

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO ...OF 2025

IN THE MATTER OF

ALAKA MISHRA AND OTHERS

APPLICANTS

Versus

STATE OF ODISHA AND OTHERS

RESPONDENTS

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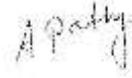
PLACE: Bhubaneswar

SANKAR PRASAD PANI



DATE: 09/07/2025

ASHUTOSH PADHY



Plot 2132/4814, Nageswar Tangi, Bhubaneswar 751002 Cell-9437279278,

Email: sankarprasadpani@gmail.com

SYNOPSIS

Application is being filed challenging the Diversion/Alienation of Water body for the purpose of construction of a Bus-stand by the State Transport Department without considering the available alternative land, impact of filling the water body on environment and local residents, future inundation of the local area as the storm water could no more be discharged. This pond has long served as a natural catchment for rainwater and a vital recharge point for the groundwater table, benefiting not just to the Applicants homes but also the surrounding wells and farmlands. In a region like Padampur that frequently faces water scarcity, such natural water bodies are irreplaceable. Their disappearance will not only disrupt the local water cycle but will also undermine the availability of water for future generations. Moreover, the pond has functioned as a key outlet for storm water during the monsoon. Its removal, in the absence of a proper drainage system, increases the risk of severe waterlogging in adjoining low-lying areas. Many of our homes are already vulnerable, and with the newly elevated land created by the fill-up, the risk of backflow and flooding is now significantly higher. This brings within it sanitation issues, damage to property, and serious health concerns. Development must not come at the cost of natural assets that sustain our environment and livelihoods. The loss of green cover and the destruction of water-regulating systems like ponds represent irreversible harm.

LIST OF DATES

- 25/07/2001 Order passed by Hon'ble Supreme Court in Hinch Lal Tiwari matter.
- 3/08/2011 Department of Forest and Environment, Government of Odisha has expressed it's concern about loss of wetlands in urban areas. Wetland destruction primarily takes through construction of commercial and **residential developments and road networks**. The letter further asks the Development Authorities to protect and preserve the wetlands and not to allow any kind of construction over the water bodies
- 15/09/2014 A Central Enforcement Monitoring Committee (CEMC) has been constituted for eviction of the encroachers. The said Committee has been formed under the chairmanship of Vice-Chairman, Bhubaneswar Development Authority comprising Commissioner of Police, Bhubaneswar, Director of Estates, General Administration Department, Commissioner, BMC and Secretary, Odisha State Housing Board(OSHB) as the members for monitoring the eviction of encroachment. Under the said Committee, 6 Enforcement Squads have been formed out of which 5 Squads are entrusted to detect encroachments within BMC area and the rest one is

entrusted to detect encroachments beyond the BMC area, but within BDA area. Besides this, an Eviction Squad consisting of representatives from G.A. Department, BDA, BMC, Commissioner of Police and other user agencies is entrusted to evict the encroachers from the Government land as per the schedule of eviction programme..

3.11.2017 Government of Odisha through Revenue and Disaster Management Department issued a direction to all Secretary of Board of Revenue, RDC and Collectors vide notification number RDM-LRGEB-BLS-0083-2017-36868 Dated 03.11.2017 directing them to transfer all the water bodies, tanks etc situated in urban areas to the administrative control of Urban local bodies.

22/12/2017 The Revenue Department Government of Odisha has directed all RDCs for constitution of committee under their Chairmanship to Safeguard Jalasay Kisan Land in Urban Areas where in the Planning Authority, District Collector, Municipal Commissioner will be the ex-officio members and two other members to be nominated by RDC to such committee

- 19/01/2024 Land in question is alienated in favor of Regional & Transport Department, Govt. of Odisha
- 29/05/2025 Representation made by the Applicants to the Additional District Magistrate Padampur
- 01/06/2025 Photographs taken by the Applicants of the pond in question

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

*(Under Section 14, 15, 20 r/w. Section 18(1) & (2) of the National
Green Tribunal Act, 2010)*

ORIGINAL APPLICATION NOOF 2025

IN THE MATTER OF:

1. Alaka Mishra, W/o- Harekrushna Mishra, aged about 75 years,
2. Ashis Narayan Mishra, S/o-Harekrishna Mishra, Aged about 43 years,
3. Shanti Swarup Purohit, S/o- Mayadhar Purohit, aged about 70 years,
4. Hrusikesh Meher, S/o- Damodar Meher, aged about 51 years,
5. Dolamani Purohit, S/o- Mayadhar Purohit, aged about- aged about 63
years
6. Jharana Meher, aged about 51 years
7. Kunja Bihari Sahu, S/o Muralidhar Sahu, aged about 76 years,
8. Santilata Sahu, D/o- Dwaru Sahu, aged about 60 years
9. Rudramani Meher, S/o Ananta Rama Meher, aged about- 66 years

Applicant 1-9 all are residents of At/Po/Ps- Rajborasambar, Padampur,
Dist- Bargarh, Pin-768036 **.....APPLICANTS**

VERSUS

1. **State of Odisha**, Additional Chief Secretary, Revenue and disaster
management department, Govt. of Odisha, Kharavela
Bhawan, Bhubaneswar, Odisha, 751001, Email: revsec.od@nic.in
2. **Principal Secretary**, Commerce & Transport Department, Government
of Odisha, At/po- Kharavela Bhavan, Bhubaneswar-751001, E-mail:
ctsec.or@od.gov.in
3. **District Collector, BARGARH**

At/Po/Dist- BARGARH, Odisha, 768028, dm-bargarh@nic.in

4. **The Tahasildar, Padampur,** At/po/Ps/- 2327+84Q, Padampur, Padampur Town, Odisha 768036, Email: tah.padmap-od@nic.in
5. **Regional Transport Officer, Bargarh,** At/Po- 8JVF+34C, RTO Off, Old National Highway 6, Bargarh, Odisha 768028, Email- rtobgh@yahoo.co.in
6. Revenue Divisional Commission Northern Division, Samabalpur, Represented through its Commissioner, At/Po- FX4G+X98, Hans Nagar, Sambalpur, Odisha 768001, Email- rdcsbp@nic.in
7. Padampur Notified Area Council, Represented through its Executive Officer, At/Po- X3X7+X3H, Padampur, Padampur Town, Odisha 768036, Email- nac.padampur@gmail.com

.....RESPONDENTS

- I. The addresses of the Applicants are given above for the service of notices of this Application.
- II. The addresses of the Respondents are given above for the service of notices of this Application.
- III.** That the present Application is being filed challenging the Diversion/Alienation of Water body for the purpose of construction of a Bus-stand by the State Transport Department without considering the available alternative land, impact of filling up the water body on environment and local residents, future inundation of the local area as the storm water could no more be discharged, ecological services provided by water body and recharge of ground water.

MOST RESPECTFULLY SHOWETH

1. That the Petitioners are the Citizens of India, resides within the territorial jurisdiction of this Hon'ble Tribunal and the cause of action arose within the said limit and the parties are amenable to the original jurisdiction of Hon'ble NGT. The filling up of existing Kata will lead to deprive the agricultural lands from irrigation and the conversion of water body to bus stop will lead to damage to the adjoining agricultural lands because of the dust and fumes from the vehicular movements. The issue raised in the OA is a substantial question of law relating to environment and hence requires to be adjudicated by this Hon'ble Tribunal.

2. That the applicants are the residents of Ward No. 2, Bheunria Chowk, Padampur, Block: Padampur, Dist: Bargarh, are concerned with the action of state respondents to fill up an age-old pond recorder as "**Kata**" which is existing for generations and has played a crucial role in providing ecological services. The Regional Transport Officer, Bargarh has applied for alienation of Ac. 2.00 dec. Govt. Land for construction of **Block Level Bus-Stand at Mouza Padampur**. As the proposed land is in Khata No. 1309/5740 and Plot No. 1892/11846, 1892/11845 & 1893(area 2.00 acres), to be used for construction of Block Level Bus Stand in mouza- Padampur. Copy of the ROR is annexed here with as **ANNEXURE-1**.

3. That the ordinary irrigation tanks locally known as **Kata** is constructed by putting a strong earthen embankment across a branch channel so as to hold up water to be used for irrigation. Because of the undulating terrain and rolling topography with favourable slopes, many tanks (**locally called as Kata and Bandha**) were constructed in the past by the villagers and developed as small irrigation sources and it will incidentally **serve as surface runoff storage structures eventually recharging the ground water level**. This water body is currently being proposed to be filled up to

facilitate the construction of a new bus stand. Applicants are deeply alarmed by this development, especially as it poses a direct threat to the sustainability and water security of a drought-prone region like the present area.

4. The land in question was also recorded as **DANI KATA** in Hamid Settlement (1936) in Plot No 678 and 680, area 4.44 Acres and 1.07 Acres respectively and now gradually reduced by way of alienation for different purpose and now limited to 1.5 Acre. Copy of the record of the water body of 1936 is annexed here with as **ANNEXURE-2**.

5. The applicants have submitted grievance to the District Collector and requested to reconsider the diversion/alienation of a pond for construction purpose. This pond has long served as a natural catchment for rainwater and a vital recharge point for the groundwater table, benefiting not just the applicants but also the surrounding wells and farmlands. In a region like Padampur, a **drought prone area** that frequently faces water scarcity, such natural water bodies are inevitable and irreplaceable. Their disappearance will not only disrupt the local water cycle but will also undermine the availability of water for future generations. **Moreover, the pond has functioned as a key outlet for storm water during the monsoon.** Its removal, in the absence of a proper drainage system, increases the risk of severe waterlogging in adjoining low-lying areas. Many of the homes of the locality are already vulnerable, and with the newly elevated land created by the fill-up, the risk of backflow and flooding is now significantly higher. This brings with it sanitation issues, damage to property, and serious health concerns. Copy of Representation dated 29/05/2025 is annexed here unto as **ANNEXURE-3**.

