

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

**ORIGINAL APPLICATION NO. 225 OF 2024 / EZ**

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**IN THE MATTER OF :**

Alaya Samantaray & Others                      ...Appellant

**VERSUS**

State of Odisha & Others                      ...Respondents

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3.	Photocopy of the direction U/s-33A of Water (PCP) Act, 1974 and Sec-31A of the Air (PCP) Act, 1981 was issued to the unit vide letter dtd.23.04.2024. <b>(ANNEXURE – R5/2)</b>	
4.	Photocopy of the consent to establish order No.241 dtd.26.02.2024. <b>(ANNEXURE – R5/3)</b>	

5.	Photocopy of the report of inspection carried out on 01.02.2025. <b>(ANNEXURE – R5/4)</b>	
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By the Respondent No.5

Through

Kolkata

Date:

**Sri Dipanjan Ghosh,**  
Advocates for the Respondent No.5  
(State Pollution Control Board, Odisha)  
e-mail: [dpnjnghsh0@gmail.com](mailto:dpnjnghsh0@gmail.com)  
Phone No.:990308097

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTER ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO. 225 OF 2024 / EZ

28 FEB 2025

Alaya Samantaray & Others ...Appellant

VERSUS

State of Odisha & Others ...Respondents

REPLY AFFIDAVIT ON BEHALF OF THE STATE  
POLLUTION CONTROL BOARD, ODISHA,  
R.NO.5.

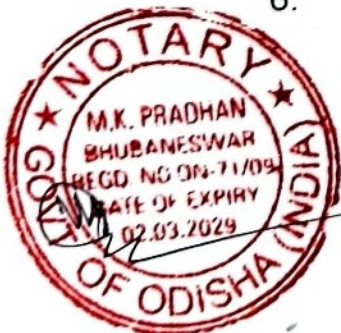
I, Dr. Kailasam Murugesan, IFS, son of late  
Paramasivam Kailasam aged around 56 years, at present  
working as Member Secretary, State Pollution Control Board,  
having my office at Paribesh Bhawan, A/118, Nilakantha Nagar,  
Unit-VIII, P.O. Nayapalli, Bhubaneswar, Dist – Khurda, Odisha-  
751012, do hereby solemnly affirm and state as under:

1. That I am the Member Secretary of the Respondent No.5  
Board and, as such, am well-acquainted with the facts and



circumstances with the case and competent to swear this affidavit.

2. That I have gone through the OA and understood the contents thereof.
3. That the applicant has filed the aforesaid OA alleging continuous encroachment of the Luna River Bed at Badapal, Marshaghai Tahasil in the district of Kendrapara by the R-8 in installing site camp and batching plant and dumping minor minerals which are being used for the construction of NH-53 and other activities that has adversely affected the riverine ecosystem and disturb the flow of the river Luna.
4. That the para wise reply to the aforesaid OA are given below:
5. That as regards the averments made in para-1 of the OA, the R-5 Board has no comments to offer.
6. That as regards the averments made in para-2 of the OA, it is reported by the Regional Officer of the R-5 at



Paradeep that the R-8 i.e. M/s. Rajbir Construction Pvt. Ltd, Jharkhand is the contractor of NH-53 and awarded 21 km stretch of NH-53 rehabilitation and upgradation of existing 4-lane road to 8-lane. The R-8 has established 2 nos. of cement concrete mix batching plants for construction of bridge of Luna river at Mouza-Badapala without prior approval of the R-5 Board. A public complaint was received by the Regional Officer at Paradeep of the R-5 Board and an investigation was carried out on dtd.02.04.2024 by the Regional Officer, Paradeep. Copy of the inspection report is annexed to this affidavit and marked as ANNEXURE – R5/1.

