

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

O.A. No. 68 of 2025 (EZ)

In the matter of:

Dusmant Kumar Bal

...

Applicant.

-Versus-

State of Odisha and others

...

Respondents.

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Place: Kolkata

By the Respondent No.15 through

Date: 09.01.2026



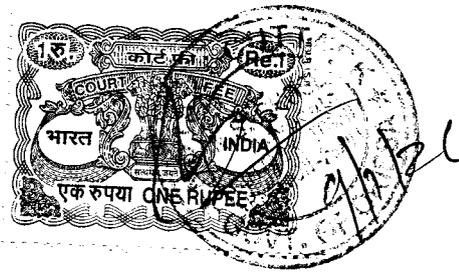
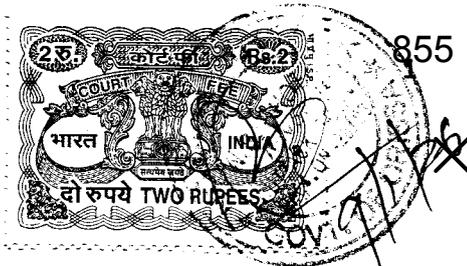
Advocate.

(PRABHU PRASAD MOHANTY)

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Mobile No. 9437019196

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**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE BENCH,
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O.A. No. 68 of 2025 (EZ)

In the matter of:

Dusmant Kumar Bal

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-Versus-

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...

Respondents.

**ADDITIONAL AFFIDAVIT FILED BY SARAT KUMAR JENA,
RESPONDENT No. 15.**

I, Sarat Kumar Jena, aged about 63 years, son of Hrudananda Jena, residing at Aruha, P.O. Aruha, P.S. Dharmasala, District- Jajpur, Odisha, do hereby solemnly affirm and state as follows: -

1. That I am the Respondent No.15 in the present case. I have gone through the contents of the Original Application and I am well acquainted with the facts of the case.
2. That pursuant to the order of this Hon,ble Tribunal, on 07.07.2025, this deponent has filed counter affidavit in the present case. After filing of the counter affidavit, there are some subsequent events/facts/developments, for which the present additional affidavit is filed here with.

M. S. Chose
9/11/26
NETAJI SADYASACHI CHOSE
NOTARY, ADVOCATE
GOVT. OF ORISSA
Regd. No-ON-26/03
CUTTACK TOWN

Sarat Kumar Jena

3. That on 17.05.2025, the Collector and District Magistrate, Jajpur has filed counter affidavit inter-alia stating that on 11.03.2025, the Mining Officer, Jajpur visited Aruha BSQ No.3, wherein he seized 16 nos. of vehicles & machinery from the quarry site and imposed a total penalty of Rs.40,25,000/- on the lessee. In the said counter affidavit, it was also stated that ORSAC was requested to submit a report with regard to extraction of black stone beyond 6 meters depth of the quarry.



That it is humbly submitted that on 17.01.2023, the Environmental Clearance (EC) was granted by the Member Secretary, SEIAA, Odisha for a period of two years from the date of issue of environmental clearance, which was valid till 16.01.2025. As there were no statutory clearances, this deponent being the lessee has stopped the operation of Aruha Black Stone quarry since 16.01.2025 (night). While matter stood thus, on 26.03.2025, the Mining Officer, Jajpur issued a show cause notice to the Respondent No.15 inter-alia stating that as to why an amount of Rs.40,25,000/- shall not be imposed as penalty against the vehicles/machines seized on 12.03.2025 within the lease hold area and further directed the Respondent No.15 to file a reply within a period of three days (Page No.315). After receipt of aforesaid show cause notice, on 04.08.2025, the Respondent No.15 has submitted his show cause reply before the Mining Officer, Jajpur. In the said show cause reply, the Respondent No.15 has denied all the allegations made against him and prayed for an opportunity of hearing. In the meanwhile, the Respondent No.15 has filed a writ application in the Hon'ble High Court of Orissa, which was registered as W.P.(C) No.31037 of 2025. On 11.11.2025, the Hon'ble High Court of Orissa was pleased to dispose of W.P.(C) No.31037 of 2025 with a direction to the authority to dispose of the show cause reply dated 04.08.2025 of Respondent

M. C. Ghose
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 NOTARY PUBLIC
 GOVT. OF ORISSA
 Regd. No-ON-28/03
 CUTTACK TOWN

Sarant Kumar Sena

No.15 after affording an opportunity of hearing. Accordingly, the personal hearing was already concluded by the Mining Officer, Jajpur.

Copy of the show cause reply dated 04.08.2025 of Respondent No.15 filed before the Mining Officer, Jajpur and copy of the order dated 11.11.2025 passed by Hon'ble High Court of Orissa in W.P.(C) No.31037 of 2025 are enclosed here with and marked as Annexure-R/15 and S/15 respectively.



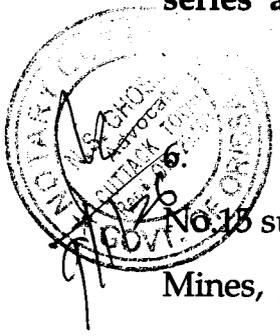
Sarant Kumar Jena

That with regard to extraction of black stone beyond 6 meters depth, it is humbly submitted that on 16.06.2025, the Odisha Space Application Centre (ORSAC) prepared a report of drone survey, which was conducted on 28.02.2025 of Aruha BSQ (Cluster Sl. No.2/3 behind the back of Respondent No.15. The Respondent No.15 has received the said drone survey report dated 16.06.2025 of ORSAC under R.T.I. Act from the office of the Deputy Director of Mines, Jajpur (Page No.781 to 782). After receipt of the aforesaid drone survey report, on 03.07.2025, the Respondent No.15 wrote letters to ORSAC as well as the Deputy Director of Mines, Jajpur denying the said drone survey report, as the said drone survey was conducted behind his back and without any intimation or notice to him, hence this deponent prayed for a re-survey of drone in his presence. In the meanwhile, the Respondent No.15 had filed a writ application in the Hon'ble High Court of Orissa, which was registered as W.P (C) No.23125 of 2025. On 22.08.2025, the Ho'ble High Court of Orissa was pleased to dispose of the aforesaid writ application with a liberty to the Respondent No.15 to file his objection to the drone survey report of ORSAC dated 16.06.2025 within a period of two weeks and till a decision is taken by the jurisdictional opposite parties, no coercive action shall be taken against the Respondent No.15.