6. It is submitted that the Padampur is presently a Notified Area Council (NAC) and Sub-Division Headquarter and already proposed as New District Since Feb 2023. The infrastructure such as Court Buildings,

Government Officer and Other infrastructure already proposed in the outskirts of the Town. Hence the proposal of bus stand should be futuristic and keeping in mind the Upcoming Infrastructure projects of the town. As such two acre of land will be quite a small area for a bus-stand and cannot accommodate the need of future expansion and Vehicular movements for a District Headquarter. Copy of Times of India Report dated 20/02/2023 is annexed here with as **ANNEXURE-4**.

7. There are already alternative large patches of land exist in the outskirts of town near by proposed court buildings which could be identified as the site for proposed bus stand considering the future traffic growth of the town.

8. Application is being filed challenging the Diversion/Alienation of Water body for the purpose of construction of a Bus-stand by the State Transport Department without considering the available alternative land, impact of filling the water body on environment and local residents, future inundation of the local area as the storm water could no more be discharged, ecological services provided by water body

9. Department of Forest and Environment, Government of Odisha VIDE LETTER DATED **3/08/2011** has expressed it's concern about loss of wetlands in urban areas. Wetland destruction primarily takes through construction of commercial and residential developments and road networks. The letter further asks the Development Authorities to protect and preserve the wetlands and not to allow any kind of construction over the water bodies. Copy of letter dated 3/08/2011 by F and E department is annexed here unto as **ANNEXURE-5**.

10. It is need less to submit that there are various schemes to restore and repair the water bodies but no steps have been taken by the state authorities and local Urban Bodies.

11. Government of Odisha through Revenue and Disaster Management Department issued a direction to all Secretary of Board of Revenue, RDC and Collectors vide notification number RDM-LRGEB-BLS-0083-2017-36868 Dated 03.11.2017 directing them to transfer all the water bodies, tanks etc. situated in **urban areas to the administrative control of urban local bodies**. Copy of letter dated 3/11/2017 by Revenue department is annexed here unto as **ANNEXURE-6**.

12. The Revenue Department Government of Odisha vide letter dated 22/12/2017 has directed all RDCs for constitution of committee under their Chairmanship to Safeguard Jalasay Kism Land in Urban Areas where in the Planning Authority, District Collector, Municipal Commissioner will be the ex-officio members and two other members to be nominated by RDC to such committee. That since no action has been taken by the RDC Central to safeguard the Water body, thereby the RDC Central has failed to discharge his duties and obligations. Copy of Revenue Department dated 22/12/2017 is annexed here unto as **ANNEXURE-7**.

13. Further the Ministry of Environment, Forest and Climate Change is implementing a Centrally Sponsored Scheme of National Plan for Conservation of Aquatic Eco-systems (NPCA) since February, 2013 for conservation and management of identified lakes and wetlands in the country in a holistic and integrated manner. Under the scheme financial assistance is provided to the concerned State Governments for undertaking various activities for conservation of wetlands and lakes, which also include a small component of lake front development and beautification, especially in urban lakes.

14. That The Ministry of Urban Development (MoUD) has the mandate, inter alia, to conserve/restore urban lakes/water bodies, re-use and re-cycle waste water, etc. These are important factors, some of forgotten,

and have been summed up in the “Advisory on conservation and restoration of water bodies in urban areas” August 2013 by CPHEEO for the use/guidance of State Governments/ ULBs with the hope that they shall improve it further and apply as per own needs. The initiative gains immense importance in the sense that urban lakes/ water bodies are first victims of urbanization and their conservation/restoration is sign of healthy and sustainable urban development. Lakes assist in rainwater harvesting and protection of biological resource, enhancement of water quality and watershed management. Further, lakes are home to many aquatic animals and plants. Therefore, urban lakes have to be in the focus of urban planning and decision-making processes as these surface water sources, if protected and managed properly, will create tremendous potential to augment the water supply, if not immediately for drinking, but for other non-potable water requirements of ever increasing urban population

15. Further, the Standing Committee on Water Resources (2012-13) in their 16th Report on “Repair, Renovation and Restoration (RRR) of Water Bodies” also substantiated that encroachment on water bodies is threatening the existence of a large number of water bodies and throwing consequent challenges of depleting ground water resources, occurrence of devastating floods in urban areas as well as water scarcity. Aforesaid Committee suggested steps required to remove encroachment and to restore the water bodies.

16. That the Standing Committee on Water Resources (2015-16) in it’s Tenth Report on “**Repair, Renovation and Restoration of Water Bodies- Encroachment on Water Bodies and Steps Required to Remove the Encroachment and Restore the Water Bodies**” dated 26th July 2016 has taken the issue of encroachment seriously.

17. That the Central Pollution Control Board has framed “Indicative Guidelines for Restoration of Water Bodies” in June 2019 (in compliance to Hon’ble NGT Order dated 10.05.2019 in O A. No. 325 of 2015) and same has suggested a detailed methodology such as **recognition, restoration, protection, improvement and sustenance phase** as the measures to restore the water bodies.

18. That NITI Aayog based on a study warning that India is facing its ‘worst’ water crisis in history and that demand for potable water will outstrip supply by 2030 if remedial steps are not taken. Nearly 600 million people faced high to extreme water stress. Also, made predictions that twenty-one cities, including Delhi, Bengaluru, Chennai and Hyderabad will run out of groundwater by 2020, affecting 100 million people. If matters are to continue, there will be a 6% loss in the country’s Gross Domestic Product (GDP) by 2050. Moreover, critical groundwater resources, which accounted for 40% of India’s water supply, are being depleted at “unsustainable” rates and up to 70% of India’s water supply is “contaminated” ‘Therefore, water resource available to the country should be brought within the category of utilizable resources to the maximum possible extent.

19. It is further submitted that the Housing and Urban Development Department, Government of Odisha addressing to all Urban Local Bodies has issued a Standard Operating procedure (SOP) on 24/03/2023 to rejuvenate the water bodies in urban area under a new scheme known as Ama Phokhari **where in more** than 2000 water bodies in the state requiring immediate attention and in order to rejuvenate these water bodies in natural way. This is an irony that the same government is taking steps to fill up a water body with in NAC area of Padampur.

20. That the District Administration/Tahasildar is fully responsible to ensure the protection and integrity of the environment, especially one

which is a source for livelihood of the population and life for the local flora and fauna. Protection of such village-commons is essential to safeguard the fundamental right guaranteed under Article 21 of the Constitution. The Common area is the life line for the communities and often sustains various chores and provides resources necessary for life. Water bodies are specifically an important source of fishery and much needed potable water. Many areas of this Country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal. Encroachment of the water bodies and its embankment is fails to capture the spirit of the constitutional schemes and is therefore impermissible. The District Administration is sitting over the matter till date. Such steps and measures of the District Administration is highly objectionable in nature and statutory authority should be more prompt to settle the issues involved in to the matter. Failing which the valuable lands of the State Government will be misappropriated.

21. So, there is number of order/orders of the State Government/ Hon'ble High Court as well as Hon'ble Apex Court for the protection/preservation of the water body. In view of this the District administration is duty bound for the protection of the water body like construction of the guard wall, fencing, digging of the Pond as well as removal of the obstruction caused by alleged peoples and the water bodies should be free from the encroachment as per the order No: RDM-LRGEB-MISC-0010-2019/R&DM-2328/dated: 13.01.2020 of the Revenue and Disaster Management Department, Government of Odisha.

22. That it is worthwhile to mention that Ponds are an integral component of the hydrological system; and perform diverse roles in the biosphere. The roles of ponds in supporting aquatic biodiversity are just as important

as rivers and large lakes. They provide unique habitat islands for a diverse range of aquatic species. local conditions which include geology, altitude and land cover of the catchment area greatly influence characteristics of the ponds. Moreover, these water bodies are fed from small catchment areas. Thus, ponds tend to show different characteristics in a region, even if they are relatively close to each other. Thus, ponds not only enhance biodiversity of aquatic organisms, but also of terrestrial organisms that directly depend on aquatic ecosystems.

23. The site selection for a Bus stand on an existing age old water body clearly suggests non- application of mind and without considering the likely impact of such disastrous action on the ecology.

24. The water from the catchment area used to be collected in the Kata and thereby use to prevent water logging in the residential area as all the water gets stored in the pond. Once the Kata is filled up, the rainwater will inundate the residential building and cause damages for all time to come

25. That the state authorities have started felling the trees from the Bond/Embankment towards the end of May 2025 for which the applicants get curious to know the purpose and came to know the site is allotted for Bus stand. There after immediately they moved application before the Additional District Magistrate, Padampur. The authorities felled at least 20 trees standing for year on the embankment of the waterbody and recently a JCB was also engaged on the site for construction purpose. Copy of Photographs dated 01/06/2025 is annexed here with as **ANNEXURE-8.**

26. The Hon'ble National Green Tribunal vide order dated 07.05.2019 in O.A No. 176/2015, Shailesh Singh Vs. Hotel Holiday Regency, Moradabad & Ors., directed the CGWA to prepare a policy for conservation of groundwater with a robust institutional mechanism for

surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS(Over Exploited, Critical and Semi critical) areas by way of appropriate replenishment practices which can be properly accounted and measured as well as to sustain the flood plains of rivers in terms of e-flows, augmentation of subterranean flows and preservation of other water bodies.

27. That the Hon'ble Apex Court in the matter of **Hinch Lal Tiwari –vs- Kamala Devi And Ors decided on 25th July, 2001** with reference to the Appeal (Civil) No: 4787 of 2001 observed at Para: 13 as follows:-

13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, **having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.** For the aforementioned reasons, we set aside the order of the High Court, restore the order of the Additional Collector dated 25-2-1999 confirmed by the Commissioner on 12-3-1999. Consequently, **Respondents 1 to 10 shall vacate the land, which was allotted to them, within six months from today.** They will, however, be permitted to take away the material of the houses which they have constructed on the said land. If Respondents 1 to 10 do not vacate

the land within the said period the official respondents i.e. Respondents 11 to 13 shall demolish the construction and get possession of the said land in accordance with law. The State including Respondents 11 to 13 shall restore the pond, develop and maintain the same as a recreational spot which will undoubtedly be in the best interest of the villagers. Further it will also help in maintaining ecological balance and protecting the environment in regard to which this Court has repeatedly expressed its concern. Such measures must begin at the grass-root level if they were to become the nation's pride.

