

**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA
O.A. NO. 05 OF 2024.**

In the matter of:

Madhusudan Palai.....Applicant

-Versus-

State of Odisha and Ors..... Respondents

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Kolkata

By the Respondent through

Adv. Anup Kumar Pattnaik

Dt. 02/08/2025

Adv. Anup Kumar Pattnaik,
O-546/2014; Ph no. 9438011661

Giridhari Das.

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**BEFORE THE NATIONAL GREEN TRIBUNAL,
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-Versus-

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**OBJECTION BY RESPONDENT NO.-11 TO THE
AFFIDAVIT FILED BY RESPONDENT NO.-2 & 4.**

I, Giridhari Das, aged about 47 years, S/o. Radha Charan Das, R/o. Vill./P.O. - Badapari, P.S.- Tangi, Dist. - Khordha, Odisha, do hereby solemnly affirm and state as follows:-

1. That, I am the respondent no.11 in the present case and therefore authorised to swear this rejoinder affidavit.

2. That, I have gone through the contents of the rejoinder affidavit filed by the respondent nos. 2 and 4. Therefore, after understanding the same I hereby tender my reply to the averments made in the counter affidavits filed by the respondents in a comprehensive manner for the kind perusal of this Hon'ble Tribunal.



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Giridhari Das

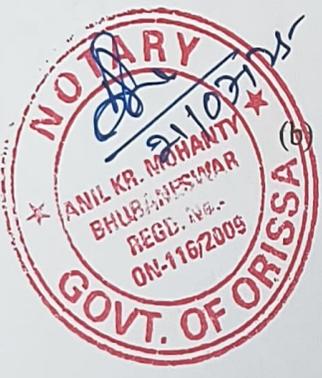
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3. That, the present Original Application has been filed by the Applicant inter-alia alleging serious violations of environmental and regulatory norms by present Respondent No.11, M/s. Bariko Laterite Stone Quarry. The allegations raised in the Original Application are reiterated for the kind consideration of this Hon'ble Tribunal, are as follows:

(a) It is alleged that Respondent No.11 is illegally operating the stone quarry outside the permitted lease area and is carrying out extraction activities from various unauthorised plots.

It is further alleged that the said quarry operations have led to the felling of approximately 100 trees, both from the Gochar land (grazing land) and from adjoining private holdings, thereby causing irreversible environmental damage.

(c) It is further alleged that the Respondent No.11, although permitted to extract only 1500 cum of laterite stone from the leased area, has fully operated the entire extent of 2.173 acres, and in addition, has illegally extended quarrying operations to Government and private lands



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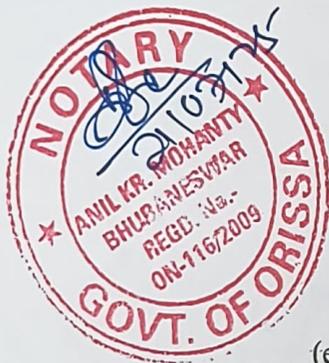
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which do not fall within the approved lease boundary.

- (d) That, it is further alleged that, on a bare calculation, conversion of 1500 cubic metres into surface area of quarrying at 1 metre depth would translate into an operational footprint of only 0.37 acres. However, the permission granted allowed for quarrying up to a depth of 6 metres, which would further reduce the area of permitted surface operation to approximately 0.06 acres. Hence, any mining activity beyond 0.06 acres, it is alleged, would be deemed unlawful, particularly if the volume extracted has already exhausted the permissible limit.

- (e) It is further alleged that the laterite stone quarrying activities by Respondent No.11 commenced prior to the grant of Consent to Operate.

4. That with regards to the allegation concerning excessive excavation, it is humbly submitted that the Deputy Director of Mines, Khordha and the Mining Officer, Khordha with the help of technical team of ORSAC have already assessed the quantum of excavation of minor minerals made from the alleged stone quarry scientifically and as per the report of



Gaidhari Das.

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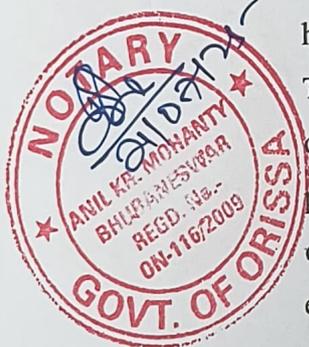
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ORSAC, a quantum of 6107.622 cum of material has been excavated from Bariko Laterite quarry during the period from between 21.12.2020 to 01.12.2023. However, considering the period from the date of agreement of the quarry dated 28.01.2021 to 01.12.2023, the excavation period is considered to be 2 years & 10 months.

5. That according to the approved mining plan, during the period of 2 years and 10 months, the lessee was entitled to excavate nearly 9,000 cubic meters including both usable and unusable rock mass, but, it has been ascertained from the case record of Tahasil, Tangi and from the "i4MS portal", that total 4394 cum of laterite has been transported by the lessee during the period of lease. The rest 1713 cum is considered as overburden material which is about 28% of the total extracted volume of 6107.622 cum.

