

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

MISCELLANEOUS APPLICATION NO.37/2024
IN ORIGINAL APPLICATION
NO. 43 OF 2023

PRADEEP KUMAR DHAL

APPLICANT

VERSUS

**STATE OF ORISSA
AND OTHERS**

RESPONDENTS

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| 2. | <u>Annexure-B/2</u> A copy of the affidavit of the Respondent No.3 dated 22.12.2023 | 05 - 10 |
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CUTTACK

DATE: 24.10.24.


ADDL. STANDING COUNSEL

- 1 -

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

MISCELLANEOUS APPLICATION NO.37/2024
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PRADEEP KUMAR DHAL

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STATE OF ORISSA
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RESPONDENTS

SHOW CAUSE AFFIDAVIT FILED ON BEHALF OF THE
RESPONDENT NO.2- COLLECTOR, JAJPUR
PURSUANT TO THE ORDER DATED 03.09.2024

I, Ms. P. Anvesha Reddy , aged about 33 years, wife of Tejas Kulkarni, at present serving as Collector & DM Jajpur, do hereby solemnly affirm and state as follows:-

1. That the Hon'ble NGT has disposed the OA No. 43 of 2023 and O.A. No.47 of 2023 on 29.08.2023 directing the Respondent No-2 as follows:

"We accordingly dispose of both the Original Applications with a direction to the Respondent No.2, District Collector, Jajpur, and Respondent No.6, Deputy Director of Mines, Jajpur, to carry out a fresh inspection of the site in question along with

P. ANVESHA REDDY
COLLECTOR
JAJPUR

JAJATI JANOIK PANDA
Advocate, Jajpur
LS No.:462/2002

the Senior Scientist of the Odisha State Pollution Control Board, and ascertain as to whether the excess sand has been extracted by the Project Proponent/Lease Holder (Respondent No.9), in excess of what is permitted in the Environmental Clearance granted by the SEIAA, 14 Odisha, and in case violations are found, the concerned authorities shall proceed to determine the Environmental Compensation against the Respondent No.9 as well as suggest other remedial measures to mitigate the same. Compliance Report should be filed on affidavit by the District Collector, Jajpur, before the Registrar, National Green Tribunal, Eastern Bench, Kolkata, latest by 31st December, 2023”

2. That in obedience to the above order passed by the Hon'ble NGT, a committee was constituted with the following officers:

- I. Sri Santosh Kumar Mishra, Additional District Magistrate, Kalinganagar (nominee of collector & D.M, Jajpur)
- II. Sri Pramod Kumar Behera, Regional Officer, State Pollution Control Board, Kalinganagar
- III. Sri Jayaprakash Nayak, Deputy Director of Mines, Jajpur Circle, Jajpur

3. That, the committee inspected the lease area on 24.11.2023 to ascertain whether excess sand has been extracted by the Project Proponent beyond the permissible amount allowed by SEIAA, Odisha. In their report dated 30.11.2023, they have mentioned that, the amount of sand extracted could not be ascertained as the entire source was covered with sand after monsoon. Besides, no

P. ANVESHA REDDY
COLLECTOR
JAJPUR


JAJATI JANOIK PANDA
Advocate, Jajpur
LS No.:462/2002

other violation was noticed by the committee. Accordingly compliance affidavit was made ready by the Respondent No.3 i.e. the Tahasildar, Vyasaganar on behalf of Respondent No.2 i.e. the Collector, Jajpur on 22.12.2023, enclosing the Inspection Report of the Committee dated 30.11.2023. But inadvertently the same could not be filed.

A copy of the affidavit of the Respondent No.3 dated 22.12.2023 is enclosed herewith as Annexure-B/2.

4. That, since there was a mistake in the Committee report, the Deputy Director of Mines, Jajpur Circle vide Letter No 3738 Dated 01.10.2024 has submitted a corrigendum to the Inspection Report. Hence, the observations made by the committee mentioned in point no.4 may kindly be read as "*During the field visit of the committee, it is observed that no machineries were engaged in source for excavation of sand*" instead of "*During the field visit of the committee, it is observed that no labourers were engaged in source for excavation of sand*".

Copy of the Letter No 3738 Dated 01.10.2024, is filed as Annexure- C/2.

5. That, the present deponent tenders apology for not being able to submit the Committee Report by way of an affidavit as directed by this Hon'ble Tribunal. However, the Respondent No.3 i.e. the Tahasildar, Vyasaganar was authorized by the deponent to file the Committee Report by way of an Affidavit which was

P. ANVESHA REDDY
COLLECTOR
JAJPUR


JAJATI JANOIK PANDA
Advocate, Jajpur
LS No.:462/2002

supposed to be filed on 22.12.2023. The same is unintentional and a bona fide mistake.