28. That the Hon'ble Apex Court in the matter of Jitendra Singh-Versus-Ministry of Environment & Others decided on 25th November 2019 observed at Para: 15, 16, 18, 19, 20, 22 and 23 are as follows:-

15. In Hinch Lal Tiwari v. Kamala Devi, this Court settled that **'ponds' were a public utility meant for common use and held that they could not be allotted or commercialized.** It had refused to give any weight to similar arguments of the pond having become levelled, with merely some portion getting covered during rainy season by water importantly, it emphasised that: **It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty.** They maintain delicate ecological balance. **They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution.** The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and

on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.

16. This Court reiterated in **Jagpal Singh v. State of Punjab** and noted that since time immemorial, certain common lands had vested in village communities for collective benefit. Except in exceptional circumstances when used exclusively for the downtrodden, these lands were inalienable. It was observed that such protections, however, remained on paper, and since Independence powerful people and a corrupt system had appropriated these lands for personal aggrandisement. Pointing out the harms in allowing such misappropriation, the Court noted an urgent public interest in stopping such misdeeds. Further, various directions were issued for eviction of illegal occupants and restoration of the common land to villagers. It was explicitly specified that “long duration of such illegal occupation or huge expenditure in making constructions thereon” cannot be a “justification for condoning this illegal act or for regularising the illegal possession”.

18. Even otherwise, the action of the respondent authorities contravenes their Constitutional obligations. Article 48A of the Constitution casts a duty on the State to “endeavour to protect and improve the environment and to safeguard the forests and wild life of the country”, and Article 51A (g) expects every citizen to perform his fundamental duty to “protect and improve the natural environment”. A perusal of our Constitutional scheme and judicial development of environmental law further shows that all persons have a right to a healthy environment. It would be gainsaid that the State is nothing but a collective embodiment of citizens, and hence

collective duties of citizens can constructively be imposed on the State. Such an interpretation of the Constitution has also been adopted in **MC Mehta v. Union of India** wherein this Court mandated the State to ensure mandatory environmental education to all school students in pursuance of the fundamental duties enshrined in Article 51A (g)

19. There remains therefore no doubt that it is the responsibility of the respondents to ensure the protection and integrity of the environment, especially one which is a source for livelihood for rural population and life for local flora and fauna.

20. Protection of such village commons is essential to safeguard the fundamental right guaranteed by Article 21 of our Constitution. The right to access to clean drinking water is fundamental to life and there is a duty on the state under Article 21 to provide clean drinking water to its citizens'. The State is duty-bound not only to provide adequate drinking water but also to protect water sources from pollution and encroachment. Any act of the State that allows pollution of water body must be treated as arbitrary and contrary to the public interest and in violation of the right to clean water under Article 21. These common areas are the lifeline of communities, and often sustain various chores and provide resources necessary for life. Water bodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal. Copy of the Judgement is enclosed as **ANNEXURE-9**.

29. That the Hon'ble supreme Court in Civil Appeal No(s), 1904/2020 in the matter of Mirza Abid Beg Versus State of U.P and Others in its order dated 16/07/2024 in paragraph 2 and 3 has observed as follows,

“2. We direct the Secretary of the Ministry of Environment of the State of Uttar Pradesh to constitute a Committee of senior officials including the officials of the Revenue Department, Environment Department and the State Pollution Control Board. The said Committee shall be constituted within a period of three weeks from today. To begin with, the Committee will deal with the grievances made by the appellant about the ponds/lakes/water bodies in Tehsil Nagina, District Bijnor, Uttar Pradesh. The State Government shall ensure that the inspection of the entire revenue record relating to the properties which are mentioned in paragraph 4 of the application made by the appellant is provided to the Committee. After examining the old revenue records, the Committee will ascertain whether there were any entries regarding existence of the ponds/lakes/water bodies. The Committee constituted by the Secretary of the Ministry of Environment shall make a visit to the properties on which ponds/lakes/water bodies were in existence. In addition, the Committee will visit the lands described in paragraph 4 of the application filed before the NGT. The Committee will make of in-depth study on the allegation of disappearance ponds/lakes/water bodies in Tehsil Nagina. The Committee will suggest measures for the restoration thereof. Subsequently, the scope of the work of the Committee can be expanded to cover many districts.

3. We must record here with a great deal of emphasis that it is the paramount duty of the State not only to protect the ponds/lakes/water bodies in the State but also to ensure that ponds/lakes/water bodies, which have been illegally filled in, are restored. It is the Constitutional duty of the State to do so. The Committee appointed by the Secretary, Ministry of Environment, will

make a note of this obligation on the part of the State.” Copy of the order dated 16/07/2024 passed by Hon’ble Supreme Court in the matter of Mirza Abid Beg Versus State of U.P and Others is annexed here unto as **ANNEXURE-10.**

LIMITATION

That this application is not barred by time as no action has been taken by the state respondents in regard to grievance letter dated 29/05/2025 so as not to alienate the pond for Purpose of Bus stand.

GROUND

1. The Hon’ble Supreme Court in **Civil Appeal No(s). 1904/ 2020 Case Title – Mirza Abid Beg v. State of UP & Ors.** on July 16, 2024 observed that the State has the **constitutional duty to not only protect water bodies within the state but also to restore those water bodies which have been illegally filled in.** Further the Supreme Court **CIVIL APPEAL NO. 5109 OF 2019 (Jitendra Singh vs MoEF and Other)** , Order dated 25/11/2019 has held that **it is not permissible for the State to alienate common water bodies for industrial activities, under the guise of providing alternatives.**
2. Articles 21, 47, and 48-A of the Indian Constitution, and there is the intrinsic link between the right to life and a healthy environment, mandating state action to protect natural resources and state failed to discharge it’s obligation
3. That the principle of Sustainable Development mandating necessity of meeting current urban demands without compromising future generations' access to vital water resources has been ignored while alienating the land for Bus-stand
4. The critical role of Jalasayas in urban water management, including groundwater recharge and preventing water logging, underscoring the

environmental consequences of their depletion has been completely ignored in allotting a waterbody for a Bus-Stand

5. That when the **Characteristics of the Water Body is still intact** as evident from photographs and in case of degradation, the state authorities have duty to restore the same. Further alienating the water bodies on the ground lost its character or no more used by public is untenable and factually wrong in the present case. And based on a wrong report of the Revenue Inspector, a live water body can not be alienated for other purpose like bus stand. As such water body have multifarious utilities such as Domestic, Agricultural and Ecological and as such the water body in question serves every purpose hence should not have been allotted for Bus stand
6. That while identifying the present land in question, alternative barren land in the same locality or nearby areas which are available has not been considered and the same indicates non application of mind in terms of finding an alternative site. It is further submitted that **the project is not a site specific project hence the project which in proposal stage can be shifted to any other barren land.** Hence a project of this nature can be accommodated in other places too and this project can be avoidable at this place as this site is not the last resort for the project.
7. That Hon'ble Orissa High court in W.P.(C) No.8797 OF 2004 & O.J.C. No.6721 OF 1999 **Tapan Kumar Das -versus- Commissioner, Cuttack Municipal Corporation** and others decided on 11th Oct 2012 held that

“Para12. We are, therefore, of the view that there should be **sustainable development** which means development that meets the needs of the present generations **without compromising the ability of the future generations to meet their own needs.** We are fully conscious of **the necessity of development but the same should not be made or done at the cost of elimination of the water bodies thereby creating**

serious water-logging problem in the city during rainy season and pushing the future generations to a situation of scarcity of water due to decrease in the ground water level in the absence of harvesting of rain water in a city like Cuttack to absorb the rain water / recharge of water resources / natural water resources, such as ponds, tanks, water bodies so as to maintain ecological balance. Therefore, the **State Govt. cannot absolve its responsibility to protect and maintain the water bodies even belonging to private individuals.** There are also big tanks which belong to various deities and private individuals in the city and the State Govt. should come forward to protect and maintain the same also.

8. This landmark decision in Tapan Das (Supra) case underscores the paramount importance of integrating environmental considerations into urban governance, ensuring that development does not come at the expense of natural resources and public health. It also reinforces the constitutional obligations of the state to uphold citizens' rights to a healthy environment, thereby setting a precedent that balances growth with sustainability.
9. That the **Hon'ble NGT in Lt. Col. Sarvadaman Singh Oberoi Vs Union Of India, OA NO 325/2015/PB and order dated 10/05/2019, Para 6** has observed that

“There can be no dispute that the water bodies play significant role in recharge of ground water, preventing soil erosion, harnessing rain water and maintaining micro-climate in the area. Need for conservation and protection of water bodies is thus obvious. This requires involvement not only at the level of the State but also at the level of the community for which State needs to take initiative. The threat caused to the water bodies is by dumping of waste, discharge of effluents and encroachments. The steps required for restoration will include preparation and implementation of catchment area treatment plans, setting up of green belt and wherever

viable setting up of bio-diversity parks around the water bodies, cleaning up of the garbage/debris and demarcation by the Revenue Department on identification survey and demarcation. Each water body is required to be given a geo-reference-UID and an action plan is required for restoration and protection of each of the water bodies. In this view of the matter, need for conservation and protection of water bodies are not confined to the State of Haryana alone but extend to the whole country.”

