

**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOKATA.**

Original Application No.190 of 2024/EZ

IN THE MATTER OF:

M/s Bhagwati Stone Crushers	Applicants
Versus		
Union of India	Respondents

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PAUSHALI BANERJEE

ADVOCATE

7A, KIRON SHANKAR ROY ROAD,

KOLKATA-700001



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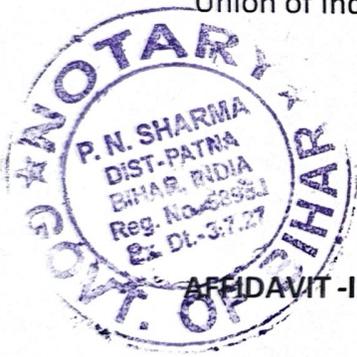
M/s Bhagwati Stone Crushers

.....Applicants

Versus

Union of India

.....Respondents



AFFIDAVIT -IN-REPLY ON BEHALF OF APPLICANT TO THE AFFIDAVIT OF THE DFO.

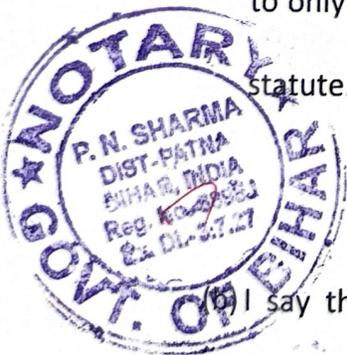
I, Manoj Kumar aged about 48 years Son of Danvir Prasad resident of New Colony, Nimdih, Chaibasa, District Singhbhum West, Jharkhand, PIN-833201, by occupation Business, partner of M/s Bhagwati Stone Crushers, a registered partnership firm having its registered office at New Colony, Nimdih, Chaibasa, District Singhbhum West, Jharkhand, PIN-833201, do hereby solemnly affirm and say as follows:

NO. 243
Sri/Smt Manoj Kumar
Who is Identified By Sri Ruk
Advocate solemnly affirmed and
declared before me

(Signature)
P.N. SHARMA
Notary Public, Patna

1. That I am the partner of M/s Bhagwati Stone Crushers, I am well acquainted with the facts and circumstances of the case and I have been duly authorized to affirm this affidavit on behalf of M/s Bhagwati Stone Crushers.
2. I say that before dealing with the Affidavit affirmed on 01/02/25 by the respondent no.4 (herein after referred to as the said Affidavit), I say the following stated hereinunder :
 - (a) I say that the Apex Court in Kanai Lal Sur v. Paramnidhi Sadhukhan, 1958 (1) SCR 360 the first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself. It is a cardinal principle applicable to all kinds of statutes that one may not for any reason attach to a statutory provision a meaning which the words of that provision cannot reasonably bear. The Apex Court opined in (2018) 8 SCC 501 State (NCT of Delhi) v. Union of India interpretation is resorted to only when there is some ambiguity in words or expression used in the

statute.



- (b) I say that there is no ambiguity that delineation of Mining Zone and Conservation Area/No Mining Zones in Saranda and Chaibasa in West Singhbhum district in the M. B Shah Commission of Inquiry and the

Management Plan for Sustainable Mining, is specific to iron and manganese ore only and therefore cannot be extrapolated to minerals other than iron and manganese ore. There is absolutely no ambiguity in the words of the Management Plan for Sustainable Mining, which can create any confusion with regard to its applicability to any other minerals other than Iron ore and Manganese.

(c) I say that it is the duty of the respondent authority is to act upon the true intention of the Management Plan for Sustainable Mining, without misinterpreting the Management Plan for Sustainable Mining and strangely applying it to the Applicant, when the Applicant deals with stone mine and not with iron ore and manganese ore.

3. Now I propose to deal with each of the allegations contained in the said Affidavit in seriatim. Save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations contained in the said Affidavit shall be deemed to have been denied by this Applicant. I have been advised to traverse only those portions of the said Affidavit which are material for the purpose of disposal of the Original Application.

