BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
O. A. No: 54 of 2026/ EZ

IN THE MATTER OF:

RAJANI KANTA PADHY ..... **APPLICANT**

-VERSUS-

THE STATE OF ODISHA AND OTHERS ..... **RESPONDENTS**

INDEX

BY THE RESPONDENT NO: 09

12.05.2026.

THROUGH ADVOCATE

BIRANCHI NARAYAN MAHAPATRA
ADVOCATE, ORISSA HIGH COURT, CUTTACK
CELL: +91 8984383812, Email: imbiranchi@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL-EASTERN ZONE BENCH, KOLKATA

O. A. No: 54 of 2026/ EZ

IN THE MATTER OF:

RAJANI KANTA PADHY .....APPLICANT

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THE STATE OF ODISHA

AND OTHERS .RESPONDENTS

COUNTER AFFIDAVIT FILED BY THE ABOVE NAMED RESPONDENT NO: 09 MOST RESPECTFULLY SHOWETH AS FOLLOWS:-

I **Kiran Kumar Panda,** aged about 50 years, lessee of Kharida Sand bad, S/O: late Gopinath Panda, at: Khalasi Street, PO: Berhampur H.O, P/S: Berhampur Town, Pin: 760001, Dist: Ganjam, Odisha do hereby solemnly affirm and state on oath as follows:-

1. That I am Respondent No: 09 in the O.A and as such I am fully conversant with the facts and proceedings of the Case.
2. That the averments made in the O.A are all not true and the Applicant is liable to be prove it strictly in accordance with law.

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3. The **O.A No: 54 of 2026/EZ** is not maintainable in view of the finding/observations of the **Joint Inspection Committee** of the State of Odisha and the Applicant without any material evidence filed the O.A against the Present Respondent as a personal vindictive weapon. Hence, the **O.A No: 54 of 2026/EZ** is liable to be dismiss with heavy cost. Copy of the Joint inspection report submitted by the Mining officer, Ganjam Circle, Berhampur, Ganjam with reference to his office letter No: 1528/Sairat/ dated: **10.04.2026** is annexed here to as **ANNEXURE-R-9/1 Series.**

4. That the Statutory authorities have been observed in their Joint inspection report that the Present Respondent has not done any illegal acts during the Period of operation of the sand mining. So, the Applicant how and which way has made such baseless allegations against the Present Respondent, it needs Judicial Scrutiny.

5. That it is duty of the statutory authorities to maintain check and balance, if any kind of illegal acts done by the Present Respondent during the Period of operation of the Source. But, none of the authorities were not made any objection to the Present Respondent in respect of the illegal acts of the sand mining. Thus, the Applicant has made some baseless

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allegations against the Present Respondent by way of imaginary pleadings. Such steps and measures of the Applicant is not healthy for the democracy and he has not approached to this Hon'ble Tribunal with clean hands. The Applicant has not filed the O.A as a protection measures for the environment and he has filed this Case as a Personal vindictive measures.

6. That the Applicant has failed to prove his Case specifically in which date/ period the Present Respondent have committed the illegal acts, for which the Case is not made out against the Present Respondent. The entire pleading of the O.A shows that, it is an imaginary/premature/self-designed and particularly without any cause of action the Applicant rushed to this Hon'ble Tribunal. The Applicant is duty bound to prove his Case against the Present Respondent beyond all reasonable doubts and clinching evidence, but the Applicant failed to prove his Case against the Present Respondent, which is heavy burden for him. **The joint inspection report is itself saying that the Present Respondent has not committed any illegal acts as on date. So, there is no cause of action to file the O.A against the Present Respondent and it is imaginary/premature/ self-designed litigation, which has been instituted by the Applicant**. The Applicant is not entitled to

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get any relief from this Hon'ble Tribunal and he has filed this Case (O.A) against the Present Respondent as a person vindictive weapon. Hence, this Hon'ble Tribunal may kindly discourage to the Applicant and warned to him not to file such type of litigation without any material evidence/ cause of action.

7. That the SPCB/SEIAA/ State officials were not raised any allegation against the Present Respondent during the Period of operation of sand mining. So, the Applicant is trying to establish his Case by way of unnecessary allegations against the Present Respondent. Thus, the Applicant has no locus standi to raise any allegation against the Present Respondent without any material evidence. It is crystal clear from the averments/ pleadings of the O.A that the Applicant has made allegations against the Present Respondent without any supportive documents. The Applicant has no right to file the O.A according to his will and pleasure and without any Cause of action. Hence, the proceeding of the O.A is liable to be dismiss for the ends of justice. If this proceeding will be run, the Present Respondent will be highly prejudice and it will be abuse of the process of law. Therefore, it needs urgent attention of this Hon'ble Tribunal for the interest of justice. The Applicant approached to this Hon'ble Tribunal by way of misleading

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information/ suppression of material facts/ without any cause of action, which is crystal clear from the finding and observations of the Joint inspection report.

8. That the documents relied by the Applicant in his O.A, it is clearly shows that there is no official record/ authentic material/ valid document available against the Present Respondent in connection of his involvement in any illegal acts. It is a heavy burden for the Applicant to prove his Case beyond all reasonable doubts along with sufficient material/clinching evidence before this Hon'ble Tribunal. So, the Applicant has lost his locus standi to file the O.A against the Present Respondent. It is very clear from the synopsis and list of dates of the O.A that the Applicant approached to this Hon'ble Tribunal without any cause of action. The Applicant has filed the O.A only some self-designed pleadings. It is apt to mention here that the image/Photographs filed by the Applicant could not override to the Joint inspection report. Hence, the O.A is liable to be dismiss with exemplary cost.

9. That based on the legal framework in India, particularly within Odisha, the State acts as a trustee of the Sairat sources and as per the Public Trust Doctrine the state owns these resources not as a proprietor, but as a trustee on behalf of the public. Surprisingly, in this Case without any allegation of the trustee how one of the Public (Applicant of the O.A)

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has made allegations against the Present Respondent, it needs through scrutiny for the ends of Justice.

10. That the Present Respondent has obtained CTO from the State Pollution Control Board vide Consent Order No: **1779/2026-2027/ dated: 02.05.2026** with reference to the Consent Application ID No: 7764954 and it is valid till **31.03.2027.** The State Pollution Control Board, Odisha after through verification has granted CTO to the Present Respondent. It is evident from the Case that the State Pollution Control Board no point of time found any illegality in respect of the sand mining of the Present Respondent and accordingly the SPCB allowed to the Present Respondent to operate the Mining. For which the allegations made by the Applicant of the O.A is completely false and there is no truth. It is respectfully submitted here that the Present Respondent has conducted/prepared the **Replenishment Study report** and which is already submitted before the appropriate authority and it is also accepted by the authority without any objection. Again the Respondent No: 9 is also submitted the **half yearly Environmental Clearance Compliance report** before the integrated Regional Offices, Bhubaneswar, Odisha, which is also accepted by the authority without any objection. Copies of the Consent Order No: **1779/2026-2027/ dated:**

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02.05.2026, Replenishment Study report and half yearly Environmental Clearance Compliance reports are annexed here to as ANNEXURE-R-9/2 Series.

11. That the Applicant of the O.A No: **54 of 2026/EZ** obtained orders on **17.03.2026** by placing misleading information/ playing fraud before this Hon'ble Tribunal. For which the Present Applicants relied the observations of the Hon'ble Apex Court in the matter of **Meghamala and others- Versus- G. Narasingha Reddy and others** with reference to the Civil Appeal Nos: **6656-6657 of 2010 decided on August 16, 2010**, in the matter of **Dalip Singh- Versus- State of U.P and others** with reference to the **Civil Appeal No: 5239 of 2002 decided on December 03, 2009**, in the matter of **Vijay Syal and another- Versus- State of Punjab and** Others with reference to the **Appeal (Civil) Nos: 812 of 2002** decided on 22/05/2003 and in the matter of **A.V. Papayya Sastry and others- Versus- Government of A.P and others** with reference to the **Appeal (Civil) Nos: 5097-5099 of 2004 decided on March 07, 2007**. Copy of the Orders dated: **17.03.2026 Passed in O.A No: 54 of 2026/EZ** which has been

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obtained by playing fraud by the Applicants of the O.A and observations made by the Hon'ble Apex Court are annexed here to as **ANNEXURE-R-9/3 Series.**

12. That the Applicant has been challenged to the orders passed by the statutory authorities i.e. SEIAA/ SPCB, Odisha with reference to the conditions of the Environmental Clarence (E.C) / Consent to Operate (CTO) by way of the O.A. It is a settled Principle that if the Applicant will be aggrieved to the said orders he could have been filed the Appeal before the Appellate Authority as per the Statutory provision of law. Surprisingly, the Applicant approached to this Hon'ble Tribunal by following the back door method, which is not permissible in the eye of law. Thus, it is a clear Case that the Applicant has obtained the orders dated: **17.03.2026 in O.A No: 54 of 2026/EZ** by playing fraud.

13. That the provision provides for a statutory remedy of Appeal **under section 31** of the Air Act and **section 28 of the Water** Act before the Appellate Authority against an order of board granting the consent and also any other violation the Environmental Clearance (EC) and CTO .

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14. That section 31 of the Air Act provides that:

Appeals

(1) Any person aggrieved by an order made by the State Board under this Act may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the Appellate Authority) as the State Government may think fit to constitute: Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Appellate Authority shall consist of a single person or three persons as the State Government may think fit to be appointed by the State Government.

(3) The form and the manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the Appellate Authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the Appellate Authority shall, after giving the appellant and the State Board

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an opportunity of being heard, dispose of the appeal as expeditiously as possible.

16. That section 28 of the Water Act provides that:

Appeals

(1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appellate authority shall consist of a single person or three persons as the State Government may think fit, to be appointed by that Government.

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

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(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the appellate authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then,-

(a) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be Substituted for it such condition as appears to it to be reasonable;

(b) Where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

17. That the aforesaid sections clearly mentions that any order Board under the respective Acts are an Appealable order. The sections further provides that the limitation for challenging the order in Appeal is 30 days with further extension of 30 days. However,

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present proceedings are firstly an original proceedings under section 15 and 15 of the NGT Act hence CTO cannot be challenged herein, secondly the OA has been filed beyond the limitation period of 60 days of the order.

18. That under original jurisdiction Tribunal has powers to grant relief of compensation and restitution as provided in section 15 of the NGT Act. Section 15 of the Act is reproduced as under:

"**15. Relief, compensation and restitution.**

(1) The Tribunal may, by an order, provide,-

(a) Relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) For restitution of property damaged;

(c) For restitution of the environment for such area or areas, as the Tribunal may think fit."

19. That as per provision of s. 15 of the NGT Act, no orders quashing or cancelling the consent to operate/ Environmental Clearance can be passed by this Tribunal, being in Original Jurisdiction. The said power can be exercised, however, only in case of Appeal.

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Hence, the Original Application is not maintainable for the reliefs claimed.

20. That it is further pertinent to mention that the order of Appellate Authority passed in Appeal u/s 31 and 28 of the Air and Water Act is an Appealable order before this Tribunal under section **16(a) ad (f)** of NGT Act. Bypassing the remedy before the Appellate Authority by the Applicant and filing the present Original Application instead of filing of an Appeal before the Appellate Authority which is envisaged under the Statutory provision of law will result in loss of right of valuable statutory right of Appeal u/s 16 of the NGT Act.

21. That in **Hari Om Sharan Dwivedi v. State of U.P. OA No. 141 of 2025 decided on 15.07.2025, th**is Hon'ble Tribunal has held an OA to be not maintainable against CTO. Tribunal has held :

"23. In the present case, what applicant has done is that it has by-passed the remedy of Appeal against the order under Section 25 of Water Act, 1974 and Section 29 of Air Act, 1981 which were appealable under Section 28 of Water Act, 1974 and Section 31 of Air Act, 1981. Further, applicant has remedy of second appeal before this Tribunal if any

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adverse order against its interest is passed by the Appellate Authority under Section 28 of Water Act, 1974 and Section 31 of Air Act, 1981 but by not availing the remedy of initial Appeal, he has given up even the right of second Appeal. Applicant in fact has frog leap by filing its OA under Sections 14 and 15 of NGT Act, 2010 disturbing the entire scheme of the Statute.

24. In M/s Northern Plastics Ltd. vs Hindustan Photo Films Manufacturing Company Ltd., (1997) 4 SCC 452, Supreme Court in para 12 of the judgment has observed that the Statutory procedure laid down by Parliament in its wisdom for enabling the challenge to the adjudication has got to be followed and by passing such Statutory procedure is a direct frog leap which is contra-indicated by the Statutory scheme of the Act. Such approach of direct frog leap by ignoring the Statutory provisions of Appeal and Revision etc. having the scheme of the Act would stultify the very scheme of the Statute which has not to be permitted.

25. In **Tamil Nadu Pollution Control Board vs. Sterlite Industries (India) Limited and Others, (2019) 19 SCC 479,**

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Supreme Court observed that in order to assail statutory orders passed by Statutory Regulators under reliance of Section 14 of NGT Act, 2010 is impermissible since Section 14 refers to original jurisdiction of Tribunal and not its appellate jurisdiction. In para 36 of the judgment, Supreme Court has said as under:

"...Equally disingenuous is the reference to Section 14 of the NGT Act which only refers to the original jurisdiction of the NGT and not to its appellate jurisdiction. Also, to state generally that the subject matter of environment lies with the NGT, is an argument of despair that must be dismissed for the reason that as held by us hereinabove, an appeal being a creature of statute, a statute either confers a right of appeal or it does not..."

26. Section 14, as we have already seen, confers original jurisdiction upon Tribunal to adjudicate a substantial question relating to environment when arisen out of implementation of enactments has specified in Schedule I. It does not confer any supervisory or appellate jurisdiction upon the Tribunal to look into the correctness of the Statutory order passed by Statutory body

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under a relevant Statute where against a further remedial hierarchy in terms of Appeal and Revision etc. is also provided in such Statute. Similarly, Section 15 is also not attracted to challenge statutory order passed by statutory authority. In the circumstances, we are clearly of the view that an OA under Sections 14 and 15 is not maintainable to challenge Statutory order of CTO since the applicant has otherwise Statutory remedy of Appeal etc. which it has failed to avail and having lost such remedy, it cannot be permitted to convert jurisdiction under Sections 14 and 15 of NGT Act, 2010 into appellate jurisdiction.". Copy of the order passed in the Case of Hari Om Sharan Dwivedi v. State of U.P. OA No. 141 of 2025 decided on 15.07.2025 is annexed here to as **ANNEXURE R-9/4 Series.**

22. That similarly in case of **Athiappa Chemicals Pvt. Ltd. v. Puducherry Pollution Control Board,** this Hon'ble Tribunal has held that where there is right of Appeal under the statutory provision of Act or Rules, Original Application is not maintainable before the Tribunal. This Tribunal in the said case dismissed the Original Application against the order of the Puducherry PCB challenged directly before

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the Tribunal in OA instead of filing of Appeal u/s 31 of Air Act before the Appellate Authority. Copy of the order of the National Green Tribunal passed in **OA No.30 of 2011** dated 14.12.2011 is annexed here to as **ANNEXURE -R-9/5 Series.**

23. That there are catena of judgment of this Hon'ble Tribunal wherein the Original Applications are dismissed on ground of maintainability whereby the Applicants chose to challenge the Environment Clearance (E.C) / Consent to Operate (CTO) by invoking Original Jurisdiction of this Tribunal and not by way of Appeal. In the matter of **Yashovardhan Shandilya Sharma v. Union of India** in **O.A. No. 54 of 2019 (CZ), decided on 30.05.2022. Copy of the order Passed in the said O.A is annexed here to as ANNEXURE-R-9/6 Series.**

24. That availability of alternative remedy of Appeal before the Appellate Authority operates as bar to the invocation of the Original Jurisdiction.

25. That in view of the above facts and circumstances the O.A is not maintainable at all and liable to be dismiss with heavy cost.

26. That the Respondent No: 09 is craves leave of this Hon'ble Tribunal to file further affidavit, if necessary for proper adjudication of the matter.

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27. **WHILE DISPOSE OF THE O.A THE FOLLOWING POINTS MAY KINDLY TAKEN TO THE CONSIDERATION BY THIS HON'BLE TRIBUNAL FOR THE ENDS OF JUSTICE**

I. Whether the Applicant has locus standi to file the **O.A No: 54 of 2026/EZ** against the Present Respondent without any cause of action?

II. Whether the Applicant filed the O.A N**o: 54 of 2026/EZ** against the Present Respondent without based on material evidence/clinching evidence?

III. Whether the Applicant is liable to penalize by way of Exemplary Cost for his misleading facts and self-designed/ imaginary allegations made in the O.A against the Present Respondent?

IV. Whether the Present Respondent is suffering irreparable loss, injury due to filing of the **O.A No: 54** of **2026/EZ** by the Applicant by way of misleading facts?

V. Whether the Applicant has obtained orders on **17.03.2026 in O.A No: 54 of 2026/EZ** by placing misleading facts and also following back door method?

VI. Whether the O.A is not maintainable in view of the Statutory Appeal remedy is available under the law relating to the orders passed by the statutory authorities i.e. SEIAA/ SPCB, Odisha (under Section 25/26 of the Water (Prevention of Control of Pollution) Act, 1974 and under

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Section 21 of Air (Prevention and Control of Pollution) Act, 1981 and rules framed there under with reference to the conditions of the Environmental Clarence (E.C) / Consent to Operate (CTO)?

Kisan Kumar Panda

DEPONENT

VERIFICATION

I **Kiran Kumar Panda**, aged about 50 years, S/O: late Gopinath Panda, at: Khalasi Street, PO: Berhampur H.O, P/S: Berhampur Town, Pin: 760001, Dist: Ganjam, Odisha, do her by verify that the contents of Para 01 to 27 believed to be true and that I have not suppressed any material fact.

Verified at Berhampur on 12.05.2026

NOTARY Dr. K.M. PANIGRAHY Berhampur (Ganjam) Regd. No 31/2000 GOVT. OF INDIA

IDENTIFIED BY

12.05.2026

Kisan Kumar Panda

ADVOCATE **DEPONENT**

(B.N. Mahapatra)
Advocate, Orissa High Court
Enrolment No-O-04/2013
Mob No-8984383812.

Dr. K.M. PANIGRAHY, NOTARY BERHAMPUR (Gm.) Sl. No. 1357 TIME

DECLARATION

The deponent having been identified by Advocate Sri B.N. Mahapatra solemnly affirm before me on this day of 12 202.6 at 11 AM/PM that the contents mentioned in this Affidavit are true to his/her knowledge information and belief.

Dr. K.M. Panigrahy
NOTARY, Govt. of INDIA
Regd No. 31/2000
Berhampur Ganjam Odisha

ANNEXURE-R-9/1 series

OFFICE OF THE MINING OFFICER, BERHAMPUR & CHATRAPUR SUB- DIVISION, BERHAMPUR CIRCLE, GANJAM DISTRICT STEEL AND MINES DEPARTMENT, GOVT. OF ODISHA BERHAMPUR –760011

Email: mo.ganjam1@gmail.com

No. 1528 / Sairat Dt. 10/04/26

From

The Mining Officer (I/C),
Berhampur Circle, Ganjam.

To

The Deputy Director of Mines, Ganjam Circle, Berhampur

Sub: Forwarding of Joint Inquiry Report – Regarding Alleged Illegal Sand Mining

Ref: Memo No.1419/Mines dated: 02.04.2026

Sir,

With reference to the letter received from your office on the subject cited above, it is respectfully submitted that a joint inquiry was conducted by the designated officials on 07.04.2026 in accordance with the instructions issued.

The Joint Inquiry Report, as prepared by the committee, is hereby submitted for your kind perusal, information, and necessary action.

This is submitted for favour of kind consideration.

Yours faithfully,

Encl: As above;

10.04.26
Mining Officer (I/C), Ganjam

Memo No. 1529 Date: 10/04/26

Copy forwarded to the Collector-cum-District Magistrate, Ganjam District, Chatrapur for information.

10.04.26
Mining Officer (I/C), Ganjam

Memo No. 1530 Date: 10/04/26

Copy forwarded to the Sub- Collector, Chatrapur, Ganjam District for information.

10.04.26
Mining Officer (I/C), Ganjam

TRUE COPY ATTESTED
BY ADVOCATE

ANNEXURE-R-9/1 series

Memo No. 1531 Date: 10/04/26

Copy forwarded to the Tahasildar, Hinjilicut, Ganjam District for information.

10.04.26

Mining Officer (I/C), Ganjam

Memo No. 1532 Date: 10/04/26

Copy forwarded to the Regional Officer, State Pollution Control Board, Berhampur, Odisha for information.

10.04.26

Mining Officer (I/C), Ganjam

Memo No. 1533 Date: 10/04/26

Copy forwarded to the Regional Transport Officer, Ganjam District, Chatrapur for information.

10.04.26

Mining Officer (I/C), Ganjam

TRUE COPY ATTESTED
BY ADVOCATE

ANNEXURE-R-9/1 series

OFFICE OF THE DEPUTY DIRECTOR OF MINES GANJAM CIRCLE
STEEL AND MINES DEPARTMENT, GOVT. OF ODISHA
BERHAMPUR –760011

Email: ddm.berhampur@orissaminerals.gov.in

No. 1418 / Mines Dt. 02/04/26

OFFICE ORDER

In pursuance of Letter No. 565/10(I)/2014 dated 20.02.2026 of the Regional Officer, State Pollution Control Board (SPCB), Berhampur Division, Ganjam District regarding a public complaint alleging illegal sand mining and noise pollution by M/s Kharida Sand Bed, Tahasil – Hinjilicut, District – Ganjam, a Joint Committee is hereby constituted with the following members for the purpose of conducting a detailed enquiry and verification of the allegations mentioned in the complaint petition.

The Committee members are:

1. Mining Officer (I/C)-Cum-Competent Authority, Berhampur-Chatrapur sub-Division, Ganjam District.
2. Regional Transport Officer (RTO), Ganjam.
3. Regional Officer, State Pollution Control Board, Regional Office, Berhampur.
4. Deputy Collector (Revenue), Collectorate, Ganjam, Chatrapur.

The Committee shall conduct a joint field inspection of M/s Kharida Sand Bed, Hinjilicut Tahasil on dt.**07.04.2026** to verify allegations regarding Illegal sand mining activities, Violation of environmental norms Noise pollution caused due to operations/transportation etc. and submit a detailed report with findings, recommendations and necessary action points.

2/4/26

Deputy Director of Mines
Ganjam Circle, Berhampur

Memo No. 1419 / Mines, Dt. 02/04/26

Copy forwarded to the Mining Officer(I/C)-Cum-Competent Authority,Berhampur-Chatrapur sub-division,Ganjam District/ Regional Transport Office (RTO), Ganjam / Regional Officer, State Pollution Control Board, Regional Office, Berhampur / Deputy Collector, (Revenue- Ganjam District) for kind information and necessary action.

2/4/26

Deputy Director of Mines
Ganjam Circle, Berhampur

Memo No. 1420 / Mines, Dt. 02/04/26

Copy submitted to the Collector & District Magistrate, Ganjam for kind information.

2/4/26

Deputy Director of Mines
Ganjam Circle, Berhampur

TRUE COPY ATTESTED
BY ADVOCATE

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ANNEXURE-R-9/1 series

JOINT ENQUIRY REPORT

Subject: Public complaint alleging illegal sand mining and noise pollution from M/s Kharida Sand Bed, Hinjilicut Tahasil, Dist- Ganjam – reg.

Reference: ROSPCB Letter No. 565/10(I)/2014 Date: 20.02.2026
DDM Letter No. XXV-02/23- 442/ Mines Date: 27.02.2026
DDM Letter No. 1418/ Mines Date: 02.04.2026

Date of Joint Inspection: 07.04.2026

Place of Inspection: Kharida Sand Bed under Kharida Gram Panchayat, Hinjilicut Tahasil, Ganjam District, Odisha.

Detailed Land Particulars:

- Khata No.: 554
- Plot No.: 4532/1
- Total Area: 5.261 Hectares

Lease Particulars:

- Name of Lease Holder: **Sri Kiran Kumar Panda**
- Environmental Clearance (EC): **13.12.2024 to 02.01.2030**
- Lease Period: **03.01.2025 to 02.01.2030**
- CTE validity period **16.01.2025 to 15.01.2030**
- CTO validity period **16.01.2025 to 31.03.2026**

The lease has been granted by the competent authority in accordance with prevailing minor mineral concession rules and is subject to compliance with statutory clearances and conditions stipulated therein.

Officials Present During Inspection:

Mining Officials, Ganjam, Berhampur
Revenue Officials, Hinjilicut, Ganjam
Regional Transport Officer (RTO), Ganjam, Chatrapur
Regional Officer State Pollution Control Board (ROSPCB), Berhampur

Purpose of Inspection:

In pursuance of the reference cited above, a joint field enquiry was conducted by the officials of the Revenue Department, Mining Department, RTO Department, and ROSPCB regarding Public complaint alleging illegal sand mining and noise pollution from M/s Kharida Sand Bed, Hinjilicut Tahasil, Dist-Ganjam – reg.

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Observations and Findings:

A detailed joint field inspection was carried out at:

Village Kharida under Kharida Gram Panchayat, Hinjilicut Tahasil.

Village Sikiri under Sikiri Gram Panchayat, Hinjilicut Tahasil.

The following observation are made during the joint inspection:

- The mining operations are being carried out in such a manner that the natural course and flow of the rivers, namely Ghorahara River and Rushikulya River, remain undisturbed and have not been deviated.
- The mandatory safety distance of 500 meters from the Hiradharabati Barrage Project has been properly maintained for sand quarry operations.
- No damage to any public road or bridge was observed within Kharida and Sikiri Gram Panchayat areas surrounding the sand quarry.
- No forest land has been utilized for mining operations by the lessee of the Kharida Sand Bed. Plantation activities have been carried out at prescribed locations in accordance with the approved Progressive Mine Closure Plan.
- Upon official enquiry, it is clarified that the allegations dated 05 January 2026 and 06 January 2026 regarding the vehicles bearing registration numbers OR-16D-1096 and OD-07-BA-9500 both number have valid transit passes. The said vehicles were operating with valid Transit Permit (TP) numbers A2512060006/16 and A25120600051/37, respectively.
- No illegal stacking of sand was found in the vicinity of the quarry area or nearby the Gramya Jungle.
- The Mining is done by Semi- Mechanised dry pit mining method as per the provision of the approved mining plan.

As per records verified during inspection:

- A total quantity of 8,309 cubic meters (cum) of sand was produced during the financial year 2025–26.
- During the course of inspection, no traces of illegal sand lifting activities were found in the inspected areas. No vehicles carrying illegally loaded sand were observed in the locality at the time of inspection.

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ANNEXURE-R-9/1 series

It was further observed that:

- No harm or loss to aquatic life has occurred.
- Riverbanks remain intact with no signs of erosion, damage or disturbance.

Statements from local villagers were recorded during the enquiry. The villagers stated that:

- No illegal sand lifting activities are currently taking place in the area.
- There is no damage to public roads or nearby bridges.
- No adverse environmental impact is being caused due to sand lifting from the sand Sairat.

During inspection, all statutory compliances were found to be in order. Boundary pillars, signboards, monthly dispatch registers, and CCTV camera installations were properly maintained and found in good condition.

Enclosures: (Copies of statements enclosed)

Copies of statements of local villagers
Lease Agreement
Environmental Clearance (EC)
Consent to Operate (CTO)

Conclusion:

Based on the joint field verification conducted on 07.04.2026 by the officials of the Revenue Department, ROSPCB, RTO Department and Mining Department no evidence of illegal sand lifting was found in the inspected areas under Kharida Gram Panchayat, Hinjilicut Tahasil and Ganjam District.

However, in order to ensure continued regulatory compliance and to rule out any possibility of subsurface or excess extraction not apparent during physical inspection. Therefore M/s Zeotek Mining Solutions Pvt Ltd. (Empanelled agency of ORSAC) was requested to carry out drone survey to determine excess excavation if any. Vide our office letter no. 1311/Sairat date: 21.03.2026. (**Photo Enclosed**).

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Accordingly Drone Survey was conducted on date: 06.04.2026 (**Photo copy enclosed**). It is further submitted that upon receipt and examination of the drone survey report, in the event any excess excavation, deviation from approved mining plan, or violation of statutory norms is detected, appropriate legal and penal action shall be initiated strictly in accordance with the applicable rules, guidelines, and provisions of law.

10/04/26
Revenue Officials, Hinjilicut
Tahasildar
Hinjilicut (Gm.)

10.04.26
Mining Officer
O/o the Deputy Director of Mines
Ganjam Circle, Berhampur
Mining Officials, Ganjam
10.04.26

10.04.26
Asst. Env. Engineer
State Pollution Control Board
Berhampur, Odisha
State Pollution Control Board, Berhampur

10.04.2026
RTO, Ganjam, Chatrapur
Regional Transport Officer
Ganjam, Chatrapur

Mentioned Land schedule identified by me
Revenue Inspector
Sikiri, Ganjam

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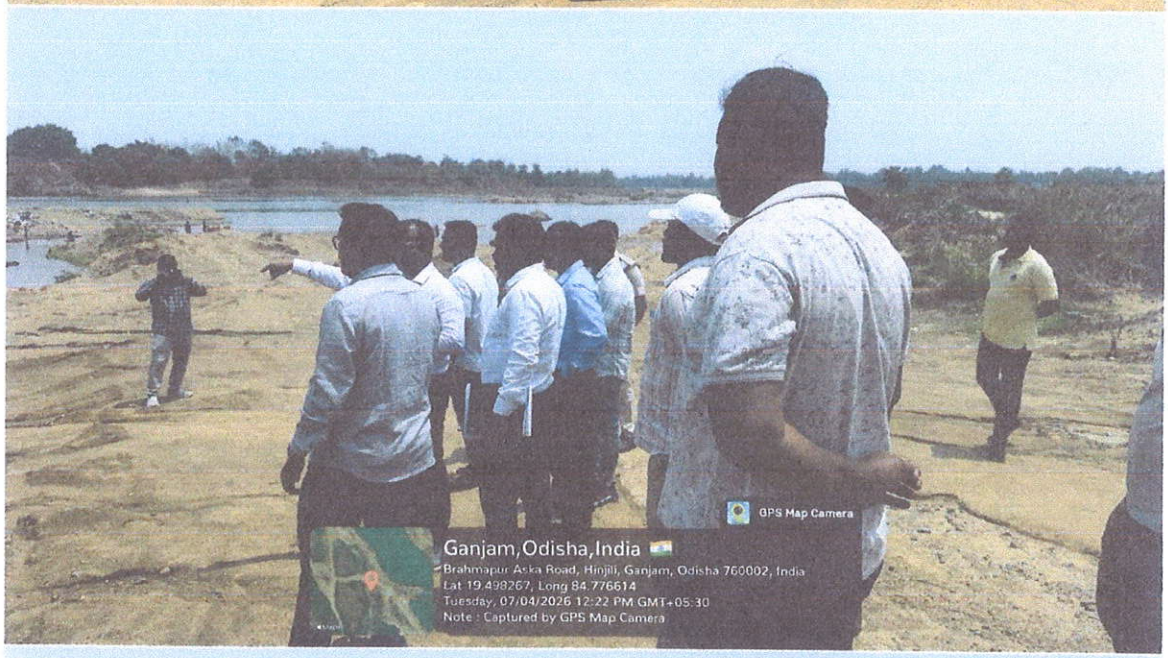

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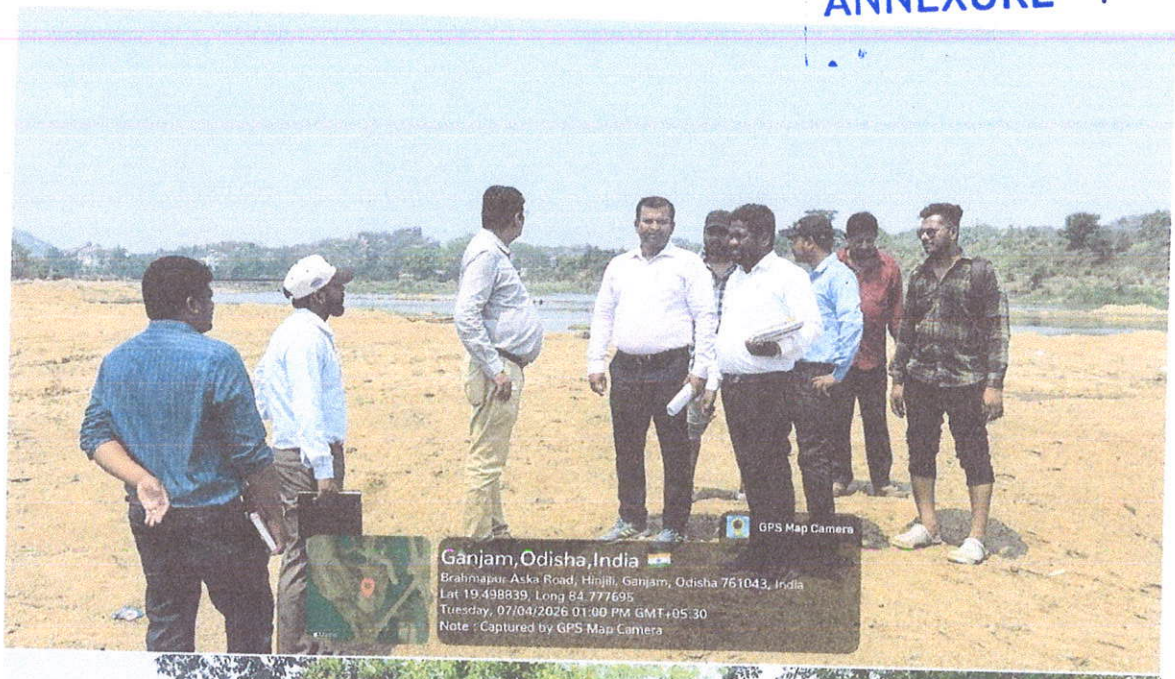
BY ADVOCATE

ANNEXURE-R-9/1 series



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BY ADVOCATE

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ANNEXURE-R-9/1 series

ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ଖରିଡ଼ା

ବ୍ଲକ୍ : ହିଞ୍ଜିଳିକାଟୁ (ଗଞ୍ଜାମ) ପିନ୍ : ୭୬୧୧୦୧

OFFICE OF THE KHARIDA GRAMPANCHAYAT

At. : Kharida, Block : Hinjilicut (Gm.) Pin : 761102

ପତ୍ରାଙ୍କ/Letter No. :..18/..2026 ତାରିଖ/Date : ..20.03.2026..

STATEMENT OF LOCAL INHABITANTS

We the undersigned inhabitants of village Kharida under Kharida Gram Panchyat are present at the time of joint inspection by the Tahsildar, Additional Tahasildar, Revenue inspector, Junior Mining Officer, Revenue Supervisor Hinjili, gave our statement to the effect that while the river Ghodahada and river Rushikulya is flowing in our village the Govt. allotted Sand bed KHARIDA bearing Khata No. 554, plot nos. 4553/1 & 4532/1 is operated by the lease holder Sri Kiran Kumar Panda as per the terms and conditions of the lease. Except that no other place is operated by him unauthorized. The lease holder is mining the sand as per the MGQ fixed in the lease and there is no excess amount of sand is mining over the sand bed. At the time of transportation of sand the lease holder is very vigilant regularly using tanker for sprinkling water over the used roads in order to protect the local inhabitants from dust and other hazardous materials.

There is no damage of any roads of our village due to the sand laden trucks are plying over it. In order to prevent accident at day time due to plying of sand laden trucks, the lease holder is operating at night hour as per the direction of the Hon'ble High Court. At the day time there is no mining operation taking place. Due to the operation of the sand bed there is no sign of loss to the river ridge, vegetation and also there is no sign of loss of flora and fauna in the particular area.

We the local inhabitants after gone through by read over and explained signed the statement.

SARAPANCHA
KHARIDA GRAMPANCHAYAT

Signature of the local inhabitants

Sanjaya Kumar Sarath
DEBASIS MAHEY
Pintu Sukum
Susanta Kumar Gauda.
Ramesh Behera

Pintu Pradhan
Arata Gouda
Sunil Sethy
Tukun Mund
Ranjan

TRUE COPY ATTESTED
BY ADVOCATE

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ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ଖରିଡ଼ା

ବ୍ଲକ୍ : ହିଞ୍ଜିଳିକାଟୁ (ଗଞ୍ଜାମ) ପିନ୍ : ୭୬୧୧୦୧

OFFICE OF THE KHARIDA GRAMPANCHAYAT

At. : Kharida, Block : Hinjilicut (Gm.) Pin : 761102

ପତ୍ରାଙ୍କ/Letter No. :...17/2026 ସ୍ଥାନୀୟ ବାସିନ୍ଦାଙ୍କ ବୟାନ ପତ୍ର ତାରିଖ/Date : 20.03.2026

ଆମେ ନିମ୍ନ ସ୍ୱାକ୍ଷରକାରୀ ଖରିଡ଼ା ଗ୍ରାମ ପଞ୍ଚାୟତ ଅନ୍ତର୍ଗତ ଗ୍ରାମବାସୀ ମାନେ ତହସିଲଦାର ହିଞ୍ଜିଳି, ଅତିରିକ୍ତ ତହସିଲଦାର ହିଞ୍ଜିଳି, କନିଷ୍ଠ ଖଣି ଅଧିକାରୀ, ରାଜସ୍ୱ ପର୍ଯ୍ୟବେକ୍ଷକ ଏବଂ ରାଜସ୍ୱ ନିରୀକ୍ଷକ ହିଞ୍ଜିଳିଙ୍କ ମିଳିତ ଯାଞ୍ଚ ସମୟରେ ଉପସ୍ଥିତ ଅଛୁ ଏବଂ ଏହି ବୟାନ ପତ୍ର ଲେଖିବାର କାରଣ ହେଉଛି ଯେ ଆମ ଗ୍ରାମପଞ୍ଚାୟତ ଅଧିନସ୍ଥ ଖରିଡ଼ା ଗ୍ରାମରେ ଘୋଡାହାଡ ନଦୀ ଓ ଋଷିକୂଲ୍ୟା ନଦୀ ପ୍ରବାହିତ ହେଉଥିବା ବେଳେ ସରକାରଙ୍କ ଦ୍ୱାରା ଆବଣ୍ଟିତ ଖରିଡ଼ା ବାଲି ଶଯ୍ୟା ଉତ୍ସ, (ଖାତା ନଂ ୫୫୪, ପ୍ଲଟ ନଂ ୪୫୫୩/୧ ଏବଂ ୪୫୩୨/୧) ଲିଜର ନିୟମ ଏବଂ ସର୍ତ୍ତାବଳୀ ଅନୁଯାୟୀ ଲିଜଧାରୀ ଶ୍ରୀ କିରଣ କୁମାର ପଣ୍ଡାଙ୍କ ଦ୍ୱାରା ସରକାରଙ୍କ ନିୟମାବଳୀ ପ୍ରକାରେ ବାଲି ଉଠାଣ କରାଯାଉଥିବା ଜଣାଯାଉଛି। ଏହା ବ୍ୟତୀତ ଅନ୍ୟ କୌଣସି ସ୍ଥାନ ତାଙ୍କ ଦ୍ୱାରା ଅନଧିକୃତ ଭାବରେ ବାଲି ଉଠାଣ ପରିଚାଳିତ ହେଉନାହିଁ। ଲିଜଧାରୀ ଲିଜରେ ସ୍ଥିର ହୋଇଥିବା MGQ ଅନୁଯାୟୀ ବାଲି ଖନନ କରୁଛନ୍ତି ଏବଂ ବାଲି ଶଯ୍ୟା ଉପରେ କୌଣସି ଅଧିକ ପରିମାଣର ବାଲି ଉଠାଣ ହେଉନାହିଁ।

ବାଲି ବୋଝେଇ ଟ୍ରକ୍ ପରିବହନ ସମୟରେ ଲିଜଧାରୀ ନିୟମିତ ଭାବରେ ବ୍ୟବହୃତ ରାସ୍ତା ଉପରେ ପାଣି ସିଞ୍ଚନ ପାଇଁ ଟ୍ୟାଙ୍କର ବ୍ୟବହାର କରି ଅତ୍ୟନ୍ତ ସତର୍କ ରୁହନ୍ତି ଏବଂ ରାସ୍ତା ଉପରେ ଧୂଳି ନ ଉଡିପାରିବ ଓ ଯେପରି ସ୍ଥାନୀୟ ବାସିନ୍ଦାଙ୍କୁ କୌଣସିପ୍ରକାର ଅସୁବିଧାର ସମ୍ମୁଖୀନ ନହେବ ତାହା ଧ୍ୟାନ ରଖନ୍ତି। ଆମ ଗାଁର କୌଣସି ରାସ୍ତା ଉପରେ ବାଲି ବୋଝେଇ ଟ୍ରକ୍ ଚଳାଚଳ କରୁଥିବା ଯୋଗୁଁ କୌଣସି କ୍ଷତି ହୋଇନାହିଁ। ବାଲି ବୋଝେଇ ଟ୍ରକ୍ ଚଳାଚଳ ଯୋଗୁଁ ଦିନରେ ଦୁର୍ଘଟଣା ରୋକିବା ପାଇଁ, ମାନ୍ୟବର ହାଇକୋର୍ଟଙ୍କ ନିର୍ଦ୍ଦେଶ ଅନୁଯାୟୀ ଲିଜ୍ ଧାରକ ରାତ୍ରି ସମୟରେ ବାଲି ବୋଝେଇ ନିମନ୍ତେ ଯାନବାହାନ ବ୍ୟବହାର କରୁଥିବାର ପ୍ରତୀତ ହେଉଅଛି। ଦିନ ସମୟରେ ଉକ୍ତ ବାଲି ଉତ୍ସରୁ ବାଲି ଉଠାଣ ସମ୍ପୂର୍ଣ୍ଣ ଭାବରେ ବନ୍ଦ ରହୁଛି। ଉକ୍ତ ବାଲି ଉତ୍ସରୁ ବାଲି ଉଠାଣ କାର୍ଯ୍ୟ ଯୋଗୁଁ ଉଦ୍ଭିଦ, ନଦୀ କୂଳ, ନଦୀବନ୍ଧ ତଥା ମତ୍ସ୍ୟସମ୍ପଦ ଏବଂ ଅନ୍ୟ ଜଳଚର ପ୍ରାଣୀମାନଙ୍କର କୌଣସିପ୍ରକାର କ୍ଷତି ଘଟୁଥିବାର ଜଣାଯାଉ ନାହିଁ।

ଆମେ ସ୍ଥାନୀୟ ବାସିନ୍ଦାମାନେ ଉକ୍ତ ତଥ୍ୟକୁ ସମ୍ପୂର୍ଣ୍ଣରୂପେ ପଢ଼ିବା, ବ୍ୟାଖ୍ୟା କରିବା ଓ ବୁଝିବା ପରେ ଏହି ବିବୃତିରେ ଦସ୍ତଖତ କଲୁ ଯାହା ଆବଶ୍ୟକସ୍ଥଳେ କର୍ମରେ ଆସିବ।

ସରପଞ୍ଚ
SARAPANCHA
KHARIDA GRAMPANCHAYAT

ଖରିଡ଼ା ଗ୍ରାମବାସୀବୃନ୍ଦଙ୍କ ସ୍ୱାକ୍ଷର

1) Santosya Kumar Swain
2) DEBASIS MOHANTY
3) Pinku Swain
4) Susanta Kumar Gauda.
5) Ramesh BEHERA

Pintu Pradhan
Arada Gauda
Sunil Sethy
Tapan Mund
Ranjan Das

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ANNEXURE-R-9/1 series

ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ସିକିରି

ଗ୍ରାମ/ପୋଷ୍ଟ : ସିକିରି, ପିନ୍ : ୭୬୧୧୦୨ (ଗଞ୍ଜାମ) ଓଡ଼ିଶା

OFFICE OF THE SIKIRI GRAMPANCHAYAT

AT/PO : SIKIRI, PIN : 761102 (GANJAM) ODISHA

OFFICE OF THE GRAM PANCHAYAT SIKIRI(GANJAM) Date No.

