

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO. 68 OF 2025 / EZ**

Dushmanta Kumar Bal

..... Petitioner / Applicant

Vs.

State of Odisha & Ors.

..... Respondent / Defendant

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SPCB Odisha, Respondent.No.6 & 7

Through

*Papiya Banerjee Bihani*

Kolkata

Date:

**Smt. Papiya Banerjee Bihani**  
Advocates for the Respondent No.6 & 7  
(State Pollution Control Board, Odisha)  
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
 EASTERN ZONE BENCH, KOLKATA  
 ORIGINAL APPLICATION NO. 68 OF 2025 / EZ

04 JUL 2025

Dushmanta Kumar Bal ...Applicant

VERSUS

State of Odisha & Others ...Respondents

REPLY AFFIDAVIT ON BEHALF OF  
 STATE POLLUTION CONTROL  
 BOARD, ODISHA, R.NO.6 & 7.



I, Smt. Uma Nanduri, IFS, wife of Sri Prem Kumar Jha, IFS aged around 58 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.6 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 averments made in the O.A. and understood the contents thereof.
3. That this Hon'ble Tribunal while adjudicating the case vide their order dtd.15.04.2025 at para-18 have been pleased to constitute a committee comprising the following members:
  - i)Collector & District Magistrate, District-Jajpur or his representative not below the rank of Additional District Magistrate (ADM).
  - ii)Senior Scientist, Odisha State Pollution Control Board; and
  - iii)Director of Mines, Directorate of Mines, Government of Odisha, Khordha, Bhubaneswar or his representative.

And directed the committee to visit the site in question and thereafter submit an inspection report on affidavit with regard to the allegation made in the OA. The Collector & District Magistrate, Jajpur has been declared as the Nodal Office for all logistic purposes and for filing the inspection report on affidavit.



4. That in compliance to the said direction the Board has nominated Er. Madan Mohan Sahu, Regional Officer of this Board at Kalinga Nagar to represent the committee on behalf of the Board and intimated the same to the Collector, Jajpur vide letter No.8992 dtd.06.05.2025. A copy of the letter dtd.06.05.2025 is annexed to this affidavit and marked as **ANNEXURE – R6/1**.
5. That the committee consisting of Addl. District Magistrate (Revenue), Jajpur, Regional Officer, SPC Board, Kalinga Nagar, Deputy Director (Tech-Geology), Director of Minor Minerals, Odisha, Bhubaneswar, Deputy Director of Mines, Directorate of Mines and Geology, Odisha, Bhubaneswar and Deputy Director of Mines (Minor Minerals), Jajpur have visited the site on dtd.08.05.2025 and submitted the enquiry report. The said report has been filed by the Collector & DM, Jajpur, which has also been taken note of by the Hon'ble Tribunal in their order dtd.19.05.2025.
6. That in the joint enquiry report, the Regional Officer of this Board at Kalinga Nagar (R-7) is also one of the



signatory and the para wise observations / findings of the committee on allegation raised in the OA has been annexed along with supporting documents.

7. That it is stated that the R-6 Board has adopted the affidavit filed on behalf of the Collector & DM, Jajpur (R-4) producing the joint enquiry report in terms of direction dtd.15.04.2025 of this Hon'ble Tribunal. However, it is clarified that the consent to operate granted in favour of the lessee Sri Sarat Kumar Jena in respect of Aruha Black Stone Quarry (Cluster SI.No.2/3) and the lessee Sri Manoj Kumar Samal in respect of M/s. Aruha Black Stone Quarry upto 31.03.2025 has not been extended and both the units were not in operation as observed during visit of the committee on dtd.08.05.2025.
8. That in para-50, 51 & 52 of the OA, the applicants have raised the applicability of provisions of the Prevention of Money Laundering Act, 2002. As regards the said averments, it is humbly submitted that the Hon'ble Supreme Court of India in response to Civil Appeal No.6398/2024 in the matter of Waris Chemicals Pvt. Ltd.



v. Uttar Pradesh Pollution Control Board vide their order dtd.09.01.2025 have dealt with the jurisdiction of NGT to direct prosecution of an individual under the Prevention of Money Laundering Act, 2002. A copy of the order dtd.09.01.2025 of the Hon'ble Apex Court is annexed to this affidavit and marked as **ANNEXURE – R6/2.**

9. That the R.No.6 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.
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.