6. That, the facts stated above are true to the best of my knowledge and belief based on official records.

Identified by


Advocate
JAJATI JANOIK PANDA
Advocate, Jajpur
LS No.:462/2002

P. ANVESHA REDDY
DEPONENT
COLLECTOR
JAJPUR

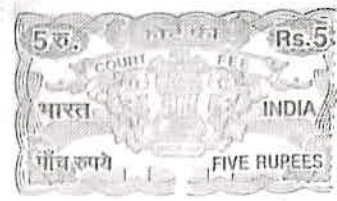
Certified that cartridge papers are not available

Cuttack


ADDL. STANDING COUNSEL


JAJATI JANOIK PANDA
Advocate, Jajpur
LS No.:462/2002

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO.43 OF 2023

PRADEEP KUMARDHAL
AND OTHERS

APPLICANTS

VERSUS

STATE OF ORISSA
AND OTHERS

RESPONDENTS

True Copy attached
P. ANVESHA REDDY
COLLECTOR
JAJPUR

COMPLIANCE REPORT OF THE RESPONDENT NO. 3 ON BEHALF
OF RESPONDENT NO. 2 TO THE ORDERS DATED 29-08-2023.

I, Shri Debasish Rout, aged about 36 years, son of Dibakar Rout, at present serving as Tahasildar, Vyasagar, in the district of Jajpur, do hereby solemnly affirm and state as follows:-

Debasish Rout
Tahasildar, Vyasagar
Jajpur Road

1. That, I am the respondent no.3 in the aforesaid original application. I have been duly authorized by the Respondent No-2 to file the compliance affidavit on behalf.
2. That, the Hon'ble NGT, has disposed the NGT OA No. 43 of 2023 and 47 of 2023 on Date 29.08.2023 instructing the Respondent No-2 in Order No- 25 as follows:-

" We accordingly dispose of both the Original Applications with a direction to the Respondent No.2, District Collector,

9/22/2023
Advocate
NOTARY, CUTTACK

Jajpur, and Respondent No.6, Deputy Director of Mines, Jajpur, to carry out a fresh inspection of the site in question along with the Senior Scientist of the Odisha State Pollution Control Board, and ascertain as to whether the excess sand has been extracted by the Project Proponent/Lease Holder (Respondent No.9), in excess of what is permitted in the Environmental Clearance granted by the SEIAA, Odisha, and in case violations are found, the concerned authorities shall proceed to determine the Environmental Compensation against the Respondent No.9 as well as suggest other remedial measures to mitigate the same. Compliance Report should be filed on affidavit by the District Collector, Jajpur, before the Registrar, National Green Tribunal, Eastern Bench, Kolkata, latest by 31st December, 2023."

3. That, in obedience to the above order passed by the Hon'ble NGT, a committee was constituted with the following officers:-

- I. Sri Santosh Kumar Mishra, additional District Magistrate, Kalinganagar (nominee of Collector & DM, Jajpur)
- II. Sri Pramod Kumar Behera, Regional Officer, State Pollution Control Board, Kalinganagar
- III. Sri Jayaprakash Nayak, Deputy Director of Mines, Jajpur Circle, Jajpur

True copy attached

P. ANVESHA REDDY
COLLECTOR
JAJPUR

Debasis Rout
Tahasildar, Vyasanaagar
Jajpur Road

9/22/22
Surendra Prasad
Advocate
NOTARY, CUTTACK

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- 4. That, the committee inspected the lease area on 24.11.2023 to ascertain whether excess sand has been extracted by the Project Proponent beyond the permissible amount allowed by SEIAA, Odisha. In their report dated 30.11.2023, they have mentioned that, the amount of sand extracted could not be ascertained as the entire source was covered with sand after monsoon. Besides, no other violation was noticed by the committee. A Copy of the report dated 30.11.2023 of the committee is filed as **Annexure-A/2**
- 5. That, the facts stated above are true to the best of my knowledge and belief based on official records.

True Copy attached
P. ANVESHA REDDY
COLLECTOR
JAJPUA

Identified by

[Signature]
 Advocate

[Signature]
 Tahasildar, Vyasanagar
 DEPARTMENT
 Jajpur Road
 22.12.23

Certified that cartridge papers are not available.

