

**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA
Original Application No.120/2025/EZ**

In the matter of:

Youth United for Sustainable Environment Trust
..... Applicant

VERSUS

State of Odisha & Ors.
..... Respondents

INDEX

Sl. No.	Description of documents	Page No.
1	Counter Affidavit filed on behalf of the Respondent Nos.3, 4 and 5.	1-12
2	Annexure-A/5 Copy of the Report dated 07.08.2025 of the Fact Finding Committee.	13- 19
3	Annexure-B/5 Copy of the judgment dated 06.02.2024 passed by the Hon'ble High Court of Orissa in W.P.(C) No.6375 of 2023.	20- 43

By the Respondent Nos.3, 4 & 5 through

**NEW DELHI
DATE: 14 .08.2025**

Navan Jay
**ADVOCATE
(NAVANJAY MAHAPATRA)
MOB NO.8376089467**

Susandra Kumar Samal
16.08.2025
Deputy Director Mines
Talcher Circle, Talcher



**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA**

Original Application No.120/2025/EZ

In the matter of:

Youth United for Sustainable Environment Trust
..... Applicant

VERSUS

State of Odisha & Ors.
..... Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF
THE RESPONDENT Nos.3, 4 and 5.**

I, Sri Sri Suvendra Kumar Samal, aged about 58 years, S/o- Late Gourhari Samal, at present working as Deputy Director of Mines, Talcher, At/PO- Talcherl, Dist.- Angul, Odisha, do hereby solemnly affirm and state as follows: -

1. That, I have been arrayed as the Respondent No.5 in the aforementioned Original Application. I have been duly authorized to swear this affidavit on behalf of the Respondent Nos.3 and 4.

2. That, I have gone through the contents of the Original Application as well as the Annexures appended thereto and understood the contents thereof. I am otherwise well acquainted with the facts of the case to swear this Affidavit in my official capacity.

Suvendra Kumar Samal
16.08.2025
Deputy Director Mines
Talcher Circle, Talcher

X

3. That, the Applicant has filed the aforementioned Original Application before this Hon'ble Tribunal alleging illegal operation of sand mining in Gunadei Brahmani Sand Quarry over an area of 11.80 acres or 4.77 ha in Village- Gunadei under Oupada Tahasil of Dhenkanal District, Odisha bearing Plot No.01, Khata No.301 (Kisam-Nadi) in violation of the Sustainable Sand Mining Management Guideline, 2016.

4. That, this Hon'ble NGT, vide order dated 18.07.2025, has directed the State Respondents as follows:-

"Xx xx xx

21. All the Respondents shall file their counter-affidavits within four weeks.

22. Considering the allegations made, we deem it appropriate to constitute a Fact Finding Committee comprising of the following Members:-

i. District Magistrate or Collector, District – Dhenkanal, Odisha or his representative not below the rank of Additional District Magistrate (ADM);

ii. Director of Mines, Talcher, Odisha, or his representative;

iii. Senior Scientist, Odisha State Pollution Control Board; iv. Member Secretary, State Environment Impact Assessment Authority (SEIAA), Odisha, or his representative.

23. The Committee shall visit the site in question and thereafter submit a Fact Finding Report on affidavit within three weeks with regard to the allegations made in the Original Application.

Xx xx xx."

Suresh Kumar Kumar
16.08.2025

Deputy Director Mines
Talcher Circle, Talcher

X

5. That, pursuant to the aforesaid direction of this Hon'ble Tribunal, the Fact Finding Committee was constituted and visited the site on 07.08.2025 and accordingly report.

Copy of the Report dated 07.08.2025 of the Fact Finding Committee is annexed herewith as Annexure-A/5.

PARAWISE REPLIES

6. That, the contents of the Paragraph Nos.1 to 4 are matter of facts and record, hence the same needs no reply.

7. That, in reply to the averments made in Paragraph No.5 of the Original Application, it is humbly submitted that on perusal case record received from the Tahasildar, Odapada, It is revealed that "The case record is taken up today. The interim EC for the source has been received vide Letter No-5025/SEIAA, dated 02.08.2022 after submission of the replenishment study report to SEIAA, Bhubaneswar. Perused the interim Encumbrance Certificate (E.C.), in which it speaks that modification of E.C. is granted and allowed to extract 5600 CuM of sand in the ensuing year."

8. That, in reply to the averments made in Paragraph Nos.6 and 7 of the Original Application, the deponent has no comments to offer.

9. That, in reply to the averments made in Paragraph No.8 of the Original Application, it is humbly submitted that the validity of DSR of Dhenkanal District was up to December 2024. The draft

Saranda Kumar Samal
16.08.2025

Deputy Director Mines
Talcher Circle, Talcher

✕

DSR of Dhenkanal District was uploaded in public domain for inviting objection and period is 30 days was over on 28.12.2024. Then the DSR was forwarded to SEIAA for approval. A clarification was requested regarding validity of EC of all sairat sources under Dhenkanal district vide our letter No-1277/MM, Dhenkanal, dated 27.12.2024. A clarification was received vide letter No.6216/SEIAA, dated 01.01.2025 stating that the E.C. is valid for the sirat sources of dhenkanal is up to the lease period. The revised District Survey Report (DSR) of sand in Dhenkanal District is already approved by SEAC & SEIAA vide letter no.EC25C0107OR5762604N, dated 28.07.2025 and is available in Public Portal and anyone can assess it.

10. That, in reply to the averments made in Paragraph No.9 of the Original Application, it is humbly submitted that the validity of DSR of Dhenkanal District was up to December 2024. The draft DSR of Dhenkanal District was uploaded in public domain for inviting objection and period is 30 days was over on 28.12.2024. Then the DSR was forwarded to SEIAA for approval. A clarification was requested regarding validity of EC of all sairat sources under Dhenkanal district vide our letter No-1277/MM, Dhenkanal, dated 27.12.2024. A clarification was received vide letter No.6216/SEIAA, dated 01.01.2025. Stating that the EC is valid for the sirat sources of dhenkanal is up to the lease period. The lease period of Gunadei Brahmani Sand Quarry is up to 02.06.2026. The revised District Survey Report (DSR) of sand in Dhenkanal District is already approved by SEAC & SEIAA vide

Surendra Kumar Samal

16.08.2025

Deputy Director Mines
Talcher Circle, Talcher

X

letter no. EC25C0107OR5762604N dated 28.07.2025 and is available is Public Portal and anyone can assess it.

11. That, the averments made in Paragraph No.10 of the Original Application is not correct, as the fact finding committee has mentioned on their report dated 07.08.2025 pillar has been posted and some pillars were submerged in river water.