  
**DEPONENT**  
Member Secretary  
State Pollution Control Board  
Odisha, Bhubaneswar

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**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 4<sup>th</sup> day of July, 2025.



**SWORN BEFORE ME**

**DEPONENT**  
Member Secretary  
State Pollution Control Board  
Odisha, Bhubaneswar

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



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## STATE POLLUTION CONTROL BOARD, ODISHA

[DEPARTMENT OF FOREST AND ENVIRONMENT, GOVERNMENT OF ODISHA]  
Paribesh Bhawan, A/118, Nilakanthanagar, Unit - VIII,  
Bhubaneswar - 751 012, INDIA

No. 8999  
VII - L - Misc - 1209

Date: 6-5-25

Speed Post / E-mail

To

The Collector & District Magistrate  
Jajpur.

Sub: OA No.68/2025/EZ - Dusmant Kumar Bal v. State of Odisha & Others - regarding illegal operation of road metal quarries in Aruha cluster No.2.

Sir,

The Hon'ble NGT, EZB, Kolkata while adjudicating the OA vide their order dtd.15.04.2025 at para-18 has been pleased to constitute a committee comprising of the following members:

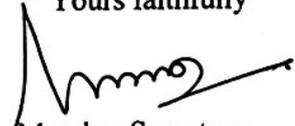
- i. Collector & District Magistrate, District-Jajpur or his representative not below the rank of Additional District Magistrate (ADM).
- ii. Senior Scientist, Odisha State Pollution Control Board; and
- iii. Director of Mines, Directorate of Mines, Government of Odisha, Khordha, Bhubaneswar or his representative.

And directed that the committee shall visit the site in question and thereafter submit an inspection report on affidavit within four weeks with regard to the allegations made in the OA. The Collector & DM, Jajpur shall be the Nodal office for all logistic purposes and for filing the inspection report on affidavit. The case is posted to 19.5.25 for hearing.

Sri Madan Mohan Sahoo (Mob-7325891702), Regional Officer, Kalinga Nagar of this Board has been nominated to represent the committee constituted by the Hon'ble Tribunal on behalf of the Board. Copy of OA and order dtd.15.04.2025 is enclosed for compliance of the direction of the Hon'ble Tribunal.

Encl: As above.

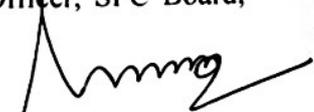
Yours faithfully

  
Member Secretary

Memo No. 8993 / Date: 6-5-25

E-mail / Speed Post

Copy along with copy of enclosure forwarded to the Regional Officer, SPC Board, Kalinga Nagar for information and necessary action.  
Encl: As above.

  
Member Secretary

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6398 OF 2024

WARIS CHEMICALS PVT. LTD. ...Appellant(s)

Vs.

UTTAR PRADESH POLLUTION CONTROL BOARD ...Respondent(s)

O R D E R

Heard the learned counsel appearing for the appellant and the learned counsel for the respondent.

2. Pursuant to the order dated 27<sup>th</sup> September, 2019 passed by the National Green Tribunal (for short, "the NGT"), New Delhi, the respondent-Uttar Pradesh Pollution Control Board (for short, "the PCB") undertook the exercise of making determination of the Environmental Compensation payable by the appellant and others. The compensation was to be computed for causing pollution of the ground water due to the storage of hazardous chromium waste in village Khan Chandpur, Rania, Kanpur Dehat. It was found that the waste was of the quantity of 62225 MT. An order was made on 19<sup>th</sup> November, 2019 signed by the Regional Officer after obtaining approval of the PCB of fixing the compensation. A statutory appeal was preferred by the appellant against the

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said order before the NGT. In the impugned judgment, the NGT recorded disapproval to the manner in which Environmental compensation was determined by the PCB. Paragraphs 146 and 147 of the impugned judgment read thus:

"146. We also express our disapproval to the manner in which environmental compensation has been determined by RO UPPCB, Kanpur Dehat. On the one hand, it has applied the formula of  $EX+Q \times ERF \times R$  but for determining value of Q., it has not considered the contribution of appellant as such but taking total quantity of dumped waste at questioned site as 62225 MT, it has divided the same by taking appellant's production capacity of 4 MT/day in proportionate to other unit's production capacity and on that basis, has arrived at the quantity of waste differently on all the three occasions.

