

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH , KOLKATA

APPEAL NO- 11 OF 2024/EZ

IN THE MATTER OF

NARESH MAJHI .....Appellant

-Versus-

STATE OF ODISHA & ORS..... OPP. PARTIES

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Kolkata

Date. 2/11/2024

*Durga Prasad Dhal*  
Advocate for the

Opposite Party No.12

(DURGA PRASAD DHAL)

ENL.No .1864/1994

M.9437074361,

[Mail-bapuji.dhal@gmail.com](mailto:Mail-bapuji.dhal@gmail.com)

## SYNOPSIS

That the Opposite party has filed this reply affidavit objecting the allegation made by the appellant against the this appellant. This opposite Party submits that after proper enquiry, investigation, verification by concerned departments and Geotech photograph and clearance from all departments the EC has been issued in favour of the opposite party. No illegality has been committed so far while issuing E.C.

## DATE CHART

1. 25.2.2021-. Notice of auction was published.
2. 19.4.2021- This Opposite party selected as successful bidder.
3. 30.4.2021- This opposite party was directed to deposit security money.

*Handwritten signature*

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

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APPEAL NO- 11 OF 2024/EZ

NARESH MAJHI.....Appellant

-Versus-

STATE OF ODISHA& ORS..... OPP. PARTIES

Reply/Show cause filed on behalf of the Opp.Party-12 to the appeal filed by the appellant.

1. That The Opp.Party no-12 has gone through the appeal filed by the appellant,files the Replay/Objection to this petition as follow.
2. That the appellant has no locos standi to file this appeal against this opp. Party.
3. That the appeal filed by the appellant against this Opp. Party is false and no basis at all and should be dismissed at the threshold.
4. That the appellant has not come to this Hon'ble court with clearhand and has suppressed may facts which is illegal , erroneous and unsustainable in the eye of law.
5. That this Opp.Party has not done any illegality while taking permission / Environmental Clearance from the authority.
6. That the opp. Party humbly submit that the appellant/petitioner though a native of village Kharbhui but not adjoining that quarry site. This Opp. Party humblysubmits that the villagers Kharbhui is far away from the quarry site near about 2k.m. To the knowledge of this Op. party, that they have never disturbed with the high intensive explosion and cleaning of


trees and medicinal plants from the areas and endorsing the safety of local villagers causing serious air pollution as has been alleged by the appellant in his petition at **Paragraph-1**.

7. That the Opp. Party humbly submit that the villagers including the appellant never objected the allegation made by him in this petition nor they have given any information to the authority regarding ecological change , clearing of trees and medicinal plants and endorsing safety of them before the authority while the quarry was operated by some other company.
8. That in reply to **paragraph-2 of the** appeal, this appellant humbly submits that the quarry activate in Munda Saru Hill in Kharbhuin of Harbhanga Tahasil has not caused serious environmental degradation and ecological impact so far this Opposite Party's quarry is concerned as has been alleged by the appellant. This opp. Party has not operated till now.
9. The appellant is put to strict proof of the **Paragrath-3** of the appeal that, Munda Saru Hill has been under tremendous pressure from the blast has been carried out since the last few years which has also left the general populence under distress. In reply to the paragraph, this Opp. Party humbly submits that the allegation made by this appellant is false and no basis at all and no documents or proof have been submitted by the appellant that this Munda Saru Hill has been under tremendous pressure and blast has been carried out so far the quarry of this Opp. Party is concerned.
10. That the **Paragraph.4** of the appeal is false and here by denied. The petitioner is put to strict proof of the same. In replay to the said paragraph, this Opp. Party humbly submit that before the operation of the said quarry/ mining, ARSS was the auction holder and was operating this after obtaining the environment clearance and there after this year this Opp. Party is the auction holder and after that he has followed all the guidelines, terms


and condition of the EC. This Opp. Party humbly submit that though he is the auction holder and has got the Environment clearance by full filing all the guidelines led down as per law, but till date he has not operated the quarry as it has been admitted by the petitioner herein. This Opp. Party humbly submit that as per his knowledge the Environment clearance letter has been displayed in the Panchayat office notice board. The Opp. Party further submits that after EC clearance letter , the agreement should be executed between this Opp. Party and the mining department for operation of the quarry, but the Environment clearance was obtain on 10/07/2024 and when this Opp. Party approached the Mining Department for execution of the agreement as initially the agreement was executed with the Tahasildar but after 2022 this agreement is to be executed with the Mining Department as it comes under department of mining. When this Opp. Party approached the Mining Department for execution of the agreement but they told that a case has been filed against this Opp. party before the NGT for which agreement can not be executed.