A.S.

A.S.
METAL & MINES DEPARTMENT
NOTARY, Bhubaneswar
GOVT. OF ORISSA
Regd. No. ON-28/03
BHATTACK TOWN

Copies of the letters dated 03.07.2025 of Petitioner addressed to ORSAC & the Deputy Director of Mines, Jajpur and copy of the order dated 22.08.2025 passed by the Hon'ble High Court of Orissa in W.P. (C) No.23125 of 2025 are enclosed here with and marked as Annexures-T/15 series and U/15 respectively.



That pursuant to the aforesaid order, on 03.09.2025, the Respondent No.15 submitted his objection before ORSAC as well as the Deputy Director of Mines, Jajpur (Page No.821 to 830). On 08.09.2025, the Respondent No.15 wrote a letter to the Deputy Director of Mines, Jajpur and Mining Officer, Jajpur intimating therein that he has stopped the operation of Aruha BSQ since 16.01.2025 due to expiry of EC period. Taking such closer of operation, some miscreants/stone mafia have been illegally extracting black stone from Aruha BSQ (Cluster No.2/3) (Page 834 to 836). On 06.10.2025, the Respondent No.15 again wrote a letter to ORSAC as well as the Deputy Director of Mines, Jajpur requesting to take the help of ISRO image and make re-drone survey with another agency, for which he is ready to pay the expense/cost etc (Page No.837 to 838).

Sarbat Kumar Jena

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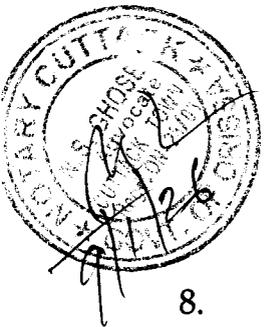
7. That pursuant to the order/direction of the Mining Officer, on 22.09.2025, the Respondent No.15 was appeared before him and argued the case. After hearing the matter was adjourned to 08.10.2025. On 08.10.2025, the Respondent No.15 was also present before the Mining Officer, Jajpur and requested to consider his letter dated 06.10.2025 for re-drone survey (Page No.845 to 848). After hearing, the Mining Officer, Jajpur was pleased to pass the following order;

Handwritten signature 'M.S. G...' and an official stamp: 'M.S. GOSE', 'DEPUTY DIRECTOR', 'GOVERNMENT OF ORISSA', 'REGD. HQ-ON-28/03', 'CUTTACK TOWN'.

"After detail discussion/perusal of the representation of the lessee, the following decisions are made;

Pertaining to the displeasure of the lessee w.r.t. authenticity of the Drone Survey Report, the ORSAC may be requested for re-evaluation of the same & submit the outcomes of the re-evaluation to this office to take further necessary action at this end.

In question to the reassessment of Aruha BSQ (18.88) Acre, by means of drone survey and satellite imagery, as requested by the lessee in his letter dated 06.10.2025, the ORSAC may be requested to submit his views regarding satellite imagery study and re-drone survey of the area for taking further action at this end."



8. That on 17.10.2025, the Mining Officer, Jajpur wrote a letter to the Chief Executive, Odisha Space Application Centre (ORSAC) requesting to give views with regard to drone survey and satellite imagery as requested by the Respondent No.15 by way of letter dated 06.10.2025 (Page No.839). After receipt of the aforesaid letter, on 03.11.2025, the Scientist D of ORSAC wrote a letter to the Deputy Director of Mines, Jajpur inter-alia stating that "with regard to re-assessment of above Aruha BSQ quarry 18.88 Acres, it is suggested that there is no need to carryout drone survey again as there is no discrepancy in the previous report" (Page No.840).

9. That on 14.11.2025, in course of hearing, the Mining Officer, Jajpur was informed the Petitioner with regard to the aforesaid letter dated 03.11.2025 of ORSAC (Page No.849). As per request of Respondent No.15, one week time was granted by the Mining Officer, Jajpur for submission of his views on the letter of ORSAC. On 17.11.2025, the Respondent No.15 submitted his views

Handwritten signature and date 9/11/26, along with a circular official stamp of the Mining Officer, Jajpur, Odisha, dated 11/11/26.

Sarut Kumar Jena

Handwritten initials or signature.

before the Mining Officer, Jajpur inter-alia stating that he has never prayed for re-evaluation or reassessment of the drone report dated 16.06.2025, on the other hand, he has prayed for re-drone survey in his presence or to take the help of ISRO image, for which he is ready to pay the cost of drone survey/image etc. (Page No.841 to 843).

10. That on 18.11.2025, the Mining Officer, Jajpur without application of mind and appreciating the request of Respondent No.15, has passed the order rejecting the request of re-drone survey of Aruah BSQ (Cluster Sl. No.2/3) pursuant to the letter dated 03.11.2025 of ORSAC (Page No.850). Further the Mining Officer, Jajpur was pleased to issue a demand of Rs.31,43,176/- to the Respondent No.15 as penalty for over extraction of 5617.8 cubic meter of black stone from Aruha BSQ (Cluster Sl. No.2/3) (Page No.844).



That being aggrieved by the order dated 18.11.2025 of the Mining Officer as well as the drone survey report dated 16.06.2025 and letter dated 03.11.2025 of ORSAC, this deponent has filed a writ application in the Hon'ble High Court of Orissa, which was registered as W.P.(C) No.35987 of 2025. On 17.12.2025, the Hon'ble High Court of Orissa was pleased to issue notice to the Opposite Parties and further be pleased to pass the following order and interim order;

"Issue emergent notice. Learned ASC -Mr. Khandayatray, on request of the Court, accepts notice for O.P Nos.1, 3 & 4. Required number of copies of the writ petition with all the documents be served on him within three working days.