10. In Para 8 of the order while relying upon the Judgement of SC in Hinch Lal Tiwari case, Hon’ble NGT observed that:

“The above observations advance the **Public Trust Doctrine** which is based on the principle that certain resources like air, water and forests have such great importance to the people as a whole that the same cannot be subject of private ownership. The same are gift of the nature and should be made freely available to the people. **The Doctrine requires the State to protect such resources and not to permit them to be used for private or commercial purposes.** This concept is applicable to wetlands and all water bodies which is essential for protection of the environment. **If the ponds and other such water bodies are not protected and conserved, this will in turn affect recharge of ground water, rain water harnessing and soil preservation.**

11. The Hon’ble Tribunal also considered the matter in the context of Delhi, vide order **dated 30.08.2018 in Original Application No. 496 of 2016**, Tribunal on its own Motion Vs. Govt. of NCT of Delhi & Ors., and appointed a Committee headed by the former Judge of Delhi High Court to oversee the steps for conservation of ground water in Delhi. We also note the guidelines for National Lake Conservation Plan prepared by MoEF&CC in May 2008 as well as National Plan for Conservation of Aquatic Ecosystem (NPCA) prepared by MoEF&CC in November, 2016. Irrespective of the subject being covered by a **particular State statute**,

the protection of water bodies is an essential need for protection of environment as held in Hinch Lal Tiwari (Supra). Such requirement is covered by the ‘Precautionary’ principle as well as the ‘Sustainable Development’ principle which are required to be enforced by this Tribunal under Section 20 of the NGT Act, 2010. The HPWWMA Act, 2018 covers only ponds having area of more than 0.5 acres. Thus ponds of lesser area have been left out of regulation under the said Act. This aspect needs to be addressed to the extent the same remains un-addressed not only in Haryana but throughout India to the extent the existing statutory framework or guidelines do not cover comprehensively the subject of restoration of all the water bodies”.

12. That Hon’ble NGT in order dated 05.07.2021 in OA 360/2018, **Shree Nath Sharma vs. Union of India & Ors.** directed the District Collectors for preparation of District Environment Plan of each District and vide order dated **25/11/2021 in Raja Mujafar Bhat Vs State of Jammu Kashmir, OA 351/2019/PB,** issued direction to cover the wetlands in the District. If necessary, the said plans be revised accordingly by the District Magistrates concerned by providing that the core activity for conservation and protection of wetlands may primarily focus on not discharging of sewage, disposal of solid waste and other wastes, preventing siltation, demarcation of wetlands/flood protection zone and removal of encroachments. There should be regular monitoring of water quality under water quality management programme at strategic locations (around 10 locations) to ensure that it is compliant with TC/FC norms. Water quality of the wetlands with respect to BOD needs to be less than 3 mg/l, faecal coliform should meet norms and contamination due to toxic constituents either directly or through runoff from the catchment should be prevented. Biodiversity of the wetlands needs to be maintained. Monitoring of steps for compliance of Rules in relation to such Wetlands

ought to be at District level by the District Magistrate, at State level by State Wetland Authority and at National level by National Wetland Authority. We are confident that such initiatives in monitoring will go a long way in protecting the Wetlands which have significant environmental functions. That the Respondents in the present case are violating the Environment Protection Act 1986.

INTERIM PRAYER

As an interim measure the Hon'ble Tribunal may please to direct the following directions,

- A. Hon'ble Tribunal may kindly form an independent Committee to probe in to the matter under supervision of this Hon'ble Tribunal with reference to the Hon'ble Apex Court observations made in the matter of Jitendra Singh (Supra)
- B. Hon'ble Tribunal may kindly put stay on any kind of filling up of the Kata (pond) , the water body in question until disposal of the present OA

PRAYER

It is, therefore, humbly prayed that this Hon'ble Tribunal may graciously be pleased to pass the following Orders

- I. Call upon the Respondents to show cause as to why the prayers made here under shall not be allowed and after perusing the causes, if any, shown made the said rule absolute and further be pleased to direct the Respondents as prayed herein under
- II. Direct to the State respondents to prepare the action plan for protection, preservation of the water body with reference to the Hon'ble Apex Court observations made in the matter of Jitendra Singh (Supra) and Hinchlal Tiwari (Supra).
- III. And upon causes shown, if any, or upon insufficient causes shown make the said Rule absolute.
- IV. And may pass any appropriate order/orders as deemed just and proper.

And for this act of kindness, the Applicants shall, as in duty bound, ever pray.

BY THE APPLICANTS

Spani APatty

THROUGH ADVOCATE

Serial No...303.....

Date...09/07/2025.....



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO.- OF 2025

IN THE MATTER OF:

ALAKA MISHRA AND OTHERS

APPLICANTS

VERSUS

STATE OF ODISHA AND OTHERS

RESPONDENTS

AFFIDAVIT

I, Ashis Narayan Mishra, S/o-Harekrishna Mishra, Aged about 43 years resident of Rajborasambar, Padampur, Dist- Bargarh, Pin-768036, do hereby solemnly affirm, and declare as under:

1. That I am one of the applicant 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 am authorized by other applicants to swear this affidavit.

3. That I have read over the contents of the accompanying Original Application and the same is true and correct and is drafted on my instruction.



Ashis Narayan Mishra
DEPONENT

VERIFICATION

Verified on this 9th day of July, 2025 at Bargarh 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

D. R. Sahu
Advocate

The deponent having been identified by Sri.....D. R. Sahu..... Advocate solemnly affirmed before me on Dt...09/07/2025 A.M./P.M.

D. R. Sahu
D. R. SAHU, NOTARY
BARGARH, Regd. No. 42585/25

Ashis Narayan Mishra
DEPONENT

Schedule I Form No.39-A

ଖତିୟାନ

ମୌଜା : ପଦ୍ମପୁର
ଥାନା : ପଦ୍ମପୁର
ଥାନା ନମ୍ବର : 17

ତହସିଲ : ପଦ୍ମପୁର
ତହସିଲ ନମ୍ବର : 228
ଜିଲ୍ଲା : ବରଗଡ଼

ଜମିଦାରଙ୍କ ନାମ ଓ ଖେଡ଼ାଟ ବା ଖତିୟାନର କ୍ରମିକ ନମ୍ବର		ଓଡ଼ିଶା ସରକାର 1				
1) ଖତିୟାନର କ୍ରମିକ ନମ୍ବର		1309/5740				
2) ପ୍ରଜାର ନାମ, ପିତାର ନାମ, ଜାତି ଓ ବାସସ୍ଥାନ		ବାଣିଜ୍ୟ ଓ ପରିବହନ ବିଭାଗ, ଓଡ଼ିଶା ସରକାର				
3) ସ୍ୱତ୍ୱ	ରକ୍ଷିତ					
4) ଦେୟ :	ଜଳକର	ଖଜଣା	ସେସ୍	ନିସ୍ତାର ସେସ୍ ଓ ଅନ୍ୟାନ୍ୟ ସେସ୍ ଯଦି କିଛି ଥାଏ	ମୋଟ	5) କ୍ରମବର୍ଦ୍ଧନଶୀଳ ଖଜଣାର ବିବରଣୀ
		4.80	3.60		8.40	
6) ବିଶେଷ ଅନୁସଙ୍ଗ ଯଦି କିଛି ଥାଏ		<p>ତହସିଲଦାର ପଦ୍ମପୁର କ୍ଷେତ୍ର Alienation Case No. 07/2022 ଆଦେଶ କ୍ରମେ ଏବଂ ଜିଲ୍ଲାପାଳ, ବରଗଡ଼ କ୍ଷେତ୍ର ଅନୁମୋଦନ ପତ୍ର ସଂ. 541 ତା. 10.01.2024 ମତେ ପୂର୍ବ ନଂ. 1892 ରକବା ଏ. 1.55 ଡି., 1892/8668 ରୁ ଏ. 0.48 ଡି. ଓ 1893 ରକବା ଏ. 0.08 ଡି. ଖା. ନଂ. 1320/3 (ଆବାଦ ଯୋଗ୍ୟ ଅନାବାଦୀ) ରୁ ଆସି କିସମ ପତିତ ଏହି ଖାତାରେ ଦରଜ କରାଗଲା । 1. ବାଣିଜ୍ୟ ଓ ପରିବହନ ବିଭାଗ, ଓଡ଼ିଶା ସରକାର, କେବଳ ଭୂପୃଷ୍ଠ ଅଧିକାର ରହିବ । 2. ଏହି ଜମି କେବଳ ଯୋଗାଇ ଦେଇଥିବା ଉଦ୍ଦେଶ୍ୟରେ ବ୍ୟବହାର ହେବ କିମ୍ବା ବିନା ପୂର୍ବାନୁମତି ରେ କୌଣସି ମତେ ହସ୍ତାନ୍ତରିତ ହେବ ନାହିଁ । 3. ଏହି ଜମି ଅଥବା ଏହାର କୌଣସି ଅଂଶବିଶେଷ ଯେଉଁ ଉଦ୍ଦେଶ୍ୟରେ ସ୍ଥିରକୃତ ହୋଇଅଛି ଯଦି 3 ବର୍ଷ ମଧ୍ୟରେ ଉପଯୋଗ ନହେବ ତାହେଲେ ସେହି ଜମି ପୁନର୍ବାର ସରକାରୀ ଖାତାକୁ ଫେରାଇ ଆଣାଯିବ । 4. ବାଣିଜ୍ୟ ଓ ପରିବହନ ବିଭାଗ, ଓଡ଼ିଶା ସରକାର, ଦେୟ ମୁକ୍ତ କରି ରଖିବା ପାଇଁ ଉତ୍ତରଦାୟୀ ରହିବା ସହିତ ଜମିର ଚୌହଦି ଚିହ୍ନଟ କରି ରଖିବେ ।</p>				
BLANK SPACE FOR STAMPING						
ଅତିମ ପ୍ରକାଶନ ତାରିଖ -						
ଖଜଣା ଧାର୍ଯ୍ୟ ତାରିଖ -						

