

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

ORIGINAL APPLICATION NO 176 OF 2024

IA NO-.....¹²²..OF 2024

IN THE MATTER OF:

GIRIDHARI DAS

APPLICANT

VERSUS

STATE OF ODISHA AND ORS

RESPONDENTS

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PLACE: Bhubaneswar

DATE: 18/11/2024


SANKAR PRASAD PANI

ADVOCATE

Plot 2132/4814, NageswarTangi, Bhubaneswar 751002 Cell-9437279278,

Email: sankarprasadpani@gmail.com

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

**Under Section 19(4) (i) read with 18(1) of National Green Tribunal Act,
2010**

I A No-_____Of 2024

ORIGINAL APPLICATION NO -176 OF 2024

IN THE MATTER OF:

GIRIDHARI DAS

APPLICANT

VERSUS

STATE ODISHA AND OTHERS

RESPONDENTS

IA FOR DISMISSAL OF OA 176/2024

I, MADHUSUDAN PALAI, S/O LATE BINAYAK PALAI, aged about 48 years. At/ JHARIA Po- BADAPARI, Dist-Khordha, Odisha do hereby solemnly affirm, and declare as I am the Respondent 12 in the abovementioned application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

1. It is humbly submitted that the Present Original application has been filed by Sri Giridhari das who is the lessee of Bariko Stone Quarry and previously a n Original Aoolication No 5 of 2024 registered and pending before this Honble Tribunal where in the lessee started quarry opertion prior to grant of Consent to Operate and transfer of Environment Clearance. In addition to this the lessee/the applicant in the present OA is illegally quarrying from private and government plots in the garb of a

lease agreement. The Sarpanch of the Ramachandrapur Gram Panchyat and villagers have oppose the illegal mining beyond lease area and complained to the authorities. Hence this application is filed against the present respondent as pressure tactis and counter litigation to derail the proceeding in OA 5 of 2024.

2. It is pertinent to mention here that the plot numbers which has been alleged to be mined out does not belongs to the Respondent-12 nor any of the land owners are impleaded as party in the memo of application. That for non-joinder of parties this application need to be dismissed with cost. As such making the present deponent as a party without any evidence against the present respondent suggests malafide intension of the applicant who is engaged in illegal mining in the garb of one lease agreement.
3. That the present petitioners is no way connected to the lands nor any of the plots are recorded in the name of respondent 12. As a matter of record the present applicant consistently opposing the illegal mining in the area looking at the interest of general public and environment for last 20 years for which the people have elected him as the Sarpanch of the Panchayat
4. That the photographs annexed in the OA does not indicate any involvement of Respondent12 either in mining or transportation or

trading of minerals from the alleged quarry hence the allegation is vague and without any evidence.

5. It is needless to say that for filing of an original application the cause of action must be within six month and none of the documents suggests the ongoing mining operation from last six month hence the application is barred by limitation. It is stated that one frivolous complaint has been filed much after the Registration of the OA No 5 of 2024 and the mining officer stated there are recent quarries on plot no 664, 668, 669. It is stated that the complaint is against plot no 691,692.693, 694 and in that regard no observation is there. Be that as it may , the present respondent in his OA 5 stated that all illegal quarries need to be stopped and the applicant of this OA in the garb of a lease agreement is extracting from private and govt lands beyond lease area.
6. That the applicant has certainly filed some frivolous complaint after filing of the OA 5/2024 is only to divert the allegations against him, needed to say those complaints filed by the present applicant has already been inquired by Mining Officer, Khordha Circle on 06/04/2024(Annexure-3 of the OA 176), and in the inquiry report it is mentioned that there are many recent quarries developed around the Bariko laterite stone quarry (an existing operational laterite stone quarry), and those are Khata No. 53. Plot No. 664. Khata No. 213/125. Plot No. 686-89. Khata No. 231, and Plot No. 669. Also, there are many

old quarries, that exist nearer to the above sites under Bariko Mouza. It is pertinent to mention here that nowhere in the OA 176 applicant have mentioned about these plots as because these plots are contiguous to the lease area of his quarry and these are illegally mined by him only. And in no way the involvement of the present Respondent is evident from any of the documents

7. That the photograph is page 18 showing one lease boundary pillar is of the lease area and its adjoining area where the lessee himself is illegally extracting. The other photos does not indicate any ongoing mining activities
8. It is submitted that filing of false affidavit is an offence and If a person voluntarily files a false affidavit, then he/ she can be punished under section 227,229,231and 236 of the Bharatiya Nyaya Sanhita for giving false evidence. Punishment for filing a false affidavit is punishable by imprisonment for a term ranging from 3 to 7 years.

9. Section 23 in The National Green Tribunal Act, 2010 is reproduced as follows

23 Cost. -(1) While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.

(2) Where the Tribunal holds that a **claim is not maintainable, or is false or vexatious,** and such claim is disallowed, in whole or part, the Tribunal

may, if it so thinks fit, after recording its reasons for holding such claim to be **false or vexatious, make an order to award costs**, including lost benefits due to any interim injunction.

- 10.** That the Honble Principal Bench in OA 62/2023/PB order dated 12/05/2023 *dismissed the application with cost quantified at Rs. 25,000 on the ground that the application was based on misleading and false facts which has resulted in abuse of process of law.*
- 11.** That all the allegations made by the applicant in the present OA are false, frivolous and hereby denied .

PRAYER

That in view of the above mentioned paragraphs the present respondent prays for **dismissal of the Original Application** with cost on ground of false and vexatious and direct the registry to file **prosecution against the applicant namely Giridhari Das for filing false affidavit in court**

Bhubaneswar

18/11/2024

By the Applicant Through



ADVOCATE

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

ORIGINAL APPLICATION NO -176 OF 2024/EZ

I A No-.....OF 2024

IN THE MATTER OF:

GIRIDHARI DAS

APPLICANT

VERSUS

STATE OF ODISHA AND Others ...

RESPONDENTS

AFFIDAVIT

MADHU SUDAN PALAI S/O LATE BINAYAK PALAI aged about 48 years
At-Jharia Po-Badapari, Dist- Khordha do hereby solemnly affirm, and declare
as under:

1. That I am the respondent 12 in the above mentioned Original Application and 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 IA and the same is true and correct and is drafted on my instruction.

Madhu sudan palai
DEPONENT

VERIFICATION

Verified on this 18th day of Nov.....2024 at B.B.P. 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.

Identified By
Apal
Advocate

Madhu sudan palai
DEPONENT



The above named deponent(s) being duly identified by *S.P.M.* Advocate, Bhubaneswar

Appears before me on 18 NOV 2024 at B.B.P. States on oath the contents of this affidavit are true to the best of his / her / their knowledge and belief

Deponent(s) *Madhu sudan palai* Notary, Bhubaneswar *Janmejaya Rautray*

JANMEJAYA RAUTRAY
NOTARY, GOVT. OF ODISHA
BHUBANESWAR
REGD. NO.-04-83/2012
Mob. No. - 9337121273



Sankar Pani <sankarprasadpani@gmail.com>

IA filed by R12 in OA 176/2024

1 message

Sankar Pani <sankarprasadpani@gmail.com>

Tue, Nov 19, 2024 at 1:48 PM

To: Anup Pattnaik <anuppattnaik.757@gmail.com>, Tarun Pattnaik <tarun.pattnaik87@gmail.com>, pbanerjeebihani@gmail.com, apurba ghosh <apu7law@gmail.com>

Dear Sir/Madam, please find the attachment.

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