

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

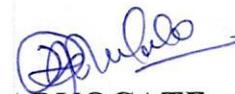
I. A. No. 100 of 2025
(Arising out of O.A. No.60 of 2025/EZ)

Smt. Rashmi Rekha Sahu ... I.A. Applicant
-Versus-
State of Odisha & Others ... Respondents

INDEX

Sl. No.	Description of documents	Annexures	Pages
1.	I. A. for modification and/or recall of Order dtd.08.07.2025 passed in OA No.60/2025/EZ		1 - 9
2.	Copy of Order dtd.08.07.2025 passed in O.A. No. 60/25/EZ	Annexure-A/12	10-12
3.	Copy of Affidavit dtd.02.07.2025 filed by the Respondent No.3-Collector & District Magistrate, Sundargarh	Annexure-B/12	13-34
4.	Copy of letter No.2768/Mines, dtd.20.08.2025	Annexure-C/12	35
5.	Copy of Judgment rendered by Hon'ble Supreme Court in the Case of Singrauli Super Power Thermal Power Station Vs. Ashwani Kumar Dubey	Annexure-D/12	36-44

Cuttack
Dtd. 09/11/2025


ADVOCATE

For I. A. Applicant/Respondent No.12

Rashmi Rekha Saha

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

**I. A. No. _____ of 2025
(Arising out of O.A. No.60 of 2025/EZ)**



In the matter of: Smt. Rashmi Rekha Sahu, aged about 48 years, W/o.
Karunakar Sahu, At- Singal, P.O. Amgaon, P.S. Barkote,
Dist. Deogarh, PIN - 768110, Odisha

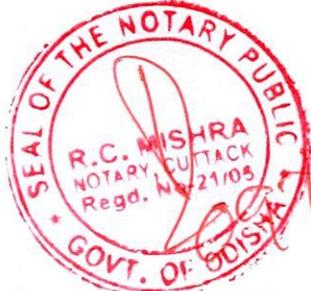
... Applicant
(Respondent No.12 in O.A.)

-VERSUS-

1. State of Odisha represented by its Chief Secretary,
Government of Odisha, Lokaseva Bhawan,
Bhubaneswar Email: csori@nic.in;
2. The Executive Engineer, Rural Works Division, At/PO-
Panposh, Rourkela-4, Dist-Sundergarh, Odisha, Pin-769004.
Email: rw_rourkela@yahoo.co.in;
3. The Collector and District Magistrate, Sundergarh, O/o the
Collector-cum-District Magistrate, Collectorate, Sundergarh,
At/PO/Dist. Sundergarh, Odisha, Pin-770001
Email: dm-sundargarh@nic.in;
4. The Tahasildar, Bonai, At/Po-Tehsil Office, Bonai, P.S.
Bonai, Dist. Sundargarh, Odisha, PIN-770038
Email-tah.bonai-od@nic.in;
5. Regional Transport Officer, Udit Nagar, Rourkela, Dist.
Sundergarh, Odisha, PIN-769001;
Email: rto_rourkella@yahoo.co.in
6. The Superintendent of Police, Rourkela, Dist- Sundergarh,
Odisha, PIN-769012
Email: sprkl.orpol@nic.in;

Rashmi Rekha Sahu

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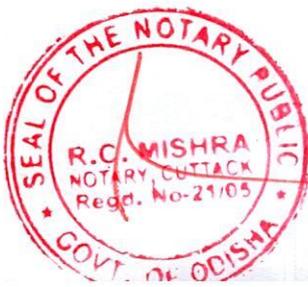
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7. Deputy Director of Mines, Koira Circle, P.O. Koira, Dist. Sundargarh, Odisha, Pin-770048
Email: ddm.koira@orissaminerals.gov.in;
8. Additional Chief Secretary, Water Resources Department, Government of Odisha, At/P.O. Rajiv Bhawan, Keshari Nagar, Bhubaneswar-751001
Email: wrsec.or@nic.in;
9. Member Secretary, Odisha State Pollution Control Board, A/118, Unit-VII, Nilakantha Nagar, Bhubaneswar, PIN-751012, Odisha;
Email: member.secy@ospcboard.org;
10. Member Secretary, State Environment Impact Assessment Authority (SEIAA), Odisha, 5RF-2/1, Acharya Vihar, Unit - IX, Bhubaneswar, Odisha-751022,
Email: seiaaorissa@gmail.com;
11. Deputy Director General of Forests, Ministry of Environment and Forests, Climate Change, Integrated Regional Office, Bhubaneswar, A/3, Rail Vihar, Chandrasekharpur, Bhubaneswar, Odisha 751023
Email: roez.bsr-mef@nic.in;
- (Respondent Nos.1 to 11 in O.A.)
12. Jhadeswar Pradhan (Dead), S/o. Rasanand Pradhan, aged about 60 yrs., Resident of Tendra, P.S. Bonaigarh, Sundargarh, Odisha;
- 12A Chhabibala Pradhan, W/o. late Jhadeswar Pradhan, Resident of Tendra, P.S. Bonaigarh, Sundargarh, Odisha.

(Applicant in O.A.)
... **Respondents**

Rashmi Rekha Saha



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AN APPLICATION FOR MODIFICATION AND/OR RECALL OF PARA-12
OF ORDER DTD.08.07.2025 PASSED IN OA NO.60/2025/EZ;

The humble petition of the Applicant /
Respondent No.12 named above;

MOST RESPECTFULLY SHEWETH:

1. That, the Applicant/Respondent No.12 who is the Lessee of Tendra – II Sand Bed in the district of Sundargarh seeks to challenge the Order dtd.08.07.2025 passed in O.A. No.60/2025/EZ insofar as it relates to the direction in Para-12 directing the State Respondents to file the action taken report for recovery of environmental compensation from the Applicant/Respondent No.12 on the basis of Joint Committee Report dtd.20.05.2025, on the ground of violation of the principles of natural justice. It is submitted that neither the Applicant/Respondent No.12 was afforded any opportunity to participate in the spot inspection of the Quarry in question by the Joint Committee Members nor the Applicant/Respondent No.12 was afforded any opportunity by this Hon'ble Tribunal to file objection / response to the Joint Committee Report dtd.20.05.2025 prior to issuing of the direction in Para-12 to State – Respondents for recovery of Environment Compensation from the Applicant / Respondent No.12 Vide Order dtd.08.07.2025.

2. That, the Applicant/Respondent No.12 is a lessee for sand mining in respect of Tendra – II Sand Bed in the district of Sundargarh. Quarry Lease Deed was registered on 14.11.2023 for a period of five years and is valid till 13.11.2028.

In the first week of July, 2025, present Applicant/Respondent No.12 received notice in O.A. No.60 of 2025/EZ wherein a direction was issued to the Applicant/Respondent No.12 to appear on 08.07.2025. Accordingly, present Applicant/Respondent No.12 through her Advocate entered appearance in O.A. No.60/2025/EZ on 08.07.2025 by virtual mode and made a prayer for grant of time to file Counter / response / objection to Original Application. After hearing,

Reshmi Rekha Sahu



Reshmi Rekha Sahu

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Vide Order dtd.08.07.2025 while allowing the prayer for time to file Counter / Objection / Response to the Original Application, in Para-12 of Order dtd.08.07.2025 direction was issued to the State Respondents to file the action taken report with regard to recovery of environmental compensation from the Applicant/Respondent No.12 on the basis of *ex-parte* Joint Committee Report dtd.20.05.2025 submitted in pursuance of earlier Order dtd.04.04.2025 of this Hon'ble NGT.

Copy of Order dtd.08.07.2025 passed in O.A. No. 60/25/EZ is filed herewith and annexed as Annexure-A/12.

3. That, on 30.07.2025, a copy of Affidavit dtd.02.07.2025 filed by the Respondent No.3-Collector & District Magistrate, Sundargarh pursuant to Order dtd.04.04.2025 was served on the Applicant/Respondent No.12.

Copy of the said Affidavit dtd.02.07.2025 filed by the Respondent No.3-Collector & District Magistrate, Sundargarh is filed herewith and annexed as Annexure-B/12.

4. That, the Joint Enquiry Report dtd.20.05.2025 is an *ex parte* report. Applicant / Respondent No.12 was never noticed either by the Respondent No.3 or by the Joint Committee to remain present on the date of physical verification of the site on 02.05.2025. Relevant to mention here that since mining operations in the lease area has been stopped w.e.f. 01.04.2025, in all fairness either the Respondent No.3 - Collector & District Magistrate, Sundargarh or any of the Member of the Joint Committee ought to have issued a notice to the present Applicant / Respondent No.12 to remain present on the spot on 02.05.2025 for the purpose of joint enquiry. It is humbly submitted that after the unilateral verification made, the Members of the Joint Committee merely made a formal discussion with the husband of the Applicant/Respondent No.12 on 02.05.2025.

5. That, no notice was issued to the present Applicant/Respondent No.12 either by the Respondent No.3 - Collector & District Magistrate, Sundargarh or by the Joint Committee Members to conduct the spot inspection of the Quarry in



Reshmi Rekha Saha

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question on 02.05.2025. Since the Applicant / Respondent No.12 was never issued with any notice either by the Respondent No.3 – Collector & District Magistrate, Sundargarh or by the Joint Committee Members for spot inspection of the Quarry in question to remain present on the spot on 02.05.2025, the Joint Committee Report dtd.20.05.2025 cannot be taken into consideration for any purpose. By virtue of such *ex-parte* Joint Committee Report dtd.20.05.2025, nothing remains to be decided in O.A. No.60/2025/EZ and there is every possibility that the State – Respondents will take steps to cancel the Quarry Lease granted in favour of the Applicant/Respondent No.12 which is valid till 13.11.2028.

6. That, had notice been issued to the Applicant/Respondent No.12 to appear on the spot on 02.05.2025 to participate in the spot inspection of the quarry in question, in that event, the Applicant/Respondent No.12 could have pointed out the Boundary Pillars posted by the Revenue Authorities at the time of grant of quarry lease in question and the area where mining operation was being carried out till 31.03.2025. The Applicant/ Respondent No.12 could have also pointed out how illegal mining operation was going on after 31.03.2025 by third Parties due to inaction of the State Authorities. The Applicant/Resp. No.12 is, therefore, grossly prejudiced with the unilateral spot inspection made on 02.05.2025 and with the unilateral report dtd.20.05.2025 prepared without involving the instant Applicant/Resp. No.12.

7. That, had the Applicant/Respondent No.12 been called upon to remain present during inspection on 02.05.2025, the Applicant/Respondent No.12 could have pointed out the Boundary Pillars installed by the Revenue Authorities as per the Village Cadastral Map. Accordingly, the quantity excavated could have been arrived at. Since Applicant/Respondent No.12 was never called upon to participate in the inspection held on 02.05.2025, such unilateral inspection report cannot form any basis to initiate penal action against the Applicant / Respondent No.12.

Rashmi Rekha Sahu



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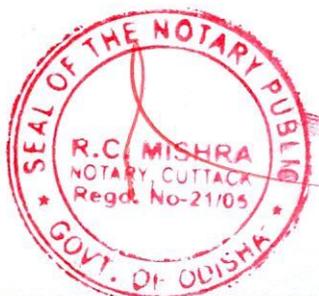
8. That, had the Applicant/Respondent No.12 been noticed to remain present for joint inspection, Applicant/Respondent No.12 could have pointed out that since mining operation has been stopped w.e.f. 01.04.2025 and inspection was done on 02.05.2025 i.e. after one month of stoppage of the mining operation, during this intervening period of one month, illegal miners have removed the Pillars installed on the basis of demarcation made by the Revenue Authorities as per Village Cadastral Map.

