

BEFORE THE NATIONAL GREEN TRIBUNAL**EASTERN ZONE BENCH, KOLKATA****ORIGINAL APPLICATION NO- 62 of 2024/EZ****IN THE MATTER OF****BHAGABAT SAHOO & OTHERS****APPLICANTS**

Versus

STATE OF ODISHA & Ors ...

Respondents

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PLACE: Bhubaneswar

DATE: 28/11/2024

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BEFORE THE NATIONAL GREEN TRIBUNAL AT KOLKATA

Original Application No 62 of 2024

BHAGABAT SAHOO & OTHERS

APPLICANTS

VERSUS

STATE OF ODISHA & ORS ...

RESPONDENTS

REJOINDER AFFIDAVIT ON BEHALF OF APPLICANT

I, Manoj Kumar Das S/o Bijay Kumar das Aged about 44years, At/Po- Anandpur, Ps- Dhamnagar, Dist- Bhadrak, 756117 do hereby solemnly affirm and declare as under:

1. That I am one of the Applicants in the above mentioned application and I am fully conversant with the facts and circumstances of the case.
2. That a joint committee constituting Regional Officer, SPCB Balasore, SEIAA Odisha and Tahasildar Dhamnagar has visited the site on 30/04/2024.
3. That there are two quarries namely utteipur SandQuarry 1 and Utteipur SandQuarry 2. Env Clearance was granted to Utteipur 1 on 28/05/2018 by SEIAA while Utteipur Sand Quarry 2 did not have any EC.
4. In para 4.1.(iii) it is stated the no environment clearance was issued to Utteipur Sand Quarry 2 which was operated by Babuli Majhi and lease was granted from 2017-18 till 2021-22 .
5. That surprisingly CTO was granted by SPCB Balasore on 19/03/2019 with validity till 31/03/2022. It is submitted that in absence of EC, the board could not have granted Consent to Operate and same is illegal. Hence the applicant pray for a

direction to Member Secretary , SPCB to identify the officer who has granted the Consent to Operate and action be taken against the erring officer, Further when mining lease is of of 2017-18 but CTO was granted in 2019 suggesting clear non-application of mind as the CTO was granted to a quarry which was in operation without any EC and CTO and should have been treated as violation category had there been inspection of the site. Office Memorandum of MoEFCC dated 20/09/2021 clearly directs the SPCBs no to issue any CTO unless EC for the project is there.

6. It is further submitted that in absence of Environment clearance entire mining operation becomes illegal and hence liable for prosecution and Environment Compensation.
7. That the ponnt no viii states that committee member interacted with the local villagers and according to the villagers no sand mining carried since last 9 to 10 months. It is submitted that the committee did not choose to contact the applicants which are five in number and from same locality but contacted some villagers whose names are not given. Even if the statement of villagers are believed then the mining was continuing till August 2023(since the visit is of April 2024 and 9 months prior to that mining continued). In that case then also the illegal mining continued from 1st April 2022 till July 2023 which is more than 16months without any mining lease. Nevertheless entire mining operation from 2018 is illegal for want of environment clearance.
8. It is further submitted that committee has also ignored the Google earth image of January 2024 and photos of mining operation dated 14/01/2024 and 21/02/2024 where in it is clear that the machine is engaged in sand mining at Utteipur and vehicles are transporting sand in broad day light. This can not be possible without collusion

of local police and Tahasildar who have ignored all the complainants and allowed the illegal mining for reasons best known to them. Needless to say that guideline of 26/04/2019 clearly states that illegal mining has to be stopped and the officer are to be responsible for such illegal mining. It further says that Revenue administration and police administration shall seize the machine and vehicle engaged in illegal mining and in this case no such seizure was made even after repeated complaints.

9. It is further submitted that a transit pass of 7th April 2022 which is annexed as annexure 8 and same is of the date after the lease expired. When the applicants alleged about the illegal mining and transportation and FIR registered in local police station, but no action either to seizure of vehicle or machine was done by police.
10. It is further submitted that though there are two identified sand sources but the mining was operated by one Sarat Chandra Majhi even after expiry of the lease and to that effect the complaints have been made against Sarat Chandra Majhi Only. Needless to say that Sarat Chandra Majhi and Babuli Majhi are the two brothers who were the lessee of the two sand Quarries adjoining each other in Utteipur Mouza.
11. That the committee report encloses google earth image of Utteipur sand Quarry 1 and 2 reflecting and one patch saying unauthorized mining area. Further there are impression of mining beyond the lease area, hence the allegation is confirmed by the committee but no action has been taken as on date.
12. That the report in point 5 relies on the statement of Tahasildar who is party to the whole illegal mining and records that no excess mining and further say that no record is maintained in regard to quantity of sand permitted and actually extracted, Hence the

applicant prays that the committee be asked to measure the excess mining based on satellite images to be procured from ORSAC.

13. That in view of the aforementioned paras the Honble Tribunal may please to direct the Member Secretary, SPCB Odish to identify the erring officer and Chief Secretary, odisha to identify the revenue officer permitted mining without environment clearance and for the illegal mining beyond lease period and lease area, and the Hon'ble tribunal may direct the Chief Secretary to start criminal prosecution against the erring officers.

DATE- 28/11/2024

APPLICANTS THROUGH



ADVOCATE

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RESPONDENTS

AFFIDAVIT

I, Manoj Kumar Das S/o Bijay Kumar das Aged ^{28 NOV 2024} about 42years, At/Po- Anandpur, Ps- Dhamnagar, Dist- Bhadrak, 756117 do hereby solemnly affirm and declare as under:

- 1. That I am one of the Applicants in the abovementioned application and I am fully conversant with the facts and circumstances of the case and authorized by other applicants 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.

IDENTIFIED BY

Manoj Kumar Das
DEPONENT

[Signature]
ADVOCATE

VERIFICATION

^{28 NOV 2024}

I,do hereby solemnly affirm verify that the contents of the above application are true and correct to the best of my knowledge and belief and nothing material has been concealed there from. Verified aton ... ^{28 NOV 2024}

Manoj Kumar Das
VERIFICANT



The above named deponent(s) being duly identified by Sr. *S.P. Das* Advocate, Bhubaneswar appears before me on ^{28 NOV 2024} at *[Signature]* A.M. *[Signature]* on oath the contents of the affidavit are true to the best of his/her/their knowledge and belief

JANMEJAYA RAUTRAY
NOTARY, GOVT OF ODISHA
BHUBANESWAR
REGD. NO-ON-85/2012
Mob. No. - 9337121273

Deponent(s):

Notary, and

[Signature]



Sankar Pani <sankarprasadpani@gmail.com>

REJOINDER AFFIDAVIT ONBEHALF OF APPLICANT IN OA 62/2024

1 message

Sankar Pani <sankarprasadpani@gmail.com>

Fri, Nov 29, 2024 at 10:19 AM

To: apurba ghosh <apu7law@gmail.com>, Dipanjan Ghosh <dpnjnghsh0@gmail.com>, ADVOCATE GENERAL ODISHA <advgenodisha@gmail.com>, "Rajib Ray, Advocate" <rajib.ray.official23@gmail.com>

Dear sir, please find the attachment.

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