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

Original Application No. 62/2024/EZ

IN THE MATTER OF :

BHAGABAT SAHOO & ORS.

... APPLICANTS

VS

STATE OF ODISHA & ORS.

... RESPONDENTS

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COUNTER-AFFIDAVIT

ON BEHALF OF THE RESPONDENT NO.16

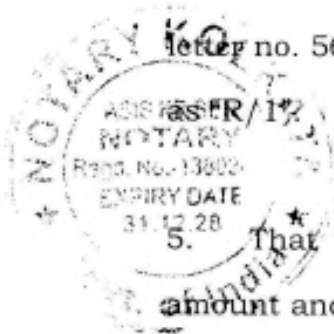
I, Sarat Chandra Majhi, S/o Batu Majhi, aged about 62 years, of Village-Uteipur, P.O. Dihudi-anadapur, P.S. Dhamnagar, Dist-Bhadrak, Pin-755006, State- Odisha do hereby solemnly affirm and declare as under:

1. That I am one of the Respondents in the abovementioned matter and I am fully conversant with the facts and the circumstances of the case.

2. That I have gone through the Original Application and understood the contents thereof. Any allegations that are not dealt in this affidavit construed to be emphatically denied.

3. That before dealing with individual allegations the Respondent would like to state that the Respondent ran sand mining business duly following sustainable sand mining guidelines and environmental norms set by the statutory bodies. The Respondent at no time during subsistence of his business had ever indulge in any practice which in any way cause either caused environmental pollution or any loss to the public exchequer. The Respondent ran his business his sand mining business after following due legal guidelines.

4. That the Respondent on 30/12/2017 intimated by the Tahasildar, Dharmanagar, the competent authority as the successful bidder for quarry lease in the Baitarani river sand quarry No.2 Mouza-Uteipur, Khata-479, Plot No.208, area of 12.02 acres for a period of lease of 2017-18 to 2021-22 by a letter no. 5670 dated 30/12/2017 is annexed hereto and marked



5. That the Respondent were asked to deposit the security amount and other documents by the Tahsildar, Dhamnagar by a

letter no.157 dated 08/01/2018 is annexed hereto and marked as "R/2".

6. The Respondent states that thereafter a quarry lease was registered on 21/12/2019 by and between the proper officer (on behalf of the Hon'ble Governor of Odisha) and the Respondent.

7. The Respondent states that the consent to operate was granted in favour of the Respondent by the State Pollution Control Board, Odisha by a letter no. 490/CTO-3194/2019 CONSENT ORDER NO. 165/2018-19(WPC 7 APC) dated 19.03.2019 is already annexed by the Applicants in their Original Application and marked as Annexure-1.

8. The Respondent states his consent to came to end from 31/03/2022 and the Respondent since then never made any attempt to mine any sand. The Respondent also states that the present application is a motivated litigation by the applicants. The Applicants themselves in their Original Application in the para nos. 7 and 8 averred that there were FIRs and counter FIRs filed by and between the parties. The dates of the FIRs and sections of the FIRs would amply clarify intentions of the Applicants. In the para 7 and 8 of the Original Application the Applicants stated that the Respondent lodged the counter FIR to



save his skin but the date on the FIR indicates the Respondent filed after being harassed by the Applicants lodged an FIR against Applicant nos. 1,2 and 4 on 7/4/2022 under various sections of IPC and SC/ST Prevention Act and the Applicant number 2 lodged a counter FIR against the Respondent on 14/12/2022. For the sake of brevity, the Respondent refrains from annexing FIRs as that are already been annexed with the Original Application as Annexure -3 and 2 respectively.

9. The Respondent also states that based on the interim prayer in the Original Application, the Hon'ble Green Tribunal, Eastern Zone Bench, on 20.03.2024 by an order constitute a committee to ascertain the veracity of the allegations levelled against the Respondent and in general in the Original Application. The said report is to be filed by the Respondent no.4: Odisha State Pollution Control Board.

10. The Respondent states that for the sake of clarity and at the cost of repetition the Respondent repetitively referred to the aforesaid Joint committee Report. The said report is already annexed by the Respondent No.4 ; Odisha State Pollution Control Board (page 108 to 117) and marked as Annexure-R4/3 Colly.