9. That, had the Applicant/Respondent No.12 been noticed to remain present for joint inspection, Applicant/Respondent No.12 could have pointed out that the Applicant/Respondent No.12 has neither changed the method of mining nor changed the transportation route till 31.03.2025. On the date of inspection of the site on 02.05.2025, there was no mining operation going on, so there was no occasion to verify and conclude how the Applicant/Respondent No.12 was doing mining operation till 31.03.2025 as well as the route for transportation of minerals.

10. That, it appears from the Joint Committee Report dtd.20.05.2025 that the Members of the Committee made discussion with the husband of the Applicant/Respondent No.12. It is submitted that after verification, Members of Joint Committee made a formal discussion with the husband of the present Applicant/Respondent No.12 without intimating him about the conclusion of the verification made. No notice was ever issued to the Applicant / Respondent No.12 to remain present on the spot on the date of inspection.

11. That, it is submitted that since a unilateral enquiry was conducted by the Joint Committee, Applicant/Respondent No.12 has not been given reasonable opportunity Vide Order dtd.08.07.2025 to file appropriate objection to the said Joint Committee Report dtd.20.05.2025 which was filed by the Respondent No.3-Collector & District Magistrate, Sundargarh along with Affidavit dtd.02.07.2025, copy whereof was served on the Applicant/Respondent No.12 only on 30.07.2025 i.e. after dtd.08.07.2025.

Rashmi Rekha Saha



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12. That, the Order dtd.08.07.2025 passed in O.A. No.60/2025/EZ insofar as it relates to direction issued in Para-12 directing State Respondents to file Action Taken Report regarding recovery of environmental compensation from the Applicant / Respondent No.12, is solely on the basis of an outsourced opinion dtd.20.05.2025 of the Joint Committee. On the basis of such Joint Committee Report dtd.20.05.2025, the State Respondents have already raised the demand Vide letter No.2768/Mines, dtd.20.08.2025.

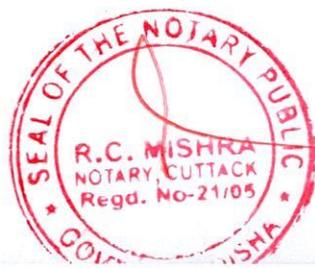
Copy of letter No.2768/Mines, dtd.20.08.2025 is filed herewith and annexed as **Annexure-C/12.**

13. That, the Order dtd.08.07.2025 passed in O.A. No.60/2025/EZ so far it relates to direction in Para-12 directing State Respondents to file Action Taken Report regarding recovery of environmental compensation from the Applicant / Respondent No.12, is not permissible in law on the ground of violation of the principles of natural justice and liable to be recalled / modified in view of the law laid down by the Hon'ble Apex Court in the Case of Singrauli Super Power Thermal Power Station Vs. Ashwani Kumar Dubey.

Copy of Judgment rendered by Hon'ble Supreme Court in the Case of Singrauli Super Power Thermal Power Station Vs. Ashwani Kumar Dubey is filed herewith and annexed as **Annexure-D/4.**

14. That, the Applicant / Respondent No.12 has a strong *prima facie* case and balance of convenience lies in favour of the Applicant/Respondent No.12. Unless the directions contained in Para-12 of Order dtd.08.07.2025 passed in O.A. No.60/2025/EZ in directing the State Respondents to file Action Taken Report regarding recovery of environmental compensation from the Applicant / Respondent No.12 on the basis of Joint Committee Report, is recalled / modified and the Applicant / Respondent No.12 is granted reasonable opportunity to file objection to the said Joint Committee Report dtd.20.05.2025, the Applicant / Respondent No.12 will suffer irreparable loss and injury.

15. The application is made *bona fide*.



Rashmi Rekha Saha

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PRAYER

In view of the facts stated above, it is most humbly prayed that this Hon'ble Tribunal may be graciously pleased to issue notice to the Respondents herein and after hearing, be pleased to modify and / or recall Para-12 of Order dtd.08.07.2025 passed in O.A. No.60/2025/EZ wherein directions have been issued to State Respondents to file Action Taken Report regarding recovery of environmental compensation from the Applicant / Respondent No.12 on the basis of Joint Committee Report dtd.20.05.2025;

And, further be pleased to allow the Applicant / Respondent No.12 reasonable time to file objection to the Joint Committee Report dtd.20.05.2025;

And, pass such other Order/Orders, as this Hon'ble Tribunal may deem fit, just and proper in the facts and circumstances of the present case;

And, for this act of kindness, the Applicant shall remain duty bound ever pray.

Cuttack

Dtd. 09/11/2025

By the Applicant through,


ADVOCATE

Rashmi Rekha Sahu



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

I. A. No. _____ of 2025
(Arising out of O.A. No.60 of 2025/EZ)

Smt. Rashmi Rekha Sahu ... I.A. Applicant

-Versus-

State of Odisha & Others ... Respondents

AFFIDAVIT

I, Smt. Rashmi Rekha Sahu, aged about 48 years, Occupation – Business, W/o. Karunakar Sahu, Resident of Singal, P.O. Amgaon, P.S. Barkote, Dist. Deogarh - 768110, Odisha, do hereby solemnly affirm and declare as follows:

1. That, I am the Respondent No.12 in O.A. No.60/2025/EZ and Applicant in the present I.A..
2. That, the facts stated in Paragraphs-1 to 15 are true to my own knowledge as well as, are true to the best of my information which I obtained from the available records / personal sources.

Identified by

Jayadev 22

Advocate's Clerk
Cuttack

Rashmi Rekha Sahu

DEPONENT

Certified that cartridge papers are not available

Cuttack

Dt. 9/11/2025

[Signature]
ADVOCATE

solemnly affirm on in Oath by the Deponent
at Cuttack on... 09/11/25 being identified
by ... *J. Bha.* ...
Advocate/Adv's Clerk/S.O., AG's office/Notary
personally, that the facts stated above are
true to the best of his/her knowledge.

[Signature]
**RAMA CHANDRA WISHRA, NOTARY
CUTTACK TOWN, REGD. No-21/86**



ANNEXURE - A/12

Item No.01

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.60/2025/EZ
(I.A. No.56/2025/EZ)

Jhadeswar Pradhan

Versus

Applicant(s)

State of Odisha & Ors.

Respondent(s)

Date of hearing: 08.07.2025

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, Advocate a/w
Mr. Ashutosh Padhy, Advocate (in Virtual Mode)

For Respondent(s): Mr. Satyabrata Mohanty, AGA for R-1 to 8 (in Virtual Mode),
Ms. Papiya Banerjee Bihani, Advocate for R-9 (in Virtual Mode),
Mr. Apurba Ghosh, Advocate for R-10 (in Virtual Mode),
Mr. Pravat Kumar Muduli, Advocate for R-12 (in Virtual Mode)

ORDER

1. Mr. Sankar Prasad Pani, learned Counsel assisted by Mr. Ashutosh Padhy, learned Counsel is present (in Virtual Mode) for the Applicant.

I.A. No.56/2025/EZ

2. Interlocutory Application No.56/2025/EZ has been filed by the Applicant therein stating that the Applicant of the Original Application, Mr. Jhadeswar Pradhan as expired and that she is his widow and may be substituted in the present Original Application as Applicant in place of her late husband.
3. The learned Counsel for the Respondents have no objection to the I.A. being allowed.
4. I.A. No.56/2025/EZ is accordingly allowed and disposed of.

XI

5. Let Smt. Chhabibala Pradhan, wife of Late Mr. Jhadeswar Pradhan, resident of Tendra, PS- Sundergarh, Odisha, be substituted as Applicant in place of Mr. Jhadeswar Pradhan.
6. Affidavit dated 01.07.2025 has been filed by the Respondent No.3, the Collector and District Magistrate, District - Sundergarh, Odisha; the same is taken on record.
7. Along with this affidavit, a *Compliance status of Environmental Clearance conditions on Paragraph nos.10 to 20* has been filed which mentions that the sand bed unit may be imposed environmental compensation as calculated by the Joint Committee as about **Rs. 25,41,188.00/- (Rupees Twenty-Five Lakhs Fourty One Thousand one hundred eighty-eight only)** and that the same may be recovered from the Lessee of M/s Tendra Sand Bed-II, i.e., the Respondent No.12 herein.
8. Mr. Pravat Kumar Muduli, learned Counsel appearing (in Virtual Mode) files Vakalatnama on behalf of the Respondent No.12, M/s Tendra Sand Bed-II; the same is taken on record. When the case is next listed, the name of Mr. Muduli shall be printed in the Cause-list as Counsel for the said Respondent. Learned Counsel prays for and is granted two weeks time for filing counter-affidavit.
9. Affidavit of Service has been filed by the Applicant, Chhabibala Pradhan, wife of Late Jhadeswar Pradhan; the same is taken on record.
10. Ms. Papiya Banerjee Bihani, learned Counsel appearing (in Virtual Mode) on behalf of the Respondent No.9, Odisha State Pollution Control Board, prays for and is granted two weeks time for filing counter-affidavit.

- ← 12 →
11. Mr. Apurba Ghosh, learned Counsel appearing (in Virtual Mode) on behalf of the Respondent No.10, State Environment Impact Assessment Authority (SEIAA), Odisha, also prays for and is granted two weeks time for filing counter-affidavit.
 12. We further direct the State Respondents to file the Action Taken Report with regard to the recovery of Environmental Compensation.
 13. **List on 22.08.2025.**

.....
B. Amit Sthalekar, JM

July 08, 2025,
Original Application No.60/2025/EZ
(I.A. No.56/2025/EZ)
OM

.....
Dr. Arun Kumar Verma, EM

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

96

O.A. No.60/2025/EZ

Jhadeswar Pradhan Petitioner

-Versus-

State of Odisha & others Opposite Parties

INDEX

Sl. No.	Description of documents	Pages
1.	Counter Affidavit on behalf of the Opposite Party No.3	1-6
2.	<u>ANNEXURE-A</u> Copy of the order dated 4.4.2025 along with the enquiry report	7-19
3.	<u>ANNEXURE-B</u> Copy of the Letter No.2448 dated 5.5.2025	20-21

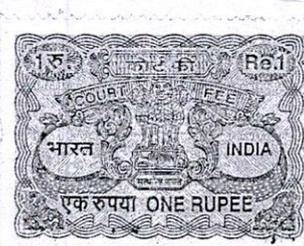
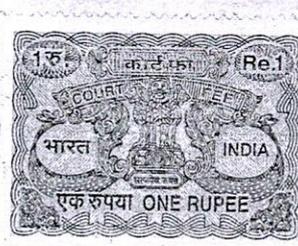
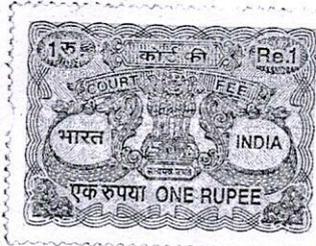
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Date: 02.07.2025

Addl. Government Advocate



Received from
Ad. ASA on 30.07.2025
30.07.2025



BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN
ZONE BENCH, KOLKATA

OA No- 60/2025/EZ

Jhadeswar Pradhan

....Petitioner

-Vrs-

State of Odisha & Others

....Opp. Parties

COUNTER AFFIDAVIT FILED ON BEHALF OF THE
OPPOSITE PARTY NO- 3

I, Sri Manoj Satyawan Mahajan aged about 33 years,
S/o:- Sri Satyawan Shamrao Mahajan, at present serving as
Collector and District Magistrate, Sundargarh, At/Po/Dist:-
Sundargarh, do hereby solemnly affirm and state as follows:-

1. That I am the Opp. party No- 3 in the Original Application and have gone through the contents and purport thereof and has filed this Counter Affidavit for opp party No-3 being authorised for proper and effective adjudication of this case.
2. That the brief fact of the case in nutshell is that the villagers of Tendra being affected by the excess sand mining, obstruction of river, Mechanical Mining and transport of sand loaded heavy vehicles through their village road and through private plot bearing **Khata No.- 13, Plot No-3976** and there by damaging the cultivable land, road, causing inconvenience, environmental pollution, health hazards and disrupting the public order for which filed this Application before this Hon'ble

Manoj
Collector & District Magistrate
Sundargarh



~~18~~

Tribunal u/s 14 & 15 read with Section 18 of the NGT Act with a prayer to initiate proceeding against the private parties i.e Respondent No-6 through violation of the condition of operation.