12. That, the averments made by the applicant in Paragraph No.11 Original Application is incorrect. On receipt of a complaint from villagers Baniapada on 06.06.2025, the Mining officer cum Competent Authority, Dhenkanal inspected the site and did not notice any movement of heavy vehicles at the alleged Gunadei Brahmani Sand Quarry. However a heap of sand was piled outside lease area over private plots. Another sand quarry i.e. Podapada Brahmani Sand Quarry over an area of 11.80 acre is at a distance of approx. 1.2 km from Gunadei Brahmani Sand Quarry over an area of 11.8 acre. Both the lessees were interrogated by the Mining Officer, Dhenkanal. During the course of investigation on illegal storage of sand, both the lessees denied regarding illegal storage of sand. Since no claimant was there to claim the stored sand near the quarry in question, the Tahasildar, Odapada has been requested vide Letter No.1522, dated 31.07.2025 and letter No.1626, dated 13.08.2025 to issue show cause notices to land owners over whose plot the sand have been deposited.

13. That, in response to the Paragraph Nos.12 to 19 of the Original Application, the deponent has no comments to offer.

Suresh Kumar Samal

16-08-2025

Deputy Director Mines
Talcher Circle, Talcher

X

14. That, the averments made by the applicant in Paragraph No.20 of the Original Application is incorrect. It is humbly submitted that earlier some un-authorized extraction had taken place near the alleged sand bed for which the amount of Rs.2,00,000/- has been realized from four Hyvas on 22.12.2023.

15. That, in reply to the averments made in Paragraph No.21 of the Original Application, it is humbly submitted that the internal mining squad have made surprise visit to the alleged quarry on 22.04.2025, 02.05.2025, 21.05.2025 and 09.06.2025. But on the date of visit they could not notice any excavation machine being used for extraction of sand. However, all the sairat sources (sand) of Dhenkanal District are not operating at present due to monsoon. They have been directed vide office letter No-1179/MM, Dhenkanal dt-13.06.2025 to stop operation pursuant to Govt. guidelines with effect from dt-15.06.2025 to dt-15.10.2025.

16. That, in reply to the averments made in Paragraph No.22 of the Original Application, it is humbly submitted that on allegation of excess excavation, a work order was given to Zeotek Mining Solutions Pvt. Ltd which is an ORSAC empanelled agency to conduct drone survey the alleged lease area Gunadei Brahmani Sand Quarry and area around 500 mtr. from the quarry vide our letter No-889/MM, Dhenkanal dated 02.05.2025. The drone survey report is yet to be received from the agency.

Suvendra Kumar Samal
16.08.2025

Deputy Director, Mining
Talcher Circle, Talcher

X

17. That, the averments made in Paragraph No.23 of the Original Application is incorrect. It is humbly submitted that on allegation received from villagers of Baniapada, the Mining officer Dhenkanal has restricted the movement of heavy vehicles vide Letter No.1222/MM, Dhenkanal Dt-19.06.2025 on the RD road from Baniapada to NH-55.

18. That, in reply to the averments made in Paragraph No.24 of the Original Application, it is humbly submitted that all the sairat source (sand) of Dhenkanal District are not operating at present due to monsoon. They have been directed vide office letter no-1179/MM, Dhenkanal dt-13.06.2025 to stop operation pursuant to Govt. guidelines with effect from dt-15.06.2025 to dt-15.10.2025.

19. That, the averments made in Paragraph No.25 of the Original Application is not correct, as the fact finding committee has mentioned on their report dated 07.08.2025, pillar has been posted and some pillars were submerged in river water.

20. That, the averments made in Paragraph No.26 of the Original Application is not correct as the display board has been posted near the lease area.

21. That, in reply to the averments made in Paragraph No.27 of the Original Application, it is humbly submitted that on allegation received from villagers of Baniapada, The Mining officer Dhenkanal has restricted the movement of heavy vehicles vide

Saravendra Kumar Samant

16.08.2025

**Deputy Director Mines
Talcher Circle, Talcher**



Letter No.1222/MM, Dhenkanal, dated 19.06.2025 on the RD road from Baniapada to NH-55.

22. That, in reply to the averments made in Paragraph No.28 of the Original Application, it is humbly submitted that as per the fact finding report, the river is flowing naturally near the lease and there is no obstacle / impacting the flow pattern of river water due to mining activities. All the sairat source (sand) of Dhenkanal District are not operating at present due to monsoon. They have been directed vide office letter no-1179/MM, Dhenkanal, dated 13.06.2025 to stop operation pursuant to Govt. guidelines with effect from 15.06.2025 to 15.10.2025.

23. That, in reply to the averments made in Paragraph No.29 of the Original Application, it is humbly submitted that on allegation received from villagers of Baniapada, The Mining officer Dhenkanal has restricted the movement of heavy vehicles vide Letter No-1222/MM, Dhenkanal, dated 19.06.2025 on the RD road from Baniapada to NH-55.

24. That, in response to the Paragraph No.30 of the Original Application, the deponent has no comments to offer.

25. That, in reply to the averments made in Paragraph No.31 of the Original Application, it is humbly submitted that on perusal case record received from the Tahasildar, Odapada, It is revealed that "The case record is taken up today. The interim EC for the source has been received vide Letter No-5025/SEIAA, Dt

Suvendra Kumar Samal

18-06-2025

**Deputy Director Mines
Talcher Circle, Talcher**

X

02.08.2022 after submission of the replenishment study report to SEIAA, Bhubaneswar. Perused the interim EC, in which it speaks that modification of E.C is granted and allowed to extract 5.600 CuM of sand in the ensuing year.”

26. That, in reply to the averments made in Paragraph No. 32 of the Original Application, it is evident from the fact finding report it is found that “The committee has not observed any damage of river embankment at the quarry area for sand mining.”

27. That, in response to the Paragraph Nos.33 and 34 of the Original Application, the deponent has no comments to offer.

28. That, in reply to the averments made in Paragraph No.35 of the Original Application, it is humbly submitted that a drone survey was conducted by the ORSAC empanelled agency on 21.05.2025 over the alleged lease area Gunadei Brahmani Sand Quarry and area around 500 mtr. from the quarry. The drone survey report is yet to be received from the agency.

29. That, the averments made in Paragraph No.36 of the Original Application is not correct. It is revealed from the case record that a joint enquire was conducted constituting geologist, Joint Director Geology, Dhenkanal, Environmental Engineer, RO.SPCB, Angul, Forest Ranger, Dhenkanal, Executive Engineer Rengali Right Canal, Dhenkanal along with RI, Oadapada on 25.08.2025.

Sruendra Kumar Samal

16.08.2025

Deputy Director Mines
Talcher Circle, Talcher

~~X~~

30. That, in response to the averments made in Paragraph Nos.37 to 39 of the Original Application, the deponent has no comments to offer.

31. That, in reply to the averments made in Paragraph No.38 of the Original Application, it is humbly submitted that as it is ascertained from the fact finding report that, the committee has not observed any damage of river embankment at the quarry area for sand mining.No sandbag, morrum or broken bricks found near the river bank of the lease area of Gunadei Brahmani Sand Quarry.

32. That, in response to the Paragraph Nos.39 and 40 of the Original Application, the deponent has no comments to offer.

33. That, in reply to the averments made in Paragraph No.41 of the Original Application, it is humbly submitted that pursuant to the judgment dated 06.02.2024 passed by the Hon'ble High Court of Orissa in W.P.(C) No.6375 of 2023, the mining operation in sairat sand sources remain stopped from 7 AM to 9 PM in order to protect the environment to provide a quality life to the public at large.