7. That as regards the averments made in para-3 to 7 of the OA, the R-5 Board has no comments to offer.
8. That as regards the averments made in para-8 of the OA, it is humbly submitted that the R-8 submitted application for consent to establish online to the R-5 Board for establishment of one hot mix plant, one WMM plant and 2 nos. of cement concrete mix batching plants at Mouza-



Badapala under Marshaghai Tahasil of Kendrapara district without submitting complete documents. Accordingly, clarification was raised through online for uploading the lacking documents within 7 days in order to process the application for consent to establish. But the R-8 unit has failed to submit the clarification within the stipulated time period of 60 days and accordingly, the consent to establish application was automatically rejected by the system.

The inspection report annexed as Annexure-R5/1 reveals that the R-8 has established 2 nos. of batching plants and site campus without prior approval of the Board at Mouza-Badapala, Tahasil-Marshaghai, Dist-Kendrapara. Out of 2 cement concrete batching plants, one was established in between NH-53 and Haridaspur-Paradeep Railway line and another cement concrete mix batching plant was established on the bank of River Luna. The cement concrete products from said batching plants was used for bridge construction over Luna river for ongoing rehabilitation and upgradation from 4 to 8 lane of Chandikhol to Paradeep (Km.76.588) of NH-53 from



Km.39.000 to Km.60.000 in the State of Odisha. The cement concrete mix (batching plant) is coming under Green Category of industry and requires to obtain consent to establish from the R-5 Board. Accordingly, on the basis of the finding of the inspection report at Annexure-R5/1, a direction U/s-33A of Water (PCP) Act, 1974 and Sec-31A of the Air (PCP) Act, 1981 was issued to the unit vide letter dtd.23.04.2024. A Copy of the said direction is annexed to this affidavit and marked as **ANNEXURE – R5/2.**

Further, it is humbly submitted that the R-8 unit has shifted the plant and machinery to a suitable location at Dutial Shyamsundarpur under Kendrapara Tahasil in the district of Kendrapara for which it had earlier obtained consent to establish from the R-5 Board. A copy of consent to establish order No.241 dtd.26.02.2024 is annexed to this affidavit and marked as **ANNEXURE – R5/3.**

After receipt of notice from the Hon'ble Tribunal the Regional Officer, Paradeep of the R-5 Board has carried out inspection on 01.02.2025 to verify the present



environmental scenario and flow of river Mahanadi and it was found during inspection that the R-8 has already dismantled and shifted the batching plants to a new location for which the Board has granted consent to establish vide Annexure – R5/3. That apart, the R-8 has also taken steps for cleaning the area where batching plants were established. Only camp office of the company is existing on the site and it was observed that the construction of bridge over Luna river is going on without any disturbing the riverine eco-system and the flow of river Luna. A copy of the report of inspection carried out on 01.02.2025 is annexed to this affidavit and marked as **ANNEXURE – R5/4.**

9. That the Respondent No. 5 Board craves leave of this Hon'ble Tribunal to file further affidavit if required for proper adjudication of this case.
10. That the Annexures annexed to the present affidavit are true and correct copies of their originals.



MANJULA KUMAR PRADHAN  
NOTARY PUBLIC  
BHUBANESWAR  
REGD NO ON-71/2009  
PH -9437627119 (M)

*[Handwritten signature]*  
28/02/25

11. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from the official records, and that nothing material has been concealed therefrom.

*[Handwritten signature]*  
**DEPONENT**  
Member Secretary  
State Pollution Control Board  
Odisha, Bhubaneswar

**VERIFICATION:**

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, as derived from official records, and that nothing material has been concealed therefrom.

Verified at Bhubaneswar on this the 28<sup>th</sup> day of February, 2025.