11. That the averment at **Paragraph-5** of the appeal filed by the petitioner is false and here by denied. In replay to the said paragraph , this Opp. Party humbly submit that in 2021 this Opp. Party was not operating the quarry. To the knowledge of the Opp. Party that in 2021 in ARSS was operating this stone quarry , so this Opp. Party is not aware about any notice was issued on 2/12/2021 by the Tahasildar so far this Opp. Party is concerned.

12. That the Opp. Party state and submit the averment at **Paragraph-6** of the appeal filed by the petitioner is false and here by denied. To the knowledge of this Opp. Party that nobody has raised any objection and protest against this Opp. Party for auction of the said stone quarry.

  
**B.K. NAYAK**  
NOTARY  
CUTTACK TOWN  
Regd. No. ON-29/03

13. That the averment made at Paragraph- 7 of the appeal is false and here by denied. The appellant is put to strict proof of the said Paragraph that the villagers have been experiencing the difficulties and inconvenience because of the ongoing quarries in Kharbhuin jungle where the building, Checkdam and houses are being damaged due to the blasting in the quarry. The wild animals are also disturbed due to the blasting. The dust pollution, fluoride contamination in the ground water, ground water depletion, ammonia gas smelling, damages to agricultural land are the other issues. The Anikat Bandha, constructed by soil conservative Department at Kharbhuin Jungle is being damaged because of the blasting and Similarly, there is a Girls' Ashram School, at Baisipada where about 150 Girls are studying and about 100 girls are staying at Campus, who will be affected due to the Stone quarry blasting. In reply to said averment this Opp. party humbly submits that so far as his stone quarry is concerned that is Kharbhuin store quarry No-1, villagers have never faced any difficulties, Inconvenience as has been alleged by the appellant. This Opp. Party further submits that he has not operated the quarry till date. To the knowledge of the Opp. party that there are other three quarries are operating in that area, but there is no possibility of any damage of houses due to blasting and no disturbance of wild animal or any pollution as this quarry is quit distance from the village area and also there is no dense forest near the quarry area and also the villagers of nearby do not come to this stone quarry area as it is hill area. The Opp. party further submits that there is no school nearby within the prohibited stone quarry area as has been alleged by the appellant, so there is no question of any impact over the people animals and other aspect if the operation of quarry is being made.

  
**B.K. NAYAK**  
NOTARY  
CUTTACK TOWN  
No. ON-29/03

14. That the averment at Paragraph-8 of the appeal is false and here by denied. In reply to this said averment, this Opp. party humbly submits that though there is a tribal area but the people are residing far away from the quarry area as they are aware about it and also GIRI Gobardhan Hill is so far away from stone quarry area. This Opp. Party humbly submits that after thorough inspection and investigation and also after taking Geotech photograph by the department along with mining and revenue department and after their clearance, the EC has been issued in favor of this Opp. Party by following all guidelines.
15. That averments paragraphs 9,10,11,12, 13, 14 of appeal are false and here by denied. In reply to these averments, this Opp. Party humbly submits that there is no full of tress near by the quarry area and also the wild animals will not be threaten due to blasting as the area is hill and bald area and there is no agricultural land near the prohibited stone quarry area and after following all the guideline the EC has been granted to the this Opp. Party as this area is not a dense forest. This Opp. party further submits that it is not known to him that the Zilla Parisad members and Ors. had objected the auction process in 2017-20 as this Opp. Party was not auction holder or operating this stone quarry in that time. This Opp. Party further submits that so there is no adjoining village and hamlets of his stone quarry area and there are much more far away and the villagers had never protested when a notification was displayed in the Panchayat Samiti displayboard. The appellat taking personal grudge to this Opp. Party has filed this appeal.
16. That the averments at the rest paragraphs are false and is here by denied.
17. That this Opp. Party submits the facts of the case that earlier ARSS company had taken the quarry on lease and his lease was expired. This Opp. Party further submits that the auction was held for the Kharbhuin stone