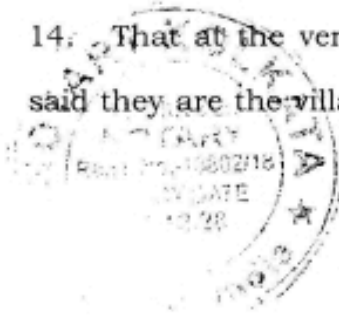


11. The Respondent states that one of the allegations of the Applicants is that the Respondent illegally extracting sand from Uteipur sand quarry-1 which is an utter lie as the Respondent never participated for any bidding for the Uteipur sand quarry-1 which was granted in favour the Respondent's brother Babuli Majhi.

12. The Respondent states that he never continued his mining activity after expiry of the consent to operate which ended on 31.03.2022. The allegation levelled against him is outlandish and without any proof.

13. That in the para 10 of the Original Application the Applicants in one hand accused the local administration to be in hand in glove with the Respondent and in other averred in the aforesaid paragraph that without permission of the Tahasildar the Respondent illegally plying hundreds of trucks daily over the village road. But the same Applicants in the para 7 accused the Tahasildar of bias and even went on onto lodge FIR against him. This very contradictory averments ample proof that this application is a motivated case against the respondent.

14. That at the very outset of this Application, the Applicants said they are the villagers who are troubled by the illegal mining

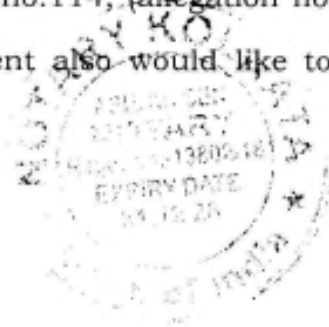


activity of the respondent but the Joint committee Report at page 110 para roman (X) the report very clearly mentioned that the villagers reported to the committee members that there was no mining for past 09 to 10 months. Then how the Applicants who are supposed to be the residents of the village averred in the Application that till now illegal mining is going on at the behest of the Respondent?

The Respondent also states that the Joint Committee also visited the alleged mining site/plot and did not observe any mining activity there (mentioned in the para (vi) of the Report)

15. That the allegations as levelled in the sub para ii, iii of the paras 15 have no relevance in light of the Joint Committee Report (Para (vi) and para (i) of the allegation 3) page 114.

16. That there is allegation against the Respondent that the Respondent illegally continued mining during rainy season as contemplated in the paragraph 29 and in other paras of the Original Application. The allegation is emphatically denied by the Respondent and also verified by the Joint committee Report in the page no.114, (allegation no.4 answered in para i, ii, iii). The Respondent also would like to point out to the Hon'ble Court



that allegation of excess mining also fallen flat in light of Joint Committee Report page 114 (allegation no.5 answered in para i).

17. The Respondent states that the allegation of use of heavy machinery as averred in the para 23 and in other paragraphs do not have any basis the same can be ascertained by the Joint Committee Report as mentioned in the page 115 (allegation 9 and answered in para i).

18. The Respondent states that he has always been obedient of law of the land. The Respondent further submits that he had followed the law as stipulated in the statute and never indulged in any illegal mining activity and his obedience towards law is reflected in the Joint Committee Report which constituted by the Hon'ble Court on the prayer of the Applicants.

19. That the Respondent craves leave of the Hon'ble Court to file Supplementary Affidavit or produce any document/s if necessary for proper adjudication of the matter.

20. The Respondent states that any allegation and/or allegations that are not responded construed to be denied and disputed.



21. That the statements made in above are true to my knowledge and belief.

Prepared in my office

Saimanul Haq
Advocate
F/4656/4528/23

DEPONENT

Identified by me
Saimanul Haq
Advocate

Solemnly affirmed and sworn
before me on this 10th day of December 2024

Saimanul Haq vs. *Saimanul Haq*
ASIS / ...
The ... of ...
...