3. That it will not be out of place to mention here that on 04.04.2025 while considering the prayer of the applicant this Hon'ble Tribunal has been pleased to issue notice to the Respondents and also passed an order to constitute a committee comprising of the following members

1. **Sri Abhimanyu Majhi, OAS (S), Additional District Magistrate, Sundargarh,** representing Collector & District Magistrate, Sundargarh.
2. **Dr. A. K. Mallick, Addl. Chief Environmental Scientist & Regional officer,** Regional Office, Rourkela
3. **Dr. Pradepta Kumar Nayak, Sr. Scientist** from State Environmental impact Assessment Authority (SEIAA), Odisha.

The committee was also accompanied by the members like **Sri Bimbadhar Sethi, Deputy Director of Mines, Rourkela,** representative of Koira Circle and **Sri Sambit Dash, (OAS), Tahsildar, Bonai** and jointly inspected M/s Tendra Sand Bed-II, Bonai, Sundargarh to ascertain the allegations made against the Sand Bed unit. On 02.05.2025 the Committee visited the site and also discussed with the husband of the lessee Mr Karunakar Sahoo and came to a conclusion that the bed site is

Shri Majhi
Collector & District Magistrate
Sundargarh



-3*6-

situated over the plot No- 149/P and 151/P in Khata No- 1, Kissam-Nadi and Mouza- Brahmani Nadi (Kha) (Tendra) over an area of 5.00 hector or 12.35 acer under Bonei Tahasil of Sundargarh district. The sand unit has not been provided environmental display board in respect to air and water and there is no source of withdrawal of water for irrigation, drinking water and other industrial purpose near the mining lease area as observed during the inspection and also no natural dunes observed within the ML area. It is also ascertained that certain deviation in carrying out the mining outside the lease area which disturbed the flow pattern of the river. In this regard the committee as constituted vides order dtd. 04.04.2025 has submitted a report along with the details of data which is enclosed herewith as Annexure-A for kind perusal.

4. That it is also noteworthy to mention here that the State Pollution Control Board, Orissa also inviting the reference in respect of the operation of the mining lease area, it is clearly observed that the application for renewal of consent to operate could not be considered due to persisting violation of the conditions as per the amended Rules, hence the same is rejected vide its letter No- 2448 dtd. 05.05.2025.

The copy of the letter No- 2448 dtd. 05.05.2025 is annexed herewith as Annexure-B for kind perusal.

M. M. M. M.
Collector & District Magistrate
Sundargarh





5. That the in response to the averments made in the OA, it is appropriate to mention here that the Respondent No- 12 being the lessee for extracting sand from the schedule ML Area has executed the work for extraction of sand prior to that she has got the clearance from the appropriate authority but subsequently the same has been violated and some essential conditions have been violated which has been clearly reflected in the joint inspection report annexed to this Counter Affidavit. The Grounds as stated in the OA are not all convincing but however after thorough inspection of the spot some of the deviations have been noticed by the committee which is enclosed herewith for kind reference.
6. That it is respectfully submitted here that the committee also recommend for compliance of certain modalities and also suggest for imposition of penalty towards the environmental compensation which needs to be recovered from the lessee i.e Respondent No- 12.
7. That it is appropriate to mention here that while the constituted committee has visited the spot i.e tenders and bed No-II Tendra, Bonaigarh, Sundargarh on 02.05.2025, the work was not in process due to closure of lifting of sands, however after careful consideration of the situation and the available relevant records it is opined that there is a violation in the process of execution of the work in the lifting of sand from the schedule river bed.
8. That the respondent reserves rights to file additional affidavit if required for the just decision of the case.

Mahajan
Collector & District Magistrate
Sundargarh



9. That the facts which are not specifically denied are deemed to have been denied and further the Respondent No-3 craves leave of this Hon'ble Tribunal to submit the additional facts if necessary, for the proper and effective adjudication of the issues.
10. That the Original Application as such is not maintainable either in fact or in law which is liable to be dismissed at the threshold in the interest of justice.
11. That the facts stated above are all true to the best of my knowledge and belief.

Kolkata

Date

Devi Prasad
 Deponent
 Collector & District Magistrate
 Sundargarh

CERTIFICATE FOR CARTRIDGE PAPER

Certified that due to non-availability of cartridge papers the petition has been typed out in thick white papers.

Cuttack

Date

Advocate



6 18

Before SMT. PRAVATI JOSHI
NOTARY, SUNDARGARH

AFFIDAVIT

I, Sri Manoj Satyawan Mahajan aged about 33 years,
S/o:- Sri Satyawan Shamrao Mahajan, at present serving as
Collector and District Magistrate, Sundargarh, At/Po/Dist:-
Sundargarh, do hereby solemnly affirm and state as follows:-

1. That I am the Respondent No. 03 in this case and duly authorised to swear this affidavit on behalf of the other Respondents.
2. That the facts stated above are all true to the best of my knowledge and beliefs.

deponent(s) being personally known to me Solemnly Affirmed and Declared the truthness of the contents

Smt. Pravati Joshi, Notary
Sundargarh, Govt. of Odisha
REGD. No. ON-08/2018

Identified by

Advocate *[Signature]*
1/7/2025

[Signature]
Deponent
Collector & District Magistrate
Sundargarh



CERTIFICATE

That due to non-availability of cartridge papers this petition has been typed in thick white papers.

Kolkata

Date

Advocate

Smt. Pravati Joshi, Notary
Sundargarh Govt. Of Odisha
REGD No. ON-08/2018
EXP. ONDT- 21/11/2028
Sl. No. 1979... Date. 1/7/2025



	ଜିଲ୍ଲାପାଳ ଓ ଜିଲ୍ଲା ମାଜିଷ୍ଟ୍ରେଟ୍ କ୍ଷେତ୍ର କାର୍ଯ୍ୟାଳୟ, ସୁନ୍ଦରଗଡ଼ OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE, SUNDARGARH (JUDICIAL SECTION) E-mail: dm-sundargarh@nic.in , djudicialng@gmail.com , FAX-06622-273166, PIN-770001	
	No.1566	Date. 06.04.2025

ORDER

In pursuance of order dated 04.04.2025 in Original Application No.60/2025/EZ filed before the Hon'ble National Green Tribunal, Eastern Zone bench, Kolkata, the committee has been constituted comprising the following members:

1. Additional District Magistrate, Revenue, Sundargarh (Representative of Collector & District Magistrate, Sundargarh)
2. Senior Scientist, RO, SPCB, Rourkela
3. Member, State Environment Impact Assessment Authority (SEIAA), Odisha
4. Deputy Director of Mines, Koira Circle
5. Tahasildar, Bonai

The committee will visit the site in question & submit its inspection report to the undersigned within four weeks unflinching with regard to the allegation made in the original application.


Collector, Sundargarh

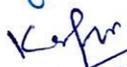
Memo No.1567/Judl

Date: 06.04.2025

Copy to Officers concerned for information & necessary action. Addl. District Magistrate (Revenue), Sundargarh is requested to fix a date for inspection by the committee to the site in question with in stipulated time frame.

Copy to Member Secretary, SEIAA, Odisha for information & necessary action. He is requested to depute a representative for the aforesaid purpose.

True copy attested


30/06/25
Assistant Collector Judicial
Collectorate, Sundargarh


Collector, Sundargarh



E-mail: rospcb.rourkela@ospceboard.or
Website: www.ospceboard.or

STATE POLLUTION CONTROL BOARD, ODISHA
DEPARTMENT OF FOREST, ENVIRONMENT & CLIMATE CHANGE, GOVERNMENT OF ODISHA)
REGIONAL OFFICE, ROURKELA

At-Near Hockey Chowk, P.O.-Panposh, Rourkela, Dist-Sundargarh-769004

1405
21/05/25

No. 2674...../
From

Date 20/05/2025

Dr. Anup Kumar Mallick,
Addl. Chief Env. Scientist & Regional Officer

To

The Collector & District Magistrate,
At/PO/Dist- Sundargarh

Sub: Submission of enquiry report of the joint committee vide Case No. 60/2025/EZ filed before NGT, Eastern Zone Bench, Kolkata.

Ref: Order No. 1566 dtd 06.04.2025 of office of Collector & District Magistrate, Sundargarh

Sir,

In inviting reference to the subject and reference cited above, it is to intimate that a M/s Tendra Sand Bed-II, Tendra, Bonai, Sundargarh was jointly inspected on dtd. 02.05.2025 by the joint committee comprising of Additional District Magistrate, Sundargarh, Senior Scientist, SEIAA, Regional officer, SPCB, Odisha, Rourkela, Deputy Director of Mines, Rourkela & Tahsildar, Bonai. The joint committee has visited the alleged site of Tendra Sand Bed-II draft joint inspection report is submitted for finalization of same. This is for your information and necessary action.

Yours faithfully,

Regional officer

Encl: - As Above

Memo No. 2675..... Dtd. 20/05/2025

Copy forwarder to Member Secretary, State Pollution Control Board, Odisha-12 for kind information

Regional officer

Memo No. 2676..... Dtd. 20/05/2025

Copy forwarder to Legal Consultant/Sr. Law Officer, Legal Cell, State Pollution Control Board-12, Odisha for kind information.

Regional officer

True Copy Attested

Krfn
30/06/25
Assistant Collector Judicial
Collectorate, Sundargarh

- 22 -
- 9 -

**REPORT OF COMMITTEE CONSTITUTED BY HON'BLE NGT (EZ), KOLKATA
VIDE ORDER DATED 04-04-2025 IN O.A. NO. 60/2025/EZ ON
M/s TENDRA SAND BED-II, TENDRA, BONAIGARH, SUNDARGARH (ODISHA)**

Eastern Zone Bench, Kolkata of Hon'ble National Green Tribunal constituted a committee with the following personnel vide order dated 04-04-2025 in O.A. No. 88/2020/EZ filed by Sri Jhadeswar Pradhan,

1. **Sri Abhimanyu Majhi, OAS (S), Additional District Magistrate, Sundargarh,** representing Collector & District Magistrate, Sundargarh.
2. **Dr. A. K. Mallick, Addl. Chief Environmental Scientist & Regional officer,** Regional Office, Rourkela representing Sr. Scientist from Odisha State Pollution Control Board.
3. **Dr. Pradepta Kumar Nayak, Sr. Scientist** from State Environmental impact Assessment Authority (SEIAA), Odisha.

The committee was also accompanied by the following members to ascertain the fact raised in OA No.60/2025/EZ.

4. **Sri Bimbadhar Sethy, Deputy Director of Mines, Rourkela,** representative of Koira Circle.
5. **Sri Sambit Dash, (OAS), Tahsildar, Bonai.**

The Committee as per the order was jointly inspected M/s Tendra Sand Bed-II, Tendra, Bonai, Sundargarh to ascertain the allegation made against the sane bed unit and submit its report with regard to the allegations made in the original application.

The Committee members conducted a site visit on dtd.02.05.2025 and discussed with the husband of Lessee Mr. Karunakar Sahu. The observations and findings of the joint committee members are mentioned below based on the order of Hon'ble NGT.