quarry No 1 in 2021-25-26 and this Opp. Party was successful bidder and there after the Tahasildar, Harbhanga by his latter no 961 dated 19.04/2021 intimated this Opp. Party as successful bidder and directed acceptance of terms and conditions of the OMMC rules and directed to deposit the amount of rupee 19.08.882.00/-and also further directed to executed a deed in respect of the said quarry.


The copy of the letter no 961 dated 19.04 20221 and later no 1058 dated 30.04.2021 issued by the Tahasildar Harbhanga ,Charichhaka to the Opp.Party are annexed herewith as **ANNEXURE A/1 and A/2.**

18.That After getting the intimation from Tahasildar ,Harbhanga this Opp. Party deposited the said amount within stipulated period as has been directed by the Tahasildar ,Hharbanga

The copy of the DD dated 29.04. 2021 is annexed herewith as **ANNEXURE A/3.**

19.That after depositing security amount with the authority, this Opp. Party approached them for execution of agreement but the authority delayed for mining plan and the mining plan was submitted by Research Qualified Person from their side and the mining authority did not handed over the mining plan to this Opp. Party for operation as the agreement of lease was not executed between the department and this Opp. Party for which this Opp. Party could not operate the same.

20.That this Opp. Party further submits that though there are three stone quarries are being operated in that area in one cluster. These stone quarries are kharbhui jungle stone Quarry No -1,kharbhui jungle Stone Quarry No-2 and kharbhui stone Quarry No-1 and so far as there three quarries are concerned they have got EC and are operating their respective quarry and this appellat has not made an allegation against these quarries so far

  
**B.K. NAYAK**  
 NOTARY  
 CUTTACK TOWN  
 Regd. No.ON-29/03

as the kharbhuin Stone Quarry No-1 is concerned it is better area than the other stone quarry areas and also the quarry has not yet being operated by the this Opp. Party because of the filing of this appeal by the appellant. This Opp. Party humbly submits that there is no allegation against other stone quarries though they are operating in one cluster and the quarry of the Opp. Party having fulfilled all the criteria, rule and regulation and in spite of this, the allegation made by the appellant is quite astonishing. This Opp. party further submits that this appellant with malafide intention has filed this case making allegation against this Opp. Party as he had tried to take this quarry on auction with some other bidders but he failed and he demanded huge money from the Opp. Party and having been denied by the Opp. Party this appellant to prevent him to operate the said quarry has filed this case. The appellant has a habit of illegal demand from the quarry operators in that area. This Opp. Party has deposited a huge amount with the authority.

21. That the Opp. party further submits that the forest clearance have been made so far his quarry is concerned and his quarry is not situated near in dense forest or any medicinal plants nor any wild life or nearby village people will be affected if it is operated. This Opp. Party further submits that after thorough inquiry, investigation and taking Geotech photographs and after verification from all angles as per the procedure, EC has been issued in favor of this Opp. Party which cannot be said as illegal as has been alleged by the appellant in his appeal.

22. That In view of the aforesaid facts and circumstances this Opp. Party humbly submits that the appeal filed by this appellant making false allegation against this Opp. Party, is illegal erroneous and liable to be dismissed with heavy cost.

23. That this Opp. Party also humbly submits that the EC has been issued to him is legal and after verifying from all aspects inquiry investigation inspection by the concerned departments keeping into safety and other precautionary major of environment, wild life, plants and the people of nearby area, the EC has been issued is legal and no illegality has been committed.

24. That the Opp. Party further submits that the paragraphs in the appeal which are not specifically denied are here by denied. This Opp. Party reserves his rights to make further r submission at the time of hearing or any additional documents if collected.

Kolkata

Date: 2/12/2024

By the Opposite Party No 12

Through advocate *[Signature]*

### Certificate

Due to non availability of cartridge paper this petition has been typed in thick white papers.