Copy of the judgment dated 06.02.2024 passed by the Hon'ble High Court of Orissa in W.P.(C) No.6375 of 2023 is annexed herewith as Annexure-B/5.

34. That, in reply to the averments made in Paragraph No.42 of the Original Application, it is humbly submitted the lease of Gunadei Brahmani Sand Quarry over an area of 11.8 acres under

Suvendra Kumar Samal

16.08.2024
Deputy Director Mines
Talcher Circle, Talcher

X

Odapada Tahasil of Dhenakanal District has deposited the demanded govt. dues in proper head of account for the FY-2025-26.

35. That, the averment made in Paragraph No.43 of the Original Application is baseless and out of context. Sincere efforts and frequent raids are being under taken at regular intervals to check illegal mining.

36. That, in reply to the averments made in Paragraph No.44 of the Original Application, it is humbly submitted that the lessees apply for e-TP in Form-Y under the rule 58 (1) of OMMC 2016. The e-TP is issued online. The security feature of e-TP that it can be scanned by any one through i4ms surveillance app to find out the authenticity of the e-TP.

37. That, the averments made in Paragraph No.45 of the Original Application is incorrect as i4ms application has already been rolled out for dealing with minor minerals.

38. That, in response to the Paragraph Nos.46 to 52 of the Original Application, the deponent has no comments to offer.

39. That, in view of the aforesaid facts and circumstances, the prayers made in the Original Applications are devoid of merit and the same is liable to be disposed of as per law.

40. That, the Deponent further craves leave of this Hon'ble Tribunal to make further submissions and to file further Affidavit /

Surendra Kumar Samal

16.08.2025

**Deputy Director Mines
Talcher Circle, Talcher**

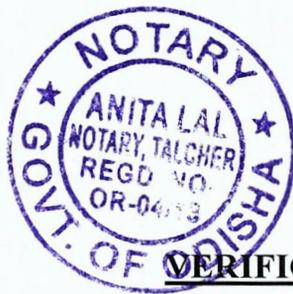
X

Counter, if the same is deemed necessary for an effective adjudication.

41. That, the facts stated above are based on the official documents / records which are true to the best of my knowledge & belief.

Identified by:

Advocate



Suvendra Kumar Samal
16.08.2025

Deponent
Deputy Director Mines
Talcher Circle, Talcher

VERIFICATION

I, Sri Suvendra Kumar Samal, aged about 58 years, S/o- Late Gourhari Samal, at present working as Deputy Director of Mines, Talcher, At/PO- Talcher, Dist.- Angul, do hereby solemnly affirm and verify the contents of Paragraph nos.01 to of the present affidavit are true to my knowledge and Paragraph Nos.... to are my humble submissions before this Hon'ble Tribunal and that I have not suppressed any material facts.

I sign this Verification at Talcher on 16.08.2025 day of August, 2025.

N.R. NO. 4924 DATE 16-8-25

Place: TALCHER,

DIST.-ANGUL, ODISHA

Date: 16.08.2025

Suvendra Kumar Samal

VERIFICANT 16.08.2025

Deputy Director Mines
Talcher Circle, Talcher

AFFIDAVIT

The deponent having been identified by Sri Navanjoy Mahapatra Advocate before me on 16.08.2025 at Talcher. The contents of the affidavit are true to the best of my knowledge & belief.

ANITA LAL
NOTARY TALCHER



**OFFICE OF THE DEPUTY DIRECTOR MINES, TALCHER
CIRCLE, TALCHER, DIST- ANGUL.**

E-mail: ddm.talcher@orissaminerals.gov.in

No. 2155 /Mines,

Dated. 10/09/2025

To

Sri Navanjay Mahapatra, Advocate,
At- R-38, First Floor,
OP Sharda Marg, Greater Kailash-1,
New Delhi.
(Email: navpatra@gmail.com)

Sub: Submission of Fact Finding Report and filing of counter affidavit in
O.A. No.120/2025/EZ before Hon'ble Green Tribunal, Eastern Zone,
Kolkata.

Sir,

With reference to the subject cited above, I am to submit herewith the notarized counter affidavit in O.A. No.120/2025/EZ on behalf of Collector & District Magistrate, Dhenkanal (Respondent No.3), Tahasildar, Odapada (Respondent No.4) & Deputy Director Mines, Talcher (Respondent No.5) and Fact Finding Committee report dt.07.08.2025 on behalf of Collector & District Magistrate, Dhenkanal for filing before the Hon'ble Green Tribunal, Eastern Zone, Kolkata. The case is listed on dt.04.11.2025 for next hearing. The Counter affidavit and Fact finding report may be filed before the next hearing date.

This is for your kind information and necessary action.

Yours faithfully,

Encl: As above.

Deputy Director Mines (I/c)
Talcher Circle, Talcher.

Memo No. 2156 / Mines, Dt. 10/09/2025

Copy submitted to the Collector & District Magistrate, Dhenkanal for
favour of kind information.

Deputy Director Mines (I/c),
Talcher Circle, Talcher



X

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE, DHENKANAL

(Touzi Section)

No. 77 / Dt. 12-8-2025

Email Id:- dki.touzi@nic.in
Tel. No. - 06762-225711

To

The Dy. Director of Mines,
Talcher Circle, Talcher.

Sub:- O.A. No. 120/2025/EZ filed by Youth United for Sustainable Environmental Trust Vrs. State of Odisha & others.

Ref:- This office letter No. 11418 / Dt.28-07-2025.

Sir,

In enclosing herewith Fact Finding Committee report on dated 07-08-2025, you are hereby authorized to file the affidavit before the Hon^{ble} NGT, on behalf of the Collector & District Magistrate, Dhenkanal in consultation with learned Govt. Advocate.

Yours faithfully,


COLLECTOR, DHENKANAL

Memo No. 78 /Dt. 12-8-2025

Copy to the Addl. Govt. Advocate, O/o Advocate General, Odisha, Cuttack for kind information & necessary action with reference to his Letter No. 32722 / Dt. 21-07-2025.


COLLECTOR, DHENKANAL

Memo No. 79 /Dt. 12-8-2025

Copy forwarded to the Tahasildar, Odapada for information & necessary action.


COLLECTOR, DHENKANAL

Memo No. 80 /Dt. 12-8-2025

Copy forwarded to the Mining Officer, Dhenkanal for information & necessary action.


COLLECTOR, DHENKANAL

✕

Joint Committee Report on O.A. No. 120/2025/EZ, filed by Youth United for Sustainable Environmental Trust Vrs. State of Odisha and Others before the National Green Tribunal, Eastern Zone, Kolkata-reg

As per the order dated 18.07.2025 of Hon'ble NGT, EZ, Kolkata a joint committee has been constituted comprising of the District collector, Dhenkanal or his representative not below the rank of Additional District Magistrate, Director of Mines, Talcher, Odisha, Senior Scientist, Odisha State Pollution Control Board and District collector, Member Secretary, State Environment Impact Assessment Authority (SEIAA), Odisha, or his representative to visit the site and thereafter submit a Fact Finding Report on affidavit within three weeks with regard to the allegations made in the original application.

