

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO- 225 OF 2024
IN THE MATTER OF:**

ALAYA SAMANTARAY

APPLICANT

VERSUS

STATE OF ODISHA &ORS ...

RESPONDENTS

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PLACE: BHUBANESWAR

SANKAR PRASAD PANI

ASHUTOSH PADHY

DATE: 28/05/2025

S.Pani *A.Padhy*

ADVOCATE

Bubaneswar 751002, Cell-9437279278,
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OBJECTION TO THE AFFIDAVIT FILED BY RESPONDENT-5, ODISHA
STATE POLLUTION CONTROL BOARD DATED 28/02/2025

I, Alaya Samantaray, S/o Late Bhagirathi Samantaray, aged about 35 years At-Masakani, PO-Jadupur, Via-Marshaghai, Kendrapara,754213, hereby solemnly affirm and declare as under;

1. That I am the Applicant in the above mentioned Original Application. I am fully conversant with the facts and circumstances of the case . That on dated 27/01/2025 the affidavit of service in respect of private respondent has been filed.
2. That the Para 6 of the affidavit dated 28/02/2025 admits that the private respondent 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.**

3. Further Para 8 of the affidavit dated 28/02/2025 admit that the private respondent made online 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 same para further says that Private Respondent has established 2 numbers of concrete batching plant at site campus without prior approval of the board at mouza- Badapala and it further admits one cement concrete mix batching plant **was established in the banks of river Luna.**
4. It is further admitted by the board that a direction Under Section 33A of Water (Prevention and Control of Pollution) Act, 1974 and 33A of Air (Prevention and Control of Pollution) 1981 Act was issued to the unit on dated 23/04/2024. The same para further states that the Regional Officer Paradeep has carried out inspection on 01/02/2025 to verify the present environmental scenario and flow of river and found the batching plant is shifted to a new location **only camp office of the company is existing in the site** and it was observed that the construction of the bridge is going on without disturbing riverine eco system and flow of river Luna
5. The applicant submits that when the private respondent admittedly established and operated the cement concrete mix batching plant without any approval from the SPCB then this becomes a case of violation of environment norms and while issuing closure notice, **the State Pollution**

Control Board should have computed environment compensation for the period of operation without any permission and should have initiated prosecution U/S 43 of Air (Prevention and Control of Pollution) Act 1981 and U/S 49 of Water (Prevention and Control of Pollution) Act, 1974 for operating the plant without prior approval of the Board as such the establishment of plant without consent is offence U/S 21 of the Air (Prevention and Control of Pollution) Act 1981.

6. Section 24 & 25 of the Water (Prevention and Control of Pollution) Act, 1974 says that,

24. Prohibition on use of stream or well for disposal of polluting matter, etc.—(1) Subject to the provisions of this section,—

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [stream or well or sewer or on land]; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:—

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

25. Restrictions on new outlets and new discharges. [(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage: Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988 (53 of 1988), for which no

consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed. [(4) The State Board may—

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30,—

(a) the expression “new or altered outlet” means any outlet which is wholly or partly constructed on or after the commencement of this Act or which

(whether so constructed or not) is substantially altered after such commencement;

(b) the expression “new discharge” means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

7. It is submitted that the inspection was conducted on dated 01/02/2025 suggesting the construction of bridge over Luna river is on going without obstructing the flow of river Luna and does not say anything about the material stock yard and impact of camp office, hutments for laborers, waste generated out of the hutments and open defecation has not been dealt in the report
8. Needless to state that the inspection was carried out in the month of February when the water flow in the river receded hence the inspection report is incomplete and does not give a clear picture of the impact of the activities carried out by the private respondent in the bank of Luna river
9. Needless to state that the report also confirms the camp office is existing on the banks of Luna river.
10. It is submitted that the report is half baked and trying to withhold information from this Tribunal by giving a two line report instead of a detailed report thereby there is apparent dereliction of the duty on the part of inspecting authorities

**INACTION OF THE STATE RESPONDENTS / TAHASILDAR
MARSHAGHAI**

11. That in this regard the first complaint was made by the present applicant to Tahasildar Marshaghai and other state respondents is of **19/02/2024** and it has been more than 15 months but no action has been taken as on date despite of the admitted fact that the construction of camp office, batching plant, material stock yard, hutments, is all on the banks Luna River bed for which no permission has been granted by Tahasildar or the Water Resources Department and surprisingly the demarcation and eviction have also not taken place by the Tahasildar despite a request from the Assistance Executive Engineer, Irrigation Sub- Division Patakura from 19/04/2024.
12. The notice has been issued in this matter on 27/11/2024 wherein the respondents have been asked to file their responses within 4 weeks and the four week deadline is already over since 25/12/2024 and it has been now nearly six months the order of the Tribunal has not been complied, this attitude of State Respondent for not filing the reply and not taking any action against of the private respondents is a willful disobedience of the order of the Hon'ble NGT inviting invocation of section 26 of the NGT Act 2010. The applicant prays the Hon'ble Tribunal may pass coercive order against the State Respondents for not complying the order of Hon'ble Tribunal.

13. It is pertinent to mention here that from the google earth image dated 28th Feb 2025, the construction materials and camp office still exist on the Luna River Bed. Further suction pumps used to illegally dredge sand from river for the construction purposes. Copy of Google earth image dated 28th Feb2025 is annexed here with as **Annexure-1**

APPLICANT THROUGH

S. Panigrahi A. Padhy

ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO - 225 OF 2024/EZ

IN THE MATTER OF:

ALAYA SAMANTARAY

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

AFFIDAVIT

I, Alaya Samantaray Aged about 35 years S/o Late Bhagirathi Samantaray, At- Masakani, PO-Jadupur, Via-Marshaghai, Kendrapara, 754213, Odisha, do hereby solemnly affirm, and declare as under:

1. That I am the applicant in the above mentioned Original Application. 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.

