

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO 176 OF 2024

IN THE MATTER OF:

GIRIDHARI DAS

APPLICANT

VERSUS

STATE OF ODISHA AND ORS

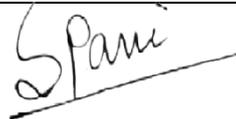
RESPONDENTS

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PLACE: Bhubaneswar

DATE: 22/05/2025



SANKAR PRASAD PANI

ADVOCATE

Plot 2132/4814, NageswarTangi, Bhubaneswar 751002 Cell-9437279278,

Email: sankarprasadpani@gmail.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**EASTERN ZONE BENCH, KOLKATA**

**Under Section 19(4) (i) read with 18(1) of National Green Tribunal Act,
2010**

ORIGINAL APPLICATION NO -176 OF 2024

IN THE MATTER OF:

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APPLICANT

VERSUS

STATE ODISHA AND OTHERS

RESPONDENTS

OBJECTION BY RESPONDENT-12 TO THE AFFIDAVIT FILED

BY RESPONDENT NO.-4 DATED 16/05/2025

I, MADHUSUDAN PALAI, S/O LATE BINAYAK PALAI, aged about 48 years. At/ JHARIA Po- BADAPARI, Dist-Khordha, Odisha do hereby solemnly affirm, and declare as I am the Respondent 12 in the abovementioned application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

1. It is humbly submitted that the Present Original application has been filed by Sri Giridhari das who is the lessee of Bariko Stone Quarry and previously an Original Application No 5 of 2024 registered and pending before this Hon'ble Tribunal where in the allegation is that the lessee started quarry operation prior to grant of Consent to Operate and transfer of Environment Clearance. In addition to this the lessee/the applicant in

the present OA is illegally quarrying from private and government plots in the garb of a lease agreement. The Sarapanch of the Ramachandrapur Gram Panchyat and villagers have oppose the illegal mining beyond lease area and complained to the authorities. Hence this application is filed against the present respondent as pressure tactics and counter litigation to derail the proceeding in OA 5 of 2024.

2. That the Present Respondent is the elected Sarpanch (Panchayat Head) of the village Jharia and also the applicant in the OA-5/2024-EZ. That the Present Respondent consistently fighting against the illegal mining and raising the issues of illegal mining.
3. That while the IA No.122/2024 for maintainability of the present OA is pending before this Hon'ble Tribunal the DM and other members have proceeded with Environmental compensation to the alleged illegal mining and issued demand notice against the present respondent and other persons who have not been arrayed as respondent in the present Original Application.
4. That the report of Environmental compensation is prepared without giving any opportunity to the present respondent and the report is a unilateral one and the same is in violations of principles of natural justice
5. The Environmental compensation which has been imposed against the present respondent is only and only on ground of that the present

respondent is the legal heir of the recorded tenant wherein the alleged illegal laterite quarry took place.

6. It is further submitted that at no point of time the Present Respondent has been engaged in any kind of illegal mining or transportation of mineral and never the state authority have made any kind of proceeding against the present respondent. In the present case the applicant who is a mining lessee and against whom an OA-5/2024-EZ has been filed in respect of mining in violation of mining laws and mining beyond lease area and the said lessee has filed the present application so as to harass the present Respondent and derail the proceedings in OA 5 of 2024 EZ.
7. Even the applicant have not filed a single document/evidence suggesting on going mining operation, suggesting any kind machines are being engaged by the present Respondent, any kind of involvement in transportation of illegally excavated minor minerals or any kind of previous proceedings/actions taken against Present Respondent, hence the application itself is a clear case of bald allegation wherein the land owners where the alleged mining took place have not been impleaded
8. That the Environmental compensation for the illegal mining does not disclose the period of mining, who did that mining, when it has been done and simply the present respondent has been issued the demand notice only for being the legal heir of the land owner, hence there is no case against the Present Respondent for any kind of illegal mining other

than being the legal heir of the land record where the alleged illegal mining took place.