ଖତିୟାନର କ୍ରମିକ ନଂ : 1309/5740		ମୌଜା : ପଦ୍ମପୁର				ଜିଲ୍ଲା : ବରଗଡ଼
ପ୍ଲଟ ନମ୍ବର ଓ ଚକର ନାମ	କିସମ ଓ ପ୍ଲଟର ଖଜଣା	କିସମର ବିସ୍ତାରିତ ବିବରଣୀ ଓ ଚୌହଦି	ରକବା			ମତ୍ତବ୍ୟ
			ଏ.	ଡି.	ହେକ୍ଟର	
7	8	9	10		11	12
1892/11846	ପଡିତ		0	4800	0.1942	
1892/11845	ପଡିତ		1	4400	0.5827	Alienation Case No. 7/2022 ଜିଲ୍ଲାପାଳ, ବରଗଡ଼ , RDC (ND), Sambalpur କ ଡା. 26.12.2023 ଆଦେଶ ମତେ, େ Block Level Bus stand, Padampur ନିର୍ମାଣ ନିମନ୍ତେ ଡହସିଲଦାର ପଦ୍ମପୁର କ ଡା. 19.01.2024 ଆଦେଶ ମତେ, ପ୍ଲଟ ନଂ. 1892 ରୁ ଏ. 1.44 ଡି., 1892/8668 ରୁ ଏ. 0.48 ଡି. ଓ 1893 ଏ. 0.08 ଡି. ଖା. ନଂ. 1320/3 ରୁ, ଆସିଲା ।
1893	ପଡିତ		0	0800	0.0324	
3 plots			2	0000	0.8093	

ରାଷ୍ଟ୍ରୀୟ ସୂଚନା ବିଜ୍ଞାନ କେନ୍ଦ୍ର 14/07/2025 09:11:44 IP :49.37.112.119

ENGLISH TRANSLATION OF ANNEXURE-1 Khatian

Mouza: Padmapur

Tahasil: Padmapur

Thana: Padmapur

Tahasil Number: 228

Thana Number: 17

District: Bargarh

Name of the Jamidar and Khewat or Khatian serial number					Odisha Government 1	
1) Khatian Serial No					1309/ 5740	
2) Name of the Tenant, Father's name, caste and residence					Commerce and Transport Department, Govt. of Odisha	
3) Title						
4) Payable	Water Tax	Khajana	Cess	Nistar Cess and other cess if any	Total	5) Cumulative Khajana description
		4.80	3.60		8.40	
6) Special remark if any		As per the order of Tahasildar Padmapur in Alienation Case No. 07/2022 and approval letter No. 541, dated 10/01/2024 of District Magistrate Bargarh from Plot No. 1892 Area Ac. 1.55 Dec, 1892/8668 area Ac.0.48 Dec.,and from Plot No. 1893 area Ac.0.08 Dec. came from khata No. 1320/3 (Abada Jogya Anabadi) and recorded in the present khata having kissam Patita. 1. Commerce & Transport Department, Govt. of Odisha will only have the land rights. 2. This land will only be used for the purpose allotted and without prior approval can not be handed over. 3. This plot or any part of the plot if not used as approved for the purpose within three years then that plot will again brought back to the Government Khata. 4. Commerce & Transport Department, Govt. of Odisha will be responsible for the free of charges and to identify the boundary tenants.				

BLANK SPACE FOR STAMPING

Last publication date-

Khajana date -

Khatian Serial number-1309/5740		Mouza - Padmapur			District - Bargarh	
Plot no & Chaka name	Kisam & Plot Name	Detail description of the Kisam & Chouhadi	Area			Remark
			Acres	Decimal	Hectares	
1892/11846	Patita		0	4800	0.1942	As per the Alienation case No. 7/2022, order of District Magistrate Bargarh, DDC(ND) Sambalpur, for the construction of Block Level Bus stand as per the order of Tahasildar Padmapur dated 19/01/2024 from Plot No. 1892 Area Ac.

						1.55 Dec, 1892/8668 area Ac.0.48 Dec.,and from Plot No. 1893 area Ac.0.08 Dec. came from khata No. 1320/3.
1892/11845	Patita		1	4400	0.5827	
1893	Patita		0	0800	0.0324	
3 Plots			2	0000	0.8093	

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Munir Chishti
Section Officer
Authorised U/S -89(1) '64

ENGLISH TRANSLATION OF ANNEXURE-2
Khatiyān

Mouza- Padmapur

1318- Khatiyān

Plot No. and Chaka Name	Kisam	Detail description of Kisam and Chouhadi	Area		Comment
			Ac.	Ha.	
1881	Tala	Pani Tala	0.04		
1891	Addi	Kata Addi	0.33		
1892	Kata	Badi Kata	4.07 0.51 3.56 0.83 2.73		
1893	Kata	Dani Kata	0.08		
1938	Bandha (Addi)	Bandha Addi	0.15		
1939	Bandha	Ruguda Bandha	1.23		
1940	Addi	Bandha Addi	0.36		

Residents of Ward No. 2,
Bheunria Chowk, Bargarh Road,
Padampur -78036, Bargarh, Odisha

Date: 29/05/2025

To: The Additional District Magistrate, Padampur.
Dist. Bargarh, Odisha - 768036.

Subject: Urgent Concern Regarding the Filling of Natural Pond (Sarkari Kata) and Its Long-term Environmental Impacts in Ward No. 2, Bheunria Chowk

Respected Sir,

We, the residents of Ward No. 2, Bheunria Chowk, Padampur, wish to draw your immediate attention to an issue of grave environmental and social concern. A natural pond "Sarkari Kata", which has existed in our locality for generations and has played a crucial role in our ecosystem, is currently being filled to facilitate the construction of a new bus stand. We are deeply alarmed by this development, especially as it poses a direct threat to the sustainability and water security of our drought-prone region.

This pond has long served as a natural catchment for rainwater and a vital recharge point for the groundwater table, benefiting not just our homes but also the surrounding wells and farmlands. In a region like Padampur that frequently faces water scarcity, such natural water bodies are irreplaceable. Their disappearance will not only disrupt the local water cycle but will also undermine the availability of water for future generations. Moreover, the pond has functioned as a key outlet for stormwater during the monsoon. Its removal, in the absence of a proper drainage system, increases the risk of severe waterlogging in adjoining low-lying areas. Many of our homes are already vulnerable, and with the newly elevated land created by the fill-up, the risk of backflow and flooding is now significantly higher. This brings with it sanitation issues, damage to property, and serious health concerns. Development must not come at the cost of natural assets that sustain our environment and livelihoods. The loss of green cover and the destruction of water-regulating systems like ponds represent irreversible harm.

We therefore urge the concerned authorities to immediately re-evaluate the current course of action, halt further filling of the pond, and take measures that ensure the preservation of such invaluable natural infrastructure for the well-being of both our community and future generations.

We are confident that your office will consider the long-term wellbeing of the community and the ecological balance of the region. We remain committed to cooperating with the administration to find a solution that respects both development goals and environmental preservation.

Thank you for your time and attention. We trust you will act promptly in the interest of the public and future generations.

Yours Sincerely;

Ashwini Narayan Mishra
श्री गणेशाय नमः

Akashi Mishra

Shankar Prasad Pratih
Rudra Mani Mehera
Jharama Mehera
Dolamani Pratih -

ASUOK Kumar Jadhav
Alaka Mishra

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THE TIMES OF INDIA**ANNEXURE-4**

Padampur to become a district within a year: Odisha CM Naveen Patnaik

TNN | Feb 20, 2023, 07.28 AM IST



SAMBALPUR: With an eye on the 2024 elections, Odisha chief minister Naveen Patnaik on Sunday announced that Padampur sub-division in Bargarh district would be upgraded to a separate district within the next one year.

Naveen, whose BJD had assured to create Padampur district in the run-up to the Padampur byelection that was held on December 5 last year, visited Padampur constituency on Sunday and inaugurated various projects besides laying foundation stones of many projects.

Addressing huge rallies in Jharbandh, Paikmal and Padampur of the constituency, Naveen said, "During my last visit, I had made some announcements for Padampur constituency. I had

announced district status for Padampur subdivision last December. The promise will be certainly fulfilled within one year."

District status is a long-pending demand of the people of Padampur subdivision, which comprises six blocks, six tahasils, two NACs and has a population of around 6.7 lakh.

Earlier, the people of the sub-division resorted to agitations over the demand on various occasions. Moreover, district status for Padampur was also a major poll issue during the byelection.

Addressing the people in the meetings, Naveen said the other promises will also be fulfilled. "The Paikmal primary health centre has been upgraded to community health centre. Work on the Chakrada dam has begun. I believe in work, not in words. The other promises will also be fulfilled in time," said the chief minister.

Taking a dig at the Union ministers without uttering any name, the chief minister said they came here during the byelection and made promises on various issues, including railways, paddy procurement, crop insurance and GST on Kendu leaf.

"I pray to lord Nrusinghanath to remind the Union ministers about the promises they made," he said.

From: Shri Bhagirathi Behera, IFS
Director, Env.-cum-Spl. Secretary to Govt.

To: The Vice Chairman,
Bhubaneswar Development Authority/
Cuttack Development Authority/
Berhampur Development Authority,
Rourkela Development Authority/
Puri Konark Development Authority
Secretary,
Talcher Angul Meramundali Regional Improvement Trust.

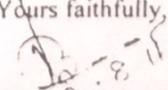
Sub: Protection of Wetlands in Urban areas - Regarding.

Sir,
Wetlands such as lakes, reservoirs, ponds, tanks etc. irrespective of their size play an important role like hydrological cycle. The wetlands in urban areas provide a wide range of ecosystem services such as water purification, nutrient retention, flood mitigation, erosion control, ground water recharge, micro climate regulation and aesthetic enhancement of land scapes etc. The significance of wetlands has increased further in view of the reality of climate change and increasing summer temperature in different parts of Orissa. Despite the increased importance of wetlands & government policies for protecting wetlands, loss of wetlands in urban areas continues unabated.

Wetland destruction in urban areas occurs primarily through commercial & residential development and creation of road infrastructure. Further, urbanization directly impacts the wetlands by altering their hydrology and contributes increasing run off of nutrients and pollution. Urban wetlands are highly threatened by reclamation through drainage and landing and other anthropogenic activities. Hence, it is extremely urgent that wetlands in urban areas are protected and maintained as such so that they can perform various geological functions.