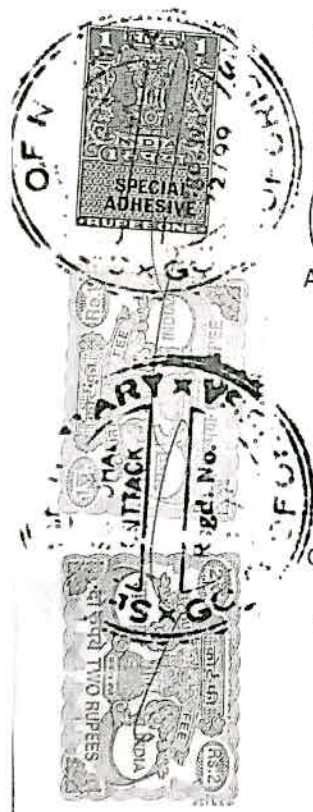
CUTTACK

DT. 22.12.23

[Signature]
 ADDL GOVT. ADVOCATE

The above named Deponent
 Solemnly affirm on 22/12/2023
[Signature]
 Being Identified
 by *[Signature]* Advocate

[Signature]
 Surendra Prasad Dhal
 Advocate
 NOTARY, CUTTACK





D.y.No. - 1477
07.10.2024

03.10.24

GOVERNMENT OF ODISHA
OFFICE OF THE DEPUTY DIRECTOR OF MINES
JAJPUR CIRCLE, JAJPUR
E-mail: ddmjajpur.mm@gov.in

Letter No. 3738 /MM, Jajpur/ Date 01.10.2024

To
The Collector & District Magistrate,
Jajpur District.

Sub: **Corrigendum of Inspection Report in respect of Baitarani River Sand Quarry at Sanla-II as per Order of Hon'ble NGT in OA No.43/2023 and 47/2023- in the matter of Pradeep Kumar Dhal Vs State of Odisha & others and Rabindra Ghadei Vs State of Odisha & Others.**

Ref: Your Letter No.13474, Dated 22.11.2023 & this office Letter No.690, dated 30.11.2023.

Sir,
In inviting a kind reference to the subject cited above and in continuation to this office letter under reference, I am to submit herewith the **Corrigendum** of the Inspection Report of the field visit conducted on 24.11.2023 to Baitarani Sand Quarry at Sanla - II as per your letter under reference and Order of Hon'ble NGT in OA No.43/2023 and 47/2023- in the matter of Pradeep Kumar Dhal Vs State of Odisha & others and Rabindra Ghadei Vs State of Odisha & Others.

It is to mention here that, the observations mentioned in point no.4 in the observation table with respect to issue "Mechanical Mining" raised before the Hon'ble NGT by the petitioner may be read as "*During the field visit of the committee, it is observed that, no machineries were engaged in source for excavation of sand*" instead of "*During the field visit of the committee, it is observed that, no labourers were engaged in source for excavation of sand*". The revised field inspection report is enclosed herewith for favour of your kind information and onward action.

P. ANVESHA REDDY
COLLECTOR
JAJPUR

Yours faithfully,

[Signature]
01.10.2024
Deputy Director of Mines (I/C),
Jajpur Circle, Jajpur

Encl: As above.

Memo No. 3739 /MM, Jajpur/ Date 01.10.2024

Copy submitted to the Regional Officer, SPCB, Kalinganagar // ADM, Kalinganagar for favour of kind information.

[Signature]
01.10.2024
Deputy Director of Mines (I/C)
Jajpur Circle, Jajpur

454
31/10/24
G. Panda
31/10/24

**OBSERVATIONS MADE DURING JOINT VISIT CONDUCTED ON 24.11.2023 IN
PERSUANT TO THE ORDER OF HON'BLE NGT, EASTERN ZONE, KOLKATA IN
OA NO.43/2023 AND 47/2023.**

The Hon'ble NGT, Eastern Zone, Kolkata vide order dated 29.08.2023 at Para 25 in OA No.43/2023 & 47/2023 directed to constitute a committee to inspect the area in question.

In pursuant to the above order, the site was inspected on dated 24.11.2023 as per schedule fixed by the Collector & District Magistrate, Jajpur. The following Officers were present during the visit.

1. Sri Santosh Kumar Mishra, Additional District Magistrate, Kalinganagar (Nominee of Collector & DM, Jajpur).
2. Sri Pramod Kumar Behera, Regional Officer, SPCB, Kalinganagar.
3. Sri Jayaprakash Nayak, Deputy Director of Mines, Jajpur Circle, Jajpur

General Observation:

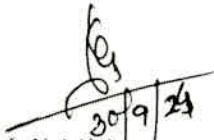
The lessee of Sanla-II Baitarani River Sand Quarry has obtained all the statutory clearances from the competent authorities i.e., Environment Clearance (EC) from SEIAA, Bhubaneswar vide letter No.3260/07.10.2021, 3633/18.12.2021 & File No. SIA/OR/MIN/294456/2022 Dtd.09.01.2023, Consent to Establish (CTE) from Regional Officer, SPCB, Kalinganagar vide letter No.08/03.01.2022 and Consent to Operate (CTO) from Regional Officer, SPCB, Kalinganagar vide letter No.104/16.01.2023. Quarry Lease agreement is valid up to 31.01.2024.