**SWORN BEFORE ME**

*[Handwritten signature]*  
**DEPONENT**  
Member Secretary  
State Pollution Control Board  
Odisha, Bhubaneswar

MANJULA KUMAR PRADHAN  
NOTARY PUBLIC  
BHUBANESWAR  
REGD NO ON-71/2009  
PH -9437627119 (M)

*[Handwritten signature]*  
28/02/25

**ANNEXURE-R5/1****Inspection Report on Public Complaint against M/s Rajbir Construction Pvt. Ltd., At Mouza- Badapala under Marshaghai Tahasil, Dist- Kendrapara.**

A public complaint has been received from one Sri Alaya Samantaray and others of village Masakani, Post- Jadupur, Via- Marshaghai, Dist-Kendrapara regarding establishment of two nos. of Cement Concrete Mix batching plants and site camp by M/s Rajbir Construction Pvt. Ltd., at mouza Badapala under Marshaghai Tahasil in the district of Kendrapara. The same complaint has also forwarded through Head Office of SPC Board, Bhubaneswar and received on dtd.06.04.2024. The alleged site was inspected on 02.04.2024 for the above made allegation and the following observations were made;

1. M/s Rajbir Construction had applied for Consent to Establish (CTE) online to the Board for establishment of one Hot Mix plant, one WMM plant and two nos. of Cement Concrete Mix batching plants at mouza Badapala, under Marshaghai Tahasil, Dist-Kendrapara without submitting some lacking documents. Clarification was raised in online application for uploading the lacking documents within 07 days for further processing of its CTE application.
2. As the unit was not complied the clarification within stipulated time period of 60 days the CTE application has been automatically rejected by the system.
3. During the visit to the alleged site, it was observed that M/s Rajbir Construction Pvt. Ltd. has been established two nos. of batching plants and site camps without prior approval of the Board at mouza-Badapala, tahasil-Marsaghai, Dist: Kendrapara. Out of two Cement concrete Batching Plant one is established in between NH-53 and Haridashpur-Paradeep Railway line and another Cement Concrete Mix Batching Plant is established on the bank of river Luna. The cement concrete product produced by the unit from said batching plants is used for bridge construction over Luna river for ongoing rehabilitation and up-gradation from 4 to 8 lane of Chandikhol (0.000) to Paradeep (Km.76.588) section of NH-53 from Km.39.000 to Km. 60.000 in state of Odisha.
4. Cement concrete mix batching plant is coming under the green category of industries and requires consent from the SPC Board, Odisha as per the provisions under Section 25 of Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of Air (Prevention & Control of Pollution) Act, 1981. However, the company has established and even started operating the cement concrete batching plants without obtaining consent to establish/operate from the Board.

**Recommendation**

In view of the above, a direction under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and section 31-A of Air (Prevention & Control of Pollution) Act, 1981 may be issued to the unit to stop all operational activities till consent to establish/operate is obtained from the Board.

  
Sri P. C. Behera  
Regional Officer

## ANNEXURE-R5/2



Tel: 06722-291044

Email: rospcb.paradeep@ospcbboard.org

Website: www.ospcbboard.org

**REGIONAL OFFICE OF THE  
STATE POLLUTION CONTROL BOARD, PARADEEP, ODISHA**

[DEPARTMENT OF FOREST & ENVIRONMENT, GOVERNMENT OF ODISHA]

1<sup>ST</sup> FLOOR, CMCE BUILDING, MARINE DRIVE ROAD, NUA SANDHAKUDA, PARADEEP  
JAGATSINGHPUR-754142

No 549 / RO/PDP/LEGAL/03Date 23-04-2024  
"By Speed Post/E-mail"

**DIRECTION UNDER SECTION 33-A OF WATER (PREVENTION & CONTROL OF POLLUTION) ACT, 1974 AND SECTION 31-A OF AIR (PREVENTION & CONTROL OF POLLUTION) ACT, 1981 AND RULES FRAMED THEREUNDER**

**Whereas**, you are operating two nos. of Cement Concrete Mix batching Plant at village Badapal under Marsaghai Tahasil in the district of Kendrapara without prior approval of the State Pollution Control Board, Odisha violating the provisions under Section 25 of Water (Prevention & Control of Pollution) Act, 1974 and Section 26 of Air (Prevention & Control of Pollution) Act, 1981.

