

**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA**
ORIGINAL APPLICATION NO.163 OF 2023 EZ

SANTUNU KUMAR BHUKTAAPPLICANT

-V E R S U S-

STATE OF ODISHA & ORS.RESPONDENTS

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BY THE RESPONDENT NO.14 THROUGH

CUTTACK

DATED:04.12.2024


AMITABH MISHRA, ADVOCATE

ENRL.NO.O-894/2002

M-7978441871



BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

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
ADDITIONAL AFFIDAVIT FILED ON BEHALF OF AJIT

SAHU -RESPONDENT NO.14

I, Sri Ajit Sahu, aged about 35 years, S/o-Late Gokulananda Sahu, At/P.O-Nihalprasad, P.S-Gondia, Dist.-Dhenkanal, Odisha, (Lessee of Nihal Prasad Road Metal Stone Quarry No.1), do hereby solemnly affirm and state as follows:

1. That, I am the Respondent No.14 arrayed in this Original Application filed by the applicant and being conversant with the facts & circumstances of the case competent to swear the present affidavit.

2. That, the present affidavit has been necessitated in order to bring on to record certain essential facts vital for the just, effective and complete adjudication of the present case, in the form of report of volume assessment conducted on 05.05.2024 and also


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

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to clarify the amount of extraction done by this Respondent No.14.

3. That, it is humbly submitted here that the affidavit dated 19.09.2024 filed by the Respondent no.4 – the Collector & District Magistrate, Dhenkanal states that an amount of 9422.059 Cum of minor mineral is the excess extraction that has been extracted from Nihal Prasad Road Metal Quarry-I for the period 21.03.2017 to 16.10.2023. This figure of 9422.059 Cum is wholly fallacious for the following reasons: -

- a. The calculation states the total quantity extracted as per the ORSAC report which comes to 360865.059 Cum. This is wrong inasmuch as per the ORSAC report, the volume extracted has been generated on the basis of satellite imagery for the period from 21.03.2017 to 16.10.2023 taking 2017 as the reference year. This calculation fails to take into consideration the admitted fact that for the period 07.10.2020 to 03.06.2022 the quarry was not in the control and possession of this Respondent No.14 and therefore if any extraction has been done during that period in time this Respondent No.14 cannot be saddled with the responsibility of such extraction. It is reiterated that,

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

further, admittedly the quarry was in direct possession of the Tahasildar, therefore by no stretch of imagination can the present Respondent No.14 be held liable for any extraction of minor mineral that might have occurred during that period.

b. Further, the letter no.1966 dated 07.08.1024 of the Tahasildar, Gondia as has been filed alongwith the aforesaid affidavit dated 19.09.2024 admits that the quarry in question was not leased out to any person for the period from 17.10.2020 to 03.06.2022 but very surprisingly states that the alleged quantity of over extraction of an amount of 9422.059 Cum of minor mineral be treated as illegal extraction from the quarry site. These smacks of arbitrariness and a malafide intention to target this Respondent No.14 even though he cannot be saddled with the responsibility of any extraction of minor mineral from the said quarry that might have occurred during the period 17.10.2020 to 03.06.2022.

c. Furthermore, the total quantity of extraction as done by this Respondent No.14 is 396980 Cum from the year 2017-18

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till the year 2023-24. Since there was no lease subsisting over the quarry for the period from 17.10.2020 to 03.06.2022 that period has not been included in the calculation. This amount includes the total production and the wastage during these years as per the approved mining plan and the temporary permit and auction that has been granted to this Respondent No.14 by the competent authority. The break-up in a tabular form given hereunder for ready reference of this Hon'ble Tribunal.

Year	Production	Wastage
2017-18	42032	7417 (15%)
2018-19	44030	7770 (15%)
2019-20	46027	8122 (15%)
2020-21	There was no lease existing at that period of time and therefore no extraction done by the Respondent No.14.	
2021-22	There was no lease existing at that period of time and therefore no extraction done by the Respondent No.14.	
2022-23	100019	11113 (10%)
2023-24	100035	11115 (10%)
Total	332143	45537

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Temporary Permit	17800	
Auction	1500	
Total Production	351443	
+ Wastage=	<u>45537</u>	
Grand Total=		396980

d. Further, a volume assessment of the waste dump inside and outside of the Nihal Prasad Metal Quarry-I was conducted on dated 05.05.2024 by a RQP at the instance of this respondent no 14. This report has been done on the basis of a drone – DGPS survey dated 05.05.2024 which reveals that the total volume of waste dumped as on the date of survey is 21451 Cum. The calculation of the ORSAC report as well the Tahasildar have failed to factor in this dump. More than 21,000 Cum of dump has not been accounted for while calculating the amount of alleged excess mining of 9422 Cum, which in fact does not exist when the calculation takes into account the wastage dump. As such this respondent no.14 has not done any excess mining.