6. That, it is humbly concluded that, as revealed from the report of ORSAC, Deputy Director of Mines, Khordha and the records available in Tahasil, Tangi and as per the approved Mining Plan, no excess excavation of mines has occurred from the alleged Boriko Laterite quarry during the lease period.

7. That with regards to the allegation concerning the illegal cutting and felling of trees, it is humbly



Gyisidhari Dm.

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submitted that the committee did not find any sign of felling trees from Gochar Plot as well as from the private plots and the same has also been reflected in their committee report dtd. 19.02.2024 annexed as Annexure A/6 by the respondent no.6, i.e., Divisional Forest Officer .

8. That, the Sub-Collector, Khordha vide his letter No. 3695 dtd. 07.04.2025 has submitted that 13 (Thirteen) numbers of 'Y' forms Books (containing 50 'Y' forms in each Booklet) have been issued in favor of the lessee prior to issue of CTO and the same have been used by the said lessee during that time. It is also reported that the lessee has lifted 2550 cum of materials in total by using those 650 numbers of 'Y' forms as ascertained from the triplicate receipts submitted by the lessee to the Tahsildar, Tangi. That, during the inspection of records, it came to light that transit permits were issued by the Tahasildar, Tangi in favor of the lessee prior to receipt of statutory clearances, thereby violating the provisions of the OMMC Rules, 2016. As a consequence F.I.R.s vide Tangi P.S. case no. 323/2025 and Tangi P.S. case no.324/2025 against the present deponent/lessee and the ex-Tahasildar, Tangi named Jugal Kishore Mishra respectively.

9. That, it is humbly submitted that the present respondent had applied for the consent to operate for

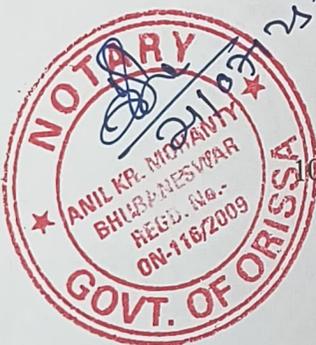


Giridheer Das.

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the abovementioned M/s. Bariko Laterite Stone Quarry on 24.02.2021 and received the same on 05.01.2023 after an inordinate delay of one year ten months and twelve days. Moreover, the environmental clearance was received on 02.06.2022. Despite the abovementioned inordinate delay, the petitioner was not only issued with Y forms and transit passes but was served with annual demand notices for the year 2021 to 2023.

Copy of the demand notices and the receipts are herewith annexed as ANNEXURE-7 SERIES.



10. That, it is humbly submitted that the present deponent operated the quarry upon the instruction and issuance of the Y forms and the issuance of the work order dtd. 10.03.2021 by the then Tahasildar, Tangi. Moreover, it is pertinent to mention that the consent to operate was provided after an inordinate delay of one year ten months and twelve days. The lease of the quarry was granted from 28.01.2021 to 27.01.2026. It is further pertinent to highlight that out of these five years, two years were completely wasted as the CTO itself was granted after two years, i.e., 05.01.2023. However, 13 (Thirteen) numbers of 'Y' forms Books (containing 50 'Y' forms in each Booklet) were issued in favor of the lessee prior to issuance of CTO and the same were

Giridhari Das.

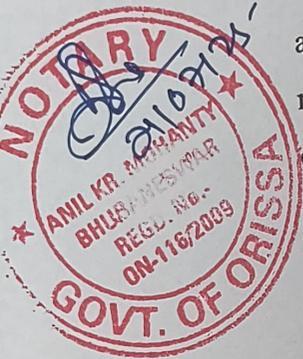
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used by the lessee during that time. It is also reported that the lessee has lifted 2550 cum of materials in total by using those 650 numbers of 'Y' forms and transit passes issued by the then Tahasildar, Tangi.

11. That it is further humbly submitted that it was merely a mistake of fact and the lessee/deponent did not violate any norm or law intentionally. The lessee simply acted on the instruction and issuance of the transit passes, 'Y' forms and the work order dated 10.03.2021 issued by the then Tahasildar, Tangi. The absence of malice or any malafide intention can be proven from the fact that no excess excavation of mines has been done by deponent/lessee. Therefore, the government and the public exchequer have not suffered any financial loss because of the action of the deponent/lessee. It is further humbly submitted that the present respondent has only extracted 6107.622 cum of materials out of 9000 cum. Thus, the actions of the present respondent have not affected the environment adversely as he did not extract beyond any materials illegally. At most, the actions of the present respondent can be termed irregular but not illegal since he was the legitimate lease-holder of the quarry.

12. That it is therefore humbly submitted that the Ld. Tribunal may be pleased to direct the concerned and competent authorities to withdraw the F.I.R. registered



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against the deponent/lessee vide Tangi P.S. case no. 323/2025 u/s 305 (e) of the Bharatiya Nyaya Sanhita (BNS), 2023, u/s. 15 of the Environment (Protection) Act, 1986 and u/s. 39 of the Air (Prevention and Control of Pollution) Act, 1981.