10 DEC 2024



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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APPLICANTS

VS

STATE OF ODISHA & ORS.

RESPONDENTS

AFFIDAVIT

I am Sarat Chandra Majhi, S/o Batu Majhi, aged about 62 years, of Village-Uteipur, P.O. Dihudi-anadapur, P.S. Dhamnagar, Dist-Bhadrak, Pin-755006, State- Odisha do hereby solemnly affirm and declare as under:

1. That I am one of the Respondents in the abovementioned matter and I am fully conversant with the facts and the circumstances of the case.
2. That I have read and understood the contents of this Counter-Affidavit and the same is true and correct to best of my knowledge and is drafted on my instruction.

Sarat Chandra Majhi
 ଶ୍ରୀ ଚନ୍ଦ୍ର ଚନ୍ଦ୍ର ମାଝି
 DEPONENT

IDENTIFIED BY

Samarananda Das
 ADVOCATE
 F/4656/4528123

Solemnly affirmed and sworn
 before me on this 16th day of
 Dec 2024 at
 KOLKATA SEN
 District Bench
 No. 16/2024/EZ

16 DEC 2024



FORM - F
Intimation to Successful Bidder
[See rule 10(11), 16(9), 27(6)]

Letter No. 5670

Dated 30-12-17



From Tahasildar,
Dhamnagar

To Sri Saratch. Mazhi
S/O. Batu Mazhi vill. Uteipuri
PO. Dihudliaganakapur P.S. Dhamnagar.

Sub: Intimation to successful bidder.

Sir/Madam,

This is to intimate that you have been selected as the successful bidder for the prospecting ~~license-cum-~~ mining lease/~~mining-lease/~~ quarry lease (strike off the lease not intended for) described below, namely:— Baitarani River Canal No. 2,
Mouza - Uteipuri, K.L. No. 479 P.L. No. 208 AC 12.02 out of AC 17-27
Period of Lease 2017-18 to 2021-22

(Name of lease, area, period of lease) based on your application for the said lease. The amount of additional charge bid by you and accepted is Rs. 323.00 per tone/cubic meter (strike off whichever is not applicable). The mining plan and the environment clearance for the said lease ~~has been obtained/~~ has not been obtained (strike-off whichever is not applicable). The tentative selection is subject to the provisions of the OMMC Rules, 20.16... and to the terms and conditions annexed with this letter.

You are directed to convey your acceptance to the terms and conditions and to deposit an amount as prescribed under rule 10(12) & (13)/ 16(10) & (11)/ 27(7) & (9) (strike-off whichever is not applicable). Proof of deposit of the aforesaid amount along with acceptance should reach the undersigned within fifteen days of the date of issue of this letter failing which this intimation shall stand automatically revoked without any further notice and the earnest money shall stand forfeited.

You are also directed to execute deed in respect of the prospecting ~~license-cum-~~ mining lease/~~mining-lease/~~ quarry lease (strike-off whichever is not applicable) for the aforesaid area within the period specified in sub-rule (1) of rule 43 of the Odisha Minor Mineral Concession Rules, 20.16..

Yours faithfully

30/12/17
Tahasildar, Dhamnagar
(Competent Authority)

Letter No.....157..... Dated. 08/11/18.....



Sri Sarai Chandra Majhi S/o-Batu Majhi of Vill. Gopipur, Dhamnagar
selected bidder of the source Baitarani River sand

Sub: - Deposit the security amount and other documents.

It is to inform you that, you have given your acceptance of the terms and conditions that enclosed with F-Form. In this regard you are asked to deposit the security amount as calculated below within the stipulated period. The security deposit may increase or decreases after preparation of mining plan. The deposited EMD will adjust in shape of security money. Also you are advice to submit the mining plan, Environment clearance and pollution clearance certificate within the period of three months from date of issue of this letter for further process. This is treated as most urgent.

Security money.

1. One-fourth of Royalty
& additional charge: Rs. 704364.00
2. One-fourth of DMF: Rs. 70436.00
-
3. Total Rs. 774800.00

Yours faithfully,

Sarai Ch Majhi

08/11/18
Tahasildar, Dhamnagar.