(Copy of the volume assessment report is annexed herewith as **Annexure-R14/1**)

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 Regd.No-ON-04/1995

4. That, from the above it is apparently clear that the allegation of excess mining as made against this Respondent No.14 are factually wrong and therefore, this Respondent No.14 cannot be saddled with any legal liability on the basis of such factual incorrect allegation.

5. That, it is humbly submitted here that the applicant in his affidavit dated 08.08.2024 has stated that as per the ORSAC report dated 27.05.2024 (annexed as Annexure-R14/1 to the affidavit), mining has been done beyond the lease area contiguous with lease areas and that the same has not been taken into consideration. Such statement is fallacious for the reason that during the year 2015-16 & 2016-17 the area of lease was more than 20 Acres as per the approved mining plan and this area has been reduced to 12.25Acres from the year 2017-18 as per the approved mining plan and therefore the map appended to the ORSAC report showing mined area in a contiguous patch adjacent to the lease area is nothing but the land over which the present Respondent No.14 had carried out mining activities under the lease granted to him as aforesaid.

6. That, it is humbly submitted here that the since the lease area was not in control of Respondent No.14 but it control of the Govt. Authorities (Tahasildar) for the period 07.10.2020 to

03.06.2022 the ORSAC report as well as the report of the Tahasildar is bad and un-sustainable in the eyes of law in including this period of time while calculating the amount of excavation / mining done by this Respondent No.14 over the Nihal Prasad Road Metal Quarry No.1. Further the amount of dump / wastage having not been accounted for, which amounts to approximately 21,000Cum as per the report, the alleged excess mining of 9422Cum is rendered a non-existent figure.

7. That, the Respondent No.14 humbly craves leave to file any further affidavit as may be required in the facts and circumstances of the case.

8. That, the facts stated above are true to the best of my knowledge and belief.

Identified by

Arundhati Mishra
Advocate

Ajit Saw
Deponent

CERTIFICATE

Certified that due to want of cartridge papers thick and durable plain papers have been used.

Cuttack

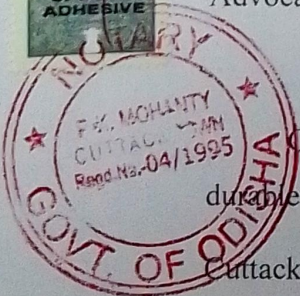
Arundhati Mishra
Advocate

Date:04.12.2024

For Respondent No.14

Solemnly sworn before me by..... *Ajit Saw*
being identified by..... *A. Mishra Advocate*
at Cuttack Town Dated..... *04/12/2024*

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



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Annexure-R14/1

REPORT
ON
VOLUME ASSESSMENT OF WASTE DUMP
INSIDE AND OUTSIDE
OF

NIHALPRASAD ROAD METAL QUARRY-1
OVER 12.25 ACRES OR 4.957 Ha. IN VILLAGE
NIHALPRASAD UNDER GONDIA TAHASIL OF
DHENKANAL DISTRICT, ODISHA

SRI AJIT SAHU

(Lessee)

Prepared By

K. K SWAIN,

REGD. NO - RQP/OD/113/2022

M/S TKS CONSULTANCY SERVICES

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2	2	Surface plan & Sections of Waste Dump-2	1:1000
3	3	Ortho map of Drone Survey	1:1000

REPORT ON VOLUME ASSESSMENT OF WASTE DUMP INSIDE AND OUTSIDE OF THE LEASE AREA

1. Introduction

Two waste dumps are located in the northern and northeastern parts of the Nihalprasad Road Metal Quarry-1, identified as Waste Dump-1 and Waste Dump-2, respectively (mentioned in the plate no. 1 & 2). The quarry spans an area of 4.957 hectares (12.25 acres) in the village of Nihalprasad, under Gondia Tahasil of Dhenkanal District, Odisha. Lessee Sri Ajit Sahu has wanted to know the actual volume of waste in these dumps. To ascertain the actual volume of waste dump, Sri Ajit Sahu has requested to Sri Kamala kanta Swain, RQP to prepare the volume assessment report of waste dumps both inside and outside the lease area.