M.S. [Signature]
NOTARY, ADVOCATE
GOVT. OF ORISSA
REGD. No. OH-28/03
CUTTACK TOWN

Sarad Kumar Jena

[Handwritten initials]

Notice be sent to Opp. Party No.2 by speed post with A.D. returnable within two weeks, requisites for which shall be furnished within three working days.

The application in I.A. No.22457 of 2025 is moved supported by affidavit seeking stay of all further proceedings pursuant to impugned order dated 18.11.2025 at Annexure-15.

Learned counsel for the Petitioner draws attention of the Court to the earlier round of litigation which permitted into filing his objections and accordingly he did. Despite that and also despite he being ready and willing to pay the cost of drone survey, a wrong decision has been taken which requires deeper examination.

In the above circumstances, the application having been favoured, the impugned order dated 18.11.2025 at Annexure-15 passed by OP No.4 is stayed for a period of five weeks.

Call this matter after four weeks. It is open to the OPs to file their counter in the meanwhile.

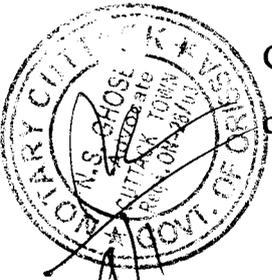
Web copy of this order to be acted upon by all concerned.

(Dixit Krishna Shripad) Judge"

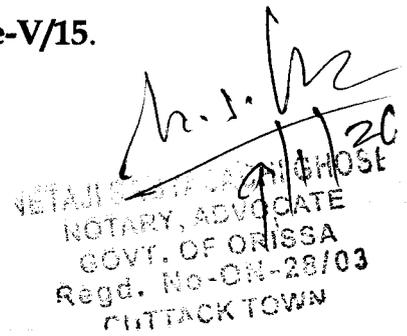
The aforesaid writ application is pending in the Hon'ble High Court of Orissa for necessary adjudication.

Copy of the order dated 17.12.2025 passed by the Hon'ble High Court of Orissa in W.P.(C) No.35987 of 2025 and I.A.No.22457 of 2025 is enclosed here with and marked as Annexure-V/15.

Sarwat Kumar Jena



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12. That in the meanwhile, this deponent has filed an appeal before the Deputy Director of Mines, Jajpur inter-alia challenging the demand dated 18.11.2025 of the Mining Officer, Jajpur.

13. That in the aforesaid facts and circumstances, the further hearing/proceeding of the present appeal may kindly be taken up by this Hon'ble Tribunal after disposal of W.P.(C) No.35987 of 2025 and I.A.No.22457 of 2025 in view of the order dated 17.12.2025 passed by the Hon'ble High Court of Orissa in W.P.(C) No.35987 of 2025 and I.A.No.22457 of 2025 in the interest of justice.



That the facts stated above are true to the best of my belief, knowledge and based on official records.

IDENTIFIED BY

[Signature]
Advocate 9-1-26

[Signature]
DEPONENT

CERTIFICATE

Certified that due to non-availability of cartridge papers, this counter affidavit has been typed on thick white papers, which may kindly be accepted.

Place: Kolkata

Date: 09.01.2026

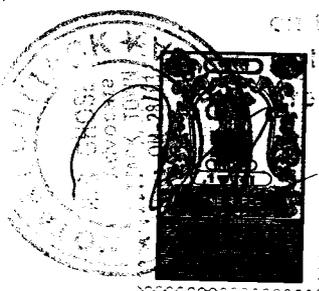
By the Respondent No.15 through

[Signature]
Advocate.

The above named document has been prepared by Mr./Ms. **PRABHU PRASAD MOHANTY** appears before me on this date. **E.N. O/162/1993** Mobile No. 9437019196 Email: prabhupadamohanty@gmail.com

[Handwritten signature]
9/1/26

[Signature]
NOTARY
9/1/26



BEFORE THE MINING OFFICER, JAIPUR,

In the matter of :

Show Cause Notice No.1801 dated 26.03.2025
issued under the provisions of Odisha Minor
Mineral Concession Rules, 2016.

AND

In the matter of :

Show Cause Notice No.1386/Mm, Jaipur dated
11.03.2025 issued under the provisions of Odisha
Minor Mineral Concession Rules, 2016.

AND

In the matter of :

Show cause reply dated 14.03.2025.

AND

In the matter of :

Sri Sarat Kumar Jena, son of Hrudananda Jena,
At/P.O. Aruha, P.S. Dharmasala, District- Jaipur,
Odisha-755024.

...Lessee

PRELIMINARY SHOW CAUSE REPLY FILED BY THE LESEE

I, Sarat Kumar Jena, aged about 62 years, son of Hrudananda Jena,
residing at Aruha, P.O. Aruha, P.S. Dharmasala, District- Jaipur,
Odisha, do hereby solemnly affirm and state as follows: -



[Handwritten signature]

Sarat Kumar Jena

1. That I am the lessee Aruha Black Stone Quarry (Cluster Sl No.2/3) having area Ac 18.88 in the district of Jajpur, Odisha.
2. That on 11.03.2025, your honour has issued a show cause notice to me inter-alia stating that on 11.03.2025, your Honour had visited my leasehold area i.e. Aruha BSQ (Cluster Sl. No.2/3) and seized 18 machineries thereon. Hence your Honour had issued the aforesaid show cause notice to me as to why necessary action shall not be initiated under the provisions of OMMC Rules, 2016.
3. That after receipt of the aforesaid show cause notice, on 14.03.2025, I had submitted my show cause reply before your Honour denying the said allegations and further stated that the operation of my leasehold area was stopped since 16.01.2025 due to want of environmental clearance. I had also informed that I am no way concerned with 18 machineries, which were seized by your Honour on 11.03.2025, as I am not the owner of the said 18 machineries and at no point of time, I had engaged the said 18 machineries in my leasehold area.
4. That while matter stood thus, on 26.03.2025, your honour has issued the another show cause notice to me inter-alia stating that as to why an amount of Rs.40,25,000/- shall not be imposed on me towards penalty against the vehicles/machines seized on 12.03.2025 within the lease hold area and further directed me to file a

reply within a period of three days. As I was ill for which I could not able to file my reply in time, therefore the delay caused in filing the present reply may kindly be condoned by your Honour in the interest of justice. Here I am filing the present show cause reply, which may kindly be considered sympathetically in the interest of justice.