In obedience to the order of the Hon'ble NGT, EZ, Kolkata, a joint committee of following members has formed and visited the alleged site on **07.08.2025**.

1. Sri Lalit Mohan Behera, OAS (S), Additional District Magistrate (Rev), Dhenkanal, Representative of District Magistrate, Dhenkanal
2. Sri Subhendra Kumar Samal, Deputy Director of Mines, Talcher Circle Representative of Director of Mines, Odisha.
3. Er. Ramesh Kumar Ekka, Sr. Env. Engineer & Regional Officer, Angul and Nodal Officer, State Pollution Control Board, Odisha.
4. Sri Pradeepta Kumar Nayak, Environmental Scientist, SEIAA, Odisha.

The following officers were accompanied during field visit and also the representative of the concerned project proponent were present (List Enclosed as **Annexure-I**).

1. Sri Soumya Ranjan Kuanr, Asst. Env. Scientist, SPC Board, Angul
2. Sri Surendra Kumar Muduli, Addl. Tahasildar, Odapada, Dhenkanal
3. Sri Srikanta Samal, Junior Mining Officer, Odapada Tahasil, Dhenkanal
4. Sri Anil Kumar Sahoo, Revenue Inspector, Odapada.

POINT WISE OBSERVATION OF REPLY TO THE HON'BLE NGT REQUIREMENT FROM THE COMMITTEE:

After due field inspection and on verification of documents (relevant files and case record) duly produce by Mining Officer, the Committee observed on following:

1. Allegation on no study of the annual rate of replenishment of sand has been done for the sairat source which is pre requisite as per the guidelines of Sustainable Sand Mining Management, 2016 issued by the MoEF & CC, Govt. of India, and as per orders of the NGT dated 12.12.2018.
 - i. As per recommendation of State Level Expert Appraisal Committee (SEAC), the environmental clearance (EC) was issued vide letter no. 1133/SEIAA dated 30.03.2021 for Gunadei Brahamani Sand Bed over an area of 11.80 acres or 4.77 ha at village- Gunadei, Tahasil- Odapada, Dist- Dhenkanal in favour of Tahasildar, Odapada. In the EC letter, the production quantity of sand was allowed 10000 cum in 1st year with depth of mining 1.0 meter as per the approved mining plan subject to condition

X

that pending carrying out of the study & submission of the report, this chance is being granted in an adhoc manner and is liable to be revoked after one year i.e. after 15th May, 2022 if satisfactory replenishment study report is not submitted.

- ii. Further, the Project Proponent (PP) has submitted amendment of EC application in light of replenishment study report vide online proposal No. SIA/OR/MIN/276445/2022 dated 04.06.2022 and amendment of EC was allowed in favour of Tahasildar, Odapada vide letter no. 5025/SEIAA dated 02.08.2022 for extraction quantity of sand 5600 cum with depth of mining 0.5 meter for 2nd year/ensuing year subject to condition the submission of Annual Rate of the Replenishment Study (ARRS) report by 30.11.2023.
 - iii. The project proponent (PP) vide online application no. SIA/OR/MIN/292671/2022 dated 26.06.2023 had submitted transfer of EC from the name Tahasildar, Odapad to Sri Tripulary Sahoo, the successful bidder/lessee. During appraisal, it has been observed that the PP has operated the quarry in 1st and 2nd year without transfer of EC in his favour, hence the Authority decided that the PP is required to deposit the amounting of Rs. 1,26,676/- (i.e. as per SOP of MoEF & CC, Govt. of India dated 07.07.2021) to SPCB as a penalty for violation of EC conditions that quarry was operated without transfer of EC. Accordingly, the PP has deposited the penalty amount of **Rs.1,26,676/-** vide receipt no. 27422, Book No. 1075 dated 12.06.2023. The, the transfer of EC was allowed on 12.07.2023 for extraction quantity of sand 2500 cum (i.e. in absence of ARRS report the extraction quantity of sand 25% of the 1st year/2nd year production quantity 10000 cum was allowed in EC letter) in 3rd year in adhoc manner subject to submission of ARRS report by 31st December, 2024.
 - iv. Further, the PP had submitted amendment of EC on basis of ARRS report vide application no. SIA/OR/MIN/464854/2024 dated 03/03/2024. The SEAC recommend the amendment of EC for the replenished quantity of sand 8618 cum/annum. Accordingly, the Authority allowed the extraction quantity of sand 8618 cum/annum in Amendment of EC letter EC24C0107OR5862437A dated 06.05.2024 for the remaining period of the lease.
- 2. Allegation that condition No.4 (f) mentions in EC letter dated 30.03.2021, the project proponent has not furnished the width of the river, nor the alignment of the extraction path for sand transportation and as reported by the Tahasildar, the river bridge is at a distance of 7.4 Km away from the mining lease area.**
- i. The extraction path to sand said sand bed is already defined in the Mining Plan. Also, the extraction path and stretch of river is already mentioned in the revised DSR approved by SEAC & SEIAA on dated 28.07.2025.