2. Location of the Waste Dump

The volume of the waste dump has been estimated based on the DGPS and drone survey conducted on 05.05.2024, considering the current positions of the dumps. Two waste dumps are located in the Nihalprasad Road Metal Quarry-1: Waste Dump-1 in the northern part and Waste Dump-2 in the northeastern part. Waste Dump-1 is partially located within the lease area, while Waste Dump-2 is situated entirely within the lease area. Which is shown in the Ortho Map (Plate-3)

3. Method of estimation of Volume

- (i) Drone-based photogrammetry involves capturing high-resolution images using a drone and processing them in a photogrammetry tool, utilizing suitable ground references captured with DGPS.
- (ii) The volume of waste dump has been calculated by cross sectional area method.
- (iii) The highest and lowest limit of the dump shown through the contour has been shown over the section to calculate the volume of the waste dump.

(iv) The cross-sectional area of each section has been calculated and multiplied with the length of influence of the respective section to achieve the volume of waste mass in Cu.m.

Details of both volume of waste calculations are given below:

Table-1 (Nihaliprasad Waste Dump-1)

NIHALIPRASAD WASTE DUMP-1			
Section Line	Sectional Area in Sqm	Length of Influence in M	Volume of Waste (Cum)
A	B	C	D=B X C
A-A'	438	9	3942
B-B'	484	10	4840
C-C'	283	7	1981
TOTAL			10763

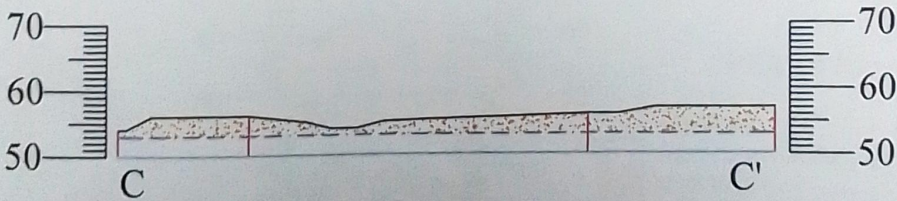
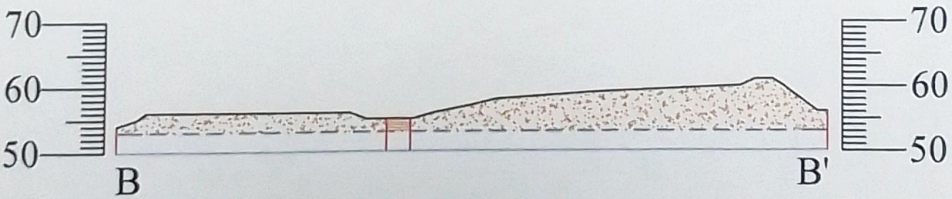
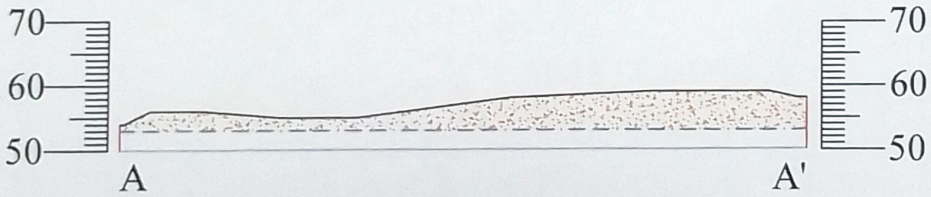
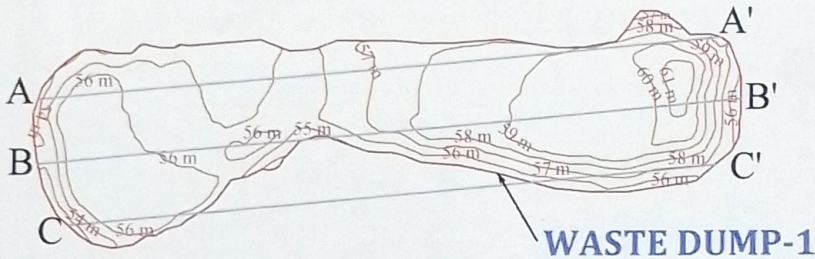
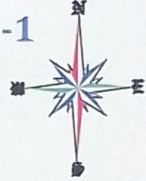
Table-2 (Nihaliprasad Waste Dump-2)