In view of this, you are requested to take steps for conserving and maintaining the wetlands existing in your area. No. Permission for any construction activity by filling up the wetlands in urban areas may be given and such activity should be strictly prohibited. We would like to bring to your notice the Wetlands (Conservation and Management) Rules, 2010 issued by Ministry of Environment and Forests, Govt. of India wherein in Para-4 of the said rules, the activities within the wetlands have been prohibited. Copy of the said Notification is enclosed for your reference.

Yours faithfully,


Director, Env.-cum-Spl.Secy. to Govt.

A T A

By e-Mail/FAX

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

No. RDM-LRGEB-BLS-0083-2017-36868 /R&DM dated 03.11.2019

From

Dr. Chandra Shekhar Kumar
Principal Secretary to Government

To

Secretary, Board of Revenue, Odisha, Cuttack
All RDCs
All Collectors

Sub: Transfer of water bodies, tanks (Jalasaya) etc, situated in urban areas to the administrative control of Urban Local Bodies.

Madam/Sir,

In inviting a reference to the subject cited above, I am directed to say that erstwhile Revenue Department vide letter No.25475/R dt.11.6.1959, letter No.10703/R dt.2.3.1962 and letter No.51853/R dt.2.8.1965 have issued instruction for transfer of properties of Revenue Department like fisheries, tanks, markets, hats, fairs etc to the control of Gram Panchayat. But no such instruction has been issued for transfer of water bodies, tanks etc. located in urban areas to the Urban Local Bodies.

2. The water bodies like tanks etc. situated within the urban limits are often not renovated by the Revenue Authorities. As these water bodies are not waste lands, these cannot be permanently leased out as per the provisions of the OGLS Act and Rules in favour of the Urban Local Bodies for renovation and beautification purposes to cater to the urban requirements. As there is no specific guideline for transfer of tanks etc. to the ULBs, the Municipal Corporations/ Municipalities/ NACs are facing problems to renovate and utilize such water bodies more productively in accordance with the urban requirements. Hence, formulation of a policy guideline for transfer of tanks, water bodies etc. located within the urban limits to the administrative control of the concerned ULBs was under active consideration of the Government for sometime past.

3. In this connection, the provisions of the Odisha Municipal Act, 1950 is relevant. Section 123 of the said Act provides that "It shall be lawful for the State government from time to time to direct that any road, bridge, channel, building or other property movable or immovable, which is vested in the State Government for

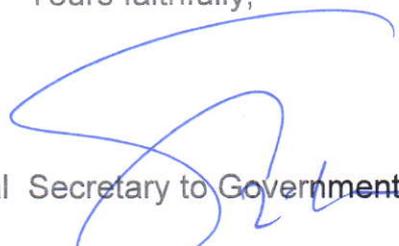
the purpose of the State and which is situated within a Municipal area shall, with the consent of the municipality and subject to such exceptions and conditions as the State government may make and impose be placed under the control and administration of the municipality for the purpose of this Act and there upon such road, bridge, channel, building or other property shall under the control and administration of the municipality subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.”

4. Keeping the above in view, the Government after careful consideration have been pleased to issue following guidelines for placing the tanks etc under the control and administration of the concerned Urban Local Body under section 123 of the Odisha Municipal Act, 1950.

- i. Collector of the District shall recommend the proposal to Government in R&DM Department for placing such property of Government like tanks etc. (i) if the property is situated within the limits of the concerned ULB and (ii) if the concerned ULB through a Resolution furnishes its consent for such transfer.
- ii. The property shall be placed with the control and administration of the concerned ULB with approval of Government in R&DM Department, subject to following exceptions and conditions;
 - a) The scheduled property shall continue to remain in Government in Revenue & DM Department khata and the kism of the land shall remain unchanged as Jalasaya.
 - b) The ULB shall preserve and protect the tank situated on the scheduled land.
 - c) In no case, the jalasaya or the tank shall be converted or shall be allowed to lose its character. In other words the nature and character of the tank shall remain unchanged.
 - d) The ULB shall maintain the same and can take steps for renovation and beautification of the same as per the urban requirements. This may be done after due Resolution of the ULB and with approval of Collector of the District.

- e) Third party rights or community rights, particularly rights for drinking, bathing and irrigation, if any, shall not be infringed upon.
- f) The right to pisciculture shall be left to the ULB subject to the condition that 50% of the earning shall be utilized for the maintenance and other activities incidental to the property. The property, if the ULB so decides, can be leased out for fishery purposes only through public auction, following a transparent procedure.
- g) If the Collector of the district is of the opinion that the ULB has failed to maintain the tank properly or has failed to make full use of the same or has not taken sufficient safeguards for getting full usufruct out of the same or if the Municipality has violated any of the above conditions, then he shall cause a notice to the Executive Officer of the ULB to rectify within a period of 3 months. If the Executive Officer fails to rectify or furnishes insufficient reason, then Collector of the District shall recommend to Government in Revenue and DM Department for revocation of the Order.
- iii. The Government in Revenue and DM Department reserves the right to revoke the order of placing the tank under the control and administration of the ULB at any time in the larger public interest.
- iv. **This Guideline shall not be applicable to water bodies / jalasayas which have lost their characteristics.**

Yours faithfully,


Principal Secretary to Government

Memo No. 36869 / R&DM

Dated 03.11.2017

Copy forwarded to H&UD Department for information and necessary action.


Principal Secretary to Government

MOST URGENT
FAX/e-Mail

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

From No.RE-I-41/2017- 44549 /R & DM, Dated 22-12-17
Shri Ashok Kumar Naik
Director, R & R & Ex-Officio
Additional Secretary to Government

To All the Revenue Divisional Commissioners, Odisha

Sub:- Constitution of Committee under the Chairmanship of RDCs for safeguard of Jalasaya KISSAM land in urban areas.

Sir,

I am directed to invite a reference to letter No.24230 / H & UD, dated 26.10.2017 of the Commissioner-cum-Secretary to Govt., H& UD Department(copy enclosed) on the subject mentioned above and to say that after careful consideration, Government have been pleased to constitute a committee under the Chairmanship of Revenue Divisional Commissioners in their respective division pursuant to the judgment of Hon'ble High Court in W.P.(C) No.8797 of 2004 & O.J.C. No.6721 of 1999 with the following as Members of the Committee, referred to above, to deal with protection, preservation and conservation of water bodies in urban areas of the State.

1. Revenue Divisional Commissioner, Concerned division : Chairman
2. The Collector, Concerned district : Member Convener
3. The Regional Officer, Concerned region : Member
4. The Commissioner/ Executive Officer, Concerned Municipal Corporation/ Municipality/NAC : Member
5. The Planning Authority, Concerned Development Authority : Member
6. Two other Members to be nominated by Revenue Divisional Commissioner, concerned division :

Therefore, It is requested adopt the same procedure for the concerned District coming under the respective RDCs.

This supersedes this Department Letter No.34034/RDM, dated 16.10.2017 addressed to RDC, (SD) Berhampur.

Yours faithfully,

Teena
22/12/17
Director, R & R & Ex-Officio
Additional Secretary to Government

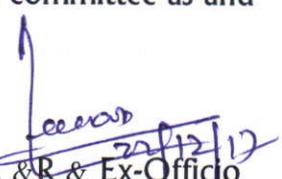
Memo No. 44550 /RDM, Dated 22-12-17

Copy forwarded to the PS to Commissioner-cum-Secretary, H & UD Department for information and necessary action with reference to his letter dated 26.10.2017.


Director, R & R & Ex-Officio
Additional Secretary to Government

Memo No. 44551 /RDM, Dated 22-12-17

Copy forwarded to all Collectors for information and necessary action. They are requested to take steps for convening the meeting of the aforesaid committee as and when required.


Director, R & R & Ex-Officio
Additional Secretary to Government

PHOTOGRAPH DATED 01/06/2025 SUGGESTING MANY TREES ARE FELLED FROM THE SITE IN QUESTION



PHOTOGRAPHS DATED 01/06/2025 SUGGESTING THE POND IS BEING FILLED WITH DEMOLITION WASTE MATERIALS.





GPS Map Camera

Padmapur, Odisha, India

2326+r7w, Laxmaraa Road, ଲକ୍ଷ୍ମରା ରାସ୍ତା, Padmapur, Odisha
768036, India
Lat 21.002341° Long 83.060986°
01/06/2025 11:17 AM GMT +05:30



REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 5109 OF 2019

Jitendra Singh Appellants(s)

VERSUS

Ministry of Environment & Ors. Respondents(s)

JUDGMENT

SURYA KANT, J.

1. The instant statutory appeal has been preferred under Section 22 of the National Green Tribunal Act, 2010 (hereinafter “NGT Act”) against the order dated 06.03.2019 of the Principal Bench of the National Green Tribunal (“NGT”), whereby appellant’s grievance against allotment of local ponds to private industrialists has been dismissed summarily without any adjudication of the *lis* or merits, but merely on the basis of an affidavit filed by Respondent No. 5 (Greater Noida Industrial Development Authority – hereinafter “GNIDA”) claiming that it was developing bigger alternative water-bodies.

FACTUAL BACKGROUND

2. The appellant is a permanent resident of village Saini, tehsil Dadri, of district Gautam Budh Nagar, which falls in the National Capital Region. He claims to be a socially-active lawyer dedicated to bettering the lives of his co-villagers and alleges that the Original Application before the NGT was triggered when around 18.01.2017 the agents of a private entity (Respondent No. 6 - M/s Sharp Enterprises Pvt. Ltd. - hereinafter "Sharp") using excavators and other heavy machinery attempted to forcibly takeover possession of a 'common-pond', which had been in use by local villagers for a century. This was objected to by the villagers, and the appellant subsequently made a complaint on 25.01.2017 to various authorities including the District Collector. Pointing out revenue records which elucidate the commons-status of the ponds, he sought directions to restrain Sharp and its agents. However, there was no action on his representation for more than 10 days, leading to another attempt by Sharp at dispossession, compelling the appellant to seek police help. A few days later, he submitted another representation to the Collector, but to no avail. Aggrieved, he was left with no recourse but to approach the NGT by way of an Original Application under Section 14 (read with Sections 15 and 18) of the NGT Act for adjudication of these environmental issues.