147. Learned Counsel for UPPCB did not dispute that the total quantity of waste collected at the questioned site reflected the period of 1976 and onwards but admittedly, appellant commenced its production only in 1995, therefore, for the waste dumped at the questioned site prior to 1995, no liability could have been fastened upon the appellant. In a mechanical manner, entire quantity of 62225 MT has been divided proportionately between six units initially and thereafter, eleven units and then eight units respectively. We express our strongest disapproval to the manner in which RO UPPCB has acted in this case."

3. After recording the said findings, the NGT recorded a finding of fact that the appellant generated waste of quantity of 5643.75 MT and by adopting certain formula, fixed the Environmental Compensation at Rs.25,39,68,750/-. Another finding with which the appellant has a grievance is in paragraph 230 of the impugned judgment which reads thus:

"230. We, accordingly, answer issue VII holding that appellant having violated the provisions of Water Act, 1974, Air Act, 1981 and EP Act, 1986, therefore is also liable for action under PMLA 2002."

4. After recording a finding that the manner in which the Environmental Compensation was computed by the PCB was not correct, the only logical order which the NGT could have passed was to remand the matter to the PCB for redetermination of Environmental Compensation in accordance with law. Therefore, to that extent, the impugned order will have to be set aside.

5. Now, we come to paragraph 230 of the impugned judgment. Firstly, we find that complaints alleging the commission of the offences under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 were not even filed on the date on which the impugned judgment was passed by the NGT. There is no material placed on record to show that the complaints were filed even thereafter.

6. Our attention is invited to paragraph 382.8 of a decision of a Bench of the three Hon'ble Judges of this Court in the case of *Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.* which reads thus:

"382.8. The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money laundering. The authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the court of competent jurisdiction, there can be no offence of money laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."

(underline supplied)

7. In the facts of the case, there is neither a registration of First Information Report for any scheduled offence under the Prevention of Money Laundering Act, 2002 (for short "the PMLA") nor any complaint is filed alleging the offences under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of

Pollution) Act, 1981 and the Environment (Protection) Act, 1986. In the absence of existence of the scheduled offence, the proceedings under the PMLA cannot be initiated.

8. There is a serious doubt about the jurisdiction of the NGT to direct prosecution of an individual under the PMLA. However, we are not going into this question, as the direction contained in paragraph 230 will have to be even otherwise set aside.

9. The appeal is partly allowed by setting the direction contained in clause (I) of paragraph 232 of the impugned judgment as well as by setting aside that part of paragraph 230 which holds the appellant liable for action under the PMLA.

10. The order dated 28<sup>th</sup> May, 2020 of the Regional Officer, PCB, Kanpur Dehat, which was impugned before the NGT shall stand set aside and a fresh exercise shall be undertaken by the PCB for determination of the Environmental Compensation payable by the appellant in accordance with law.

.....J.  
(ABHAY S.OKA)

.....J.  
(UJJAL BHUYAN)

NEW DELHI;  
January 09, 2025.

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ITEM NO.119

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6398/2024

WARIS CHEMICALS PVT. LTD.

Appellant(s)

VERSUS

UTTAR PRADESH POLLUTION CONTROL BOARD

Respondent(s)

(IA No. 111914/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 09-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s)

Mr. Ninad Laud, Adv.  
Mr. Ashok Kumar Tripathi, Adv.  
Mr. Swarnendu Das, Adv.  
Mr. Umesh Kumar Shukla, Adv.  
Mr. Sarthak Pathak, Adv.  
Ms. Ishani Shekhar, Adv.  
Mr. Gajendra Singh Negi, Adv.  
Mr. Subhro Prokas Mukherjee, AOR

For Respondent(s)

Mr. Arvind Kumar, Adv.  
Ms. Anuradha Mishra, Adv.  
Mr. Abhay Kumar Mishra, Adv.  
Mr. Ankit Kumar Vats, Adv.  
Mr. James Bedi, Adv.  
Ms. Anuradha Mishra, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is partly allowed in terms of the signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

(Signed order is placed on the file.)