ପତ୍ର / Letter No. 34

ତାରିଖ / Date 20/03/2026

STATEMENT OF LOCAL INHABITANTS

We the undersigned inhabitants of village Sikiri under Sikiri Gram Panchyat are present at the time of joint inspection by the Tahsildar, Additional Tahasildar, Revenue inspector, Junior Mining Officer, Revenue Supervisor Hinjili, gave our statement to the effect that while the river Ghodahada and river Rushikulya is flowing in our village the Govt. allotted Sand bed KHARIDA bearing Khata No. 554, plot nos. 4553/1 & 4532/1 is operated by the lease holder Sri Kiran Kumar Panda as per the terms and conditions of the lease. Except that no other place is operated by him unauthorized. The lease holder is mining the sand as per the MGQ fixed in the lease and there is no excess amount of sand is mining over the sand bed. At the time of transportation of sand the lease holder is very vigilant regularly using tanker for sprinkling water over the used roads in order to protect the local inhabitants from dust and other hazardous materials.

There is no damage of any roads of our village due to the sand laden trucks are plying over it. In order to prevent accident at day time due to plying of sand laden trucks, the lease holder is operating at night hour as per the direction of the Hon'ble High Court. At the day time there is no mining operation taking place. Due to the operation of the sand bed there is no sign of loss to the river ridge, vegetation and also there is no sign of loss of flora and fauna in the particular area.

We the local inhabitants after gone through by read over and explained signed the statement.

Signature of the local inhabitants

Sarpanch
Sikiri Grampanchayat

Bhagaban Barik

Simachal Bhoi

Silu Bauela

Ram Krishna Panda (Ward Member No-13)

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BY ADVOCATE

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ANNEXURE -R-9/1series

চরাচাপড়ি

শান্তি নগর পাড়া

আগরতলা, ত্রিপুরা

TRUE COPY ATTESTED
BY ADVOCATE

DITTO copy is available at Page No-36

ANNEXURE-R-9/1 series

ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ସିକିରି

ଗ୍ରାମ/ପୋଷ୍ଟ : ସିକିରି, ପିନ୍ : ୭୬୧୧୦୨ (ଗଞ୍ଜାମ) ଓଡ଼ିଶା

OFFICE OF THE SIKIRI GRAMPANCHAYAT

AT/PO : SIKIRI, PIN : 761102 (GANJAM) ODISHA

OFFICE OF THE GRAMPANCHAYAT SIKIRIGANJAM

ପତ୍ର ନଂ / Letter No. MM

ତାରିଖ / Date 20/01/2025

ସ୍ଥାନୀୟ ବାସିନ୍ଦାଙ୍କ ବୟାନ ପତ୍ର

ଆମ୍ଭେ ନିମ୍ନ ସ୍ୱାକ୍ଷରକାରୀ ସିକିରି ଗ୍ରାମ ପଞ୍ଚାୟତ ଅନ୍ତର୍ଗତ ଗ୍ରାମବାସୀ ମାନେ ତହସିଲଦାର ହିଞ୍ଜିଳି, ଅତିରିକ୍ତ ତହସିଲଦାର ହିଞ୍ଜିଳି, କନିଷ୍ଠ ଖଣି ଅଧିକାରୀ, ରାଜସ୍ୱ ପର୍ଯ୍ୟବେକ୍ଷକ ଏବଂ ରାଜସ୍ୱ ନିରୀକ୍ଷକ ହିଞ୍ଜିଳିଙ୍କ ମିଳିତ ଯାଞ୍ଚ ସମୟରେ ଉପସ୍ଥିତ ଅଛୁ ଏବଂ ଏହି ବୟାନ ପତ୍ର ଲେଖିବାର କାରଣ ହେଉଛି ଯେ ଆମ ଗ୍ରାମପଞ୍ଚାୟତ ଅଧିନସ୍ଥ ସିକିରି ଗ୍ରାମରେ ଘୋଡାହାଡ ନଦୀ ଓ ଋଷିକୂଲ୍ୟା ନଦୀ ପ୍ରବାହିତ ହେଉଥିବା ବେଳେ ସରକାରଙ୍କ ଦ୍ୱାରା ଆବଣ୍ଟିତ ଖରିଡ଼ା ବାଲି ଶଯ୍ୟା ଉସ୍ତ, (ଖାତା ନଂ ୫୫୪, ପ୍ଲଟ ନଂ ୪୫୫୩/୧ ଏବଂ ୪୫୩୨/୧) ଲିଜର ନିୟମ ଏବଂ ସର୍ତ୍ତାବଳୀ ଅନୁଯାୟୀ ଲିଜଧାରୀ ଶ୍ରୀ କିରଣ କୁମାର ପଣ୍ଡାଙ୍କ ଦ୍ୱାରା ସରକାରଙ୍କ ନିୟମାବଳୀ ପ୍ରକାରେ ବାଲି ଉଠାଣ କରାଯାଉଥିବା ଜଣାଯାଉଛି। ଏହା ବ୍ୟତୀତ ଅନ୍ୟ କୌଣସି ସ୍ଥାନ ତାଙ୍କ ଦ୍ୱାରା ଅନଧିକୃତ ଭାବରେ ବାଲି ଉଠାଣ ପରିଚାଳିତ ହେଉନାହିଁ। ଲିଜଧାରୀ ଲିଜରେ ସ୍ଥିର ହୋଇଥିବା MGQ ଅନୁଯାୟୀ ବାଲି ଖନନ କରୁଛନ୍ତି ଏବଂ ବାଲି ଶଯ୍ୟା ଉପରେ କୌଣସି ଅଧିକ ପରିମାଣର ବାଲି ଉଠାଣ ହେଉନାହିଁ।

ବାଲି ବୋଝେଇ ଟ୍ରକ୍ ପରିବହନ ସମୟରେ ଲିଜଧାରୀ ନିୟମିତ ଭାବରେ ବ୍ୟବହୃତ ରାସ୍ତା ଉପରେ ପାଣି ସିଞ୍ଚନ ପାଇଁ ଟ୍ୟାଙ୍କର ବ୍ୟବହାର କରି ଅତ୍ୟନ୍ତ ସତର୍କ ରୁହନ୍ତି ଏବଂ ରାସ୍ତା ଉପରେ ଧୂଳି ନ ଉଡିପାରିବ ଓ ଯେପରି ସ୍ଥାନୀୟ ବାସିନ୍ଦାଙ୍କୁ କୌଣସିପ୍ରକାର ଅସୁବିଧାର ସମ୍ମୁଖୀନ ନହେବ ତାହା ଧ୍ୟାନ ରଖନ୍ତି। ଆମ ଗାଁର କୌଣସି ରାସ୍ତା ଉପରେ ବାଲି ବୋଝେଇ ଟ୍ରକ୍ ଚଳାଚଳ କରୁଥିବା ଯୋଗୁଁ କୌଣସି କ୍ଷତି ହୋଇନାହିଁ। ବାଲି ବୋଝେଇ ଟ୍ରକ୍ ଚଳାଚଳ ଯୋଗୁଁ ଦିନରେ ଦୁର୍ଘଟଣା ରୋକିବା ପାଇଁ, ମାନ୍ୟବର ହାଇକୋର୍ଟଙ୍କ ନିର୍ଦ୍ଦେଶ ଅନୁଯାୟୀ ଲିଜ୍ ଧାରକ ରାତ୍ରି ସମୟରେ ବାଲି ବୋଝେଇ ନିମନ୍ତେ ଯାନବାହାନ ବ୍ୟବହାର କରୁଥିବାର ପ୍ରତୀତ ହେଉଅଛି। ଦିନ ସମୟରେ ଉକ୍ତ ବାଲି ଉସ୍ତରୁ ବାଲି ଉଠାଣ ସମ୍ପୂର୍ଣ୍ଣ ଭାବରେ ବନ୍ଦ ରହୁଛି। ଉକ୍ତ ବାଲି ଉସ୍ତରୁ ବାଲି ଉଠାଣ କାର୍ଯ୍ୟ ଯୋଗୁଁ ଉଦ୍ଭିଦ, ନଦୀ କୂଳ, ନଦୀବନ୍ଧ ତଥା ମତ୍ସ୍ୟସମ୍ପଦ ଏବଂ ଅନ୍ୟ ଜଳଚର ପ୍ରାଣୀମାନଙ୍କର କୌଣସିପ୍ରକାର କ୍ଷତି ଘଟୁଥିବାର ଜଣାଯାଉ ନାହିଁ।

ଆମେ ସ୍ଥାନୀୟ ବାସିନ୍ଦାମାନେ ଉକ୍ତ ତଥ୍ୟକୁ ସମ୍ପୂର୍ଣ୍ଣରୂପେ ପଢ଼ିବା, ବ୍ୟାଖ୍ୟା କରିବା ଓ ବୁଝିବା ପରେ ଏହି ବିବୃତିରେ ଦସ୍ତଖତ କଲୁ ଯାହା ଆବଶ୍ୟକସ୍ଥଳେ କର୍ମରେ ଆସିବ।

ସିକିରି ଗ୍ରାମବାସୀବୃନ୍ଦଙ୍କ ସ୍ୱାକ୍ଷର

Sarapanch
Sikiri Grampanchayat

Bhagaratha Barada

Bulu Gouda

Suraj Ku. Panigrahi

Simu Chal Bhuyan

Silu Gauda

Ramkrushna Barada
(Ward Member No-14)

TRUE COPY ATTESTED
BY ADVOCATE

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চন্দ্রকান্ত কে
কাশি নগর থানা
রামগড়িয়া চৌকি
ALERT Judain

TRUE COPY ATTESTED
BY ADVOCATE

DITTO COPY is available at page No-41

ANNEXURE-R-9/1 Series

ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ଖରିଡ଼ା

ବ୍ଲକ୍ : ହିଞ୍ଜିଳିକାଟୁ (ଗଞ୍ଜାମ) ପିନ୍ : ୭୬୧୧୦୨

OFFICE OF THE KHARIDA GRAMPANCHAYAT

At. : Kharida, Block : Hinjilicut (Gm.) Pin : 761102

ପତ୍ରାଙ୍କ/Letter No. : 19/2022..... ତାରିଖ/Date : 26/03/2022.....

ସ୍ଥାନୀୟ ବାସିନ୍ଦାଙ୍କ ବୟାନ ପତ୍ର

ଆମେ ନିମ୍ନ ସ୍ୱାକ୍ଷରକାରୀ ଖରିଡା ଗ୍ରାମ ପଞ୍ଚାୟତ ଅନ୍ତର୍ଗତ ଗ୍ରାମବାସୀମାନେ, ମାଆ କୁରେଇଶୁଣୀ ମନ୍ଦିର ପଛ ପଟେ ଥିବା ନଦୀ ନିକଟରେ ଅବସ୍ଥିତ ଶ୍ମଶାନ ଭୂମି ସମ୍ପର୍କିତ ଗୋଟିଏ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ସାମୁହିକ ଆବଶ୍ୟକତା ବିଷୟରେ ଆମର ମତ ପ୍ରକାଶ କରୁଛୁ।

ଆମେ ଏହି ବୟାନ ପତ୍ର ଲେଖିବାର କାରଣ ହେଉଛି ଯେ, ଘୋଡାହାଡ଼ା ନଦୀ ଏବଂ ରୁସିକୁଲ୍ୟା ନଦୀ ସିକିରି ଗ୍ରାମ ପଞ୍ଚାୟତ ଓ ଖରିଡା ଗ୍ରାମ ପଞ୍ଚାୟତ ମଧ୍ୟରେ ପ୍ରବାହିତ ହେଉଅଛି । ଆମେ ଏହି ଦୁଇଟି ପଞ୍ଚାୟତର ଲୋକମାନେ ଯେତେବେଳେ କୌଣସି ମୃତ୍ୟୁବରଣ କରିଥିବା ବ୍ୟକ୍ତିଙ୍କ ଅନ୍ତେଷ୍ଟି କ୍ରିୟା କାର୍ଯ୍ୟ ସମ୍ପାଦନ କରୁ ସେତେବେଳେ ଏହିଠାରେ ଥିବା ଗୋଟିଏ ସାଧାରଣ ଶ୍ମଶାନ ଭୂମିକୁ ବ୍ୟବହାର କରୁ। ବର୍ତ୍ତମାନ ଶ୍ମଶାନ ଭୂମି ଏକ ଖୋଲା ଜାଗା ଭାବରେ ରହିଛି, ଯାହା ବିଶେଷକରି ବର୍ଷାଋତୁ ସମୟରେ ଗୁରୁତର ସମସ୍ୟା ସୃଷ୍ଟି କରୁଛି। ସେହି ସମୟରେ ଯଥୋଚିତ ଆଶ୍ରୟ ଓ ସଂରକ୍ଷଣ ସୁବିଧା ଦରକାର ଥିବାରୁ ଏବଂ ଦାହ ସମୟରେ ଆବଶ୍ୟକ ଜାଳେଣି କାଠ ଓ ଅନ୍ୟାନ୍ୟ ସାମଗ୍ରୀଗୁଡିକ ବର୍ଷା ଯୋଗୁଁ ଭିଜିଯାଉଛି ଓ ବ୍ୟବହାର ଅନୁପଯୋଗୀ ହେଉଛି। ଏହି ପରିସ୍ଥିତିକୁ ଧ୍ୟାନରଖି ଶ୍ମଶାନ ଭୂମି ନିକଟସ୍ଥ ଜାଗାରେ ଏକ ଛୋଟ ଘର/ସେଡ୍ ଆମ ଦୁଇ ଗ୍ରାମ ପଞ୍ଚାୟତର ସମସ୍ତଙ୍କ ଦାନରେ ତିଆରି ହୋଇଅଛି। ଏଥିରେ ବାହାର ଲୋକଙ୍କର କୌଣସି ଖର୍ଚ୍ଚ ନାହିଁ। ଏହା ଏକ ଛୋଟ ଘର/ସେଡ୍ ଯାହାକି ଜଙ୍ଗଲ ଜମିରେ ଅବସ୍ଥିତ। ଏହା ଦୁଇ ପଞ୍ଚାୟତର ଲୋକଙ୍କ ମଙ୍ଗଳ କର୍ମରେ ବ୍ୟବହାର ହେଉଥିବାରୁ ସମସ୍ତଙ୍କ ସହମତ ଅଛି। ଏହି ପଦକ୍ଷେପ କେବଳ ଅନ୍ତେଷ୍ଟି କ୍ରିୟାକୁ ସୁଚାରୁ ଭାବେ ସମ୍ପାଦନର ବିଷୟ ନୁହେଁ ବରଂ ଦିବଙ୍ଗତ ଆତ୍ମା ଏବଂ ସେମାନଙ୍କ ପରିବାର ପ୍ରତି ସମ୍ମାନ, ମର୍ଯ୍ୟାଦା ଏବଂ ସାଂସ୍କୃତିକ ଦାୟିତ୍ୱର ମଧ୍ୟ ଏକ ବିଷୟ।

ଏହା ଆମ ସମସ୍ତଙ୍କର ଏକ ସାମୁହିକ ପ୍ରୟାସ। ଆମେ ସ୍ଥାନୀୟ ବାସିନ୍ଦାମାନେ ଏହି ଲିଖିତ ବିଷୟକୁ ସମ୍ପୂର୍ଣ୍ଣରୂପେ ପଢ଼ି ବୁଝିବା ପରେ ଏହି ବିବୃତିରେ ଦସ୍ତଖତ କଲୁ ଯାହା ଆବଶ୍ୟକସ୍ଥଳେ କର୍ମରେ ଆସିବ।

ଖରିଡା ଗ୍ରାମବାସୀବୃନ୍ଦଙ୍କ ସ୍ୱାକ୍ଷର

SARAPANCHA
KHARIDA GRAMPANCHAYAT

1 [illegible]
2 Santosh Kumar Sahu
3 Pratap Behera
4 Susanta Kumar Gauda
5 Pintu Badhan
6 Soumya Ranjan Behera
7 Shekar Ku Sahin
8 Bikash Sahin
9) Sanjay Behera
10) Arjun Behera
11) [illegible]
12) Jayanta Behera

TRUE COPY ATTESTED
BY ADVOCATE

DITTO copy of page No-40

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ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ଖରିଡ଼ା

ବ୍ଲକ୍ : ହିଞ୍ଜିଳିକାଟୁ (ଗଞ୍ଜାମ) ପିନ୍ : ୭୬୧୧୦୨

OFFICE OF THE KHARIDA GRAMPANCHAYAT

At. : Kharida, Block : Hinjilicut (Gm.) Pin : 761102

ପତ୍ରାଙ୍କ/Letter No. : 20/2026 .. ତାରିଖ/Date : 26/02/2026..

Statement of Local Residents

We, the undersigned, the villagers of Kharida Gram Panchayat, express our views on an important communal need regarding the cremation ground located near the river behind the Maa Kureisuni Mandir. The reason for writing this statement is that the Ghodhaha River and the Rosikulya River flow between Sikiri Gram Panchayat and Kharida Gram Panchayat. We, the people of these two Panchayats, use a common cremation ground here when we perform the cremation of a deceased person.

The cremation ground is an open space, which is causing serious problems especially during the rainy season. At that time, due to the need for proper shelter and protection facilities, and the firewood and other materials required during cremation, get soaked due to the rain and become unusable.

Keeping this situation in mind, a small house/shed has been built near the cremation ground with the donations of all the people of our two Gram Panchayats. There is no cost from any outsiders. It is a small house/shed constructed in the forest land. It is being used for the welfare of the people of two panchayats and everyone agrees. This step is not only about conducting the funeral properly but also about respect, dignity and cultural responsibility towards the deceased and their families.

This is a collective effort of all of us. We, the local residents, have read this written matter thoroughly and signed this statement which will come in handy if needed.

ସରପଞ୍ଚ
SARAPANCHA
KHARIDA GRAMPANCHAYAT.

Signature of Kharida Villagers

1 [illegible]
2 Santosh Kumar Sahu
3 Pratap Behera
4 Sasanta Kumar Gudei
5 Pintu Pradhan
6 Soumya Ranjan Behera
7 Shekar Ku Swain
8 Bhikari Swain
9 Sanjay Behera
10 Tikun Behera
11 [illegible]
12 Lagnhat Behera

TRUE COPY ATTESTED
BY ADVOCATE

ANNEXURE-R-9/1 series

ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ, ସିକିରି

ଗ୍ରାମ/ପୋଷ୍ଟ : ସିକିରି, ପିନ୍ : ୭୬୧୧୦୨ (ଗଞ୍ଜାମ) ଓଡ଼ିଶା

OFFICE OF THE SIKIRI GRAMPANCHAYAT

AT/PO : SIKIRI, PIN : 761102 (GANJAM) ODISHA

ତାରିଖ / Date 26/03/2026

ପତ୍ରାଙ୍କ / Letter No. 47/2026

Statement of Local Residents

We, the undersigned, the villagers of Sikiri Gram Panchayat, express our views on an important communal need regarding the cremation ground located near the river behind the Maa Kureisuni Mandir. The reason for writing this statement is that the Ghodhaha River and the Rosikulya River flow between Sikiri Gram Panchayat and Kharida Gram Panchayat. We, the people of these two Panchayats, use a common cremation ground here when we perform the cremation of a deceased person.

The cremation ground is an open space, which is causing serious problems especially during the rainy season. At that time, due to the need for proper shelter and protection facilities, and the firewood and other materials required during cremation, get soaked due to the rain and become unusable.

Keeping this situation in mind, a small house/shed has been built near the cremation ground with the donations of all the people of our two Gram Panchayats. There is no cost from any outsiders. It is a small house/shed constructed in the forest land. It is being used for the welfare of the people of two panchayats and everyone agrees. This step is not only about conducting the funeral properly but also about respect, dignity and cultural responsibility towards the deceased and their families.

This is a collective effort of all of us. We, the local residents, have read this written matter thoroughly and signed this statement which will come in handy if needed.

Signature of Sikiri Villagers

Suresh Barada
Sarapanch
Sikiri Grampanchayat

Sudama Behera
Sisira Bajara
Bichakuna Bhoi
Balakrushna Panigrahy
Ram Krishna Barada
Debiya Kr Nayak
Soba
Nanda
Sibanonda Puthrel

Nikunjbihari Sahu
Jaganath Rout

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TRANSIT PASS DETAILS

Date & Time : 05-Jan-2026 07:15:30 PM - 06-Jan-2026 04:15:30 AM

Pass No. : A2512060005/1/37

1. Book No. : NA
2. Circle Mining Office : BERHAMPUR
3. Name of the Quarry/Lease/Source of Auction : Long term lease of sand bed,kharida
4. Name of the Licensee/Lessee/Permit Holder/Auction Holder/Auction Purchaser : Sri Kiran Kumar Panda
5. Destination : SAKTI SAHU , GIRISOLA Route : SIKIRI
6. Minor Mineral : SAND
7. Permit No. : NA Date : 05-Jan-2026 07:15:30 PM
8. Quantity Permitted (Cum/Tonnes) : 16.00 Cum
9. Measurement of Mineral in Carrier (in meter) : OD07BA9500

Length	Breadth	Height
NA	NA	NA

10. Cubic Content (Cum) : 16.00
11. Weight of the Vehicle (Tonnes) Gross : NA Tare : NA
12. Weight of the Mineral : NA

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ANNEXURE-R-9/1 series

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TRANSIT PASS DETAILS

Pass No. : A2512060006/1/6

Date & Time : 06-Jan-2026 09:03:44 AM - 06-Jan-2026 06:03:44 PM

1. Book No. : NA
2. Circle Mining Office : BERHAMPUR
3. Name of the Quarry/Lease/Source of Auction : Long term lease of sand bed,kharida
4. Name of the Licensee/Lessee/Permit Holder/Auction Holder/Auction Purchaser : Sri Kiran Kumar Panda
5. Destination : SAKTI SAHU , GIRISOLA Route : SIKIRI
6. Minor Mineral : SAND
7. Permit No. : NA Date : 06-Jan-2026 09:03:44 AM
8. Quantity Permitted (Cum/Tonnes) : 6.00 Cum
9. Measurement of Mineral in Carrier (in meter) : OR16D1096

Length	Breadth	Height
NA	NA	NA

10. Cubic Content (Cum) : 6.00
11. Weight of the Vehicle (Tonnes) Gross : NA Tare : NA
12. Weight of the Mineral : NA

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Annexure-R-9/1series.

ANNEXURE-R-9/2series

UE

E-mail: rospcb.berhampur@ospcboard.org
Website: www.ospcboard.org

ODISHA

REGIONAL OFFICE
STATE POLLUTION CONTROL BOARD, ODISHA

[DEPARTMENT OF FOREST, ENVIRONMENT& CLIMATE CHANGE, GOVERNMENT OF ODISHA]
2nd Floor, New Division Office, IDCO, Berhampur Division, Industrial Estate, Berhampur,
Dist- Ganjam - 760008, Odisha, India

CONSENT ORDER

By Regd.Post

No. 1772 **/ CTO-1160/2016** **Date** 02/05/2026

CONSENT ORDER NO. 1779 **/2026-27**

Sub: **Consent to Operate U/S 25/26 of Water (PCP) Act, 1974 and U/S 21 of Air (PCP) Act, 1981**

Ref: Your online Consent to Operate application ID No: **7764954**

Consent to Operate is hereby granted under section 25/26 of Water (Prevention& Control of Pollution) Act, 1974 and under section 21 of Air (Prevention & Control of Pollution) Act, 1981 and rules framed thereunder to:

Name of the Mine: **M/s Kharida Sand Bed of Sri Kiran Kumar Panda over Plot Nos. 4532/1, Khata No. 554 (Minor Mineral), Mine lease area of 13.00 Acres/5.261 Hectares, Village/Mouza- Kharida, Tahasil-Hinjiicut, Dist.-Ganjam, Odisha**

Name of the Occupier &Designation: **Sri Kiran Kumar Panda, Lessee**

Address: **At: Khalasi Sahi, Berhampur, Dist..-Ganjam ,Odisha**

This consent order is valid for the period up to 31.03.2027 or validity of EC or validity of DSR, whichever is earlier.

This consent order is valid for the mineral quantity, specified outlets, discharge quality and quality, specified chimney/stack, emission quantity and quantity of emissions as specified below. This consent is granted subject to the general and special conditions stipulated therein.

A. Details of Minerals:

Sl.No.	Mineral	Quantity
1	Mining of Sand	Maximum: 15,500 Cum/Annum.

B. Discharge permitted through the following outlet subject to the standard

Outlet no	Description of outlet	Point of discharge	Quantity of discharge KLD or KL/hr.	Prescribed standard in mg/l except pH			
				pH	TSS	BOD	COD
1	Domestic waste water	Soak pit via septic tank	--	-	-	-	-

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CONSENT ORDER

C. Emission permitted through the following stack subject to the prescribed standard

Chimney Stack No	Description of Stack	Stack height (m)	Quantity of emission	Prescribed Standard in mg/Nm^3			
				PM	SO_2	NO_x	H_2S
-	-	-	-	-	-	-	-

D. Disposal of solid waste permitted in the following manner

Sl. No	Type of solid waste	Quantity generated (TPD)	Quantity to be reused on site (TPD)	Quantity to be reused off site (TPD)	Quantity disposed off (TPD)	Description of disposal site
1	Over burden/ Top soil	As per the approved mining plan	-	-	-	As per approved mining plan

E. GENERAL CONDITIONS FOR ALL UNITS

1. The consent is given by the Board in consideration of the particulars given in the application. Any change or alternation or deviation made in actual practice from the particulars furnished in the application will also be the ground liable for review/variation/revocation of the consent order under section 27 of the Act of Water (Prevention & Control of Pollution) Act, 1974 and section 21 of Air (Prevention & Control of Pollution) Act, 1981 and to make such variations as deemed fit for the purpose of the Acts.
2. The mine/industry would immediately submit revised application for consent to operate to this Board in the event of any change in the quantity and quality of raw material / and products / manufacturing process or quantity /quality of the effluent rate of emission / air pollution control equipment / system etc.
3. The applicant shall not change or alter either the quality or quantity or the rate of discharge or temperature or the route of discharge without the previous written permission of the Board.
4. The application shall comply with and carry out the directives/orders issued by the Board in this consent order and at all subsequent times without any negligence on his part. . In case of non-compliance of any order/directives issued at any time and/or violation of the terms and conditions of this consent order, the applicant shall be liable for legal action as per the provisions of the Law/Act.
5. The applicant shall make an application for grant of fresh consent at least 90 days before the date of expiry of this consent order.
6. The issuance of this consent does not convey any property right in either real or personal property or any exclusive privileges nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Central, State laws or regulation.
7. This consent does not authorize or approve the construction of any physical structure or facilities or the undertaking of any work in any natural water course.
8. The applicant shall display this consent granted to him in a prominent place for perusal of the public and inspecting officers of this Board.
9. An inspection book shall be opened and made available to Board's Officers during the visit to the factory.
10. The applicant shall furnish to the visiting officer of the Board any information regarding the construction, installation or operation of the plant or of effluent treatment system / air pollution control system / stack monitoring system any other particulars as may be pertinent to preventing and controlling pollution of Water / Air.
11. Meters must be affixed at the entrance of the water supply connection so that such meters are easily accessible for inspection and maintenance and for other purposes of the Act provided that the place where it is affixed shall in no case be at a point before which water has been taped by the consumer for utilization for any purposes whatsoever.

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ANNEXURE-R-9/2 series

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CONSENT ORDER

12. Separate meters with necessary pipe-line for assessing the quantity of water used for each of the purposes mentioned below:
    a) Industrial cooling, spraying in mine pits or boiler feed,
    b) Domestic purpose
    c) Process
13. The applicant shall display suitable caution board at the place where the effluent is entering into any water-body or any other place to be indicated by the Board, indicating therein that the area into which the effluents are being discharged is not fit for the domestic use/bathing.
14. Storm water shall not be allowed to mix with the trade and/or domestic effluent on the upstream of the terminal manholes where the flow measuring devices will be installed.
15. The applicant shall maintain good house-keeping both within the factory and the premises. All pipes, valves, sewers and drains shall be leak-proof. Floor washing shall be admitted into the effluent collection system only and shall not be allowed to find their way in storm drains or open areas.
16. The applicant shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems install or used by him to achieve with the term(s) and conditions of the consent.
17. Care should be taken to keep the anaerobic lagoons, if any, biologically active and not utilized as mere stagnation ponds. The anaerobic lagoons should be fed with the required nutrients for effective digestion. Lagoons should be constructed with sides and bottom made impervious.
18. The utilization of treated effluent on factory's own land, if any, should be completed and there should be no possibility of the effluent gaining access into any drainage channel or other water courses either directly or by overflow.
19. The effluent disposal on land, if any, should be done without creating any nuisance to the surroundings or inundation of the lands at any time.
20. If at any time the disposal of treated effluent on land becomes incomplete or unsatisfactory or create any problem or becomes a matter of dispute, the industry must adopt alternate satisfactory treatment and disposal measures.
21. The sludge from treatment units shall be dried in sludge drying beds and the drained liquid shall be taken to equalization tank.
22. The effluent treatment units and disposal measures shall become operative at the time of commencement of production.
23. The applicant shall provide port holes for sampling the emissions and access platform for carrying out stack sampling and provide electrical outlet points and other arrangements for chimneys/stacks and other sources of emissions so as to collect samples of emission by the Board or the applicant at any time in accordance with the provision of the Act or Rules made therein.
24. The applicant shall provide all facilities and render required assistance to the Board staff for collection of samples / stack monitoring / inspection.
25. The applicant shall not change or alter either the quality or quantity or rate of emission or install, replace or alter the air pollution control equipment or change the raw material or manufacturing process resulting in any change in quality and/or quantity of emissions, without the previous written permission of the Board.
26. No control equipments or chimney shall be altered or replaced or as the case may be erected or re-erected except with the previous approval of the Board.
27. The liquid effluent arising out of the operation of the air pollution control equipment shall be treated in the manner and to ion of standards prescribed by the Board in accordance with the provisions of Water (Prevention and Control of Pollution) Act, 1974 (as amended).
28. The stack monitoring system employed by the applicant shall be opened for inspection to this Board at any time.
29. There shall not be any fugitive or episodal discharge from the premises.
30. In case of such episodal discharge/emissions the industry shall take immediate action to bring down the emission within the limits prescribed by the Board in conditions/stop the operation of the plant. Report of such accidental discharge /emission shall be brought to the notice of the Board within 24 hours of occurrence.
31. The applicant shall keep the premises of the industrial plant and air pollution control equipments clean and make all hoods, pipes, valves, stacks/chimneys leak proof. The air pollution control equipments, location, inspection chambers, sampling port holes shall be made easily accessible at all times.

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ANNEXURE-R-9/2series

32. Any upset condition in any of the plant/plants of the factory which is likely to result in increased effluent discharge/emission of air pollutants and / or result in violation of the standards mentioned above shall be reported to the Headquarters and Regional Office of the Board by fax / speed post within 24 hours of its occurrence.
33. The industry has to ensure that minimum three varieties of trees are planted at the density of not less than 100 trees per acre. The trees may be planted along boundaries of the industries or industrial premises. This plantation is stipulated over and above the bulk plantation of trees in that area.
34. The solid waste such as sweeping, wastage packages, empty containers residues, sludge including that from air pollution control equipments collected within the premises of the industrial plants shall be disposed off scientifically to the satisfaction of the Board, so as no to cause fugitive emission, dust problems through leaching etc., of any kind.
35. All solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board by:
    i) Land fill in case of inert material, care being taken to ensure that the material does not give rise to leachate which may percolate into ground water or carried away with storm run-off.
    ii) Controlled incineration, wherever possible in case of combustible organic material.
    iii) Composting, in case of bio-degradable material.
36. Any toxic material shall be detoxicated if possible, otherwise be sealed in steel drums and buried in protected areas after obtaining approval of this Board in writing. The detoxication or sealing and burying shall be carried out in the presence of Board's authorized persons only. Letter of authorization shall be obtained for handling and disposal of hazardous wastes.
37. If due to any technological improvement or otherwise this Board is of opinion that all or any of the conditions referred to above requires variation (including the change of any control equipment either in whole or in part) this Board shall after giving the applicant an opportunity of being heard, vary all or any of such condition and thereupon the applicant shall be bound to comply with the conditions so varied.
38. The applicant, his/heirs/legal representatives or assignees shall have no claim whatsoever to the condition or renewal of this consent after the expiry period of this consent.
39. The Board reserves the right to review, impose additional conditions or condition, revoke change or alter the terms and conditions of this consent.
40 Notwithstanding anything contained in this conditional letter of consent, the Board hereby reserves to it the right and power under section 27(2) of the Water (Prevention & Control of Pollution) Act, 1974 to review any and/or all the conditions imposed herein above and to make such variations as deemed fit for the purpose of the Act by the Board.
41. The conditions imposed as above shall continue to be in force until revoked under section 27(2) of the Water (Prevention & Control of Pollution) Act, 1974 and section 21 A of Air (Prevention & Control of Pollution) Act, 1981.
42. In case the consent fee is revised upward during this period, the industry shall pay the differential fees to the Board (for the remaining years) to keep the consent order in force. If they fail to pay the amount within the period stipulated by the Board the consent order will be revoked without prior notice.
43. The Board reserves the right to revoke/refuse Consent to Operate at any time during period for which consent is granted in case any violation is observed and to modify/ stipulate additional conditions as deemed appropriate.

F. SPECIALCONDITIONS

A. GENERAL

1. **This Consent to Operate order is subject to final order/outcome of the case pending before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata vide original Application No.54/2026/EZ -Rajani Kanta Padhy Vs State of Odisha & Ors. The lessee shall abide by the final order/outcome in the aforesaid matter.**
2. **The mine shall abide by the stipulated conditions of environmental clearance obtained from the State Environmental Impact Assessment Authority (SEIAA) vide EC identification No. EC24B001OR111384 dtd. 13.12.2024.**
3. **As per MoEF & CC, Office Memorandum dtd. 14.01.2025, the project proponent shall append the Environmental Safeguards (as stipulated by this Office letter no. 199 dtd.16.01.2025) in the Environmental Clearance issue by the SEIAA, Odisha.**

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ODISHA

CONSENT ORDER

4. **Mining of sand from the sand quarry shall be as per approved mining plan and valid environmental clearance. The production shall be restricted to the lowest approved quantity among EC & Mining plan.**
5. **The lessee shall intimate the status of amendment of EC if any and accordingly amend the CTO.**
6. **The lessee shall undertake study of annual replenishment rate of sand as per condition stipulated in EC.**
7. Mining operation is subject to availability of all other statutory clearances required under relevant Acts/Rules and fulfillment of required procedural formalities.
8. The mine shall maintain the ambient noise standards as prescribed in the Noise Pollution (Regulation and Control) Rules, 2000 and amendment made there under.
9. The mine shall obtain necessary permission from the central Ground Water Authority for consumption of ground water for industrial use if applicable.
10. The mine shall adopt adequate safety measures inside the mine / quarry premises including fire safety and obtain necessary permission from the competent authorities.
11. No mining activity shall be carried out in the vicinity of natural/manmade archaeological sites.
12. The annual production shall not exceed the consented quantity. Copy of the annual return (Annual return submitted to DGM/IBM) shall be submitted every year to the Board. Environmental statement report shall also be submitted every year to the Board in prescribed format.
13. Any change in mining technology/scope of working shall not be made without prior approval of the SEIAA.
14. Any change in the calendar plan including excavation, quantum of mineral and waste shall not be made.
15. Greenbelt shall be developed as per approved Mining Plan and Environmental Clearance.
16. There shall be no mining zone and no working zone as per condition no. 7A (ii) and 7.14 stipulated in the EC vide EC identification No. EC24B001OR111384 dtd. 13.12.2024
17. The natural sand dunes, if any, near or surrounding the lease area shall not be disturbed.
18. The proponent shall take necessary measures to ensure no adverse impact caused due to mining activities on the human habitations existing nearby.
19. The unit shall pay differential fees if any as per the Odisha Gazette Notification dtd. 16.07.2012 of Forest and Environment Department, Government of Odisha
20. The Board may impose further conditions or modify the conditions as stipulated in this order during installation and may revoke this order in case the stipulated conditions are not implemented and / or information are found to have been suppressed / wrongly furnished in the application form.
21. If any public compliant is found and would be verified and if it has adverse impact on nearby villagers then consent to operate would be revoked and legal action would be undertaken.
22. The following measures are to be implemented to reduce noise pollution.
    i. Regular maintenance of vehicles and other equipment.

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ii. Limiting time of exposure of workers to excessive noise.
iii. The workers employed shall be provided with protection equipment and earmuffs etc.
iv. Speed of trucks entering or leaving the mine is to be limit to moderate speed of 25 km/h to prevent undue noise from empty trucks

B. WATER POLLUTION:

1. The mining shall not affect the existing sources of irrigation or drinking water.
2. Surface runoff shall be allowed to flow through garland drains and the accumulated water in the garland drains shall be passed through settling ponds to allow the silt to be settled before final discharge to surrounding environment.
3. Mining is not permissible within the water channel or stream flow area. No stream shall be diverted for the purpose of mining and no natural water course shall be obstructed. The mining or any ancillary activity shall not in any way disturb the flow pattern of the river water during the non monsoon period. There shall be no sand mining in the river during the rainy season or when there is flow of water in the river.
4. Domestic waste water shall be discharged to soak pit via septic tank constructed as per BIS specification.

C. AIR POLLUTION:

1. The unit shall maintain ambient air quality in order to meet the prescribed standard as per National Ambient Air Quality Standard prescribed in the Environment (Protection) Rules, 1986 and amended thereof.
2. Water sprinkling shall be done on internal transport roads and working area to suppress fugitive dusts generated.
3. Loading and unloading activities including all transfer points should have efficient dust control system arrangements. These should be properly maintained and operated.
4. The following measures are to be further implemented to reduce air pollution during transportation of mineral.
   a) Road shall be graded to mitigate the dust emission.
   b) Overloading of tippers and consequent spillage on the road shall be avoided. The trucks shall be covered with tarpaulin.
   c) Vehicles to be used for transportation should have valid PUC.

D. SOLID & HAZARDOUS WASTE:

1. Topsoil, if any shall be stacked properly with proper slope with adequate measures and should be used for plantation purposes.
2. The OB, if any shall be properly stacked in the earmarked area as per the approved mining plan and it should not cause any environmental problems
3. Mineral rejects, if any shall be disposed off as per approved mining plan in proper manner without causing any environmental pollution.
4. Waste, oils, used oils generated from the EM machines, mining operations, if any shall be disposed as per the Hazardous and other Wastes (Management and Trans-boundary Movement) Rules, 2016.
5. **The unit shall abide by the provisions of Plastic Waste Management Rules, 2016 and amended thereafter. The unit shall also abide by the notification published**

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51 ANNEXURE

ODISHA

CONSENT ORDER

by Ministry of Environment, Forest & Climate Change vide no. G.S.R.571 (E) dated 12th August 2021 which prohibits manufacture, import, stocking, distribution, sale and use of identified single use plastic (SUP) items with effect from 1st July 2022.

The occupier must comply with the conditions stipulated in section A, B, C, D, E and F to keep this consent order valid.

