

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
EASTERN ZONE BENCH, KOLKATA  
APPEAL NO.11 OF 2024/EZ**

Naresh Majhi .....Applicant

-Versus-

State of Odisha & Ors. ....Respondents

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Cuttack.  
Dated 17.04.2025

By the Respondent No.3 through

Addl. Govt. Advocate

SANJAY RATH, Aca

MOB: 9861022612

e-mail: adv.sanjayrath@gmail.com


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

**APPEAL NO.11 OF 2024/EZ**

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**COUNTER AFFIDAVIT FILED ON BEHALF**  
**OF RESPONDENT NOS. 1, 2 & 3.**

I, Baladev Behera, aged about 53 years, Son of late Abhimanyu Behera, at present working as Tahasildar, Harabhanga, Dist: Boudh, Odisha, do hereby solemnly affirm and state as follows:-

1. That, I am working as Tahasildar, Harabhanga, hereinafter referred to as the answering Respondent No.3 and have been duly authorized by the Respondent No.1 & 2 to swear this affidavit on their behalf.
2. That, I have gone through the contents of the Original Application as well as the annexures appended thereto and have understood the contents thereof. I am well acquainted with the facts of the case.
- 3.3. That, the present appeal has been filed inter alia, praying for a direction to quash EC dated 10.07.2024 granted in favour of the Respondent No.12 lessee pertaining to Kharbhuin-1 Stone Query in Boudh

*Baladev Behera*


  
**B. MISHRA**  
**NOTARY, CUTTACK**  
**ODISHA**

district along with other ancillary prayers. Instead of giving specific parawise replies to the averments raised in different paragraphs of the Appeal, the deponent humbly seeks to canvas the following points for kind consideration of this Hon'ble Tribunal and for just and effective adjudication of the matter.

4. That, the re-tender process for Kharabhuin-1 Stone Quarry initiated as per OMMC (Amendment) Rules, 2016 was initiated being published in the Odia local dailies, the 'Sambad' and the 'Samaj' on 26.02.2021 and in the said tender process the Respondent No.12 lessee i.e. Krutibash Mishra became the successful bidder. Intimation was accordingly issued to him vide letter No.961, dated 19.04.2021 and he was requested to convey his acceptance to the required terms and conditions as well as deposit the amount as prescribed under the OMMC Rules, 2016 within 15 days. On 30.04.2021 the Respondent No.12 accepted the required terms and conditions and deposited the security amount of Rs.19,22,742.00 through demand draft. However, despite the aforesaid the Respondent No.12 lessee has not been able to operate the quarry in any manner till date because the Environment Clearance (EC), which is the subject matter of challenge in the present appeal, came to be issued in his favour on 10.07.2024. Thereafter also, due to opposition by the local villagers and pendency of the present appeal, the Respondent No. 12 lessee has not

*Balwinder Mishra*

X

been permitted to execute the lease agreement with the Mining Officer, Boudh.

5. That, M/s. ARSS Infrastructure Project Ltd., Kharabhuin being represented by Sri Ajaya Kumar Swain (plant-in-charge) was the previous lessee who had been operating the quarry for the period from 2016-17 to 2020-21. During operation of the quarry by the previous lease holder there was sustained local opposition by the villagers on various grounds. In this regard, numerous notices were issued by the present deponent to M/s.ARSS Infrastructure Project Ltd., Kharabhuin on 02.12.2021, 22.02.2022 & 21.12.2022. Thereafter, due to excess extraction/excessive mining of 679, 965 cum of stone a demand notice was issued to the previous lessee inter alia, directing for deposit of Rs.10.34.22.676.50/-. As the said amount has not yet been deposited by the previous lessee steps are being taken for realization of the same by initiating appropriate OPDR proceedings. It is pertinent to mention here that the-then Additional District Magistrate, Boudh, Sub-Collector, Boudh along with the Tahasildar visited the site, approached the villagers and conducted discussion with them repeatedly but the same did not yield any result. Again to redress their demands the-then Collector, Boudh called the villagers for discussion on 25.09.2021 but no improvement occurred.

