit and the same is true and correct and is drafted on my instruction

*Satrughan Meher*  
DEPONENT

VERIFICATION

Verified on this the ..... day of NOV 2024 2024 at Bhubaneswar that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

*Satrughan Meher*  
DEPONENT



Identified By

The above named deponent(s) being duly identified to me by *S. P. Jais*  
Advocate, Bhubaneswar  
Appears before me on 25 NOV 2024  
at Bhubaneswar  
on oath the contents of the Affidavit are true to the best of his/her/their knowledge and belief  
Deponent(s) *Satrughan Meher* Notary, Bhubaneswar

*Satrughan Meher*  
DEPONENT  
**JANMEJAYA RAUTRA**  
NOTARY, GOVT. OF ODISHA  
BHUBANESWAR  
REG. NO. - 0117/2012  
Mob. No. - 9331121873



Sankar Pani &lt;sankarprasadpani@gmail.com&gt;

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**REJOINDER IN OA 109 OF 2023**

1 message

**Sankar Pani** <sankarprasadpani@gmail.com>

Tue, Nov 26, 2024 at 10:21 AM

To: Ashok Prasad &lt;Ashokadvhc@gmail.com&gt;, apurba ghosh &lt;apu7law@gmail.com&gt;, advupadhyay2407@gmail.com, Dipanjan Ghosh &lt;dpnjnghsh0@gmail.com&gt;

Dear Sir

Please find the attachment

warm regards

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