

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL EASTERN
BENCH, KOLKATA
ORIGINAL APPLICATION. 190/2025/EZ**

IN THE MATTER OF:

Abadhut Kharsel & Ors.

...Applicants

Versus

State of Odisha & Others

...Respondents

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Place: New Delhi

Date: 18.04.2026



Before Raghumani Patei
Notary, Jharsuguda (Odisha)
Regd. No. ON-06/97
No. 05 Date 18/04/2026

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN BENCH, KOLKATA
ORIGINAL APPLICATION. 190/2025/EZ**

1

IN THE MATTER OF:

Abadhut Kharsel & Ors. ...Applicant
Versus
State of Odisha & Others ...Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS 1,2 & 6

I, Shri Chavan Kunal Motiram, IAS, aged about 34 years, S/o Motiram Chavan at present working as Collector and District Magistrate, Jharsuguda at Jharsuguda, do hereby solemnly affirm and state as follows: -

1. That I have been arrayed as Respondent No.2 in the aforementioned O.A. I have been duly authorized to swear this affidavit on behalf of Respondent No. 1, 2 & 6.
2. That I have gone through the O.A., relevant records and understood its contents. I am well acquainted with the facts of the case and competent to swear this affidavit in my official capacity.

KUNAL MOTIRAM CHAVAN
COLLECTOR
JHARSUGUDA

PRELIMINARY SUBMISSIONS:

3. That the present O.A. has been filed by the Applicant alleging that Respondent No. 7 M/s Orissa Metaliks Pvt Ltd formerly known as M/s MSP Metallics Ltd has violated the Environmental Clearance and its guidelines by not constructing a proper fly ash pond for its thermal power plant and the same is built in the open nearby the agricultural land. It is also alleged that the

PART OF AFFIDAVIT
R.M. Patei
Notary, Jharsuguda
Regd. No ON-06/97
18-4-26

Respondent No. 7 did not take steps to construct an embankment to store the fly ash slurry and the same was stored inside a temporary boundary wall. As a consequence, around 100 to 150 acres of agricultural land in the village got damaged because of the overflow of the fly ash slurry into the agricultural land and nearby fresh water streams.

4. That the villagers had made representations to the Collector and District Magistrate, Jharsuguda on 17.06.2025 and on 9.07.2025 to take action against the Respondent No. 7 with respect to the aforesaid allegations made by the Applicant. Pursuant to the said representations, the Collector and District Magistrate forwarded the representations to Tahasildar, Jharsuguda and Regional Officer, SPCB, Jharsuguda.
5. That the Environment Scientist, Mrs. A. Ekka on behalf of the Regional Officer, SPCB, Jharsuguda conducted a field enquiry on 7.07.2025 and submitted that the enquiry into the extent of damage to the agricultural land is still in progress and that the Respondent No. 7 has committed to provide compensation to the affected villagers in accordance with the applicable norms and guidelines.
6. Pursuant to the representation dated 9.07.2025, a field visit was conducted by the Environment Scientist and officers of the SPCB on 13.09.2025 and the SPCB has directed the Respondent No. 7 to stop the fly ash discharge and to completely seal the discharge point following which the Respondent No. 7 has submitted a compliance report that the discharge point has been sealed. It is submitted that the SPCB has further directed the Respondent No. 7 to construct a surface run off treatment system, to discontinue the dumping of solid waste mixed with ash and to undertake reclamation of the site in an environmentally friendly manner.
7. Keeping in mind the allegations made in the O.A, this Hon'ble Tribunal vide order dated 03.11.2025 constituted a Joint Committee comprising of the

KUNAL MOTIRAM CHAVAN
COLLECTOR
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R.M. Patel
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Representatives of the Regional Officer, Ministry of Environment, Forest and Climate Change (MoEFF&CC), Central Pollution Control Board (CPCB), Odisha State Pollution Control Board (OSPCB) and District Magistrate, Jharsuguda and directed the aforesaid committee to conduct a field inspection and to suggest appropriate remedial action.

8. In compliance to the directions of the Hon'ble Tribunal, the Joint Committee carried out the site inspection on 5.12.2025 in the presence of the Applicants and the representatives of Respondent No. 7. During the site inspection, the Applicants prayed for compensation due the damage caused to the agricultural crops and for the restoration & reclamation of the damaged agricultural land. The Joint Committee verified the factual position, looked into the grievances of the applicants and made certain recommendations, which includes payment of compensation to the applicants as per the assessment made by the district administration and in accordance with the prevailing rules and guidelines.

9. That the aforesaid Joint Committee report has been filed by the Respondent No. 3 in compliance with the Order dated 3.11.2025 passed by the Hon'ble Tribunal.