Balender Bedha

B. MISHRA  
NOTARY, CUTTACK  
ODISHA

Copy of notice dated 02.12.2021, 22.02.2022 and 21.12.2022 issued by the Tahasildar, Harabhangra are appended herewith and marked as ANNEXURE – A/3 Series for kind perusal of this Hon'ble Tribunal.

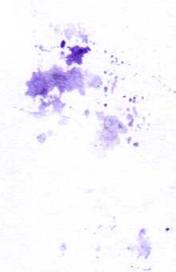
6. That, at the cost of repetition it is humbly reiterated that Kharbhui-1 Stone Quarry is currently non-operational and the Respondent No.12 lessee has not been able to undertake any mining activity on the same. It is however apt to mention at this juncture that Kharbhui - 1 Stone Quarry is located approximately 830 meters away from the nearest habitation. This is well beyond the minimum distance of 200 meters prescribed by the CPCB Norms for quarries involving blasting, and 100 meters for non-blasting operations. The quarry's location ensures that its operation does not pose a direct threat to the safety of nearby residents of structures. Given the significant distance of the quarry from habitations there is no immediate risk to the safety or well-being of the villagers.
7. That, it is most humbly submitted that the present deponent along with other local authorities have taken all possible steps to protect and safeguard the environment. Similarly all steps have been taken to protect and safeguard the interest of the local villagers as well as to address the inconveniences and problems faced by them.

*B. Mishra*

**B. MISHRA**  
**NOTARY, CUTTACK**  
**ODISHA**

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X



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- 8. That, the averments/assertions/allegations made in the Original Application which are not specifically admitted by this deponent shall be deemed to have been denied. This deponent craves leave of the Hon'ble Tribunal to file further affidavit, if required at the time of hearing.
- 9. That, in view of the above submissions made by the Respondent No.3, the prayer made in the original application is devoid of any merit and liable to be rejected.
- 10. That, the facts stated above are true to the best of my knowledge and based on official records.

Identified by

*[Signature]*  
 Advocate

*[Signature]*  
**DEPONENT**  
 Tahasildar, Harabhanga  
 (Charichhak)

**VERIFICATION**

I, Baladev Behera, aged about 53 years, Son of late Abhimanyu Behera, at present working as Tahasildar, Harabhanga, Dist: Boudh, Odisha, 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 there from.

Verified at Cuttack on this the 17<sup>th</sup> day of April, 2025.

Solemnly Sworn before me by... *Baladev Behera*  
 being identified by... *S. Patt* Advocate  
 at Cuttack dated... *17/04/2025*

**VERIFICANT**

*[Signature]*  
 Tahasildar, Harabhanga  
 (Charichhak)

*[Signature]*  
 B. MISHRA  
 NOTARY, CUTTACK  
 ODISHA



Annexure - A/3 Series



**ତହସିଲଦାରଙ୍କ ଅଦାଲତ, ହରଭଙ୍ଗା (ଚାରିଛକ)**

ନୋଟିସ  
ମାମଲା ସଂଖ୍ୟା . 17/2021 // ପ୍ରୋସେସ ନଂ. 190/2.12.2021 //

ପ୍ରାପ୍ତେଷୁ

ଶ୍ରୀ ଅବନ୍ତ କୁମାର ସ୍ୱାଇଁ, plant-in-charge of  
ARSS Infrastructure Project Ltd.  
ଖରଭୂଇଁ