Consent Status of the unit: -

The unit has obtained Consent to Operate for excavation of minor mineral sand 1st year @30,000 cubic meter and 2nd year @7,500 Cubic meter from Board vide its letter No.13 dtd.02.01.2024 which was valid up to 31.03.2025. Further the unit was applied for grant of consent to Operate (renewal) beyond 31.03.2025 and the online application was refused for the year 2025-26 vide Board's letter No.2448 dtd. 05.05.2025 due to noncompliance to the special condition of CTO order observed during inspection on dtd.02.05.25 by the officials of Board and non-submission of requisite information and documents. **Copy of the same is enclosed for reference as Annexure-I.**

True Copy Attested

KSPM
20/06/25

Assistant Collector Judicial
Collectorate, Sundargarh

- 10 -

- 23 -

Compliance status of Environmental Clearance conditions on Paragraph no. 10 to 20:

- i. There is a provision in Parivesh Portal 2.0 for uploading compliance report of EC condition but the project proponent has not uploaded the half yearly EC compliance in Parivesh Portal 2.0 rather to submitted EC compliance as an attachment during amendment of EC application only.
- ii. In the EC compliance report, the PP has mentioned that the boundary demarcation has been done in presence of Mining Department and Revenue Dept. but in the filed visit it is observed that there was no boundary pillar posting around the area. The lease holder has informed the joint committee that the pillar posting has been removed and taken by the local villagers.
- iii. In the EC compliance report, the PP has not mentioned the quantity of sand extracted from source in year-wise against the approved quantity in EC, Mining Plan & CTO and also not furnished the depth of mining during quarry operation.
- iv. In this case, the project proponent (PP) has submitted the replenishment study report to SEIAA, Odisha through online Amendment of EC application vide application no. SIA/OR/MIN/516323/2024 dated 27/12/2024 has been placed in 196th SEIAA, Odisha meeting held on 19.04.2025 and after detailed deliberation, the authority decided to reject the amendment of EC as recommended by SEAC as Annual Rate of Replenishment Study (ARRS) report was not done as per MoEF & CC, Govt. of India. Further, the project proponent (PP) has submitted a fresh Amendment of EC application to SEAC based on replenishment study report vide online application no. SIA/OR/MIN/532368/2025 dated 01.04.2025 which is under consideration of SEAC.
- v. The District Administration has submitted only the revised DSR vide application no. SIA/OR/MIN/516323/2024 dated 27.12.2024 for Dolomite (Specified Minor Mineral) of Sundargarh District for approval of SEAC & SEIAA but no other DSR of Sand, Stone, Morrum & Brick Earth has yet to submitted to SEAC & SEIAA approval.
- vi. The PP has obtained Consent to Establish (CTE) obtained from SPCB, Rourkela vide letter no. 5327 dated 22.12.2023 and Consent to Operate (CTO) has been obtained vide letter no. 13 dated 02.010.2024.
- vii. There was excess mining of quantity of sand **5399.45 cum** out side of the lease area was observed during joint visit.

Over all observation made by the Committee as mentioned below:

True Copy Attested
 13/01/25
 Assistant Collector Judicial
 Collectorate, Sundargarh

- ~~249~~
- The Sand bed is situated over plot no. 149/P & 151/P of khata no. 1, Kisam – Nadi, Mouza- Bramhani Nadi Kha (Tendra) over an area 5.00 ha or 12.35 Acre under Bonai Tahsil of Sundargarh District.
 - During joint team inspection it was observed that no mining activity going on at the alleged site. As intimated by the Lessee the mining operation was stopped since 31.03.2025.
 - During inspection there was no deployment of Hyvas or any other mechanical equipment's for mechanical mining.
 - There was no transportation of sand was observed during inspection.
 - The sand bed unit has conducted sand replenishment study for pre-monsoon and post monsoon for the year 2024 and submitted to this office with a copy on dtd.27.03.2025
Copy of the same is enclosed for reference (Annexure-II).
 - The industry has not provided any dust suppression measures for control of dust generated during transportation of heavy vehicles.
 - The sand unit has not provided environmental display Board for display environmental information with respect to air, water etc.,
 - The approved EC quantity for 1st year is 30,000 Cum & 2nd year is 7500 Cum.
 - There are no sources for withdrawal of water for irrigation, drinking water and other industrial purposes near the ML area as observed during inspection.
 - There was no natural dunes observed within the ML area.
 - During inspection it was observed that the lease holder has extracted sand outside the lease area approx. 5339.784 Cum.
 - The lessee has extracted about 20616 cum sand in financial year 2024-25.
 - The Lessee has carry out mining outside the lease area and disturbing the flow pattern of river and photographs of the same is enclosed for reference.

Details calculations of sand mining outside the ML area as below;

Extracted sand outside the lease area.					
Sl No.	Sections	Length in (Metre)	Width (Metre)	Height (Metre)	Volume in (Cum)
1	Section-1	48	37	0.9	1598.4
2	Section-2	45	67.5	0.9	2733.75
3	Section-3	41.05	40	0.65	1067.3

True copy attached
 10/3/25
 30/06/25
 Assistant Collector Judicial
 Collectorate, Sundargarh

~~125~~

Total volume of sand	5399.45
-----------------------------	----------------

- Pillar posting not done and safety zone not maintained the lease holder.
- The unit has not conducted compensatory tree plantation with minimum @100 trees per Ha. Of lease area. Adequate plantation has not been conducted by the lessee.
- The unit has not obtained modified mining plan as the unit has conducted mechanical mining as intimated by the husband of Lessee.
- No steps has been taken for river bank stabilization which is leading to degradation of river bank.
- During joint team inspection it was observed that no mining activity going on at the alleged site. Therefore, ambient air quality monitoring in the area couldn't be conducted.
- The joint team also interact with few villagers of Tendra village namely Sri Janmenjay Sahu, Sri Duryodhan Sahu, Purushottam Pradhan, Lambodar Swain and Sri Lokanath Sahu were present during inspection. As stated by them no agricultural land was damaged by the abovesaid mine quarry. Further they stated that no dust pollution due to transportation activity during mining of abovesaid quarry.
- The photographs of joint committee visit were annexed as **Annexure-III**.
- The sand bed mine unit has conducted illegal mining on the outside mine lease area. The environmental compensation calculated as below are;

ASSESSMENT OF ENVIRONMENTAL COMPENSATION

- The committee has finalized the Environmental Compensation based on the methodologies formulated by the above-mentioned committee constituted in the

True Copy Accepted

K. S. P.

30/05/25

Assistant Collector Judicial
Collectorate, Sundargarh

- 18 - 26 -

matter of Hon'ble NGT OA No. 360 of 2015.

- The environmental compensations shall be calculated based on the following formula;
- As per recommendation of the committee constituted in the matter of Hon'ble NGT OA No. 360 of 2015 on dt.30.01.2020, since the risk categorisation is unavailable, following Risk Factor and Discount Rates may be considered:

Severity	Mild	Moderate	Significant	Severe
Risk Level	1	2	3	4
Risk Factor	0.25	0.50	0.75	1.0
Discount Rate	8%	7%	6%	5%

- NB:- In the present case Risk Factor is considered as 1.0.

Violation with respect to Quantity / Production: As observed during inspection the unit has carried out illegal mining outside the ML area.

EC Calculation:

Market Value of illegally Mined Material (D) : ₹ 763239.00
(As per report of Mining Officer, DDM Rourkela)

Copy of same is annexed in Annexure-IV)

Risk Factor (RF) : 1

Annual Value of Foregone Ecological Values (D*RF) : ₹763239.00

Present Value (PV) of Foregone Ecological Values (@ 5% discount rate (r) and over 5 years) = ₹33,04,427.00

True copy Attested
K. S. R.
30/06/25
Assistant Collector Judicial
Collectorate, Sundargarh

- 14 - 28

$$PV = \sum_{t=1}^5 \frac{(D * RF)}{(1 + r)^t}$$

$$= \sum (763239.00/(1+0.05)^1 + (763239.00/(1+0.05)^2 + (763239.00/(1+0.05)^3 + (763239.00/(1+0.05)^4 + (763239.00/(1+0.05)^5)$$

Net Present Value (after netting out market value of illegally mined material)

i.e., Total **Environmental** Compensation to be levied:

$$NPV = PV - D$$

$$= \text{₹}25,41,188.00$$

Conclusion:

The Committee recommends that the alleged sand bed unit may be complied to take up following necessary compliance as per Hon'ble National Green Tribunal order.

1. The sand bed unit may be imposed environmental compensation as calculated by joint committee as about Rs.25,41,188.00/- (**Rupees Twenty-Five Lakhs Fourty One Thousand one hundred eighty-eight only**). Hence Environmental Compensation may be recovered from the Lessee of M/s. Tendra Sand Bed-II.
2. The sand bed unit shall not conduct mining without prior obtaining Consent to Operate from Board and revised mining plan from concerned authority.
3. The project Proponent shall erect permanent pillar posting around the lease, if pillar posting is not possible in river bed, then it should be place in river embankment for identification of lease boundary.
4. Measure to be taken for safety of river embankment at entry point from River embankment to quarry area through river bed.
5. For safety of river embankment, plantation shall be done by project proponent as part of EC conditions.
6. Method of mining should be adopted as per the approved mining plan and EC & CTO conditions.

True Copy Attested

Ksfn

20/06/25

Assistant Collector Judicial
Collectorate, Sundargarh

S Dash

Sri Sambit Dash, (OAS), Tahsildar, Bonni

[Signature]

Dr. Pradeep Kumar Nayak,
Environmental Scientist,
State Environment Impact Assessment
Authority, (SEIAA), Bhubaneswar, Odisha

[Signature]

Sri Bimbadhar Sethi, Deputy Director of Mines,
Rourkela, representative of Koira Circle

[Signature]

Dr. A. K. Mallick, ACES & Regional Officer
State Pollution Control Board, Rourkela, Odisha

Deputy Director Mines
Rourkela

Regional Officer
S.P.C. Board, Rourkela

[Signature]

Sri Abhimanyu Majhi, OAS (S),
Additional District Magistrate, Sundargarh

True Copy Attested

[Signature]

20/06/15
Assistant Collector Judicial
Collectorate, Sundargarh

-16-29

SAND REPLENISHMENT STUDY REPORT For Year: 2024 (Brahmani River)

(As Per Enforcement & Monitoring Guidelines for Sand 2020, MoEF)

(Use of UAV/Drone & other image data
processing techniques adopted)

of

Tendra-II Sand Bed

(Over 12.35 Acres/5.00 Hectares in Tendra village,
Under Bonai Tahasil of Sundargarh District, Odisha)

Applicant

Smt. Rashmi Rekha Sahu
At-Singsal , Po-Amgaon
Dist-Deogarh, Odisha-768110

Report Prepared by

Zinu Sh.Sathua

RQP/OD/064/2016

DGCA Approved Drone Pilot

Certificate No. PC0622000005J

Zinu Sh. Sathua
RQP/OD/064/2016



ISO 9001:2015 ISO/IEC 27001:2013

(ORSAC EMPANELLED AGENCY)