X

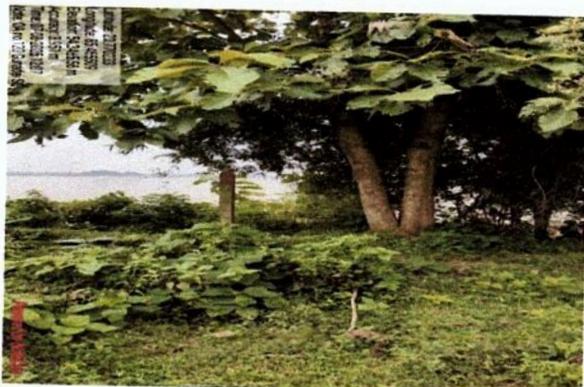
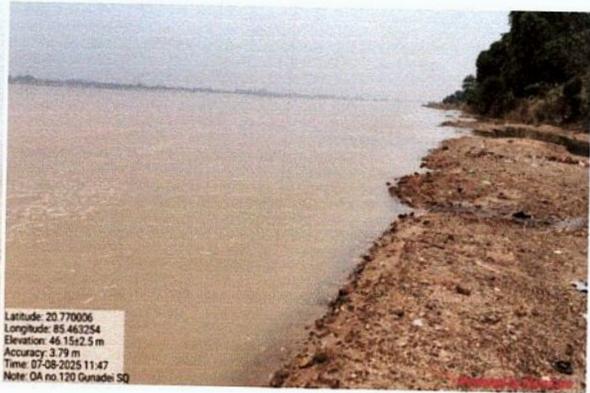
3. **Allegation that the Environmental Clearance (EC) dated 12.07.2023 granted in favour of Respondent no.9 in paragraph no.2 (iii) of the EC by SEIAA, Odisha itself mentions that "this is a violation case as the quarry operated earlier without transfer of EC." Similar observation was made in paragraph no.2 (v) and the violation was noted by the State Environment Impact Assessment Authority (SEIAA), Odisha in its meeting held on 30.05.2023.**
- ii. The details are mentioned in the above point no. 1(iii).
4. **It is alleged that the District Survey Report (DSR) of Dhenkanal District has not been approved by SEIAA, Odisha and therefore, Transfer of EC is not valid. It is also alleged that the boundary of the lease area by erecting 1.20 meter (4 feet approx.) high reinforced concrete pillars has not been carried out by the project proponent till date.**
- iii. The revised District Survey Report (DSR) of sand in Dhenkanal District as per the provision of the Environment Impact Assessment (EIA) Notification, 2006 under the Environment (Protection) Act, 1986 and subsequent amendment thereto, i.e. Enforcement and Monitoring Guidelines for Sand Mining (EMGSM)-2020 and in pursuance of MoEF & CC, Govt. of India Notification dated 15.01.2016 & 25.07.2018 and as per order of Hon'ble Supreme Court dated 10.11.2021 in Civil Appeal No. 36613662 of 2020 (State of Bihar Vrs. Pawan Kumar and Others) is already approved by SEAC & SEIAA vide letter no. EC25C0107OR5762604N dated 28.07.2025 and is available on Public Portal and anyone can assess it.
5. **Allegations on violations of Consent to Operate (CTO) conditions.**
- i. The Consent to Establish (CTE) was granted by the State Pollution Control Board, Odisha in favour of The Tahasildar, Odapada, to operate the quarry in the name and style of M/s. Gunadei Brahmani Sand Quarry over plot No. 01, Khata No.301, Total ML Area of 11.80 acres or 4.77Ha at village Gunadei under, Tahasil: Odapada, Dist: Dhenkanal vide Board's letter No. 1963 dtd. 23.06.202.
- ii. The Consent to Operate (CTO) was granted by the State Pollution Control Board, Odisha in favour of Sri Tripurari Sahoo, Lessee to operate the quarry in the name and style of M/s. M/s. Gunadei Brahmani Sand Quarry over plot No. 01, Khata No.301, Total ML Area of 11.80 acres or 4.77Ha at village Gunadei under, Tahasil: Odapada, Dist: Dhenkanal vide Board's letter No.1876 dtd. 23.05.2025 which is valid for the period up to 02.06.2026.
- iii. During visit, no violation of any conditions stipulated in the consent order were observed.
6. **Allegation on illegal extraction, overloading heavy vehicles on road beyond carrying capacity, impacting the flow pattern of river water, No display board of statutory clearances in the lease area, excess mining, mining outside the lease area and mining through excavators and heavy machines.**

G
/

X

- i. During visit it is observed that total lease area is water logged as monsoon water is flowing from west to east direction in Brahmani River and the lease area is not observed except three nos. of pillar are demarcated in the sand bed and are posted at the river bank.
- ii. During visit it was observed that neither any mining activities were carried out nor any heavy machinery (excavators) was engaged in the sources or periphery of the lease area.
- iii. Information board is placed at camp side which is located 1.0 km away from the lease area and the committee suggested to placed another sign board or replace the previous one near to the lease area.
- iv. No transporting heavy vehicles, machinery are observed during joint visit.
- v. The river is flowing naturally near the lease and there is no obstacle/impacting the flow pattern of river water due to mining activities.
- vi. The committee has not observed any damage of river embankment at the quarry area for sand mining.
- vii. The lease agreement was made on dt-23.06.2021. The lessee has extracted 2210 cum of sand in FY 2023-24 from allowed quantity of 2500cum. In FY- 2024-25 the lessee has extracted 8496 cum of sand from allowed quantity of 8618 cum. In FY 2025-26 the lessee has extracted 2958 cum of sand till now from allowed quantity of 8618 cum.
- viii. In the KML file it is observed that some extraction of sand is being taken from outside (200 meter away from alleged sand bed) the lease area in the FY-2024-25. Based on the public petition, the mining officer, Dhenkanal given a work order to Zeotek Mining Solutions Pvt. Ltd which is an ORSAC empaneled agency to conduct drone survey the alleged lease area Gunadei Brahmani Sand Quarry and area around 500 mtr from the quarry vide our letter No-889/MM, Dhenkanal dt-02.05.2025 (Copy enclosed). The drone survey report is yet to be received from the agency.
- ix. Earlier some un-authorized extraction had taken place near the alleged sand bed for which the amount of Rs.2,00,000/- has been realized from four Hyvas on dt-22.12.2023 (Copy enclosed).
- x. No permission was allowed to operate the quarry during the monsoon/rainy season.

G
/



Photos taken on the day of visit

**Deputy Director of Mines,
Talcher Circle.**

**Environmental Scientist,
SEIAA, Odisha**

**Addl. Dist. Magistrate (Rev),
Dhenkanal.**

**Regional Officer
State Pollution Control Board
Regional Office, Angul
Regional Officer,
SPC Board, Angul.**

ORISSA HIGH COURT: CUTTACK**AFR****W.P.(C) No. 6375 of 2023**

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Prasanta Kumar Das Petitioner

-Versus-

State of Odisha and others Opp. Parties

For petitioner : M/s Sukanta Kumar Dalai
and S. Mahapatra, Advocates

For opp. parties : Mr. Asok Parija,
Advocate General along with
Mr. Kishore Mohanty,
(O.P. Nos. 1 to 13)

M/s. H.S. Mishra,
Padmanav Sethy and R. Dash,
Advocates
(O.P. No. 17)

M/s. Sanjay Das-2,
Padmanav Sethy, T.K. Sahoo,
Advocates (O.P.Nos. 18 & 19)

Mr. S.P. Mishra, Sr. Advocate
along with M/s. Soumya Mishra,
A. Agarwal, R.K. Agarwal,
M. Mishra and B. Behera,
Advocates (O.P. No.20)

Mr. P.K. Mohapatra, Advocate
(For Intervener)



P R E S E N T:

**THE HONOURABLE ACTING CHIEF JUSTICE DR. B.R.SARANGI
AND
THE HONOURABLE MR JUSTICE MURAHARI SRI RAMAN**

Date of Hearing and Judgment :: 06.02.2024

DR. B.R. SARANGI, ACJ. The petitioner has filed this writ petition in the nature of public interest litigation seeking following relief(s):-

“It is most respectfully prayed that this Hon'ble Court may graciously be pleased to issue Rule Nisi calling upon the Opposite Parties to show cause as to why appropriate direction shall not be given to the Opposite Parties more especially Opposite Party No. 3 to 13 to take prompt action to stop illegal mining by way of mechanized manner and to adopt guided and controlled method for transportation of sands and to cause an independent enquiry in relates to alleged illegal practice adopted by the Opposite Party No.3 to 13 and to declare the present auction procedure as illegal, arbitrary and malafide and against larger public interest”

2. The factual matrix of the case, in brief, is that the State authorities, while granting sand sairats on lease to different lessees by making public auctions for different periods, are allowing the lessees to operate the lease in violation of the terms and conditions of the lease deed executed between the parties. Though the lease conditions stipulate that the lessee has to operate the mining manually as far as practicable, but the lessees

