

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, EASTERN
ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 11/2025/EZ**

IN THE MATTER OF:

ARUNA KUMAR JENA & ORS.

...Applicants

VERSUS

STATE OF ODISHA & ORS.

...Respondents

INDEX

Sr. No.	Description of Documents	Pages
1.	REPLY TO I.A. NO. 94 OF 2025 DATED 31.10.2025 ON BEHALF OF RESPONDENT NO.14 (AGRAWAL INFRABUILD PRIVATE LIMITED)	1 -6

Dtd..17.11.2025

Through

vastvikta Bhardwaj
Vastvikta Bhardwaj

D/ 4475/2024

Advocate for the Respondent No. 14 /
AGRAWAL INFRABUILD PRIVATE LIMITED

Bond	Indian-Non Judicial Stamp Haryana Government		Date : 16/11/2025
Certificate No.	GOP2025K122		Stamp Duty Paid : ₹ 101
GRN No.	142490318		(Rs. Only) Penalty : ₹ 0
Deponent			
Name :	Agrawal infrabuild pvt ltd		
H.No/Floor : X	Sector/Ward : X	Landmark : X	
City/Village : X	District : X	State : X	
Phone :	98*****27		
Purpose :	tender to be submitted at Concerned		
			
			
The authenticity of this document can be verified by scanning this QrCode Through smart phone or on the website https://agrashry.nic.in			

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

Original Application No. 11 of 2025

IN THE MATTER OF:

Aruna Kumar Jena & Ors.

...Applicants

Versus

State of Odisha & Ors.

...Respondents

**REPLY TO I.A. NO. 94 OF 2025 DATED 31.10.2025 ON BEHALF OF
RESPONDENT NO. 14 (AGRAWAL INFRABUILD PRIVATE LIMITED)**

I, Shashank Agrawal, Authorized Representative of Respondent No. 14 Agrawal Infrabuild Private Limited, aged about 32 years, S/o Shri Pawan Agrawal being the Director, Agrawal Infrabuild Private Limited, do hereby solemnly affirm and state as follows:




1. That I am authorized representative and Director of the Respondent No. 14, and competent to swear this Affidavit in Reply on behalf of the Respondent No. 14. I have gone through the said I.A. and understood the contents thereof.
2. That the contents of the present Reply are true and correct to the best of my knowledge.
3. At the outset, the answering Respondent denies all statements, averments and allegations made in the present I.A. seeking stay of mining in Bajabati BSQ-3 and BSQ-5, except those specifically admitted herein. The Applicants' prayer for stay of mining operations is based on erroneous assumptions, incomplete facts, and reports prepared without granting any opportunity of hearing to this Respondent.
4. The Answering Respondent is not furnishing a para-wise reply to the contents of the I.A. However, the Answering Respondent respectfully submits the following preliminary submissions and objections for consideration of this Hon'ble Tribunal.

PRELIMINARY SUBMISSIONS/OBJECTIONS

Similar I.A. filed by the Petitioner already stands rejected

5. The present I.A. is not maintainable, is filed belatedly, and is an attempt to reagitate and seek an interim order against a National Highway project-linked quarry, despite the Hon'ble Tribunal vide Order dated 10.07.2025 having earlier rejected I.A. No. 43/2025 filed by the Applicant seeking the same relief.

Violation of Natural Justice

6. It is respectfully submitted that the Answering Respondent has been gravely prejudice due to a clear departure from the settled principles of *audi alteram partem*. The manner in which the Respondent No. 15 (Deputy Director



of Mines), ORSAC and also M/s TKS Consultancy Services i.e. ORSAC empanelled agency) have prepared multiple inquiry reports, and drawn adverse conclusions, all without affording the Petitioner any opportunity to participate, respond, or rebut, strikes at the core of fair procedure and renders such reports legally untenable.

7. The Respondent No. 15 requested an assessment regarding Bajabati BSQ Mine No. 3 & Bajabati BSQ Mine No. 5, in accordance with which Respondent No. 2 had submitted its report after conducting a survey on 22.02.2025 which came to be filed vide Compliance Affidavit dated 09.07.2025 of Respondent No. 15. Further, the Respondent No.15 requested ORSAC to check the authenticity of the report submitted by M/s TKS Consultancy Services. Thus, multiple layers of survey/inquiry were set in motion, yet at no point was the Answering Respondent was appraised or called upon to participate in any stage of the assessment or verification.