**And whereas**, a public complaint has been received by this office against your unit and in this regard an investigation was conducted on 02.04.2024(copy of investigation report is enclosed).

**And whereas**, during the site inspection, it was found that you have already established and even started operating two nos. of Cement Concrete Mix Batching plant (one at mouza- Badapala and another on the bank of river Luna) Tahasil- Marsaghai, Dist:Kendrapara without prior approval of the Board.

**Now therefore**, you are directed to stop all operational activities forthwith and report compliance to the Board with immediate effect. Non compliance of the above direction shall be viewed seriously and action as deemed proper shall be initiated without giving any further notice.

To

M/s Rajbir Construction Pvt. Ltd.  
At: Badapala, PO: Garajanga,  
Via: Marsaghai,  
Dist: Kendrapara

  
REGIONAL OFFICER

Memo No. 550 /Dtd. 23-04-2024 /

Copy forwarded to the Collector and District Magistrate, Kendrapara, for favour of kind information and necessary action.

  
REGIONAL OFFICER

Memo No. 551 /Dtd. 23-04-2024 /

Copy along with Inspection report forwarded to the Tahasildar, Marsaghai, Dist:Kendrapara for kind information and necessary action.

  
REGIONAL OFFICER

Memo No. 552 /Dtd. 23-04-2024 /

Copy along with inspection report forwarded to the Private Secretary, SPC Board, Bhubaneswar for kind information and necessary action.

  
REGIONAL OFFICER

o/c

## ANNEXURE-R5/3



Tel: 06722-291044  
 Email: rospcb.paradeep@ospcbboard.org  
 Website: www.ospcbboard.org

**REGIONAL OFFICE OF  
 STATE POLLUTION CONTROL BOARD, PARADEEP, ODISHA**

[DEPARTMENT OF FOREST & ENVIRONMENT, GOVERNMENT OF ODISHA]  
 1<sup>ST</sup> FLOOR, CMCE BUILDING, MARINE DRIVE ROAD, NUA SANDHAKUDA, PARADEEP,  
 JAGATSINGHPUR-754142

No. 242 / RO/PDP/KP/IND/158

Dt. 26-02-2024

**OFFICE MEMORANDUM**

In consideration of the online application No.5420014 for obtaining consent to establish for M/s Rajbir Construction Pvt. Ltd., the State Pollution Control Board is pleased to convey its Consent to Establish under section 25 of Water (Prevention & Control of Pollution) Act, 1974 and section 21 of Air (Prevention & Control of Pollution) Act 1981 for establishment of one **Batching Plant, one Wet Mix Macadam Plant and one Hot Mix Plant for production of Ready mix Concrete- 6000 Cum/month, Wet Mix Macadam- 6500 Cum/Month and Hot Mix Asphalt- 7000 Cum/month respectively with a project cost of Rs. 4,78,46,000/-** at Mouza Dutial ( Plot Nos.187, 183,182,181 & 180/1785 of Khata nos. 649/602, 649/124, 351, 649,192 & 649/143 respectively) over an area of Ac. 2.039 PS/Tahasil kendrapara in the district of Kendrapara with the following conditions.

**GENERAL CONDITIONS:**

1. This consent to establish is valid for the product quantity, manufacturing process and raw materials as mentioned in the application form. This order is valid for five years, which means the proponent shall commence construction of the project within a period of five years from the date of issue of this order provided commencement of production of proposed project has not taken place in the mean time.
2. This consent to establish is granted for the capacity as mentioned above and any expansion in the capacity change or modification in the process addition, alternation any nature has to be under taken with prior approval of the Board. For any change in the site or area, fresh consent to establish has to be obtained from the Board.
3. If the proponent fails to start operation of the project, but substantial physical progress within five years then a renewal of this consent to establish shall be sought by the proponent.
4. The industry shall apply for grant of consent to operate under section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 for at least 3 (three) months before the commercial production and obtain consent to operate.
5. The consent to establish is granted subject to other statutory clearances from Govt. of Odisha and/ or Govt. of India as and when applicable.