To,

Shri. Kiran Kumar Panda, Lessee
M/s Kharida Sand Bed,
At- Khalasi Sahi, Berhampur,
Dist- Ganjam (Odisha) Pin-760001

02/05/2026

Regional Officer
State Pollution control Board, Odisha
Berhampur

Memo No. 1773 (6) / Dt. 02/05/2026 /

Copy forwarded to:

1. The Member Secretary, S.P.C. Board, Odisha, Bhubaneswar
2. The Collector & District Magistrate, Ganjam
3. The D.F.O, Ganjam
4. The Mining Officer,Berhampur, Ganjam
5. The Tahasildar, Hinjilicut,Ganjam
6. Copy to Guard file/ Consent to Operate register

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BY ADVOCATE

02/05/2026

Regional Officer
State Pollution control Board, Odisha
Berhampur

ODISHA

ANNEXURE

CONSENT ORDER

ANNEXURE – I

EFFLUENT QUALITY STANDARDS

Sl.No.	Parameters	Standards			
		Inland surface	Public sewers	Land for irrigation	Marine Costal Areas
		(a)	(b)	(c)	(d)
1.	Colour & odour	Colourless /Odourless as far as practicable	------	See 6 of Annex-1	See 6 of Annex-1
2.	Suspended Solids (mg/l)	100	600	200	a. For process wastewater – 100 b. For cooling water effluent 10% above total suspended matter of influent.
3.	Particular size of SS	Shall pass 850	-----	------	
5.	pH value	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0
6.	Temperature	Shall not exceed 5^0C above the receiving water temperature	-------	--------	Shall not exceed 5^0C above the receiving water temperature
7.	Oil & Grease mg/l max.	10	20	10	20
8.	Total residual chlorine	1.0	----	------	1.0
9.	Ammoniacal nitrogen (as N) mg/l max.	50	50	------	50
10.	Total Kjeldahl nitrogen (as NH_3) mg/1 max.	100	----	------	100
11.	Free ammonia (as NH_3) mg/1 max.	5.0	----	------	5.0
12.	Biochemical Oxygen Demand (5 days at (20^0C) mg/1 max.	30	350	100	100
13.	Chemical Oxygen Demand, mg/1 max.	250	----	------	250
14.	Arsenic (as As) mg/1 max.	0.2	0.2	0.2	0.2
15.	Mercury (as Hg) mg/1 max.	0.01	0.01	------	0.001
16.	Lead (as Pb) mg/1 max.	01.	1.0	------	2.0
17.	Cadmium (as Cd) mg/1 max.	2.0	1.0	------	2.0

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ANNEXURE

ODISHA

CONSENT ORDER

18.	Hexavalent Chromium (as Cr + 6) mg/l max.	0.1	2.0	--------	1.0
19.	Total Chromium (as Cr) mg/l max.	2.0	2.0	---------	2.0
20.	Copper (as Cu) mg/l max.	3.0	3.0	---------	3.0
21.	Zinc (as Zn) mg/l max.	5.0	15	---------	15
22.	Selenium (as Sc) mg/l max.	0.05	0.05	---------	0.05
23.	Nickel (as Nil) mg/l max.	3.0	3.0	---------	5.0
24.	Cyanide (as CN) mg/l max.	0.2	2.0	0.2	0.02
25.	Fluoride (as F) mg/l max.	2.0	15	---------	15
26.	Dissolved Phosphates (as P) mg/l max.	5.0	-------	---------	--------
27.	Sulphide (as S) mg/l max.	2.0	--------	---------	5.0
28.	Phenolic compounds as (C6H5OH) mg/l max.	1.0	5.0	---------	5.0
29.	Radioactive materials a. Alpha emitter micro curie/ml. b. Beta emitter micro curie/ml.	 10^{-7} 10^{-6}	 10^{-7} 10^{-6}	 10^{-8} 10^{-7}	 10^{-7} 10^{-6}
30.	Bio-assay test	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent
31	Manganese (as Mn)	2 mg/l	2 mg/l	---------	2 mg/l
32.	Iron (Fe)	3 mg/l	3 mg/l	---------	3 mg/l
33.	Vanadium (as V)	0.2 mg/l	0.2 mg/l	---------	0.2 mg/l
34.	Nitrate Nitrogen	10 mg/l	--------	---------	20 mg/l

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ANNEXURE

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CONSENT ORDER

ANNEXURE - II

NATIONAL AMBIENT AIR QUALITY STANDARDS

Sl. No.	Pollutants	Time Weighed Average	Concentrate of Ambient Air		
			Industrial Residential, Rural and other Area	Ecologically Sensitive Area (notified by Central Government)	Methods of Measurement
(1)	(2)	(3)	(4)	(5)	(6)
1.	Sulphur Dioxide (SO_2), $\mu g/m^3$	Annual * 24 Hours **	50 80	20 80	-Improved west and Gaeke - Ultraviolet fluorescence
2.	Nitrogen Dioxide (NO_2), $\mu g/m^3$	Annual * 24 Hours **	40 80	30 80	- Modified Jacob &Hochheiser (Na-Arsenite) - Chemiluminescence
3.	Particulate Matter (size less than 10μm) or $PM_{10}\mu g/m^3$	Annual * 24 Hours **	60 100	60 100	-Gravimetric - TOEM - Beta Attenuation
4.	Particulate Matter (size less than 2.5μm) or $PM_{2.5}\mu g/m^3$	Annual * 24 Hours **	40 60	40 60	-Gravimetric - TOEM - Beta Attenuation
5.	Ozone (O_3) $\mu g/m^3$	8 Hours ** 1 Hours **	100 180	100 180	- UV Photometric - Chemiluminescence - Chemical Method
6.	Lead (Pb) $\mu g/m^3$	Annual * 24 Hours **	0.50 1.0	0.50 1.0	-AAS/ICP method after sampling on EMP 2000 or equivalent filter paper. - ED-XRF using Teflon filter
7.	Carbon Monoxide (CO) mg/m^3	8 Hours ** 1 Hours **	02 04	02 04	- Non Dispersive Infra Red (NDIR) Spectroscopy
8.	Ammonia (NH_3) $\mu g/m^3$	Annual* 24 Hours**	100 400	100 400	-Chemiluminescence - Indophenol Blue Method
9.	Benzene (C_6H_6) $\mu g/m^3$	Annul *	05	05	-Gas Chromatography based continuous analyzer - Adsorption and Desorption followed by GC analysis
10.	Benzo (a) Pyrene (BaP)-Particulate phase only, ng/m^3	Annual*	01	01	-Solvent extraction followed by HPLC/GC analysis
11.	Arsenic (As), ng/m^3	Annual*	06	06	-AAS/ICP method after sampling on EPM 2000 or equivalent filter paper
12.	Nickel (Ni),ng/m^3	Annual*	20	20	-AAS/ICP method after sampling on EPM 2000 or equivalent filter paper

** Annual arithmetic mean of minimum I04 measurements in a year at a particular site taken twice a week 24 hourly at uniform intervals.

** 24 hourly or 08 hourly or 0I hourly monitored values, as applicable, shall be complied with 98% of the time in a year, 2% of the time, they may exceed the limits but not on two consecutive days of monitoring.

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ANNEXURE-R-9/2 series

Half Yearly Compliance Report
2025
01 Jun(01 Oct - 31 Mar)

Acknowledgement

Proposal Name	Kharida Sand Bed at village Kharida under Tahasil Hinjilicut, District Ganjam, over an area of 13.00 acres or 5.261 Ha.
Name of Entity / Corporate Office	Sri kiran Kumarn Panda
Village(s)	N/A
District	GANJAM

Proposal No.	SIA/OR/MIN/406591/2022
Plot / Survey / Khasra No.	N/A
State	ODISHA
MoEF File No.	406591/833-MINB1/09-2023

Category	Non-Coal Mining
Sub-District	N/A
Entity's PAN	*****4710E
Entity name as per PAN	KIRAN KUMAR PANDA

Compliance Reporting Details

Reporting Year	2025
Remarks (if any)	
Reporting Period	01 Jun(01 Oct - 31 Mar)

Details of Production and Project Area

Name of Entity / Corporate Office Sri kiran Kumarn Panda

	Project Area as per EC Granted	Actual Project Area in Possession
Private	0	0
Revenue Land	5.261	5.261
Forest	0	0
Others	N/A	N/A
Total	5.261	5.261

Others Area

Sr. no	Other Name	Area Granted	Area Actual

Production Capacity

Sr. no	Product Name	units	Valid Upto	Capacity	Production last year	Capacity as per CTO
1	Sand	Others:Cum/Annum	12/12/2029	15500	1250	

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Conditions

Visit Remarks

Last Site Visit Report Date:	N/A
Additional Remarks:	

Note: This acknowledgement is as per the details submitted by project proponent. In no way is this document to be considered as conclusion on any action on the compliance of the project. This is strictly for the project proponent's reference purpose.

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52 ANNEXURE-R-9/2 series.

Your (Half Yearly Compliance Report) has been Submitted with following details	
Proposal No	SIA/OR/MIN/406591/2022
Compliance ID	1225069557
Compliance Number(For Tracking)	EC/M/COMPLIANCE/1225069557/2026
Reporting Year	2025
Reporting Period	01 Jun(01 Oct - 31 Mar)
Submission Date	21-04-2026
RO/SRO Name	Shri Senthil Kumar Sampath
RO/SRO Email	agmu156@ifs.nic.in
State	ODISHA
RO/SRO Office Address	Integrated Regional Offices, Bhubaneswar
Note:- SMS and E-Mail has been sent to Shri Senthil Kumar Sampath, ODISHA with Notification to Project Proponent.	

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Welcome to PARIVESH

parivesh.nic.in/newupgrade/#/organisation/project-detail?project=1226642914

Government of India

परिवेश PARIVESH

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change

Welcome, Kiran Kumar Panda(Designation: LE6SEE, Role: Project Proponent, Organisation Name: KIRAN KUMAR PANDA (Super User)) Logout

Back

Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda. Detail - (SW No. : SW/283360/2026)

Engage ACO With Project | All ACO List

ODISHA , GANJAM

Applied On : 06/05/2026

CAF/268733/2026
Applicant : KIRAN KUMAR PANDA

View Common Application Form

Apply Project Clearance: Select Clearance Type

Select Application Form: Select Applicable Form

Apply

Clearances Applied

Application for Amendment in EC- Form-4

Proposal No.	Proposal State	Proposal Status	Proposal Submission Date	
SIA/OR/MIN/578118/2026	ODISHA	Under Verification	11/05/2026	View Form | Track | Withdraw |

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Ministry of Environment, Forest and Climate Change
Government of India

Project Name:	Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda.	**Single Window Number:**	SW/283360/2026
		Proposal Number:	SIA/OR/MIN/578118/2026
State:	ODISHA	**Current Status:**	Under Verification
Submission Date:	11/05/2026	**Project Category:**	B1
Sector:	MIN	**Proposal For:**	Amendment in EC
Project Proponent Name:	Kiran Kumar Panda		

Common Application Form

Project Details

1. Details of Project

1.1. Name of the Project	Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda.
1.2. Project Proposal For	Amendment
1.3. Project ID (Single Window Number)	SW/283360/2026
1.4. Description of Project	Proposal for Amendment EC for Kharida Sand Bed Mining Project on the Rushikulya & Ghorahara River over an area 5.261 ha at Khata No-554, Plot No- 4532/1, Village-Kharida, Tahasil- Hinjilicut, District- Ganjam, Odisha.

2. Details of the Company/Organization/User Agency making application

2.1. Legal Status of the Company/Organization/User Agency	Individual
2.2. Name of the Company/ Organization/User agency	KIRAN KUMAR PANDA

Registered address

2.3. Address	AT/PO- KHALISH STREET, NEAR BERHAMPUR STADIUM
2.4. State	ODISHA
2.5. District	GANJAM
2.6. Pin Code	760001
2.7. E-mail address	kharidasand@gmail.com
2.8. Mobile number	xxxxxx8352

3. Details of the person making application

3.1. Name	KIRAN KUMAR PANDA
3.2. Designation	LESSEE

Correspondence address

3.3. Address	AT/PO- KHALISH STREET, NEAR BERHAMPUR STADIUM
3.4. State	ODISHA
3.5. District	GANJAM
3.6. Pin Code	760001
3.7. E-mail address	kharidasand@gmail.com
3.8. Landline Number	N/A
3.9. Mobile number	xxxxxx8352

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Project Location

4. Location of the Project or Activity

4.1. Upload KML	kharida sand quarry.kml

ANNEXURE-R-9/2 sets

4.2. Whether the project/activity falling in the state/UT sharing international borders	NO
5. Shape of the Project	Linear

Location Details

Toposheet No	State/UT	District	Sub District	Village	Plot/Survey/Khasra No.
E45A14	ODISHA	Ganjam	HINJILI	KHARIDA	
E45A15	ODISHA	Ganjam	HINJILI	KHARIDA	Khata No- 554, Plot No.- 4532/1

Remarks

Khata No- 554, Plot No.- 4532/1

6. Land Requirement (in Ha) of the project or activity

6.1. Nature of Land Involved 1	
6.2. Non-Forest Land [A]	5.261
6.3. Forest Land [B]	0
6.4. Total Land [A+B]	5.261

Project Activity Cost

7. Project/Activity Cost

7.1. Total Cost of the Project at current price level	50 Amount in Words : **Fifty Lakh(s) Only**

8. Employment likely to be generated

8.1. During construction phase

Permanent employment

Temporary employment

8.2. During operational phase

Permanent employment

8.2.1. No. of permanent employment (No.s) [A]	1
8.2.2. Period of employment (No. of days) [B]	260
8.2.3. No. of man-days [X]=[A]*[B]	260

Temporary employment

8.2.4. Temporary / Contractual employment (No. of Man days) [Y]	2340
8.2.5. Total [X] +[Y]	2600

Others

9. Whether Rehabilitation and Resettlement (R&R) involved?	NO
10. Whether project area involves shifting of watercourse/road/rail/Transmission line/water pipeline, etc. required?	NO
11. Whether any alternative site(s) examined or part thereof for the non-site-specific component?	Not applicable as the project or activity is site specific
12. Whether there is any Government Order or Policy/ Court order relevant or restricting to the site?	NO
13. Whether there is any litigation pending against the project and/or land in which the project is proposed to be set up?	NO
14. Whether the proposal involves violation of Act/Rule/Regulation/Notification of Central/State Government?	NO

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Project Name:	Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda.	**Single Window Number:**	SW/283360/2026
		Proposal Number:	SIA/OR/MIN/578118/2026
State:	ODISHA	**Current Status:**	Under Verification
Submission Date:	11/05/2026	**Project Category:**	B1
Sector:	MIN	**Proposal For:**	Amendment in EC
Project Proponent Name:	Kiran Kumar Panda		

Basic Information

1. Category of the Project/Activity

1.1. Name of the project proposal	Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda.
1.2. Type of Proposal	Amendment
1.3. Whether the Project Activity (Construction/ Operation) has been undertaken without obtaining **prior** Environmental Clearance under the provision of EIA Notification 1994/ 2006?	N/A
1.4. Whether multiple items (Components) as per the notification involved in the proposal?	N/A
2. Whether project/activity attracts the General Condition specified in the Schedule of EIA Notification?	N/A
3. Whether any Protected Areas Notified Under the Wild Life (Protection) Act, 1972 are located within 10 km of the project site	N/A
4. Whether any Severely Polluted Areas as identified by the CPCB from time to time located in proximity to the project site	N/A
5. Whether any Critically Polluted Areas as identified by the CPCB from time to time located in proximity to the project site	N/A
6. Whether any Notified Eco-Sensitive area notified under Environmental (Protection) Act, 1986 located in proximity to the project site	N/A
7. Whether any Inter-State Boundaries and International Boundaries located in proximity to the project site	N/A
8. Whether any Eco-sensitive Zone notified/proposed to be notified under Environment (Protection) Act, 1986 located within 10 km of the project site	N/A
9. Whether any forest land present within 10 km of the project site	N/A
10. Category of the Project as per EIA Notification, 2006	N/A
11. Whether Proposal has interlinked / interdependent projects or activities?	N/A
12. Whether any Forest Land involved in the project or part thereof	N/A
13. Whether NBWL recommendation is required?	N/A

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14. Land Acquisition Details

Type of Land	In case of non-forest land, please specify	Type of privately owned land	Type of land in terms of ownership	Supporting documents: Document Name	Remarks	Document	Status of Land Acquisition

ANNEXURE-R-9/2 series.

Project Details

15. Details of CTE

15.1. Whether consent under Air & Water Act has been obtained from SPCB / UTPCC?	No
15.1.1. Reason thereof	NA
16. Whether the project/activity located in Notified Industrial Area?	No
17. Whether the project/activity located in CRZ or ICRZ area?	No
18. Whether the project proposed to be located in Territorial waters (Off-shore)	No
19. Whether project/activity attracts the Specific Condition specified in the Schedule of EIA Notification?	No

Product Details

20. Details of Products & By-products

Name of Product	Product / By Product	Quantity / Capacity	Unit	Mode of Transport / Transmission	Remarks
Sand	Product	15501	Cum/Annum	Road	

21. Whether any other Environmental Sensitive area exists within 10 Km from the project/activity boundary?	No

Note : Others, interalia, includes areas protected under international conventions/ Area important or sensitive ecological reasons/ Sensitive species of flora or fauna/ Inland or coastal/Tourist places/ Defence installations / Densely populated areas/ Areas containing important, high quality, or scarce resources/ Areas susceptible to natural Hazards

22. Status of collection of baseline data	To be collected
22.1. Number of Monitoring locations for	
22.1.1. Meteorology (Nos.)	1
22.1.2. Ambient Air Quality (Nos.)	7
22.1.3. Surface Water Quality (Nos.)	2
22.1.4. Ground Water Quality (Nos.)	3
22.1.5. Ground water level (Nos.)	3
22.1.6. Noise Level (Nos.)	4
22.1.7. Soil Quality (Nos.)	5
22.1.8. Brief summary on the proposed baseline collection	monitoring.pdf
22.1.9. Map showing the monitoring locations	monitoring.pdf

Consultant Details

25. Whether QCI/NABET Accredited EIA Consultant engaged?	No
25.1. Reason for not engaging the Consultant	NA

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Government of India

Project Name:	Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda.	Single Window Number:	SW/283360/2026
		Proposal Number:	SIA/OR/MIN/578118/2026
State:	ODISHA	Current Status:	Under Verification
Submission Date:	11/05/2026	Project Category:	B1
Sector:	MIN	Proposal For:	Amendment in EC
Project Proponent Name:	Kiran Kumar Panda		

Application for Amendment in EC- Form-4

Project Details

1. Introduction of Project or Activity		
1.1. Need for the project or activity and its importance to the country/region	FOR DEVELOPMENT PURPOSE	
1.2. Demand - Supply Gap and Domestic and export markets, if any	N/A	
2. Social Infrastructure		
2.1. Readily available	Yes	
2.2. Proposed to be developed	No	
3. Connectivity to the project or activity		
3.1. Nearest railway station and its distance (in Km)	Berhampur	23
3.2. Nearest Airport and its distance (in Km)	Biju Pattnaik International Airport	136
3.3. Nearest Town/City/District head quarter and its distance (in Km)	Berhampur	20.79
4. Soil classification	Sandy loam	
5. Distance from the HFL of the river in m, if any	N/A	
6. Benefits of the project		
6.1. Social benefits of project or activity	Employment Generation	
6.2. Financial benefits of project or activity	Royalty to Goverment	
7. Project/ Activity Construction Status	To be Started	
7.1. Likely date of start of construction activity (start of mining operations in case of mining proposals)	06/05/2026	
7.2. Likely date of completion of construction activity (end of mining operations in case of mining proposals)	06/05/2026	

Resource Utilization

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8. Use of resources for construction or operation of the project

8.1. Whether requirement of water involved in the project?	Yes

Details of Water requirement during Construction stage

Sr.No.	Source	Quantity in KLD Present	Quantity in KLD with Expansion	Method of water withdrawal	Distance from Source in mtr	Mode of Transport	Details of Permission	Competent Authority	Upload a copy of the permission letter/NOC	Status of Permission/NOC	Proof of application	Reason for non-submission	Justification
1	Ground Water	0	N/A	Tube well	0	Tankers	N/A	No	N/A	Not applicable	N/A	N/A	NA

Details of Water requirement during Operational stage

Sr.No.	Source	Quantity in KLD Present	Quantity in KLD with Expansion	Method of water withdrawal	Distance from Source in mtr	Mode of Transport	Details of Permission	Competent Authority	Upload a copy of the permission letter/NOC	Status of Permission/NOC	Proof of application	Reason for non-submission	Justification
1	Ground Water	5	N/A	Tube well	2	Tankers	N/A	No	N/A	Not applicable	N/A	N/A	NA

8.2. Other information, if any	N/A
8.3. Whether requirement of Minerals and/or fuels involved in the project?	No
8.4. Construction material	No
8.5. Timber	No
8.6. Electric Power:	No
8.7. Whether any other natural resources / other raw materials required?:	No
8.8. Whether any use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies) required?	No
8.9. Whether any resource efficiency / optimization / recycling and reuse envisaged in the project?	No

Physical Changes

9. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality:

9.1. Whether any permanent or temporary change in land use, land cover or topography due to project activity?	Yes

Current Land Use	Area in Ha	Remarks
9.1.1. Forest Land	N/A	N/A
9.1.2. Agriculture land	N/A	N/A
9.1.3. Grazing Land	N/A	N/A
9.1.4. Barren Land	N/A	N/A
9.1.5. Waste Land	N/A	N/A
9.1.6. Surface water bodies	N/A	N/A
9.1.7. Marshy land	N/A	N/A
9.1.8. Mangroves	N/A	N/A
9.1.9. Settlements	N/A	N/A
9.1.10. Roads / Other infrastructure	N/A	N/A
9.1.11. Plantation / Green belt	N/A	N/A
9.1.12. Industrial use	N/A	N/A

9.1.13. Other land use

Please Specify	Area in Ha	Remarks
Total Land Degradation	2.09	
9.1.14. Total	2.09	

9.1.15. Proposed/Post-project land use

Please Specify	Area in Ha	Remarks
Water Reservoir	0.783	
9.1.16. Green belt	0	N/A
9.1.17. Total	0.783	

9.2. Whether any clearance of existing vegetation due to project activity?	No

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10.4.1. Whether any probable water pollutants generated?	No

Details of reuse / recycle of wastewater

Details	Qty / Capacity
10.5. Quantity of waste water generation per day (KLD)	0
10.6. Quantity of treated water proposed to use per day (KLD)	0
10.7. Quantity of treated water proposed to discharge outside the premises (KLD)	0
10.8. Purpose for which treated water is proposed to use	0
10.9. Whether it is proposed to opt/avail common off-site Sewage Treatment Plant (CSTP)/Effluent Treatment Plant (CETP) facility?	No
10.10. Whether it is proposed to setup on-site Sewage Treatment Plant (STP)/Effluent Treatment Plant (ETP) facility?	No
10.11. Whether the adequacy of the Sewage Treatment Plant (STP) or Effluent Treatment Plant certified by an independent expert?	No
10.11.1. Reasons thereof	NA
10.12. Whether any other mitigation measures proposed?	No
10.13. Whether Dual Plumbing System proposed to be implemented?	No
10.13.1. Reasons thereof	NA
10.14. Whether any discharge of treated effluent involved?	No

Water Requirements

11. Ground water intersection and water conservation measures:

11.1. Whether ground water table intersection involved in the project activities?	No
11.2. Area category from Groundwater availability perspective?	Safe
11.3. Whether Rainwater harvesting proposed	No
11.4. Whether any other water conservation measures proposed?	No
11.5. Whether the ZLD is proposed?	No

12. Greenbelt

12.1. Area proposed for green belt (in Ha)	1.73
12.2. Width of green belt (in m) along the boundaryof the project or activity	7.5
12.3. Percentage of the total area covered under green belt	33
12.4. Details of the species proposed for plantation	Chakunda, Akasia, Neem, Jamun
12.5. No. of tree saplings to be planted	300
12.6. Funds allocated for plantation in Lakhs.	1.5

Waste Generation

13. Production of wastes during construction or operation or decommissioning

13.1. Whether any generation of Solid waste (domestic wastes)?	No
13.2. Whether any generation of plastic waste?	No
13.3. Whether any generation of e-waste?	No
13.4. Whether any generation of batteries waste?	No
13.5. Whether any generation of Bio-medical waste?	No

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13.6. Whether any generation of hazardous wastes (as per Hazardous Waste Management Rules)?	No
13.7. Whether any generation of construction or demolition wastes?	No
13.8. Whether any generation of other wastes?	No
13.9. Whether any generation of surplus products?	No
13.10. Whether measures for waste minimization proposed?	No

Risk Assessment

14. Whether any risks associated with project activities which could affect human health or the environment, -

14.1. From explosions, spillages, fires etc. from storage, handling, use or production of hazardous substances?	No
14.2. From any other causes?	No
14.3. Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?	No
14.4. Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)	No
14.5. Could project adversely affect the wellbeing of people in project area e.g. by changing living conditions?	No
14.6. Vulnerable groups of people who could be adversely affected by the project e.g. hospital patients, children, the elderly etc.	No
14.6.1. Has cumulative risk assessment been performed?	No
14.6.1.1. Reason thereof	NA
14.7. Whether any likely impacts of the proposed activity on the existing facilities adjacent to the proposed site due to generation of dust, smoke, odorous fumes or other hazardous gases?	No

15. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

15.1. Whether lead to development of supportive facilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: Supportive infrastructure (roads, power supply, waste or waste water treatment, etc.); housing development; industries in supply chain and downstream; any other?	No
15.2. Whether lead to after-use of the site, which could have an impact on the environment? (e.g. mine void, dump sites, etc.)	No
15.3. Whether set a precedent for later developments?	No
15.4. Have cumulative effects due to proximity to other existing or planned projects with similar effects?	No
15.5. Whether lead to growth of alien species, if any?	No
15.6. Is there any threat of the project to the biodiversity (including displacement of fauna-both terrestrial and aquatic and avi-fauna or creation of barriers for their movement)?	No
15.7. Will the proposed project in any way result in the obstruction of a view, scenic amenity or landscapes?	No
15.8. Is there any impact on anthropological or archaeological sites or any important site feature in the vicinity of the proposed site have been considered?	No
15.9. Will the proposed project result in any changes to the demographic structure of local population?	No
15.10. Will the project cause adverse effect on local communities, disturbance to sacred sites or other cultural values?	No

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sacred sites or other cultural values?

ANNEXURE -R-9/2 series

16. Mining Proposals

16.1. Details of Letter of Intent (LoI) / Vesting order / Mining Lease

16.1.1. Date of issue of LoI/Vesting order/Mining Lease	05/10/2024
16.1.2. Validity of the LoI/Vesting order	06/10/2029
16.1.3. Lease Period	05/00
16.1.4. Date of expiry of lease	06/10/2029
16.1.5. Lease area (in ha) as per LoI/Vesting order/Mining Lease	5.261
16.1.6. Production capacity (in MTPA) as per LoI / Vesting Order / Mining lease, if any prescribed	23251.5
16.1.7. Details of Lease renewal(s), if any	15501 Cum/annum
16.1.8. Other information, if any	

16.2. Status of approval of Mining plan	Approved

16.3. Minerals to be mined

Name of the Mineral to be mined	Classification	Production capacity (in MTPA)	Remarks
• Sand	Minor	23251.5	N/A

16.4. Details of Total excavation (RoM) including Topsoil, Overburden, Mining waste, Rejects, etc.

16.4.1. Total excavation (in MTPA)	23251.5
16.4.2. Total Excavation in M.Cu.m/Annum	0.0015
16.4.3. Enter stripping Ratio	01:01
16.4.4. Other information, if any	

16.5. Mineral Reserves

Name of Mineral	Proved Reserves ((million tonnes))	Indicated Reserves ((million tonnes))	Inferred Reserves ((million tonnes))	Mineable Reserves ((million tonnes))	Remarks

16.6. Life of Mine (years)

16.6.1. Life of the mine as per approved mining plan	05/00
16.6.2. Life of the mine as per total estimated reserves, if any	05/00
16.6.3. Other information, if any	

16.7. Type and method of Mining Method

16.7.1. Type of mining	Opencast
16.7.2. Method of mining	Semi-mechanized
16.7.3. Other information, if any	

16.8. Type of blasting, if any, to be adopted

16.8.1. Type of blasting	not-required
16.8.2. Mitigation measures for control of blast induced vibrations	As it is a sand mining project blasting is not required.
16.8.3. Other information, if any	

16.9. Whether it is proposed to install beneficiation plant/Coal washery within the mining lease area?	No
16.10. Whether it is proposed to install crusher within the mining lease area?	No

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16.11. Dumping strategy

Description	Area (in ha)	Maximum height (in m)	Remarks
External dump	0	0	N/A
Internal dump	0	0	N/A
Topsoil dump/ storage	0	0	N/A

16.12. Topsoil management

16.12.1. Total Topsoil excavated during the entire life of the mine (in million cubic metre)	0
16.12.2. Utilization strategy of topsoil	0
16.12.3. Other information, if any	

16.13. Details of the Quarry/Mine Pit

16.13.1. Total Quarry Area (in ha)	5.261
16.13.2. Enter Area of final void (in Hectare)	3
16.13.3. Maximum Depth of final void (in meter)	1
16.13.4. Other information, if any	

16.14. Details of Transportation

16.14.1. Mode of transportation upto pit head	Through Tractor or Tipper
16.14.2. Mode of transportation from pit head to siding/loading	Through Tractor or Tipper
16.14.3. Mode of transport from loading point to consumers	Through Tractor or Tipper
16.14.4. Other information, if any	

16.15. Details of reclamation/post mining land use

16.15.1. Plantation area (in ha)	0
16.15.2. Water body (in ha)	0.98
16.15.3. Public use (in ha)	1.07
16.15.4. Enter Other uses (in ha)	N/A

16.16. Details of DSR; Cluster and Replenishment study

16.16.1. Whether approved DSR available	Yes
16.16.2. Whether the instant proposal is part of cluster	No

16.17. Whether road/river /seasonal nallah /irrigation canal passes through project site

S.No.	Type of Road/Waterway	Any diversion is proposed	No Object Certificate obtained	Application for NOC has been submitted	NOC from the concerned department or authority	Proof of application for NOC	Reason thereof (No Object Certificate obtained - Not Applicable)	Reason thereof (NOC has not been submitted)
1	Road	No	N/A	No	N/A	N/A	N/A	N/A

Enclosures

17. Layout Plan showing the components of the project and green belt proposed; general location and specific location of the project along with coordinates	layout plan.pdf
17.1. Letter of Intent / Mining Lease	mining letter.pdf
18. Schematic representation of the feasibility drawings which give information for EIA purpose	schemetic plan_compressed.pdf

19. Additional Information

S.No	Document Name	Remark	Document

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ANNEXURE-R-9/2

S. No.	Document Name	Remark	Document
1	Kharida CTO	Kharida CTO	kharida consent to operate.pdf
2	Mining Plan	Mining Plan	mining kharida sand quarry_compressed.pdf

20. Document CheckList

21. ☐ I certify that I have uploaded all the required documents and correctly indicated them in the checklist. In case any discrepancy is found, or any required document is missing, the application shall be liable to be rejected at our own risk and cost.

Undertaking

22. ☑ I hereby give undertaking that the data and information given in the application and enclosures are true to be best of my knowledge and belief and I am aware that if any part of the data and information is found to be false or misleading at any stage, the project will be rejected and clearance given if any to the project will be revoked at our risk and cost. In addition to the above, I hearby give undertaking that no activity/construction/expansion has been taken up

22.1. Name	KIRAN KUMAR PANDA
22.2. Designation	LESSEE
22.3. Company	KIRAN KUMAR PANDA
22.4. Address	AT/PO- KHALISH STREET, NEAR BERHAMPUR STADIUM
22.5. Date	11/05/2026

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PARIVESH
Ministry of Environment, Forest and Climate Change
Government of India

Project Name:	Application for Amendment of Environmental Clearence of Kharida Sand Quarry over an area 13.00 acres or 5.261 Ha. at Mouza- Kharida, Tahasil-Hinjilicut, District- Ganjam in favor of Sri Kiran Kumar Panda.	**Single Window Number:**	SW/283360/2026
		Proposal Number:	SIA/OR/MIN/578118/2026
State:	ODISHA	**Current Status:**	Under Verification
Submission Date:	11/05/2026	**Project Category:**	B1
Sector:	MIN	**Proposal For:**	Amendment in EC
Project Proponent Name:	Kiran Kumar Panda		

Application for Amendment in EC- Form-4

1. Details of Terms of Reference (ToR)

2. Select nature of the ToR	Standard ToR available on website

Note: Please select option "Standard ToR available on website" in case of Expansion under 7 (ii) (a).

3. Details of Public Consultation

3.1. Whether the Project has been exempted from Public Hearing?	No

Details of Public Hearing

Date of submission of request for Public Hearing (PH) to SPCB	Public Hearing (PH) submitted to SPCB	Date of advertisement	Upload copy of PH advertisement	Date of Public Hearing (PH)	Venue				Distance from project boundary (Km)	No. of People attended	Designation of Presiding Officer	Copy of duly signed Proceedings of Public Hearing in English
					State	District	Sub District	Village				
09/11/2022	not required (3).pdf Preview	05/10/2022	advertisement_compressed (1).pdf Preview	11/09/2022	ODISHA	GANJAM	HINJILI	Kharida	4	40	District Magistrate	public hearing.pdf Preview

No. of written comments / suggestions / objections received	4

Major issues raised	Response of Project Proponent	Whether addressed in Final EIA/EMP	Reference of Final EIA/EMP
Environment Protection	Mining will be carried out as per guideline with environment protection as demanded.	Yes	Chapter-7, Table-7.2

Action Plan on issues raised during public hearing & written submissions as per MoEF&CC OM dated 30/09/2020	issued_compressed.pdf Preview
Upload documents if any	N/A

Baseline Details

4. Summary of Baseline Data

Details of Baseline data collection

4.1. Season	Pre monsoon

Period of collection

4.2. From	06/03/2022
4.3. To	09/05/2022

Number of monitoring locations

4.4. Meteorology (Nos.)	1
4.5. Ambient Air Quality (Nos.)	7
4.6. Surface Water Quality (Nos.)	3
4.7. Ground Water Quality (Nos.)	3

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4.8. Ground Water Level (Nos.)	3
4.9. Noise Level (Nos.)	4
4.10. Soil Quality (Nos.)	5

5. Meteorological Parameters

Parameter	Min. Value	Max. Value	Mean Value
5.1. Temperature (°C)	29	34	26
5.2. Wind Speed (m/s)	21.9	38.3	26
5.3. Relative Humidity (%)	21.9	34	33
5.4. Solar Radiation (W/m^2)	70	82	78
	Total rainfall (mm)	No. of rainy days	Average annual rainfall (mm)
5.5. Rainfall	0.5	0.5	0.5
5.6. Predominant Wind direction	North (N)		

6. Ambient Air Quality

Note: Please Specify range in case of data monitored at multiple locations

Monitoring Location			Observed Value			
Buffer Zone	Criteria Pollutant	Unit	From	To	Mean Value	Prescribed Standard
Buffer Zone	PM2.5	Micro Gram per Meter Cube	23.74	33.7	27.68	60
Buffer Zone	NOx	Micro Gram per Meter Cube	6.11	11.46	8.79	80

Monitoring Location			Observed Value			
Core Zone	Criteria Pollutant	Unit	From	To	Mean Value	Prescribed Standard
Core Zone	NOx	Micro Gram per Meter Cube	12.91	25.67	18.38	80
Core Zone	PM2.5	Micro Gram per Meter Cube	36.2	48.63	43.49	48.61

7. Surface Water Quality

Note: Please Specify range in case of data monitored at multiple locations

Monitoring Location			Observed Value			CPCB Water Quality Criteria	
Buffer Zone	Criteria Pollutant	Unit	From	To	Standard as per IS: 2296-1982	Class	Standard
Buffer Zone	Chlorides	mg/L	46.17	47.87	IS:3025(Part-32)	C	250-1000

Monitoring Location			Observed Value			CPCB Water Quality Criteria	
Core Zone	Criteria Pollutant	Unit	From	To	Standard as per IS: 2296-1982	Class	Standard
Core Zone	TSS	mg/L	20.85	20.85	IS:3025(Part-17)	C	0

8. Ground Water Quality

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Note: Please Specify range in case of data monitored at multiple locations

Monitoring Location			Observed Value			
Buffer Zone	Criteria Pollutant	Unit	From	To	Standard as per IS: 10500 Desired Limits	Standard as per IS: 10500 Permissible Limits
Buffer Zone	pH	NA	7.28	7.63	6.5	8.5

Monitoring Location			Observed Value			
Core Zone	Criteria Pollutant	Unit	From	To	IS: 10500 Desired Limits	IS: 10500 Permissible Limits
Core Zone	Chlorides	mg/L	0	0	0	0

9. Ground Water Level (Phreatic Surface)

Monitoring Location	Range of Water Table Pre-monsoon Season (in m below ground level)		Range of Water Table Post-monsoon Season (in m below ground level)	
Buffer Zone	From (Pre-monsoon)	To (Pre-monsoon)	From (Post-monsoon)	To (Post-monsoon)
Buffer Zone	16	20	20	25

Monitoring Location	Range of Water Table Pre-monsoon Season (in m below ground level)		Range of Water Table Post-monsoon Season (in m below ground level)	
Core Zone	From (Pre-monsoon)	To (Pre-monsoon)	From (Post-monsoon)	To (Post-monsoon)

Core Zone	From (Pre-monsoon)	To (Pre-monsoon)	From (Post-monsoon)	To (Post-monsoon)
Core Zone	19	20	16	18

10. Whether Ground Water Intersection will be there? No

ANNEXURE-R-9/2 series

11. Noise Level

Monitoring Location		Observed Noise Level(dB(A))				Prescribed Standard(dB(A))	
Buffer Zone		Day Time Level		Night Time Level		Day Time Level	Night Time Level
	Category	From	To	From	To		
Buffer Zone	Residential area	42.25	42.25	37.80	37.80	55	45

Monitoring Location		Observed Noise Level(dB(A))				Prescribed Standard(dB(A))	
Core Zone		Day Time Level		Night Time Level		Day Time Level	Night Time Level
	Category	From	To	From	To		
Core Zone	Commercial area	61.75	61.75	49.94	49.94	75	55

12. Soil Quality

Physical Characteristics

Note: Please Specify range in case of data monitored at multiple locations

Monitoring Location		Particle Size Distribution (%)				
Buffer Zone	Soil Texture	Sand	Silt	Clay	Water Holding Capacity (%)	Porosity (%)
Buffer Zone	Clay	44.43	16.4	39.3	28.3	30.37

Monitoring Location		Particle Size Distribution (%)				
Core Zone	Soil Texture	Sand	Silt	Clay	Water Holding Capacity (%)	Porosity (%)
Core Zone	Clay	42.5	17.4	40.1	33.27	33.22

13. Chemical Properties

Note: Please Specify range in case of data monitored at multiple locations

Monitoring Location		Observed Value			
Buffer Zone	Criteria Parameter	From	To	Unit	Permissible Standard
Buffer Zone	Calcium	134.31	134.31	mg	0

Monitoring Location		Observed Value			
Core Zone	Criteria Parameter	From	To	Unit	Permissible Standard
Core Zone	Magnesium	40.2	40.2	mg	0

14. Whether Traffic study has been conducted? Yes

Meteorological Parameters

Parameter	Existing	Proposed
14.1. Road	NH-59	NH-59
14.2. V (volume in PCU/day)	500	512
14.3. C (capacity in PCU/day)	15000	15000
14.4. Existing V/C Ratio	0.03	0.034
14.5. LOS	0	0

15. Whether any Schedule-I Species found in the study area? No

15.1. Whether conservation plan for Schedule-I Species has been approved by competent authority? N/A

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16. Impact Prediction

Air Quality Impact Prediction

Monitoring Location			Criteria Pollutant	Unit	Baseline Concentration [A]	Predicted incremental value considering worst case stability class [B]	Total GLC [A]+[B]	Prescribed Standard
Lat	Long	Core/Buffer						
19° 30' 70"N	84° 46' 40" E	Buffer Zone	NOx	Microgram per m3	70.6	0.2	70.8	100
19° 30' 30"N	84° 46' 43" E	Core Zone	NOx	Microgram per m3	65.6	0.2	65.8	100

17. Funds Allocated for Environment Management

17.1. Funds Allocated for Environment Management (Capital) (in Lakhs)	N/A
17.2. Funds Allocated towards Corporate Environmental Responsibility (in Lakhs)	0
17.3. Funds Allocated for Environment Management Plan (EMP) (Recurring per Annum) (in Lakhs)	1

Summary of allocation of fund for EMP

EMPs	Capital Cost (INR)	Recurring Cost per Annum (INR)
1.2	0	1.2
Total	N/A	1

18. Details of Post-project monitoring program

Parameters to be monitored during construction and operation of the unit

Attribute	Parameters proposed for monitoring	Monitoring		Mode of Monitoring	Frequency of Monitoring	Project phase in which monitoring is required	Monitoring Agency
		Lat	Long				
Air Quality	0	19° 30' 32"	84° 46' 25"	Manual	Twice in year	All phases	Third Party

19. Whether Environmental cell is proposed for implementation and monitoring of EMP	No
19.1. Reason thereof	NA
19.2. Provide Reference of EIA/EMP Report where addressed" label="Procedure to review effective implementation and monitoring of EMP and reporting of status of implementation to Project Head	NA
20. Whether compliance report from regional office on existing EC is obtained?	Yet not Obtained
20.1. Reason thereof	NA

21. Details of Comments from SPCB in light of Ministry Notification dated 12 Nov 24 and OM dated 14 Jan 2025

21.1. Whether the Consent ID is available?	No

Enclosures

22. Document to be attached

22.1. Upload Copy of Final EIA/EMP Report	eia report (1).pdf
22.2. Upload chapter on baseline data submitted in the EIA/EMP report separately	baseline data.pdf
22.3. Executive summary of feasibility report/project report	brief summary (4).pdf
URL of the MoC or IBM or DMG where it is available?	
22.4. Copy of approved mining plan (in case of mining project)	mining kharida sand quarry-compressed.pdf
22.5. Upload Copy of Final Layout Plan (Upload pdf only)	layout plan.pdf
URL of the site where it is available?	
22.6. Upload copy of District Survey Report (for mining of minor minerals only)	dsr.pdf
URL of the MoC or IBM or DMG where it is available?	
22.7. Upload copy of Replenishment Study Report	repls..pdf

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23. Additional Information

S. No.	Document Name	Document	Remark
1	DSR Ganjam	ganjam sand dsr.pdf	DSR Ganjam
2	Form-F	form-f.pdf	Form-F

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	Mining Letter	mining letter.pdf	Mining Letter
	Replenishment Study Report	repls..pdf	Replenishment Study Report
	Kharida EC Compliance Acknowledgement	ec compliance acknowledgement (1).pdf	Kharida EC Compliance Acknowledgement
6	Kharida CTE	kharida consent to establishment.pdf	Kharida CTE
7	Kharida CTO	kharida consent to operate.pdf	Kharida CTO
8	EC Kharida	kharida ec.pdf	EC Kharida
9	EC Compliance	ec compliance_merged.pdf	EC Compliance
10	Final EIA Report	eia report (1).pdf	Final EIA Report
11	Mining Plan	mining kharida sand quarry-compressed.pdf	Mining Plan
12	Cover Letter	cover letter20260511_14324756.pdf	Cover Letter

3. Document CheckList

24.1. Land-Related Documents	Ownership document	Yes
	Mine lease document (in case of mining)	Yes
	Letter of Intent (in case of mining)	Yes
	Project layout	Yes
	Gazette notification of notified industrial area (if applicable)	No
24.2. Public Hearing-Related Details	Public hearing proceedings	Yes
	Advertisements	Yes
24.3. EIA/EMP - Related Details	Pre-feasibility report	Yes
	EIA/EMP report (in case of Cat A, B1)	Yes
	EMP report (in case of Cat B2)	Yes
	Budgetary provision table for EMP	Yes
	Mining plan (in case of mining)	Yes
	DSR in case of minor minerals	Yes
24.4. Water Permission-Related Details	Permission for withdrawal of surface water	No
	Permission for abstraction of ground water	No
24.5. Compliance and Monitoring Documents	Certified compliance report (in case of Expansion Proposals)	No
	Action Taken Report (if any)	No
	Closure report from RO (if any)	No
24.6. Previous Clearances	Previous TOR granted (if any)	Yes
	Previous EC granted (if any)	Yes
	Previous EC transferred (if any)	No
24.7. Wildlife and Forest Related Documents	Conservation plan for Schedule-I species	No
	NBWL/SBWL recommendation	No
	In principle (stage-I) forest clearance	No
	Final (stage-II) forest clearance	No
24.8. NOC from Other Departments/Ministries	Existing CTE/CTO	Yes
	NOC from airport authority on the permissible height of the building (if applicable)	No
24.9. Others	Court case details (if any)	No
	Violation details (if any)	No
	Summary of the project	Yes

25. ☑ I certify that I have uploaded all the required documents and correctly indicated them in the checklist. In case any discrepancy is found, or any required document is missing, the application shall be liable to be rejected at our own risk and cost.

Undertaking

26. ☑ I hereby give undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information is found to be false or misleading at any stage, the project will be rejected and clearance given, if any, to the project will be revoked at our risk and cost. In addition to the above, I hereby give undertaking that no activity such as change in project layout, construction, expansion, etc. has been taken up.

26.1. Name	KIRAN KUMAR PANDA
26.2. Designation	LESSEE
26.3. Company	KIRAN KUMAR PANDA
26.4. Address	AT/PO- KHALISH STREET, NEAR BERHAMPUR STADIUM
26.5. Date	11/05/2026

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nt Logs Legacy

on	Reference	Existing	Proposed / Amendment	Reasons for Amendment
etails	Enforcement & Monitoring Guidelines for Sand Mining, 2020.	Existing	Amendment	NA

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REPLENISHMENT STUDY REPORT
ON

KHARIDA SAND BED

Period of Data Acquisition: April. 2025- Jan. 2026

KHATA NO. – 554, PLOT NO. –4532/1
Village – Kharida, Tahasil: Hinjilicut,
District: Ganjam, State: Odisha.