9. It is further submitted that the old pits exists on the lands have been measured by the DDM Khordha and same could not be a case of any illegal mining for the reason the period of mining has not disclosed in the demand notice, There is a limitation of 6 moths for bringing notice of any kind of mining operation, There is exemption for the domestic use in constructing their own house, Exemption for developing the land for agricultural purposes and none of the issues considered while issuing the demand notice.
10. In this regard the present respondent has also filed objection before DDM Khordha on dated 26/04/2025, which has not considered as of now. Copy of the objection letter dated 26/04/2025 is annexed unto as **ANNEXURE-1**.
11. It is further submitted that in the volume calculation report which has been annexed with the affidavit of District Magistrate dated 15/052025 it is categorically mentioned that usable laterite is 366.53 cum and waste material is 366.53 cum however that while giving the demand notice the DDM Khordha have not excluded the waste material and issued a demand notice for 366.53 cum of laterite and 366.53 cum of morrum.
12. It is further submitted that the DDM has ignored the allegation of illegal mining by the present applicant simply by saying that the pits are old

hence cannot be measured but while dealing with the present case the same has not considered by the DDM Khordha. The standard and the reason they have given so as not to measure the illegal mining by the present applicant hence the demand notice issued against the present respondent is a clear case of dual standard and a case to harass the Present Respondent who has consistently fighting against the illegal mining and raising the issues of illegal mining and that makes the authority uncomfortable.

13. That even though there is a clear sign of illegal mining to the contiguous plots of the mining lease area of the Applicant but that has not been marked as illegal mining area and the DDM has not assessed the excavated minerals from that contiguous plot on the contrary witch hunting made against the present Respondent who is a whistled blower and who is bringing the illegal mining to the notice of authorities and Courts.
14. That the present Respondent on dated 22/10/2014 along with the villagers made a representation before the concerned authorities regarding the illegal mining in Ramcahndrapur, Bariko and Singarama Mouza of Khordha District and on the basis of that complaint a writ petition was filed before the Hon'ble High Court of Orissa at Cuttack bearing WP(C) No. 24273 of 2014, and during the hearing of the case the Hon'ble High Court of Orissa has observed *"This appears to be a*

serious matter as the Govt. officials have themselves acknowledged the fact of illegal mining, yet no steps have been taken by them to stop the same” copy of the order dated 02/05/2016 passed in the matter of WP(C) No. 24273 of 2014 is annexed here unto as **ANNEXURE-2**.

15. That the present application also may be de-tagged from OA 5/2024/EZ considering the case are different and independent of each other.
16. That in view of the afore mentioned submissions the demand notice dated 17/04/2025 issued against the present Respondent may be set-aside, the IA 122/2024-EZ for maintainability of the OA may be taken up and decided.

Bhubaneswar

22/05/2025

By the Applicant Through



ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO -176 OF 2024/EZ

IN THE MATTER OF:

GIRIDHARI DAS

APPLICANT

VERSUS

STATE OF ODISHA AND Others ...

RESPONDENTS

AFFIDAVIT

22 May 2025

MADHU SUDAN PALAI S/O LATE BINAYAK PALAI aged about 48 years At-Jharia Po-Badapari, Dist- Khordha do hereby solemnly affirm, and declare as under:

- 1. That I am the Respondent 12 in the above mentioned Original Application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying affidavit and the same is true and correct and is drafted on my instruction.

Madhu sudan palai DEPONENT

VERIFICATION

Verified on this 22 May of 2025 at BBSR that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Identified By Advocate Apalmy 07/18/23

Madhu sudan palai DEPONENT



The above named deponent(s) being duly identified by Sri... Advocate, Bhubaneswar Appears before me on 22 May 2025 at A.N./G.M. States on oath the contents of this affidavit are true to the best of his / her / their knowledge and belief.

JANMEJAYA RAUTRAY NOTARY, GOVT. OF ODISHA BHUBANESWAR REGD. NO-ON-86/2012 Mob No. - 9337121273

Deponent(s) Notary, Bhubaneswar

ANNEXURE-1

To

The Deputy Director of Mines,

Khordha Circle, Khordha

Sub- Reply to Demand letter no 812/Mines Khordha/ Dt. 17.04.2025, received on 23/04/2024

Sir,

We the undersigned noticee wish to bring following facts to the letter issued by your good office.

