

**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN
ZONE, KOLKATA**

O.A. Case No 218/2024/EZ

SANJAY KUMAR NAYAK

...APPLICANT

VS.

STATE OF ODISHA & OTHERS

...RESPONDENTS

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KOLKATA

By the Petitioner

Through



Date- 07.01.2025

SUNSHINE ANAND SWAIN

ADVOCATE

B.C. Enrolment No-O/ 501 /2023

Mobile: 7381050097

Email: sunshine.aswain@gmail.Com

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**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE,
KOLKATA**

O.A. Case No 218/2024/EZ

Sanjay Kumar Nayak – Applicant

Vs.

State of Odisha & Others – Respondents

COUNTER AFFIDAVIT FOR AND ON BEHALF OF RESPONDENT NO-5

I, Sri Jitendra Kumar Sahoo, aged about 58 years S/o- Late Bira Kishore Sahoo, working as Administrator(Niti), Shree Jagannath Temple Administration, Puri, At- Badadanda, Puri, P.O./P.S./Dist-Puri, Odisha do hereby solemnly affirm and state as follows:

1. I am authorised to swear this affidavit and well conversant with the facts and circumstances of the case.
2. The instant matter, amongst others, pertains to the unfortunate fire accident that occurred on 29.05.2024 near the western boundary of the Narendra Tank during the sacred boating ritual of Bhaunri Yatra, resulting in casualties and severe injuries. The Applicant has raised concerns regarding the environmental and safety hazards associated with the use of fireworks

*Grand
adv.*

Jitendra Kumar Sahoo

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during religious festivities and has sought intervention from this Hon'ble Tribunal.

3. It is respectfully submitted that the Shree Jagannath Temple R.O.R. permits the use of limited categories of traditional fireworks, namely "Chandraudia" ("Dhapadhapi"/"Jhurujhuri") (green crackers) during specific festive occasions such as Ekadashi, Chandan Yatra, and Rukmini Haran Ekadashi, based on religious faith and practice. However, the fire accident in question occurred at a location outside the temple administration's jurisdiction and without its authorization. In light of the gravity of the incident, the Temple Managing Committee has taken proactive steps to review and regulate the use of fireworks during religious events. The true copy of the relevant portion of Temple Record of Rights (R.O.R) and the recent decision of the Committee of the Shree Jagannath Temple Administration is annexed herewith and marked as ANNEXURE-C5/1 (Colly) to this affidavit.

4. Since the present matter involves the following key legal concerns, this deponent humble seek permission to assist this Hon'ble Tribunal for proper check and balances, that may be considered:

LEGAL CONCERNS

- **Environmental Hazards & Air Pollution:** Violation of environmental norms due to the use of fireworks.

Shree Jagannath Temple Admin.

Jr. Fenobra Kumar Sahas

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- **Noise Pollution:** Violation of permissible noise levels under environmental laws.
- **Public Safety & Negligence:** Accountability for the incident and preventive measures.
- **Role of the Temple Administration:** Whether the Temple Administration can have any control over the incident occurring outside its jurisdiction (beyond its control).

RELEVANT LEGAL FRAMEWORK & CASE LAWS

A. Environment Protection & Noise Pollution

i) The Environment (Protection) Act, 1986

- Section 3: Power of the Central Government to take measures for protecting and improving the environment.
- Section 5: Power to issue directions for prohibiting activities causing environmental degradation.

ii) The Air (Prevention and Control of Pollution) Act, 1981

- Section 16 & 17: Powers of the State Pollution Control Board to regulate air pollutants, including those from fireworks.
- Section 22: Prohibition of emissions beyond prescribed limits.

*Shard
adv.*

Jitendra Kumar Sahw.

