

BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN  
ZONE BENCH, KOLKATA

O.A NO.180 OF 2025 EZ

URBASHI JENA

.....APPLICANT

-V E R S U S-

STATE OF ODISHA & ORS.

.....RESPONDENTS


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BY THE RESPONDENT NO.16 THROUGH

CUTTACK

DATED: 12.05.26

  
ANANYA PRADHAN, ADVOCATE  
ENRL.NO.O-599/2020

M-8917222517

E-mail:- palit\_subir02@yahoo.com



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
O.A. NO. 180 OF 2025 (EZ)

IN THE MATTER OF:

URBASHI JENA

...APPLICANT

-VERSUS-

STATE OF ODISHA & ORS.

...RESPONDENTS

**ADDITIONAL AFFIAVIT TO THE PRELIMINARY COUNTER**  
**AFFIDAVIT FILED ON BEHALF OF RESPONDENT NO.16 –**  
**SARAT CHANDRA BEHERA**

I, Sarat Chandra Behera, aged about 42 years, S/o. Sridhar Behera, At-Khunta, P.O.-Thannual, P.S.-Dharmasala, District-Jajpur, Odisha, the lessee of Bajabati Black Stone Quarry No.2 and Respondent No.16 in the present Original Application, do hereby solemnly affirm and state as follows:

1. That, I am the Respondent No.16 in the present Original Application and being conversant with the facts and circumstances of the case, I am competent and authorized to swear this subsequent affidavit.
2. That, the present subsequent affidavit is being filed to bring on record certain subsequent developments arising after filing of the preliminary counter affidavit filed on behalf of this respondent.
3. That, pursuant to inspection and assessment conducted by the Mining Authorities, a demand notice bearing Letter No.1780 dated 09.03.2026 came to be issued by the Mining Officer, Jajpur alleging excess extraction/removal of 6884.109 cubic metres of black stone from Bajabati



Black Stone Quarry No.2 and raising a demand of Rs.89,84,389/- towards penalty and allied dues.

4. That, being aggrieved by the said demand notice and the extremely short period granted for deposit of the said amount, this respondent approached the Hon'ble High Court of Orissa in W.P.(C) No.13536 of 2026 seeking, inter alia, permission to deposit the said amount in reasonable instalments and for adjustment of the alleged excess extraction quantity within the remaining lease period.

5. That, the Hon'ble High Court of Orissa, vide order dated 02.05.2026 passed in W.P.(C) No.13536 of 2026, was pleased to direct that the demanded amount of Rs.89,84,389/- be permitted to be deposited in three equated instalments in three consecutive months and further directed the authority concerned to consider allowing continuation of quarry operations upon deposit of the first instalment.

6. That, this respondent respectfully submits that the alleged excess extraction quantity of 6884.109 cubic metres is not extraction beyond the total permissible quantity contemplated under the environmental regime for the entire lease period, but pertains to alleged excess extraction with reference to annual operational limits during subsistence of a continuing lease period valid up to the year 2028.

7. That, the Environmental Clearance granted in favour of this respondent contemplates extraction during the entire lease tenure and the quarry lease itself continues to remain valid. The alleged excess quantity can therefore be scientifically and administratively adjusted against the remaining permissible extraction quantity available during the successive remaining years of the lease period without causing any additional environmental burden or ecological degradation.



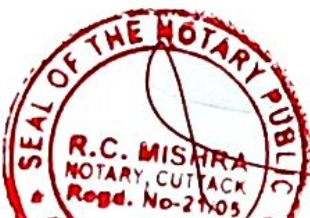
8. That, adjustment of the alleged excess extraction quantity against the balance permissible quantity available during the remaining lease period would adequately balance environmental regulation with the principle of sustainable mining, particularly when:

- a the lease continues to subsist;
- b the total extraction over the entire lease tenure remains capable of regulation;
- c environmental safeguards and statutory compliances continue to remain operative; and
- d this respondent has already been subjected to financial liability pursuant to the demand raised by the Mining Authorities.

9. That, the Hon'ble Supreme Court in Common Cause v. Union of India, (2017) 9 SCC 499 emphasized regulation, restitution and compliance within the framework of sustainable development and environmental governance. The present respondent submits that permitting adjustment within the remaining lease period would subserve the ends of environmental justice while ensuring regulated mining operations under continued supervision of statutory authorities.