That all of a sudden we have received this demand notice for paying 12,28,266/- on dated 17/04/2025, it is pertinent to mention here that there is no reference to the period of mining activity, whether any seizure of machinery are being done by the mining department, whether any person caught hold while doing mining in the private plot No. 693 of Khata No. 213/18 under Mouza- Bariko under Tangi Tahasil, no such reference has been given in the notice about the period of mining operation is being done. It is needless to mention here that the plots which were mentioned in the notice were excavated for domestic purposes such as Construction of House, Land Development for agricultural purpose by the ancestors of the present noticee almost around 50 years back when there was no law for mining of minor mineral and no concept of Environmental Clearance. This situation is prevalent throughout the district as because the whole area is a laterite region, so there was no alternative material available at that point of time for construction of house. Hence in every household one can find small burrows in their private land for purposes like agricultural, pond and housing construction.

We are surprised to find the demand notice for payment with in 7days without any opportunity of hearing. There has been never even any kind of measurement in presence of us and you have not disclosed the period of mining. So by any random complaint pertinently by a known mining mafia namely Giridhari Das in the locality who is engaged in the business of illegal mining for so many years and without any evidence of ongoing operation of the old pits excavated long back by

the ancestors is now being put to notice to the legal heirs after passage of so many years is bad in law and violation of principle of natural justice.

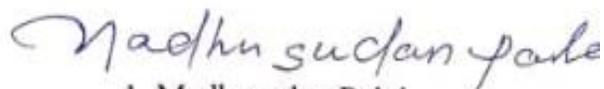
Hence we request this notice is to be revoked immediately for being not disclosing the period of mining when it took place and just because the present petitioners are the legal heirs of the owner of the land in whose name it is recorded can not be saddled with a huge amount of penalty without referring to any law on which basis the notice is being issued selectively to the present undersigned noticee.

Needless to state that when nobody is caught for mining or their machines are engaged or instance of transit of minerals at any point of time, the old pits made 50 years ago by the ancestors when there was no such prohibition for which the penalty amount can not be imposed on the successors/ legal heirs .