*[Signature]*  
Advocate

*[Signature]*  
**B.K. NAYAK**  
NOTARY  
CUTTACK TOWN  
Regd. No. ON-29/03

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**AFFIDAVIT**

I Krutibas Mishra, S/o Jogesh Mishra about 43 years residing At- Bhajbalpur, District- Subarnapur, odisha- do hereby solemnly affirm, and declare as under:

1. That I am the Opposite Party No.12 in the abovementioned appeal and competent to swear this affidavit.
2. That I have read over the contents of the accompanying reply and annexures and the same is true and correct and it is drafted on my instruction.

Identified by  
*[Signature]*  
Advocate.

*[Signature]*  
DEPONENT

**VERIFICATION:-**

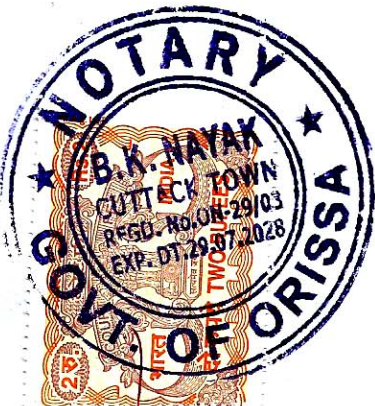
Verified on this the 2<sup>nd</sup> day of December 2024 at Cuttack, that the contents of the above affidavit are true and correct. No part of it is false and nothing materials have been concealed there from.

The deponent being identified by *[Signature]* Adv./Clerk swears on oath & solemnly affirms before me on dt: 02/12/2024 that the facts stated above are true to his/her knowledge

*[Signature]*  
Verificant

*[Signature]*

Notary for Cuttack Town  
Govt. of Orissa  
Regn No. ON-29/03



By Regd. Post

11

## FORM-F

Intimation of successful bidder  
[See Rule 10(11), 16(9), 27(6)]

OFFICE OF THE TAHASILDAR, HARABHANGA (CHARICHHAK)

Letter No 961 / Date 19/4 / 2021

From

Sri Sambhu Bhusan Mishra, OAS-A (JB)  
Tahasildar, Harabhanga (Charichhak)

To

Sri Krutibash Mishra,  
AT- Bhajbalpur, District- Subarnapur

Sub-

Intimation to successful bidder

Sir/Madam,

This is to intimate that you have been selected as the successful bidder for the quarry lease described below:

Sl. No.	Name of the source	Khata No.	Plot No.	Area	Kissam	Period of lease
1	Kharabhuin Stone Quarry-1	194	275/A	Ac. 07.00	Parbat	2020-21 to 2025-26

The amount of additional charge bid by you and accepted is Rs. 563.50 per cum.

The mining plan and Environmental Clearance for the said lease has not been obtained. The tentative selection is subject to the provision of the OMMC Rules, 2016 and to the terms and conditions annexed with the letter.

You are directed to convey your acceptance to the terms and conditions and to deposit an amount as prescribed under Rule 27 of OMMC rules, 2016. Proof of deposit of the aforesaid amount along with acceptance should reach the undersigned within 15 (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 quarry lease for the aforesaid area within the period specified in sub-rule (1) of rule 43 of the OMMC Rules, 2016.

Yours faithfully,

*(Signature)* 19.4.21  
(Sri Sambhu Bhusan Mishra, OAS-A(JB))  
Tahasildar, Harabhanga (Charichhak)  
Tahasildar, Harabhanga  
Charichhak

## OFFICE OF THE TAHASILDAR, HARABHANGA (CHARICHHAK)

Letter No 1058 / Date 30.04 / 2021

From

Sri Sambhu Bhusan Mishra, OAS-A (JB)  
Tahasildar, Harabhanga (Charichhak)

To

Sri Krutibash Mishra, S/o- Jagneyeswar Mishra,  
AT- Bhajabalpur, District- Subarnapur

Sub- Deposit of security deposit for the quarry lease

Ref- This office letter No 961 dated 19.04.2021 and your application dated 20.04.2021

Sir/Madam,

This is to intimate that you have accepted to take lease as per the charges communicated in the above letter in the following schedule land:

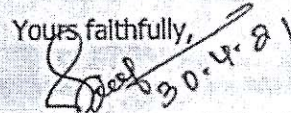
Sl. No.	Name of the source	Khata No.	Plot No.	Area	Kissam	Period of lease
1	Khrabhuin Stone quarry-1	194	275/A	Ac. 7.000	Parbat	2020-21 to 2025-26

You are directed to convey your acceptance to the terms and conditions and to deposit and amount prescribed under Rule 27(7) and directed to deposit the following amount as security for the lease within 15 days immediately.