PARAWISE REPLY:

10. That the averments made from Paragraphs No. 1 to 14 are related to the brief facts and the regulatory framework regarding the fly ash utilization and management by coal or lignite thermal power plants and needs no comments.

11. That with respect to the averments made in Paragraph No. 15, the District Magistrate, Jharsuguda forwarded the representation made by the villagers on 17.06.2025 to the Tahasildar, Jharsuguda and Regional Officer, SPCB, Jharsuguda. Pursuant to the aforesaid representation, a field enquiry was conducted on 7.07.2025 at various locations along the alleged site by the

KUNAL MOTIRAM CHAVAN
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8.4.26

Environment Scientist, Mrs. A Ekta on behalf of the Regional Officer, SPCB, Jharsuguda.

12. That during the field inspection carried out on 7.7.2025 it was observed that, approximately 100 meters of Respondent No. 7's thermal plant boundary wall was in a dilapidated and damaged condition. It was also noted that, a natural water stream i.e., Kanheijor Nallah flows adjacent to the southern boundary of the aforesaid plant. As per the available meteorological data, the Jharsuguda block experienced an extremely heavy rainfall on 6.7.2025 resulting in a flood like situation and that the excessive runoff from the rainfall, along with the overflowing nallah water breached the dilapidated boundary wall and came in contact with the fly ash stored within the aforesaid boundary wall causing subsequent discharge of ash contaminated water into the adjacent agricultural land.

13. That the enquiry into the extent of damage to the agricultural land is currently in progress by the Office of Tahasildar, Jharsuguda and that the Respondent No. 7 has committed to provide compensation to the affected villagers, in accordance with the applicable norms and guidelines. The Environment Scientist on behalf of the Regional Officer, recommended that the fly ash slurry which has damaged the agricultural lands needs to be removed and has to be restored to its originality and that necessary decisions shall be taken as the damage has happened because of heavy rainfall.

A true copy of the Enquiry Report made by the Environment Scientist based on the field visit conducted on 7.7.2025 is annexed herewith and marked as **Annexure-R1**.

14. That with respect to the averments made in Paragraph No. 16, there are no comments to offer.

KUNAL
MOTIRAM CHAVAN
COLLECTOR
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PART OF AFFIDAVIT
R.M. Patel
Notary, Jharsuguda
Regd. No ON-06/97

15. That with respect to the averments made in Paragraph No. 17, it is submitted that the villagers of Jamera made a representation on 9.7.2025 before the Collector and District Magistrate, Jharsuguda which was forwarded to the Tahasildar, Jharsuguda and Regional Officer, SPCB, Jharsuguda. It is noted that Sri Tejraj Singh and other villagers of Marakuta Village raised certain points before the Regional Officer, SPCB and hence a field visit was conducted on 13.9.2025.

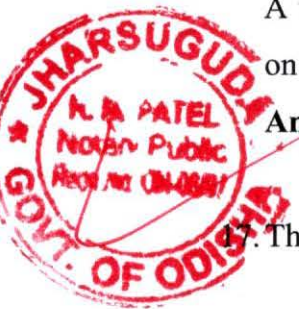
16. Pursuant to the aforesaid filed visit, the SPCB Odisha directed the Respondent No. 7 to immediately stop the discharge and seal the discharge point and the Respondent No. 7 has submitted a compliance report stating that the discharge point is sealed. The Respondent No. 7 has also been directed to construct a surface run off treatment system for the treatment of run-off water during monsoon and the aforesaid Respondent has submitted that the construction is in progress. The Respondent No. 7 has also been directed to stop the dumping of solid waste mixed with ash and to undertake reclamation of the damaged agricultural site in an environmentally friendly manner and that the aforesaid Respondent has committed to perform the same within a period of two months.

A true copy of the Enquiry Report made by the Environment Scientist based on the field visit conducted on 13.9.2025 is annexed herewith and marked as **Annexure-R2.**

17. That the averments made in Paragraph No. 18 needs no comments.

18. That the averments made in Paragraph No. 19 to 21 are false and denied. The Collector and District Magistrate, Jharsuguda received the complaints made by the villagers on two occasions namely on 17.6.2025 and on 9.7.2025 which was duly forwarded to the requisite authorities and a field inspection has been duly conducted by the Environment Scientist on behalf the Regional Officer, SPCB on 7.7.2025 and on 13.9.2025. Pursuant to the field inspections, certain

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COLLECTOR
JHARSUGUDA



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R.M. Patel
Notary, Jharsuguda
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recommendations have been made by the SPCB, Jharsuguda to address the grievances made by the Applicant.