Alaya Samantaray
DEPONENT

VERIFICATION

Verified on this the 28th day of May 2024 at Bhubaneswar 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
28/05/23

Alaya Samantaray
DEPONENT



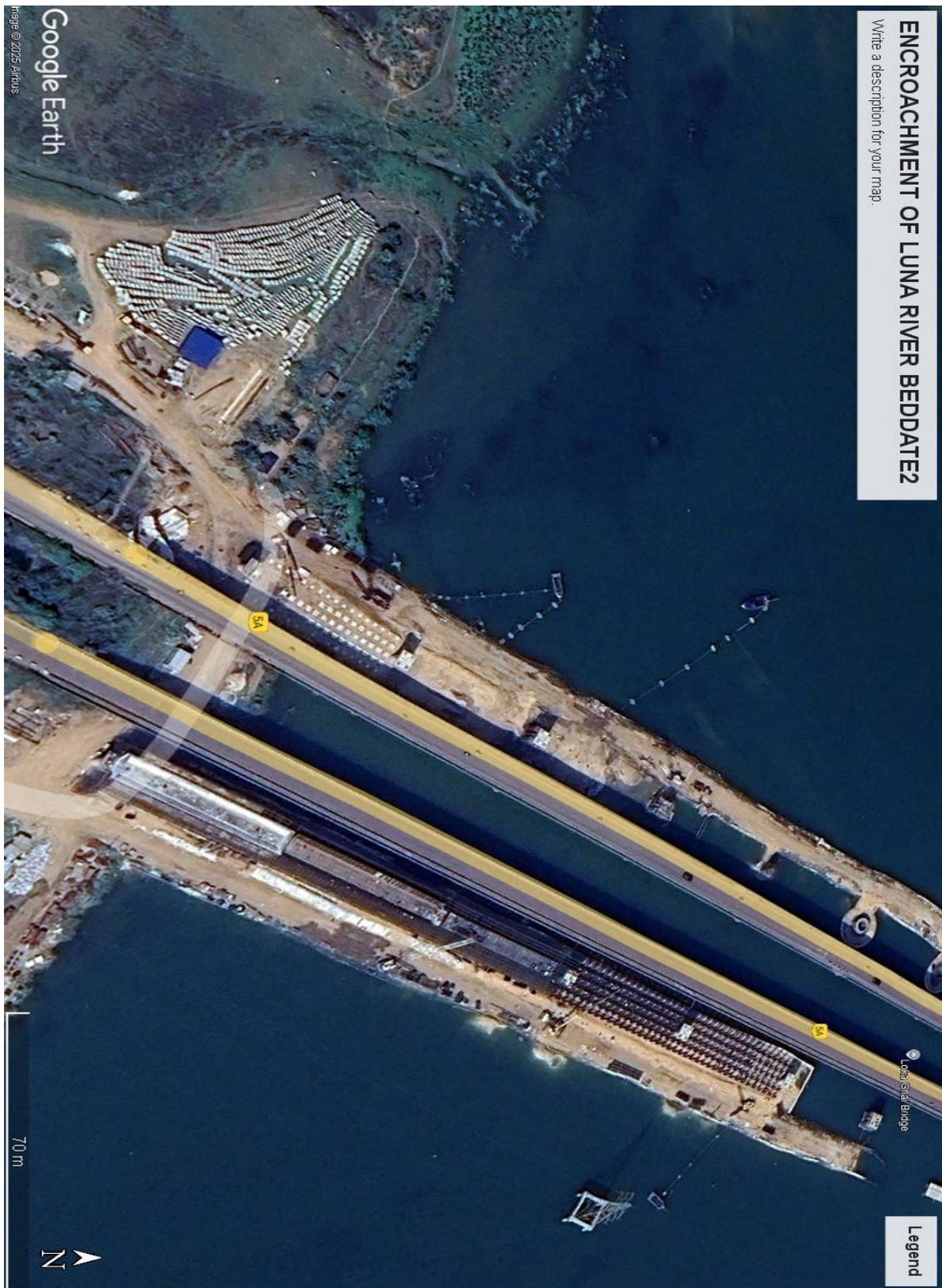
Deponent above named being duly
Identified by Sri. A. Padhu
Advocate at appears before me on dt.
28/05/23 at about 12:45 P.M.
and states on oath, that the contents
of this affidavit are true to the best
of his/her knowledge.

Biswatosh Banarj
Regd. No-46698/2025
Dist-Kherdha, BBSR, Odisha
Date-12/03/2030
Mob.: 9090720540

ANNEXURE-1

That the below attached google earth image dated 28th Feb 2025, the construction materials and camp office still exist on the Luna River Bed. Further suction pumps used to illegally dredge sand from river for the construction purposes.





Write a description for your map.

Legend





Sankar Pani <sankarprasadpani@gmail.com>

Objection affidavit on behalf of applicant in OA 225/2024 EZ.

1 message

Sankar Pani <sankarprasadpani@gmail.com>

Wed, May 28, 2025 at 1:16 PM

To: Prabhu Prasanna Behera <prabhuprasanna89@gmail.com>, Dipanjan Ghosh <dpnjngsh0@gmail.com>

Dear Sir, please find the attachment.

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**OBJECTION.pdf**

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