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iii) Noise Pollution (Regulation and Control) Rules, 2000

- Rule 5: Restrictions on the use of loudspeakers and bursting of fireworks beyond permissible limits.
- The Supreme Court in **In Re: Noise Pollution (V) (2005) 5 SCC 733** emphasized the need to regulate noise pollution caused by firecrackers, directing compliance with statutory noise levels.

iv) Arjun Gopal v. Union of India (2017) 1 SCC 412

- The Supreme Court imposed restrictions on the sale and bursting of fireworks in the National Capital Region to control pollution levels. The same rationale applies to religious festivities to prevent air and noise pollution.

B. Public Safety & Liability

v) State of Punjab v. Modern Cultivators, AIR 1965 SC 17

- The principle of 'absolute liability' holds that entities engaged in hazardous activities must take all precautions to prevent harm. The State has a duty to ensure that public celebrations do not endanger life.

vi) MC Mehta v. Union of India (1987) 1 SCC 395 (Oleum Gas Leak Case)

- Established the principle of 'strict liability' for hazardous activities. Fireworks being inherently dangerous require strict regulations.

vii) Union Carbide Corporation v. Union of India (Bhopal Gas

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Jeetendra Kumar Sahoo

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Tragedy Case) (1990) 4 SCC 584

- o The Supreme Court held that even in the absence of direct negligence, liability could be attributed based on the precautionary principle. This is relevant in determining whether authorities failed to prevent illegal fireworks displays.

viii) **Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC****647**

- o Recognized the 'Precautionary Principle' and the 'Polluter Pays Principle.' Authorities failing to prevent harmful activities can be held liable.

C. Responsibility of the Temple Administrationix) **P.A. Jacob v. Superintendent of Police (1993) 2 SCC 419**

- o Held that an entity cannot be held liable for an incident occurring outside its jurisdiction unless there is evidence of active participation or authorization. Since the fireworks incident occurred outside the Temple's jurisdiction and without its permission, responsibility cannot be attributed to the Temple Administration.

x) **Municipal Council, Ratlam v. Vardichan (1980) 4 SCC 162**

- o The Supreme Court emphasized that civic bodies must take preventive measures against public nuisances, even if they arise from private activities. While the Temple Administration has taken

Jr. F. N. Sahu

Grand
adv.

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steps to regulate fireworks, the primary responsibility lies with the State authorities.

RECOMMENDATIONS & WAY FORWARD

In light of the foregoing, the following steps are suggested:

- a) **Ban on High-Sounding Fireworks:** The Temple Managing Committee's decision to ban high-sounding fireworks should be implemented strictly.
- b) **State Government Regulations:** The State of Odisha should issue comprehensive guidelines regulating fireworks usage near religious sites.
- c) **Environmental Impact Assessment:** Conduct an assessment of the impact of firework-related pollution in and around temple premises.
- d) **Public Awareness Campaigns:** Awareness programs should be conducted to educate devotees about the risks associated with firecrackers.
- e) **Liability for Unauthorized Fireworks:** Strict legal action must be taken against individuals or groups violating noise pollution and environmental norms.

5. It is therefore, respectfully submitted the tragic fire incident at Narendra Tank underscores the urgent need for regulatory intervention in firework usage during religious festivities. While the Temple Administration has taken proactive steps by banning high-sounding fireworks, the State and other authorities must ensure the enforcement of environmental and public safety laws. The Hon'ble Tribunal may consider directing the State to

*Shard
Adv.*

Jr. Tehsildar Kumar Sahu

formulate a clear policy framework to prevent any untoward incidents in the future.

6 That the facts stated above are true to best of my knowledge, based on the records of the Temple Administration, which are true to my belief.

Solemnly, affirmed at Puri on this 6th day of January 2025

Jitendra Kumar Sahu
DEPONENT

VERIFICATION

I, do hereby verify and affirm that the contents of paragraphs 1 to 6

Sl. No. 36 of this affidavit are true and correct to my knowledge and belief and no materials facts have been concealed there from.

Date 6.1.25
Volume 16

Verified at Puri on this 6th day of January 2025.