8. In the aforesaid context, the importance of the principle of *Audi Alteram Partem* has been reiterated by the Hon'ble Supreme Court of India in its concluding remarks in a recent judgment titled "***Krishnadatt Awasthy v. State of MP, (2025) 7 SCC 545***" in the following terms:

"71. The principle of audi alteram partem is the cornerstone of justice, ensuring that no person is condemned unheard. This principle transforms justice from a mere technical formality into a humane pursuit. It safeguards against arbitrary decision-making, and is needed more so in cases of unequal power dynamics."

9. In these circumstances, it is submitted that the petitioner was never invited to submit its responses/give representation before any of the concerned authorities at any stage of preparing the said reports herein and is thus in direct contravention of the principles of *Audi Alteram Partem*. It is, thus, submitted that no



reliance ought to be placed on the said reports. It is also submitted that the answering respondent is in the process of initiating independent proceedings to challenge the said reports, inter alia on the ground that the answering respondent has been condemned unheard, contrary to the well established principles of natural justice and there is every likelihood of the said report being set-aside.

Relevant period of "Mining in Restricted Area" is not indicated

10. It is humbly submitted that the allegations in the present I.A. are premised on the ORSAC report submitted vide Letter dated 03.09.2025, regarding the authenticity of the Assessment Report by M/s TKS Consultancy Services, which has been filed by the Respondent No. 15 vide Additional Affidavit dated 16.09.2025. However, it is not clear from the said report that how ORSAC determined that the alleged excavation in the "restricted area" was carried out during the period of permit of mining of the Answering Respondent. The report merely indicates that excavation exists in certain areas but does not establish the period during which such excavation was carried out. The answering respondent denies the said report and submits that the report is vague and lacks material particulars.

11. The relevant portion of the observations in the ORSAC Letter dated 03.09.2025 is as stated *herein below*:-

"1. Bajabati BSQ-3 (Cluster SI No. 3A)

It is observed from the drone survey report conducted on 22.02.2025, that the excavation has been carried in the "Mining Restricted Area". In the non restricted area, lowest surface height is 12 metres in modified approved mining plan and excavation has been done up to a depth of 9 metres which implies excavation has not gone beyond 6 metres from the lowest undisturbed contour line (Lowest RL) of the lease area.



2. Bajabati BSQ-5 (Cluster SI No. 3A)

It is observed that from the drone survey report conducted on 22.02.2025, that the excavation has been carried out in the "Mining Restricted Area". In the non - restricted area, lowest undisturbed surface height is 10 metres in modified approved mining plan and excavation has been done up to a depth of 4 metres which implies excavation has not gone beyond 6 metres from the lowest undisturbed contour line (Lowest RL) of the lease area.

12. It is not disputed that the Respondent No. 14 was granted mining permit initially from 25.09.2024 to 24.12.2024 (First Permit) and subsequently from 13.01.2025 to 12.10.2025 (Second Permit), with a further extension already granted until January, 2026. However, the alleged has not taken place during the permit period of Respondent No. 14. It is further submitted that the answering respondent has been granted mining lease and permissions at the request of the NHAI, solely for the purpose of construction of a road.

13. In view of the lack of clarity regarding the timing of the excavation, it is humbly submitted that a proper investigation should be conducted by ORSAC or any other competent authority to ascertain the period during which the alleged excavation occurred. Hence, until such investigation is completed, any claim of violation of the mining plan or EC conditions against Respondent No. 14 is premature.

14. It is respectfully submitted that certain technical reports, including the report on volumetric excavation of minerals, have admittedly not yet been filed, as also acknowledged by the Applicants. In the absence of these critical assessments, any conclusions regarding alleged violations of the mining plan or environmental clearances remain incomplete and unverified. Consequently, the





grant of an interim stay of mining operations at this stage would be premature and unwarranted, as it would effectively halt lawful mining activities without a full and accurate understanding of the factual and technical position and considering the nature of the public project, in relation to which the mining permission has been granted, the same would be against public policy.

15. That, the statements made in the present affidavit in reply are true to the best of my knowledge and belief as per information derived from the official records and statements.

16. In view of the submissions made *herein above*, the Answering Respondents humbly submits that this Hon'ble Tribunal may kindly be pleased to dismiss the present I.A. No. 94 of 2025 dated 31.10.2025 filed by the present Applicant in Original Application No. 11 of 2025.

17. That the present affidavit is being filed bona fide and in the interest of justice.



DEPONENT

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

Verified at Delhi on this 17 day of 2025.


NOTARY
HARE RAM PRASAD
Advocate
★ Regd. No. 16863 ★
NCT of Delhi (INDIA)
Expiry Date
31-01-2030



DEPONENT

ATTESTED

NOTARY PUBLIC
NCT OF DELHI (INDIA)
17 NOV 2025