10. That, this respondent further undertakes before this Hon'ble Tribunal that quarry operations shall continue strictly in accordance with the approved Mining Plan, Environmental Clearance conditions, Consent to Operate, Consent to Establish, CPCB guidelines and all directions issued by competent statutory authorities from time to time.

11. That, this Hon'ble Tribunal may graciously be pleased to take on record the subsequent developments including the order dated 02.05.2026 passed by the Hon'ble High Court of Orissa in W.P.(C) No.13536 of 2026.



(Copy of the order dated 02.05.2026 is annexed herewith as Annexure-L/16)

12. That, in the interest of justice, equity and sustainable environmental regulation, this Hon'ble Tribunal may further be pleased to permit/observe that the alleged excess extraction quantity of 6884.109 cubic metres be adjusted against the permissible extraction quantity available during the successive remaining years of the subsisting lease period, subject to regulatory supervision and statutory compliances.

13. That, the facts stated above are true and correct to the best of my knowledge and belief.

Identified by

*Ananya Pradhan*  
Advocate  
ANANYA PRADHAN  
05/09/2020

*Sacota Chandra Behera*  
DEPONENT

**CERTIFICATE**

Certified that due to want of cartridge papers thick and durable plain papers have been used.

Cuttack

*[Signature]*  
Advocate

Date: 12-05-26

For Respondent No.16



I solemnly affirm on in Oath that the Deponent  
Cuttack on...  
Advocate'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. 21/200



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Annexure-L/16

IN THE HIGH COURT OF ORISSA AT CUTTACK  
W.P.(C) No.13536 of 2026

*Sarata Chandra Behera* ..... *Petitioner*

Mr. Subir Palit, Senior Advocate  
assisted by Ms. Ananya Pradhan, Advocate  
-versus-

*State of Odisha and others* ..... *Opposite Parties*

Mr. Sanjib Kumar Swain, Addl. Government Advocate

**CORAM:**

**THE HON'BLE THE CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN**

**ORDER**

**02.05.2026**

**Order No.**

01. I. Petitioner has filed this writ petition under Articles 226 and 227 of the Constitution of India with the following prayer (s):

*"In the premises aforesaid, it is therefore most humbly prayed that this Hon'ble Court may graciously be pleased to:*

- A. *Issue an appropriate writ directing the Opposite Parties to permit the petitioner to deposit the demand amount of Rs.89,84,389/- raised vide demand notice vide letter no. 1780 dated 09.03.2026 in reasonable instalments within such reasonable time as this Hon'ble Court may deem fit and proper;*
- B. *Direct the Opposite Party (Mining Officer) to allow the petitioner to continue lawful quarry operations under the existing lease upon payment of the first instalment;*
- C. *Permit adjustment of the alleged excess extraction quantity of 6884.109m within the remaining operational period of the quarry lease;*
- D. *Pass such other order(s) as this Hon'ble Court may deem fit and proper in the interest of justice.*



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*And for this act of kindness the petitioner shall ever pray."*

2. The petitioner, successful bidder of Bajabati Black Stone Quarry No.2, upon obtaining mining plan and environmental clearance, was accorded Consent to Establish *vide* Office Memorandum dated 10.02.2023 issued by the Regional Office, Kalinga Nagar, State Pollution Control Board and Consent to Operate by Order No.398, 15.02.2023. On 28.03.2025, the Consent to Operate has been extended till 31.03.2026. Accordingly, lease agreement was executed for a period of one year under Rule 27(13) of Odisha Minor Mineral Concession Rules, 2016 on 17.02.2023. Further, on 04.04.2024, a lease agreement was executed for the remaining period of four years under the said provision.
3. Upon deed of agreement being executed between the petitioner and the proprietor of Sunil Enterprises, Sri Sunil Kumar Jena for conducting blasting, the Directorate of Mines and Safety authorized the appointment of Manager of Mines *vide* letter No.270513 dated 02.12.2024 in compliance of Regulation 34 (6) of the Metalliferous Mines Regulations 1961.
4. On 12.01.2026, a show cause notice was issued to the petitioner alleging mining/removal of excess quantity of 6834.109 cubic metre of black stone during the period from 31.03.2022 to 26.12.2025. A reply was submitted before the Mining Officer on 17.02.2026 denying the liability. However, a demand to the tune of Rs.89,84,389/- has been raised imposing the penalty for over-extraction of black stone from



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Bajabati Black Stone Quarry No.2 *vide* Letter No.1780/MM,  
Jajpur dated 09.03.2026.