Maximum Production Capacity – 15501 Cum /Year
Lease Area – 13.00 acres or 5.261 hectares
Screening Category – 'B1'
Financial Year – 5 Years

LESSEE

SRI KIRAN KUMAR PANDA
S/o Late Gopinath Panda
At/Po-Khalish Street,near Berhampur Staium,
Pa-Berhampur Town
Dist-Ganjam,Odisha.-760001

Prepared by:

AREAL CONSTRUCTIONS & GEO-INDIA SERVICES
(A CONSTRUCTION & GIS BASED CONSULTANCY)
(ORSAC Empanelment Agencies)
Head Office :
Saraswati Niwas, Nayabazar(Behind Jogeswar Temple), Potapokhari, Chauliaganj,Cuttack-753004, Odisha, India
GST No : 21ABIFA5914E1ZX
PAN : ABIFA5914E
Website :http://acgsindia.com

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ODISHA SPACE APPLICATIONS CENTRE (ORSAC)

Department of Science & Technology, Govt. of Odisha

CONSOLIDATED LIST OF EMPANELMENT VENDORS TO UNDERTAKE DGPS/ETS GEOSPATIAL SURVEY WITHIN ODISHA AS PER ORSAC DEFINED SOP OF GEOSPATIAL SURVEY UPTO 30/04/2021

SL. NO.	NAME OF FIRM	ADDRESS, PHONE NO & Email ID	VALIDITY
1	[redacted]	Plot no: 229, Kanan Vihar, Ph-2, Patia, Bhubaneswar, Odisha, Ph no: 7008305561/ 7008385968, Email: aregisconsultancy@gmail.com	Upto 30.04.2027
2	M/s Aero Surveys Pvt. Ltd.	Plot no: G-11, Ashribad Bhawan ,Near Uphar cinema, New Delhi-110016 Ph. No:9810604778, Email:survey@aerosurvey.in	
3	M/s Ananth Technologies Ltd	Plot no- 39, Ananth Infopark, Hitech City, Phase- II, Madhapur, Hyderabad-500081, Ph. No.- 9849017036, Email-mail@ananthtech.com	
4	M/S Ardra Consulting Services Pvt. Ltd.	A/79,Saheed Nagar,Bhubaneswar,751007,Ph no-9937310105,email-ardraconsulting09@gmail.com	
5	M/s Aviplanners Pvt. Ltd.	C-404,Sea show CGHS, Plot no:14, Sector-19B, Dwareka, New Delhi-110075, Ph. No: +91 674 2967115, Email: contactus@aviplanners.com	
6	M/s Blue Yacht Consultancy Pvt. Ltd.	Plot no-120/1963, Near IMFA, Bomikhal, PO- Rasulgarh, Bhubaneswar, Pin-751010, Ph No.- 9337116886, Email-tomharbbsr@gmail.com	
7	M/s Consultancy for Engineering & Enviorment Planning(CEEP)	Plot no: G.A. 58, Gayatri Vihar, Chandrasekharpur, Bhubaneswar-751024, Odisha Ph. No: 8917442494 Email:contact.ceep@gmail.com	
8	M/s Centre for Dignity Consultants Pvt Ltd	Plot No.1981/3581,Gokul Dham, PO- Bhatapatana, Khordha - 752115, Phone No -9439188771,Email-centrefordignity@gmail.com	
9	M/s Crackers India Mining Pvt Ltd. (WCS an unit of CIMPL)	Flat no.-766, Konark Tower Office Premises,NH-16,Telengapentha,Cuttack. Ph no.- 06767-275896/ 8895564171, Email-cimpl@tlicworldgroup.in,wcs@theworld.co.in	
10	M/s Creative Studio	Plot no. pp-18, First floor, Pandav Nagar, Old town, Near Pancha Pandava Caves, Bhubaneswar-751018, Ph. No.-9337798690, Email- creative_arch_studio@yahoo.com	
11	M/s Digital Cartography and Services Pvt.Ltd	Plot no1015, Bhagabat Sandhan, GGP Cenal road, Rasulgarh, Bhubaneswar-751025, Odisha, Ph. No.- 9437033041, Email-dcsbbsr@gmail.com	
12	M/s Earth & Enviornment	S-27, Chandralok Market Complex, Niladrivihar, Chandrasekharpur, Bhubaneswar-751021, Ph.No.-9437044031, Email- earth_environment2008@yahoo.com	
13	M/s Ecometrix Consultance Pvt. Ltd.	Plot no. DCB-119, Ideo info park, DLF Cyber City ,Chandaka Industrial Estate, Patia,Bhubaneswar-751024 Ph. No:0674-2973849 Email:info@ecometrix.co.in	
14	M/s Ecomen Mining Pvt. Ltd.	1st Floor, MCHS Jakkur layout, SY No:98/1A, Ward no: 7, Jakkur, Bangalore-560064, Ph. No:4 Email:support@ecomen.in, contactus@ecomen.in	
15	M/s Edall Systems & Services Pvt. Ltd.	Plot No-1112/584A, konena, Agrahara, Mes Colony, Bengaluru, Karnataka-560017, Ph. No:8880546607 Email:admin@edallsystems.com	

Plot No. 45/48(P), Jayadev Vihar, Near Gopabandhu Academy of Administration, Unit-16, Bhubaneswar - 751023, Odisha, India
Tel : +91 674 2303625, Email: orsac2012@gmail.com / orsac.od@nic.in, Website : http://www.orsac.gov.in

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TABLE OF CONTENTS

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INTRODUCTION

1.1 General:

River sand is one of primary raw material in all type of construction and infrastructure project. The need of sand is in all fields are very essential as it is a compulsory for all types of construction and industries fields. This report presents the technical information about the survey aspects of sites located in, Kharida village of Hinjilicut Tahasil in Ganjam district of Odisha. The methodology adopted and the results from survey are summarized in this document.

Replenishment Rate is the rate at which sand is transported into the river channel, which is subjected to sand extraction. This volume is often considered as sustainable yield of that river. The replenishment period may vary on nature of the channel and season of deposition arising due to variation in the flow. Such period and season may vary on the geographical and precipitation characteristic of the region.

In view of the above condition, Sri Kiran Kumar Panda has engaged **M/s. "AREAL CONSTRUCTION & GEO-INDIA SERVICES"**to carry out the Replenishment Study and to submit the report with recommendation.

Since accuracy of UAV data for volume measurement compared to conventional techniques such as a Total Station has been evaluated and proven better than the conventional method, so GISPL studied the requirement and understood that only volumetric method using Drone survey can only derive the accurate estimation of replenishment, which is also comply the methodology as detailed in **Enforcement & Monitoring Guidelines for Sand Mining, 2020.** So, GISPL initiate the job in association with M/s Chinmaya Engineering Enterprises, Nagpur for Drone and DGPS survey, who have carried out the Drone/DGPS survey for this purpose.

Sand Mining in the State of Odisha

According to clause (e) of Section 3 of the Mines and Minerals (Development & Regulation) Act (MMDR) Act, 1957 and as per Rule 70 of the Mineral Conservation Rules (MCR), 1960; sand is classified as minor mineral based on the end use. Mines and Minerals (Development & Regulation) Act, 1957, under section 15, empowers the State Government to make rules in respect of minor mineral.

In exercise of the powers conferred by sub-section (1) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and in supersession of the provisions containedin the Odisha Minor Mineral Concession Rules, 2004, the State government promulgated the Odisha Minor Mineral Concession Rules, 2016.

As per sub rule 8 of Rule 9 of the Odisha Minor Mineral Concession Rules, 2016, On receipt of the application for mining lease the Government shall take decision to grant precise area for the said purpose and communicate such decision to the applicant

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and on receipt of communication from the Government of the precise area to be granted, the applicant shall submit a duly approved mining plan within a period of six months or such other period as may be allowed by the Government.

The Revenue & Disaster Management Department, Govt of Odisha vide Resolution No. 26372 dated 2.09.2021 published the Odisha Sand policy, 2021 wherein emphasis given on the replenishment study.

Policy & Guidelines

The Hon"ble Supreme Court in its Judgment dated the 27th February 2012 in I.A. No.12- 13 of 2011 inSpecial Leave Petition (C) No.19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc. made prior environment clearance mandatory for mining of minor minerals irrespective of the area of mining lease.

In order to comply with the judgment of Hon"ble Supreme Court, the Ministry issued S.O.141 (E) dated 15.01.2016. Further, MoEF & CC published Sustainable Sand Mining Management Guidelines 2016 for scientific and sustainable sand mining in the Country. The followings are two guidelines issued by MoEF & CC.

i. **Sustainable Sand Mining Management guidelines 2016**
ii. **Enforcement and Monitoring Guidelines for sand mining issued in January 2020**

- State Environment Impact Assessment Authority, Odisha (SEIAA), Bhubaneswar in their letter No.400 dated. 08.02.2021 has emphasized to the project proponents to carry out proper study with regard to

(a) Annual rate of replenishment of the river Quarry proposed for sand mining.

(b) Time frame for such replenishment after mining closure.

- SEIAA, Bhubaneswar, in the same letter has also mentioned some other stipulations in the ECs for sand mining from river Quarry, which are as follows:

(i) The lease area and the actual working area shall be demarcated on the ground by erecting durable masonry / concrete pillars by the project proponent.

(ii) There shall be a "no working zone" of prescribe Quarry width to project the embankment on sides, road or Rail Bridge, dam, weir, water intake structure or drinking water project, or any cross drainage structure, if any, in the vicinity.

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(iii) The actual area for extraction of sand shall accordingly be carved out within the leasehold.

(iv) Exact map of the lease area, and the no mining zone" shall be drawn to scale, showing theDGPS coordinates of all corner points, and the location of the bridge, embankment, extraction route & other structures; and such map has to be submitted to SEIAA by the project proponent through the Tahasildar within three months of the date of issues of the EC.

(V) The project proponent should preferably carry out river Quarry mining manually by engaging local labor force, as there is apprehension of over exploitation of sand if machines are deployed for extraction.

- Government of Odisha, Revenue and disaster management Department issued Resolution No 26372/R & DM Bhubaneswar dated 02.09.2021 on Odisha Sand Policy.
- It shall be obligatory for the project management to submit quarterly compliance reports on the status of implementation of the above stipulated environmental safeguards to the SEIAA, Odisha.
- Thus, it may be concluded as follows

❖ Permit mining volume based on measured annual replenishment

❖ Establish an absolute elevation below which no extraction may occur

❖ Review cumulative effects of sand extraction

❖ Maintain River channel flood discharge capacity

❖ Establish a long-term monitoring programme

❖ Minimize activities that release of fine sediments to the River

❖ Limit mining operation to the period between post monsoons to pre monsoon only.

A plan clearly mentioning the width of the river, lease boundaries, left under safety zones as prescribe Quarry under Sustainable Sand Mining Management Guideline 2016, and Odisha Miner Mineral concession Rule 2017, and order made there under have to be complied in.

1.1 Purpose of the Study:

The need for replenishment study for river bed sand is required in order

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to nullifythe adverse impacts arising due to excess sand extraction. Mining within or near river bed has a direct impact on the stream's physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, in-stream roughness of the bed, flow velocity, discharge capacity sediment transport capacity, turbidity, temperature etc. Alteration or modification of the above attributes may cause an impact on the ecological equilibrium of the river lineregime, disturbance in channel configuration and flow-paths. This may also cause an adverse impact on in-stream biota and riparian habitats. It is assumed that the riparian habitat disturbance is minimum if the replenishment is equal to excavation for a given stretch. Therefore, to minimize the adverse impact arising out of sand mining in a given river stretch, it is imperative to have a study of replenishment of material during the defined period.

1.2 Scope of the Study:

An Unmanned Aerial Vehicle (UAV), commonly known as drone, was used to carry out survey of the area. Drone is an aircraft without a human pilot on board. The main objective of this survey in the present project was to obtain the Digital Elevation Models (DEM) of the area by getting the elevations at all points of the study area and access elevation of points/grids wherever required. DEM is the digital representation of topographic and manmade features located on the surface of the earth. Drone consist mainly a vehicle itself, a ground-based controller, and a system of communications between the two. The report aims to quantify the amount of replenishment of sand on the basis of survey done with UAV/Drone during Pre-monsoon & Post monsoon '2025. The objectives of the drone survey are as follows:

- Perform Differential Global positioning survey
- Data acquisition using drone
- Data processing and preparation of outputs
- Volume Calculation Report

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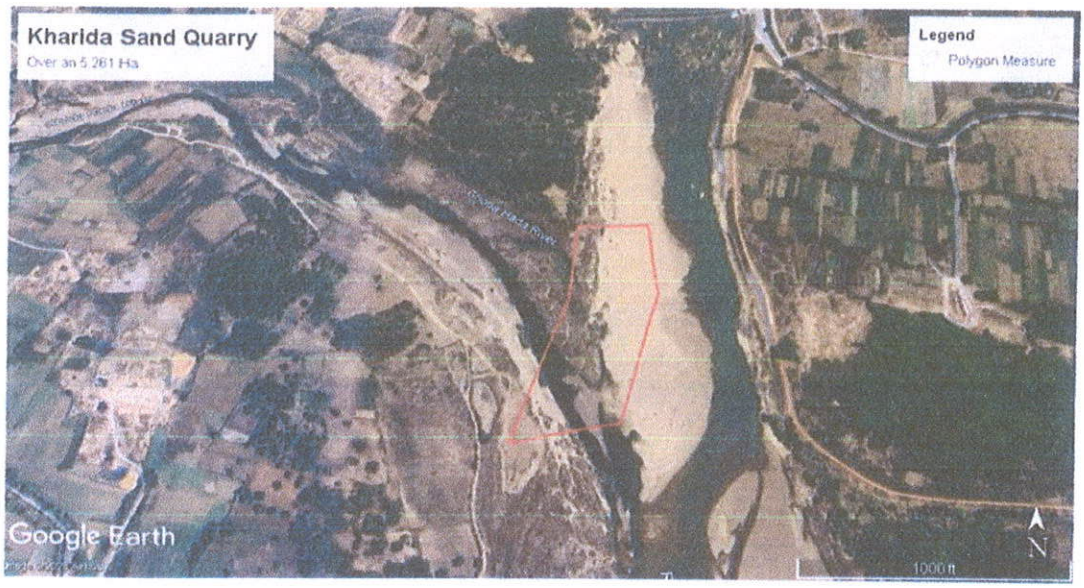
LOCATION & PROJECT DESCRIPTION

2.1 Overview of the Site

The total lease area of quarry is about an area of 5.261 Ha. / 13.00 Acre in Rushikulya & Ghodahada River over Khata no.- 554 and Plot no.- 4532/1 situated in village - Kharida, Tahasil- Hinjilicut, Dist.- Ganjam, Odisha. The lease is located in survey of India Topo Sheet No. 74A/14 &74A/15 bounded by Latitude: 19°29'50.71" N to 19°30'04.34" N, Longitude: 84°46'36.04" E to 84°46'42.08" E. The location of the lease has been shown in the following image with red color lease boundary.



Over view of the site

Table 2: GPS Boundary Co-ordinates

Pillar No	Latitude	Longitude
A	19° 30' 01.59629"	84° 46'39.06292"
B	19° 29' 57.74449"	84° 46'38.60394"
C	19° 29' 50.80122"	84° 46'36.04235"
D	19° 29' 51.74996"	84° 46'40.72675"
E	19° 29'57.93409"	84° 46'42.72675"
F	19° 30'01.69908"	84° 46'42.48249"

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2.2 Project Description:

A) Local Geology:

The sand deposit lies in River Rushikulya & Ghorahara near Kharida village belongs to recent to sub recent deposits of Holocene age. The proposed area is occupied by a gently sloping to almost flat deposits of sand. The basement consists of tertiary deposits and sequence of litho- units encountered in the auction hold area is as follows:

Sand

↑

Alluvium

. The lease area possess 1.5m thickness of sand through out the lease area.

B) Reserves:

Reserve is calculated by area of influence method considering by the following diameters.

I. Extension of sand deposit.

II. Thickness of sand deposit.

III. Water table of the river.

Geological reserve

- For calculation of geological reserve, average thickness 1.5 m of sand of the lease area has been taken.

Mineable Reserve

- For calculation of mineable reserve of sand quarry has been calculated after deducting the safety zone area. Thickness of the sand has been taken up to water table.

Method of reserve estimation

The reserve of river sand in the leasehold area has been calculated by calculating the lease area graphically and multiplied by thickness of sand.

$C = A \times B$

Where, C = reserve in cum,

A= Surface Area of sand in (m^2)

And, B = Avg. thickness of sand in (m)

$E = C \times D$

Where, E= reserve in cum

D= recovery factor

Proved Reserve

It is exposed river sand rich. So proved zone have been considered up to 1.5 m (avg.) depth from the top.

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- Geological Reserve per Annum

Category	Surface area in sq.mt	Thickness of sand in meter	Volume of sand in cu.m	Recovery factory (100%)	Reserve in cu.m	Total Reserve in cu.m
Proved	45218	1.5	67827	1	67827	67827
Total						67827

- Mineable reserve per Annum

Category	Surface area in sq.mt	Thickness of sand in meter	Volume of sand in cu.m	Recovery factory (100%)	Reserve in cu.m	Total Reserve in cu.m
Proved	25160	1.5	37740	1	37740	37740
Total						37740

C) Annual Level of Approved Production:

YEAR	PRODUCTION (M^3)
FIRST YEAR	15501
SECOND YEAR	15501
THIRD YEAR	15501
FOURTH YEAR	15501
FIFTH YEAR	15501

D) Environmental Clearance:

Initially, the EC for the Kharida Sand Quarry, has been obtained in favor of Sri. Kiran Kumar Panda vide file no – **SIA/OR/MIN/406591/2022** on dated 13/12/2024. In the ToR conditions SEIAA, Odisha has recommended to submit the rate of annual replenishment study report of sand as per the sustainable Sand guidelines and Monitoring' 2020 and other applicable as per regulatory requirement. Accordingly, we have studied our pre-monsoon survey in the month of Aprl, 2025 and post-monsoon survey in the month of January, 2026 which report has enclosed here.

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REPLENISHMENT SURVEY

3.1 Methodology

For the said project replenishment study has been done by UAV/Drone survey (volumetric survey) method. In this case, replenishment study requires three surveys. The first survey has been carried out in the month of May/June before closing of mines for monsoon season. This survey provided the quantity of the material excavated before the offset of monsoon. The second survey is carried out in the Month of Nov/Dec after the monsoon to know the quantum of material deposited / replenished in the mining lease. The third survey will be carried out at the end of March to know the quantity of material excavated during the financial year. For the subsequent years, same practice will be continued.

Presently, for the purpose of replenishment study, two surveys were carried out for data acquisition, the first one for pre-monsoon data and the second one for post monsoon data by using UAV/ Drone.

3.2 Drone Survey

A drone survey refers to the use of a drone, or unmanned aerial vehicle (UAV), to capture aerial data with downward-facing sensors, such as RGB or multispectral cameras, and LIDAR payloads. With a drone, it is possible to carry out topographic surveys of the same quality as the highly accurate measurements collected by traditional methods, but in a fraction of the time. This substantially reduces the costof a site survey and the workload of specialists in the field. This technology has promising potential in the survey of sand mining zones due to its fast and reliable output deliveries.

During a drone survey with an RGB camera, the ground is photographed several times from different angles, and each image is tagged with coordinates. From this data, photogrammetric software can create geo-referenced ortho-mosaics, elevation models or 3D models of the project area. These maps can also be usedto extract information such as highly-accurate distances or volumetric measurements. Unlike manned aircraft or satellite imagery, drones can fly at a much lower altitude, making the generation of high- resolution, high-accuracy data, much faster, less expensive and independent of atmospheric conditions such as cloud cover.

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3.3 Survey Procedure

A) DGPS Survey:

This section describes the details of DGPS survey. This survey is done to take the coordinates of the Ground Control Points (GCPs) using DGPS instrument. Base reading Is estimated by placing the base station on a nearby ideal location and leaving the DGPS instrument for 6-8 hours. The UAV mapping is done with PPK technique enabled. The GCP readings are taken by observing DGPS reading for 1minute.

There are 4numbers of GCPs marked in the field and DGPS Co-ordinates of the GCPs are as follows:

Table No-05.1: GCP VALUES (Pre-Monsoon)

SL. NO. OF GCP	LATITUDE	LONGITUDE	ELEVATION
GCP-1	19°29'53.18"N	84°46'37.7"E	24.201
GCP-2	19°29'54.268"N	84°46'40.136"E	25.912
GCP-3	19°29'56.332"N	84°46'41.43"E	25.031
GCP-4	19°29'59.494"N	84°46'39.458"E	23.865

Table No-05.1: GCP VALUES (Post-Monsoon)

SL. NO. OF GCP	LATITUDE	LONGITUDE	ELEVATION
GCP-1	19°29'53.18"N	84°46'37.7"E	25.102
GCP-2	19°29'54.268"N	84°46'40.136"E	26.896
GCP-3	19°29'56.332"N	84°46'41.43"E	25.231
GCP-4	19°29'59.494"N	84°46'39.458"E	24.912

Table 1: Reference Systems of Coordinates

Coordinates	Reference Coordinate System
Latitude, Longitude (degrees)	World Geodetic System (WGS84)
Easting, Northing	Universal Transverse Mercator (UTM) Zone 45 N

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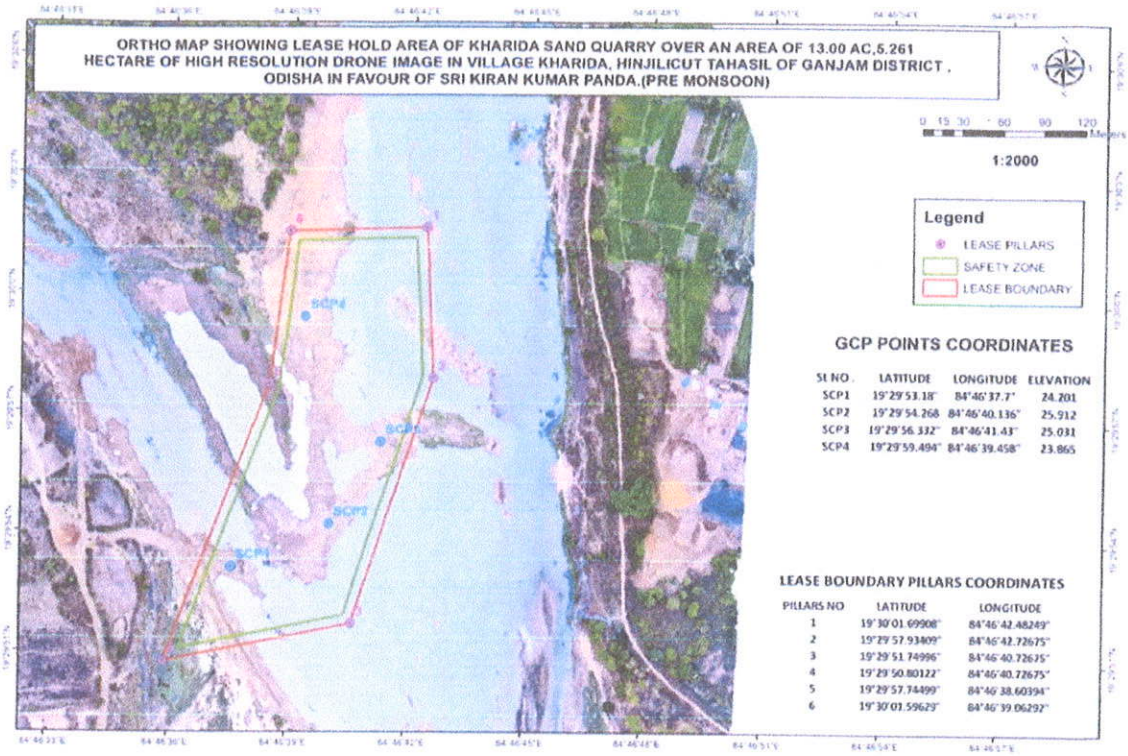
ORTHOMAP SHOWING THE GCP VALUES:-



(GCP POINT WITH LOCATION MAP)

Table No-06:

Location of GCP Points near Water surface Area near the lease

(taken RL reference for calculation of Reserve of Sand Deposit)

SL. NO. OF GCP	LATITUDE	LONGITUDE	ELEVATION (in m)
GCPWS1	19°29'53.18"N	84°46'37.7"E	24.201
GCPWS2	19°29'54.268"N	84°46'40.136"E	25.912
GCPRB1	19°29'54.268"N	84°46'40.136"E	26.896
GCPRB2	19°29'56.332"N	84°46'41.43"E	25.231

(GCP Points near Water Surface Area near the lease)

B) Site – Ortho-metric Heights:

A base station on a nearby ideal location and GCP readings are taken with respect to this base.

The details of the survey are given below:

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C) DATA ACQUISITION USING DRONE

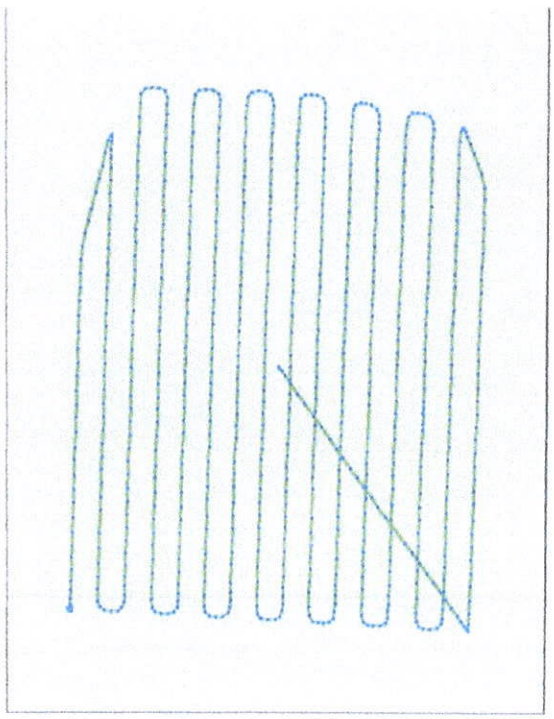
To obtain good images, it is very important to design a good images acquisition plan considering: type of project (aerial, terrestrial, mixed), type of terrain / object, type of camera, purpose of the project, image rate that the images are taken, distance (flight height) at which the images are taken and with which angle to take the images, path(s) to follow to take the images, etc.

For aerial projects, this also implies: selecting corridor path or regular grid and / or circular grid, deciding whether terrestrial images will be used, if more than one flight are needed to cover the full area.

D) MISSION PLANNING

A data acquisition plan is made specific to the site that needs to be surveyed. It depends on the type of terrain / object to be reconstructed. Flight polygons are designed and data acquired is as per this plan. The flying altitude is designed to capture resolution which best fits the project.

Mission Plan Pre-Monsoon



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A) **BENCH MARK DETAILS:**

NAME OF BENCH MARK	LATITUDE	LONGITUDE	ELEVATION
Maa Kareisuni Temple	19°29'40.61"N	84°46'23.07"E	520 m

The benchmark value have been noted near the Maa Kareisuni Temple to calibrate the Drone data and to plot actual elevation of sand deposit inside the Lease area. The Bench mark value (BM1) is Maa Kareisuni Temple is located at a distance of 520 m from the lease boundary.

Table: Details of Mission Plan

Parameters	Details
Drone	Phantom 4 pro V2
Flying Altitude	50 m
Ground Sampling Distance (GS D)	3.5cm/pixel

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Overlap (%)	75/80
Data type	RGB images
Software	Agisoft Meta-shapeProfessional

3.4 Data Processing

The data acquired from the drone survey has been processed using the technique called Digital Photogrammetric. Entire drone data is stitched together to produce quality outputs of the site, or analysis for any particular application of the data set. Processing of images with Meta-shape included the following main steps;

- loading images into Meta-shape;
- inspecting loaded images, removing unnecessary images;
- aligning cameras;
- building dense point cloud;
- building mesh (3D polygonal model);
- generating texture;
- building tiled model;
- building digital elevation model (DEM);
- building ortho-mosaic;

3.4.1 ALIGNING CAMERAS

Each drone image has a collection of unique features which differentiate it from other images. These are known as key points. Key points from each image are extracted using automatic computer vision algorithms. Extracted features are then searched (in the nearby images) and matching is performed. Using GPS data to search relevant images makes the matching process much faster and accurate. From matched features, fundamental matrix is derived and the relative position between two cameras is estimated. Relative position estimated from the fundamental matrix is generally prone to errors. Bundle block adjustment is used to simultaneously refine the 3D coordinates (Latitude, Longitude, Elevation), orientation parameters (Yaw, Pitch, Roll), and the optical characteristics (distortion parameters) of the camera(s) employed to acquire the images. Bundle block adjustment is a nonlinear iterative optimization process where the objective function is Mean Re-projection Error (MRE) and

Parameters are the position, orientation and camera distortion coefficients.

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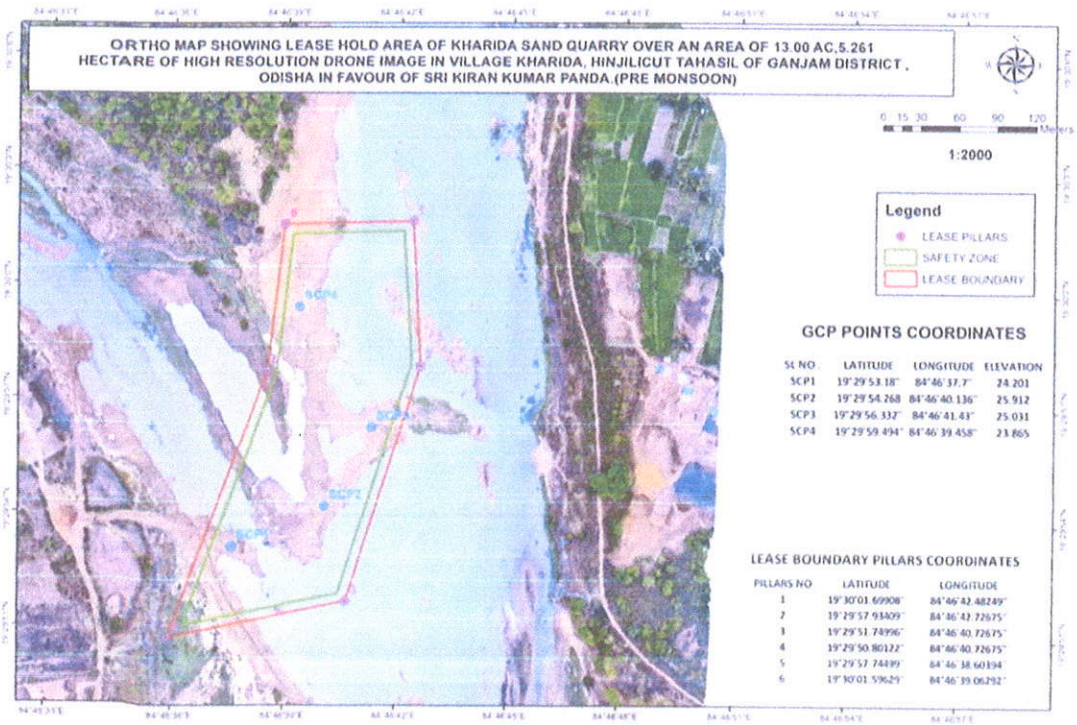
3.4.2 DENSE POINT CLOUD

Depth value is estimated for every pixel in the image using Multi-View Stereo algorithms. Individual depth map of an image is fused together with the depth map of the neighboring image to obtain a 3D point. These points are often called as the dense point cloud. It may even consist of greater than 1crore points for a relatively smaller area. 3D points are triangulated to create Digital Elevation Model (Raster). Every pixel in raster has latitude, longitude and elevation information. Interpolation techniques like IDW are often used to do 3D point cloud to obtain the elevation model.

3.4.3 ORTHMOSAIC & DIGITAL ELEVATION MODELS

Ortho rectification of each photo is done using DEM. Ortho rectification step involves creating a visibility or occlusion map with respect to each image. This Ortho-mosaic can be used to Cntr Postmeasure true distances, because it is an accurate representation of the Earth's surface, having been adjusted for topographic relief, lens distortion, and camera tilt. A digital elevation model (DEM) is a 3D representation of a terrain created from its elevation data. A digital surface model (DSM) represents the earth's surface and includes all objects on it. The digital terrain model (DTM) represents the bare ground surface without any objects like plant sand buildings.

(Ortho-Mosaic Image of Kharida Sand Quarry)



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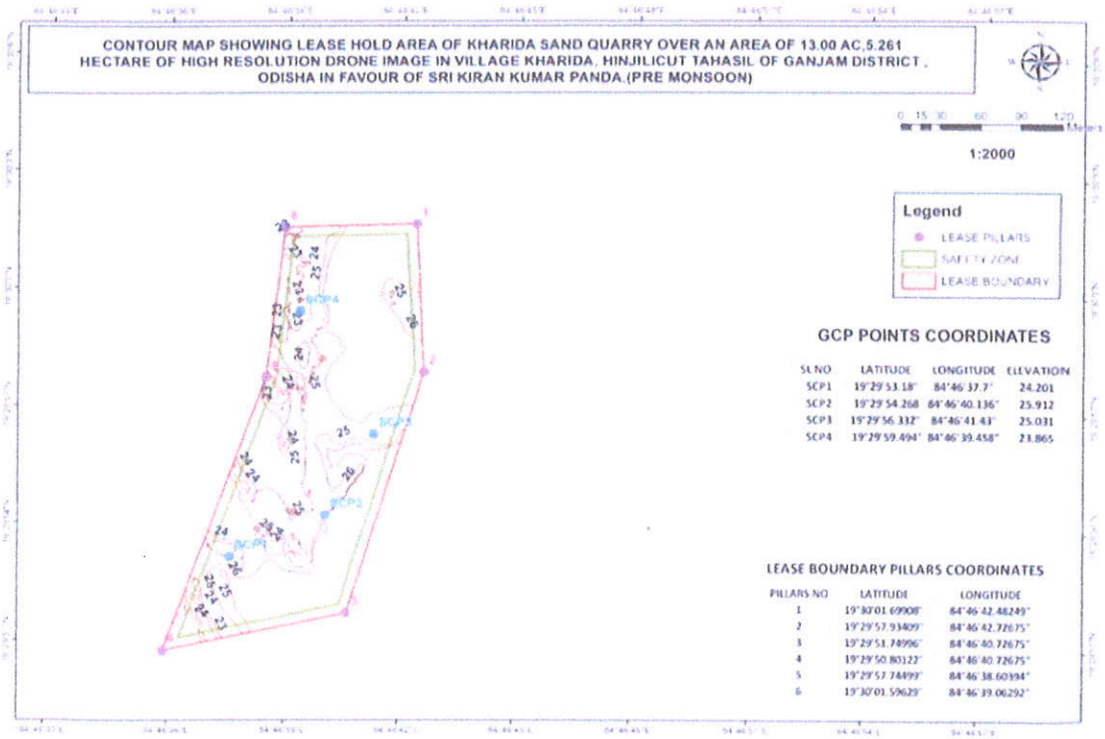
3.5 SURVEY OUTPUT (PRE-MONSOON)

Pre-monsoon Survey was carried out on 08.04.2025 before offset of monsoon. For the data acquisition, the Drone was used to fly covering the river stretch in the lease area. A data acquisition plan is made specific to the site that needs to be surveyed. It depends on the type of terrain / object to be reconstructed. Flight polygons are designed and data acquired is as per this plan. The flying altitude is designed to capture resolution which best fits the project.



Contour Map Pre-Monsoon

3.6 SURVEY OUTPUT (POST-MONSOON)

Post- monsoon Survey was carried out on 04.01.2026 after the monsoon before starting of mining operation. For the data acquisition, the Drone was again used to fly covering the river stretch in the lease area. The major outputs from photogrammetric processing include Ortho-mosaic, Digital Surface Model and Digital Terrain Model.

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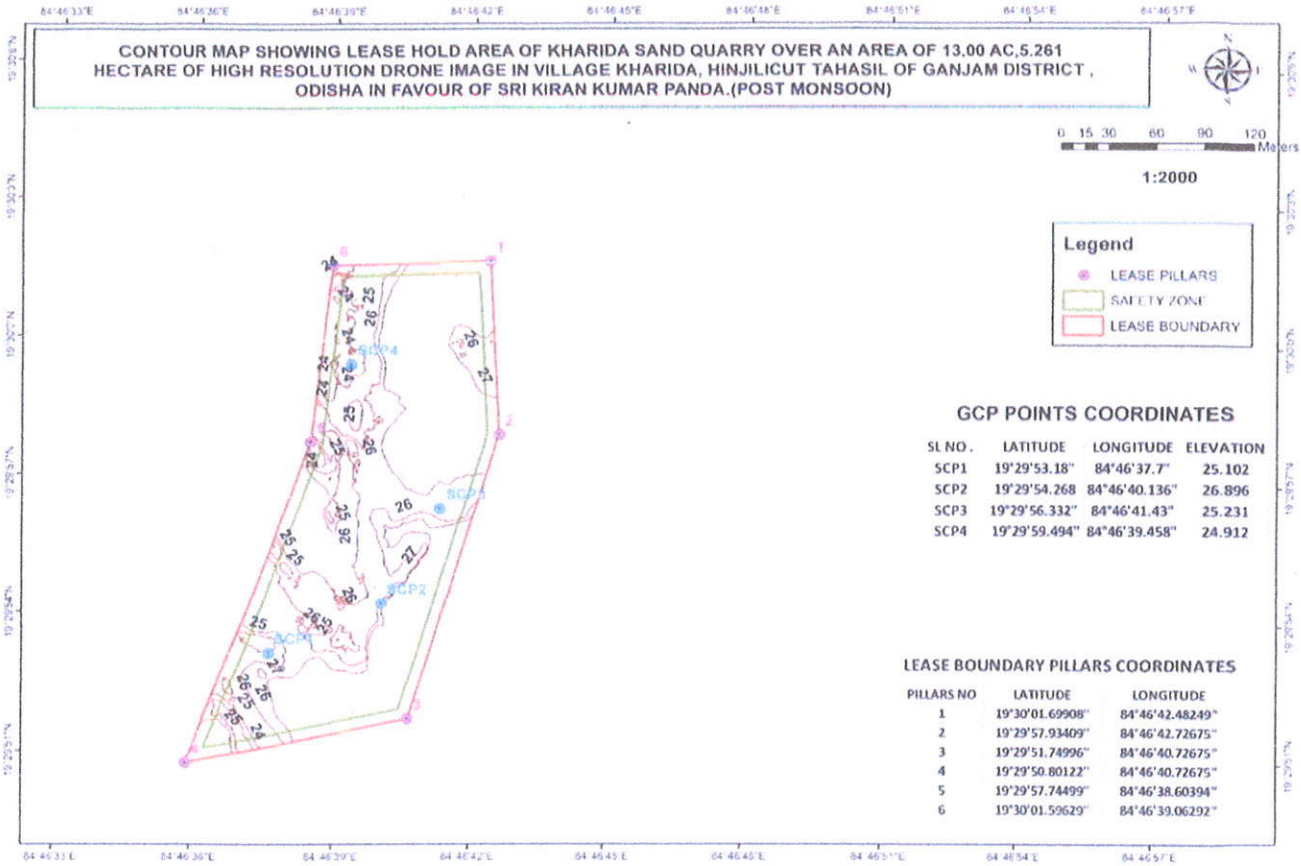

GCP POINTS COORDINATES

SL NO.	LATITUDE	LONGITUDE	ELEVATION
SCP1	19°29'53.18"	84°46'37.7"	25.102
SCP2	19°29'54.268	84°46'40.136"	26.896
SCP3	19°29'56.332"	84°46'41.43"	25.231
SCP4	19°29'59.494"	84°46'39.458"	24.912

LEASE BOUNDARY PILLARS COORDINATES

PILLARS NO	LATITUDE	LONGITUDE
1	19°30'01.69908"	84°46'42.48249"
2	19°29'57.93409"	84°46'42.72675"
3	19°29'51.74996"	84°46'40.72675"
4	19°29'50.80122"	84°46'40.72675"
5	19°29'57.74499"	84°46'38.60394"
6	19°30'01.59629"	84°46'39.06292"

Contour Map Post-Monsoon

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VOLUME ESTIMATION

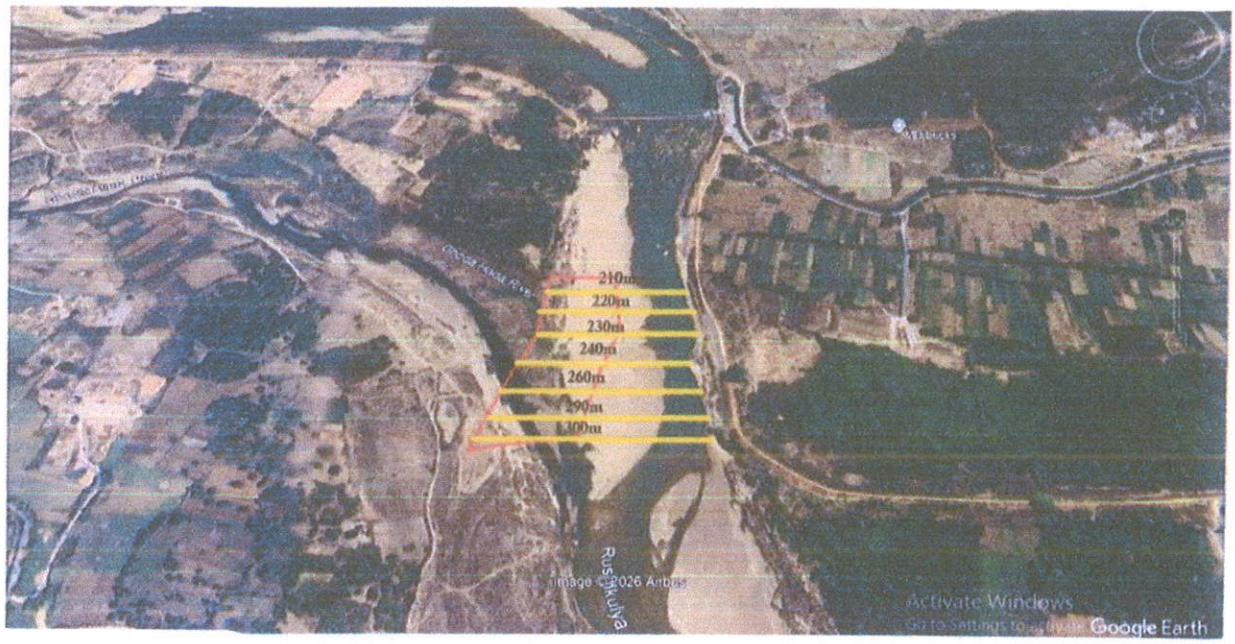
4.1 Estimation of Reserve / Replenishment

In order to estimate the replenished volumes of sand, both the surveyed data were merged / superimposed, the data obtained in pre- monsoon & post- monsoon. The digital method using DEM to DEM comparison has been used for estimating the amount of sand deposition or erosion. The difference in elevation within safe **common workable area** shows the amount of river erosion (if negative) anddeposition (if positive). The area calculation was done using virtual surveyor software. The volume reports for the pre-monsoon survey and post –monsoon survey are given.