REPLY TO THE GROUNDS AND PRAYER:

19. That the Joint Committee headed by the Collector and District Magistrate, Jharsuguda has recommended necessary compensation for the damage caused to the agricultural land due to discharge of fly ash contaminated water into the agricultural fields and fresh water streams shall be made by the Respondent No. 7, as per the assessment made by the district administration and in accordance with the prevailing rules and guidelines.

20. The aforesaid committee has also made other recommendations including restoration of the damaged land to its original condition by the Respondent No. 7 with the help of the district administration, construction of a retaining wall and a garland drain by the Respondent No. 7, installation of a wind barrier along the solid waste dumping site to prevent dispersion of fly ash particles in the air, construction of a surface run off treatment system and a recycle system, storage of raw materials in concrete floors to prevent soil contamination and that the Respondent No. 7 shall implement all the necessary environmental safeguard measures provided in the EIA/EMP.

21. That in view of the aforesaid facts and circumstances, the OA is liable to be disposed of as per law.

KUNAL
MOTIRAM CHAVAN
COLLECTOR
JHARSUGUDA



PART OF AFFIDAVIT

M. Patel
Notary, Jharsuguda
Regd. No ON-06/97



KUNAL MOTIRAM CHAVAN

DEPONENT
COLLECTOR
JHARSUGUDA

VERIFICATION

Verified at Jharsuguda on this 18th day of April 2026 that the contents of the aforesaid affidavit and annexures are true and correct to my personal knowledge and have been derived from the official records maintained by the Respondents 1, 2 and 6. No part of it is false nor has anything material has been concealed therefrom.

KUNAL MOTIRAM CHAVAN
DEPONENT
COLLECTOR
JHARSUGUDA


Sunil Kumar Sahu
B.A LL.B
Advocate, Jharsuguda
Regd. No. O-418/2001

The deponent..... is being identified by S.K. Sahu, Advocate, Jharsuguda and solemnly affirm before me today on this the day 18th of April, 2026. About 11.00 AM/PM.


R.M. Patel
Notary, Jharsuguda
Regd. No. ON-06/97
Mob:- 9861018602


NOTARY PUBLIC
JHARSUGUDA



Enquiry report on breach of ash of M/s OMPL at Kanheijor nallah at Marakuta in the district of Jharsuguda

A field enquiry was conducted on dated 07.07.2025, based on the video and print media clippings and written complaint received with regards to breach of ash at Kanheijor nallah at Marakuta in the district of Jharsuguda.

Background:-

The industry has Captive Power Plant of capacity 24 MW i.e, 8 MW WHRB and 16 MW AFBC. Ash of quantity 323.20 MT (approx.) is generated due to burning of coal and dolochar in AFBC Plant. The generated ash is utilized in in-house fly ash brick manufacturing unit of capacity 1,20,000 nos/day or disposed at solid waste disposal area within the plant premises. It has dedicated solid waste disposal area of 33.16 ac within its premises.

Observations on the complaint matter:-

A field inspection was conducted at various locations along the alleged site. During the inspection, it was observed that approximately 100 meters of the plant boundary wall was damaged and broken condition and ash from the plant premises had flown with water through the Kanheijor Nallah and spread into the adjacent agricultural fields. This incident took place due to continuous and heavy rainfall in the area. (Photographs enclosed)

The Kanheijor Nallah, a natural stream, flows adjacent to the southern boundary of the plant at an approximate distance of 30 to 40 meters. As per available meteorological data, the Jharsuguda Block experienced an extremely heavy rainfall on dated:-06.07.2025, with a recorded rainfall of 213.3 mm, resulting in a flood-like situation in the area.

Upon enquiry, it was informed that the excessive runoff from rainfall, along with the overflowing nallah water, breached the plant boundary wall and came into contact with the ash within the premises causing subsequent discharge of ash-contaminated water into the adjacent agricultural land.

As reported by the industry, the enquiry into the extent of damage to agricultural land is currently in progress by the office of the Tahasildar, Jharsuguda. The industry has committed to provide compensation to the affected villagers, in accordance with the applicable norms and guidelines.

Recommendation:-

The ash needs to be removed from the affected agricultural land and restore to its originality. However, in view of the above damage caused, necessary decision may be taken as this has happened due to heavy rainfall.