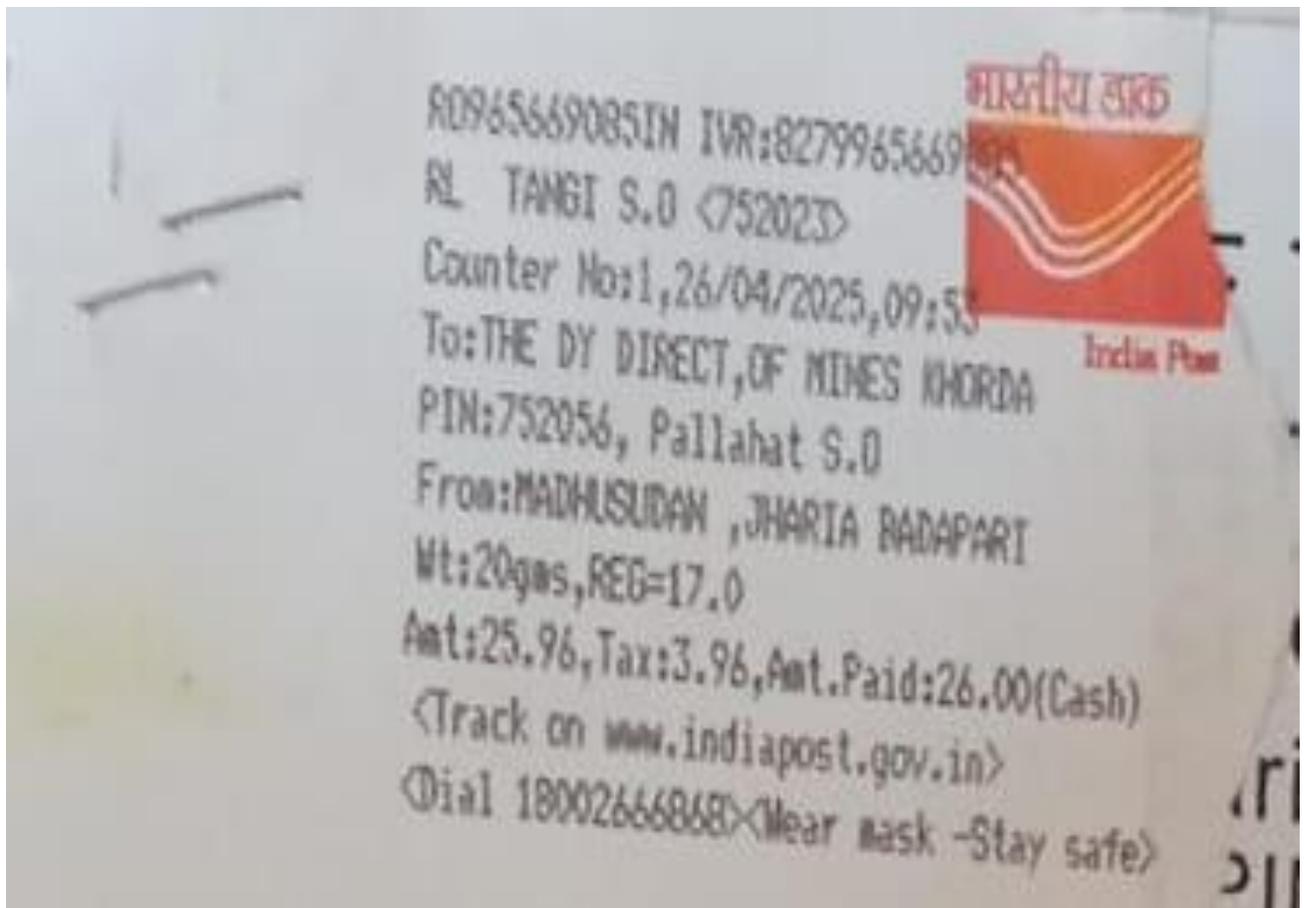
It is further pertinent to mention here that the noticee of the present notice were never engaged themselves in mining of laterite or morrum nor they have engaged any kind of vehicles for mining purpose nor the noticee ever got caught during transportation of minor minerals at any point of time, so without any evidence of involvement of the present noticee in illegal mining, you can not held liable to the present noticee for the excavation done by the ancestors for domestic purposes.

Hence we request you to reconsider the notice and revoke the notice for not in consonance with law as well as violation of principles of natural justice.

Sincerely


I. Madhusudan Palei





W.P.(C) No. 24273 of 2014

02. 02.05.2016 This writ petition has been filed in the nature of Public Interest Litigation bringing to the notice of the Court with regard to illegal mining of laterite stones in the area in question. Along with the writ petition, reports of the Govt. officials have also been filed vide Annexure-2 to the writ petition indicating that illegal mining is going on in the area in question.

This appears to be a serious matter as the Govt. officials have themselves acknowledged the fact of illegal mining, yet no steps have been taken by them to stop the same.

Learned Addl. Govt. Advocate appearing on behalf of the State-opp. parties may file counter affidavit within ten days.

List it on 12.05.2016.

(VINEET SARAN)
CHIEF JUSTICE

.....

....

(DR. B.R. SARANGI)

JUDGE



Sankar Pani <sankarprasadpani@gmail.com>

OBJECTION BY R-12 IN OA 176/2024-EZ

1 message

Sankar Pani <sankarprasadpani@gmail.com> Thu, May 22, 2025 at 3:52 PM
To: Anup Pattnaik <anuppattnaik.757@gmail.com>, Aishwarya Dash <aishwaryadash010@gmail.com>, Dipanjan Ghosh <dpnjnghsh0@gmail.com>, apurba ghosh <apu7law@gmail.com>

Dear Sir/Madam, Please find the attachment.

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Sankar Prasad Pani, Environment Lawyer
National Green Tribunal Kolkata & Orissa Highcourt
Res-Plot No 2132/4814(B), Nageswar Tangi,
Bhubaneswar, 751002
Cell- 9437279278
Skype- sankar.pani

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