4.1 Safe workable Area

The safe workable area due to various statutory mining restrictions as per the Sand Mining Guideline, 2020 has been considered for calculations of reserve estimation using software as below;

- River bed sand mining shall be restricted within the central 3/4th width of the river/rivulet or 7.5 meters (inward) from river banks but up to 10% of the width of the river, which needs to be protected. In this lease area, the bank of river is aligned with the lease boundary and the effective width of the river in the lease area varies from 210 m to 300m. The river width variation is in sync with the variation of SBZ.



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Common Safe workable Area

Since the most of lease area was water logged during post-monsoon survey as compare to pre-monsoon survey, Drone survey could not be processed in water logged area. Hence, only that safe workable area in post monsoon survey which is common with pre-monsoon safe workable area has been taken into account for estimation of replenishment study. So, it is estimated that total area is **15,838 m^2 for Kharida Sand Quarry** is considered as common with pre-monsoon and post-monsoon safe workable area.

4.2 Calculation of Replenished Volume

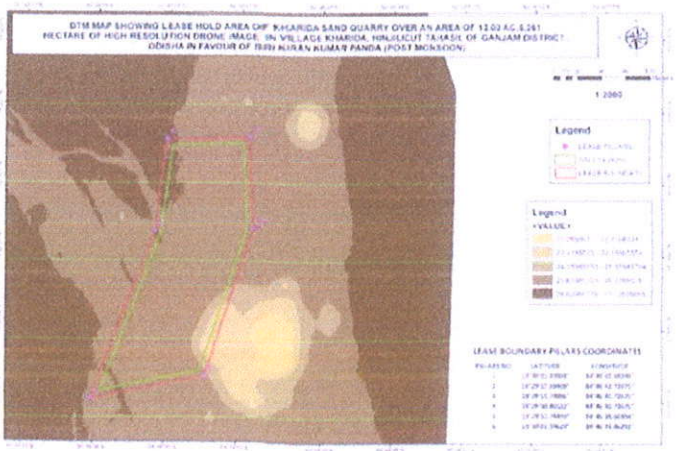
a) Replenished volume by cross-sectional method in the entire lease area

The classical method of cross-sections has been used for estimating the amount of sand erosion / depositions. The difference in elevation along a cross-section shows the amount of river erosion (if negative) and deposition (if positive). The area calculation was done using virtual surveyor software.

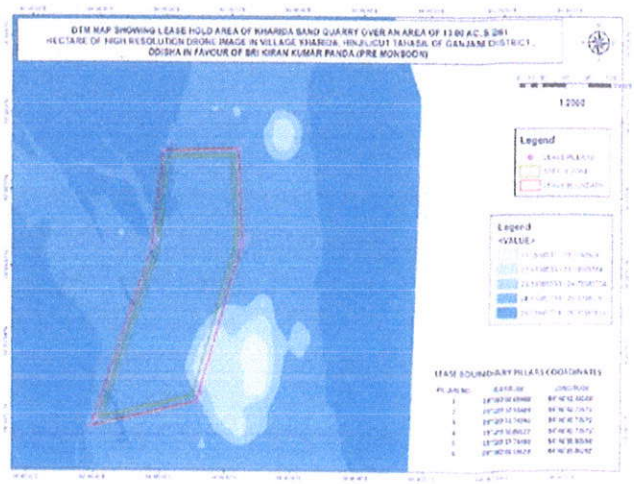
b) Replenished volume in common safe workable area

The volume metric calculations of common safe workable area or minable area have been done from photogrammetric software and results are as follow;

DEM Map Pre-Monsoon



DEM Map Post-Monsoon



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c) Volume of Sand available during Pre-monsoon survey in safe workable area

Considering all the mining constrains of a total safe workable area the volume of sand computed as below. The volume of sand available with a average **mRL 27.31** after the Pre- Monsoon Survey.

d) Volume of Sand available during post-monsoon survey in safe workable area

The volume of sand available with an average **mRL27.59** with a height of **0.28 m.** for the quarries after the post-monsoon survey. The details computed as below;

cation nts	Latitude X-Axis	Longitude Y-Axis	evation Z-Axis	
			M Pre-Monsoon	Post-Monsoon
DJI_0536	84.46152	19.29734	26.21	27.39
DJI_0544	84.46242	19.29754	26.24	27.42
DJI_0551	84.46354	19.29754	26.34	27.5
DJI_0553	84.46386	19.29754	26.33	26.51
DJI_0556	84.46424	19.29754	26.46	27.63
DJI_0561	84.4636	19.29774	27.35	27.51
DJI_0564	84.46311	19.29774	26.54	27.72
DJI_0565	84.46295	19.29774	27.31	27.49
DJI_0566	84.46279	19.29774	27.22	27.38
DJI_0567	84.46263	19.29774	27.31	27.48
DJI_0568	84.46247	19.29774	27.34	27.52
DJI_0570	84.46215	19.29774	27.58	27.74
DJI_0571	84.46199	19.29774	27.56	27.74
DJI_0572	84.46183	19.29774	27.61	27.77
DJI_0573	84.46167	19.29774	27.25	27.43
DJI_0574	84.46151	19.29774	27.2	27.37
DJI_0575	84.4615	19.29774	27.39	27.55
DJI_0576	84.4615	19.29773	27.49	27.65
DJI_0577	84.46153	19.29793	27.47	27.68
DJI_0578	84.46169	19.29794	27.41	27.58
DJI_0579	84.46185	19.293794	27.61	27.77
DJI_0580	84.46201	19.29794	27.25	27.43
DJI_0581	84.46217	19.29794	27.38	27.56
DJI_0582	84.46233	19.29794	27.37	27.52
DJI_0583	84.46249	19.29794	27.41	27.59
DJI_0584	84.46265	19.29794	27.59	27.77
DJI_0585	84.46281	19.29794	27.61	27.77
DJI_0586	84.46297	19.29794	27.33	27.51
DJI_0587	84.46313	19.29794	27.44	27.62
DJI_0588	84.46329	19.29794	27.41	27.58

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DJI_0589	84.46346	19.29685	27.57	27.75
DJI_0590	84.464362	19.29586	27.47	27.66
DJI_0591	84.46378	19.29345	27.41	27.56
DJI_0592	84.464394	19.29145	27.55	27.71
DJI_0593	84.46441	19.29671	27.53	27.71
DJI_0594	84.46423	19.29514	27.56	27.72
DJI_0595	84.46423	19.29631	27.46	27.63
DJI_0596	84.46407	19.29351	27.44	27.62
DJI_0597	84.46391	19.29312	27.39	27.55
DJI_0598	84.46375	19.29412	27.29	27.47
DJI_0599	84.46359	19.29521	26.39	26.57
DJI_0600	84.46343	19.29678	25.61	25.79
DJI_0601	84.46327	19.29365	24.41	24.57
DJI_0602	84.46311	19.29654	25.55	25.71
DJI_0603	84.46295	19.29548	26.44	26.62
DJI_0604	84.46279	19.29548	27.52	27.68
DJI_0605	84.46263	19.29587	27.42	27.88
DJI_0607	84.46231	19.29478	26.34	26.52
DJI_0608	84.46215	19.29564	27.4	27.56
DJI_0609	84.46198	19.29547	27.37	27.55
DJI_0610	84.46183	19.29825	27.48	27.66
DJI_0611	84.46166	19.29814	26.28	26.44
DJI_0612	84.46157	19.293813	27.27	27.43
Total Average			27.31	27.59

VOLUME ESTIMATION:

Quantity extracted during the quarter period with respect to initial/latest survey pit position as per site requirement. This includes of material extracted from Mines, material added and total quantity in dumps, material added/removed quantity in stockpile and reclaimed area, water accumulation in the pit.

For each of the cut/fill regions, the volume is calculated. For a single cell, the formula for the volume is:

Volume (m3) = (cell area) * ΔZ

Where:

$\Delta Z = Z_{Before} - Z_{After}$

Total Lease Area(Ha)	5.261Ha
Mineable Area (A) (Total Area – Safety Zone considered for both Pre-monsoon and Post Monsoon Period)	**15,838 sq.mtr. (Common Safe Workable Area)**
Pre-Monsoon Standard Elevation (SE1)	27.31m
Post-Monsoon Standard Elevation (SE2)	27.59m
Difference in Elevation (D = SE2 – SE1)	0.28 m
Replenishment reserve (B x D = E)	15838 x 0.28= 4434.64 m^3 or say 4435 m^3

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Whereas,

Geological reserved as per Mining Plan= 67827 m^3

Minable reserve as per approved Mining Plan =37740m^3

Replenishment of sand reserve during ARSS study =4434.64m^3~ 4435m^3.

N.B-Common Safe workable area has been considered excluding safety zone from water, River bank and water zone area for both the Pre-monsoon and Post-Monsoon Period.

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5.1 Conclusion

The field survey and the data generation thereof for the pre and post monsoon season was undertaken and the data were compiled and analyzed with the help of standard engineering and mining software. The mineable area considered for assessment of deposit or erosion, was in compliance to the sustainable Sand guidelines' 2020 and other applicable regulatory requirements.

The calculation of deposits was made based on the survey data arising out of pre and post monsoon survey and standard calculation method (Cross-section area method and Digital elevation Model DEM)). The estimated average erosion thickness is computed within the entire lease area and common safe workable area respectively.

However the total sand available in Para Sand Quarry after Post-monsoon Study is around 15,838 m^3 after leaving the safety zone. The available sand for mining is 4435 m^3 which can be treated as safe extractable within the framework of the study after arrival of river level. In the first Year SEIAA, Odisha has approved the quantity for production of sand 15501 m^3.

5.2 Recommendations

In our considered opinion, there is need to consider the concept of resource accounting of sand and take the volume of replenishment as a measure for resource augmentation. The permissible level of sand has identified and each year, the resource augmentation based on the replenishment of the river need to be added into it for updating the sand available. Based on this estimation, quantum of further permits may be decided by Hon'ble SEIAA, Odisha.

Shree Laxmi Narayan Mines
Kiran Kumar Pandu
Proprietor

Signature of the Lessee

Mining Officer, Ganjam
Mining Officer
O/o the Deputy Director of Mines
Ganjam Circle, Berhampur

AREA CONSTRUCTIONS & GEO-INDIA SERVICES
(ORSAC Empanelment Agencies)
Head Office:
Saraswati Niwas, Nayabazar (Behind Jogeswar Temple)
Potapokhari, Chaluniaganj,Cuttack- 753004, Odisha, India

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Quality Report

Generated with Pix4Denterprise version 4.5.6

Important: Click on the different icons for:

Help to analyze the results in the Quality Report

Additional information about the sections

Click here for additional tips to analyze the Quality Report

Summary

Project	KHARIDA SAND QUARRY BARAMPUR
Processed	2025-04-08 17:17:04
Camera Model Name(s)	M3E_12.3_5280x3956 (RGB)
Average Ground Sampling Distance (GSD)	3.03 cm / 1.19 in
Area Covered	undefined

Quality Check

Images	median of 44805 keypoints per image	✓
Dataset	751 out of 752 images calibrated (99%), all images enabled	✓
Camera Optimization	2.66% relative difference between initial and optimized internal camera parameters	✓
Matching	median of 17038.7 matches per calibrated image	✓
Georeferencing	no, no 3D GCP	⚠

Preview

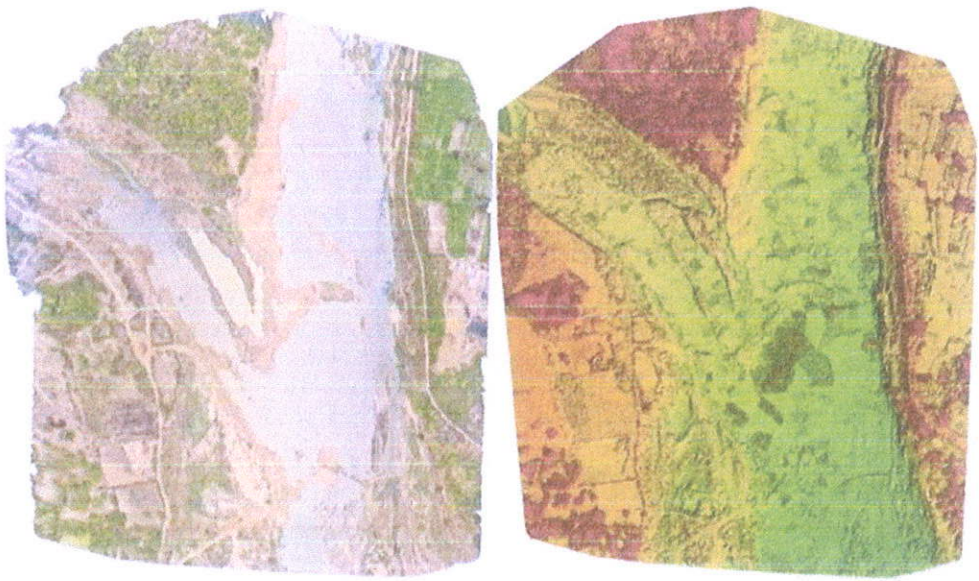

Figure 1: Orthomosaic and the corresponding sparse Digital Surface Model (DSM) before densification.

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Calibration Details

ANNEXURE S-R-9/2 Series

Number of Calibrated Images	751 out of 752
Number of Geolocated Images	752 out of 752

Initial Image Positions

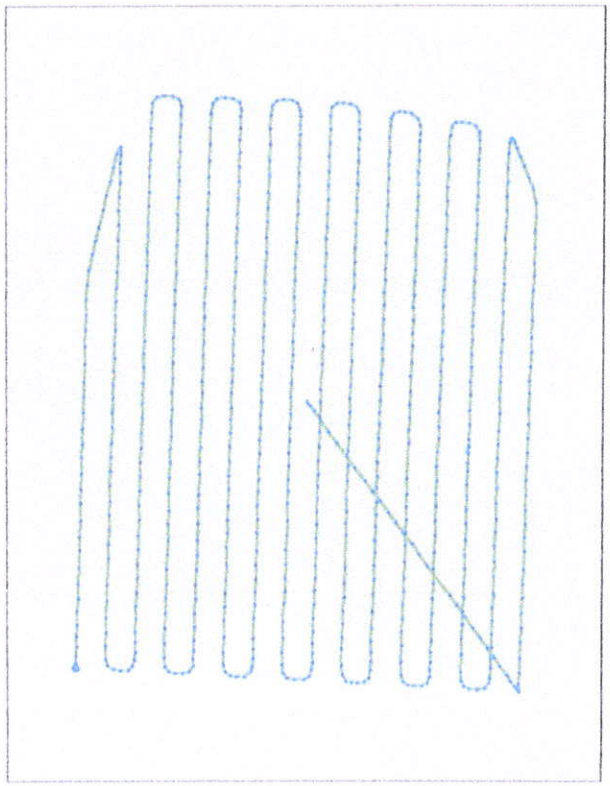

Figure 2: Top view of the initial image position. The green line follows the position of the images in time starting from the large blue dot.

Computed Image/GCPs/Manual Tie Points Positions

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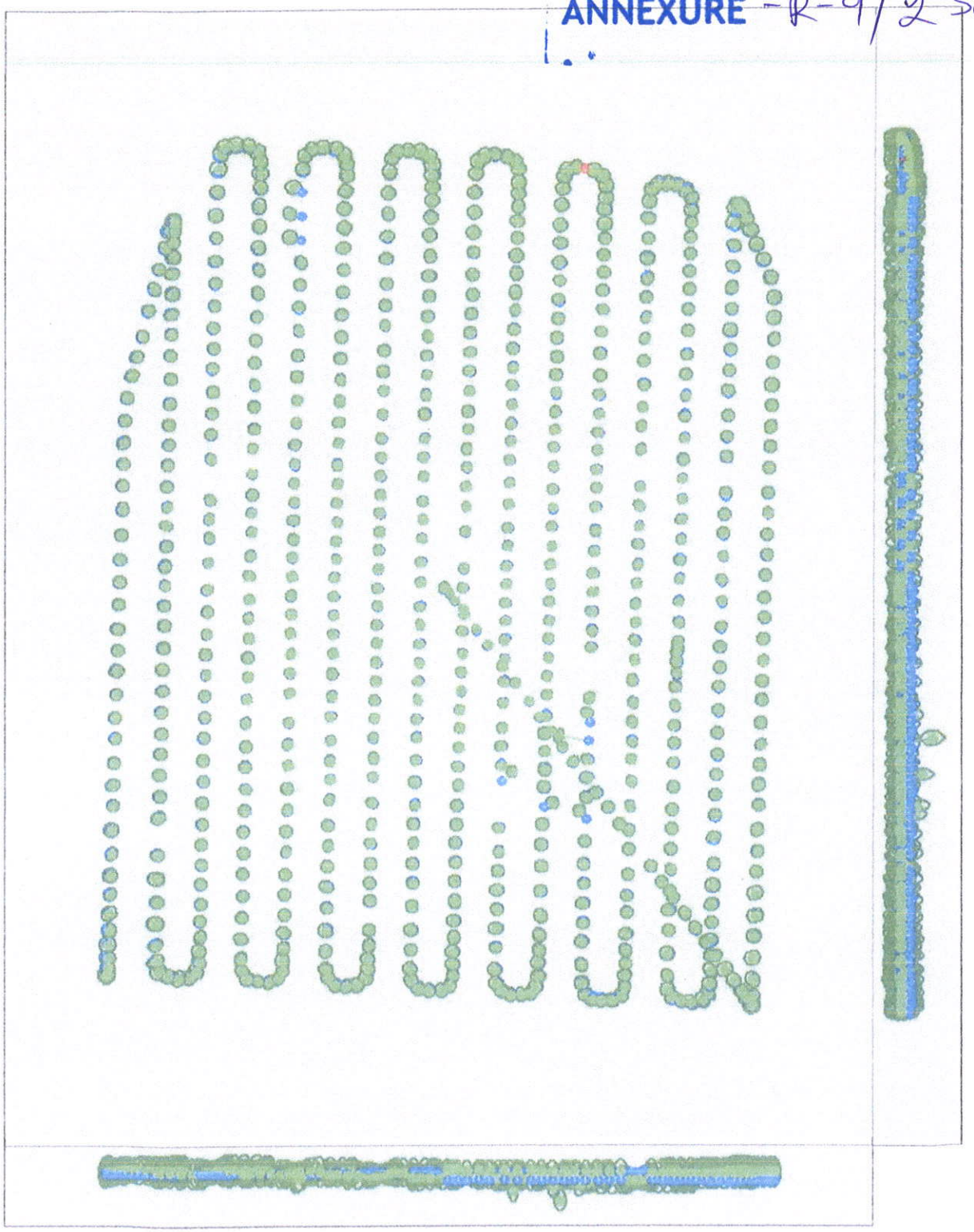

Uncertainty ellipses 50x magnified

Figure 3: Offset between initial (blue dots) and computed (green dots) image positions as well as the offset between the GCPs initial positions (blue crosses) and their computed positions (green crosses) in the top-view (XY plane), front-view (XZ plane), and side-view (YZ plane). Red dots indicate disabled or uncalibrated images. Dark green ellipses indicate the absolute position uncertainty of the bundle block adjustment result.

Absolute camera position and orientation uncertainties

	X [m]	Y [m]	Z [m]	Omega [degree]	Phi [degree]	Kappa [degree]
Mean	0.089	0.090	0.175	0.029	0.032	0.015

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Sigma	0.014	0.014	0.027	0.002		0.002	0.002

Overlap

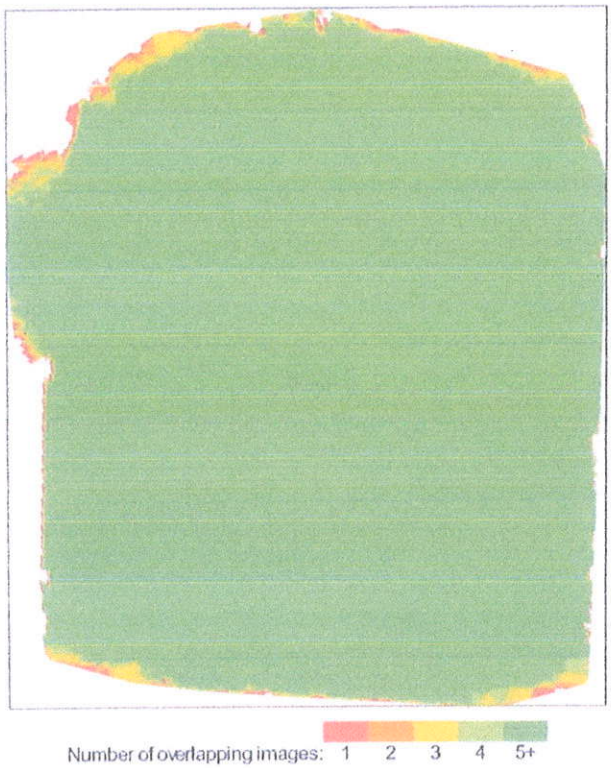

Figure 4: Number of overlapping images computed for each pixel of the orthomosaic.
Red and yellow areas indicate low overlap for which poor results may be generated. Green areas indicate an overlap of over 5 images for every pixel. Good quality results will be generated as long as the number of keypoint matches is also sufficient for these areas (see Figure 5 for keypoint matches).

Bundle Block Adjustment Details

Number of 2D Keypoint Observations for Bundle Block Adjustment	13378395
Number of 3D Points for Bundle Block Adjustment	3955287
Mean Reprojection Error [pixels]	0.210

Internal Camera Parameters

M3E_12.3_5280x3956 (RGB). Sensor Dimensions: 17.923 [mm] x 13.429 [mm]

EXIF ID: M3E_12.3_5280x3956

	Focal Length	Principal Point x	Principal Point y	R1	R2	R3	T1	T2
Initial Values	3620.571 [pixel] 12.290 [mm]	2640.000 [pixel] 8.961 [mm]	1978.000 [pixel] 6.714 [mm]	0.000	0.000	0.000	0.000	0.000
Optimized Values	3717.197 [pixel] 12.618 [mm]	2651.299 [pixel] 9.000 [mm]	1955.027 [pixel] 6.636 [mm]	-0.109	0.002	-0.018	-0.000	-0.000
Uncertainties (Sigma)	0.190 [pixel] 0.001 [mm]	0.071 [pixel] 0.000 [mm]	0.080 [pixel] 0.000 [mm]	0.000	0.000	0.000	0.000	0.000

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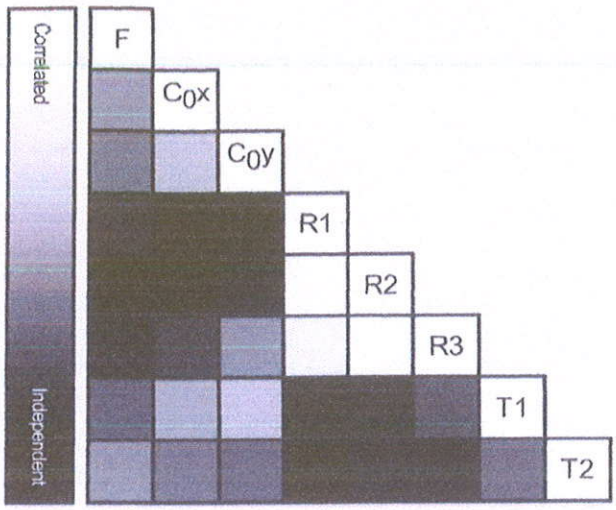
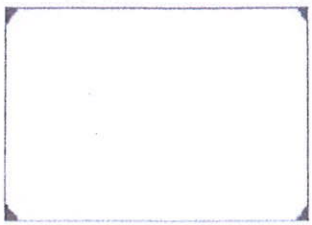


The correlation between camera internal parameters determined by the bundle adjustment. White indicates a full correlation between the parameters, ie. any change in one can be fully compensated by the other. Black indicates that the parameter is completely independent, and is not affected by other parameters.



The number of Automatic Tie Points (ATPs) per pixel, averaged over all images of the camera model, is color coded between black and white. White indicates that, on average, more than 16 ATPs have been extracted at the pixel location. Black indicates that, on average, 0 ATPs have been extracted at the pixel location. Click on the image to the see the average direction and magnitude of the re-projection error for each pixel. Note that the vectors are scaled for better visualization. The scale bar indicates the magnitude of 1 pixel error.

2D Keypoints Table

	Number of 2D Keypoints per Image	Number of Matched 2D Keypoints per Image
Median	44805	17039
Min	15172	79
Max	82642	42645
Mean	47145	17814

3D Points from 2D Keypoint Matches

	Number of 3D Points Observed
In 2 Images	2449678
In 3 Images	662928
In 4 Images	282473
In 5 Images	152815
In 6 Images	94094
In 7 Images	63773
In 8 Images	44545
In 9 Images	33055
In 10 Images	25509
In 11 Images	20427
In 12 Images	16703
In 13 Images	13880
In 14 Images	11929
In 15 Images	10109
In 16 Images	8169
In 17 Images	6835
In 18 Images	6259
In 19 Images	5684
In 20 Images	5129
In 21 Images	4465
In 22 Images	3938

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In 23 Images	3324
In 24 Images	3014
In 25 Images	2665
In 26 Images	2489
In 27 Images	2307
In 28 Images	2131
In 29 Images	1942
In 30 Images	1682
In 31 Images	1503
In 32 Images	1440
In 33 Images	1298
In 34 Images	1152
In 35 Images	1136
In 36 Images	1031
In 37 Images	919
In 38 Images	784
In 39 Images	627
In 40 Images	544
In 41 Images	475
In 42 Images	391
In 43 Images	358
In 44 Images	320
In 45 Images	299
In 46 Images	245
In 47 Images	199
In 48 Images	140
In 49 Images	107
In 50 Images	84
In 51 Images	55
In 52 Images	45
In 53 Images	31
In 54 Images	31
In 55 Images	28
In 56 Images	24
In 57 Images	10
In 58 Images	13
In 59 Images	10
In 60 Images	6
In 61 Images	7
In 62 Images	8
In 63 Images	4
In 64 Images	5
In 65 Images	2
In 66 Images	1
In 67 Images	1
In 68 Images	2
In 69 Images	1

2D Keypoint Matches

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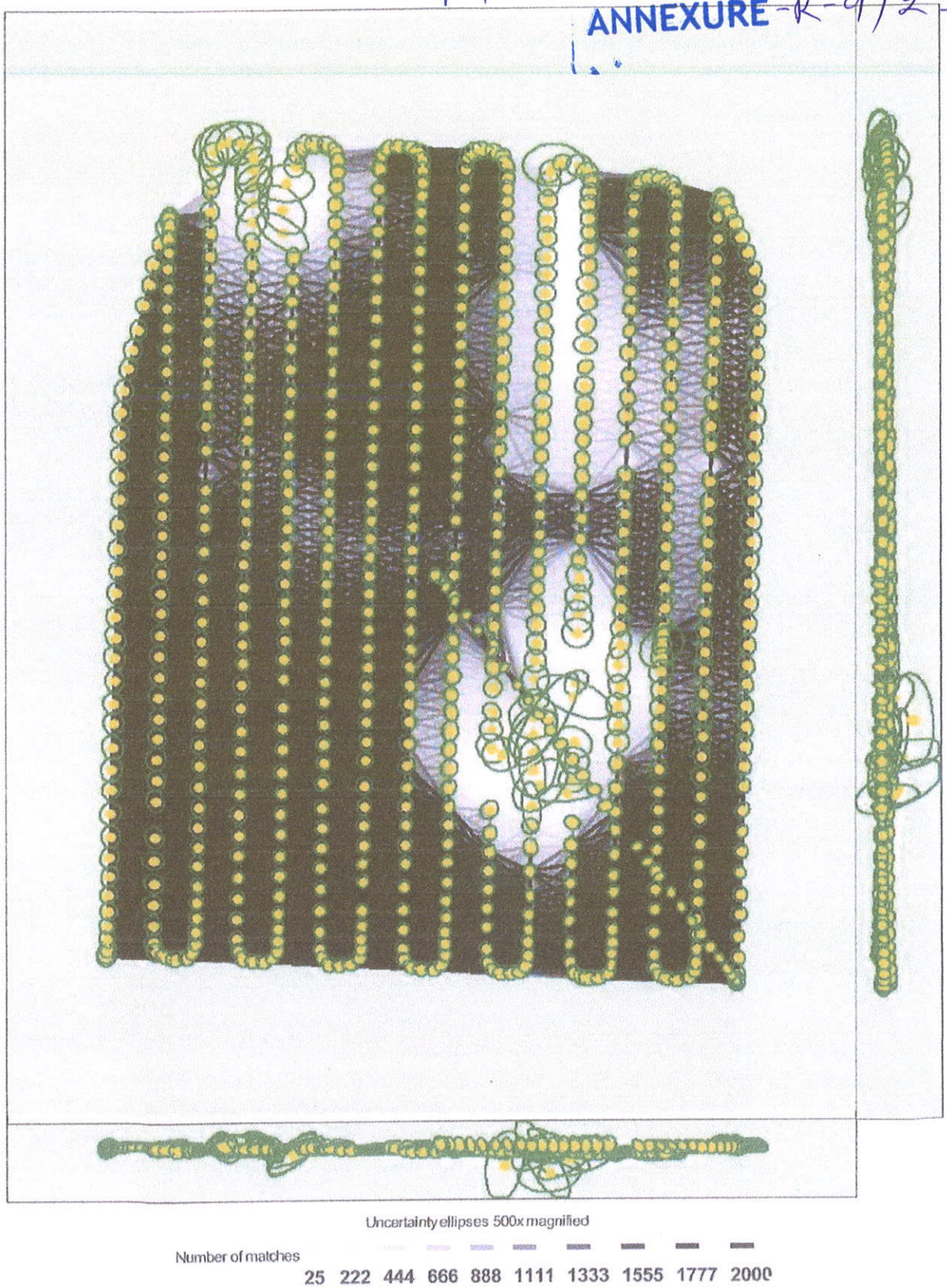

Figure 5: Computed image positions with links between matched images. The darkness of the links indicates the number of matched 2D keypoints between the images. Bright links indicate weak links and require manual tie points or more images. Dark green ellipses indicate the relative camera position uncertainty of the bundle block adjustment result.

Relative camera position and orientation uncertainties

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	X[m]	Y[m]	Z[m]	Omega [degree]	Phi [degree]	Kappa [degree]
Mean	0.012	0.014	0.008	0.007	0.006	0.002
Sigma	0.005	0.005	0.004	0.003	0.003	0.001

Geolocation Details

Absolute Geolocation Variance

Min Error [m]	Max Error [m]	Geolocation Error X [%]	Geolocation Error Y [%]	Geolocation Error Z [%]
-	-15.00	0.00	0.00	0.00
-15.00	-12.00	0.00	0.00	0.00
-12.00	-9.00	0.00	0.00	0.00
-9.00	-6.00	0.27	0.40	5.06
-6.00	-3.00	0.00	0.27	13.72
-3.00	0.00	47.00	48.74	30.09
0.00	3.00	52.06	50.60	27.30
3.00	6.00	0.27	0.00	23.17
6.00	9.00	0.27	0.00	0.27
9.00	12.00	0.00	0.00	0.13
12.00	15.00	0.00	0.00	0.13
15.00	-	0.13	0.00	0.13
Mean [m]		0.010191	0.000763	-0.015135
Sigma [m]		1.068593	0.871993	3.612045
RMS Error [m]		1.068641	0.871994	3.612077

Min Error and Max Error represent geolocation error intervals between -1.5 and 1.5 times the maximum accuracy of all the images. Columns X, Y, Z show the percentage of images with geolocation errors within the predefined error intervals. The geolocation error is the difference between the initial and computed image positions. Note that the image geolocation errors do not correspond to the accuracy of the observed 3D points.

Relative Geolocation Variance

Relative Geolocation Error	Images X [%]	Images Y [%]	Images Z [%]
[-1.00, 1.00]	99.07	99.60	99.60
[-2.00, 2.00]	99.87	100.00	99.87
[-3.00, 3.00]	99.87	100.00	100.00
Mean of Geolocation Accuracy [m]	5.000000	5.000000	10.000000
Sigma of Geolocation Accuracy [m]	0.000000	0.000000	0.000000

Images X, Y, Z represent the percentage of images with a relative geolocation error in X, Y, Z.

Geolocation Orientational Variance	RMS [degree]
Omega	0.384
Phi	0.750
Kappa	1.211

Geolocation RMS error of the orientation angles given by the difference between the initial and computed image orientation angles.

Initial Processing Details

System Information

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Hardware	CPU: Intel(R) Core(TM) Ultra 9 285K RAM: 127GB GPU: NVIDIA GeForce RTX 5070 Ti (Driver: 32.0.15.9186), Intel(R) Graphics (Driver: 32.0.101.5869)
Operating System	Windows 10 Pro, 64-bit

Coordinate Systems

Image Coordinate System	WGS 84 (EGM96 Geoid)
Output Coordinate System	WGS 84 / UTM zone 45N (EGM96 Geoid)

Processing Options

Detected Template	No Template Available
Keypoints Image Scale	Full, Image Scale: 1
Advanced: Matching Image Pairs	Aerial Grid or Corridor
Advanced: Matching Strategy	Use Geometrically Verified Matching: no
Advanced: Keypoint Extraction	Targeted Number of Keypoints: Automatic
Advanced: Calibration	Calibration Method: Standard Internal Parameters Optimization: All External Parameters Optimization: All Rematch: Auto, no

Point Cloud Densification details

Processing Options

Image Scale	multiscale, 1/2 (Half image size, Default)
Point Density	Optimal
Minimum Number of Matches	3
3D Textured Mesh Generation	yes
3D Textured Mesh Settings:	Resolution: Medium Resolution (default) Color Balancing: no
LOD	Generated: no
Advanced: 3D Textured Mesh Settings	Sample Density Divider: 1
Advanced: Image Groups	group1
Advanced: Use Processing Area	yes
Advanced: Use Annotations	yes

Results

Number of Generated Tiles	6
Number of 3D Densified Points	63777893
Average Density (per m^3)	28.09

DSM, Orthomosaic and Index Details

Processing Options

DSM and Orthomosaic Resolution	1 x GSD (3.03 [cm/pixel])
DSM Filters	Noise Filtering: yes Surface Smoothing: yes, Type: Sharp
Raster DSM	Generated: yes Method: Inverse Distance Weighting Merge Tiles: yes

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Orthomosaic	Generated: yes Merge Tiles: yes GeoTIFF Without Transparency: no Google Maps Tiles and KMZ: no
Grid DSM	Generated: yes, Spacing [cm]: 10
Raster DTM	Generated: yes Merge Tiles: yes
DTM Resolution	5 x GSD (3.03 [cm/pixel])
Contour Lines Generation	Generated: yes Contour Base [m]: 0 Elevation Interval [m]: 1 Resolution [cm]: 100 Minimum Line Size [vertices]: 20
Index Calculator: Reflectance Map	Generated: yes Resolution: 1 x GSD (3.03 [cm/pixel]) Merge Tiles: no

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Processing Parameters

Summary:

Project	Kharida_04-01-2026_Pix4D
Processed	2026-01-04 16:06:54
Camera Model Name(s)	FC2204_4.4_4000x3000 (RGB)
Average Ground Sampling Distance (GSD)	2.01 cm / 0.79 in
Area Covered	0.085 km² / 8.4865 ha / 0.03 sq. mi. / 20.9814 acres
Time for Initial Processing (without report)	49m:19s

Quality check:

Images	median of 34183 keypoints per image
Dataset	333 out of 333 images calibrated (100%), all images enabled
Camera Optimization	271.21% relative difference between initial and optimized internal camera parameters
Matching	median of 20893.1 matches per calibrated image
Georeferencing	yes, no 3D GCP

Calibration details:

Number of Calibrated Images	333 out of 333
Number of Geolocated Images	333 out of 333

Absolute camera position and orientation uncertainties

	X [m]	Y [m]	Z [m]	Omega [degree]	Phi [degree]	Kappa [degree]
Mean	0.132	0.136	0.290	0.104	0.162	0.041
Sigma	0.027	0.027	0.067	0.006	0.002	0.002

Bundle block adjustment details:

Number of 2D Keypoint Observations for Bundle Block Adjustment	6639892
Number of 3D Points for Bundle Block Adjustment	1430915
Mean Reprojection Error [pixels]	0.202

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Internal camera parameters

FC2204_4.4_4000X3000 (RGB). Sensor Dimensions: 6.396 (mm) X 4.797 (mm)

	Focal Length	Principal Point x	Principal Point y	R1	R2	R3	T1	T2
Initial Values	2742.856 [pixel] 4.386 [mm]	1999.999 [pixel] 3.198 [mm]	1500.000 [pixel] 2.399 [mm]	0.000	0.000	0.000	0.000	0.000
Optimized Values	10181.938 [pixel] 16.282 [mm]	1736.359 [pixel] 2.777 [mm]	1130.639 [pixel] 1.808 [mm]	-0.281	4.881	-30.340	0.016	0.004
Uncertainties (Sigma)	14.309 [pixel] 0.023 [mm]	0.916 [pixel] 0.001 [mm]	1.256 [pixel] 0.002 [mm]	0.001	0.037	0.353	0.000	0.000

Relative camera position and orientation uncertainties

	X [m]	Y [m]	Z [m]	Omega [degree]	Phi [degree]	Kappa [degree]
Mean	0.054	0.065	0.029	0.035	0.024	0.009
Sigma	0.020	0.022	0.015	0.014	0.008	0.001

Geolocation details:

Absolute geolocation variance

Min Error [m]	Max Error [m]	Geolocation Error X [%]	Geolocation Error Y [%]	Geolocation Error Z [%]
-	-15.00	0.00	0.00	0.00
-15.00	-12.00	0.00	0.00	0.00
-12.00	-9.00	0.00	0.00	0.00
-9.00	-6.00	0.00	0.00	2.10
-6.00	-3.00	0.30	23.12	14.11
-3.00	0.00	57.96	25.23	38.14
0.00	3.00	41.14	33.93	33.33
3.00	6.00	0.60	16.22	8.11
6.00	9.00	0.00	1.50	3.30
9.00	12.00	0.00	0.00	0.90
12.00	15.00	0.00	0.00	0.00
15.00	-	0.00	0.00	0.00
Mean [m]		-0.037340	0.030757	-0.215595
Sigma [m]		1.032908	2.930870	3.151389
RMS Error [m]		1.033582	2.931031	3.158755

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Relative geolocation variance

Relative Geolocation Error	Images X [%]	Images Y [%]	Images Z [%]
[-1.00, 1.00]	100.00	94.59	99.40
[-2.00, 2.00]	100.00	100.00	100.00
[-3.00, 3.00]	100.00	100.00	100.00
Mean of Geolocation Accuracy [m]	5.000000	5.000000	10.000000
Sigma of Geolocation Accuracy [m]	0.000000	0.000000	0.000000

Images X, Y, Z represent the percentage of images with a relative geolocation error in X, Y, Z.

Geolocation Orientational Variance	RMS [degree]
Omega	3.656
Phi	2.499
Kappa	2.241

Initial processing details:

System information

Hardware	CPU: 11th Gen Intel(R) Core(TM) i5-11300H @ 3.10GHz RAM: 16GB GPU: Intel(R) Iris(R) Xe Graphics (Driver: 31.0.101.3616)
Operating System	Windows 10 Home Single Language, 64-bit

Coordinate system

Image Coordinate System	WGS84 (egm96)
Output Coordinate System	WGS 84 / UTM zone 45N (egm96)

Processing options

Detected Template	3D Maps
Keypoints Image Scale	Full, Image Scale: 1
Advanced: Matching Image Pairs	Aerial Grid or Corridor
Advanced: Matching Strategy	Use Geometrically Verified Matching: no
Advanced: Keypoint Extraction	Targeted Number of Keypoints: Automatic
Advanced: Calibration	Calibration Method: Standard Internal Parameters Optimization: All External Parameters Optimization: All Rematch: Auto, yes

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DSM, Orthomosaic and Index details:

Processing options

DSM and Orthomosaic Resolution	1 x GSD (2.01 [cm/pixel])
DSM Filters	Noise Filtering: yes Surface Smoothing: yes, Type: Sharp
Raster DSM	Generated: yes Method: Inverse Distance Weighting Merge Tiles: yes
Orthomosaic	Generated: yes Merge Tiles: yes GeoTIFF Without Transparency: no Google Maps Tiles and KML: no
Raster DTM	Generated: yes Merge Tiles: yes
DTM Resolution	5 x GSD (2.01 [cm/pixel])
Contour Lines Generation	Generated: yes Contour Base [m]: 0 Elevation Interval [m]: 4 Resolution [cm]: 100 Minimum Line Size [vertices]: 20
Time for DSM Generation	23m:44s
Time for Orthomosaic Generation	24m:28s
Time for DTM Generation	06m:23s
Time for Contour Lines Generation	01s

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ANNEXURE-R-9/3 series.

Item No.01 Court No.1

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

Original Application No.54/2026/EZ

Rajani Kanta Padhy Applicant

Versus

State of Odisha & Ors. Respondents

Date of hearing: 17.03.2026

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Sankar Prasad Pani and Mr. Ashutosh Padhy, Advocates for the applicant (through VC).

ORDER

1. The applicant has filed present Original Application under Sections 14 and 15 read with Section 18 of the National Green Tribunal Act, 2010 seeking following reliefs:-

"

i. Direct the SEIAA and SPCB to revoke the EC and CTO for violation of Environment Clearance and Consent to Operate conditions

ii. Direct the DM Ganjam to evict the Private respondent from illegally encroached Gramya Jungle land bearing Khata No.- 556, Plot No.- 4603, Mouza-Kharida And to inquire into the fake/ counterfeit transit pass created/ manufactured/fabricated by the Private Respondent transportation of sand from the sand source.

iii. Direct the District Collector to initiate Criminal Proceedings against the Private Respondent for causing loss to the exchequer and violation of terms of mining lease and realise the environment compensation and cost of the mined out sand from the private respondent(lessee).

iv. Fix the accountability of Government Respondents for lapses on their part for their inaction in enforcing the laws regulating the sand mining.

v. Call for a status report from Chief Secretary on implementation of Enforcement and Monitoring Guidelines for sand mining 2020, and mechanism to monitor exact quantity of sand extracted and transported from a source

vi. Direct the Chief Secretary to make sure GPS TRACKING OF VEHICLES and CCTV at the sand sources connected to a central server MANDATORY FOR MINING OPERATION for all sand mining leases."

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ANNEXURE-R-9/3 series.

2. The applicant has submitted that Environmental clearance for the project in question was granted on 13.12.2024 in favor of Respondent no. 9-Kiran Kumar Panda for operation of Kharida Sand Bed on junction of Rushikulya & Ghorahara River over an area 5.261 ha at Khata No-554, Plot No-4553/1 & 4532/1, Village- Kharida, Tehsil Hinjilicut, District- Ganjam. Respondent no. 9-Kiran Kumar Panda obtained CTO dated 16.01.2025 from Odisha State Pollution Board (OSPCB) valid up to 31.03.2026.