5. That for operation of Aruha Black Stone Quarry (Cluster SI No.2/3), on 17.01.2023, the SEIAA, Odisha granted the Environmental Clearance (EC) in my favour, which was valid till 16.01.2025. As there was no valid EC in my favour, I have closed the operation of Aruha Black Stone Quarry (Cluster SI No.2/3) since 16.01.2025, whereas it is alleged in the aforesaid show cause notice for imposition of penalty directing me as to why an amount of Rs.40,25,000/- as the penalty shall not be imposed on me towards penalty against the vehicles/machines seized on 12.03.2025 in the quarry.

6. That it is an admitted fact that neither myself nor my staff was the witness to such seizure of vehicles/machines by your Honour on 12.03.2025 in the aforesaid quarry. On the other hand, on 11.03.2025, your Honour had issued a show cause notice to me, wherein it was stated that on 11.03.2025, your Honour had seized 18 machineries from my leasehold area. In the aforesaid show cause notice, it was mentioned that 16 of vehicles/machines etc. were seized by your Honour on 12.03.2025, wherein I am not the owner of

the said 16 vehicles/machines etc. It is an admitted fact that I am not the owner of the said sixteen vehicles/machines as stated in the show cause notice. As the operation of my quarry was stopped since 16.01.2025 due to want of statutory clearances, the local villagers along with other persons may be entered into the leasehold area in absence of my persons and the said facts were duly communicated by me to your Honour from time to time.

7. That in the meanwhile, I have obtained certified copies of orders of Hon'ble J.M.F.C, Chandikhole with regard to CT Case No.1003/2025 arising out of Dharmasala P.S.Case No.305 of 2025 with regard to release of seized vehicles/machines to the owner of such vehicles/machines etc. Further in the aforesaid show cause notice, it was mentioned that 16 of vehicles/machines etc. were seized by your Honour on 12.03.2025, wherein I am not the owner of the said 16 vehicles/machines etc.

Copies of the orders obtained (certified copy) from the court of Hon'ble J.M.F.C., Chandikhole with regard to CT Case No.1003/2025 arising out of Dharmasala P.S.Case No.305 of 2025 for release of seized vehicles/machines to the owner are enclosed here with for kind consideration of your Honour.

8. That in the aforesaid show cause notice, your Honour has directed as to why an amount of Rs.40,25,000/- as the penalty shall not be imposed on me against the 18 vehicles/machines seized on

12.03.2025 in the quarry. It is humbly submitted that Rule 51 of Odisha Minor Mineral Concession Rules, 2016 deals with "Penalties". The Hon'ble Orissa High Court in W.P. (C) No.12066 of 2018 in the case of "Dillip Kumar Khuntia and another Vrs. The Collector, Bhadrak and others, on 25.03.2021 has passed the following orders;

" CORAM:

THE CHIEF JUSTICE JUSTICE B. P. ROUSTRAY

ORDER 25.03.2021

Order No. 25.

1. The Petitioners have prayed for issuance of a writ of certiorari quashing the orders dated 14th March, 2018 and 26th April, 2018 under Annexures-12 and 13 respectively passed by the Tahasildar, Bhandaripokhari in Tauzi Misc. Case No.93/2017-18 as well as the proceeding.

2. The facts in short, sans unnecessary details, are that, Petitioner No.2 is the owner of Mini Truck bearing Registration No.OR-04K-4524. Petitioner No.1 is the son of Petitioner No.2 and doing business engaging the said vehicle for transportation of building materials such as bricks, sand, etc. On 13th March, 2018 an untoward incident happened while transporting sand at village Badabanasta and the vehicle of the Petitioners was seized by Police in Manjuri Road Out Post under Bhandaripokhari Police Station. Ultimately on the requisition of

police officials, Tauzi Misc. Case No.93/2017-18 was registered by the Tahasildar (Opposite Party No.2) for penalty under Rule 51 (1)(i) of the Orissa Minor Mineral Concession Rules, 2016 (hereinafter referred to as "2016 Rules") for unauthorized transportation of sand. In the said case, order dated 14th March, 2018 was passed by Opposite Party No.2 imposing penalty of Rs.1,00,105/- and notice was issued to Petitioner No.1 by order dated 26th April, 2018 to show-cause as to why fine of Rs.5,000/- per day shall not be imposed.

3. Mr. N.K. Sahu, learned counsel appearing for the Petitioners vehemently argues that initiation of such proceeding by the Tahasildar under Rule 51(1) of the 2016 Rules is without jurisdiction and authority. As such he prays for quashing of the same.

4. Mr. D.K. Mohanty, learned Additional Government Advocate on the other hand submits that, since the Petitioners failed to produce any valid transit permit/pass for such transportation of sand, the penalty has been levied as royalty @Rs.35/- per c.m. along with fine for unauthorized transportation.

5. Rule 51 of the 2016 Rules reads as follows:

"51.Penalties:--(1) (i) Whenever any person is found extracting or transporting any minor mineral or on whose behalf such

extraction or transportation is being made otherwise than in accordance with these rules, shall be presumed to be a party to the illegal extraction or removal of such minor minerals and every such person shall be punishable with simple imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees or with both and in case of a continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

(ii) The Collector or Sub-Collector or Tahasildar or Director or Joint Director or Deputy Director or Mining Officer or Senior Inspector of Mines or Divisional Forest Officer or Assistant Conservator of Forest or Range Officer or Police Officer not below the rank of SubInspector of Police may seize the minor minerals and its products together with all tools, equipments and vehicles used in committing such offence within the respective jurisdiction.