20.07.2025
Mrs. A.ERka, ES

Enquiry Report on public complaint received against Ms/ OMPL at Marakuta, Dist-Jharsuguda

A complaint received from Sri Tejraj Singh and others of village Marakuta highlighting the matter that the below mentioned point had not been addressed in the report of the previous given complaint on dated:14.07.2025. In this regard, the alleged site was visited on dated:13.09.2025 and the following observations were made:

Observations:

| Sl No. | Point raised in the complaint | Observations made on the day of visit |
|--------|---|--|
| 1. | On the day of the incident, kindly specify the source from which the red-coloured water was being discharged from the plant | On the day of visit i.e. on dated:13.09.2025, the run-off water from the iron ore stockyard was getting discharge to outside the plant premises. |
| 2. | Soil sample and water sample has been conducted. | Water sample had been taken on the day of visit and has been given for analysis to the Laboratory. Analysis report of the same is awaited. |
| 3. | Whether Ash dumping permission has been obtained from SPCB at the alleged site. | The solid waste dumping site has been established within the premises of the plant with approval from the H.O., SPCB, Bhubaneswar. |

Action taken by SPCB, Odisha:

- The industry has been directed to immediately stop the discharge and seal the discharge point. In this regard, the industry has submitted a compliance stating that, they have stopped discharging the run-off water.
- The industry has been directed to construct surface run-off treatment system for the treatment of run-off water during monsoon. Construction of surface run-off treatment system of capacity 700 KLD as per the Consent condition was under progress during the visit. As reported, it will be completed by December 2025.
- The industry has been directed to discontinue the dumping of solid waste mixed with ash and to undertake reclamation of the site in an environmentally friendly manner. The industry has committed to reclaim the dumping site with soil covering within a period of 02 months.



Er S.K. Munda, AEE



Mrs. A. Ekka, ES



Er H. K. Nayak, RO

BEFORE THE NATIONAL GREEN TRIBUNAL EASTERN ZONE BENCH,
KOLKATA

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Original Application No.190/2025/EZ

IN THE MATTER OF:

Abadhut Kharsel & Ors

...Applicant(s)

Versus

State of Odisha & Ors.

...Respondent(s)

VAKALATNAMA

KNOW ALL to whom those present that I, Sri Chavan Kunal Motiram, IAS, aged about 34years, S/o Motiram Chavan at present working as Collector and District Magistrate, Jharsuguda at Jharsuguda, behalf of Respondents No. 1,2 & 6 do hereby appoint:

MR. RAMAN YADAV (D/5326/2019), ADVOCATE

C-167, LGF, DEFENCE COLONY, NEW DELHI – 110024

Ph.: 011-45784866, M- 8800457781 E-mail- officeoframanyadav@gmail.com

(hereinafter called the Advocate(s) to be my/our Advocate(s) in the above- noted case authorized them:

To act, appear and plead in the above-noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High Court subject to payment of feesseparately for each court by me /us.

To sign, file verify and present pleadings, appeals cross-objections or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stagesubjects to payment of fees of each stage.

To file and take back documents, to admit and/or deny the documents of opposite party. To withdraw or compromise the said case or subject to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings.

To deposit, draw and receive money, cheques, cash and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of prosecution of the said case.

To appoint and instruct any other legal practitioner authorizing him to exercise the power and authority hereby conferred upon the advocate whenever he may thing fit to do so and to sign the power of attorney on our behalf.

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocate(s) or his/their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/we undertake that I/we or my/our duly authorized agent would appear in court on all hearing and will inform the Advocate(s) for appearance when the case is called. I/we undersigned to hereby agree not to hold the Advocate or his substitute responsible for the result of the said case. The appointment costs whenever ordered by the court shall be of the Advocates(s) which he shall receive and retain for themselves.

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate(s), remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court. I/we hereby agree that one the fees is paid I/we will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 yrs. The original fee shall be paid again by me/us.

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the content of which have been understood by me/us on this 18th day of April, 2026.

Raman yadav
Advocate(s)

KUNAL MOTIRAM CHAVAN

COLLECTOR
Client
JHARSUGUDA



Service of Counter Affidavit filed by Respondents 1, 2, and 6 in OA No. 190/2025/EZ titled Abadhut Kharsel vs State of Odisha & Ors.

Office of Raman Yadav <officeoframanyadav@gmail.com>

Tue, Apr 21, 2026 at 7:25 PM

To: chakrabarttikharsel@gmail.com, paribesh@ospcboard.org, secy-moef@nic.in, roez.bsr-mef@nic.in,

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revsec.od@nic.in, adm.jharsuguda2017@gmail.com

Dear All,

Please find attached a copy of the Counter Affidavit on behalf of Respondent Nos. 1, 2 and 6 in OA No.190/2025/EZ titled Abadhut Kharsel vs. State of Odisha & Ors. listed before the Hon'ble NGT, Eastern Zone Bench.

Kindly treat this email as an advance service.

Regards,

Office of Raman Yadav

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Counter Affidavit in O.A. No. 190 of 2025-EZ.pdf

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