Jitendra Kumar Sahu
DEPONENT

EXECUTED BEFORE ME

Ajaya Kumar Pradhan
6.1.25
Ajaya Kumar Pradhan
Notary Govt. Of India
Regd. No- 10072



FORM-D

RECORD OF RIGHTS-SHRI JAGANNATH TEMPLE,PURI

RECORD OF RIGHTS AND DUTIES OF VARIOUS CLASSES OF SEBAKS AND OTHERS EMPLOYED FOR OR CONNECTED WITH SEBA- PUJA OF THE TEMPLE

Serial Number	Name of Temple	Class of Sebaks	Present Incumbent and turn of worship	Incidents of service(a)	Remarks
1	2	3	4	5	6
64	Shri Jagannath Temple	Chunara or Garuda Sevak(Mahadeep & Dhawja Bandha Seva)		<p>Xxxx xxxx xxxx</p> <p>After closing of door in 'tera' on completion of Sandhyadhup on Ekadashi day, the Chunara Sevak going to the top of the temple lights the Mahadip and for the purpose, they get one sera & two Chhantaki of Ghee & Chandraudia (fireworks)</p> <p>Xxxx xxxx xxxx</p> <p>L. PANDA Special Officer Under the Puri Shri Jagannath Temple Administration Act(Orissa Act 14 of 1952)</p>	

Special Officer
 Puri
 Shri Jagannath Temple
 Administration Act(Orissa Act 14 of 1952)

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FORM D
RECORD-OF-RIGHTS—SHRI JAGANNATH TEMPLE, PURI
Record-of-rights and duties of various classes of Sebaks and others employed for or connected with Seba-Puja of the Temple

Serial number:	Name of Temple	Class of Sebaks	Present incumbents	Incidents of service (a)	Remarks
1	ଶ୍ରୀ ଜଗନ୍ନାଥ ମନ୍ଦିର	୧ମ ଓ ୨ୟ ଶ୍ରେଣୀର ସେବାକ (ମହାପାତ୍ର ଓ ଅନ୍ୟାନ୍ୟ ସେବାକ)	୧ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୨ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୩ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୪ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୫ ଶ୍ରୀମତୀ ମହାପାତ୍ର	୫	୬
୨	ଶ୍ରୀ ଜଗନ୍ନାଥ ମନ୍ଦିର	୩ୟ ଶ୍ରେଣୀର ସେବାକ (ମହାପାତ୍ର ଓ ଅନ୍ୟାନ୍ୟ ସେବାକ)	୬ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୭ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୮ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୯ ଶ୍ରୀମତୀ ମହାପାତ୍ର, ୧୦ ଶ୍ରୀମତୀ ମହାପାତ୍ର	୬	୬