Jagamara, Bhubaneswar-751030

Contact-9439553684

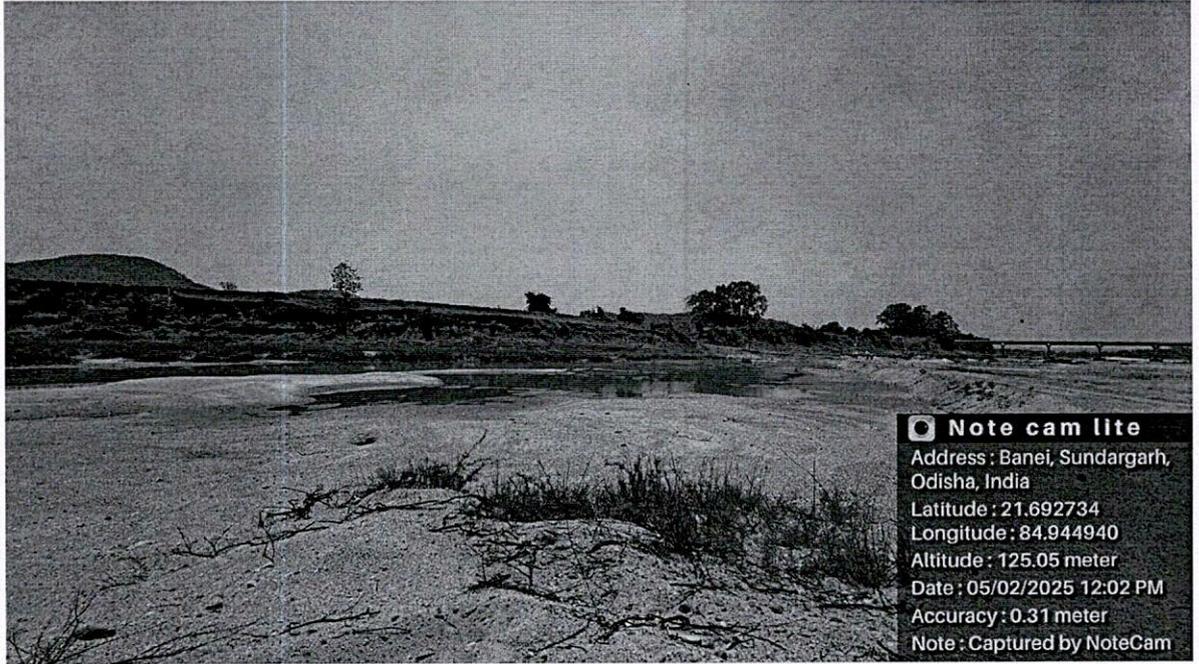
zeotekmining@gmail.com

True copy Attached
13.02.25
Assistant Collector Judicial
Collectorate, Sundargarh

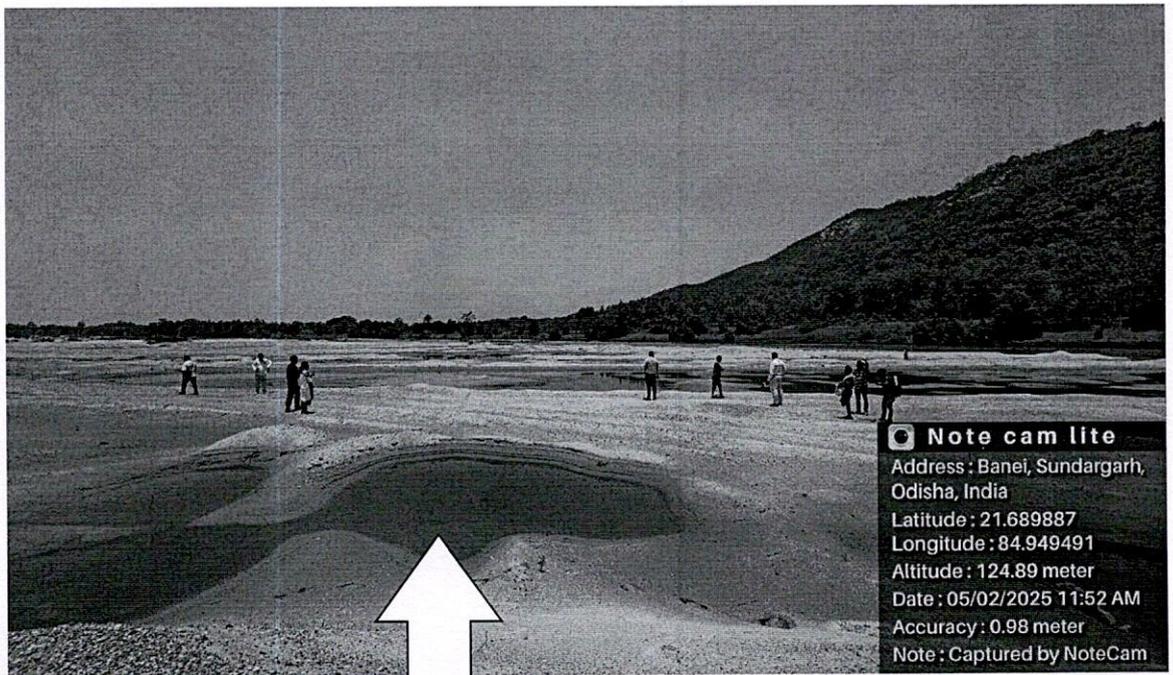
February 2025

-17- 30

Annexure-III



Note cam lite
 Address : Banei, Sundargarh,
 Odisha, India
 Latitude : 21.692734
 Longitude : 84.944940
 Altitude : 125.05 meter
 Date : 05/02/2025 12:02 PM
 Accuracy : 0.31 meter
 Note : Captured by NoteCam



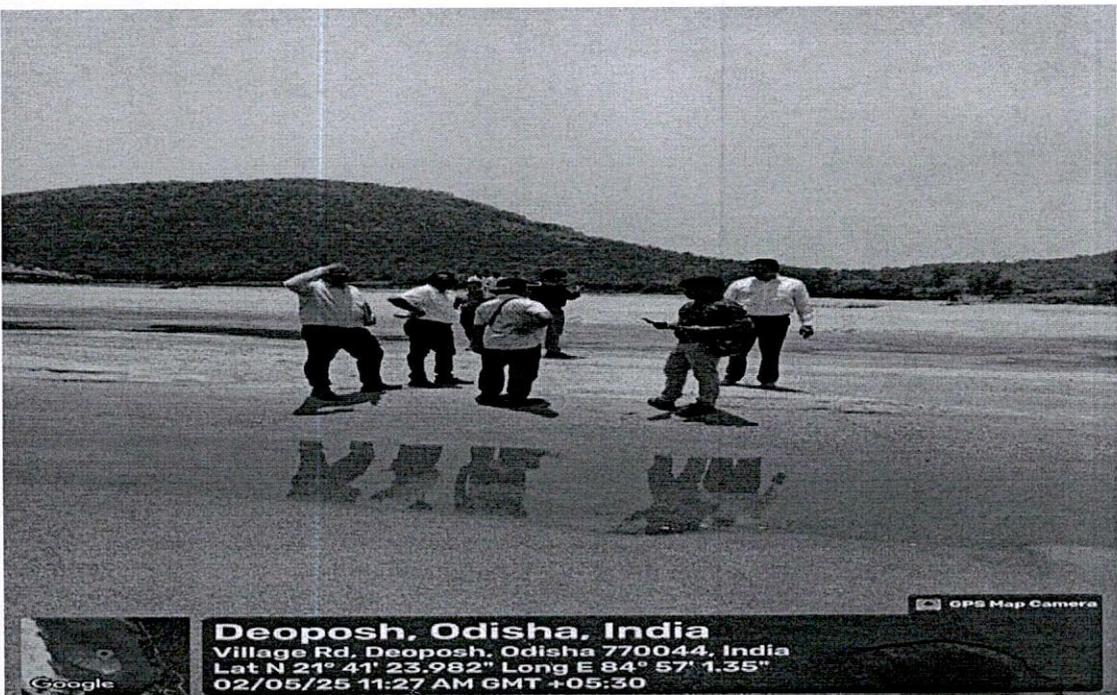
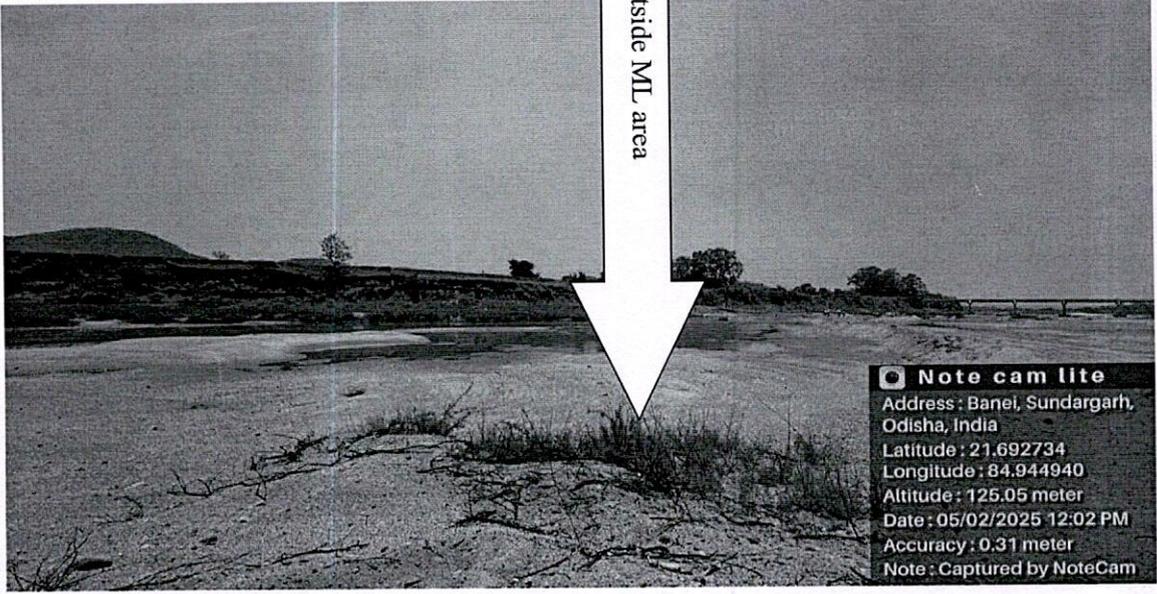
Note cam lite
 Address : Banei, Sundargarh,
 Odisha, India
 Latitude : 21.689887
 Longitude : 84.949491
 Altitude : 124.89 meter
 Date : 05/02/2025 11:52 AM
 Accuracy : 0.98 meter
 Note : Captured by NoteCam

illegally
 Mined are

Time logs Attached
1/3/25
 Assistant Collector Judicial
 Collectorate, Sundargarh