~~2X~~

are using the machinery in a mechanized manner for extraction of sand from the sand sairats, which is a great concern in the present writ petition. There is also unorganized movement of vehicles transporting the sand in the school and habitable areas in day time. Similarly, uncontrolled extraction of sand from the leasehold areas in a mechanized manner is not only causing threat to the environment but also causing threat to the river embankment affecting larger public interest. The petitioner has received information that the lessees, who have been allotted with sand sairats by the Tahasildars of the various Tahasils, are utilizing the machines to extract sand in their leasehold areas. That itself contravenes the conditions stipulated in the lease deed executed between the parties. Aggrieved by such action, though the petitioner approached the authorities on several occasions, no action was taken, for which the petitioner has filed this writ petition in the nature of public interest litigation alleging inaction of the authorities and also bringing to the notice of this Court the violation of conditions stipulated in sand sairat lease deeds by the lessees. The lessees, while extracting sand,

~~X~~

are violating the conditions stipulated by the Pollution Control Board, more particularly, the provisions contained under Section 25 of the Air (PCP) Act, 1981. Inaction on the part of the authorities has occasioned rampant mis-utilization of the source and it so happened that the lessees are extracting more than the quantum allotted in their favour causing huge loss to the State exchequer. Earlier, one public interest litigation bearing WP(C) No. 35452 of 2022 had been filed and vide order dated 22.11.2022 this Court directed for consideration of the representation, but no action was taken by the opposite parties to curb such sand mafias. As a result thereof, such sand lessees are causing pollution to the environment and acting contrary to the provisions of law by extracting sand more than the quantity to be extracted in a mechanized manner, by which also they are causing loss of revenue to the State. Though sand sairats are leased out to augment revenue for the State to be utilized for the development of the public, such sairats having been mis-utilized, the State's revenue is being siphoned to the so called land mafias causing hardship to the general public, due to uncontrolled

✕

extraction of sand and movement of sand carrying vehicles as per their sweet will. Hence, this writ petition.

3. Mr. S.K. Dalai, learned counsel appearing for the petitioner vehemently contended that in the State of Odisha auction of the sand queries, selection of lessees and extraction of sand in mechanized manner are all being done detrimental to the interest of the public at large. Consequentially, he prays for interference of this Court to make a uniform policy to be applicable to all the sand sairat holders of the State so that pilferage of sand by the lessees can be prevented and extraction of sand more than the quantity allotted can be avoided.

3.1 It is further contended that the movement of vehicles carrying sand during the school hour as well as office hour at day time, is causing immense difficulties for the general public. The same should be prevented and the lessees should not be allowed to have extraction of sand and movement thereof during day time, when traffic is in force. Apart from the same, it is further contended that there is no dispute that the State should utilize all its larges for the public, but that should be

done in the manner it is required to be done in accordance with law. But, without following the same, if any larges of the State is utilized detrimental to the interest of the public, the same should be curbed down. Attention of the Court has been drawn to the situation of Cuttack Town, so far as sand sairats of Kathajodi and Mahanadi are concerned. Though some instances are placed on record, it is contended that similar state of affairs is going on throughout the State. Therefore, stringent action has been sought for as against the erring officials, who are indulged in such type of activities and not discharging the responsibilities assigned to them, and also against the lessees, who are violating or exceeding the conditions of lease, so that they can be handled with care and no further mishandling of sources can be done by any of the lessees. It is further contended that unless those lessees are dealt with very strong hands, the sources cannot be preserved for the future generation.

4. Mr. Ashok Parija, learned Advocate General appearing for the State-opposite parties contended that

~~24~~

considering the gravity of the situation and looking at the policy framed by the Ministry of Forest and Environment of the Union of India and the consequential guidelines issued thereof, the Government has framed a fresh guidelines on 21.12.2023 and the same has been placed on record for consideration. He contended that adhering to the fresh policy, if leases are granted, then the grievance of the petitioner can be redressed. The Government is now very much serious about the issue relating pilferage of sand by the lessees who are extracting beyond the permissible limit. Therefore, the State has also decided to take necessary steps against the lessees, who are not adhering to the terms and conditions of the lease deed. However, so far as protection of the environment is concerned, it is also contended that the Environment Department will take care of the issue and necessary statutory permission has to be obtained by the lessees. The Government will also look into the issue, if any of the lessees contravenes the conditions of environmental clearance, and deal him/her in accordance with law. Thereby, it is contended that since a new policy has to be formulated for the entire

~~2~~

State and even though said policy will apply prospectively, but the lessees, who are already in operation and their term has not been over, will also be intimated about the said policy, so that they will adhere to the terms and conditions mentioned therein in addition to the terms and conditions already existed in the lease deed.

4.1 It is also further contended that if any of the lessees contravenes any of the conditions stipulated in the lease deed or in the policy of the Government, then, it shall be open to the petitioner to approach the appropriate forum alleging violation of such condition(s) by the lessee, so that the law will take its own course and the violator can be dealt with in accordance with law.

5. Mr. H.S. Mishra, learned counsel appearing for opposite party no. 17 vehemently contended that the petitioner has no *locus standi* to file this writ petition making bald allegations. Learned counsel also drew our attention to the prayer made in the writ petition and contended that the relief, which has been sought by the



petitioner, is no more subsisting after the new policy has been formulated, therefore, the writ petition has to be dismissed in *limini* by imposing cost. It is further contended that if the petitioner has got any grievance as against any of the lessees, he has other remedies available instead of filing the present public interest litigation before this Court. In any case, since the Government has formulated a new policy and new guidelines, certainly the same will be adhered to by the lessees and any contravention thereof will be taken care of by the authorities in accordance with law.

6. Mr. Sanjay Das-2, learned counsel appearing for the opposite parties no.18 and 19 also accepted the argument advanced by Mr. H.S. Mishra, learned counsel for opposite party no.17, and contended that whatever principle will be laid down by this Court in the present proceeding that will be adhered to and in case of any violation that may be dealt with in accordance with law.

7. Mr. S.P. Mishra, learned Senior Counsel appearing for opposite party no.20 also accepted the contention advanced by Mr. H.S. Mishra, learned

~~2X~~

counsel appearing for opposite party no.17, and contended that law provides that if there will be contravention of any of the conditions by the lessee, the same is to be dealt with in conformity with the provisions of law. If the Government framed a new policy, that will be adhered to by all the lessees. Meaning thereby, the lessees will definitely adhere to such conditions and in the event of any contravention thereof, action will be taken in accordance with law.

8. Mr. P.K. Mohapatra, learned counsel appearing for the intervener contended that the intervener has filed an application for intervention since he is a public spirited person and supports the case of the present petitioner. Even though intervention petition has not been allowed, learned counsel appearing for the intervener has been given opportunity of hearing in this case.