13. That the deponent reserves the right to file further affidavit, as and when directed by this Ld Tribunal.

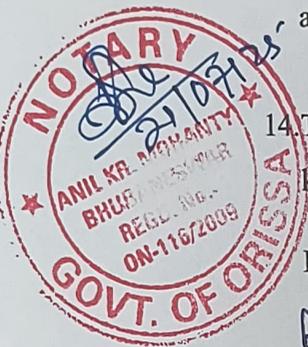
14. That the facts stated above are true to the best of my knowledge and belief.

Identified by me

[Handwritten signature]

Advocate

[Handwritten signature]
DEPONENT



The deponent above named being duly identified by Sri. A. K. Patnaik Advocate at appears before me on 21/07/25 at about 12:43 A.M./M. and states on oath that the contents of this affidavit are true to the best of her knowledge

[Handwritten signature]
21/07/25
ANIL KUMAR MOHANTY
NOTARY, BBSR
REGD. No.-ON-116/2009



ରସିଦ ପୁସ୍ତକ
RECEIPT BOOK

0500102

ସଂ. _____

[ଓଡ଼ିଶା ନିଜାମତ ପ୍ରକରଣ ପୁସ୍ତକ, 1963 ନିୟମ 31(i) ଦ୍ୱାରା]

ପୁସ୍ତକ ସଂ. _____ ମସିହା 20

କାର୍ଯ୍ୟାଳୟ ପ୍ରାପ୍ତ ହେଲା Giridhari Das
Receivd towards Royalty Bariko
L.S.Q
କେଉଁ ବାବଦରେ

ନଗଦ ଆକାରରେ	Royalty Rs. 2,70,000.00	ପରିମାଣ ଟ. ପ.
	Add. charge Rs. 37,500.00	
	S.R Rs. 360.00	
ସ୍ୱାମୀ ଆକାରରେ	I.T d s c Rs. 6765.00	
	D.M.P Rs. 27000.00	
	E.M.P Rs. 13,500.00	
ମୋଟ	Total Rs. 3,55,125.00	

Rupees Three lakh fifty five thousand one
(ଅକ୍ଷରରେ) hundredy twenty five) only (ମୂଳା ମାତ୍ର)

ତା 3.03.2022

3.3.22
ଗ୍ରହଣ କରିଥିବା ଅଧିକାରୀ
Nazir

ଅନୁସୂଚୀ XIV-- ପାରମ୍ପ ସଂ. 511



ରସିଦ୍ ପୁସ୍ତକ
RECEIPT BOOK

0500307

ସଂ. _____

ନିକାସ ପ୍ରକରଣ ପୁସ୍ତକ, 1963 ନିୟମ 31(ii) ଦ୍ୱାରା

ପୁସ୍ତକ ସଂ. 83 ମସିହା 20

କାହାଠାରୁ ପ୍ରାପ୍ତ ହେଲା Getidhari Das + family.

Repairing & maintenance of Bariko L.S.

କେଉଁ ବାବଦରେ	Quantity	Rs.	
	Rs.		ପରିମାଣ
			ଟ. ପ.
ନଗଦ ଆକାରରେ	SR	360	
	17250	15	6765
	DMF	15	27,000
ସମ୍ପା ଆକାରରେ	DMF	15	19,500
		<u>Total Rs 3,55,125.00</u>	

ସମାପ୍ତ

Rates Threelakh sixty five thousand one
(ଅକ୍ଷରରେ - hundred twenty five thousand one) ଟଙ୍କା ମାତ୍ର)

ତା. 25.3.2023

[Signature]
ପ୍ରମୁଖ ନିକାସୀ ଅଧିକାରୀ
Tahasil, Tangi

ପ. ପ. ମୁଦ୍ରଣାଳୟ (ପାରମ୍ପ) DTP--178--20,000 Bks.21-10-2011



OFFICE OF THE TAHASILDAR, TANGI, KHORDHA
E-Mail-ID-tdrtangi@gmail.com & tah.tangikh-od@nic.in

L.No. 1238 /Sairat

Date: 17.3.23

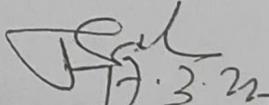
To

Sri Giridhari Das
S/O-Sri RadhaCharan Das
At/Po-Badapari
Ps-Tangi, Dist-Khordha

Sub: Deposit of Royalty & other dues against of Bariko Laterite Stone Quarry.

Your are herby directed to deposit the following amount which is due to be paid against Bariko L.S.Q for the Year 2023-2024.
The amount must be deposited to the undersigned within 7days.

Royalty	1500CuM X 180.00	Rs. 270000.000
Additional Charge	1500CuM X 25.00	Rs. 37500.00
S.R.	360.00	Rs. 360.00
I.T & S.C. 2.2%	(Royalty+ Add. Charges) X 2.2%	Rs. 6765.00
D.M.F	10 % of Royalty	Rs. 27000.00
E.M.F	5 % of Royalty	Rs. 13500.00
Total		Rs. 355125.00


17.3.23
Tahasildar, Tangi
Tahasildar
Tangi