5. Mr. Subir Palit, learned Senior Advocate assisted by Ms. Ananya Pradhan, learned Advocate would submit that the demand so raised by the Mining Officer (I/C), Jajpur has been directed to be deposited within seven days which is inadequate for the petitioner to comply with. The petitioner is unable to arrange such huge amount of money within such short period. The petitioner, therefore, by way of this writ petition seeks indulgence of this Court for allowing him to deposit the said amount of demand in instalments.
6. Referring to Paragraphs 136 and 227 of the Judgment rendered by the Hon'ble Supreme Court of India in *Common Cause Vrs. Union of India and others, (2017) 9 SCC 499*, submitted that the petitioner has come up before this Court to be considerate enough to allow him to deposit the amount so demanded in instalments so as to enable the petitioner to continue with the mining operation.
7. Mr. Sanjib Kumar Swain, learned Addl. Government Advocate opposing such prayer, submitted that since the petitioner has illegally extracted excess quantity of black stone, he is liable to deposit the demanded amount which comprises penalty.
8. Heard Mr. Subir Palit, learned Senior Advocate assisted by Ms. Ananya Pradhan, learned Advocate appearing for the petitioner and Mr. Sanjib Kumar Swain, learned Addl.



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Government Advocate appearing for the opposite parties-  
State.

9. Considered the contentions and submissions made by learned counsels appearing for the respective parties. Perusal of Letter dated 09.03.2026 issued by the Mining Officer reveals that demand of Rs.89,84,389/- has been directed to be deposited within seven days with caution that failure to deposit the said amount within the stipulated period would invite action in accordance with Odisha Minor Minerals Concession Rules, 2016 as amended from time to time.
  
10. As the petitioner in the writ petition conceded to pay off the demanded amount if the payments are made easy, taking into account the plight of the petitioner in arranging such a huge amount within a short period, it is deemed proper to allow the petitioner to deposit the said demanded amount in installments. Considering the prayer (A) as stated hereinabove, interest of justice would be best subserved if the petitioner is directed to deposit the demanded amount of Rs.89,84,389/- in three equated installments in three consecutive months. The authority concerned is directed to consider allowing the petitioner to operate the quarry in question in terms of mining plan and environment clearance along with CTE and CTO on receipt of the first instalment of demanded amount. It is made clear that in case the petitioner fails to deposit the aforesaid amount in the manner specified above, the authority concerned shall be free to enforce the entire liability in accordance with law.



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II. With the aforesaid observations and direction, the writ petition along with the pending Interlocutory Application(s), if any, shall stand disposed of.

(Harish Tandon)  
Chief Justice


(M.S. Raman)  
Judge

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TRUE COPY ATTESTED  
  
ADV

Signature Not Verified

Digitally Signed  
Signed by: BICHITRANANDA SAHOO  
Designation: Secretary  
Reason: Authentication  
Location: Orissa High Court, Cuttack  
Date: 04 May 2026 11:58:24



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P.F.A

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From: Yahoo (palit\_subir02@yahoo.com)

To: csori@nic.in; revsec.od@nic.in; fesec.or@nic.in; dm-jajpur@nic.in; sp.jjp@odishapolice.gov.in; dirmines\_odisha@rediffmail.com; tdrdharmasala@gmail.com; ddm.jajpurroad@orissaminerals.gov.in; roez.bsr-mef@nic.in; member.secy@ospcb.org; ms-seiaa-or@gov.in; rdser-cgwb@nic.in; dgmsindia@gmail.com; mscb.cpcb@nic.in; rospcb.kalinganagar@ospcb.org; sankarprasadpani@gmail.com

Date: Tuesday, May 12, 2026 at 03:31 PM GMT+5:30

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Sir,

Please find attachment of Addl. affidavit to the preliminary counter affidavit filed on behalf of Respondent No.16 - Sarat Chandra Behera in the matter of Urbashi Jena -Versus- State of Odisha vide O.A No.180 of 2025/EZ.

O/o Subir Palit, Senior Advocate,  
Orissa High Court.



Addl. Affidavit \_Urbashi Jena\_by Respondent No.16.pdf

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