3. Before the Tribunal, appellant contended that large tracts of his village (but not the impugned water-bodies) had been acquired under the Land Acquisition Act, 1894 ostensibly for industrial development by GNIDA. Subsequently, these acquired lands (including some local ponds) had been leased to private industrialists, including Sharp in 2012. Using revenue records obtained under the UP Consolidation of Holdings Act, appellant showed that Khasra Nos. 552 (1140 sq meters) and 490 (8470 sq meters) were 'pokhar' (pond) and Khasra Nos. 522 (1620 sq meters) and 676 (9804 sq metres) were 'rajwaha' (canal). Highlighting that the water bodies were vested in the Gram Sabhas per Section 117 of the UP Zamindari Abolition and Land Reforms Act, 1950, he contended that such land had neither been acquired, nor resumed and hence there was no power with GNIDA to transfer the same to Sharp. He further claimed to have discovered other similar illegal allotments of water bodies by GNIDA to other third-parties.

4. The appellant urged that neither the mandatory environmental clearances under the Environmental (Protection) Act, 1984 had been obtained by the industrialists nor the statutory authorities applied their mind that the project would negatively impact the environment and human health. Laying support on the Ramsar Convention and Rule 4 of the Wetland (Conservation and Management) Rules, 2010 which prohibited reclamation of wetlands, setting up or expansion of

industries, permanent construction or any other activity with potentially adverse effects on ecosystem, he sought cancellation of such illegal allotments and protection of water-bodies.

5. During pendency of the proceedings, GNIDA's representatives started filling up certain ponds and started developing an alternate area (1.25 times bigger) as a new waterbody to save the allotment made in favour of Sharp (as admitted in an additional affidavit filed before the NGT on 15.01.2019 by GNIDA).

6. Over the course of proceedings, the appellant was permitted to amend his prayers in the Original Application to enable challenge to all illegalities concerning village commons. No rejoinder or additional affidavit was filed by any respondent against the amended Original Application.

7. The NGT vide its brief impugned order dated 06.03.2019 took note of this representation of constructing alternate pond and abruptly concluded that appellant's substantial grievance had been redressed. It accordingly dismissed his application, without venturing into the merits or the *lis* of the dispute.

CONTENTIONS OF PARTIES

8. This summary dismissal by the NGT has been challenged before us. Appellant raises grievance against the manner in which the NGT, without even looking at the sweep of his prayers, disposed off the

mater before it, merely on the strength of a proposed affidavit (which was actually filed only on 12.03.2019, post adjudication of the application by the NGT and without any advance copy to the appellant). He further protests the haste with which his application was disposed of and how the reluctance by the NGT to conduct even a proper enquiry has resulted in conferrment of illegal benefits to third-parties, at the cost to the environment and local residents.

9. The appellant contends that the disputed pond is situated near the Aravali hills which are in an arid zone with a low-water table. He demonstrated how the existing sparse flora and fauna in the region was hence unlikely to survive elsewhere. Highlighting the unchecked urbanisation and construction of concrete jungles in the ecologically sensitive area, the appellant alleged that Respondent-authorities were in active connivance with industrialists and real estate companies, were negligently discharging their duties. This, he contended, violated public trust and consequently the right to a wholesome environment guaranteed under Article 21 of the Constitution. Interpreting Article 48A and Article 51-A(g) to place a duty on the State to protect the environment, including lakes and water-bodies, the appellant has sought intervention of this Court to save and restore the local ponds.

10. Per contra, learned Counsel for GNIDA (Respondent No. 5) placed reliance on a Government Order dated 03.06.2016, which he

claimed permitted destruction of existing ponds and allotment of filled-up land to third-parties in certain extraordinary circumstances, with the stipulation that 25%-larger alternate water-bodies be developed elsewhere. Further, he questioned recording of Khasra Nos. 552 and 490 as 'pokhar' in revenue record, contending that it was merely 'slightly low lying land' over which some water would get accumulated during rainy season. There was statedly no water on the pond-land since the past year, showing that it was merely ordinary in nature. Even if 'pokhar', Khasra Nos. 552 was only 1140 sq. meters in size, which constituted a miniscule portion (only 1.4%) of the total allotted plot of 80,900 sq. meters. It was also explained that no other 'pokhar' had been included and Khasra No. 490 had not been allotted to Sharp. GNIDA also put forth a contrary allegation that the appellant was, in fact, aggrieved by non-disbursement of compensation and had set up the entire dispute as a rouse to stall development of the area so that he could instead use it for his private purpose of cattle grazing.

11. Sharp (Respondent No. 6) has averred that the disputed land was no longer vested in the Gram Sabha as the UP Zamindari Abolition and Land Reforms Act, 1950 had been repealed by the UP Revenue Code, 2006. This new Code specified that title of all lands including lakes, ponds, tanks, streams and nallas vest in the State Government. Through Section 59 of the Code, the land was merely

entrusted to the Gram Panchayat, and the State retained power to alter such entrustment at any time. It claimed to have paid Rs 25 crores as sale consideration for leasehold rights over acquired areas and is allegedly suffering as a result of litigation-induced delays.

ANALYSIS & FINDINGS

12. At the outset, we must note, that the respondents have been unable to demonstrate how the 2016 Government Order can be made applicable retrospectively, the possession having been given to Sharp in 2012. Notwithstanding this, no case of the present instance being an extraordinary circumstance (hence permitting recourse to the exceptional provisions of the Government Order) has been made before us either. Further, argument that Khasra No. 552 is a 'slightly-sloped seasonal rainfall-catchment area' and not a 'pond', is creative but without merit. Photographs have been placed on record by the appellant showing that there is substantial water in the pond, which has not been controverted. Further, revenue records maintained by the Revenue Department themselves show that the land was 'pokhar'. It is hence not open for the authorities to contradict and plead against the record without any scientific or empirical support, for such categorisation had been made by them in the past. Further, it was conceded by respondent-authorities during arguments that Khasra

No. 490 was also recorded as 'pokhar' in revenue records and that it too had been integrated in the industrial development project.

13. Additionally, it is clear that repeal of the UP Zamindari Abolition and Land Reforms Act, 1950 and vesting of such ponds and local areas in the State by Section 57 of the UP Revenue Code, 2006 would not by itself either change the nature of land contrary to revenue record nor will defeat the long-established rights of the local people on commons. Such a proposition had unequivocally been laid down in ***Chigurupati Venkata Subbaya v. Palaguda Anjaya***¹, where this Court negated a contention that communal rights in the suit-land stood abolished per Section 3 of the Estates Abolition Act, 1948 for it provided that estates, including communal lands, would stand transferred to the Government free from any encumbrance. Further, it was held that even explicit destruction of all rights and interests created by the principal or landholders, would not apply to community rights as such rights originated elsewhere.

14. Given that Section 22 of the NGT Act, 2010 specifies that the nature of the appeal shall be akin to a second appeal as specified under Section 100 of the Code of Civil Procedure, 1908, we would restrict our deliberation to a singular substantive question of law. That is, whether it is permissible for the State to alienate common water-

¹ (1972) 1 SCC 521.

bodies for industrial activities, under the guise of providing alternatives?

15. In ***Hinch Lal Tiwari v. Kamala Devi***², this Court settled that ‘ponds’ were a public utility meant for common use and held that they could not be allotted or commercialised. It had refused to give any weight to similar arguments of the pond having become levelled, with merely some portion getting covered during rainy season by water. Importantly, it emphasised that:

“13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature’s bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.”

16. This Court reiterated in ***Jagpal Singh v. State of Punjab***³ and noted that since time immemorial, certain common lands had vested in village communities for collective benefit. Except in exceptional circumstances when used exclusively for the downtrodden, these lands were inalienable. It was observed that such protections,

² (2001) 6 SCC 496.

³ (2011) 11 SCC 396.

however, remained on paper, and since Independence powerful people and a corrupt system had appropriated these lands for personal aggrandisement. Pointing out the harms in allowing such misappropriation, the Court noted an urgent public interest in stopping such misdeeds. Further, various directions were issued for eviction of illegal occupants and restoration of the common land to villagers. It was explicitly specified that “*long duration of such illegal occupation or huge expenditure in making constructions thereon*” cannot be a “*justification for condoning this illegal act or for regularising the illegal possession*”.

17. It is uncontroverted, in the present case, that the Government Order dated 03.06.2016 was a consequence of the afore-cited judgment in **Jagpal Singh**. Curiously, however, Clause 5 of the Government Order carves an exception of “*huge projects/works*” (albeit in extraordinary circumstances) to **Jagpal Singh’s** strict principle of non-alienation of common water-bodies. It is clear that such ground of exception doesn’t fall under the limited class of grants to “*landless labourers or members of the Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land*”. Such industrial activities without any rationale classification, unlike the narrow class exempted, do not serve a social public

purpose or benefit the local people, and thus will be hit by the inalienability bar.

18. Even otherwise, the action of the respondent-authorities contravenes their Constitutional obligations. Article 48-A of the Constitution casts a duty on the State to “*endeavour to protect and improve the environment and to safeguard the forests and wild life of the country*”, and Article 51-A(g) expects every citizen to perform his fundamental duty to “*protect and improve the natural environment*”. A perusal of our Constitutional scheme and judicial development of environmental law further shows that all persons have a right to a healthy environment. It would be gainsaid that the State is nothing but a collective embodiment of citizens, and hence collective duties of citizens can constructively be imposed on the State. Such an interpretation of the Constitution has also been adopted in **MC Mehta v. Union of India**⁴ wherein this Court mandated the State to ensure mandatory environmental education to all school students in pursuance of the fundamental duties enshrined in Article 51-A(g):

“24. Having regard to the grave consequences of the pollution of water and air and the need for protecting and improving the natural environment which is considered to be one of the fundamental duties under the Constitution (vide Clause (g) of Article 51A of the Constitution) we are of the view that it is the duty of the Central Government to direct all the educational institutions throughout India

4 (1988) 1 SCC 471.

to teach atleast for one hour in a week lessons relating to the protection and the improvement of the natural environment including forests, lakes, rivers and wildlife in the first ten classes. The Central Government shall get text books written for the said purpose and distribute them to the educational institutions free of cost. Children should be taught about the need for maintaining cleanliness commencing with the cleanliness of the house both inside and outside, and of the streets in which they live. Clean surroundings lead to healthy body and healthy mind. Training of teachers who teach this subject by the introduction of short term courses for such training shall also be considered. This should be done throughout India.”