18- 21

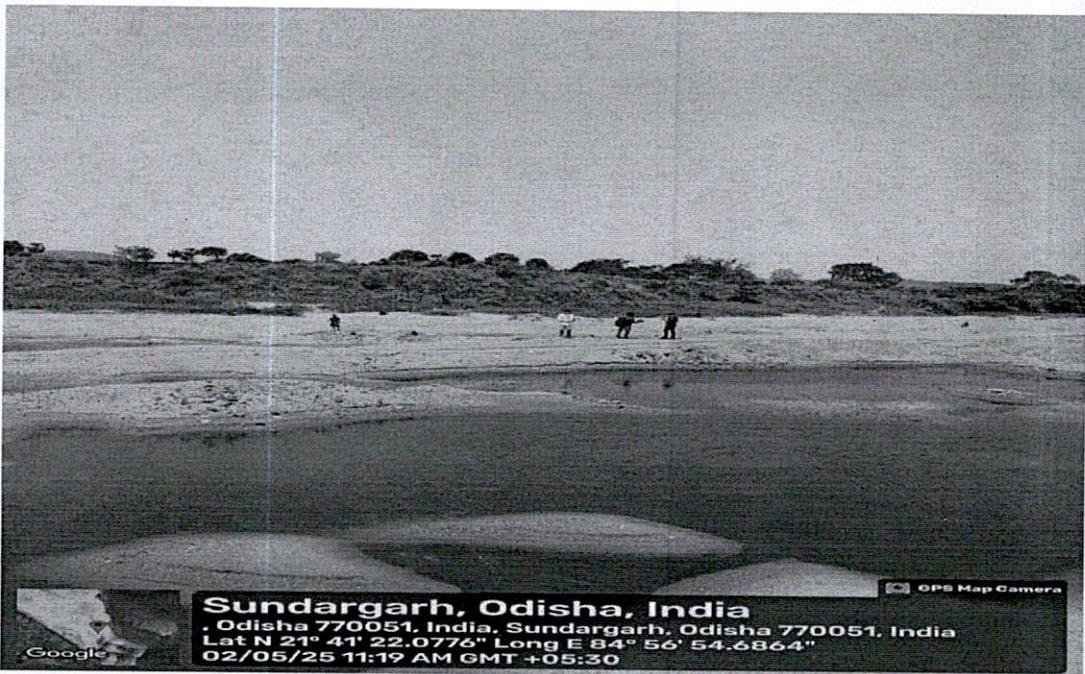
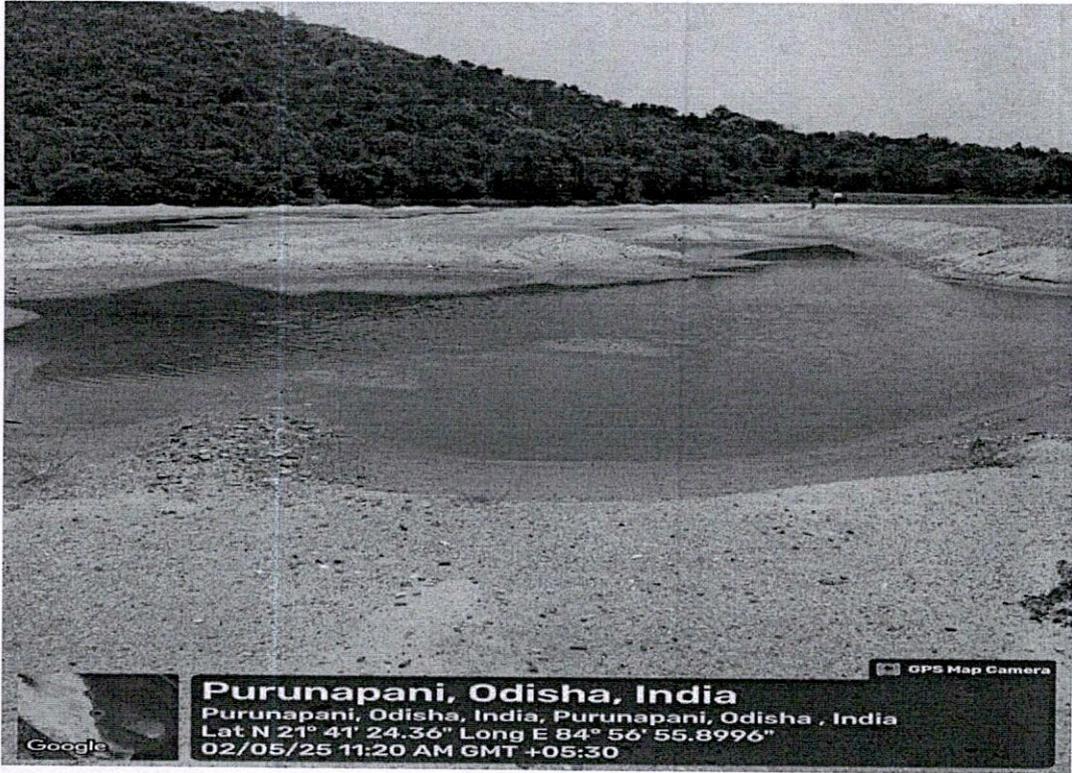
Mining outside ML area



True copy Attached
Wspn
30/06/25

Assistant Collector Judicial
Collectorate, Sundargarh

-19-82



Tone copy Attached
ksr

30/06/25
 Assistant Collector Judicial
 Collectorate, Sundargarh



-20-23

Annexure-209

E-mail: rospcb.rourkela@ospcb.ori
Website: www.ospcb.ori

STATE POLLUTION CONTROL BOARD, ODISHA
(DEPARTMENT OF FOREST, ENVIRONMENT & CLIMATE CHANGE, GOVERNMENT OF ODISHA)
REGIONAL OFFICE, ROURKELA

At-Near Hockey Chowk, P.O.-Panposh, Rourkela, Dist-Sundargarh-769004

No. 2448
To

Legal file-049

Date. 05/05/2025

Smt Rashmi Rekha Sahu, Lessee
M/s Tendra-II Sand Bed
At- Singsal, PO- Amgaon
Dist- Deogarh-768110

Sub: Refusal of Consent to operate u/s 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of Air (Prevention & Control of Pollution) Act, 1981 and as amended thereof and rules framed thereunder -reg

Madam,

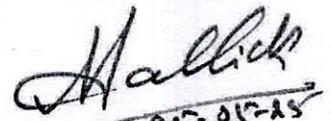
In inviting reference to the subject cited above, it is to intimate that, you have applied for renewal of Consent to operate u/s 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of Air (Prevention & Control of Pollution) Act, 1981 as amended thereof and rules framed thereunder vide application No. 6253799 Dtd 22.03.2025. During the processing of your application this office has received an order vide letter No 1566 dtd 06.04.2025 of O/o the Collector & District Magistrate, Sundargarh regarding the joint committee to visit the alleged site in pursuance to the order dated 04.04.2025 in original application No. 60/2025/EZ filed before the Hon'ble National Green Tribunal, East Zone Bench, Kolkata.

A joint visit was conducted at the alleged site on dtd 02.05.2025 and following non-compliances were observed,

1. You have not demarcated the lease hold area by pillar posting and safety zone has not been maintained.
2. You haven't provided Environmental Information Board regarding the information of Air, Water, CTO validity, Name of Lessee, Mining Lease, EC validity etc.
3. You have extracted sand outside the leasehold area with approximate volume of 5339.784 cum.
4. You are transporting the minerals through village roads without prior explicit permission.

Now therefore, after careful consideration of the situation and all other relevant records available in this office, your application for renewal of Consent to operate could not be considered with the persisting violation & hereby refused. You are directed not to operate the quarry without obtaining valid Consent to Operate from the Board.

Yours faithfully,


Regional Officer

O/C

True copy Attested

Kyfn

30/06/25

Assistant Collector Judicial
Collectorate, Sundargarh

-24- 34

Memo No. 2449 Dtd. 05/05/2025

Copy forwarder to Collector & District Magistrate, Sundargarh for kind information.

Mallick
05-05-25
Regional officer

Memo No. 2450 Dtd. 05/05/2025

Copy forwarder to Divisional Forest officer, Bonai for kind information.

Mallick
05-05-25
Regional officer

Memo No. 2451 Dtd. 05/05/2025

Copy forwarder to Deputy Director of Mines, Rourkela for kind information.

Mallick
05-05-25
Regional officer

Memo No. 2452 Dtd. 05/05/2025

Copy forwarder to Legal Consultant, State Pollution Control Board, Odisha for kind information.

Mallick
05-05-25
Regional officer

True copy Attestd
ksfn
20/06/25
Assistant Collector Judicial
Collectorate, Sundargarh



ANNEXURE - C/12

By e-mail / By Speed Post

OFFICE OF THE DEPUTY DIRECTOR OF MINES: ROURKELA CIRCLE, ROURKELA
 STEEL & MINES DEPARTMENT, GOVT. OF ODISHA
 At/PO: Rourkela, Dist. Sundargarh-769012
 Mail: ddm.rourkela@orissaminedals.gov.in

No.XIV-66/2024 2768 / Mines, Dt. 20.08.2025

To

Smt. Rashmi Rekha Sahu,
 W/o- Karunakar Sahu,
 At: Singal, P.O.: Amgaon,
 P.S. Barkote, Dist: Deogarh,
 PIN: 768110.

Sub:

Order Dt:08.07.2025 passed in O.A. No.60/2025/EZ (I.A.No.56/2025/EZ) filed by
 Jhadeswar Pradhan Vrs State of Odisha & others.

Ref:

Letter No.3248, Dt:10.07.2025 of Addl. District Magistrate, Sundargarh.

Sir,

In inviting a reference to the letter on the subject cited above, I am to say, as per
 order Dt: 08.07.2025 passed in O.A. No.60/2025/EZ/(I.A.No.56/2025/EZ) before the Hon'ble
 National Green Tribunal, Eastern Zone Bench, Kolkata, you are liable to deposit Environmental
 Compensation amount of Rs.25,41,188/- (Rupees Twenty-five Lakh Forty-one thousand One
 hundred eighty-eight) only in respect of your Tendra Sand Bed-II under the following Head of
 account.

As such, you are hereby directed to deposit the above dues latest by dt.04.09.2025
 falling which appropriate action shall be taken against you.

Yours faithfully,

[Signature]
 Deputy Director of Mines,
 Rourkela
 Deputy Director Mines
 Rourkela

Head of account :
 No.0853 - Non-Ferrous Mining and Metallurgical Industries-
 102-Mineral Concession, Rents and Royalties.

Memo No. _____ / Mines, Dt.

Copy forwarded to the Additional District Magistrate, (Revenue) for information and
 necessary action with reference to the letter No.3248, Dt:10.07.2025.

/
 Deputy Director of Mines,
 Rourkela

Memo No. _____ / Mines, Dt.

Copy forwarded to the Addl. Chief Environment Scientist & Regional Officer,
 Rourkela/ Sr. Scientist, State Environment Impact Assessment Authority(SEIAA), Odisha/
 Tahasildar, Bonai/ Mining Officer-cum-Competent Authority, Bonai for information and necessary
 action with reference to the letter No.3248, Dt:10.07.2025 of Addl. District Magistrate,
 Sundargarh

/
 Deputy Director of Mines,
 Rourkela

2023 LiveLaw (SC) 524 : 2023 INSC 618

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**B.V. NAGARATHNA; J., PRASHANT KUMAR MISHRA; J.**
CIVIL APPEAL NO. 3856, 4525, 4529 & 4581/2022; JULY 05, 2023SINGRAULI SUPER THERMAL POWER STATION *versus* ASHWANI KUMAR DUBEY & ORS.

National Green Tribunal Act, 2010 - Principles of Natural Justice - Expert Opinion - the National Green Tribunal (NGT) being an adjudicatory body must comply with the principles of natural justice. If the NGT intends to rely on the report of an expert Committee or any other material that is brought to its knowledge, the concerned party must be informed of it in advance, and be given an opportunity for discussion and rebuttal. (Para 16)

National Green Tribunal Act, 2010; Section 19(1) - Principles of Natural Justice - the NGT is a judicial body and therefore exercises adjudicatory function. The very nature of an adjudicatory function would carry with it the requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of the cases before the Tribunal or for that matter before the Courts in India. The NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, the discharge of its function must be in accordance with law which would also include compliance with the principles of natural justice as envisaged in Section 19(1) of the Act. (Para 15)

Official Notice Doctrine - the parties must be informed of the materials relied on by an authority and must be given an opportunity to explain or rebut them. The data on which an authority is acting must be apprised to the party against whom the data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authority relies. The aforesaid doctrine applies with greater force to a judicial / adjudicatory body. (Para 16, Referred: *Schwartz on Administrative Law*)

Expert Opinion - the recommendations made by an expert Committee are not binding on the NGT and are only to be considered as a guide to allow the Tribunal to arrive at its decision. Experts' opinion is only by way of assistance in arriving at a final conclusion. In the instant case the report of the expert Committee as well as the recommendations have been made the basis of the directions and such an approach is improper. (Para 17)

Summary: - The appellants were not given an opportunity to file their objections to the recommendations of the Expert Committee. The Court noted that the recommendations were uploaded on 15.01.2022 and the Tribunal passed its final order on 18.01.2022, i.e, only three days later. Accordingly, on the ground of non-compliance of the principles of natural justice, the impugned order of the Tribunal was set aside and the matter was remanded to the NGT for re-consideration from the stage of recommendation of the Expert Committee.