(iii) No court shall take cognizance of any offence punishable under these rules except upon complaint in writing made by such officer or authority mentioned under clause

(ii) of this sub-rule having jurisdiction.

(iv) Where the offender agrees in writing to compound the offence punishable under these rules, the Tahasildar or Deputy Director or Mining Officer or Divisional Forest Officer, within their respective jurisdiction, shall, either before or after filing

the complaint, compound the offence on payment of such sum, as determined by the officers mentioned under clause (ii), not exceeding the maximum amount of fine prescribed under these rules and value of the mineral and other properties seized and on payment of such fine and value, the seized mineral and properties shall be released forthwith;

Provided that the accused shall be liable to furnish an undertaking or bond to the effect that he shall not commit such offence in future:

Provided further that, in case the offender fails to pay the value of mineral and any other property, such properties shall be confiscated to Government and disposed of through public auction.

(v) Where an offence under these rules is compounded, no proceeding or further proceeding, as the case may be, shall be initiated against the offender in respect of the offence so compounded and the offender, if in custody, shall be released forthwith.

(vi) If no person claims the mineral and other property, if any, so seized within a period of thirty days, the authority competent to compound the offence may confiscate the same to the State and dispose of the same through public auction.

- (2) Whenever any person trespasses into any land in contravention of the provisions of these rules, such trespasser may be served with an order of eviction by the Tahsildar or Sub-Collector or Deputy Director or Mining Officer or Assistant Mining Officer or Divisional Forest Officer or Assistant Conservator of Forest or Range Officer within their respective jurisdiction and such Government Officer, if necessary, may obtain the help of the police to evict the trespassers from the land.
- (3) Any mineral, tool, equipment, vehicle or any other things seized under these rules in respect of which complaint has been filed under clause (iii) of sub-rule ((1), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence and shall be disposed of in accordance with the directions of such court.
- (4) Whenever the person wins, without any lawful authority, any mineral from any land, the Tahasildar or Mining Officer or Deputy Director or Divisional Forest Officer, as the case may be, may recover from such person the mineral so won, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which may be, for the period during which the land was occupied by such person without any lawful authority.

(5) If the person committing an offence under these rules is a company, every person, who at the time the offence was committed, was in charge of and was responsible to the company for the conduct of business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished as per the provisions of the Act and these rules:

Provided that nothing contained in this subrule shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(6) xx xx xx

(7) xx xx xx

(8) xx xx xx''

6. It is clear from the aforesaid rule that no authority other than the court has the power to impose fine unless the offender agrees in writing to compound the offence. As seen from the show cause reply of the Petitioners under Annexure-11, they have clearly denied commission of any offence. In absence of any agreement by the Petitioners, the Tahasildar cannot proceed under clause (iv) of sub-rule(1) of Rule 51 of 2016 Rules. Opposite Party No.2 could not also be able to furnish any

such agreement on the part of Petitioners for compounding the offence. Thus the imposition of fine as well as further imposition of daily fine of Rs.5,000/- for contravention by the Tahasildar in the impugned orders are found without jurisdiction.

7. Needless to mention that the contentions of Opposite Party No.2 that he proceeded under Rule 51 (4), is sheer misconception of law because the provisions under sub-rule (4) and sub-rule (1) of Rule 51 of 2016 Rules are quite distinct, and no power to impose fine is there under sub-rule (4). It is evident from Annexure-12 that fine of Rs.1,00,000/- has been imposed by the Opposite Party No.2, which is without authority.

8. Moreover the Petitioners contend that they were having valid transit permit for the period from 13th October, 2017 to 12th October, 2018 for transportation of sand from Habaleswar to Panikoili through the vehicle in question as granted by the Tahasildar, Hatadihi in Form-Y. A copy of such transit pass has though been annexed to the writ petition, but Opposite Party No.2 in his counter has cleverly avoided to reply the same by contending that the owner managed to collect it putting back date. Therefore it can safely be said that the Petitioners were not at all unauthorized transporters of sand. So from either angle, initiation of penalty proceeding and imposition of fine by the Tahasildar under Rule 51(1) of 2016 Rules is not found justified.

9. Accordingly the proceeding in Tauzi Misc. Case No.93/201718 initiated by the Tahsildar, Bhandaripokhari is quashed along with the impugned orders dated 14th March, 2018 and 26th April, 2018 passed therein.

10. The writ petition is allowed. No order as to costs"

From the aforesaid, it is clear that I am not liable to pay the aforesaid penalty under the provisions of Odisha Minor Mineral Concession Rules, 2016. At the cost of repetition, it is once again submitted that I am not the owner of said sixteen vehicles/machines as stated in the show cause notice. Hence I request your to recall the aforesaid show cause notice in the interest of justice.

9. That in the interest of justice and fair play, I may kindly be afforded a personal hearing before taking any action against me.

10. That in the interest of justice the present proceeding may kindly be dropped by your Honour.

Jajpur

Date : 04.08.2025

Sarat Kumar Jena

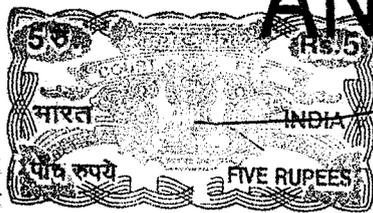
Sarat Kumar Jena

Lessee of Aruha Black Stone

Aruha, District : Jajpur.

TRUE COPY ATTESTED
[Signature]
ADVOCATE

ANNEXURE-S/15



5628

IN THE HON'BLE HIGH COURT OF ORISSA: CUTTACK

(Original Writ Jurisdiction)

W.P.(C) No. 3/037 of 2025

Case no. 27000

In the matter of :

An application under Article 226 of the
Constitution of India.

A N D

In the matter of:

Odisha Minor Mineral Concession Rules, 2016.