19. There remains therefore no doubt that it is the responsibility of the respondents to ensure the protection and integrity of the environment, especially one which is a source for livelihood for rural population and life for local flora and fauna.

20. Protection of such village-commons is essential to safeguard the fundamental right guaranteed by Article 21 of our Constitution. These common areas are the lifeline of village communities, and often sustain various chores and provide resources necessary for life. Waterbodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal.

21. The respondents' scheme of allowing destruction of existing water bodies and providing for replacements, exhibits a mechanical application of environmental protection. Although it might be possible to superficially replicate a waterbody elsewhere, however, there is no guarantee that the adverse effect of destroying the earlier one would be offset. Destroying the lake at Khasra Nos. 552 and 490, for example, would kill the vegetation around it and would prevent seepage of groundwater which would affect the already low water-table in the area. The people living around the lake would be compelled to travel all the way to the alternative site, in this case allegedly almost 3 kms away. Many animals and marine organisms present in the earlier site would perish, and wouldn't resuscitate by merely filling a hole with water elsewhere. Further, the soil quality and other factors at the alternate site might not be conducive to growth of the same flora, and the local environment would be altered permanently. The respondents' reduction of the complex and cascading effects of extinguishing natural water-bodies into mere numbers and their attempt to justify the same through replacement by geographically larger artificial water-bodies, fails to capture the spirit of the Constitutional scheme and is, therefore, impermissible.

22. Hence, it is clear that schemes which extinguish local waterbodies albeit with alternatives, as provided in the 2016

Government Order by the State of UP, are violative of Constitutional principles and are liable to be struck down.

23. For the reasons stated above, we allow the appeal and set aside the impugned order passed by the NGT. The allotment of all water bodies (both ponds and canals), including Khasra Nos. 552 and 490 to Respondent No. 6, or any other similar third party in village Saini, tehsil Dadari, district Gautam Budh Nagar is held to be illegal and the same is hereby quashed. Since this Court has on 15.07.2019 already directed the parties to maintain status quo, Respondent Nos. 1 to 5 shall restore, maintain and protect the subject-water bodies in village Saini. Respondents are further directed to remove all obstructions from the catchment area through which natural water accumulates in the village ponds, all within a period of three months.

..... J.
(ARUN MISHRA)

.....J.
(SURYA KANT)

NEW DELHI
DATED : 25.11.2019

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).1904/2020

MIRZA ABID BEG

Appellant(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(IA No. 29875/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 29873/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 37268/2021 - EXEMPTION FROM FILING O.T. AND IA No. 29874/2020 - EXEMPTION FROM FILING O.T., IA NO.80427/2024 - FOR ADDITIONAL DOCUMENTS, IA NO.80428/2024 - EXEMPTION FROM FILING O.T. AND IA NO.149762/2024 - FOR ADDITIONAL DOCUMENTS)

Date : 16-07-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s)

Mr. Ashutosh Dubey, AOR
Mr. Abhishek Chauhan, Adv.
Ms. Rajshri A. Dubey, Adv.
Mr. H.B. Dubey, Adv.
Mr. Amit P. Shahi, Adv.
Mr. Amit Kumar, Adv.
Mr. Gaurav Yadav, Adv.

For Respondent(s)

Dr. Vijendra Singh, AOR
Mr. Aarohi Bhalla, Adv.
Mr. Abhinav Rathi, Adv.
Ms. Divyakshi Singh, Adv.
Ms. Apurva Singh, Adv.

Mr. Vinay Garg, AOR
Ms. Neetu Rawat, Adv.
Mr. Upendra Mishra, Adv.

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

Signature Not Verified

Digitally signed by
ASHISH KONDLE
Date: 2024.07.18
18:24:55
Reason:

The issue raised by the appellant before the National Green Tribunal (for short, "the NGT") was of immense importance. Only by way of an illustration, the learned counsel appearing for the

appellant pointed out certain instances of ponds/lakes/water bodies being filled in by garbage and other material. The learned counsel appearing for the appellant also pointed out that after filling in the ponds/lakes/water bodies, illegal constructions have been made. The NGT called for a report. A copy of the report was not furnished to the appellant who was the applicant before the NGT. The impugned order, which is very short, indicates that at least in the case of one pond, such allegation was found to be correct and, therefore, the NGT has recorded that a portion of the garbage dumped in the pond has been removed. In our view, NGT ought to have kept the application pending.

2. We direct the Secretary of the Ministry of Environment of the State of Uttar Pradesh to constitute a Committee of senior officials including the officials of the Revenue Department, Environment Department and the State Pollution Control Board. The said Committee shall be constituted within a period of three weeks from today. To begin with, the Committee will deal with the grievances made by the appellant about the ponds/lakes/water bodies in Tehsil Nagina, District Bijnor, Uttar Pradesh. The State Government shall ensure that the inspection of the entire revenue record relating to the properties which are mentioned in paragraph 4 of the application made by the appellant is provided to the Committee. After examining the old revenue records, the Committee will ascertain whether there were any entries regarding existence of the ponds/lakes/water bodies. The Committee constituted by the Secretary of the Ministry of Environment shall make a visit to the properties on which ponds/lakes/water bodies were in existence. In addition, the Committee will visit the lands described in paragraph 4 of the application filed before the NGT. The Committee will make in-depth study on the allegation of disappearance of ponds/lakes/water bodies in Tehsil Nagina. The Committee will suggest measures for the restoration thereof. Subsequently, the scope of the work of the Committee can be expanded to cover many districts.

3. We must record here with a great deal of emphasis that it is the paramount duty of the State not only to protect the ponds/lakes/water bodies in the State but also to ensure that ponds/lakes/water bodies, which have been illegally filled in, are restored. It is the Constitutional duty of the State to do so. The Committee appointed by the Secretary, Ministry of Environment, will make a note of this obligation on the part of the State.

4. Copies of the reports of the Committee shall be submitted to this Court through the State of Uttar Pradesh. The first report shall be submitted by the Committee to this Court on or before 15th November, 2024.

5. An advance notice shall be given by the Committee to the appellant of the time and date fixed for inspection to enable the appellant to remain present at the concerned site. We make it clear that we are granting permission only to the appellant to remain present at the time of inspection and the appellant will ensure that no other person accompanies him at the time of inspection.

6. For consideration of the report, list the Appeal on 22nd November, 2024 under the caption of 'Directions'.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

BEFORE THE NATIONAL GREEN TRIBUNAL, KOLKATA

Original Application No. _____ of 2025

Alaka Mishra and Others Applicants

V E R S U S

State of Odisha..... Respondents

KNOW ALL to whom these present shall come that We, **Alaka Mishra**, W/o- Harekrushna Mishra, aged about 75 years, **Ashis Narayan Mishra**, S/o-Harekrushna Mishra, Aged about 43 years, **Shanti Swarup Purohit**, S/o- Mayadhar Purohit, aged about 70 years, **Hrusikesh Meher**, S/o- Damodar Meher, aged about 51 years,

, **Dolamani Purohit**, S/o- Mayadhar Purohit, aged about- aged about 63 years, **Jharana Meher**, aged about 51 years, **Kunja Bihari Sahu**, S/o Muralidhar Sahu, aged about 76 years, **Santilata Sahu**, D/o- Dwaru Sahu, aged about 60 years, **Rudramani Meher**, S/o Ananta Rama Meher, aged about- 66 years, All are residents of Rajborasambar, Padampur, Dist- Bargarh, Pin-768036

The above named APPLICANTS do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :-**Sankar Prasad Pani, Ashutosh Padhy, Advocates, Address-Plot—2132/4814, Nageswartangi, Bhubaneswar, 751002, ENROLMENT NO O-785/2007, Email-sankarprasadpani@gmail.com**

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 9th day of July 2025

Accepted subject to the terms of fees.

Sankar Prasad Pani
Advocate

Client
Alaka Mishra
Shanti Swarup Purohit
Rudra man Meher
Jharana Meher
Ashis Narayan Mishra

Client
Hrusikesh Meher
Dolamani Purohit
Ashutosh Padhy

AUTHORISATION

We, Alaka Mishra, W/o- Harekrushna Mishra, aged about 75 years,
Shanti Swarup Purohit, S/o- Mayadhar Purohit, aged about 70 years,
Hrusikesh Meher, S/o- Damodar Meher, aged about 51 years, .

, Dolamani

Purohit, S/o- Mayadhar Purohit, aged about- aged about 63 years, All
are residents of Rajborasambar, Padampur, Dist- Bargarh, Pin-768036,
Jharana Meher, aged about 51 years, Kunja Bihari Sahu, S/o
Muralidhar Sahu, aged about 76 years, Santilata Sahu, D/o- Dwaru
Sahu, aged about 60 years, Rudramani Meher, S/o Ananta Rama
Meher, aged about- 66 years authorize the applicant No 2 Ashis
Narayan Mishra, S/o-Harekrishna Mishra, Aged about 43 years
residents of Rajborasambar, Padampur, Dist- Bargarh, Pin-768036, to
swear the affidavit on behalf of us for filing the Original application.

Date-09/07/2025

SIGNATURE

Alaka mishra
Ashwin Lalayan Mishra

Shanti Swarup Purohit
Radra manand Meher
Jharanna Meher.
Ashok Kumar Jadau.

शान्ति स्वरूप पुरोहित

Dolamani Purohit
Hrusikesh Meher