For Appellant(s) Mr. Sanjay Jain, Sr. Adv. Mr. Adarsh Tripathi, Adv. Mr. Ajitesh Garg, Adv. Ms. Alka Sinha, Adv. Mr. Anuvrat Sharma, AOR Mr. Ashish Prasad, Adv. Ms. Mukta Dutta, Adv. Mr. Mahfooz Ahsan Nazki, AOR Mr. Pruthvi Dhinoja, Adv. Mr. Ashwani Kumar Dubey, Adv. Mr. Tushar Mehta, Solicitor General Mr. Shailesh Madiyal, AOR Mr. Sudhanshu Prakash, Adv.

For Respondent(s) Ms. Aishwarya Bhati, A.S.G. Mr. Gurmeet Singh Makker, AOR Dr. Arun Kumar Yadav, Adv. Ms. Deepabali Dutta, Adv. Mr. Divyansh H. Rath, Adv. Mr. Devashish Bharukha, Adv. Ms. Rukhmini

Bobde, Adv. Ms. Manisha Chava, Adv. Ms. Poornima Singh, Adv. Ms. Sthavi Asthana, Adv. Mrs. Swarupama Chaturvedi, AOR Ms. Saumya Kapoor, Adv.

J U D G M E N T

NAGARATHNA J.

Since the grievances ventilated by the appellant(s) in these appeals are common, they have been clubbed and heard together and are disposed of by this common judgment.

2. The appellants(s) herein are aggrieved by the order passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "NGT" for the sake of convenience) dated 18.01.2022. By the said order the following directions have been issued against the appellant(s) herein:-

"Directions:

21. In the light of above discussion, it is patent that remedial measures are required in terms of recommendations set out in para 15 above in respect of individual TPPs or other projects as well as general issues applicable to all the TPPs such as timely installation of air pollution control and monitoring devises, timely utilization and disposal of fly ash, scientific designing of fly ash dykes and safety norms, addressing public health issues, steps for restoration of deteriorated environment by bringing down CEPI scores in the entire area, restoration of Rihand Reservoir and other damaged/degraded areas, providing arrangement for public health facilities, including water supply and by coordinated and concerted efforts and high level monitoring. The PP are to be accountable for past violations and are under obligation to remedy the violations and follow the norms for future. The regulators are to enforce the same and higher authorities are to oversee. Accordingly, following direction are issued:

i. We direct constitution of a fly ash management and utilization Mission to be jointly headed by the Secretaries, MoEF&&CC, Coal and Power, Gol and Chief Secretaries of UP and MP. The Secretary, MoEF&CC will be the nodal agency for coordination and compliance. The Mission will coordinate and monitor issues relating to handling and disposal of flyash as well as all associated issues in the light of above discussion. It may hold its first meeting within one month to take stock of the situation and to prepare action plan in the light of recommendations of Joint Committees quoted earlier in para 15 above in respect of individual plants as well as road map generally. Thereafter, it may meet atleast once in a month for one year to review the progress. The resolutions of the Mission and quarterly progress may be placed on the website of MoEF&CC for information of the stake holders and inhabitants in the area. The Mission will be free to interact with the concerned Government Departments/ Expert institutions/individuals/other stakeholders. The Mission may in its first meeting require voluntary financial contribution by all the projects in proportion of the financial capacity of the projects out of CSR funds or otherwise. The contribution, alongwith compensation which may be collected may be credited to a separate environment restoration account for restoration of environment and relief to the victims of damage to the environment in such manner as may be found necessary by the Mission. Any victim or aggrieved party will be free to approach the Mission for providing such relief. The Mission may also consider the safeguards laid down in the Notification dated 31.12.2021, particularly for safety audits of sh dykes which should be conducted particularly for structural stability, as far as possible within six months. Advisory issued by the Ministry of Power dated 22.9.2021 will not be enforced being against the spirit of notification dated 31. 12.2021 and obstructing much needed speedy utilisation/disposal of legacy flyash. The Mission may evolve mechanism for interaction with stake holders, including associations of brick kiln owners. Guidelines be also issued for siting, design and engineering standards for the location, disposal, maintenance and regulation of Ash Ponds as breach of a fly ash pond result in great disaster. Public health and risk impact assessment in the areas of operation of TPPs and generators of fly ash may be got conducted. The Mission may also monitor scientific management and utilization of fly ash by power projects outside Singrauli and Sonebhadra, in coordination with Chief Secretaries of concerned States and adopting safety

measures for ash dykes, installing devices to control air pollution, (including FGDs, OCEMS) in a time bound manner and restoration of environment and public health. The Mission may also consider use of beneficiated coal. It may in particular consider on-site and off-site crisis management plans with regard to fly ash ponds and dykes. As noted earlier, legacy fly ash is 1670.602 Million Tonnes as on.31.12.2021 and data of ash generation and utilization of legacy fly ash is as follows:

"Summary of of Ash Generation and Utilization during year 2020-21

No. of Thermal Power Stations	191
Capacity (MW)	2,13,030 MW
Coal Consumed	672.130 Million Tonnes
Fly Ash Generation	222.789 Million Tonnes
Fly Ash Utilization	205.098 Million Tonnes
Percentage Utilization	92.06%
Legacy Flyash	1670.602 Million Tonnes

The Committee of Secretaries, in coordination with PPs and statutory regulators, may draw a road map for utilization and disposal of entire legacy fly ash for Sonebhadra and Singrauli areas as well as for all the Power Plants located in clusters or standalone with tagging the sources to utilize fly ash on voluntary and compulsion mode for which required mechanism be laid down.

- ii. With regard to past violations, the PPs remain liable and the Joint Committee of CPCB, State PCB and jurisdictional District Magistrates may determine compensation following due process, on the principles laid down inter alia in M.C. Mehta, (1987) 1 sec 395, Sterlite (2013) 4 sec 575 and Goel Ganga (2018) 18 SCC 257, having regard to the period of violation and financial capacity of the unit. The PPs may take remedial measures as per recommendations of the Committee and as per law, failing with coercive measures for continuing or future violations be taken by concerned authorities.
- iii. Statutory regulators may take action in terms of need for compliances in the light of recommendations with regard to individual Plants as well as generally so as to require the concerned PPs to comply, failing which coercive measures be taken by the statutory regulators in accordance with law.
- iv. In respect of incident dated 10.04.2020, compensation paid to heirs of the deceased at the rate of Rs. 10 lakhs per death is increased to Rs. 15 lakhs on principles laid down inter alia in Sarla Verma (2009) 6 SCC 121 and Uphaar Cinema (2011) 14 SCC 481. We direct the remaining amount to be paid within one month. This order will not debar the heirs of the victims to claim higher compensation by approaching appropriate forum. If the salaries to persons appointed as compensation to the victims are below minimum wages, the PP may ensure compliance of law on the subject which may be also looked into by the concerned Labour Departments of the State of UP and MP. The statutory regulators may take further remedial action in terms of recommendations of the Committee in OA 148/2020, quoted earlier for restoration of environment and preventing such incidents.
- v. With regard to breach of Rihand Reservoir also, further remedial measures be taken in terms of recommendations on the subject, quoted in para 15 above.

All the matters (including IAs) will stand disposed of accordingly. If any grievance survives, aggrieved parties are free to take remedies as per law.

A copy of this order be forwarded to the Secretaries, MoEF&CC, Coal and Power, GoI and Chief Secretaries of UP and MP, CPCB, State PCBs, SEIAAs, PCCFs (HoFF) UP and MP, District Magistrates, Singrauli and Sonebhadra, Labour Commissioners, UP and MP, State Disaster Management Authorities of UP and MP and SSPs by e-mail for compliance. CPCB may also circulate the same by email to all TPPs or other concerned to facilitate compliance.

Adarsh Kumar Goel, CP
Sudhir Agarwal, JM
Brijesh Sethi, JM
Prof. A. Senthil Vel, EM
Dr. Afroz Ahmad, EM

January 18, 2022

3. Being aggrieved by the directions issued by the NGT and the manner in which the original petition has been disposed of, the appellants have filed these appeals.

4. At this stage itself it may be noted that the first respondent, the original applicant before the NGT has been served in all the cases and has not appeared in these cases. In the circumstances, the appeals have been heard and decided, by taking into consideration, the submissions of the learned counsel appearing for the appellants herein.

5. Learned Solicitor General appearing for the appellants in C.A. No.3856/2022 at the outset submitted that the proceedings of the NGT are judicial proceedings and compliance of principles of natural justice is a hallmark of all judicial proceedings. That in the instant case, while the NGT was well within its powers to constitute an expert Committee and to seek a report with regard to the alleged violations complained of by the first respondent herein, on receipt of the said report, it was necessary that the alleged violators were given an opportunity to object to the said report and after consideration of the objections, the NGT ought to have passed a considered order and issued only those directions which were appropriate having regard to the facts of each industry that was made a respondent before the NGT.

He further submitted that Section 19(1) of the National Green Tribunal Act, 2010 (hereinafter referred to as the "Act" for the sake of convenience) categorically states that the Tribunal, though not bound by the procedure laid down by the Code of Civil Procedure, 1908, shall nevertheless be guided by the principles of natural justice.

According to learned Solicitor General in the instant case, there has been gross violation of the principles of national justice on two counts: firstly, the report of the Committee constituted by the NGT and the recommendations made by the said Committee could not be objected to by the appellant(s) herein as there was hardly any time given to the appellants to even peruse the same. In this regard, he drew our attention to the fact that the report and the recommendations of the Committee constituted by the NGT were put up on the website of the NGT on 15.01.2022 and three days thereafter i.e., on 18.01.2022 the impugned directions have been issued. Secondly, he submitted that the fact that in such a short span of time the matters were considered and disposed of by the NGT, in the absence of there being objections filed by the appellants herein nor having heard the appellants herein, would also imply that there has been no consideration by the NGT of the *pros* and *cons* vis-a-vis the recommendations made by the expert Committee and as to whether the directions issued were appropriate to the case of each of the appellant(s) herein or not.

It was submitted that had the appellants herein had an opportunity of filing their objections to the recommendations made by the Committee constituted by the NGT and had the appellants been heard in the matter, possibly appropriate directions could have been issued as against the appellant(s) herein.

In conclusion, learned Solicitor General submitted that the impugned order may be set aside and the matter may be remanded to the NGT for re-consideration of the entire case of the first respondent herein in compliance with the principles of natural justice, that is, firstly by giving an opportunity to the appellants herein to file their objections, if any, to

the recommendations of the Committee constituted by the NGT and secondly, by giving a further opportunity of hearing to the appellants herein.

In this regard, learned Solicitor General relied upon a decision of this Court in Sanghar Zuber Ismail vs. Ministry of Environment, Forest and Climate Change and Another reported in (2021) SCC Online SC 669.

6. Learned senior counsel Mr. Sanjay Jain and Mr. Nazki adopted the submissions of learned Solicitor General and also contended that the manner in which the original petition has been disposed of by the NGT in these cases was in gross violation of the principles of natural justice. In this regard, reliance is also placed on another decision of this Court in case of Kantha Vibhag Yuva Koli Samaj Parivartan vs. State of Gujarat reported in 2022 SCC online SC 120.

7. The other learned counsel who have appeared, brought to our notice that in the instant case, there were two reports filed and therefore, it was all the more necessary that the said reports had to be considered in order to examine as to whether there were contradictions in them and were in accordance with law.

8. Learned ASG appearing for the respondent No.2 as well as other learned counsel for private respondents also supported the arguments of learned Solicitor General.

9. We find substance in the submissions made by learned Solicitor General, learned senior counsel and learned counsel for the respective parties.

As already noted, the first respondent is the contesting respondent herein who has been served and has failed to appear in these cases.