A N D

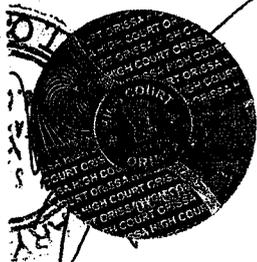
In the matter of:

An application challenging the inaction of
Mining Officer, Jajpur in not disposing of the
show cause reply dated 04.08.2025 filed by the
Petitioner pursuant to Show Cause Notice
No.1801 dated 26.03.2025.

A N D

In the matter of:

Sri Sarat Kumar Jena, aged about 62 years,
son of Hrudananda Jena, residing at Aruha,



28

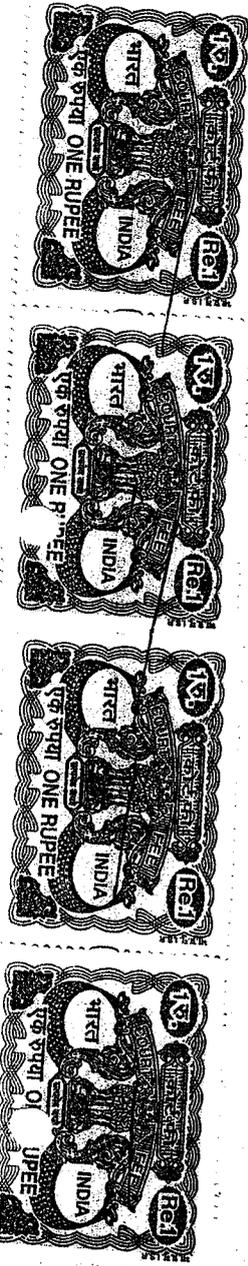
P.O. Aruha, P.S. Dharmasala, District- Jajpur,
Odisha.

...
Petitioner.

-Versus-

1. State of Odisha, represented through its Principal Secretary, Steel and Mines Department, Government of Odisha, Secretariat, Bhubaneswar, District : Khurda, Odisha.
2. Director of Minor Mineral, Odisha, Bhubaneswar, District : Khurda, Odisha.
3. The Deputy Director of Mines, Jajpur Circle, Jajpur, Odisha.
4. The Mining Officer, Jajpur, Office of the Deputy Director of Mines, Jajpur Circle, Jajpur, Odisha.

...
Opposite Parties.



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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31037 of 2025

Sarat Kumar Jena

....

Petitioner

Mr. Prabhu Prasad Mohanty, Advocate
-Versus-

State of Odisha and others

....

Opposite Parties

Mr. Saswat Das, Addl. Govt. Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

AND

HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

Order No.

ORDER
11.11.2025

01.

1. It is really a sordid state of affair that despite a show cause notice having issued contemplating to impose penalty on the petitioner for violating the statutory norms and the reply having received in pursuance of the said show cause notice are simply kept in the file and no decision has yet been taken thereupon.

2. The petitioner perceived such inaction having impacted his right to continue with the mining activities and approached this Court by filing the instant writ petition seeking direction upon the authorities to communicate the decision.

3. It appears from the record that the genesis of the said show cause notice is founded upon the seizure of the vehicles at the spot without having the environmental clearance license. The reply which runs into



several pages have dealt with such allegations and, therefore, it is an ardent duty of the authority to take a decision thereupon.

4. It is not conducive for the Government or its officials to keep the proceeding pending as it would not only impact the Government exchequer but also keep the person against whom the proceeding is initiated in uncertain state of mind. Once the violation is *prima facie* found and a show cause notice is issued, it must be brought to its logical end.

5. The authority is, thus, directed to take a decision, if not already taken, in the proceeding originated from the issuance of the show cause notice within two weeks from the date of communication of this order; if necessary, after affording an opportunity of hearing to the petitioner. After completion of hearing, the decision shall be taken by the authorities within a week therefrom and the same shall be communicated to the petitioner immediately.

6. This writ petition is, thus, disposed of.

TRUE COPY ATTESTED

ADVOCATE

Sd/- H. Tandon, C.J

Sd/- M. S. Raman, J

Compare by, R. S. Rao
13.11.20

ANNEXURE- T/15
Series

To

Date:03.07.2025

1. The Odisha Space Applications Centre (ORSAC),
Plot No.45/48(P), Jaydev Vihar, Near Gopabandhu
Academy of Administration, Unit-16,
Bhubaneswar-751023.
2. The Deputy Director of Mines, Jajpur Circle,
Jajpaur.

Sir,

Sub : Re-survey of drone survey with regard to Aruha BSQ
(Cluster SL. No.2/3)

This is to inform you that on 01.07.2025, I have obtained the drone survey report bearing Letter No.ORSAC/PR/1271/2025/2372 dated 16.06.2025 of Odisha Space Applications Centre (ORSAC) through R.T.I. from the office of the Deputy Director of Mines, Jajpur Circle, Jajpur, wherein the following observations have been made with regard to Aruha BSQ (Cluster Sl. No.2/3) :-

"2. Aruha BSQ (Cluster Sl.2/3)-Area 18.88 Acres

It is observed that from the drone survey report dated 28.10.2024, the lowest undisputed surface height is 45 meters as per mining plan and excavation has been done up to a depth of 36 meters drone surveyed on 28.02.2025 which implies excavation has gone beyond 6 meters from the lowest contour line (lowest R.I.) of the lease area"

It is humbly submitted that I am the lessee of the aforesaid Aruha BSQ Cluster 2/3. I am unaware about the drone survey report dated 28.10.2024 as stated in the aforesaid report, which has not yet been communicated to me. I am also unaware about the drone survey conducted on 28.02.2025 by the authorities. I was never noticed by the authorities with regard to aforesaid drone survey. It is admitted fact that I was not present on the leasehold area at time of aforesaid drone survey conducted by the authorities, hence I am not accepting the aforesaid observations of Odisha Space Applications Centre (ORSAC), as it



Savit Kumar Jena

- 2 -

violates the principles of natural justice and Article 14 of the Constitution of India.