3. The applicant has raised grievances regarding mining in violation of EC, CTE/CTO conditions, guidelines and environmental norms. In the application, the applicant has mentioned the following violations:-

i. Respondent no. 9 is extracting sand beyond the permissible limit by using heavy machineries like excavators.

ii. Respondent no. 9 has obstructed the free flow of water by stacking sand in the water course of the river.

iii. Respondent no. 9 is operating the quarry by using heavy machines/ JCB.

iv. No ARSS report has been filed by respondent no. 9 as verified from the website of PARIVESH portal.

v. No pillars have been fixed by respondent no. 9.

vi. Respondent no. 9 is excavating sands by using JCB machine to a depth of around 5 metre depth.

vii. Respondent no. 9 is extracting 1700cum of sand per day much beyond the permissible quantity.

viii. Respondent no. 9 is extracting sands from the No Working Zones as prescribed in the Environmental clearance by obstructing the free flow of water and also doing in-stream mining by engaging heavy machines.

ix. Respondent no. 9 is transporting sand loaded heavy vehicles through densely populated villages namely Sikiri and Kharida without any prior permission from the competent authorities.

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x. Respondent no. 9 is transporting the overloaded vehicles without covering with tarpaulin through densely populated villages.

xi. No half yearly compliance report has been filed by respondent no. 9 as verified by the complainant from the parivesh portal.

xii. Respondent no. 9 is operating the quarry in question during night time and during operating excessive noise is generated for which the local villagers are suffering a lot.

xiii. There exists a water barrage namely Hiradharabati Irrigation Project having catchment area of 5800Sq K.M. at around 462 meter away from the mining lease area, and the mechanical mining poses significant risks to the structural integrity of the infrastructure and the surrounding ecosystem, hence the mining in close proximity to the water barrage needs to be stopped immediately.

xiv. Respondent no. 9 is carrying out mining activities within 500 meters of the water barrage.

xv. Respondent no. 9 has not taken any steps for strengthening the village road rather due to plying of heavy sand loaded vehicles of Respondent no. 9 village road has been damaged completely for which the villagers are facing huge inconvenience while using the road.

xvi. Respondent no. 9 has illegally encroached a piece of forest land over Khata No. 556, Plot No. 4605 in Mouza- Kharida, Under Hinjilicut Tahasil of Ganjam district and over the said land constructed his camp office, vehicle parking yard and also piling the illegally extracted sands.

xvii. Respondent no. 9 has illegally felled the trees existed over the Gramya Jungle kissam land bearing Khata No. 556, Plot No. 4605 in Mouza- Kharida, Under Hinjilicut Tahasil of Ganjam district.

xviii. Respondent no. 9 is involved in the fabrication of counterfeit Transit Permits (Form-Y) to facilitate the illegal transportation of sand from the Kharida Sand Bed. A specific instance of this malpractice was observed on 05.01.2026, involving the blatant duplication of Transit Pass No. A2512060005/1/37. This single permit was used concurrently for two distinct vehicles: vehicle OR 16 D 1096

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(carrying 6 CUM) and vehicle OD 07 BA 9500 (carrying 16 CUM).

xix. The mining takes place all though out day and night using high-power excavators.

xx. Respondent no. 9 indulged in illegal hoarding and stocking of the sand over illegally encroached gramya jungle kissam land bearing Khata No. 556, plot No. 4603 of Mouza-Kharida and near to lease area.

xxi. The District Administration and Tahasildar have not taken action in accordance with Odisha Government Guidelines dated 26.04.2019.

xxii. Superintending Engineer, Berhampur Irrigation Division, wrote a letter dated 28.01.2022 to Sub- Collector Chatrapur regarding the threat to the Hiradharabati Anicut. In grant of Environmental clearance and CTO concern raised by the Superintending Engineer, Berhampur Irrigation Division has not been taken into consideration.

xxiii. Acting upon the complaint of Applicant regarding tree felling from Plot No.- 4603, the Tahasildar Hinjilicut informed the DFO Berhampur for inquiry but no action has been taken by the DFO Berhampur.

xxiv. Odisha Sand Policy 2021 was implemented vide resolution dated 02.09.2021 by Revenue and Dissaster Management Department, Government of Odisha for stricter monitoring of sand mining in a sustainable manner but there has been no implementation of the policy on the ground there by confining the policy to papers without any action.

xxv. Respondent no. 9 is lifting the sand from in stream of the river and obstructing the free flow of the river.

xxvi. The vehicles carrying the sand are not covered with tarpaulin and are overloaded thereby causing air/dust pollution.

xxvii. There has been no sprinkling of water on Road and because of transportation of heavy vehicles it causes more air and dust pollution.

xxviii. The vehicles are operated even in Peak hours which is a violation of the Environment Clearance Condition

xxix. There is no monitoring of compliance of Conditions of CTO by the Regional Office of SPCB, Berhampur.

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xxx. After issuing CTO, the OSPCB did nothing to ensure if the conditions in the Consent to Operate were complied in letter and spirit and no action has been taken by the pollution control board to revoke the consent to operate and ensure that the mining activity stops.

4. The applicant has submitted that the applicant made complaints including complaint dated 08.01.2026, 12.01.2026, 01.02.2026 to the concerned authorities but no action has been taken on the same.

5. We have heard submissions made by learned Counsels for the applicants and gone through the material on record.

6. *Prima facie* the averments made in the application raise substantial questions relating to environment arising out of the implementation of the enactments specified in Schedule-I to the National Green Tribunal Act, 2010.

7. Accordingly, notice of the application along with copies of the documents attached with the same is ordered to be issued to the respondents.

8. Mr. Dipanjan Ghosh, learned counsel has appeared and accepted notice on behalf of respondent no.7- Odisha State Pollution Control Board.

9. Mr. Apurba Ghosh, learned counsel has appeared and accepted notice on behalf of respondent no.8- State Environment Impact Assessment Authority (SEIAA) Odisha.

10. The Registry is directed to issue notice to respondents no.1 to 6, 9 and 10.

11. Replies/responses by respondents may be filed within four weeks.

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12. List on 22.04.2026 for further hearing.

Arun Kumar Tyagi, JM

Dr. A Senthil Vel, EM

March 17th, 2026
Original Application No.54/2026/EZ
SN

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(Kindly peruse para- 20 to 28)

Reportable

Kindly peruse page No- 135 to 139

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos. 6656-6657 of 2010
(Arising out of SLP (C) Nos. 14447-14448 of 2007)

Meghmala & Ors. ..Appellants

Versus

G. Narasimha Reddy & Ors. ..Respondents

JUDGMENT

Dr. B.S. CHAUHAN, J.

1. Leave granted.

2. Judicial pronouncements unlike sand dunes are known for their stability/finality. However, in this case, in spite of the completion of several rounds of litigation upto the High Court, and one round of litigation before this Court, the respondents claim a right to abuse the process of the Court with the perception that whatever may be the orders of the High Court or this Court, inter-se parties the dispute shall be protracted and will never come to an end.

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3. These appeals have been preferred against the Judgment and Order dated 26.04.2007 of the High Court of Andhra Pradesh, at Hyderabad, passed in Writ Petition Nos. 19962-19963 of 2006, by which the High Court has allowed the said petitions against the Judgment and order of the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (hereinafter called, "Act 1982"), dismissing the review application No. 397/2005 in LGC No. 76/1996 and in LGCSR 357/2005.

4. Facts and circumstances giving rise to the present cases are as under :-

(A) V. Ram Chandra Reddy and his brother (vendors) had a huge chunk of land and a part of it could have been the subject matter of the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter called the Act 1976). The said vendors entered into an agreement to sell dated 23.01.1976 for selling a part of the land (hereinafter called 'suit land') to a cooperative society namely, Gruha Lakshmi Cooperative Housing Society Ltd. (hereinafter called, "the Society"). The vendors, V. Ram Chandra Reddy and his brother executed a sale deed in favour of A. Sambashiva Rao (hereinafter called the appellant/applicant) which was registered on 21.05.1980 vide document No. 4758/80 and the appellants were put in possession of the suit land.

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(B) The appellant/applicant- vendee filed LGC No. 76/1996 against the respondents under the provisions of the Act, 1982 alleging that he had been working in Andhra Pradesh State Road Transport Corporation and was mostly out of station, and the respondents had forcibly grabbed his land and raised construction thereon. Thus, he sought the relief of their dispossession and action against them under the provisions of the Act, 1982.

(C) After complying with the requirements of the statutory provisions i.e. taking the sanction etc., the respondents were issued a show cause notice. The respondents filed their reply submitting that in respect of the suit land, there was an agreement to sell, dated 23.01.1976, in favour of the society and once such an agreement to sell had been executed, vendors had no right to transfer the land in favour of the appellant/applicant. The society had allotted the suit land in their favour, therefore, the application was liable to be rejected.

(D) The Special Court after appreciating the evidence, vide Judgment and order dated 4.11.1997 came to the conclusion that the appellant/applicant was the owner of the suit land and that the respondents had no right, title or claim over the suit land. They had forcibly occupied the land and they were land grabbers, thus, they were liable to be evicted and orders for that purpose were passed.

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(E) Being aggrieved by the order of the Special Court dated 4.11.1997, the respondents preferred writ petition No. 33572/1997 before the High Court of Andhra Pradesh, which was dismissed vide Judgment and Order dated 3.07.2001.

(F) Being aggrieved by the order of the High Court, the respondents preferred Special Leave Petition (c) No. 18218/2001 before this Court, which was dismissed as withdrawn vide order dated 2.11.2001 giving liberty to the respondents to file review petition before the High Court.

(G) The respondents filed review petition No. 31506/2002 before the High Court. However, the said review petition was dismissed by the High Court vide order dated 16.12.2002.

(H) In the intervening period, when the review petition was pending before the High Court, the appellant/applicant filed execution proceedings by moving IA No. 518/2002. The Respondents also moved an application to summon the record of the Revenue Divisional Officer, Secundrabad, pertaining to the survey of the suit land along with an application for the stay of Execution proceedings. The Special Court vide order dated 7.11.2002 allowed the Execution Application filed by the appellant/applicant but dismissed the application filed by respondents directing the Revenue Divisional Officer to implement the order dated 4.11.1997.

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(I) The respondents being aggrieved by the common order dated 7.11.2002, filed writ petition nos. 22953 and 23105 of 2002, which were, dismissed by the High Court vide order dated 17.12.2002.

(J) In pursuance of the order in Execution Proceedings dated 7.11.2002, the appellants were put into possession of the suit land on 16.12.2002.

(K) The respondents being aggrieved by the order of the High Court dated 17.12.2002, preferred review petitions before the High Court, which were dismissed by the Court vide order dated 17.11.2003.

(L) The respondents filed Review Application no. 397/2005 in LGC No. 76 after an inordinate delay, seeking review of the order dated 4.11.1997. The respondents subsequently filed an application in LGCSR No. 357/2005 before the Special Court for fresh declaration that they were the owners and that the appellants, who had succeeded throughout the litigation, were the land grabbers. The respondents in the said application impleaded persons other than the appellant/applicant also, i.e. the vendors of the appellant/applicant and govt. officials etc., who are the other appellants in these cases. The Special Court dismissed the said applications vide orders dated 6.7.2006 and 11.7.2006.

(M) The respondents, being aggrieved by both the orders, filed Writ Petition Nos. 19962 and 19963 of 2006, which have been allowed by the

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High Court vide impugned Judgment and order dated 26.04.2007, directing the Special Court to decide both the applications afresh on merit, as in the opinion of the High Court, the applications required certain inquiry on factual matters and the claim of the respondents could not have been rejected merely on the determination and attaining finality of orders in earlier proceedings. Hence, these appeals.

5. Sh. P. Vishwanatha Shetty, learned senior counsel appearing for the appellants, has submitted that even if there was an agreement to sell by the vendor of the appellants in favour of the society, such an agreement did not confer any title in the suit land in their favour. The respondents had not been the members of the said Society, nor had any allotment ever been made by the Society in their favour. The earlier proceedings came to an end after having several rounds of litigation upto the High Court and one round upto this Court. The orders passed therein attained finality and in pursuance of the same, the appellant/applicant came into possession of the suit land. Issues of fraud and identification of land had been in issue in some of the earlier proceedings. Once the respondents had approached this Court, the question of entertaining the review petition after an inordinate delay of 7-8 years does not arise. The respondents have no locus standi to ask the Special Court to determine under what circumstances the

appellant/applicant had obtained the suit land. An application to call for certain records in respect of the suit land from 1972 to 2002, the survey reports etc. cannot be made by them. The High Court has gravely erred in interfering with the orders of the Special Court rejecting both the applications. Thus, the appeals deserve to be allowed.

6. Per contra, Sh. M.V. Durga Prasad, learned counsel appearing for the respondents submitted that the transfer of land in favour of the appellant/applicant vide registered sale deed dated 21.05.1980 was itself a fraudulent transaction and material in this regard was suppressed from the Special Court while obtaining the orders in their favour. Fraud vitiates everything. The respondents have raised the issue of the identification of the suit land. Thus, the applications filed by the respondents were maintainable and the High Court has rightly reversed the orders passed by the Special Court. The appeals lack merit and no interference is warranted by this Court.

7. We have considered the rival submissions made by the learned counsel for the parties and perused the record.

Admittedly, there is a registered sale deed in favour of the appellant/applicant dated 21.05.1980 and there may be an agreement to sell in favour of the society dated 23.01.1976. It is settled legal proposition that

an agreement to sell does not create any right, or title in favour of the intending buyer. The Society did not file suit for specific performance against the vendors prior to the execution of sale deed in favour of the appellant/applicant on 21.05.1980. The Special Court, after appreciating the entire evidence on record, came to the conclusion that the appellant/applicant was the owner and was in actual physical possession of the land and that the respondents had grabbed the said land. The Special Court has observed as under :-

> *"In the cross-examination, RW1 (respondent No.1 herein) had to admit that they have not filed any document to show that the said plot was allotted in their favour by the society and that they have not filed any document to show that they are the members of the said society. He also admitted that without any municipal sanction or permission, they raised the construction in the scheduled land."*

The Special Court further held that the respondents were land grabbers within the meaning of the Act, 1982 and thus, they were directed to restore the premises to the appellant/applicant. These findings of fact had been affirmed upto the High Court.

8. The record of the case reveals that respondents have filed review petitions before the Special Court as well as before the High Court. However, all the applications had been dismissed by the Courts concerned.

The respondents again filed an application seeking review of the order dated 4.11.1997. Section 17-A of the Act, 1982 provides that in order to prevent the miscarriage of justice, a review application can be entertained on the grounds that the order has been passed under a mistake of fact, ignorance of any material fact or an error apparent on the face of law. Limitation for filing the review application before the Special Court has been prescribed under Rule 18 of the Andhra Pradesh Land Grabbing (Prohibition) Rules, 1988, as 30 days from the date of the order of which the review is sought. The respondents had earlier challenged the said order dated 4.11.1997 before the High Court, as well as before this Court. Review petitions had been filed before the Special Court, as well as before the High Court. Thus, question does arise as to whether it is permissible for a litigant to file a review application after approaching the superior forum/court.

Review – After approaching the Higher Forum:-

9. In **M/s. Kabari Pvt. Ltd**. Vs. **Shivnath Shroff & Ors.** AIR 1996 SC 742, this Court had taken a view that the court cannot entertain an application for review if before making the review application, the superior court had been moved for getting the self-same relief, for the reason that for

the self-same relief two parallel proceedings before the two forums cannot be taken.

10. In **State of Maharashtra & Anr.** Vs. **Prabhakar Bhikaji Ingle** AIR 1996 SC 3069, this Court held that when a special leave petition from the order of the Tribunal was dismissed by a non-speaking order, the main order was confirmed by the Court. Thereafter, the power of review cannot be exercised by the Tribunal as it would be "deleterious to the judicial discipline".

11. Same view has been reiterated by this Court in **Raj Kumar Sharma** Vs. **Union of India** (1995) 2 Scale 23; **Sree Narayana Dharmasanghom Trust** Vs. **Swami Prakasananda & Ors.** AIR 1997 SC 3277; **K. Ajit Babu & Ors**. Vs. **Union of India & Ors.** (1997) 6 SCC 473; and **Gopabandhu Biswal** Vs. **Krishna Chandra Mohanty & Ors**. AIR 1998 SC 1872.

12. In **Abbai Maligai Partnership Firm & Anr.** Vs. **K. Santhakumaran & Ors**. AIR 1999 SC 1486, a three Judge Bench of this Court considered the issue afresh and held that filing of the review petition after dismissal of the special leave petition by it against the self-same order amounted to an abuse of process of the court and the entertainment of such a

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review application was in affront to its order and it was subversive of judicial discipline.

13. In **Kunhayammed & Ors.** Vs. **State of Kerala & Anr.** AIR 2000 SC 2587, a three Judge Bench of this Court reconsidered the issue and all above referred judgments and came to the conclusion that dismissal of special leave petition in limine by a non-speaking order may not be a bar for entertaining a review petition by the court below for the reason that this Court may not be inclined to exercise its discretion under Article 136 of the Constitution. The declaration of law will be governed by Article 141 where the matter has been decided on merit by a speaking judgment. In that case doctrine of merger would come into place and lay down the following principles:-

> *(i) Where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of law.*
>
> *(ii) The jurisdiction conferred by Article 136 of the Constitution is divisible into two stages. The first stage is upto the disposal of prayer for special leave to file an appeal. The second stage commences if and when the leave to appeal is*

granted and the special leave petition is converted into an appeal.

(iii) Doctrine of merger is not a doctrine of universal or unlimited application. It will depend on the nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or capable of being laid shall be determinative of the applicability of merger. The superior jurisdiction should be capable of reversing, modifying or affirming the order put in issue before it. Under Article 136 of the Constitution the Supreme Court may reverse, modify or affirm the judgment-decree or order appealed against while exercising its appellate jurisdiction and not while exercising the discretionary jurisdiction disposing of petition for special leave to appeal. The doctrine of merger can therefore be applied to the former and not to the latter.

(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the

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> *declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.*

14. The Court came to the conclusion that where the matter has been decided by a non-speaking order in limine the party may approach the High Court by filing a review petition.

Similar view has been reiterated in **National Housing Coop. Society Ltd**. Vs. **State of Rajasthan & Ors**. (2005) 12 SCC 149.

15. In **K. Rajamouli** Vs. **A.V.K.N. Swamy** AIR 2001 SC 2316, this Court considered the ratio of the judgment in **Kunhayammed** (supra); and **Abbai Maligai Partnership Firm** (supra) and held that if a review application has been filed before the High Court prior to filing the special leave petition before this Court and review petition is decided/rejected, special leave petition against that order of review would be maintainable. In case the review application has been filed subsequent to dismissal of the

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special leave petition it would amount to abuse of process of the court and shall be governed by the ratio of the judgment in **Abbai Maligai Partnership Firm** (supra). The said judgment has been approved and followed by this Court in **M/s. Green View Tea & Industries** Vs. **Collector, Golaghat, Assam & Anr.** AIR 2004 SC 1738.

16. In **Kumaran Silk Trade (P) Ltd.** Vs. **Devendra** AIR 2007 SC 1185, this Court held as under :-

> *"As a matter of fact at the earlier stage this Court did not consider the question whether one of the appeals against the order dismissing the Review Petition on merits was maintainable. At best the order of remand and the decision in **Kunhayammed & Ors.** v. **State of Kerala & Anr.** (2000) 6 SCC 359 would enable the petitioner to get over the ratio of the three Judge Bench decision in **Abbai Maligai Partnership Firm & Anr.** v. **K. Santhakumaran & Ors.** (1998) 7 SCC 386 that the seeking of a review after the petition for special leave to appeal was dismissed without reserving any liberty in the petitioner was an abuse of process."*

17. Thus, the law on the issue stands crystallized to the effect that in case a litigant files a review petition before filing the Special Leave Petition before this Court and it remains pending till the Special Leave Petition stands dismissed, the review petition deserves to be considered. In case it is filed subsequent to dismissal of the Special Leave Petition, the process of filing review application amounts to abuse of process of the court.

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18. In view of the above, we are of the considered opinion that filing of such a review application by the respondents at a belated stage amounts to abuse of process of the Court and such an application is not maintainable. Thus, the High Court ought not to have entertained the writ petition against the order of dismissal of the review application by the Special Court and the order of the High Court to that extent is liable to be set aside.

19. So far as the other application filed by the respondents before the Special Court is concerned, it is based on the grounds that earlier judgment and order had been obtained by the appellant/applicant suppressing material facts and the suit land had not been identified properly, and therefore, the judgment of the Special Court duly affirmed by the High Court stood vitiated.

Fraud/Misrepresentation: –

20. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eyes of law. "Fraud avoids all judicial acts ecclesiastical or temporal." (Vide **S.P. Chengalvaraya Naidu (dead) by L.Rs.** Vs. **Jagannath (dead) by L.Rs. & Ors.** AIR 1994 SC 853). In **Lazarus Estate Ltd.** Vs. **Besalay** 1956 All.

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E.R. 349), the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."

21. In **Andhra Pradesh State Financial Corporation** Vs. **M/s. GAR Re-Rolling Mills & Anr.** AIR 1994 SC 2151; and **State of Maharashtra & Ors.** Vs. **Prabhu** (1994) 2 SCC 481. this Court observed that a writ Court, while exercising its equitable jurisdiction, should not act as to prevent perpetration of a legal fraud as the courts are obliged to do justice by promotion of good faith. "Equity is, also, known to prevent the law from the crafty evasions and sub-letties invented to evade law."

22. In **Smt. Shrisht Dhawan** Vs. **M/s. Shaw Brothers.** AIR 1992 SC 1555, it has been held as under:–

> *"Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct."*

23. In **United India Insurance Co. Ltd.** Vs. **Rajendra Singh & Ors.** AIR 2000 SC 1165, this Court observed that "Fraud and justice never dwell together" (*fraus et jus nunquam cohabitant*) and it is a pristine maxim which has never lost its temper over all these centuries.

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24. The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See **District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & Anr.** Vs. **M. Tripura Sundari Devi** (1990) 3 SCC 655; **Union of India & Ors.** Vs. **M. Bhaskaran** (1995) Suppl. 4 SCC 100; **Vice Chairman, Kendriya Vidyalaya Sangathan & Anr.** Vs. **Girdharilal Yadav** (2004) 6 SCC 325; **State of Maharashtra** *v.* **Ravi Prakash Babulalsing Parmar** (2007) 1 SCC 80; **Himadri Chemicals Industries Ltd.** Vs. **Coal Tar Refining Company** AIR 2007 SC 2798; and **Mohammed Ibrahim & Ors.** Vs. **State of Bihar & Anr.** (2009) 8 SCC 751).

25. Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression "fraud" involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide **Dr. Vimla** Vs. **Delhi Administration** AIR 1963 SC 1572; **Indian Bank** Vs. **Satyam Fibres (India) Pvt. Ltd.** (1996) 5 SCC 550; **State of Andhra Pradesh** Vs. **T. Suryachandra Rao** AIR 2005 SC 3110; **K.D.**

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Sharma Vs. **Steel Authority of India Ltd. & Ors.** (2008) 12 SCC 481; and **Regional Manager, Central Bank of India** Vs. **Madhulika Guruprasad Dahir & Ors.** (2008) 13 SCC 170).

26. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void *ab initio*. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including *res judicata*. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court. (Vide **S.P. Changalvaraya Naidu** (supra); **Gowrishankar & Anr.** Vs. **Joshi Amba Shankar Family Trust & Ors.** AIR 1996 SC 2202; **Ram Chandra Singh** Vs. **Savitri Devi & Ors.** (2003) 8 SCC 319; **Roshan Deen** Vs. **Preeti Lal** AIR 2002 SC 33; **Ram Preeti Yadav** Vs. **U.P. Board of High School & Intermediate Education** AIR 2003 SC 4628; and **Ashok Leyland Ltd.** Vs. **State of Tamil Nadu & Anr.** AIR 2004 SC 2836).

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27. In **kinch** Vs. **Walcott** (1929) AC 482, it has been held that "....mere constructive fraud is not, at all events after long delay, sufficient but such a judgment will not be set aside upon mere proof that the judgment was obtained y perjury."

Thus, detection/discovery of constructive fraud at a much belated stage may not be sufficient to set aside the judgment procured by perjury.

28. From the above, it is evident that even in judicial proceedings, once a fraud is proved, all advantages gained by playing fraud can be taken away. In such an eventuality the questions of non-executing of the statutory remedies or statutory bars like doctrine of *res judicata* are not attracted. Suppression of any material fact/document amounts to a fraud on the court. Every court has an inherent power to recall its own order obtained by fraud as the order so obtained is *non est.*

29. The instant case required to be examined in the light of the aforesaid settled legal propositions.

The case of the respondents has been that transfer by the vendor in favour of the appellant was not genuine. Material information had been suppressed from the Special Court. More so, there was no proper identification of the suit land in the earlier litigation. The reports submitted in this regard were not correct.

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30. Respondents have never been able to show as under what circumstances they are interested in the suit land because before the Special Court in the first round they failed to show any document that land had ever been transferred by the tenure holders/owners in favour of the Society or the Society had made any allotment in their favour or they were member of the said Society or they obtained any sanction from statutory authority to raise the construction.

Shri M.V. Durga Prasad, Ld. Counsel appearing for the said respondents was repeatedly asked by us to show any document on record linking the said respondents with the suit land. Though, he argued for a long time, raised large number of issues but could not point out a single document which may reflect that respondents could have any claim on the suit land. Therefore, we are of the considered opinion that the application at their behest was not maintainable.

31. The issue of mis-representation/fraud, suppression of material fact and identification of land had been in issue in earlier review petitions before the Special Court and in the Writ Petitions before the High Court. In this regard, the Special Court in execution proceedings was fully satisfied regarding the identity of land on the basis of revenue record and came to the conclusion that there was no mis-representation or fraud on the part of the

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appellant/applicant. The order of the Special Court dated 11th July, 2006 made it clear that all these issues had been agitated in earlier proceedings. The Special Court has held as under:

> *"The applicants herein as contended in this L.G.C. have filed IA No.869/2002 for stay of proceedings and IA No. 861/2002 for summoning the record in File No.B/9815/97 from the office of the Revenue Divisional Officer* ***on the ground of alleged fraud played by the Mandal*** *Revenue Officer and the Mandal Surveyor. Those petitions were heard at length and were dismissed holding that the alleged fraud as contended by the applicants herein was not made out and the property which is the subject matter of L.G.C. No.76/96 should be delivered to the respondents herein by evicting the applicants. As mentioned already, in execution of the said order, applicants herein were evicted and possession was delivered to the respondents.*
>
> *Admittedly, the common order passed in IA Nos. 518/2002, 861/2002 and 869/2002, by this Court was questioned by the applicants herein by filing Writ Petitions before the Hon'ble High Court of A.P. and the same was also dismissed holding that the* ***applicants herein are trying to protract the litigation*** *and to delay the delivery of possession of the property in question to the respondents."(emphasis added)*

32. In another case decided by the Special Court vide order dated 6th July, 2006 the Court had taken note of the pleadings in respect of identification of land and mis-representation/fraud/collusion in the earlier proceedings and the observations made by the Writ Court in its order dated 17th December, 2002 that the said respondents were interested in protracting the litigation and obstructing the implementation of the order of the Special Court dated

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4.11.1997. The said order had been passed in Application No. 51 of 2002 where one of the main grounds had been that the appellant/applicant had **played fraud** in obtaining the said order as is taken note of in paragraph 13 of the said order by the Special Court. The Special Court also took note of earlier direction to the Revenue Divisional Officer to identify the land and possession of the same was delivered to the decree holder. The said order was under challenge before the High Court in Writ Petition Nos. 22953/2002 and 23105/2002 wherein pleading of the alleged fraud and mis-identification of suit land were taken. The Special Court came to the conclusion that there was no suppression of any fact by the revenue authorities or the court was misled at the time of obtaining such orders.

33. There is a registered sale deed dated 21.5.1980 in favour of the appellant/applicant. Nobody has ever filed any application before the competent court to declare said sale deed as null and void. Respondents have no right or interest in the suit property. The Society claimed to have an agreement to sell in its favour which did not confer any title in favour of the Society. A finding of fact had been recorded in earlier proceedings that the appellant/applicant was in actual physical possession of the land and he was illegally/forcibly dispossessed by the respondents.

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Forcible dispossession:-

34. Even a trespasser cannot be evicted forcibly. Thus, a person in illegal occupation of the land has to be evicted following the procedure prescribed under the law. (Vide **Midnapur Zamindary Co. Ltd.** Vs. **Naresh Narayan Roy** AIR 1924 PC 124; **Lallu Yeshwant Singh** Vs. **Rao Jagdish Singh & Ors.** AIR 1968 SC 620; **Ram Ratan** Vs. **State of U.P.** AIR 1977 SC 619; **Express Newspapers Pvt. Ltd. & Ors.** Vs. **Union of India & Ors.** AIR 1986 SC 872; and **Krishna Ram Mahale** Vs. **Mrs. Shobha Vankat Rao** AIR 1989 SC 2097) .

35. In **Nagar Palika, Jind** Vs. **Jagat Singh** AIR 1995 SC 1377, this Court observed that Section 6 of the Specific Relief Act 1963 is based on the principle that even a trespasser is entitled to protect his possession except against the true owner and purports to protect a person in possession from being dispossessed except in due process of law.

36. Even the State authorities cannot dispossess a person by an executive order. The authorities cannot become the law unto themselves. It would be in violation of the rule of law. Government can resume possession only in a manner known to or recognised by law and not otherwise. (Vide **Bishan Das** Vs. **State of Punjab** AIR 1961 SC 1570; **Express Newspapers Pvt. Ltd.** (supra); **State of U.P. & Ors.** Vs. **Maharaja Dharmander Prasad Singh**

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& Ors. AIR 1989 SC 997; and **State of West Bengal & Ors.** Vs. **Vishnunarayan & Associates (P) Ltd. & Anr.** (2002) 4 SCC 134).

37. The forcible eviction of the appellant/applicant by the respondents was unwarranted and unlawful. Proceedings had been initiated under the Act, 1982. It is a special Act to prevent illegal activities of land grabbing. The Legislature, in its wisdom, constituted a Special Court presided over by a person who is or eligible to be the Judge of the High Court, and consisting of the Members who are or eligible to become District Judge and District Collector. Therefore, persons having enough experience and who have acquired a higher status have been given responsibility to adjudicate upon the disputes under the Act 1982. That Special Court has been conferred with the powers of Civil or Criminal Courts.

As per the provisions of Section 10 of the Act 1982, the burden of proof is on the accused to prove that he is not guilty. Thus, it is not like any other criminal case where accused is presumed to be innocent unless the guilt is proved. The presumption of innocence is a human right, however, subject to the statutory exceptions, the said principle forms the basis of Criminal Jurisprudence. For this purpose, the nature of offence, its seriousness and gravity thereof has to be taken into consideration. Statutes like Negotiable Instruments Act, 1881; Prevention of Corruption Act, 1988;

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and Terrorist and Disruptive Activities (Prevention) Act, 1987, provide for presumption of guilt if the circumstances provided in those Statutes are found to be fulfilled and shift the burden of proof of innocence on the accused. Thus, the Legislature has adopted a deviating course from ordinary criminal law shifting the burden on the accused to prove that he was not guilty. The High Court while deciding these cases has not considered the issue of the locus standi of the respondents to maintain the application for eviction of the appellant/applicant. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution.

38. In view of the above factual position, we reach the following conclusions:

(i) There has been a registered sale deed in favour of the appellant/applicant by the vendors which was registered on 21.5.1980 and he was put in possession.

(ii) Prior to the execution of the said sale deed there has been an agreement to sell dated 23.1.1976 in favour of the Society.

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(iii) In respect of the said agreement to sell the litigation remained pending before the Civil Court but there is nothing on record to show as to what had been its outcome.

(iv) An agreement to sell did not confer any right on the Society, though the appellant acquired the title over the suit land by execution and registration of the sale deed dated 21.5.1980.

(v) The respondents had not been the members of the Society nor Society made any allotment in their favour.

(vi) Before the Special Court, the respondents could not show as under what circumstances they could stake their claim on the suit land and no document worth the name could be shown which may link them to the suit land.

(vii) Respondents grabbed the suit land forcibly and raised a construction without any authorisation.

(viii) In spite of our repeated queries, learned counsel for the respondents could not point out a single document on record to show that they could have any right, interest or title in the suit land.

(ix) The litigation completed several rounds before the High Court and this is the second round of litigation before this Court.

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(x) All the courts proceedings reveal that after proper adjudication the declaration had been made that suit land belonged to the appellant/applicant and respondents were merely land grabbers.

(xi) In earlier review petitions filed by the respondents before the Special Court and further taking the matter to the High Court in Writ Petitions and Review Applications before the High Court the issue of mis-representation/fraud/collusion and mis-identification of the suit land had been raised but they could not succeed.

(xii) In execution proceedings, the appellant/applicant succeeded and came in possession of the suit land in 2002.

(xiii) Respondents filed frivolous application raising the issue of fraud and mis-identification of the suit land which had earlier been adjudicated upon. The review application was filed at much belated stage.

(xiv) The review application was certainly not maintainable as the respondents had approached the higher forum and it merely amounted to abuse of process of the court.

(xv) The respondents had been interested only to protract the litigation by one way or the other.

(xvi) Fresh proceedings taken by the respondents before the Special Court in fact, is tantamount to malicious prosecution.

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39. The High Court failed to take all aforesaid factors into consideration before passing impugned judgment and order.

40. In view of the above, we are of the considered opinion that judgment and order of the High Court impugned herein, is not sustainable in the eyes of law. The appeals are allowed. The judgment of the High Court dated 26.4.2007 is set aside and the judgments and orders dated 6.7.2006 and 11.7.2006 passed by the Special Court are restored. No costs.

.....J.
(P. SATHASIVAM)

.....J.
(Dr. B.S. CHAUHAN)

New Delhi,
August 16, 2010

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BY ADVOCATE

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para-01 to 09 & 21

REPORTABLE

kindly peruse page No-149 to 154 & 164

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5239 OF 2002

Dalip Singh ...Appellant

Versus

State of U.P. and others ...Respondents

ORDER

1. For many centuries, Indian society cherished two basic values of life i.e., `Satya' (truth) and `Ahimsa' (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of justice delivery system which was in vogue in pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-independence period has seen drastic changes in our value system. The materialism has over-shadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In last 40 years, a new

creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

2. In **Hari Narain v. Badri Das** AIR 1963 SC 1558, this Court adverted to the aforesaid rule and revoked the leave granted to the appellant by making the following observations:

> "It is of utmost importance that in making material statements and setting forth grounds in applications for special leave made under Article 136 of the Constitution, care must be taken not to make any statements which are inaccurate, untrue and misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. Thus, if at the hearing of the appeal the Supreme Court is satisfied that the material statements made by the appellant in his application for special leave are inaccurate and misleading, and the respondent is entitled to contend that the appellant may have obtained special leave from the Supreme Court on the strength of what he characterizes as misrepresentations of facts contained in the petition for special leave, the Supreme Court may come to the conclusion that in such a case special leave granted to the appellant ought to be revoked."

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3. In **Welcome Hotel and others v. State of Andhra Pradesh and others etc.** AIR 1983 SC 1015, the Court held that a party which has misled the Court in passing an order in its favour is not entitled to be heard on the merits of the case.

4. In **G. Narayanaswamy Reddy and others v. Governor of Karnataka and another** AIR 1991 SC 1726, the Court denied relief to the appellant who had concealed the fact that the award was not made by the Land Acquisition Officer within the time specified in Section 11-A of the Land Acquisition Act because of the stay order passed by the High Court. While dismissing the special leave petition, the Court observed:

> "Curiously enough, there is no reference in the Special Leave Petitions to any of the stay orders and we came to know about these orders only when the respondents appeared in response to the notice and filed their counter affidavit. In our view, the said interim orders have a direct bearing on the question raised and the non-disclosure of the same certainly amounts to suppression of material facts. On this ground alone, the Special Leave Petitions are liable to be rejected. It is well settled in law that the relief under Article 136 of the Constitution is discretionary and a petitioner who approaches this Court for such relief must come with frank and full disclosure of facts. If he fails to do so and suppresses material facts, his application is liable to be dismissed. We accordingly dismiss the Special Leave Petitions."

5. In **S.P. Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath (dead) by L.Rs. and others** JT 1993 (6) SC 331, the Court held that where a preliminary decree was obtained by withholding an important

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document from the court, the party concerned deserves to be thrown out at any stage of the litigation.

6. In **Prestige Lights Ltd. V. State Bank of India** (2007) 8 SCC 449, it was held that in exercising power under Article 226 of the Constitution of India the High Court is not just a court of law, but is also a court of equity and a person who invokes the High Court's jurisdiction under article 226 of the Constitution is duty bound to place all the facts before the court without any reservation. If there is suppression of material facts or twisted facts have been placed before the High Court then it will be fully justified in refusing to entertain petition filed under Article 226 of the Constitution. This Court referred to the judgment of Scrutton, L.J. in **R v Kensington Income Tax Commissioners** (1917) 1 K.B. 486, and observed:

> "In exercising jurisdiction under Article 226 of the Constitution, the High Court will always keep in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, then the Court may dismiss the action without adjudicating the matter on merits. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

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7. In **A.V. Papayya Sastry and others v. Government of A.P. and others**, AIR 2007 SC 1546, the Court held that Article 136 does not confer a right of appeal on any party. It confers discretion on this Court to grant leave to appeal in appropriate cases. In other words, the Constitution has not made the Supreme Court a regular Court of Appeal or a Court of Error. This Court only intervenes where justice, equity and good conscience require such intervention.

8. In **Sunil Poddar & Ors. v Union Bank of India** (2008) 2 326, the Court held that while exercising discretionary and equitable jurisdiction under Article 136 of the Constitution, the facts and circumstances of the case should be seen in their entirety to find out if there is miscarriage of justice. If the appellant has not come forward with clean hands, has not candidly disclosed all the facts that he is aware of and he intends to delay the proceedings, then the Court will non-suit him on the ground of contumacious conduct.

9. In **K.D. Sharma v. Steel Authority of India Ltd. and others** (2008) 12 SCC 481, the court held that the jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the Writ Court must come with

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clean hands and put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim. The same rule was reiterated in **G. Jayshree and others v. Bhagwandas S. Patel and others** (2009) 3 SCC 141.

10. This appeal, which is directed against order dated 21.5.2001 passed by the Allahabad High Court is illustrative of how unscrupulous litigants can mislead the authorities entrusted with the task of implementing the provisions of U.P. Imposition of Ceiling on Land Holdings Act, 1960 (for short, "the Act") and the courts for retaining possession of the surplus land. The tenure-holder – Praveen Singh did not file statement in terms of Section 9(2-A) of the Act in respect of his holding as on 24.1.1971. After about four years, the Prescribed Authority issued notice dated 29.11.1975 under Section 10(2) of the Act and called upon Shri Praveen Singh to show cause as to why the statement prepared under Section 10(1) of the Act may not be taken as correct and his land may not be declared surplus accordingly. A copy of the statement was sent to Shri Praveen Singh along with the notice in C.L.H. Form No.4. For the sake of convenient reference, the notice is reproduced below:

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"C.L.H. FORM NO. 4

(See Rule 8)

(Form of Notice under Section 10(2) of the imposition of Ceiling on Land Holdings Act, 1961)

To,
Name of tenure-holder Sri Praveen Singh
With parentage s/o. Shri Raghubir Singh and
Address r/o Village Tisotara, P.O. Khas, Pargana Kirat Pur, Tehsil Najibabad, District Bijnor.

Whereas you have failed to submit a statement/have furnished incomplete/incorrect statement in respect of all your holdings in the State of Uttar Pradesh including holdings of your family members with all the required particulars within the time mentioned in the notice in C.L.H. Form 1, published under Section 9;

And whereas the statement of all holdings held by you in the State on 8th June, 1973, statement showing proposed ceiling area applicable to you and the proposed surplus land have been prepared under sub-section (1) of Section 10, they are sent to you herewith and you are hereby called upon to show cause within a period of 15 days from the date of service of this notice, why the said statement be not taken as correct.

On your failure to dispute the correctness of the statements in any court, within the time allowed, the aforesaid statement shall be treated as final and ceiling area applicable to you and the surplus land shall be determined accordingly.

Given under my hand and seal of the Court this day of 29-11-1975.

S/d-
Signature of the Prescribed Authority of the Sub-Division Prescribed Authority
Tehsil Najibabad."

TRUE COPY ATTESTED
BY ADVOCATE

11. The notice was delivered to Shri Praveen Singh on 3.12.1975, but he neither filed any objection to the proposed determination of his surplus land nor sought extension of time for the said purpose. After service of notice, the Prescribed Authority adjourned the case on 10.12.1975 and again on 19.12.1975 apparently with the hope that the tenure-holder may file objection to the statement prepared under Section 10(1). This is evident from the proceeding sheets of the two dates, which are reproduced below:

Proceedings dated 10.12.1975

10.12.1965	File received after service of notice on the tenure-holder on 3.12.1975. It is ordered that the file be put up on 19.12.1975 after receipt of objections. Sd/- Prescribed Authority

Proceedings dated 19.12.1975

19.12.1975	File put up. The tenure-holder has not filed any objection despite service. It is ordered that the file be put up for ex-parte orders on 27.12.1975. Sd/- Prescribed Authority"

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12. On 27.12.1975, the Prescribed Authority noted that Shri Praveen Singh has not filed any objection and declared that 18.22 acres of irrigated land was surplus in the hands of the tenure-holder. After six months and twelve days, Shri Praveen Singh submitted an application dated 8.7.1976 along with what was termed as an affidavit before the Prescribed Authority and prayed that ex parte order dated 27.12.1975 may be set aside and he may be given opportunity to file objections and tender evidence. The Prescribed Authority rejected the application on the same day i.e. 8.7.1976 by observing that no valid ground has been made out for reconsidering the matter after six months. The appeal preferred by Shri Praveen Singh against the order of the Prescribed Authority was dismissed by Additional Commissioner (Judicial), Allahabad (Appellate Authority) in default because no one appeared on the date of hearing. The restoration application filed by Shri Praveen Singh was dismissed on 27.8.1980. He then challenged the orders of the Prescribed Authority and Appellate Authority in Writ Petition No. 8342/1980, which was allowed by the High Court and the matter was remitted to the Appellate Authority with a direction to decide the application of Shri Praveen Singh afresh in accordance with law.

13. In compliance of the direction given by the High Court, the Appellate Authority reconsidered the appeal of Shri Praveen Singh but dismissed the same on the ground that the tenure-holder had not filed an application

under Section 5 of the Limitation Act for condonation of the delay and even in the application filed for setting aside the ex parte order, no cause was shown for the delay. The Appellate Authority also observed that the tenure-holder had not denied receipt of notice dated 29.11.1975 issued under Section 10(2) of the Act, but did not file any objection till the passing of ex parte order on 27.12.1975 and that his assertion of having come to know of the ex parte order from Lekhpal Halqa on 7.7.1976 is not believable. It appears that after remand of the matter by the High Court, Shri Praveen Singh died and, therefore, his legal representatives (including the appellant herein) were substituted in his place.

