

339

NOTARY
DHANBAD



BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN BENCH, KOLKATA
Original Application No. 57 of 2023

In the matter of :

Ajay Rajak

... Petitioner

Versus

Ministry of Coal and Ors.

... Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NOS. 3
AND 7 TO THE ADDITIONAL REJOINDER ON BEHALF OF THE
APPLICANT, SRI AJAY RAJAK.**

I, Nikhil B. Trivedi, son of late Balwant M. Trivedi, aged about 56 years, by faith - Hindu, by occupation - Service, working at Lodna Area No. 10, Lodna, Pin-828111, Bharat Coking Coal Limited (BCCL) having its office at Koyla Bhawan, Koyla Nagar, Dhanbad-826005 do hereby solemnly affirm and state as follows :-

1. I am currently working in the post of General Manager, Lodna Area of BCCL from its place of business as above mentioned herein.
2. I have been arrayed as Respondent no. 7 herein and I am also the authorized representative of the Respondent no. 3 by virtue of authorization letter dated 23rd August, 2023. I am competent to make and affirm this Rejoinder to the Counter Affidavit on behalf of the answering Respondent.
3. I have gone through a copy of the Additional Rejoinder on behalf of the Applicant, Ajay Rajak, and have understood the scope and purport



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लोदना क्षेत्र-10, भा.को.को.लि.
General Manager
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S.No. 02
Date 09 SEP 2025

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thereof. Being duly aware of the facts and circumstances of this case, I am competent to file this Counter Affidavit to the Additional Rejoinder filed on behalf of Ajay Rajak.

4. While dealing with the allegations made in paragraph 1 and 2 of the Additional Rejoinder filed by the Applicant, I state that the team constituted by the Hon'ble NGT specifically has stated that unauthorised extraction and illegal rathole mines are operating in Central Surunga, Baharigora area, Parbatlaxmi area. However, it has been observed that the land on which the unauthorised alleged illegal mining activities are being carried out over those lands, BCCL does not have any surface right and the ownership of the land is with somebody else, whose ownership has to be identified. It is further held in the report that the accountability of the illegal mining should be fixed on the owner of the lands where such illegal mines are found on Rayati land by initiation of appropriate legal proceedings. It has also been observed that local police, being the State Administration, should close down the coal stocking and transportation area near Baharighora District. The said report nowhere shows the involvement of BCCL in such alleged illegal mining in Central Surunga and Baharigora sites which is a matter of record. The Applicant has selectively interpreted the findings of the report which cannot be taken cognizance of as because the report has to be read as a whole and the finding of the NGT has to be found out from the entire report itself and not on selective basis. The report also shows that many sites have been closed of which supports the fact that BCCL upon receiving the complaints from third parties has placed on its own assessment and vigilance, has taken coactive steps to identify the same and seal the illegal mining. It is denied that after NGT has investigated, the illegal mining is being carried out continuously at the abovementioned site. There is no proof



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of illegal mining carried out at the site. It is important to note that the report states that no local residence of the area has come out and given any confirmation of any illegal mining being carried out at the site visited by the inspection team and no possible loss of life or injury due to such alleged illegal mining has been reported by any local residents. There is also no police complaint to that effect. Thus, the involvement of BCCL, if at all there is any illegal mining, is not evident at all. BCCL is not responsible for colluding with any third party for illegal unauthorised mining. If at all there is any illegal mining and unauthorised entries into the BCCL's mine, which is not there, it is the State Administration which can be addressed and held responsible as it is law and order problem and BCCL is not a law enforcing agency and thus cannot take law in their own hands.

5. With reference to paragraphs 3 and 4 of the Additional Rejoinder filed by the Applicant, I state that there is no proof of illegal mining of coal being carried out at large quantities from the said site and there has illegal extraction and transportation being carried out from the mines of BCCL. Such allegation made in the paragraph does not prove the involvement of BCCL with any third party and does not prove that BCCL is liable for any illegal transportation of coal. It is not evident that BCCL has allowed anyone to enter into their mines knowing the fact that those are unauthorised entrance. It is moreover evident that the BCCL knowing the fact, had allowed unauthorised entry and has allowed illegal mining and transportation of coal for their unjust enrichment. It is denied that BCCL officers had any role in such illegal extraction and transportation of mine. Since no one has ever complained regarding the involvement of BCCL to such specific event of illegal mining of coal at the time of inspection, there is no proof that BCCL is involved in it. BCCL, within its leasehold areas, adopts a serious approach to curb