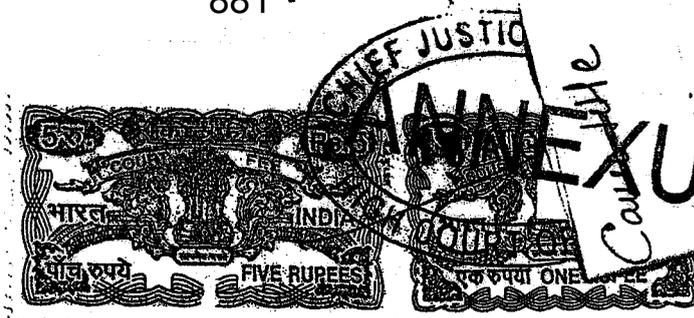
Taking into consideration of the aforesaid facts, I request your goodself to re-survey the drone survey of Aruha BQ Cluster 2/3 in my presence in the interest of justice.

Thanking You,

Yours Sincerely

Sarat Kumar Jena
(Sarat Kumar Jena)
At/P.O. Aruha, District: Jajpur.

TRUE COPY ATTESTED
[Signature]
ADVOCATE



IN THE HON'BLE HIGH COURT OF ORISSA: CUTTACK

(Original Writ Jurisdiction)

W.P.(C) No. 23125 of 2025

Code No. 289900

In the matter of :

An application under Article 226 of the Constitution of India.

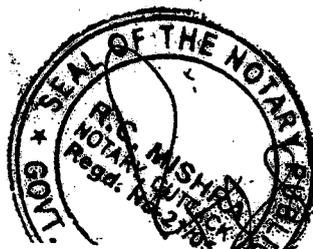
AND

In the matter of:

An application challenging the report No.ORSAC/PR/1271/2025/2372 dated 16.06.2025 of Orissa Space Applications Centre (ORSAC) with regard to Aruha BSQ (Cluster Sl. No.2/3), wherein it was stated that as per the drone survey report dated 28.02.2025, the lessee has operated Aruha BSQ (Cluster Sl. No.2/3) beyond 6 meters from the lowest contour line (lowest RL) of the lease area.

AND

In the matter of:



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Sri Sarat Kumar Jena, aged about 62 years,
son of Hrudananda Jena, residing at Aruha,
P.O. Aruha, P.S. Dharmasala, District- Jajpur,
Odisha.

...
Petitioner.

-Versus-

1. State of Odisha, represented through its
Secretary, Science and Technology,
Department, Government of Odisha,
Secretariat, Bhubaneswar, Odisha.
2. The Odisha Space Applications Centre
(ORSAC), Plot No. 45/48(P), Jaydev Vihar,
Near Gopabandhu Academy of
Administration, Unit-16, Bhubaneswar-
751023, represented through its Chief
Executive Officer.
3. The Deputy Director of Mines, Jajpur Circle,
Jajpur, District - Jajpur.

...
Opposite Parties.



1
/



2A

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23125 of 2025

Sarat Kumar Jena

....

Petitioner

Mr. P.P. Mohanty, Advocate

-Versus-

State of Odisha and others

....

Opposite Parties

Mr. U.C. Behera, AGA

CORAM:

JUSTICE DIXIT KRISHNA SHRIPAD

ORDER

22.08.2025

Order No.
01.

Petitioner's prayer reads as under.

"In the aforesaid facts and circumstances, it is therefore prayed that your Lordships be graciously pleased to allow the present writ application and further be pleased to issue Rule Nisi calling upon the Opposite Parties to show cause to why the impugned drone survey report dated 16.06.2025 prepared by the Odisha Space Applications Centre (OSAC), Opposite Party No.2 under Annexure-4 with regard to Aruha BSQ (Cluster Sl. No.2/3) shall not be quashed and if the opposite parties fail to show cause or show insufficient cause, make the said Rule absolute;"

2. Learned counsel for the petitioner argues that the land in question having been allotted on 23.07.2021, a lease has been executed in his favour, in respect of the land in question on



14.11.2024 with a tenure of 5 years. He also tells that the environmental clearance certificate expired on 16.01.2025 and that, now, the drone survey has been accomplished without giving an opportunity of hearing to him. He points out that on the basis of drone survey report, some adverse action may follow and therefore, he has made a representation dated 03.07.2025 at Annexure-5 for undertaking the exercise *de novo*.

3. Learned AGA, on request, appearing for the OPs opposes the writ petition contending that if the ground survey is to be done, hands are involved and instruments are involved and therefore, presence of stakeholders may be required; when drone survey is undertaken it is a kind of aerial survey and therefore, if there is any difficulty, it is open to the stakeholders to make to file objections to the survey report of the kind, so that the concerned authority would address the objections and take a decision on a normative basis.

At this stage, learned counsel for the petitioner requests the Court for some time, so that his client would file the objections to the survey report. With this proposal learned AGA is also agreeable.

In the above circumstances, the writ petition is disposed off reserving liberty to the petitioner to file his objections to the drone survey report within a period of two weeks producing all vouching material in support of the objections, and that till a decision is taken by the jurisdictional OPs on the said objections, no coercive action shall be taken against the petitioner solely on

31



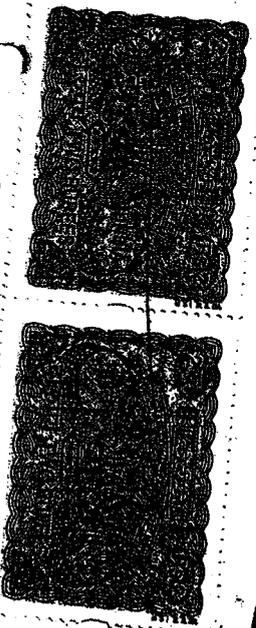
the basis of the drone survey report. All contentions are kept open.

Now, no costs.

Web copy of this order be acted upon by all concerned.