1	Royalty/Annum (RATE@Rs.449/cum & MGQ@10080)	69,90,480.00
2	DMF (@10% OF Royalty)	6,99,048.00
3	Total	76,89,528.00
4	1/4 <sup>th</sup> of Total Amount	19,22,382.00
5	Earnest Money	13,500.00
6	Security Deposit	19,08,882.00

(Rupees Nineteen Lakh Eight Thousand Eight Hundred eighty two) only

Yours faithfully,



(Sri Sambhu Bhusan Mishra, OAS-A (JB))  
TAHASILDAR, HARABHANGA,  
(CHARICHHAK)  
Tahasildar, Harabhanga  
Charichhak

भारतीय स्टेट बैंक  
DHARMSALA(SAB)(DIST.SONEPUR)  
JE No: 09659  
/651-218171

मांगद्राफ्ट  
DEMAND DRAFT

Key: NOBLET  
Sr. No: 667640

2 9 0 4 2 0 2 1  
D O M M Y Y Y Y

मांगे जानेपर TAHASILDAR HARBHANGA (CHARICHHAK).....  
ON DEMAND PAY

या उनके आदेश पर  
OR ORDER

रुपये RUPEES

Nineteen Lakh Twenty Two Thousand Seven Hundred and Forty Two Only

अदा करें ₹ 1922742.00

IOI 000451627647 Key: NOBLET Sr. No: 667640  
Name of Applicant KRUTIBAS MISHRA

AMOUNT BELOW 1922743(077)

मूल्य प्राप्त / VALUE RECEIVED

भारतीय स्टेट बैंक  
STATE BANK OF INDIA  
अदाकर्ता शाखा / DRAWEE BRANCH: CHARICHAK SAB  
कोड क्र. / CODE No: 06659

प्रमाणित अधिकारी  
AUTHORISED SIGNATORY

KRUTIBAS MISHRA

कंप्यूटर द्वारा मुद्रित होने पर ही वैध  
VALID ONLY IF COMPUTER PRINTED

केवल 1 महीने के लिए वैध  
VALID FOR 1 MONTHS ONLY

₹ 1922742.00 से अधिक के अंशों के अंतर्गत प्राप्त होने वाले धन का ही वैध है।  
INSTRUMENTS FOR ₹ 1922743 & ABOVE ARE NOT VALID UNLESS SIGNED BY THIS OFFICER

⑈ 6 2 7 6 4 7 ⑈ 0 0 0 0 2 0 0 0 ⑈ 0 0 0 4 5 ⑈ 1 6



Durgaprasad Dhal <bapuji.dhal@gmail.com>

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## I am sharing 'NGT KOLKATA APPEAL' with you

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**Durgaprasad Dhal** <bapuji.dhal@gmail.com>  
To: Sankar Pani <sankarprasadpani@gmail.com>

Thu, Jan 9, 2025 at 12:47 PM

Sir,  
Please find herewith copy of the reply in Appeal no.11 of 2024

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 **NGT KOLKATA APPEAL.pdf**  
6122K



Durgaprasad Dhal <bapuji.dhal@gmail.com>

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## Reply affidavit on behalf of op.12.

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**Durgaprasad Dhal** <bapuji.dhal@gmail.com>  
To: Amrita Pandey <amritalegal@gmail.com>

Thu, Jan 9, 2025 at 6:19 PM

Please find attached herewith copy of reply affidavit on behalf of op [no.12.in](#) appeal no.11/2024.  
Regards.

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 **NGT KOLKATA APPEAL.pdf**  
6122K