**SPECIAL CONDITIONS:****A. General**

1. Industry shall provide adequate noise control systems to avoid any noise nuisance in its surrounding areas.
2. Unit has to develop and maintain green belt of recommended species of at least two rows all along the plant boundary and in vacant spaces.
3. Unit shall provide adequate sanitation facilities for its workers to avoid any open defecation and unhygienic condition in its surrounding areas.
4. The unit shall abide by all the provisions of E (P) Act, 1986 and the rules framed there under.
5. The Board may impose further condition or modify the conditions as stipulated in this order during installation / or at the time of obtaining consent to operate and may revoke this order in case the stipulated conditions are not implemented and / or information is found to have been suppressed / wrongly furnished in the application form.

**B. Water Pollution**

1. Domestic waste water shall be discharged to soak pit via septic tank to be constructed as per BIS specification.
2. Under no circumstances, there shall not be any discharge of wastewater from the plant to outside the premises.

**C. Air Pollution**

1. The dust containment cum suppression system shall be provided at all potential dust generating points of Hot Mix Plant, Batch Mix Plant & WMM plant for suppression of fugitive emission.
2. Adequate dust extraction with treatment system shall be provided at Hot Mix Plant so as to conform the prescribed standard of the Board i.e particulate matter 150mg/Nm<sup>3</sup>.
3. The ambient air quality inside the factory premises shall conform to the National Ambient Air Quality Standards.
4. The unit shall provide adequate sprinkling system inside the premises to avoid fugitive dust emissions.
5. The DG sets shall be installed of adequate capacity and the DG set shall be installed in an acoustically designed enclosure to control noise level and over anti vibration pads to avoid vibration.
6. The height of the stack attached to DG sets shall confirm the following.  

$$H = h + 0.2 \sqrt{KVA}$$
 where,  
 h = Height of the building where it is installed in meter,  
 KVA = Capacity of the DG set,  
 H = Height of the stack in meter above ground level.
7. The internal roads shall be metalled to prevent the fugitive emission due to plying of vehicles.
8. Regular cleaning and wetting of internal road and ground shall be maintained.

**D. SOLID AND HAZARDOUS WASTES**

1. The solid wastes, rejects generated during construction shall be collected & stored inside the factory premises & suitably disposed off in an environmentally friendly manner and in no case such waste shall be disposed off outside its premises.
2. The unit shall apply and obtain authorization under hazardous & Other Waste (management & Transboundary Movement) Rules, 2016 if applicable.

  
REGIONAL OFFICER

To

Sri Janmejaya Ojha, general Manager,  
M/s Rajbir Construction Pvt. Limited,  
At/Post: Plot No. 737, Samagudia,  
Dist: Kendrapara

Memo No. 242(4) / Dt. 26-02-2024 /

**Copy forwarded to:-**

1. The Member Secretary, SPC Board, Bhubaneswar.
2. The Collector & District Magistrate, Kendrapara.
3. The District Industries Centre, Kendrapara
4. Guard File

  
REGIONAL OFFICER

ok

**ANNEXURE-R5/4****Inspection report of M/S Rajbir Construction Pvt. Ltd., at Mouza- Badapal, Tehasil- Marshaghai Dist- Kendrapara.**

M/S Rajbir Construction Pvt. Ltd. Camp at Mouza Badapal under Marshaghai Tehasil in the district of Kendrapara was inspected on 01.02.2025 to verify the present environmental scenario and flow of river Mahanadi.

During the inspection it was observed that M/S Rajbir Construction Pvt. Ltd. has already dismantled and shifted the batching plants to a new location after obtaining CTE from the Board. It has also cleaned the area where batching plants were established. Only camp office of the company is existing on the site. Further it was observed that the construction of bridge over Luna River is going on without any disturbing the riverine ecosystem and the flow of the River Luna.

  
**Sri P. C. Behera**  
**Regional Officer**