Sd/- D. K. Shoripad, J

Anisha



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[Signature]
ADVOCATE



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IN THE HON'BLE HIGH COURT OF ODISHA, CUTTACK

(Original Writ Jurisdiction)

W.P.(C) No. 35987 of 2025

In the matter of :

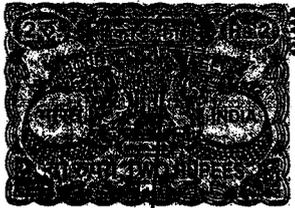
Code No.289900

An application under Article 226 of the Constitution of India.

AND

In the matter of:

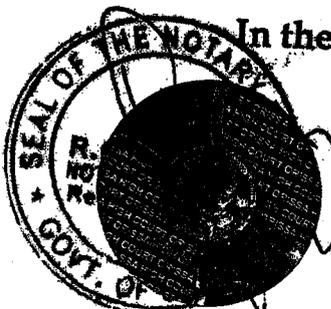
An application challenging the report No.ORSAC/PR/1271/2025/2372 dated 16.06.2025 of Odisha Space Applications Centre (ORSAC) with regard to Aruha BSQ (Cluster Sl. No.2/3), wherein it was stated that as per the drone survey report dated 28.02.2025, the lessee has operated Aruha BSQ (Cluster Sl. No.2/3) beyond 6 meters from the lowest contour line (Lowest RL) of the lease area.



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AND

In the matter of:



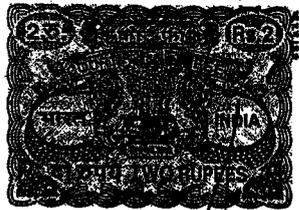
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An application challenging the letter dated 03.11.2025 of Odisha Space Applications Centre (ORSAC) rejecting the request of Petitioner for re-drone survey on the plea that there is no discrepancy in the previous report.

AND

In the matter :



An application challenging the order dated 18.11.2025 passed by the Mining Officer, Jajpur rejecting the request of Petitioner for re-drone survey pursuant to the letter dated 03.11.2025 of Odisha Space Applications Centre (ORSAC).

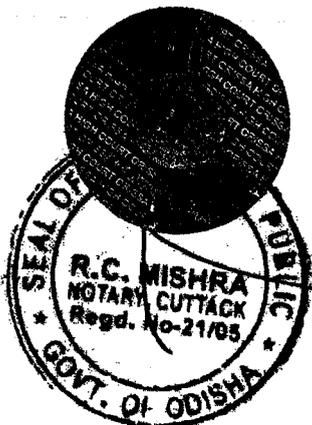
AND

In the matter of :

Sri Sarat Kumar Jena, aged about 62 years, son of Hrudananda Jena, residing at Aruha, P.O. Aruha, P.S. Dhamasala, District- Jajpur, Odisha.

Petitioner.

-Versus-

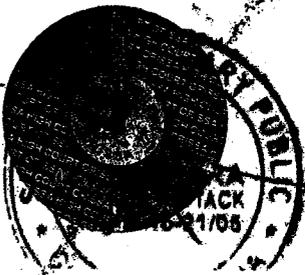


1. State of Odisha, represented through its Secretary, Science and Technology, Department, Government of Odisha, Secretariat, Bhubaneswar, Odisha.
2. The Odisha Space Applications Centre (ORSAC), Plot No.45/48(P), Jaydev Vihar, Near Gopabandhu Academy of Administration, Unit-16, Bhubaneswar-751023, represented through its Chief Executive Officer.
3. The Deputy Director of Mines, Jajpur Circle, Jajpaur, District - Jajpur.
4. The Mining Officer, Jajpur, District :Jajpur.

Opposite Parties.

The matter out of which this Writ Application arises before this Hon'ble Court in W.P.(C) No.23125 of 2025 disposed of on 22.08.2025 as per the instruction of Petitioner.

To





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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35987 of 2025

Sri Sarat Kumar Jena

....

Petitioner

Mr. P.P. Mohanty, Advocate

-Versus-

State of Odisha & Others

....

Opp. Parties

Mr. J.K. Khandayatray, ASC

CORAM:

JUSTICE DIXIT KRISHNA SHRIPAD

ORDER

17.12.2025

Order No.
01.

W.P.(C) No.35987 of 2025 & I.A. No.22457 of 2025

Issue emergent notice. Learned ASC -Mr. Khandayatray, on request of the Court, accepts notice for O.P Nos.1, 3 & 4. Required number of copies of the writ petition with all the documents be served on him within three working days.

Notice be sent to Opp. Party No.2 by speed post with A.D. returnable within two weeks, requisites for which shall be furnished within three working days.

The application in I.A. No.22457 of 2025 is moved supported by affidavit seeking stay of all further proceedings pursuant to impugned order dated 18.11.2025 at Annexure-15.

Learned counsel for the Petitioner draws attention of the Court to the earlier round of litigation which permitted into filing his objections and accordingly he did. Despite that and also despite he being ready and willing to pay the cost of drone survey, a wrong decision has been taken which requires deeper examination.

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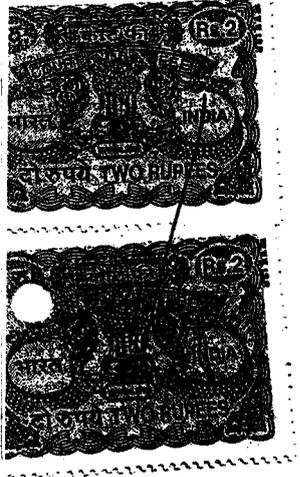


In the above circumstances, the application having been favoured, the impugned order dated 18.11.2025 at Annexure-15 passed by OP No.4 is stayed for a period of five weeks.

Call this matter after four weeks. It is open to the OPs to file their counter in the meanwhile.

Web copy of this order to be acted upon by all concerned.

Sd/- D.K. Shripad, J
(Dixit Krishna Shripad)
Judge



Signature valid

Digitally Signed
Signed by: MADHUSMITA MALLICK
Designation: Jr. Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 18-Dec-2025 18:10:58

Verified by S. Sahoo
19-12-25

TRUE COPY ATTESTED
[Signature]
ADVOCATE