9. This Court heard Mr. S.K. Dalai, learned counsel appearing for the petitioner; Mr. A.K. Parija, learned Advocate General appearing along with Mr. Kishore Mohanty, learned Additional Standing Counsel

for the State-opposite parties no. 1 to 13; Mr. H.S. Mishra, learned counsel appearing for opposite party no. 17; Mr. Sanjay Das-2, learned counsel appearing for opposite party nos. 18 and 19; Mr. S.P. Mishra, learned Senior Advocate appearing along with Mr. A. Agrawal, learned counsel for opposite party no.20; and Mr. P.K. Mohapatra, learned counsel appearing for the intervener. With the consent of learned counsel for the parties, this writ petition is being disposed of finally at the stage of admission.

10. On being noticed, all the parties have appeared. It is made clear that since this Court raised concern over the mechanized manner of extracting sand from the river bed, on 06.12.2023, Special Secretary to the Government in Steel & Mines Department directed all the Collectors to be vigilant and monitor regularly to curb illegal sand mining from river bed and see that the same shall be in consonance with the Odisha Sand Policy, 2021, which was issued by the Revenue & Disaster Management Department vide resolution No. 26723 dated 02.09.2021. Thereafter, a meeting regarding



the sand mining guidelines and policy was convened, on 18.12.2023, under the chairmanship of Chief Secretary, Government of Odisha. In the said meeting a decision was taken to formulate revised guidelines in supersession of the existing guidelines of Revenue & Disaster Management Department for implementation of the Odisha Sand Policy, 2021. Another meeting was held on 19.12.2023 under the chairmanship of Addl. Chief Secretary to Government, Steel and Mines Department to implement the decisions taken in the meeting held on 18.12.2023. Since the amended sand policy had not been effectively implemented at various places in the State, it was decided that revised guidelines may be issued to provide a procedural framework and modality for the implementation of the components of Odisha Sand Policy, 2021. The said guidelines are in accordance with the provisions of Sustainable Sand Management Guidelines, 2016; the Enforcement and Monitoring Guidelines for Sand Mining, 2020 and directives issued by the National Green Tribunal from time to time as well as the judgment of the apex Court relating to sand mining. The said revised guidelines were put up for

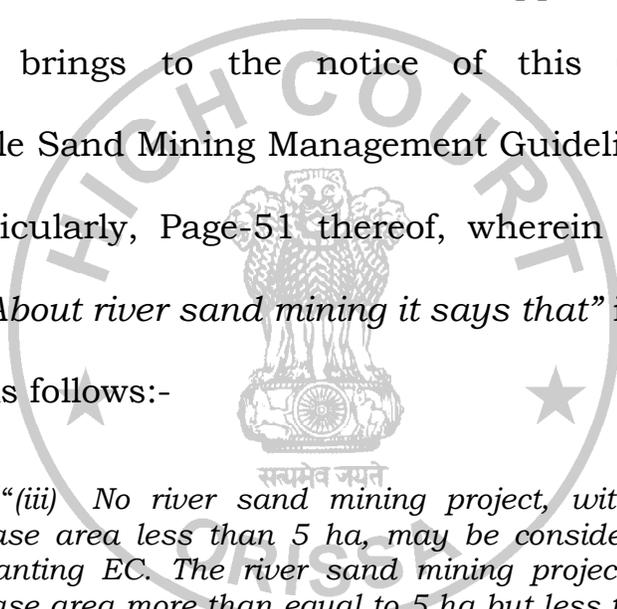
~~3~~

approval of the Minister, Steel & Mines Department on 21.12.2023 and the same was approved and published on 21.12.2023. Therefore, revised guidelines has been issued on 21.12.2023 in order to implement the sand policy, which was existing since 2021, and further to regulate sand mining activities for the betterment of the public at large and, as such, it is in accordance with the provisions of law. The same has also been issued by way of resolution dated 21.12.2023, wherein the entire mechanism has been prescribed. Under Clause-4(g) thereof, it has been prescribed that quarry operation shall be carried out strictly in accordance with the approved mining plan duly adhering to the provisions of Odisha Minor Mineral Concession Rules, 2016 and terms and conditions of respective statutory clearances and approvals. The mining plan shall be prepared by following the guidelines of MoEF & CC, Government of India, formulated in the Sustainable Sand Mining Guidelines, 2016 and the said guidelines prescribed standard environmental condition for sand mining at SI No. 19 which clearly envisages “Depending upon the location, thickness of sand, deposition, agricultural

~~3X~~

land/riverbed, the method of mining may be manual, semi-mechanized or mechanized; however, manual method of mining shall be preferred over any other method. Thereby, it is contended that semi-mechanized and mechanized way of mining is permissible in the Sand Mining Guidelines, 2016.

11. Mr. Dalai, learned counsel appearing for the petitioner brings to the notice of this Court the Sustainable Sand Mining Management Guidelines, 2016, more particularly, Page-51 thereof, wherein under the heading “*About river sand mining it says that*” it has been provided as follows:-



“(iii) No river sand mining project, with mine lease area less than 5 ha, may be considered for granting EC. The river sand mining projects with lease area more than equal to 5 ha but less than 25 ha will be categorized as 'B2'. In addition to the requirement of documents, as brought out above under sub-para (ii) above for appraisal, such projects will be considered subject to the following stipulations:

- (a) The mining activity shall be done manually. The depth of mining shall be restricted to 3 m /water level, whichever is less.*
- (b) For carrying out mining in proximity to any bridge and / or embankment, appropriate safety zone shall be worked out on case to case basis to the satisfaction of SEAC / SEIAA, taking into account the structural parameters, locational aspects, flow rate etc., and no mining shall be carried out in the safety zone so*



worked out. No in-stream mining shall be allowed.

According to him, since mining activities in the riverbed has been prescribed to be done manually, if at all any river is leased out and the lessee is allowed to go for mechanized mining, then it will be in violation of the above condition and will cause further difficulty. Therefore, the very purpose of coming to this Court by filing this public interest litigation will become frustrated.

12. Taking into consideration the above clauses, it is made clear that so far as sand sources are concerned, mining activities “shall” be done manually. By using the word “shall” the mandatory provision has been made for river sand mining as “manually”.

13. In ***Mohan Singh v International Airport Authority of India***, (1996) 10 JT 311: (1996) 8 Scale 251, the apex Court held that the word “shall” though prima facie gives impression of being mandatory character, it requires to be considered in the of light the intention of the legislature by carefully attending to the



scope of statute, its nature and design and the consequences that would flow from the construction thereof one way or the other.

13.1. In ***Election Commission of India v. Subramanian Swamy***, AIR 1996 SC 1810, while constructing Article 192 (2) of the Constitution of India, the apex Court held the use of expression “shall” in the provision indicates that the Governor is bound to take the opinion and act on such opinion of the Election Commission.

13.2. Interpreting Section 16 (1) of the West Bengal Premises Tenancy Act (12 of 1956) and Rule-4 of the West Bengal Tenancy Rules, in the case of ***Biswanath Poddar v. Archana Poddar***, (2001) 8 SCC 187, the apex Court held that the use of word “shall” in Section 16 of the Act and Rules, indicates that the legislature intended the requirement of notice under Section 16 of the Act to be mandatory.