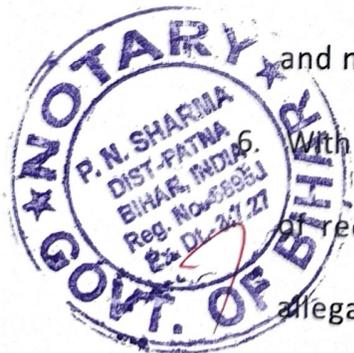
4. With regard to paragraph 1,2,3 , 5, 6, 7,8 , 9 and 10 save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations are denied. In paragraph 10 of the



said affidavit the respondent no.4 accepts that the genesis of the report of Management Plan for Sustainable Mining (MPSM) and Delineation of Mining Zone and Conservation Area/No Mining Zones in Saranda and Chaibasa in West Singhbhum district is the M. B Shah Commission of Inquiry which was specific to iron and manganese ore only. I repeat that the Management Plan that is specific to iron and manganese ore only cannot be extrapolated to minerals other than iron and manganese ore.

5. With regard to paragraph 11 save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations are denied. I say that the counter affidavit accepts that the Term of Reference (ToR) given to Indian Council of Forestry Research and Education (ICFRI), Deharadun was to conduct carrying capacity study to suggest annual capacity for iron ore/manganese ore production. Hence any report pursuant to such a carrying capacity study would have no bearing at all on minerals other than iron ore and manganese ore.

With regard to paragraph 12,13 & 14 save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations are denied. I say that Para 12 of counter affidavit admits



that this carrying capacity study was conducted due to geological nature of deposit of iron and manganese ore primarily in the notified forest land over which section 2 of the Forest (Conservation) Act, 1980 is applicable. Hence this MPSM report is primarily to protect/check undue diversion of forest land for iron and manganese ore mining. The objective is to extract/finish all iron and manganese ore from diverted forest land before allowing fresh diversion of forest land for mining of iron and manganese ore. This acceptance on the part of the respondent authority proves that there is no application of report of MPSM on non forest land having no deposit of iron and manganese ore.

7. With regard to paragraph 14,15,16 & 17, save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations are denied. I say that the report of the respondent no.4 is annexed with the Application that although the report clearly states that there are no reserved forest or wildlife sanctuary within 10 kilometres of the stone mine of the Applicant, but thereafter again, it is stated in the report of respondent no.4 that the stone mine of the Applicant falls within the no mining zone (which is the no mining zone for mining of iron ore and manganese and is not at all related to the Applicant). At the cost of



repetition, I state that there is no application of report of MPSM on non forest land having no deposit of iron and manganese ore. In paragraph 17 of the said Affidavit, the respondent no.4 cannot shift the onus to the Jharkhand State Pollution Control Board after having wrongly reported it as no mining zone for stone.

8. I say that with regard to paragraphs 18,19,20,21 & 22 save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations are denied. I repeat that that the Management Plan that is specific to iron and manganese ore only cannot be extrapolated to minerals other than iron and manganese ore, more over, there is no application of report of MPSM on non forest land having no deposit of iron and manganese ore. The report of MPSM is not at all applicable in case of the Applicant.
9. With regard to paragraphs 23,24,25,26,27,28,29,30,31,32 & 33 save and except what are matters of record and/or specifically admitted by me hereinafter all other allegations are denied. I say that the maxim Expressum Facit Cessare Taciturn [Expressum facit cessare tacitum- Expression precludes implication] which means that 'where there is express mention of certain things then anything not mentioned is excluded'. The Apex Court in **B. Shankara Rao Badami v. State of**



Mysore (AIR 1969 SC 453) opined that the well-known maxim is a principle of logic and common sense and not merely a technical rule of construction. The Management Plan is specific to iron and manganese ore and other minerals are not mentioned in the Plan, the minerals not mentioned are therefore excluded from the ambit of the Plan. The Plan elaborates no mining zone only for iron and manganese ore so it can not be applied to stone mine of the Applicant.

10. I say that the annexure M to the said Affidavit is the Letter of MOEF dated 23/08/22 that simply states that "no assessment study shall be taken up for the fresh delineation of conservation zones/ mining zones....". This letter of MOEF dated 23/08/22 have no bearing in this matter.

11. I say that no case has been made out in the said Affidavit, therefore the relief claimed in the said Application may be allowed.



VERIFICATION

I, the deponent above named do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge which are derived from the relevant office records. No part of it is false and nothing material has been concealed there from.

Verified at PATANA on this 07 March, 2025 .

Ms. BHAGWATI STONE CRUSHER
Ms. Bhagwati
Partner
DEPONENT



7/3/25

I identified the Signature of the deponent who has signed before me

Rajesh Kumar
Advocate
07/03/2025
E.N. 489/23