ମହାଶୟ/ ମହଶୟା,

ଏତଦ୍ୱାରା ଆପଣଙ୍କୁ ଜଣାଇ ଦିଆଯାଉଅଛି ଯେ କ୍ଷେତ୍ର କର୍ମଚାରୀ କି ମୁଗ୍ଧ ତଦତ ସମୟରେ ଦେଖାଗଲା ଯେ ଆପଣ ଖରଭୂଇଁ - I ପଥର ଖାଦାନ ରୁ ବେଆଇନ ଭାବରେ ପ୍ରାୟ ୬୭୯୯୭୫ cum ପଥର ଉତ୍ତୋଳନ କରିଛନ୍ତି ଏହାର ରୟାଲିଟି ବାବଦକୁ ମୋଟ ଟ.୧୦୩୪୨୨୭୭୭.୫୦ ଏବଂ ଚୋରିମାନା ଟ.୫୦୦୦୦୦.୦୦ ଦରଜ କରଯାଇଅଛି । ଏଣୁ ଆପଣ ମୋଟ ୧୦୩୯୨୨୭୭୭.୫୦ ଟଙ୍କା ତହସିଲ କାର୍ଯ୍ୟାଳୟ ହରଭଙ୍ଗା ଠାରେ ଏହି ନୋଟିସ ପ୍ରାପ୍ତ ହେବାର ୧୫ ଦିନ ମଧ୍ୟରେ ଦାଖଲ କରନ୍ତୁ ନଚେତ ନିୟମାନୁଯାୟୀ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ଗ୍ରହଣ କରାଯିବ ।

*13/12/21*  
ତହସିଲଦାର, ହରଭଙ୍ଗା  
TAHASILDAR, HARABHANGA  
ଚାରିଛକ CHARICHHAK

*Ajeet Kumar Swain*  
13/12/2021

*Ajeet Kumar Swain*  
13/12/2021  
Tahasildar, Harabhanga  
(Charichhak)

OFFICE OF THE TAHASILDAR, HARABHANGA  
(CHARICHHAK)

Case No.17/2021

Process No.190/02.12.2021

To

Sri Ajay Kumar Swain, Plant-in-charge of ARSS  
Infrastructure Project Ltd, Kharbhuin.

Sir/Madam,

It is to intimate you that on joint verification of  
by field staff that it has been revealed that you have  
been extracted 679965 cum stone illegally for which  
royalty amounting to Rs.10,34,22,677.50 & penalty  
of Rs.5,00,000.00, totaling to Rs.10,39,22,677.50.  
Therefore, you are directed to deposit  
Rs.10,34,22,677.50 in Tahasil Office Harbhanga  
within 15 days after receiving this notice otherwise  
action will be taken as per rule.

Tahasildar, Harabhanga

Translated Copy  
attenu

*[Signature]*  
21/12/21

Tahasildar, Harabhanga  
(Charichhak)

ତହସିଲଦାରଙ୍କ ଅଦାଲତ, ହରଭଙ୍ଗା (ଚାରିଛକ)

ନୋଟିସ

ମାମଲା ସଂଖ୍ୟା. 17/2021 //

ପୋଷେସ ନଂ. 52/22.02.2022

ପ୍ରାପ୍ତ

ଶ୍ରୀ ଅକ୍ଷୟ କୁମାର ସ୍ୱାଇଁ, plant-in-charge of  
ARSS Infrastructure Project Ltd.  
ଖରଭୁଇଁ