10. The directions issued by the NGT have been extracted above. The aforesaid directions are in light of the recommendations made by the expert Committee *vide* two reports submitted to the NGT. It is noted that the NGT has extracted the report/s as well as the recommendations at paragraphs 14-16 of the impugned order and has observed as under:

"14. Points for determination are remedial action against pollution due to failure to scientifically manage and utilise the flyash, accountability for damage due to breach of Rihand reservoir and due to breach of ash pond, resulting in deaths and injuries and damage to the crops and environment. As already mentioned, legacy fly ash is 1670.602 Million Tonnes as on 31.12.2021 which has potential for serious damage to the environment as shown by incidents of dyke breaches contaminating sources of water and air pollution making industrial areas critically polluted. Air control devices are not installed in many TPPs. There are incidents of deaths, injuries and loss of flora and fauna.

15. We have considered the data furnished in the reports furnished in pursuance of earlier orders of this Tribunal dated 04.11.2020 in OA No. 117/2014, 14.07.2020 in OA No. 164/2018 and 29.6.2020 in OA No. 148/2020, including the recommendations for remedial action. The compliance status as projected in the reports of the Joint Committees/Oversight Committees shows huge gap in storing, handling, management and utilization of fly ash and consequential continuing damage to the environment and public health. Such huge gaps are patent from the recommendations part in the reports. Deficiencies noted in respect of some individual TPPs appear to be of representative nature and may exist in almost all TPPs, unless shown otherwise on the ground and not in the form of self-serving denial. In the light of the said recommendations, further remedial action needs to be taken to enforce the principle of sustainable development under section 20 of the NGT Act. The recommendations are reproduced below:

"M/s NTPC Limited Shakti Nagar Sonbhadra: Recommendations of the Committee

xxx

M/s NTPC Limited Rihand Super Thermal Power (Power Plant)

Recommendations of the Committee

xxx

M/s Anpara Thermal Power Plant (Power Plant)

Recommendations of the Committee

xxx

M/s Anpara 'C' Lanco Thermal Power Station

Recommendations of the Committee

xxx

M/s Renusagar Thermal Power Plant Recommendations of the Committee

xxx

M/s Obra Thermal Power Station (Power Plant)

Recommendations of the Committee

xxx

Coal Mines of M/s Northern Coalfields Limited (NCL)

1. NCL Dudhichuwa Project, Sonbhadra

Recommendations of the Committee

xxx

2. NCL Bina Project, Bina, Sonbhadra

Recommendations of the Committee

xxx

3. NCL Krishna Shila Project

Recommendations of the Committee

xxx

4. M/s NCL Kakri Project, Sonbhadra

Recommendations of the Committee

xxx

5. NCL Khadia Project Sonbhadra

Recommendations of the Committee

xxx

Aluminum Smelter: M/s HINDALCO Industries Ltd., Renukoot, Sonbhadra

Recommendations of the Committee

xxx

M/s Grasim Industries Limited Chemical Division, Renukoot, Sonbhadra

Recommendations of the Committee

xxx

M/s Birla Carbon India Pvt. Ltd., Renukoot, Sonbhadra

Recommendations of the Committee

xxx

Stone Crusher

Recommendations of the Committee

xxx

A. Thermal Power Plants (TPPs) and Industries

B. Coal Mines of M/s Northern Coalfields Limited (NCL)

C. Stone Crushers

Recommendations"

16. From the above, it is seen that there is a long way to go for protecting environment and public health. The failures of the TPPs are alarming. We find no reason not to accept all the recommendations and to direct remedial action. Thus, all recommendations are accepted and further remedial action is directed to be taken by the statutory regulators which also be overseen by the joint Committees of CPCB, State PCB and the jurisdictional District Magistrates, with CPCB and State PCBs being nodal agencies. Quarterly reports may now be filed with the MoEF&CC to be considered by the Coordinating Committee being hereby constituted."

11. In other words, the NGT has simply accepted the recommendations as remedial action suggested by the Committee but the same is in the absence of there being objections filed by the appellants herein who were the respondents before the NGT and without giving any hearing to them and against whom directions impugned in these cases have been passed by the NGT. We find that the procedure adopted by the NGT is an instance of violation of the principles of natural justice. Section 19(1) of the NGT Act, 2010 reads as under:

"19.(1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice."

At this stage, we may also observe that the recommendations made by an expert Committee are not binding on the NGT, they are only by way of assistance to enable the NGT to arrive at a correct decision in the matter.

12. In this regard reliance may be placed on paragraph 7 and 8 of the judgment of this Court in Sanghar Zuber Ismail (supra) wherein it has been stated as under:

"7. Having regard to the nature of its appellate power, the NGT has to apply its mind to the substantive grounds of challenge. The NGT has merely based its conclusion on the statement which has been made by the project proponent and has not conducted an independent appraisal of the grounds of challenge.

8... the NGT has not dealt with the substantive grounds of challenge in the exercise of its appellate jurisdiction. Constitution of an expert committee does not absolve the NGT of its duty to adjudicate. The adjudicatory function of the NGT cannot be assigned to committees, even expert committees. The decision has to be that of the NGT. The NGT has been constituted as an expert adjudicatory authority under an Act of Parliament. The discharge of its functions cannot be obviated by tasking committees to carry out a function which vests in the tribunal."

13. Furthermore, in Kantha Vibhag (supra), this Court had criticized the practice of delegation of core adjudication to the joint committee:

15. It is first important to differentiate expert committees which are set by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before courts when decisions are taken solely based upon them. The precedents of this court unanimously note that courts should be circumspect in rejecting the opinion of these committees, unless they find their decision to be manifestly arbitrary or mala fide. On the other hand, courts/tribunals themselves set up expert committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these expert committees does not substitute the adjudicatory role of the court or tribunal. The role of an expert committee appointed by an adjudicatory forum is only to assist it in the exercise of adjudicatory functions by providing them better data and factual clarity, which is also open to challenge by all concerned parties. Allowing for objections to be raised and considered makes the process fair and participatory for all stakeholders.

16. Sections 14 and Section 15 entrust adjudicatory functions to the NGT. The NGT is a specialized body comprising of judicial and expert members. Judicial members bring to bear their experience in adjudicating cases. On the other hand, expert members bring into the decision-making process scientific knowledge on issues concerning the environment. In Hanuman Laxman Aroskar v. Union of India⁹, a two- Judge Bench of this Court noted that the NGT is an expert adjudicatory body on the environment. The Court held:

"133. The NGT Act provides for the constitution of a tribunal consisting both of judicial and expert members. The mix of judicial and technical members envisaged by the statute is for the reason that the Tribunal is called upon to consider questions which involve the application and assessment of science and its interface with the environment..."

134. NGT is an expert adjudicatory body on the environment."

17. The NGT does not have a dearth of 'expertise' when it comes to the issues of environment.

18. Section 15 empowers the NGT to award compensation to the victims of pollution and for environmental damage, to provide for restitution of property which has been damaged and for the restitution of the environment. The NGT cannot abdicate its jurisdiction by entrusting these core adjudicatory functions to administrative expert committees. Expert committees may be appointed to assist the NGT in the performance of its task and as an adjunct to its fact-finding role. But adjudication under the statute is entrusted to the NGT and cannot be delegated to administrative authorities. Adjudicatory functions assigned to courts and tribunals cannot be hived off to administrative committees.

19. The NGT has in the present case abdicated its jurisdiction and entrusted judicial functions to an administrative expert committee. An expert committee may be able to assist the NGT, for instance, by carrying out a factfinding exercise, but the adjudication has to be by the NGT. This is not a delegable function. Thus, the order impugned in the appeal cannot be sustained. The consequence of the impugned order is to efface the meticulous exercise which was carried out by the earlier Benches. Valuable time has been lost in the meantime and crucial issues pertaining to the environment in the present case have been placed on the back-burner."

14. In a recent landmark decision, Madhyamam Broadcasting Limited v. Union of India (2023) SCC Online 366, the principles of natural justice have been crystalized in the words of Hon'ble CJI-Dr Dhananjaya Y Chandrachud as under:

"53. ...The facet of *audi alterum partem* encompasses the components of notice, contents of the notice, reports of inquiry, and materials that are available for perusal. While situational modifications are permissible, the rules of natural justice cannot be modified to suit the needs of the situation to such an extent that the core of the principle is abrogated because it is the core that infuses procedural reasonableness...."

15. A reading of the above, clearly indicates that the NGT is a judicial body and therefore exercises adjudicatory function. The very nature of an adjudicatory function would carry with it the requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of the cases before the Tribunal or for that matter before the Courts in India. The NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, the discharge of its function must be in accordance with law which would also include compliance with the principles of natural justice as envisaged in Section 19(1) of the Act.

16. In this context, it would be useful to refer to what is known as the 'official notice' doctrine, which is a device used in administrative procedure. Although an authority can rely upon materials familiar to it in its expert capacity without the need formally to introduce them in evidence, nevertheless, the parties ought to be informed of materials so noticed and be given an opportunity to explain or rebut them. The data on which an authority is acting must be apprised to the party against whom the data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authority relies. This has been explained by Schwartz in his work on Administrative Law. The aforesaid doctrine applies with greater force to a judicial / adjudicatory body.

Therefore, applying the aforesaid principle to the cases that come up before the NGT, if the NGT intends to rely upon an expert Committee report or any other relevant material that comes to its knowledge, it should disclose in advance to the party so as to give an opportunity for discussion and rebuttal. Thus, factual information which comes to the knowledge of NGT on the basis of the report of the Committee constituted by it, if to be relied upon by the NGT, then, the same must be disclosed to the parties for their response and a reasonable opportunity must be afforded to present their observations or comments on such a report to the Tribunal.

17. It is needless to observe that the experts' opinion is only by way of assistance in arriving at a final conclusion. But we find that in the instant case the report of the expert Committee as well as the recommendations have been made the basis of the directions and such an approach is improper.

18. We have perused the impugned order of the NGT and particularly paragraph '16' which has been extracted above. It is apparent that the appellant(s) herein who were respondents before the NGT were not given an opportunity to file their objections to the recommendations made by the Committee constituted by the NGT which is apparent by the fact that the recommendations were uploaded on 15.01.2022 and the final order of the NGT was passed three days later on, i.e. 18.01.2022. Thus, this is a clear case of there being non compliance with the principles of natural justice. On the said ground alone the impugned order is set aside, the matter is remanded to the NGT for re-consideration from the stage of the recommendations filed by the expert Committee constituted by the NGT. The appellant(s) herein are permitted to file their objections, if they are so advised. The NGT shall consider the objections, if any, filed to the recommendations and thereafter dispose of the applications in accordance with law and after giving a reasonable opportunity to all parties.

19. The appeals are allowed and disposed of in the aforesaid terms. Pending application(s), if any, shall stand disposed of.

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Forwarded message
From: **pravat muduli** <pravatmuduli2007@gmail.com>

221

Date: Wed, Nov 12, 2025 at 7:42 PM

Subject: IA No...../2025 filed by Respondent No.12 in
OA No.60/2025-Chhabibala Pradhan

To: Sankar Pani <sankarprasadpani@gmail.com>,
apu7law@gmail.com <apu7law@gmail.com>, Varun Mishra
<varun@vmchambers.com>, pbanerjeebihani@gmail.com
<pbanerjeebihani@gmail.com>

Sir/Madam,

Please find attached herewith the copy of IA
No...../2025 filed by Respondent No.12 in OA
No.60/2025 for your reference.

Thanking you.

Yours faithfully,
Pravat

Pravat Kumar Muduli
At-Shaikh Bazar (Bana Bagicha),
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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA**

**I. A. No. _____ of 2025
(Arising out of O.A. No.60 of 2025/EZ)**

Smt. Rashmi Rekha Sahu	...	I.A. Applicant
-Versus-		
State of Odisha & Others	...	Respondents

INDEX

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