14. The legal representatives of Shri Praveen Singh jointly filed Civil Miscellaneous Writ Petition No. 22790/1990 and prayed for quashing of orders dated 27.12.1975, 8.7.1976, 7.8.1990 passed by the Prescribed Authority and the Appellate Authority respectively. They also prayed for issue of a direction to the Appellate Authority to remand the case to the Prescribed Authority for entertaining their objections. In paragraph 3 of the writ petition, the following statement was made:

> "That the petitioner's late father, against whom the proceedings had been initiated under Section 10(2) of the Ceiling Act, filed application on 8.7.1976 supported by an affidavit stating therein clearly that he was seriously ill for about ten months as such he was not in a position to file objection, and <u>as a matter of fact he did not have any knowledge of the date of the proceedings that were being</u>

conducted before the prescribed authority. True copy of the application dated 8.7.1976 of petitioners' late father is annexed herewith as Annexure 2. True copy of the affidavit filed in support of the application dated 8.7.1976 of the petitioners' father is annexed herewith as annexure 3."

(Emphasis added)

15. By an order dated 7.9.1990, the learned Single Judge of the Allahabad High Court stayed the operation of the orders passed by the Prescribed Authority and the Appellate Authority. The interim order remained operative till 21.5.2001 that is the date on which the writ petition was finally dismissed and during the interregnum the appellant continued to enjoy the property.

16. In the special leave petition filed against the order of the High Court, notice was issued on 12.10.2001, but the appellants prayer for stay was declined. Thereafter, the surplus land of the tenure-holder was distributed among the landless persons who were joined as parties pursuant to order dated 27.3.2006 passed in I.A. No. 9/2004.

17. After service of notice, respondent Nos. 1 to 3 filed counter in the form of an affidavit of Shri Pradip Kumar Singh, Additional Tehsildar, District Bijnor, U.P. In his affidavit, Shri Pradip Kumar gave details of the steps taken by the Prescribed Authority in terms of Section 10(1) and

10(2) of the Act and made a categorical assertion that notice issued on 29.11.1975 was duly served upon Shri Praveen Singh on 3.12.1975. This is evident from paragraphs 4(iv) and (v) of the counter affidavit read as under:

> "(iv) That the averments of facts made in the list of dates against date 7.7.1976 are not admitted being incorrect. The notice in CLH Form No. 4 having been served on the tenure-holder on 3.12.1975, it was for him to have filed his objection. It was for the tenure-holder to have managed his affairs. It is not for a Court or an Authority to communicate to the tenure-holder each and every order passed by it once service of the notice is complete, the Act does not require that each and every date of proceedings and the copy or information about the final order ex parte or otherwise be served on him. The tenure-holder avoided to file his objections since he had none. The statement of surplus land is prepared by the revenue authorities in accordance with the provisions of the Act which is prepared on the basis of revenue records of land held by a tenure-holder in his name and there is `Presumption of correctness of the revenue record.'
>
> (v) That the averments of fact in list of date against date 8.7.1976 are not admitted as stated. It is submitted that an application dated 8.7.1976 filed by the tenure-holder did not dispute service of notice in CLH Form No. 4 dated 29.11.1975. The application was of a general nature. If a tenure-holder having been asked to file objections within 15 days of the date of service of him `chooses not to do so', would proceed to a presumption that he has nothing to say. Section 11 o the Act provides that where a tenure-holder chooses not to dispute and not to file any objection to the statement prepared by the Prescribed Authority under Section 10 of the Act within the stipulated period, the Prescribed Authority `shall' accordingly determine the surplus land of the tenure-holder. Sub-section (2) of Section 11 of the Act further provides that where an application is made by a tenure-holder within thirty days of the date of an order under sub-section (11) of the Act, that being a statutory duly cast on the

Prescribed Authority. In the present case the Prescribed Authority after passing order dated 27.12.1975 fixed the next date as 27.1.1976 i.e. after 30 days and it is only on 27.1.1976 that the Prescribed Authority sent notification regarding publication of surplus land in official Gazette which was so published on 5.6.1976."

18. Shri Sunil Kumar Singh, son of the appellant Dalip Singh and grandson of late Shri Praveen Singh filed rejoinder affidavit dated 18th February, 2002. In paragraph 3 of the rejoinder affidavit Shri Sunil Kumar Singh made the following statement :-

> "That it is denied categorically that the father of the petitioner had ever received the notice dated 29.11.1975 along with the statement of surplus land, prepared under section 10(1) of the Act. It is humbly stated that father of the petitioner could not file any show cause without going through the above referred statement prepared under Section 10(1) of the Act."

19. We have heard learned counsel for the parties and scrutinized the record. In our opinion, the appeal is liable to be dismissed only on the ground that the tenure-holder Shri Praveen Singh did not state correct facts in the application filed by him on 8.7.1976 before the Prescribed Authority for setting aside the ex parte order and the appellant did not approach the High Court with clean hands inasmuch as, by making a misleading statement in paragraph 3 of the writ petition, an impression was created that the tenure-holder did not know of the proceedings initiated by the Prescribed Authority. By making the said statement, the

appellant succeeded in persuading the High Court to pass an interim order which resulted in frustrating the efforts made by the concerned authority to distribute the surplus land among landless persons. Even before this Court, a patently false statement has been made in the rejoinder affidavit on the issue of receipt of notice dated 29.11.1975 by Shri Praveen Singh.

20. A perusal of application dated 8.7.1976 submitted by Shri Praveen Singh for setting aside ex parte order dated 27.12.1975 passed by the Prescribed Authority makes it clear that he had pleaded his continuous illness for ten months as the cause for his inability to file objection. In paragraph 2 of the application, Shri Praveen Singh made a suggestive assertion that he had no knowledge of the proceedings initiated by the Prescribed Authority and he came to know about the case having been decided ex parte only on 7.7.1976 when he went to Lekhpal to procure memo. There was not even a whisper in the application that notice dated 29.11.1975 issued by the Prescribed Authority under Section 10(2) of the Act had not been served upon him and on that account he could not file objections within 15 days. The application filed by Shri Praveen Singh was not supported by any medical certificate or other evidence which could prima facie establish that he was really sick for ten months. This is the reason why the Prescribed Authority refused to reconsider order dated 27.11.1975 and the Appellate Authority declined to entertain his prayer for

remand of the case to the Prescribed Authority for the purpose of fresh determination of surplus area case. Notwithstanding this, in the writ petition filed before the High Court a misleading statement was made that due to serious illness, Shri Praveen Singh could not file objection and, as a matter of fact, he did not have any knowledge of the dates of proceedings which were conducted by the Prescribed Authority. In view of that statement, the learned Single Judge of the High Court felt persuaded to stay the orders passed by the Prescribed Authority and Appellate Authority which, as mentioned above, resulted in frustration of the action to be taken by the concerned authority for distribution of the surplus land to landless persons for a good period of more than eleven years and enabled the heirs of Shri Praveen Singh to retain possession of the surplus land and enjoy the same. Before the High Court also, no evidence was produced in support of the assertion regarding serious illness of Shri Praveen Singh. Insofar as this Court is concerned, Shri Sunil Kumar Singh, grandson of Shri Praveen Singh and son of the appellant, boldly made a false statement that his grandfather did not receive notice dated 29.11.1975 along with the statement of surplus land prepared under Section 10(1) and he could not file any show cause without going through the statement. We are amazed at the degree of audacity with which Shri Sunil Kumar Singh could make a patently false statement on oath.

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21. From what we have mentioned above, it is clear that in this case efforts to mislead the authorities and the courts have transmitted through three generations and the conduct of the appellant and his son to mislead the High Court and this Court cannot, but be treated as reprehensible. They belong to the category of persons who not only attempt, but succeed in polluting the course of justice. Therefore, we do not find any justification to interfere with the order under challenge or entertain the appellant's prayer for setting aside the orders passed by the Prescribed Authority and the Appellate Authority.

22. In the result, the appeal is dismissed. We would have saddled the appellants with exemplary costs but, keeping in view the fact that possession of the surplus land was taken in 2002 and the same has been distributed among landless poor persons, we refrain from doing so.

.....J.
[G.S. Singhvi]

.....J.
[Asok Kumar Ganguly]

New Delhi
December 3, 2009

TRUE COPY ATTESTED
BY ADVOCATE

Kindly peruse page No-176

CASE NO.:
Appeal (civil) 812 of 2002

PETITIONER:
VIJAY SYAL AND ANR.

RESPONDENT:
STATE OF PUNJAB AND ORS.

DATE OF JUDGMENT: 22/05/2003

BENCH:
SHIVARAJ V. PATIL & ARIJIT PASAYAT

JUDGMENT:
JUDGMENT

2003 Supp(1) SCR 242

The Judgment of the Court was delivered by

SHIVARAJ V. PATIL J. These appeals are directed against the common judgment and order dated 4.1.2001 passed by the Division Bench of the High Court. The controversy relates to selection/non-selection of candidates to the posts of Assistant District Transport Officer (for short 'ADTO'). The Punjab Subordinate Selection Board advertised 12 posts of ADTOs on 15.5.1995. Out of them, 7 posts were for the general category, 4 for SC/ST and one was reserved for Ex-servicemen. A written test was conducted on 24.3.1996, the result of which was declared on 1.4.1998, declaring 78 persons successful. Out of these 78 persons, 61 belonged to general category, 15 belonged to SC/ST category and 2 belonged to category of Ex-servicemen. Later, on 22.4.1998, 40 more candidates were declared successful by lowering the standard. Out of these 40 candidates, 21 belonged to general category, 13 to SC/ST category and 6 to Ex-servicemen category. Criteria for selection were framed on 22.4.1998; final result was declared on 15.5.1998 and the appointments were made on 18.5.1998. Out of the candidates selected and appointed, 6 were from the general category, 3 were from SC/ ST and 1 from Ex-servicemen category. Out of the 78 candidates whose result was declared on 1.4.1998, 4 candidates belonging to general category were selected. However, out of 40 candidates whose result was declared later, 2 candidates belonging to general category were selected. The appellants in these appeals approached the High Court by filing writ petitions for quashing the select list of the candidates published by the authorities in Tribune dated 23.5.1998, for issuing writ of mandamus directing the respondents to consider their claim on the basis of their merit from amongst the candidates originally invited for interview and to issue a writ in the nature of prohibition restraining the respondents from giving effect to the selection made. It may be mentioned here itself that the selected candidates were appointed on 18.5.1998 and having joined the services, they are continuing in service. The High Court considering the rival contentions on their relative merits and after perusing the records did not find any merit in the writ petitions. Consequently, they were dismissed by the impugned common order. Hence, these appeals.

Appellant No. 1 in Civil Appeal No. 812 of 2002 argued his case as party-in-person and submissions were made by the learned counsel on behalf of the other appellants. We may make it clear at the outset that none of the appellants belonged to the category of either SC/ST or Ex-servicemen and their claim is also not against these categories. Hence, we consider it unnecessary to consider the validity of selection of the candidates made in these two categories. In other words, we confine our consideration to the validity of selection of the candidates made in the general category. Mainly, the submissions made on behalf of the appellants were that after declaration of the result of the written examination on 1.4.1998, standard

could not have been lowered for making other 40 candidates eligible for the purpose of interview; criteria could not have been framed after declaration of result of the written examination; maximum 21 candidates could have been called for interview in the ratio of 1:3 in the general category on the basis of the merit of the written examination whereas out of 78 candidates whose result was declared on 1.4.1998, more than 60 candidates were from the general category. In this regard, reliance was placed on Ashok Kumar Yadav and Ors. v. State of Haryana and Ors., [1985] 4 SCC 417.

Learned Additional Solicitor General and learned senior counsel for the respondents at the outset submitted that they have preliminary objection for the very entertaining of these appeals and considering the contentions advanced on behalf of the appellants on merits having regard to their conduct. According to them, the appellants made deliberate misrepresentation with regard to the allocation of marks stating that 150 marks were for the written test and 100 marks for interview. Further, mala fides were attributed to authorities on the basis of the relation and political influence, which they gave it up before the High Court but again reiterated in the SLPs. According to the learned counsel, these two grounds are good enough to dismiss the appeals by revoking leave granted without examining them on merits. Although, we find justification in these submissions but having heard the parties at length, we consider these appeals on the merits of the contentions as well. On behalf of the respondents, further submissions were made explaining the criteria fixed, in what circumstances, more number of candidates were called for interview and how the selection made was fair and proper. According to them, mere calling more number of candidates for interview did not vitiate the selection made having regard to the facts and circumstances of the case; at any rate, the appellants being lower in merit, even otherwise, could not get any benefit. According to the learned counsel for the respondents, the impugned judgment of the High Court is perfectly valid and justified. They also submitted that pursuant to the selection made, the selected non-official respondents have been continuing in service since May, 1998, i.e., they are continuing in service for about 5 years by now and as such these are not the fit cases for exercise of jurisdiction under Article 136 of the Constitution of India to interfere with the impugned judgment and order.

It is useful to reproduce the chart furnished at the time of hearing indicating names of candidates, their categories, qualification, marks obtained in written test as well as interview and the total marks:

C.A.NO. Sr. Name List* No. Category
Qualification Marks Written Test Inter view lest Total
812/02 1. Umesh Kumar, Appellant 1 G 2(MA-II) 124
12 5 138.5
2. Vijay Kumar, Appellant 1 G 3(MA-II) 126
1 1 5 140.5
3. Karanbir Singh, Resp.4 1 G 1 (Sports) 127
2o5 148*5
4. Gurinderjit Singh, Resp.5 I G ----- 127
19 146
5. Tarlochan Singh,Resp.6 1 G ----- 124 71
75 145.75
6. Manjit Singh, Resp. 7 I G 2(MA-I1) 123
20.25 145.25
7 Gurcharan Singh. Resp 8 Angrej Singh. Resp .9 8 II
G II G I(NSS) 120 120 22.5 143.5 22.87 142.87
9. Sukhwinder Kumar. Res. 101 SC I(NSS/NCC)
121 19.37 141.37
10. Dhien Singh. Resp. II II SC 2(MA) 119
19.5 140.5
11.Karam Singh. Respt 12 1 SC 2(MA/LLB)
124 15.75 141.75
12.Jaswant Singh, Respt. 13 11 SC 5(MA=2.

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NCC-3) 114 21.5 140.5
5986/02 Zulfikar AM, Appl. 5985/02 Gurdeep Singh, Appl 937/02
Sarpinderjit Singh. Appl. 1 G I G 1 G
2(LLB) 122 122 128 12.25 136.25 14.25 136.25 11.5
141.50
2(MA)
Not selected but better than all the Appellants
Ram Nath 1 G 121 21.75 142.75
Paramjit Singh I G 123 19 142

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*Note - The names of the candidates from among 78 candidates called for interview for the first time are shown as in List-I and names of the candidates from among 40 candidates called for interview are shown as in List-II.

In para 8 of the Writ Petition No. 7349 of 1998 filed by the appellant No. 1 in Civil Appeal No. 812 of 2002, it is averred that he came to know on inquiry that the entire selection had been made in a totally arbitrary and biased manner to help certain selected candidates; respondent No. 8 is the nephew of Shri Jasdev Singh Sandhu, Chairman of the respondent-Board; sister's husband of Harmail Singh, Minister for Public Works in the present Government is one of the selected candidates; Shri Angrej Singh, respondent No. 9 is politically very-well connected and is a close friend of sitting MLA. In order to help these persons who did not come within the first list, second list was issued. In para 10 of the writ petition, it is asserted that 100 marks were kept for interview as against the total marks of 250 (150 marks for written test + 100 marks for interview) which is totally arbitrary. Thus, 40% marks have been allocated for interview as against 12.2%, which are permissible in law. In the replication to the written statement filed, in para 8, it is stated that relationship of respondent No. 8 with Shri Jasdev Singh Sandhu, the Chairman, is concerned, it is fairly conceded that this has been mentioned wrongly but not with mala fide intention. In the impugned judgment, the question of mala fide is not dealt with, obviously, in view of the replication filed by the appellants to the written statement before the High Court as noticed above. In the impugned judgment, the question of allocation of 100 marks for interview were excess, is also not dealt with as it does not appear to have been urged on behalf of the appellants. Criteria for selection were framed on 22.4.1998. The criteria for selection which was produced is Annexure-R-1 in the writ petition before the High Court clearly indicated total marks for selection 240, out of them 200 marks were allocated lor competitive test, 15 marks for additional educational, sports and oilier qualifications and 25 marks were allocated for interview. The appellants were very much aware of Annexure R-1. The impugned order shows that the grievance of the appellants was in regard to the publication of the criteria, subsequent to declaration of the result of written examination; not that 100 marks allocated for interview were excessive. With all this, it is painful to note that the appellants in Civil Appeal No. 812 of 2002 on page K of List of dates stated that 100 marks were kept for interview as against the total marks of 250 (150 marks for written test + 100 marks for interview) It is further stated that the selection has been made in totally biased manner as the nephew of the Chairman of the respondent-Board, the sister's husband of the Minister for Public Works and a friend of known political families in Punjab, have been appointed. It may be stated here itself that those persons were neither made parties nor any particulars were given touching mala fulcs. At page 34 of SLP in paras K and L, same things are repeated as to the allotment of 100 marks for interview and also mala fides attributed to certain persons to accommodate the private respondents. It is further stated that arbitrarily 100 marks were set apart for interview out of 250 marks in order to help them only and that the entire selection was arbitrary. This is also the state of affairs even with regard to the other appellants in other appeals At the hearing when pointed out, the appellants regretted for the wrong statements and misrepresentation made but added

that they were not with any mala fide intention. Looking to the background, specific statements made in the replication filed by the appellant before the High court, being aware of the criteria that the marks for interview were only 25, having given up mala fides and having not urged the same before the High Court and taking note that the appellants have sworn affidavits in support of the SLPs that they understood the accompanying synopsis, list of dates and paragraphs contained in Special Leave Petitions and that they were fully conversant with the facts of the case and that the contents of the affidavit were true to their knowledge and nothing material has been concealed there from and no part of it is false, we find it difficult to accept that the statements were made in the SLPs bonafidely. It appears to us that these statements were made in SLPs to get leave and/or interim orders on the ground of excessive marks allocated for interview and mala fides. In our view, this conduct of the appellants is condemnable and we may straightaway say without any hesitation that they have disentitled themselves for any relief on this score.

A bench of three learned Judges of this Court in Hari Narain v. Badri Das, [1964] 2 SCR 203 revoked the special leave granted to the appellant and dismissed the appeal for making inaccurate, untrue and misleading statement in SLP observing that "It is of utmost importance that in making material statements and setting forth grounds in applications for special leave, care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with application for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. That is why we have come to the conclusion that in the present case, special leave granted to the appellant ought to be revoked. Accordingly, special leave is revoked and the appeal is dismissed. The appellant will pay the costs of the respondent."

Again in Rajabhai Abdul Rehman.Munshi v. Vasudev Dhanjibhai Mody, [1964] 3 SCR 480, this Court observed that "exercise of the jurisdiction of the Court under Article 136 of the Constitution is discretionary; it is exercised sparingly and in exceptional cases, when a substantial question of law falls to be determined or where it appears to the Court that interference by this Court is necessary to remedy serious injustice. A party who approaches this Court invoking the exercise of this overriding discretion of the Court must come with clean hands. If there appears on his part any attempt to overreach or mislead the Court by false or untrue statements or by withholding true information which would have a bearing on the question of exercise of the discretion, the Court would be justified in refusing to exercise the discretion or if the discretion has been exercised in revoking the leave to appeal granted even at the time of hearing of the appeal."

In the same judgment, Hidayatullah, J. concurring with judgment of Shah J. delivered on behalf of himself and Sarkar J., added that "I have considered the matter carefully. This is not a case of a mere error in the narration of facts or of a bona fide error of judgment which in certain circumstances may be considered to be venial faults. This is a case of being disingenuous with the Court by making out a point of law on a suppositious state of facts, which facts, if told candidly, leave no room for the discussion of law. The appellant has by dissembling in this Court induced it to grant special leave in a case which did not merit it. I agree, therefore, that this leave should be recalled and the appellant, made to pay the costs of this appeal."

Yet again, a bench of three learned Judges of this Court in Udai Chand v. Shanker Lal and Ors., [1978] 2 SCR 809 revoked the special leave and dismissed it after referring to the decisions in Hari Narain and Rajabhai Abdul Rehman Munshi (supra). It was further observed that this Court cannot permit abuses of the process of law and of law courts.

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However, even otherwise we proceed to examine on the merits of the contentions urged on either side at length and with all seriousness.

From the chart extracted above in regard to the marks secured by the appellants and the respondents, it is evident that respondents 4-7 (in general category) were in the first list i.e. they were from out of the 78 candidates. The appellants cannot make grievance as far as these candidates are concerned in the sense that they were in the first list and not in the second list so as to give them advantage. No doubt, respondents 8 and 9 (in general category) were called for interview in the second list out of 40 candidates. Admittedly, the marks secured by these respondents are more than any of the appellants in the general category. It is pointed out that the two candidates namely Ram Nath and Paramjit Singh in general category called in the first list of the interview have secured more marks than all the appellants. Even if the respondents 8 and 9 were to be denied appointment on the ground that they were called for the interview in the second list, the position of the appellants could not improve. One more fact to be kept in mind is that two candidates belonging to Scheduled Castes category having secured higher marks than the appellants could be selected in the general category. Thus, even otherwise, the appellants would not succeed in getting selected for appointments. Merely because 40 more candidates were called for interview without anything more, selection of the candidates does not get vitiated particularly so when malafides were given up and 100 marks were not allocated for interview as wrongly stated by the appellants.

As can be seen from the difference of marks secured by the candidates in interview, it does not appear abnormal or per se does not smell of any foul play or does not appear patently arbitrary. The lowest of the marks given in the interview are 11.5 and the highest are 22.87. Further marks secured in the interview and the marks secured in written test are also not grossly disproportionate. This apart, out of total marks of 240, only 25 marks were earmarked for interview. So 25 marks for interview out of 240 as against 200 for written test and 15 marks for qualification and other activities do not admit an element of arbitrariness or give scope for use of discretion by members of the Interview Committee recklessly or designedly in giving more marks to show favour in interview so as to give an advantage or march to an undeserving candidate of their over others who had shown extraordinary merit in written test. From the chart, we find among the candidates, marks secured in the written test were between 119 to 128 except in one case belonging to Scheduled Castes were 114. This apart, the marks secured in the interview are based on the assessment of the Interview Committee. Normally, it is not for the court to sit in judgment over such assessment and particularly in the absence of any mala fides or extraneous considerations attributed and established. The interview marks of 25 as against total marks of 240, cannot be taken as excessive. It comes to 10.4%. Possibly the selection would have been vitiated, if the marks for interview were 100 as against 150 marks for written test as sought to be made out. Unfortunately, for the appellants, their misrepresentation in this regard, is unfolded very clearly as already stated above. Further, the appellants, knowing the criteria fixed for selection and allocation of marks, did participate in the interview; when they are not successful, it is not open to them to turn around and attack the very criteria. The High Court in the impugned order has found that the criteria contained in Annexure R-1 filed in the writ petition was published and that such criteria was adopted earlier also in respect of other selections.

The appellants heavily relied on a decision of this Court by four learned Judges in Ashok Kumar Yadav's case (supra) in support of their contentions that where there is a composite test consisting of written examination followed by viva voce test, the number of candidates to be called for interview on the basis of marks obtained in the written examination should not exceed twice or at the highest thrice the number of vacancies to be filled; further marks allocated to viva voce test should not be more than 12.2%. The learned counsel for the respondents from the very judgment

pointed out that it does not advance the case of the appellants having regard to the facts and circumstances of the cases at hand. In the aforementioned case of Yadav. the facts were that in October, 1980. Haryana Public Service Commission (HPSC) invited applications for recruitment to 61 posts in Haryana Civil Service (Executive) and Allied Services. The recruitment was governed by the Punjab Civil Service (Executive Branch) Rules, 1930 as applicable in the State of Haryana. In response to that advertisement issued by HPSC, about 6000 candidates applied for recruitment and appeared at the written examination. Out of them, over 1300 obtained more than 45% marks and were called for interview. HPSC invited all the 1300 and odd candidates for interview and the interviews lasted for almost half a year. Though originally, applications were invited for recruitment to 61 posts, the number of vacancies during the time taken in the written examination and viva voce test rose to 119. It seems there were some candldates who had obtained very high marks at the written examination but owing to securing poor marks in the viva voce test, they could not come within first 119 candidates and consequently they were not selected. Aggrieved by the non-selection, they filed writ petitions in the I High Court challenging the validity of the selection. It was contended that the marks given in the viva voce test should be ignored and selection should be made only on the basis of the marks obtained by the candidates at the written examination. The writ petitions were allowed by the Division Bench of the High Court. Hence, the appeals were filed before this Court aggrieved by the judgment of the High Court. The High Court took the view that there was reasonable likelihood of bias vitiating the selection process based on the fact that though only 61 vacant posts were advertised over 1300 candidates representing more than 20 times the number of available vacancies were called for viva voce test. The Division Bench pointed out that in order to have proper balance between the objective assessment of a written examination and the subjective assessment of personality by a viva voce test, the candidates to be called for interview at viva voce test should not exceed twice or at the highest, thrice the number of available vacancies. Since the candidates were called 20 times the number of available vacancies, the High Court held that the selection process was vitiated. This Court disagreed with this conclusion reached by the Division Bench of the High Court. While doing so, this Court observed that HPSC was not right in calling for interview all the 1300 and odd candidates; it was difficult to see how a viva voce test for properly and satisfactorily measuring the personality of a candidate can be carried if over 1300 candidates were to be interviewed for recruitment to a service if viva voce test was to be carried out in a thorough and scientific manner, to arrive at a fair and satisfactory evaluation of the personality of a candidate, the interview must take anything between 10 to 30 minutes. This Court, while considering the question whether selection made by HPSC after calling 1300 candidates for interview was vitiated on that account, in paragraph 21, held thus:-

"We do not think that the selections made by the Haryana Public Service Commission could be said to be vitiated merely on the ground that as many as 1300 and more candidates representing more than 20 times the number of available vacancies were called for interview, though on the view taken by us that was not the right course to follow and not more than twice or at the highest thrice, the number of candidates should have been called for interview. Something more than merely calling an unduly large number of candidates for interview must be shown in order to invalidate the selections made. That is why the Division Bench relief on the comparative figures of marks obtained in the written examination and at the viva voce test by the petitioners, the first 16 candidates who topped the list in the written examination and the first 16 candidates topped the list on the basis of the combined marks obtained in the written examination and the viva voce test, and observed that these figures showed that there was reasonable likelihood of arbitrariness and bias having operated in the marking at the viva voce test. Now it is true that some of the petitioners did quite well in the written examination but fared badly in the viva voce test and in fact their performance at the viva voce test appeared to have

deteriorated in comparison to their performance in the year 1977-78. Equally it is true that out of the first 16 candidates who topped the list in the written examination, 10 secured poor rating in the viva voce test and were knocked out of the reckoning while 2 also got low marks in the viva voce test but just managed to scrape through to come within the range of selection. It is also true that out of the first 16 candidates who topped the list on the basis of the combined marks obtained in the written examination and the viva voce test, 12 could come in the list only on account of high marks obtained by them at the viva voce test, though the marks obtained by them in the written examination were not of sufficiently high order. These figures relied upon by the Division Bench may create a suspicion in one's mind that some element of arbitrariness might have entered the assessment in the viva voce examination. But suspicion cannot take the place of proof and we cannot strike down the selections made on the ground that the evaluation of the merits of the candidates in the viva voce examination might be arbitrary. It is necessary to point out that the Court cannot sit in judgment over the marks awarded by interviewing bodies unless it is proved or obvious that the marking is painly and indoubtably arbitrary or affected by oblique motives. It is only if the assessment is patently arbitrary or the risk of arbitrariness is so high that a reasonable person would regard arbitrariness as inevitable, that the assessment of marks at the viva voce test may be regarded as suffering from the vice of arbitrariness. Moreover, apart from only three candidates, namely Trilok Nath Sharma, Shakuntala Rani and Balbir Singh one of whom belonged to the general category and was related to Shri Raghubar Dayal Gaur and the other two were candidates for the seats reserved for Scheduled Castes and were related to Shri R.C.Marya, there was no other candidate in whom the Chairman or any members of the Haryana Public Service Commission was interested, so that there could be any motive for manipulation of the marks at the viva voce examination. There were of course general allegations of casteism made against the Chairman and the members of the Haryana Public Service Commission, but these allegations were not substantiated by producing any reliable material before the Court. The Chairman and member of the Haryana Public Service Commission in fact belonged to different castes and it was not as if any particular caste was predominant amongst the Chairman and members of the Haryana Public Service Commission so as even to remotely justify an inference that the marks might have been manipulated to favour the candidates of that caste. We do not think that the Division Bench was right in striking down the selections made by the Haryana Public Service Commission on the ground that they were vitiated by arbitrariness or by reasonable likelihood of bias."

In that case the marks allocated for viva voce test came to 22 2% of the total number of marks kept for the competitive examination. This percentage of 33.3% was in the case of Ex-service officers and 22.2% was in the case of other candidates.

As regards the allocation of marks for interview, in paras 23 and 24 of the same judgment it is stated thus:-

"23. This Court speaking through Chinnappa Reddy, J pointed in Lila Dhar v. State of Rajasthan, [1982] 1 SCR 320 that the object of any process of selection for entry into public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. So open competitive examination has come to be accepted almost universally as the gateway to public services But the question is how should the competitive examination be devised? The competitive examination may be based exclusively on written examination or it may be based exclusively on oral interview or it may be a mixture of both. It is entirely for the Government to decide what kind of competitive examination would be appropriate in a given case. To quote the words of Chinnappa Reddy, J. "In the very nature of things it would not be within the province or even the competence of the Court and the Court would not venture into such exclusive thickets to discover ways out, when the

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matters are more appropriately left" to the wisdom of the experts. It is not for the court to lay down whether interview test should be held at all or how many marks should be allowed for the interview test. Of course the marks must be minimal so as to avoid charges of arbitrariness, but not necessarily always. There may be posts and appointments, where the only proper method of selection may be by a viva voce test. Even in the case of admission to higher degree courses, it may sometimes be necessary to allow a fairly height percentage of marks for the viva voce test. That is why rigid rules cannot be laid down in these matters by courts. The expert bodies are generally the best judges. The Government aided by experts in the field may appropriately decide to have a written examination followed by a viva voce test.

24. It is now admitted on all hands that while a written examination assesses the candidate's knowledge and intellectual ability, a viva voce test seeks to assess a candidate's overall intellectual and personal qualities. While a written examination has certain distinct advantages over the viva voce test, there are yet no written tests which can evaluate a candidate's initiate, alertness, resourcefulness, dependableness, cooperativeness, capacity for clear and logical presentation, effectiveness in discussion, effectiveness in meeting and dealing with others, adaptability, judgment, ability to make decision, ability to lead, intellectual and moral integrity. Some of these qualities can be evaluated, perhaps with some degree of error, by viva voce test, much depending on the constitution of the interview board."

Even having found allocation of 22.2% marks for viva voce test were unreasonable and excessive, selection was not upset as stated hereunder:-

"28. But the question which then arises for consideration is as to what is the effect of allocation of such a high percentage of marks for the viva voce test, both in case of ex-service officers and in case of other candidates, on the selections made by the Haryana Public Service Commission. Though we have taken the view that the percentage of marks allocated for the viva voce test in both these cases is excessive, we do not think we would be justified in the exercise of our discretion in setting aside the selections made by the Haryana Public Service Commission after the lapse of almost two years. The candidates selected by the Haryana Public Service Commission have already been appointed to various posts and have been working on these posts since the last about two years. Moreover the Punjab Civil Set vice (Executive Branch) Rules, 1930 under which 33.3% marks in case of ex-service officers and 22.2% marks in case of other candidates have been allocated for the viva voce test have been in force for almost 50 years and everyone has acted on the basis of these rules. If selections made in accordance with the prescription contained in these rules are now to be set aside, it will upset a large number of appointments already made on the basis of such selections and the integrity and efficiency of the entire administrative machinery would be seriously jeopardized. We do not therefore propose to set aside the selections made by the Haryana Public Service Commission though they have been made on the basis of an unduly high percentage of marks allocated for the viva voce test."

This Court in Ashok Kumar Yadav's case, aforementioned, found allocation of 12.2% marks for viva voce test was fair and just and in that view directed that marks allocated for the viva voce test shall not exceed 12 2% of the total marks taken into account for the purpose of selection. Even judged by this standard in the present appeals, the marks allocated for viva voce test being 25 as against total marks of 240 are less than 12.2% i.e. well within the ambit of direction given. In that case, this Court declined to exercise discretion to set aside the selection made by the HPSC after the lapse of 2 years taking note that the selected candidates had already been appointed to various posts.

In All India State Bank Officers' Federation and Ors. v. Union of India and

Ors., [1997] 9 SCC 151, this Court observed, "there can be no rigid or hard and fast rule that the interview marks can only be 15 per cent and no more. The percentage of marks for viva voce or interview which can be regarded as unreasonable will depend on the facts of each case Decisions of this Court show that no rigid rule, relating to percentage of marks lor interview of general universal application can or has been laid down. What the interview or viva voce marks should be may vary from service to service and the office or position or the purpose for which the interview is to be held. But the interview marks should not be so high as to give an authority unchecked scope to manipulate or act in an arbitrary manner while making selection."

This Court in a recent decision in Jasvinder Singh and Ors. v. State of J&Kand Ors., [2003] 2 SCC 132, after referring to earlier decisions, pointed out that the very observations made in Ashok Kumar Yadav's case show that there cannot be any hard and fast rule of universal application for allocating the marks for viva voce vis-a-vis the marks for written examination and consequently the percentage indicated therein alone cannot be the touchstone in all cases; what ultimately is required to be ensured is as to whether the allocation as such is with an oblique intention and whether it is so arbitrary as capable of being abused and misused in its exercise. Para 7 of the said judgment reads:-

"7. In Mehmood Alam Tariq v. State of Rajasthan, [1988] 3 SCC 241, prescription of 33% as minimum qualifying marks of 60 out of total 180 marks set apart for viva voce examination does not by itself incur any constitutional infirmity. In Manjeet Singh v.ESI Corpn.. [1990] 2 SCC 367 this Court held that in the absence of any prescription of qualifying marks for the interview test the same 40% as applicable for written examination was reasonable. In Anzar Ahmad v. State of Bihar, [1994] 1 SCC 150 this Court exhaustively reviewed the entire case law on the subject including the one in Ashok Kumar Yadav case and upheld a selection method which involved allocation of 50% marks for academic performance and 50 marks for the interview. The very observations in Ashok Kumar Yadav case would go to show that there cannot be any hard-and-fast rule of universal application for allocating the marks for viva voce vis-a-vis the marks for written examination and consequently the percentage indicated therein alone cannot be the touchstone in all cases. What ultimately required to be ensured is as to whether the allocation, as such is with an oblique intention and whether it is so arbitrary as capable of being abused and misused in its exercise. Judged from the above the Division Bench could not be held to have committed any error in sustaining the allocation of 25 marks (20%) for viva voce as against 100 marks for written examination for selection of candidates in the present case. The learned Single Judge, in our view, has adopted a superficial exercise and proceeded on a misunderstanding of the real ratio of the decision in Ashok Kumar Yadav case. Further, the learned Single Judge appears to have applied the ultimate decision in the said case. to the case on hand drawing certain inferences on mere assumptions and surmises or some remote possibilities, without any proper or actual foundation or basis, there for."

The observations made in para 8 of the same judgment in somewhat similar circumstances which have negative impact on the contentions urged on behalf of the appellants are:-

"8. The learned single Judge also seems to have been very much carried away by few instances noticed by him as to the award of higher percentage of marks in viva voce to those who got lower marks in the written test as compared to some who scored higher marks in the written examination but could not get as much higher marks in viva voce. Picking up a negligible few instances tan not provide the basis for either striking down the method of selection or the selections ultimately made. There is no guarantee that a person who fared well in the written test will or should be presumed to have fared well in the viva voce test and also and the expert opinion about as well as experience in viva voce does not lend credence to any such

general assumptions, in all circumstances and for all eventualities. That apart, the variation of written test marks of those who were found to have been awarded higher marks in viva voce vis-a-vrs those who secured higher marks in the written test but not so in the viva voce cannot be said to be so much (varying from five marks and at any rate below even 10) as to warrant any proof of inherent vice in the very system of selection or the actual selection in the case I here was no specific allegation of any mala fides or bias against the Hoard constituted for selection or anyone in the Board nor any such plea could be said to have been substantiated in this case. The observation by the learned Single Judge that there was a conscious effort made for bringing some candidates within the selection zone cannot he said to be justified from the mere fact of certain instances noticed by him on any general principle or even on the merits of those factual instances alone. Further, the course adopted by the learned Single Judge in directing selection from general candidates of all those who have obtained 56 marks in the written examination cannot be justified at all and it is not given to the Court to alter the very method of selection and totally dispense with viva voce in respect of a section alone of the candidates, for purposes of selection. On a careful and overall consideration of the judgments of the learned Single Judge and that of the Division Bench, we are of the view that the decision of the learned Single Judge cannot be sustained for the reasons assigned by him and the decision of the Division Bench cannot be considered to suffer any such serious infirmity in law to call for our interference."

In Civil Appeal No. 937 of 2002 the learned counsel for the appellant urged an additional ground that 5 marks fixed for higher educational qualifications were not given to the appellant. According to him the appellant had additional qualifications of M.A. and LL.B.; he ought to have been given additional marks for M.A. as well as LL.B., but only 2 marks were given for both the qualifications together, which affected his chance of selection. It appears that this point was not urged before the High Court and no opportunity was available to the respondents to meet this point. However, during the course of hearing, based on the criteria fixed for selection, it was explained to us by the learned counsel for the respondents that for additional educational qualifications 5 marks were set apart. Out of them maximum marks available to the highest educational qualification of a candidate were to be given and not that marks were to be given to every additional educational qualification. It is better to look at the criteria, which was filed as Annexure R-1 in the writ petition, which is reproduced hereunder: -

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"ANNEXURE R-1

CRITERIA/FORMULA ADOPTED FOR SELECTION OF CANDIDATES FOR THE POST OF NAIB TEHSILDAR BY THE SUBORDINATE SERVICES SELECTION BOARD, PUNJAB

Total marks for selection 240
(i) marks allotted for competitive test 200
(ii) Marks allotted for Additional Educational, sports 15 and other Qualifications
(iii) Marks allotted for interview/ (VIVA-VOCE) 25
I. A. Marks allotted for Educational Qualification (for additional Qualification) 5
(i) Ph.D. 5
(ii) M.A./M.Sc./M.Tech and other post graduate degrees
1st Division 3
2nd Division and
3rd Division 2
(iii) LL.B. 2
(iv) Any other qualification 1

Note: The candidate will be given the marks on the basis of his/her highest

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qualification and not on the basis of his/her each qualification lower than this.

II. B. SPORTS/EXTRA CURRICULAR ACTIVITIES 5

(i) Sports
International winner 5
National winner 3
State winner 2
(ii) N.C.C. 3
C Certificate 3
B Certificate 2
A Certificate I
(iii) N.S.S.
2
One camp 1
Two or more camp 2
III. INTERVIEW
Interview marks of the Board will be 25 and the system for awarding the marks would be same as approved separately for all categories.
Sd/-
(Jasdev Singh Sandhu) Chairman
14.1.1999
Sd/- Sd/-
(Kulbir Singh Randhawa) (Ashok Loomba)
Member Member
Sd/- Sd/-
(Parkash Singh Gardhiwal) (Virsa Singh Valioha) Member
Member
Sd/-
(Jarnail Singh Wahid) Member"

From Annexure R-1 it is clear that total marks for selection were 240. Marks allocated for competitive test were 200, marks allocated for additional educational, sports and other qualifications were 15 and marks allocated for interview (Viva voce) are 25. Marks allocated for educational qualifications are 5 and maximum marks are 5 for Ph.D., for post graduation in first division 3 marks, for second and third divisions 2 marks, for LL.B. 2 marks and any other qualification 1 mark. If the argument of the learned counsel for the appellant is to be accepted, it may result in anomalous situation. Suppose, a candidate, who possesses three additional qualifications including Ph.D., in that event he would be entitled 5 marks for Ph.D. and additional marks for every additional educational qualifications. Then the total marks to be assigned to a candidate for the educational qualifications shall be more than 5 marks. In the case of the appellant, although he had two additional educational qualifications, the maximum marks to which he was entitled for highest qualification were given. Hence he cannot make any grievance. This being the position, we do not find any merit in the contention. Hence it is rejected.

In Civil Appeal No. 5985 of 2002 it was urged that no marks were given to the appellant for additional educational qualifications. It appears that this point also was not raised before the High Court and similarly no opportunity was available to the respondents to meet the point. The learned counsel for the appellant contended that the appellant had additional post graduation qualification and no marks were given to him. It was brought to our notice by showing the original record that in the application form no mention was made about additional post graduation qualification acquired by the appellant and no record or certificate was placed before the authorities at appropriate time to show that the appellant had acquired additional qualifications. Hence the contention has no merit and consequently it is rejected.

In these appeals, the non-official respondents having been appointed in May, 1998, are continuing in service almost for a period of five years. On this ground as well as looking to the conduct of the appellants in making misrepresentation to this Court and finding no merit in these appeals, we should decline to interfere with the impugned judgment and order. It may be noted that even in the Ashok Kumar Yadav 's case (supra) this Court set aside the judgment of the Division Bench of the High Court by rejecting the challenge to the validity of the selection made by the HPSC.

In order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice.

Before we part with these cases, we must observe that the misrepresentation made by the appellants in the SLPs supported by an affidavit require serious action but we refrain from taking any further action in view of the apology and regret expressed by the appellants during the hearing. But, we administer a warning to them to be careful in future and not to make any misrepresentation or false statement before any court and impose cost also.

For the reasons stated and discussion made above, these appeals are dismissed but with cost of Rs.10,000/- (Rs. 5000 to be paid by each of the appellants) in Civil Appeal No. 812 of 2002 and Rs. 5,000 in each one of the remaining appeals to be paid by the appellants which amount shall be deposited with the Legal Aid Committee of the Supreme Court.

kindly peruse page No-183

CASE NO.:
Appeal (civil) 5097-5099 of 2004

PETITIONER:
A.V. PAPAYYA SASTRY & ORS

RESPONDENT:
GOVERNMENT OF A.P. & ORS

DATE OF JUDGMENT: 07/03/2007

BENCH:
C.K. THAKKER & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T

C.K. THAKKER, J.

All these appeals have been preferred by the appellants against common judgment and order passed in WAMP No. 1879 of 2001 in W.A. No. 109 of 1997, WAMP No. 1880 of 2001 in W.A. No. 292 of 1998 and Contempt Case No. 1008 of 2001. By the said order, the High Court recalled common judgment and order passed on April 27, 2000 in Writ Appeal Nos. 109 of 1997 and 292 of 1998. A direction was also issued to the authorities under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as 'the Ceiling Act') to complete proceedings within the stipulated period.