 Shree Jagannath Temple Office Puri
 O.S.D.
 25/11/19

* 4 ସେବାପାଇଁ	<p>ଏହାକି ପୂର୍ବ ସ୍ଵାମୋହନ ମହାପାତ୍ର ପ୍ରବେଶ ଦରଖାସ୍ତ କରିଛନ୍ତି । * ଶାଢ଼ୀ କମ୍ପାଇ ନ ଥିବାରୁ ଝଟଣିଝାରେ ହାତୁ ମହାପାତ୍ର । * ଶାଢ଼ୀ କମ୍ପାଇ ନ ଥିବାରୁ ଝଟଣିଝାରେ ହାତୁ ମହାପାତ୍ର । * ଶାଢ଼ୀ</p>
<p>ଦୋଳମଣ୍ଡପ ସାହି ୧୪, ୧୫, ୧୬, ୧୭, ୧୮, ୧୯, ୨୦, ୨୧ * ପୂର୍ଣ୍ଣଚନ୍ଦ୍ର ମହାପାତ୍ର, ଦୋଳମଣ୍ଡପ ସାହି ୧୭, ୧୮, ୧୯, ୨୦, ୨୧ ୨ କାନମାଦର ମହାପାତ୍ର,* ଶ୍ରୀ. ଗୁରୁଦାସ ଦୋଳମଣ୍ଡପ ସାହି ହିଡ଼ା ଓ ବଡ଼ା ୨୯, ୩୦ ୨* ସ୍ଵାମୋହନ ମହାପାତ୍ର, ଲକ୍ଷ୍ମୀଧର ମହାପାତ୍ର, ଦୋଳମଣ୍ଡପ ସାହି, ୨୭, ୨୮ ୮ ରଘୁଧର ମହାପାତ୍ର, ସ୍ଵୟ ମହାପାତ୍ର, ଦୋଳମଣ୍ଡପ ସାହି, ୨୫, ୨୭ ୯ ବାବାଜି ମହାପାତ୍ର, * ଦୋଳମଣ୍ଡପ ସାହି, ୧, ୨ ୧୦ ମଧୁସୂଦନ ମହାପାତ୍ର * ୩, ୪, ୭, ୮</p>	<p>ମହାପାତ୍ର ସେବା ଏକାଦଶୀ ଦିନ ପୂର୍ଣ୍ଣାସୁପ୍ତ ଖେପ ପରେ ମହାପାତ୍ର ନେଇ ମନ୍ଦର ଭଗବତକୁ ଉଠି ନେଉଳରେ ମହାପାତ୍ର ଜାଳନ୍ତି । ଏଥିପାଇଁ ୧୮ ଓ ଦିଆ ଓ ଚନ୍ଦ୍ର ଉଦିଆ ପାଆନ୍ତି ଓ କୋର ଶ୍ରେଣ ବଳତା ପାଇଁ ୪୦ ୯ ୯ ପାଆନ୍ତି । ମନର ସଫାନ୍ତି ଦିନ ଭୁଧନଉଠରେ ଚନ୍ଦ୍ର ଓ ଜେରୁ ଲଗାନ୍ତି । ବଡ଼, ମଝି ଓ ଭୋଗ ମଣ୍ଡପ ଦେଉଳରେ ସେତେ ଗଛ ଉଠିବ ଏମାନେ ସବୁ କାଟିବେ । ଏଥିପାଇଁ ବାର୍ଷିକ ପାଞ୍ଚଟକା ମିଳେ । ଶ୍ରୀ ମନ୍ଦରରୁ ଧୂପ ସିକୁଳା ନେଇ ଗୁଣ୍ଡିଗୁଣ୍ଡରେ ବାଜନ୍ତି । କନକ ମୁଣ୍ଡିରେ, ସିଂହାସନ ଉପରେ, ଅଣସର ଘରେ, ପତ୍ତି ଉପରେ, ଅଣସର ପିଣ୍ଡିଉପରେ ଦକ୍ଷିଣି ଘରେ ବର୍ଷକୁ ବର୍ଷ ଚାନ୍ଦୁଆ ବାଜାବା ଏହାକି କାମ । ଗୁଣ୍ଡିଗୁ ଘରେ ମଧ୍ୟ ସେହିପରି କରାବେ । ସ୍ଵାମି ବେଦା ଚାନ୍ଦୁଆ ପିଠାଲ ମୁଦୁଲକୁ ଦେବେ । ଏ ସେବକ ମାଳିକଝରେ ସାପିଦେବା ଧୂଳି ବାଜନ୍ତି ଓ ଏ ସେବା ଚନ୍ଦ୍ର ସେବକର ଭରର ସମସ୍ତ ସୁସୁଷ୍ଟ-ଲୋକ ନର ପାରିବେ । ବର୍ତ୍ତମାନକୁ ଘୋଳା, ଗଣେଶ, ହାତୁ, ମଧ୍ୟରା</p>