The followings were observed during the field visit with respect to the direction of the Hon'ble NGT.

| Sl No. | Issues raised before the Hon'ble NGT by the petitioner | Observation |
|--------|--|--|
| 1. | Excess Mining: The lessee used to extract and transport more than 1000 cubic meters per day by engaging at least 200 vehicles of different size and capacity. Excess mining to the tune of more than 100 Hyva Truckload / day (one Hyva is having load capacity of 16 Cubic Metres of sand) and around 100 trips of tractors (1 Tractor is of 3 Cubic metres) which is around 1900 CM/Day when the permission is only for 14.500 CM for the year 2022 and only 3625 for the year 2023. As per the revised CTO the permitted sand is only 17 Cubic Metre per day considering maximum 210 days of sand mining in a year. | Since the field visit was conducted in the post monsoon period, the entire source was covered with sand and no mining activity has been noticed in the area during the visit. So, it is not possible to ascertain the excess mining (if anything has been done in past) as far as surface expression is concerned. |
| 2. | That the mining is spread on an area of more than 56 acres and hundreds of heavy vehicles as well as machines engaged for sand mining is evident from the google earth images dated 13.05.2022. | During the visit of the committee, boundary pillars were posted over the approved area of 12 Acres of land. |

*Time copy attached
Should proceed on
Addl P - Jajpur
Contd*

| | | |
|----|--|--|
| 3. | No Pillar posting in the lease area: Though the mining plan suggests that the lease area has been demarcated by the Revenue Inspector but on ground there has been no demarcation and no distinct pillar posting allowing the mining to spread randomly all across the riverbed. | During the field visit of the committee, it is observed that the lease area is well demarcated with boundary pillars. |
| 4. | Mechanical Mining: It is humbly submitted that the mining is supposed to be of Dry Pit and Manual means of mining and loading. However, the mining is done by engaging 3 earth Mover/Machines of different capacity which is strictly prohibited and not approved by any of the regulating authorities. | During the field visit of the committee, it is observed that no machineries were engaged in source for excavation of sand. |
| 5. | Compliance to conditions of CTO: No monitoring of compliance of conditions of CTO by Regional Offices of Kalinganagar SPCB. | During the field visit of the committee, it is observed that no violation of conditions as imposed in Consent to Operate order is found. |


30/9/24

Sri S.K. Mishra,
Ex-Additional District Magistrate,
Kalinganagar



30.09.24

Sri P.K. Behera,
Ex-Regional Officer,
SPCB, Kalinganagar


30.09.2024

Sri J.P. Nayak,
Deputy Director of Mines,
Jajpur Circle, Jajpur

True Copy attached


Anand Prayash Das
Addl. Standing Counsel

ANNEXURE - C/2

1477

D.y.No. - 07.10.2024



GOVERNMENT OF ODISHA

OFFICE OF THE DEPUTY DIRECTOR OF MINES

JAJPUR CIRCLE, JAJPUR

E-mail: ddmjajpur.mm@gov.in

Letter No. 3738 /MM, Jajpur/ Date 01.10.2024

To

The Collector & District Magistrate,
Jajpur District.

Sub: **Corrigendum of Inspection Report in respect of Baitarani River Sand Quarry at Sanla-II as per Order of Hon'ble NGT in OA No.43/2023 and 47/2023- in the matter of Pradeep Kumar Dhal Vs State of Odisha & others and Rabindra Ghadei Vs State of Odisha & Others.**

Ref: Your Letter No.13474, Dated 22.11.2023 & this office Letter No.690, dated 30.11.2023.

Sir,

In inviting a kind reference to the subject cited above and in continuation to this office letter under reference, I am to submit herewith the **Corrigendum** of the Inspection Report of the field visit conducted on 24.11.2023 to Baitarani Sand Quarry at Sanla - II as per your letter under reference and Order of Hon'ble NGT in OA No.43/2023 and 47/2023- in the matter of Pradeep Kumar Dhal Vs State of Odisha & others and Rabindra Ghadei Vs State of Odisha & Others.

It is to mention here that, the observations mentioned in point no.4 in the observation table with respect to issue "Mechanical Mining" raised before the Hon'ble NGT by the petitioner may be read as "During the field visit of the committee, it is observed that, no machineries were engaged in source for excavation of sand" instead of "During the field visit of the committee, it is observed that, no laboueres were engaged in source for excavation of sand". The revised field inspection report is enclosed herewith for favour of your kind information and onward action.

Yours faithfully,

Deputy Director of Mines (I/C),
Jajpur Circle, Jajpur

Memo No. 3739 /MM, Jajpur/ Date 01.10.2024

Copy submitted to the Regional Officer, SPCB, Kalinganagar // ADM, Kalinganagar for favour of kind information.

Deputy Director of Mines (I/C)
Jajpur Circle, Jajpur

True Copy
P. ANVESHA REDDY
COLLECTOR
JAJPUR

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3/10/24

G.P. Singh
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01.10.2024