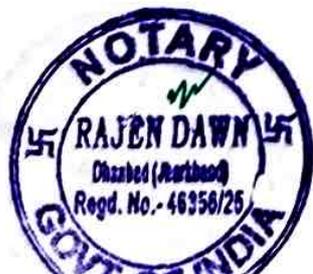


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illegal mining, which includes deployment of Quick Response Teams (QRTs), Standard Operating Procedures (SOPs), CISF surveillance, and coordination with State Law Enforcement Agencies. However, at many places, surface rights are not with BCCL and they remain in possession of local raiyats, making it challenging to monitor and control unauthorized access by miscreants. Nevertheless, upon identification or receipt of complaints, BCCL ensures timely intervention. It is denied that BCCL is involved in any illegal mining. It is denied that BCCL is a mining mafia. If any person is illegally entering into someone's mines and carrying on illegal activities, it is the State Administration to prevent such illegal entry and curb such national wealth being stolen away from the mining sites as they are the law enforcing agency. BCCL maintains register of complaint regarding illegal mining. BCCL takes necessary prompt action including deployment of CISF personnel. BCCL has lodged several complaints whenever they have got illegal mining and all of those complaints are annexed with the Counter Affidavit filed by the Respondent nos. 3 and 7 earlier which are on record. At least 13 to 14 complaints are on record which has been filed by the BCCL with the police authorities whenever they obtained information of illegal mining. BCCL has strict Standard Operating Procedure (SOP) to curb illegal entry and illegal mining with Notice put in and hoardings placed outside and inside the mine that there is danger and getting the public aware that if anybody enters the mines, that will be unauthorised entry and they will be prosecuted and further hoarding of 'DANGER' has been put including hoardings given putting public in notice that if they are involved in illegal mining and enter into the mines, they might also loose their lives for doing illegal mining activities. There are also CCTV surveillance. However, surface right is not with the BCCL and they are not in possession of total Rayats



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making it challenging to monitor and control unauthorised access over the place never been raised upon identification or complaints being raised at the time of interrogation.

6. With reference to paragraph 5 of the Additional Rejoinder filed by the Applicant, I state that F.I.R. No. 96 of 2024 lodged by Circle Officer, Baliapur, does not prove any involvement of BCCL in illegal mining and coal transportation. These are serious offences and law and order issues which falls under the jurisdiction of the State agency, to curb such illegal mining and illegal transportation. BCCL has consistently provided support and cooperation to such agency to ensure that culprits are brought to justice. F.I.R. No. 74 of 2024 does not establish any involvement and collusion of BCCL officers. This matter requires independent police investigation which the police has to do once more and BCCL cannot be held responsible for this. The F.I.R. No. 96 of 2024 clearly mentions that raw coal was found during inspection. Furthermore, it was mentioned that officers were designated under Section 11(1) of the Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Store) Rules, 2017, to stop, search and verify at any place place/trucks and other vehicles carrying coal from the mine or other source. This proves no direct involvement of BCCL or failure on the part of BCCL.
7. I state that no statutory agency has ever complained against BCCL that they are carrying out mining activities in violation of Pollution norms or any law of the land. There has been no allegation that BCCL has been carrying mining activities beyond permissible limits without any concession or permission. There has not been any complaint from any regulatory authority that they have violated any law of the land or has ever been involved in illegal mining. BCCL is carrying all the licenses for carrying out mining activities and if any person at all has suffered



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because of their own unlawful act, State Administration is responsible. BCCL is not violated any provision of law. BCCL continues to remain committed to lawful mining practices, environmental compliance, and public safety, and opposes all forms of illegal mining through sustained internal vigilance and lawful coordination with the State machinery.

8. I state that the said Additional Rejoinder is false, frivolous and vexatious and suffers from gross distortion of material facts and suffers from relevant particulars. As such, no cognizance and reliance should be place upon the Additional Rejoinder filed by the Applicant.
9. Under such facts and circumstances, the Additional Rejoinder filed on behalf of the Applicant should be totally ignored and no importance should be given against the same as the same does not have any merit.
10. That the statements made in paragraphs 1 to 7 of the foregoing Affidavit are true to my knowledge and the rests are my humble submissions before this Hon'ble Tribunal.

Prepared in my office
Advocate

NIKHIL B. TRIVEDI

DEPONENT

Identified by me

Advocate



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Authorised
u/s 333 (f) (c) of the B.S.S. 2023
(Notary Act No 11 of 1974) & u/s (8)
(i) of the Notaries Act 1952
(Act No 53 of 1952)

Rajen Dawn
09/09/2025

Identified by
[Signature]
09/09/2025

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Fox & Mandal,
Solicitors & Advocates,
12, Old Post Office Street,
Kolkata - 700 001.

Welfare Ticket
Not Available



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S.No. 02 Date 09 SEP 2025



ENRL. NO. 1077710



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DHANBAD BAR ASSOCIATION