13.3. In ***Hemalatha Gargya v. C.I.T.*** (2003) 9 SCC 510, the apex Court held that the use of word “shall” in a



statute ordinarily means that the statutory provision is mandatory.

13.4. In ***State Inspector of Police v Surya Sankaram Karri***, (2006) 7 SCC 172 while considering the proviso of Section 17 of the Prevention of Corruption Act (49 of 1988), the apex Court held that the expression “shall” in proviso of Section 17 of the Act makes the provision mandatory.

14. Taking into considering the use of word “shall” in the expression made, as discussed above, it implies a mandatory nature for river and sand mining as been prescribed to be done “manually”.

15. The purpose behind the river sand mining manually has some meaning to the extent that if the sand mining will be done manually, then some local people will get some job and the same will minimize the unemployment problem to some extent and further the quantum of sand which will be extracted manually, that will have its own effect and the river bed will not be damaged. It is true that rejuvenation of river bed may be required during the flood time, but still then the question

~~3~~

of semi mechanized or mechanized mining of sand will be detrimental to the interest of the public as well as the State Exchequer. More particularly, it will affect the future generation of the State, reason being if the resources, which are made available at present, are consumed during this generation, then future generation will face a lot of difficulties and that should be taken in mind while granting lease of the sand sairats to extract the sand in mechanized manner. Therefore, the State Government should be very careful, while permitting the lessees to go for semi-mechanized or mechanized manner of extracting sand, and should lay emphasis to go for manual sand mining which will be in the interest of the public at large.

16. Clause-19 although referred that the method of mining may be manual, semi mechanized or mechanized, but, however, manual method of mining should be preferred over other two methods. Therefore, exercise of the preference for operation of sand quarries in manual method will be definitely a better method than that of semi-mechanized or mechanized manner.

~~36~~

17. An affidavit has been filed by the State Government indicating therein that in the event the Government decided to allow the lessees to go for semi-mechanized or mechanized mining operation, then mining plan clearance and environment clearance would be required to be obtained by the lessees. Thereby, some restrictions have been imposed for going for semi-mechanized or mechanized mining of sand quarries. As such, the purpose of approaching this Court by filing this writ application by the petitioner is justified. Needless to mention here that in case of contravention of any terms of the guidelines or any terms or conditions of the lease deed, it will be open to the petitioner or any other person of similar status to bring to the notice of the authority concerned to take appropriate action against the lessees indulged therein, but not in the shape of public interest litigation, as specific forums are available, so that the violators can be taken care of in accordance with law.

18. In view of such provision, it is made clear that to protect the livelihood of the human being as provided

under Article 21 of the Constitution, right to life being the basic concept to be taken care of, the State is to take necessary steps in that aspect.

19. Article 21 is the heart and soul of the Indian Constitution, which speaks of the rights to life and personal liberty. Right to life is one of the basic fundamental rights and not even the State has the authority to violate or take away that right. Article 21 takes all those aspects of life which go to make a person's life meaningful. Article 21 protects the dignity of human life, one's personal autonomy, one's right to privacy, etc. Right to dignity has been recognized to be an essential part of the right to life and accrues to all persons on account of being humans.

19.1. In ***Chameli Singh v. State of Uttar Pradesh***, AIR 1996 SC 1051: (1996) 2 SCC 549, the apex Court held that "right to life" means to live like a human being and it is not ensured by meeting only the animal needs of man. It includes the right to live in the civilized society implies the right to food, water, decent environment, education, medical care and shelter.



19.2. In ***M.C. Mehta v. Union of India***, AIR 1987 SC 965 : 1986 (1) SCJ 383, the apex Court held that right to pollution free environment comes under Article 21 of the Constitution of India. The same view has also been taken by the apex Court in ***Milkmen Colony Vikas Samiti v. State of Rajasthan***, AIR 2007 SC 1046: (1999) 2 SCC 718.

19.3. In ***Subhash Kumar v State of Bihar***, AIR 1991 SC 420 : (1991) 1 SCC 598, the apex Court expanding the provisions of Article 21 of the Constitution of India, held that right to pollution free water and air comes within the purview of Article 21 of the Constitution of India.

19.4. May it be noted that basically Article 21 States the Protection of Lives and personal liberty. That means, Article 21 mandates that no person shall be deprived of his life and personal liberty except according to the procedure established by law.

19.5. In ***State of Maharashtra V. Chandrabhan***, AIR 1983 SC 803, the apex Court held that Right to Life,



enshrined in Article 21 means something more than survival or animal existence.

19.6. The same view has also been taken in ***Olga Tellis v. Bombay Corporation***, AIR 1986 SC 180, ***D.T.C. v. Mazdoor Congress Union D.T.C.***, AIR 1991 SC 101, ***Re Noise Pollution (V)***, (2005) 5 SCC 733 and ***Re Noise Pollution (VI)***, (2005) 8 SCC 794.

19.7. In ***Francis Coralie Mullin v. Union Territory Delhi, Administrator***, AIR-1981 SC 746 : (1981) 1 SCC 608, the apex Court held that the right to life would include the right to live with human dignity.

19.8. In ***Maneka Gandhi v. Union of India***, AIR 1978 SC 597: 1978 1 SCC 248, the Apex Court held that the right to life would include all those aspects of life which go to make a man's life meaningful, complete and worth living.

20. Now, coming to the question of protection of environment and checking of the movement of vehicles during the day time, Mr. Asok Parija, learned Advocate General very fairly stated that there should be restriction



of movement of vehicles carrying sands from 7.00 A.M. in the morning till 9.00 P.M. in the night. That apart during the movement of vehicles carrying sand, the sand should be properly covered. No vehicle carrying sand should be allowed during day time from 7.00 A.M. in the morning till 9.00 P.M. in the night. If at all any lessee violates any condition, he/she will be dealt with properly in accordance with law. Apart from the same, it is the moral responsibility of the State authorities to see that environment is being protected and it is made pollution free. While doing so, the State authorities also take necessary steps to protect the environment and make the environment pollution free.

21. Mr. Dalai, learned counsel appearing for the petitioner has also given some suggestions, which are also in adherence to the guidelines issued by the Government on 21.12.2023 and the conditions stipulated therein.

22. In view of such position, this Court disposes of the writ petition directing the State Government to scrupulously follow the guidelines framed by them on



21.12.2023 and also adhere to the conditions stipulated in the lease deed executed between the lessee and the State giving priority to the sand mining by manually. Further, the State authorities should take necessary steps with regard to vehicular movements from 7.00 A.M. in the morning till 9.00 P.M. in the night and also protect the environment to provide a quality life to the public at large.

23. With the above observations and directions, the writ petition stands disposed of. The interim orders passed earlier stand vacated. But, however, there shall be no order as to costs.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

M.S. RAMAN, J. I agree.

(M.S. RAMAN)
JUDGE

Orissa High Court, Cuttack
The 06th February, 2024, Arun

Signature Not Verified

Digitally Signed
Signed by: ARUN KUMAR MISHRA
Designation: ADR-cum-Addl. Principal Secretary
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 12-Feb-2024 11:17:48