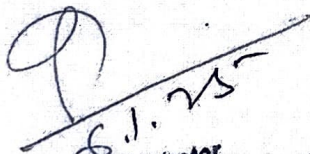

 Office
 Street Jaganmohini Temple Office
 174

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Extract of resolution of the meeting of Shree Jaganath Temple Managing Committee held on 19.06.2024

1. In the context of fire accident that occurred due to explosion of fire works at Narendra Puskarini during the recent Chandan Yatra ,the Niti Sub Committee having discussed in detail on the arrangement of fireworks on festive occasions on behalf of the Temple adhering to the provisions of R.O.R(Temple Record of Rights) opined that only noiseless fire works like "Chandraudia" (Dhapadhapi / Jhurujhuri) can be used on these days. Simultaneously, the Sub Committee recommended to the Temple Managing Committee to impose a complete ban on use of fireworks with sound by the Temple Administration.
2. Keeping in view the fire accident of the current year the Sub Committee suggested that an insurance scheme be launched for the devotees from the next year.

Attended.


G. J. 25
Administrator
Shree Jagannath Temple, Puri



VAKALATNAMA

IN THE NATIONAL GREEN TRIBUNAL: EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 218 OF 2024/EZ.

SANJAY KUMAR NAYAK

VERSUS

STATE OF ODISHA & ORS.

Appellant (s)

Petitioner(s)

Respondent (s)

Opp. Party (ies)

Know all men by these Present that by this Vakalatnama

I/we ARABINDA KUMAR PADHEE, AGED ABOUT - 55, S/O. SATYA NARAYAN PADHEE, WORKING AS - CHIEF ADMINISTRATOR, SHREE JAGANNATH TEMPLE, PURI, AT/P.O. GRAND ROAD, PURI, 752001.

Respondent (s)/ Petitioner (s) Opposite Party (ies) in the aforesaid case do here by appoint & retain ANAND CHANDRA SWAIN, B.C.E No. 870A/95, MOB: 9437020816, SUNSHINE ANAND SWAIN, B.C.E. No. 501/2023, MOB: 7381050097, THE WRITER, 2nd FLOOR, HIGH COURT ROAD, CUTTACK, ODISHA - 753002,

Advocate (s) to appear for me/ us in the above case and to conduct and prosecute or defend the same and all proceeding that may be taken in respect of any application connected with the same or any decree or order passed their in including all application for returned of document or receipts of any money that may be payable to me/ us in the said case and also in application for review in applies under Orissa High Court order and in application for leave to Supreme Court. I/we authorized my / our Advocate(s) to admit any compromise lawfully entered in the said case.

Dated 07.01.2024

Received from executants(s)/by post and

Arabinda Kumar Padhee .

Satisfied that he/she is/they are the EXECUTANTS

SIGNATURE OF

Chief Administrator
Shree Jagannath Temple, Puri

party/parties and accepted. I hold no brief

for the other side.

Accepted as above

Advocate

Accepted as above

Advocate

Accepted as

Advocate



SHREE JAGANNATH TEMPLE OFFICE, PURI

No. 309 / Date. 6-1-25

Authorization to file counter before the Hon'ble National Green Tribunal, Eastern Zone, Kolkata

I Shri Arabinda Kumar Padhee, Chief Administrator, Shree Jagannath Temple, Puri do hereby authorize Shri Jitendra Kumar Sahoo who is now working as Administrator (Niti) to sign & swear counter affidavits on my behalf in O.A. No.128/2024/EZ pending before the Hon'ble National Green Tribunal, Eastern Zone, Kolkata.

Chief Administrator,
Shree Jagannath Temple, Puri

Memo No. 310 /Dt. 6-1-25

Copy forwarded to Shri Jitendra Kumar Sahoo, Administrator (Niti), Shree Jagannath Temple, Puri /Shri Ananda Chandra Swain, Temple Advocate, Orissa High Court, Cuttack for information and necessary action.

Chief Administrator
Shree Jagannath Temple, Puri