ଦ୍ରଷ୍ଟବ୍ୟ- ପୋଷେସ ସଂଖ୍ୟା ୧୯୦/୦୨.୧୨.୨୦୨୧

ମହାରାଜ/ ମହଶୟା,

ଏତଦ୍ୱାରା ଆପଣଙ୍କୁ ଜଣାଇ ଦିଆଯାଉଅଛି ଯେ କ୍ଷେତ୍ର କର୍ମଚାରୀ କି ମୁଗ୍ଧ ତଦନୁସାରେ ଦେଖାଯାଇ  
ଯେ ଆପଣ ଖରଭୁଇଁ - I ପଥର ଖାଦାନ ରୁ ବେଆଇନ ଭାବରେ ପ୍ରାୟ ୬୭୯୯୨୫ cum ପଥର ଉତ୍ତୋଳନ କରିଛନ୍ତି  
ଏହାର ରୟାଲିଟି ନାବଦକୁ ମୋଟ ଟ.୧୦୩୪୨୨୭୭୭.୫୦ ଏବଂ ଜୋରିମାନା ଟ.୫୦୦୦୦୦.୦୦ ଦରଜ କରାଯାଇଅଛି ।  
ଏଣୁ ଆପଣ ମୋଟ ୧୦୩୯୨୨୭୭୭.୫୦ ଟଙ୍କା ତହସିଲ କାର୍ଯ୍ୟାଳୟ ହରଭଙ୍ଗା ଠାରେ ଏହି ନୋଟିସ ପ୍ରାପ୍ତ ହେବାର ୭ ଦିନ  
ମଧ୍ୟରେ ଦାଖଲ କରନ୍ତୁ ନଚେତ ନିୟମାନୁଯାୟୀ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ଗ୍ରହଣ କରାଯିବ ।

ଶ୍ରୀ ଅକ୍ଷୟ କୁମାର ସ୍ୱାଇଁ  
ତହସିଲଦାର, ହରଭଙ୍ଗା  
ଚାରିଛକ

Sampurnanarayana Singh  
28.2.22

True copy certified  
In  
18/4/22  
Tahasildar, Harabhanga  
(Charichhak)

Translation copy of 52/22.02.2022

OFFICE OF THE TAHASILDAR, HARABHANGA  
(CHARICHHAK)

Case No.17/2021

Process No.52/22.02.2022

To

Sri Ajay Kumar Swain, Plant-in-charge of ARSS  
Infrastructure Project Ltd, Kharbhuin.

Sir/Madam,

It is to intimate you that on joint verification of  
by field staff that it has been revealed that you have  
been extracted 679965 cum stone illegally for which  
royalty amounting to Rs.10,34,22,677.50 & penalty  
of Rs.5,00,000.00, totaling to Rs.10,39,22,677.50.  
Therefore, you are directed to deposit  
Rs.10,34,22,677.50 in Tahasil Office Harbhanga  
within 07 days after receiving this notice otherwise  
action will be taken as per rule.

Tahasildar, Harabhanga

Translation Copy of 52/22.02.2022  
he  
10/4/21  
Tahasildar, Harabhanga  
(Charichhak)

Annexure - A/3 Series

Through Special Messenger



OFFICE OF THE TAHASILDAR, HARABHANGA (CHARICHHAK)

Letter No. 4443

date 21.12.2022

To

Sri Ajay Kumar Swain, Plant-in-charge of  
ARSS Infrastructure Project Ltd, Kharbhuin

Sub: Deposit of Royalty &amp; Penalty.

Ref: This office Process no. 190 dt- 2.12.2021 in RMC No. 17/2021

This office process no. 52 dt. 22.02.2022.

This office letter no. 4278 dt, 02.12.2022

With reference to the letter on the subject cited above, you had been directed to deposit the royalty amounting to **Rs.10,34,22,677.50** & penalty of **Rs. 5,00,000.00** totaling to **Rs.10,39,22,677.50** in the head of account of Harabhanga Tahasil relating to kharbhuin-1 stone quarry as you have extracted excess minor mineral stone from the Kharbhuin stone quarry-1.

Hence, you are once again directed to deposit the said amount to this office within 15 days unless Certificate Case shall be instituted under OPDR Act, 1962 to recover the same.

*21.12.22*  
Tahasildar, Harabhanga  
Tahasildar, Harabhanga  
Charichhak

Memo No. \_\_\_\_\_ / Dt \_\_\_\_\_

Copy submitted to the Collector, Boudh for favour of kind information & necessary action.

*For copy collection*  
*10/12/22*  
Tahasildar, Harabhanga  
(Charichhak)

Sd/-  
Tahasildar, Harabhanga