NIHALIPRASAD WASTE DUMP-2			
Section Line	Sectional Area in Sqm	Length of Influence in M	Volume of Waste (Cum)
A	B	C	D=B X C
A-A'	189	21	3965
B-B'	179	20	3821
C-C'	140	20	2902
TOTAL			10688

4. Conclusion:

The volume assessment of the waste dumps at Nihaliprasad Road Metal Quarry-1 provides critical insights into the quantity of material available for management and potential utilization. Through the application of Drone and DGPS surveys, the volume of Waste Dump-1 and Waste Dump-2 has been accurately estimated, resulting in total volumes of **10,763** cubic meters and **10,688** cubic meters, respectively. The combined total volume of waste from both dumps is **21,451** cubic meters. These findings will assist in making informed decisions regarding waste management strategies and optimizing resource utilization within the quarry.

SURFACE PLAN & SECTIONS OF WASTE DUMP-1
Village Nihalprasad under Gondi Tahasil
Of Dhenkanal District, Odisha
Scale - 1:1000
Date of Survey:-05.05.2024



LEGENDS

- WASTE DUMP BOUNDARY
- MINE WASTE
- PROVED LINE

PLATE NO -1

K. K. Swain
ROPI/OD113/2022

SURFACE PLAN & SECTIONS OF WASTE DUMP-2
Village Nihalprasad under Gondi Tahasil
Of Dhenkanal District, Odisha
Scale - 1:1000
Date of Survey:-05.05.2024

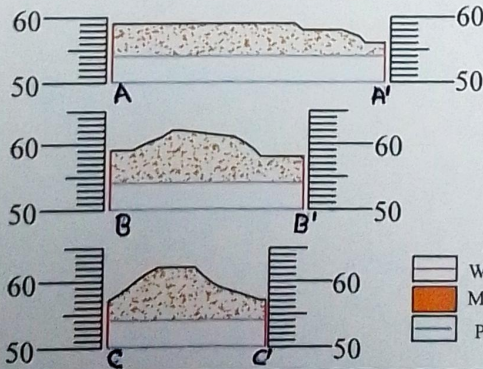
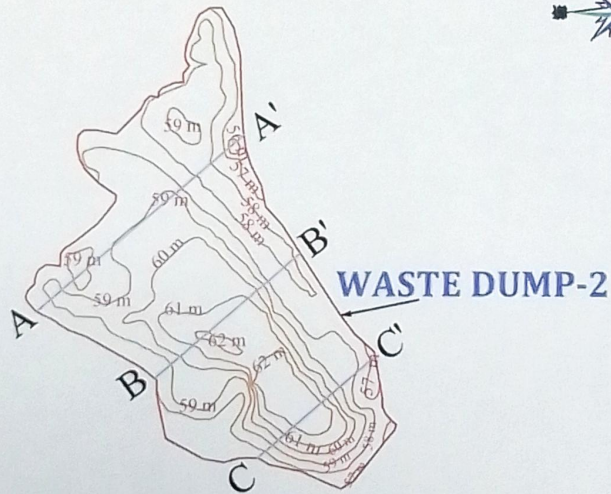
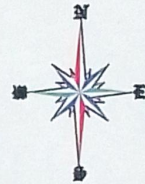






PLATE NO -2

- LEGENDS**
-  WASTE DUMP BOUNDARY
 -  MINE WASTE
 -  PROVED LINE


K. K. Swain
RQP/OD113/2022

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OVER AN AREA OF 12.25 ACRES OR 4.957 HECTARES IN VILLAGE NIHAL PRASAD UNDER GONDIA TAHSIL OF BIHANKANAL DISTRICT

K. K. Swain
RQ/IOD/113/2022

True Copy
As
Attested by Advocate