The case has a long and checkered history starting from early seventies of the last century. Appellants herein are the owners of land bearing Survey Nos. 3/1, 3/2 and 4 admeasuring 18 acres, 39 cents of Village Kancharapalem, District Visakhapatnam. It was their case that Visakhapatnam Port Trust ('Port Trust' for short) wanted to acquire land for public purpose, namely, for construction of quarters for its employees. The Chairman of the Port Trust, therefore, sent a requisition letter to the District Collector, Visakhapatnam for acquiring land admeasuring 45 acres, 33 cents of Survey Nos. 1, 2, 3 and 4 of Kancharapalem Village. Advance possession of the land of the appellants, bearing Survey Nos. 3/1, 3/2 and 4 admeasuring 18 acres, 39 cents was taken over by the Estate Manager of the Port Trust on August 29, 1972 by private negotiations. The State Authorities, thereafter, were requested by the Port Trust Authorities to take appropriate proceedings for acquisition of land under the Land Acquisition Act, 1894. According to the appellants, in the statement recorded on August 29, 1972, Akella Suryanarayana Rao stated that he had handed onver possession of the land to the Estate Manager of the Port Trust. Mr. Akella also stated that there was a dispute regarding land with tenant Koyya Gurumurthy Reddy under Andhra Pradesh Lands Tenancy Act. It was also the case of the appellants that the Port Trust deposited with the Government the amount of compensation payable to the owners of the land. The land acquisition proposals were approved by the Port Trust as also by the Government of India.

It was further case of the appellants that a preliminary notification under sub-section (1) of Section

4 of the Land Acquisition Act was for the first time issued on August 10, 1973 but nothing further was done in the matter. The Ceiling Act came into force in the State of Andhra Pradesh on February 17, 1976. It, inter alia, covered the Visakhapatnam Urban Agglomeration. The appellants filed their declarations taking the stand that possession of land had already been handed over to Port Trust Authorities even before the Act came into force and the provisions of the Ceiling Act, therefore, would not apply to such land. In the light of the above factual position and the case of the appellants, the Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam vide his order dated May 25, 1981 in C.C. No. 6143 of 1976 declared that the land-owners of Survey Nos. 3/1, 3/2 and 4 were 'non-surplus land holders'. Then the Government again issued notification under sub-section (1) of Section 4 of the Act on August 29, 1981. Urgency clause under Section 17(4) was not invoked since the possession of land was already with the Port Trust Authorities. A declaration under Section 6 was issued on October 12, 1982. No award, however, was passed.

According to the appellants, the Chief Engineer of Port Trust in reply to a query by the Land Acquisition Officer, clarified vide his letter dated December 19, 1985 that actual and physical possession of the land was not taken by Port Trust as the tenant did not vacate possession of the land. It appears that in view of the above letter that physical possession of land was not with the Port Trust Authorities, the Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam referred the matter to the Commissioner, Land Reforms and Urban Land Ceiling, Government of Andhra Pradesh, Hyderabad in February, 1987 to take up the matter under Section 34 of the Ceiling Act in suo motu revision. The Collector, Visakhapatnam also vide his D.O. letter No. 433/78, dated June 27, 1987 requested the Commissioner to reopen the case and start enquiry. On August 21, 1989, Chairman, Visakhapatnam Port Trust addressed a letter to the Commissioner, Land Reforms & Urban Land Ceiling, Government of A.P. categorically stating that land admeasuring 18 acres, 39 cents of Survey Nos. 3/1, 3/2 and 4 of Kancherapalem village had already been taken over by the Port Trust and there was no cause to reopen the case under Section 34 of the Ceiling Act. Once again, the Government approved the proposal for acquisition of land and notification under Section 4(1) of the Land Acquisition Act was issued on May 17, 1991.

It appears that the proceedings for reopening of the case by invoking Section 34 of the Ceiling Act were initiated. On July 20, 1994, notice was issued to the owners to show cause as to why revisional powers should not be exercised and the order passed by the Special Officer and Competent Authority under the Ceiling Act should not be set aside. It was also stated in the notice that it was brought to the notice of the Government that title to the land was undisputedly with the declarants on the appointed day under the Ceiling Act as the Land Acquisition Proceedings were not concluded by that date. As such land was required to be computed in the holdings of the declarants even if it was admitted by the Port Trust Authorities that they were in possession of the land in 1972. The land-owners submitted the reply to the notice.

Meanwhile, however, the land-owners filed a petition being Writ Petition No. 11754 of 1994 praying therein that the High Court may direct the State Authorities to complete proceedings under the Land Acquisition Act and pass an award. During the pendency of the writ petition the revision was allowed by the State Government under Section 34 of the Ceiling Act on January 20, 1995 and the order passed by the Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam declaring that the appellants had no surplus land had been set aside. The appellants, therefore, filed another petition, being Writ Petition No. 3102 of 1995 questioning the legality of the order passed in revision. The learned single Judge allowed both the petitions i.e. Writ Petition Nos. 11754 of 1994 and 3102 of 1995 and by order dated June 4, 1996 directed the authorities to complete Land Acquisition Proceedings and pass award within three months. The learned single Judge also held that the order under the Ceiling Act was passed by the Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam in 1981 while suo motu revisional powers were exercised in 1994-95 i.e. after thirteen years. Such action was, therefore, illegal, unlawful and unwarranted. Accordingly, the order passed in revision was set aside. Writ appeals filed by the State were dismissed. A direction was issued by the Division Bench to fix market value on the basis of notification under Section 4(1) issued on May 17, 1991. Special Leave Petition (Civil) Nos. 14860-14861 of 2000 filed by the State Authorities were dismissed by this Court on October 20, 2000.

The State Authorities, thereafter, filed recall-applications on June 13, 2001. In the recall applications, it was stated inter alia that fraud was committed by the land-owners and material facts were suppressed by them. It was alleged that possession of land was never handed over to Port Trust Authorities, nor Port Trust Authorities received such possession of land and yet it was asserted by the owners that possession of land was given to Port Trust Authorities in 1972 which was not correct. It was only in December, 1985 that the correct fact came to the knowledge of the State Authorities from a letter by the Chief Engineer of Port Trust. Hence, the order was taken in suo motu revision under Section 34 of the Ceiling Act. It was further stated that even if the Port Trust Authorities would be deemed to be in possession of land on the day the Ceiling Act came into force, Land Acquisition Proceedings were not concluded and no award was passed. The Port Trust Authorities, in the circumstances, would be in possession of the land for and on behalf of the land-owners and the land was required to be declared surplus and vacant under the Ceiling Act.

It was further averred that the High Court ordered inquiry by the Central Bureau of Investigation (CBI) and Mr. Y. Anil Kumar, IPS, Superintendent of Police, CBI, Visakhapatnam submitted a detailed report in the High Court when the Writ Appeals were placed for hearing. Unfortunately, however, the attention of the Court was never invited to the said report which clearly revealed that there was total fraud on the part of the land-owners in collusion with Port Trust Officers as also Officers acting under the Ceiling Act. It was, therefore, submitted that the orders passed by the Division Bench on April 27, 2000 was required to be recalled by directing the

authorities under the Ceiling Act to conclude proceedings.

The High Court, after hearing the learned counsel for the parties and considering the records and proceedings including the report submitted by CBI, held that the case was of a fraud and by suppressing material facts, several orders were passed and actions were taken. In view of correct and true facts and reports which clearly established that the authorities were misled, that proceedings were initiated to revise the order, dated May 25, 1981. The Court, therefore, held that the order dated April 27, 2004 passed by the Division Bench was required to be recalled and recall applications were allowed.

The Court therefore passed the following order;

"Considering all the aspects as stated above, we are of the considered view that the recall petitions have to be allowed. Accordingly we allow the recall petitions by setting aside the common judgment passed in the aforesaid writ appeals.

We further direct that the proceedings under ULC Act have to be completed within a period of one month from the date of receipt of this order by the concerned authorities by giving opportunity to the petitioners and respondents herein to put forward their cases and after final decision is taken by the authorities under ULC Act, the further proceedings have to be initiated under Land Acquisition Act depending upon the result under the ULC Act. The proceedings under the Land Acquisition Act if initiated, compensation to be awarded to the respondents herein within a period of three months from the date of order of the authorities under the ULC Act. The Land Acquisition Officer is also directed to consider the legal date of possession of the land taken by the VPT Authorities after conclusion of the enquiry under the ULC Act".

The appellants have challenged the aforesaid order of the High Court. On August 5, 2002, notice was issued by this Court. Affidavits and counter affidavits were filed. On August 6, 2004, leave was granted and hearing was expedited and the matters were placed before us for final hearing.

We have heard learned counsel for the parties.

Mr. K.K. Venugopal, Senior Advocate, appearing for the appellants contended that the High Court committed an error in law in passing the impugned order. It was clear from the evidence on record and various communications that before the proposal was submitted by the Port Trust Authorities for acquisition of land for a public purpose (construction of quarters for its employees), advance possession of land had been taken over by Port Trust Authorities and land-owners were not in possession of the property. The said fact was noted by the Special Officer and Competent Authority, Urband Land Ceiling, Visakhapatnam and an order was passed in May, 1981 that the appellants were 'not surplus land owners'. In or about 1985, however, there appeared to be encroachment over the land and some officers of the Port

Trust, with a view to save their skin, wrote a letter on December 19, 1985 that the possession of land had not been handed over to Port Trust Authorities since tenants were occupying the land. The said statement was not correct and could not have been considered for initiating proceedings under the Ceiling Act. It was also submitted by the counsel that suo motu power was sought to be exercised after a decade. As per settled law, revisional powers should be exercised within 'reasonable time'. By no stretch of imagination, more than ten years can be said to be 'reasonable time'. According to the learned counsel, learned single Judge was wholly justified in allowing both the writ petitions filed by the land-owners and in issuing directions, namely, (i) to complete land acquisition proceedings and pass award; and (ii) exercise of revisional powers after about thirteen years was wholly unwarranted. The said order was confirmed by the Division Bench in Writ Appeals. Special Leave Petitions were also dismissed by this Court. After dismissal of Special Leave Petitions, neither it was open to the authorities to make an application for recalling earlier orders as has been done in June, 2001, nor it was permissible for the Court to grant such relief. It was also submitted that the Division Bench, while dealing with Writ Appeals took note of the fact that the land was 'agricultural land' and was having fruit bearing trees i.e. a garden land. The said finding had not been disturbed even by this Court in SLPs. The Division Bench ought to have taken into account that fact as well. By not doing so, an illegality had been committed and the order deserves to be set aside.

The learned counsel for the State Authorities as also Port Trust Authorities supported the order passed by the High Court and action of recalling of the order dated April 27, 2000. It was submitted that the authorities proceeded on the basis that advance possession of the land was given by land-owners to Port Trust Authorities in August, 1972. But the statement was not correct and the authorities were misled. The order passed by the Special Officer and Competent Authority under the Ceiling Act declaring that the owners did not possess surplus land was founded on the above statement that the land-owners were not in possession of land, which was false. But even otherwise, the order passed by the Special Officer and Competent Authority was not in consonance with law inasmuch as even if the owners were not in possession of land, proceedings under the Land Acquisition Act were not finalized. The legal position is that the ownership of the land-owners continued and in the eye of law, Port Trust Authorities remained in possession for and on behalf of the land-owners. It was, therefore, incumbent on Special Officer and Competent Authority under the Ceiling Act to declare land to be excess and surplus under the Ceiling Act so that appropriate consequential action could be taken. No such action, however, was taken. Moreover, it was made clear by the Chief Engineer, Port Trust vide his letter dated December 19, 1985 that actual and physical possession of land was never taken by Port Trust Authorities as it remained with tenants and disputes were going on. The matter, therefore, required detailed investigation.

The CBI made an enquiry and the report was submitted by the Police Inspector which revealed startling facts. From the report, it is clear that fraud was

committed by the land owners in collusion with officers of the respondents. Criminal proceedings were also initiated and they are pending. It was, therefore, submitted that the High Court was right in recalling its earlier order.

Regarding non-applicability of the provisions of the Ceiling Act as the land being garden land and hence agricultural land under the Ceiling Act, it was submitted that it was never the case of the land-owners when proceedings under the Ceiling Act had been initiated that the Act would not apply because the land was used for agriculture. The sole ground put forward by the land-owners was that possession of land had already been given to Port Trust Authorities and hence the Ceiling Act had no application. It was, therefore, submitted that the appeals deserve to be dismissed and the impugned order calls for no interference.

Having given anxious consideration to the rival contentions of the parties, in our opinion, no case has been made out by the appellants for interference with the order passed by the High Court allowing the applications and recalling earlier order. The High Court has considered the matter in detail. The case of land-owners was that advance possession was taken over by Port Trust Authorities in August, 1972. The subsequent facts and letter by Chief Engineer of Port Trust in 1985 clearly revealed that it was not so. Possession of land was never with the land owners and was not given to Port Trust Authorities. From the record it is clear that neither the land-owners nor the Port Trust Authorities were in actual or physical possession of land, but it was occupied by tenants and disputes were also going on between the tenants and land owners. Therefore, the basis on which the Special Officer and Competent Authority, Urban Land Ceiling proceeded to decide the matter was non-existent and non est.

In our opinion, the learned counsel for the respondents are also right in submitting that even if the statement of land-owners and Port Trust Authorities is believed and it is held that actual and physical possession of land was handed over by land-owners and taken over by Port Trust Authorities, it does not change the legal position. It was not the case of land-owners themselves that proceedings under the Land Acquisition Act were finalized and award was passed. From the record, it is clear that no notification under the Land Acquisition Act was issued in 1972. Such notifications were issued subsequently in the years 1973, 1981, 1991 and 1996. At more than one occasion, notifications were issued only because the proceedings were not finalized and award was not passed. It is also clear that in the writ petitions filed by the land-owners in 1994-95, a single Judge of the High Court directed the authorities to complete land acquisition proceedings by initiating fresh action commencing from issuance of notification under Section 4(1) of the Act and to complete them within a period of three months. In our opinion, therefore, the High Court was right in holding that the provisions of the Act would apply to the land and Special Officer and Competent Authority, Urban Land Ceiling was wholly wrong in excluding the land said to have been in possession of the Port Trust Authorities.

We are further of the view that the State Government, in the facts and circumstances of the case, was right in exercising revisional jurisdiction under

Section 34 of the Act. Mr. Venugopal is indeed right in submitting that even though no period of limitation is prescribed for exercise of revisional jurisdiction by the State Government suo motu, such power must be exercised within a reasonable time [vide State of Gujarat v. Patel Raghav Natha, (1969) 2 SCC 187]. But taking into account the facts and circumstances in their entirety and in particular, a letter of Chief Engineer, Visakhapatnam Port Trust of December 19, 1985, it cannot be said that the power had not been exercised within a reasonable period. It is also pertinent to note that the subsequent development shows as to how some of the Officers of the Port Trust were parties to fraud said to have been committed by land-owners. In this connection, the respondents are right in inviting our attention to a letter dated August 21, 1989 by the Port Trust Authorities to the Commissioner of Land Reforms stating therein that the Government intended to exercise suo motu power under Section 34 of the Act but there was no necessity to reopen proceedings and suitable directions were required to be issued to District Collector, Visakhapatnam to pass an award in respect of land sought to be acquired under the Land Acquisition Act. In view of these developments, in our opinion, the High Court was fully justified in recalling the earlier order.

The High Court has dealt with the contention regarding fraud said to have been committed by land-owners in collusion with officers of the respondents. It is stated as to how the High Court ordered CBI enquiry on prima facie satisfaction that there was a fraud and report was submitted by Mr. Y. Anil Kumar, IPS, Superintendent of Police, CBI, Visakhapatnam. In the said report, CBI had stated that possession was never taken over by the Port Trust Authorities and tenancy cases were pending. Even if there was transfer of possession, it was in violation of the Andhra Pradesh Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 which came into force on June 5, 1972. (It may be recalled that according to the land owners as well as Port Trust Authorities, possession was taken over by the Port Trust by private negotiations on August 29, 1972). CBI, therefore, observed that transfer of possession in favour of Port Trust did not constitute legal transfer under 1972 Act. CBI also noted that proceedings under the Andhra Pradesh Tenancy Act were pending.

Now, it is well settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed;

"Fraud avoids all judicial acts, ecclesiastical or temporal".

It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the Court, Tribunal or Authority is a nullity and non est in the eye of law. Such a judgment, decree or order \027by the first Court or by the final Court\027 has to be treated as nullity by every Court, superior or inferior. It can be challenged in any Court, at any time, in appeal, revision, writ or even in collateral proceedings.

In the leading case of Lazarus Estates Ltd. v. Beasley, (1956) 1 All ER 341 : (1956) 1 QB 702 : (1956) 2 WLR 502, Lord Denning observed:

"No judgment of a court, no order of a Minister, can be allowed to stand, if it has been obtained by fraud."

In Duchess of Kingstone, Smith's Leading Cases, 13th Edn., p.644, explaining the nature of fraud, de Grey, C.J. stated that though a judgment would be res judicata and not impeachable from within, it might be impeachable from without. In other words, though it is not permissible to show that the court was 'mistaken', it might be shown that it was 'misled'. There is an essential distinction between mistake and trickery. The clear implication of the distinction is that an action to set aside a judgment cannot be brought on the ground that it has been decided wrongly, namely, that on the merits, the decision was one which should not have been rendered, but it can be set aside, if the court was imposed upon or tricked into giving the judgment.

It has been said; Fraud and justice never dwell together (fraus et jus nunquam cohabitant); or fraud and deceit ought to benefit none (fraus et dolus nemini patrocinari debent).

Fraud may be defined as an act of deliberate deception with the design of securing some unfair or undeserved benefit by taking undue advantage of another. In fraud one gains at the loss of another. Even most solemn proceedings stand vitiated if they are actuated by fraud. Fraud is thus an extrinsic collateral act which vitiates all judicial acts, whether in rem or in personam. The principle of 'finality of litigation' cannot be stretched to the extent of an absurdity that it can be utilized as an engine of oppression by dishonest and fraudulent litigants.

In S.P. Chengalvaraya Naidu (dead) by LRs. V. Jagannath (dead) by LRs. & Ors. (1994) 1 SCC 1 : JT 1994 (6) SC 331, this Court had an occasion to consider the doctrine of fraud and the effect thereof on the judgment obtained by a party. In that case, one A by a registered deed, relinquished all his rights in the suit property in favour of C who sold the property to B. Without disclosing that fact, A filed a suit for possession against B and obtained preliminary decree. During the pendency of an application for final decree, B came to know about the fact of release deed by A in favour of C. He, therefore, contended that the decree was obtained by playing fraud on the court and was a nullity. The trial court upheld the contention and dismissed the application. The High Court, however, set aside the order of the trial court, observing that "there was no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". B approached this Court.

Allowing the appeal, setting aside the judgment of the High Court and describing the observations of the High Court as 'wholly perverse', Kuldip Singh, J. stated: "The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean-hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax- evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court - process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on

falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation".
(emphasis supplied)

The Court proceeded to state: "A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would he guilty of playing fraud on the court as well as on the opposite party".
The Court concluded: "The principle of 'finality of litigation' cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants".
In Indian Bank v. Satyam Fibres (India) Pvt. Ltd., (1996) 5 SCC 550 : JT 1996 (7) SC 135, referring to Lazarus Estates and Smith v. East Elloe Rural District Council, 1956 AC 336 : (1956) 1 All ER 855 : (1956) 2 WLR 888, this Court stated;
"The judiciary in India also possesses inherent power, specially under Section 151 C.P.C., to recall its judgment or order if it is obtained by Fraud on Court. In the case of fraud on a party to the suit or proceedings, the Court may direct the affected party to file a separate suit for setting aside the Decree obtained by fraud. Inherent powers are powers which are resident in all courts, especially of superior jurisdiction. These powers spring not from legislation but from the nature and the Constitution of the Tribunals or Courts themselves so as to enable them to maintain their dignity, secure obedience to its process and rules, protect its officers from indignity and wrong and to punish unseemly behaviour. This power is necessary for the orderly administration of the Court's business".
(emphasis supplied)

In United India Insurance Co. Ltd. v. Rajendra Singh & Ors., (2000) 3 SCC 581 : JT 2000 (3) SC 151, by practising fraud upon the Insurance Company, the claimant obtained an award of compensation from the Motor Accident Claims Tribunal. On coming to know of fraud, the Insurance Company applied for recalling of the award. The Tribunal, however, dismissed the petition on the ground that it had no power to review its own award. The High Court confirmed the order. The Company approached this Court.
Allowing the appeal and setting aside the orders, this Court stated;
"It is unrealistic to expect the appellant company to resist a claim at the first instance on the basis of the fraud because appellant company had at that stage no knowledge about the fraud allegedly played by the claimants. If the Insurance Company comes to know of any dubious concoction having been made with the sinister object of extracting a claim for compensation, and if by that time the award was already passed, it would not be possible for the company to file

a statutory appeal against the award. Not only because of bar of limitation to file the appeal but the consideration of the appeal even if the delay could be condoned, would be limited to the issues formulated from the pleadings made till then.

Therefore, we have no doubt that the remedy to move for recalling the order on the basis of the newly discovered facts amounting to fraud of high degree, cannot be foreclosed in such a situation. No Court or tribunal can be regarded as powerless to recall its own order if it is convinced that the order was wangled through fraud or misrepresentation of such a dimension as would affect the very basis of the claim.

The allegation made by the appellant Insurance Company, that claimants were not involved in the accident which they described in the claim petitions, cannot be brushed aside without further probe into the matter, for, the said allegation has not been specifically denied by the claimants when they were called upon to file objections to the applications for recalling of the awards. Claimants then confined their resistance to the plea that the application for recall is not legally maintainable. Therefore, we strongly feel that the claim must be allowed to be resisted, on the ground of fraud now alleged by the Insurance Company. If we fail to afford to the Insurance Company an opportunity to substantiate their contentions it might certainly lead to serious miscarriage of justice".

(emphasis supplied)

Mr. Venugopal, no doubt, contended that when the order passed by the earlier Division Bench was not interfered with by this Court and SLPs were dismissed, it was not open to the High Court thereafter to entertain recall-applications and grant the relief of recalling of earlier orders. According to him, such an exercise of power was unlawful and abuse of process of law.

In this connection, our attention has been invited by the learned counsel to a decision of this Court in Abbai Maligai Partnership Firm & Anr. v. K. Santhakumaran & Ors., (1998) 7 SCC 386 : JT 1998 (6) SC 396. In that case, after dismissal of Special Leave Petition by this Court, review petition was entertained by the High Court and earlier judgment was recalled. When the matter reached this Court, setting aside the order passed by the High Court, the Court observed:

"The manner in which the learned Single Judge of the High Court exercised the review jurisdiction, after the special leave petitions against the self-same order had been dismissed by this court after hearing learned counsel for the parties, to say the least, was not proper. Interference by the learned single Judge at that stage is subversive of judicial discipline. The High Court was aware that SLPs against the orders dated 7.1.87 had already been dismissed by this court. This High Court, therefore, had no power or jurisdiction to review the self same order,

which was the subject matter of challenge in the SLPs in this court after the challenge had failed. By passing the impugned order on 7.4.1994, judicial propriety has been sacrificed. After the dismissal of the special leave petitions by this court, on contest, no review petitions could be entertained by the High Court against the same order. The very entertainment of the review petitions, in the facts and circumstances of the case was an affront to the order of this Court. We express our strong disapproval and hope there would be no occasion in the future when we may have to say so. The jurisdiction exercised by the High Court, under the circumstances, was palpably erroneous. The respondents who approached the High Court after the dismissal of their SLPs by this court, abused the process of the court and indulged in vexatious litigation. We strongly depricate the manner in which the review petitions were filed and heard in the High Court after the dismissal of the SLPs by this court." (emphasis supplied)

The respondents, on the other hand, placed reliance upon Kunhayammed & Ors. v. State of Kerala & Anr., (2000) 6 SCC 359 : JT 2000 (9) SC 110, wherein this Court had an occasion to consider the application of the doctrine of merger to orders passed by this Court while exercising jurisdiction under Article 136 of the Constitution. The Court there observed that exercise of jurisdiction by this Court under Article 136 is in two stages; (i) granting of a special leave to appeal; and (ii) hearing of appeal. The Court went on to observe that the doctrine of merger does not apply to first stage i.e. at the stage of granting of special leave to appeal. It applies only at the second stage of hearing of appeals. The Court in the light of above position, laid down the following principles:

(i) Where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of law.

(ii) The jurisdiction conferred by Article 136 of the Constitution is divisible into two stages. First stage is upto the disposal of prayer for special leave to file an appeal. The second stage commences if and when the leave to appeal is granted and special leave petition is converted into an appeal.

(iii) Doctrine of merger is not a doctrine of universal or unlimited application. It will depend on the nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or capable of being laid shall be determinative of the applicability of merger. The superior jurisdiction should be capable of reversing,

modifying or affirming the order put in issue before it. Under Article 136 of the Constitution the Supreme Court may reverse, modify or affirm the judgment-decree or order appealed against while exercising its appellate jurisdiction and not while exercising the discretionary jurisdiction disposing of petition for special leave to appeal. The doctrine of merger can therefore be applied to the former and not to the latter.

(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) If the order refusing leave to appeal is a speaking order, i.e. gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the apex court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties,

(vi) Once leave to appeal has been granted and appellate jurisdiction of Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

(vii) On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before Supreme Court the jurisdiction of High Court to entertain a review petition is lost thereafter as provided by Sub-rule (1) of Rule (1) of Order 47 of the C.P.C.

In Kunhayammed, Abbai Maligai was considered and it was observed that in the facts and circumstances of that case, this Court did not approve the order passed by the High Court. The Court noted that in Abbai Maligai, this Court did not consider the doctrine of merger. According to the Court, a careful reading of Abbai Maligai "brings out the correct statement of law and fortifies us in taking the view" as taken. [see also S. Shanmugavel Nadar v. State of T.N. & Anr., (2002) 8 SCC 361 : JT 2002 (7) SCC 568].

The matter can be looked at from a different angle

as well. Suppose, a case is decided by a competent Court of Law after hearing the parties and an order is passed in favour of the applicant/plaintiff which is upheld by all the courts including the final Court. Let us also think of a case where this Court does not dismiss Special Leave Petition but after granting leave decides the appeal finally by recording reasons. Such order can truly be said to be a judgment to which Article 141 of the Constitution applies. Likewise, the doctrine of merger also gets attracted. All orders passed by the courts/authorities below, therefore, merge in the judgment of this Court and after such judgment, it is not open to any party to the judgment to approach any court or authority to review, recall or reconsider the order. The above principle, however, is subject to exception of fraud. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such order cannot be held legal, valid or in consonance with law. It is non-existent and non est and cannot be allowed to stand. This is the fundamental principle of law and needs no further elaboration. Therefore, it has been said that a judgment, decree or order obtained by fraud has to be treated as nullity, whether by the court of first instance or by the final court. And it has to be treated as non est by every Court, superior or inferior.

Hence, the argument of Mr. Venugopal cannot be upheld. Even if he is right in submitting that after dismissal of SLPs, the respondent herein could not have approached the High Court for recalling its earlier order passed in April, 2000 and the High Court could not have entertained such applications, nor the recalling could have been done, in the facts and circumstances of the case and in the light of the finding by the High Court that fraud was committed by the land-owners in collusion with the officers of the Port Trust Authorities and Government, in our considered view, no fault can be found against the approach adopted by the High Court and the decision taken. The High Court, in our opinion, rightly recalled the order, dated April 27, 2000 and remanded the case to the authorities to decide the same afresh in accordance with law.

Mr. Venugopal also submitted that the Division Bench of the High Court in an order dated April 27, 2000 observed that the land being a garden land having fruit bearing trees which had been cultivated by a tenant, it did not fall within the description of 'urban land' or 'vacant land' within the meaning of Section 2(o) or 2(q) of the Ceiling Act and the said aspect had not been gone into at all by the State Government. The High Court thereafter considered the provisions of the Ceiling Act and held that the land was agricultural land and required to be excluded from the operation of the Ceiling Act.

As to the above, we may only observe that it was never the case of land-owners while filling a form under Section 6 of the Act that the provisions of the Act were not applicable to the land in question because the land was used for agriculture or horticulture purposes or that it was having fruit bearing trees. The exclusion or non-operation of the Act was sought only on the ground that the possession of the land had already been handed over to Port Trust Authorities in 1972 and hence the land cannot become subject matter of the Ceiling Act. In view of the above fact, in our opinion, the High Court was

right in passing the impugned order directing the authorities to consider all aspects and pass an appropriate order in accordance with law.

Last but not the least. We are exercising jurisdiction under Article 136 of the Constitution. It is discretionary and equitable in nature.? Clause (1) of the said Article confers very wide and extensive powers on this Court to grant special leave to appeal against any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal in India. The Article commences with a non-obstante clause, "Notwithstanding anything in this Chapter" (i.e. Chapter IV of Part V). These words are of overriding effect and clearly indicate the intention of the Framers of the Constitution that it is a special jurisdiction and a residuary power unfettered by any statute or other provisions of Chapter IV of Part V of the Constitution. It is extraordinary in its amplitude. Its limit, when it chases injustice, is the sky. Such power, therefore, may be exercised by this Court whenever and wherever justice demands intervention by the highest Court of the country.

Article 136, however, does not confer a right of appeal on any party. It confers discretion on this Court to grant leave to appeal in appropriate cases. In other words, the Constitution has not made the Supreme Court a regular Court of Appeal or a Court of Error. This Court only intervenes where justice, equity and good conscience require such intervention.

In Baiganna v. Deputy Collector of Consolidation, (1978) 2 SCR 509 : (1978) 2 SCC 461; Krishna Iyer, J. pithily stated;

> "The Supreme Court is more than a Court of appeal. It exercises power only when there is supreme need. It is not the fifth court of appeal but the final court of the nation. Therefore, even if legal flaws may be electronically detected, we cannot interfere sans manifest injustice or substantial question of public importance".

(emphasis supplied)

[see also V.G. Ramachandran, 'Law of Writs'; Revised by Justice C.K. Thakker & Mrs. M.C. Thakker; Sixth Edn; Vol.2; pp.1440-1528]

Keeping in view totality of facts and attending circumstances including serious allegations of fraud said to have been committed by the land-owners in collusion with officers of the respondent-Port Trust and Government, report submitted by the Central Bureau of Investigation (CBI), prima facie showing commission of fraud and initiation of criminal proceedings, etc. if the High Court was pleased to recall the earlier order by issuing directions to the authorities to pass an appropriate order afresh in accordance with law, it cannot be said that there is miscarriage of justice which calls for interference in exercise of discretionary and equitable jurisdiction of this Court. We, therefore, hold that this is not a fit case which calls for our intervention under Article 136 of the Constitution. We, therefore, decline to do so.

Before parting with the matter, we may state that all the observations made by us hereinabove have been made only for the purpose of deciding the legality and validity of the order passed by the High Court. We may

clarify that we may not be understood to have expressed any opinion on merits of the matter one way or the other. Therefore, as and when the matter will be considered by the authorities in pursuance of the directions of the High Court, it will be decided on its own merits without being inhibited by the observations made by us in this judgment.

For the foregoing reasons, the appeals deserve to be dismissed and are accordingly dismissed with costs.

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Kindly perure para-23 to 25

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

ORIGINAL APPLICATION NO. 141/2025
(I.A. NO.256/2025)

IN THE MATTER OF:

HARI OM SHARAN DWIVEDI
Director, Sangam Mediserve Pvt. Ptd.
Prayagraj, State of Uttar Pradesh

...Applicant

Verses

1. **UTTAR PRADESH POLLUTION CONTROL BOARD**
Through its Member Secretary
Having its office at:
Building No. TC-12V,
Vibhuti Khand,
Gomti Nagar, Lucknow-226010

2. **M/S R.S. BIO-MEDICAL WASTE SERVICES**
Through its Managing Director
Plot No. C-20,
Sathariya Industrial Development Authority Industrial Estate,
Sathariya, District- Jaunpur
Uttar Pradesh- 222202

3. **CENTRAL POLLUTION CONTROL BOARD**
Through its Member Secretary
Parivesh Bhawan, East Arjun Nagar,
New Delhi- 110032

4. **SATHARIYA INDUSTRIAL DEVELOPMENT AUTHORITY**
Through its Chairman
Industrial Estate Sathariya, Jaunpur,
Jaunpur, Uttar Pradesh- 222202

5. **CHIEF ENVIRONMENTAL OFFICER**
Circle-6
Varanasi

6. **MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE**
Through its Secretary
Ministry of Environment and Forests and Climate Change
Indira Paryavaran Bhavan,
Jor Bagh Road,
New Delhi - 110003

...Respondents

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BY ADVOCATE

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COUNSELS FOR APPLICANT(S):

Mr. Yash Mishra, Mr. Siddhant Kumar, Mr. Harshvardhan Singh and Mr. Nikhil Singh, Advocates

COUNSELS FOR RESPONDENT(S):

Ms. Richa Kapoor and Ms. Atika Singh, Advocates for MoEF&CC
Mr. Priyanka Swami, Advocate for SEIAA, UP (Through VC)
Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Atif Suhrawardy, Advocate for CPCB (Through VC)
Mr. Deva Shukla and Mr. Atul Mishra, Advocates for R-2
Ms. Sthavi Asthana, Advocate for UPSIDA
Ms. Ruchira Gupta and Ms. Pooja Tripathi, Advocates for R-13 in OA 623/2024 and for R-4 in OA 141/2025 (Through VC)

CORAM:

HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

RESERVED ON: APRIL 17, 2025
PRONOUNCED ON: JULY 15, 2025

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. The applicant Hari Om Sharan Dwivedi has preferred this Original Application (hereinafter referred to as **'OA'**) under Sections 14 and 15 read with Section 18(1) of National Green Tribunal Act, 2010 (hereinafter referred to as **'NGT Act, 2010'**) with a prayer that Consent to Operate (hereinafter referred to as **'CTO'**) dated 23.12.2024 and Authorisation dated 30.12.2024 granted to M/s. RS Bio-Medical Waste Services at C-20, Satharia Industrial Development Authority Industrial Estate, Sahara, Jaunpur by Uttar Pradesh Pollution Control Board (hereinafter referred to as **'UPPCB'**) be set aside/quashed/revoked and enquiry be ordered as to how such CTO was granted despite directions given by UPPCB and Ministry of Environment, Forest and Climate Change, New Delhi (hereinafter referred to as **'MoEF&CC'**) vide office letter dated 10.07.2023 and 31.07.2024.

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2. OA was heard along with ***OAs 623/2024, 749/2024*** and ***750/2024*** and judgment was reserved on 17.04.2025. However, for the purpose of clarity, we have separated this OA for the reason that in the connected three OAs, the challenge was made to Environmental Clearances (hereinafter referred to as **'ECs'**) granted under Environment Impact Assessment Notification dated 14.09.2006 (hereinafter referred to as **'EIA 2006'**) read with the provisions of Environment (Protection) Act, 1986 (hereinafter referred to as **'EP Act, 1986'**) while in the present case, it is the CTO and Authorisation which is under challenge.

3. The facts in brief, as borne out from the memo of OA show that the applicant itself is an operator of Common Bio-Medical Waste Treatment Facility (hereinafter referred to as **'CBWTF'**) named as M/s. Sangam Mediserve Pvt. Ltd. at Jaitapur, Handia, Prayagraj, Uttar Pradesh. The treatment operational capacity of applicant's CBWTF is 11 MT per day covering 6833 beds. Respondent 2 i.e., M/s. RS Bio-Medical Waste Services has established a CBWTF at plot no.C-20, Satharia Industrial Development Authority Industrial Estate, Sahara, Jaunpur which has been granted CTO dated 23.12.2024 and Authorisation dated 30.12.2024 for operating CBWTF in violation of revised Guidelines issued for CBWTF by Central Pollution Control Board (hereinafter referred to as **'CPCB'**) with respect to the capacity utilisation and siting criteria. CBWTF of respondent 2 is located near Food industries and residential areas which may increase the risk of airborne contamination and hazardous bio-medical waste exposure. Chief Medical Officer of Jaunpur has confirmed that existing CBWTF has sufficient capacity to handle bio-medical waste for the region and applicant's CBWTF, in fact, is under performing in regard to its official capacity. Chief Medical Officer, Jaunpur has written a letter dated 14.07.2021 (annexure A-5 at page 237 of paper book)

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informing Member Secretary, UPPCB that M/s. Sangam Mediserve Pvt. Ltd., Prayagraj is disposing bio-medical waste generated by medical health facilities in district Jaunpur since 11.08.2017. In district Jaunpur, there are 22 community health centres with 660 beds, district health centres (male and female) with 343 beds, MCH Wing with 30 beds and urban primary health centres with 06 beds i.e., total 1039 beds whereof the medical waste generated is being disposed by the said proponent. CTO and Authorisation issued to respondent 2 violates CPCB's Guidelines providing that a new on additional CBWTF will be allowed only where number of beds is beyond 10000 within 75 km radius. Further, CTO has been granted without taking into consideration the environmental risk despite the fact that CBWTF is a 'Red Category' industry. No public hearing was conducted before grant of CTO. No gap analysis has been conducted and a similar proposal of establishment of CBWTF by M/s. Topsy Torvy Retails Pvt. Ltd., District Kaushambi has been rejected on the ground that applicant's CBWTF is established and operating in District Prayagraj serving 6833 beds wherefrom only 1775 kg/day bio-medical waste is generated on an average and plant operational period is about 4 to 6 hours per day. There is one more CBWTF i.e., M/s. Ferro Buildhards (i) Pvt. Ltd., District Prayagraj, operational with underutilised capacity. Within the coverage area of 75 kms, there are other CBWTFs facilities namely M/s. Silkon Biotech Private Limited at Village Bhadon, Pargana Mahul, Tehsil- Martinganj, District-Azamgarh; M/s Royal Pollution Control Services at Chandpur, Saidopatti, District-Sultanpur; M/s CPC Power India Pvt. Ltd. Mohansarai, District-Varanasi, besides M/s Ferro Buildhards (India) Pvt. Ltd. operating at Mirzapur road, Naini, District-Prayagraj. These operating CBWTF are in close vicinity and that too within the radius of 75 kms which is in violation of the Guidelines of CPCB with regard to

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coverage area as well as capacity of existing facilities which will not be fully utilised. Respondent 2 misrepresented before State Level Expert Appraisal Committee (hereinafter referred to as **'SEAC'**) in its meting dated 19.09.2023 supplying the information that the existing operational incinerator capacity within 75 kms radius of the proposed site was 600 kg/hour assuming a 12 hour daily operation. UPPCB has power to revoke CTO if Facility fails to comply with environmental Regulations and since CTO has been granted in violation of CPCB's Guidelines and against recommendation of Chief Medical Officer, Jaunpur, it is imperative on UPPCB to cancel CTO immediately. MoEF&CC vide letter dated 14.10.2022 (annexure A/11 at page 345 of paper book) has stressed upon grant of permission to new facilities on the basis of gap analysis conducted by State Pollution Control Boards and this has been reiterated by Director (HSMD), MoEF&CC vide letter dated 31.07.2024 (at page 346 of paper book). Gap analysis study has also been emphasised by Additional Chief Secretary, Environment, UP vide its letter dated 28.06.2023 (at page 347 of paper book). Chief Environment Officer, UPPCB vide letter dated 10.07.2023 (at page 349 of paper book) has also given similar instructions to all concerned Regional Officers of UPPCB.

4. A preliminary objection has been raised by the Learned Counsel appearing for UPPCB and respondent 2 that applicant is challenging CTO and prayed for its revocation but for the said purpose, OA under Sections 14 and 15 is not maintainable. It is further stated that the information with regard to number of beds available does not cover the entire medical health facilities in the area in terms of Rule 3 (j) and (m) of Bio-Medical Waste Management Rules, 2016 (hereinafter referred to as **'BMWM Rules, 2016'**).

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5. Learned Counsel appearing for applicant has referred to its submission made in para 24 of OA to urge that a prayer of setting aside an order or CTO or Authorisation falls within the purview of Section 14 of NGT Act, 2010. In para 24, submissions have been made by the applicant as under:

> *"a. Section 14 of the NGT Act, 2010 itself places no fetters on the power of the NGT to quash a government notification. The invocation of NGT's original jurisdiction is contingent only upon (i) lis should raise a substantial question relating to environment, and (ii) such question should arise out of implementation of a Schedule 1 enactment.*
>
> *b. The use of the word 'including' within brackets in Section 14 implies that powers of the NGT extend beyond mere enforcement of recognized legal rights.*
>
> *c. The above-mentioned Original Application, inter-alia, assails the MoEF Notification dt. 06.01.2020, which is issued u/s 3 of the Environment (Protection) Act, 1986, a Schedule 1 enactment under the NGT act, 2010. As such, this Hon'ble Tribunal has jurisdiction since a "substantial question relating to environment" has arisen in the context of a challenge to the impugned notification.*
>
> *d. Section 2(1)(c) broadly defines "environment" to include land, air and water and their inter-relationship with humans and other living beings. Similarly, Section 2(1)(m) defines "substantial question relating to environment" to include instances where environmental consequences arise out of a specific activity or a source of pollution. In the present case, the grant of consent to operate is a clear violation of the guidelines issued for the protection of the environment. This action could lead to environmental consequences by affecting the Air, Water and Land.*
>
> *e. Therefore, it is submitted that the present Original Application meets the requirements of Section 14 to invoke the jurisdiction of this Hon'ble Tribunal. Once invoked, the power of the Tribunal extends to passing any order, decision or award for restitution of the environment [see Section 15(1)(c)] and after applying the three core principles enunciated in Section 20. It is submitted that there is no explicit or implicit limitation on the power of the NGT in the NGT Act, 2010, to pass an order, decision or award quashing a government authorisation."*

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6. We have heard Counsel appearing for the parties and perused the record at the outset.

7. We may notice hereat that in the entire OA including the prayer, applicant has referred to CTO dated 23.12.2024 and Authorisation dated 30.12.2024 but documents of the above dates have not been placed on record. When we asked the Learned Counsel appearing for the applicant to point out the order impugned in the present OA, he referred to annexure A/1 at page 36 which is a document dated 07.11.2024. It is a consolidated CTO and Authorisation seeking consent under Section 25 of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as **'Water Act, 1974'**), Section 21 of Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as **'Air Act, 1981'**) and Authorisation under Rule 6(2) of Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 (hereinafter referred to as **'HoW Rules, 2016'**) notified under EP Act, 1986. The letter dated 07.11.2024 has been issued by UPPCB to M/s R.S. Bio-Medical Waste Services i.e., respondent 2 and the validity period of this Consolidated CTO and Authorisation is from 20.09.2024 to 31.12.2028.

8. Interestingly, this is not one of the impugned order assailed in the present OA, therefore, *ex-facie*, what we find from record is that two orders dated 23.12.2024 and 30.12.2024 which have been challenged are not part of record and what has been pointed out being the impugned order, during the course of the argument, is annexure A/1 and it is dated 07.11.2024 which has not been assailed at all.

9. It is well established that an order which is challenged and a prayer is made for setting aside the same, if not made part of record, the question of its setting aside does not arise. Therefore, *ex-facie,* the application is

seriously defective in as much as the prayer made in OA is in respect with the documents which are not part of record and order shows to be impugned order during the course of the arguments, is not challenged and assailed in the OA.

10. However, we are not non-suiting the applicant for this ground alone. As we have already pointed out that a Consolidated CTO under Section 25 of Water Act, 1974 and Section 21 of Air Act, 1981 and Authorisation under Rule 6(2) of HoW Rules, 2016 has been collectively issued to respondent 2 by UPPCB. If a person is aggrieved by an order of consent granted under Section 25 of Water Act, 1974, statutory provision of Appeal has been made under Section 28 of Water Act, 1974 and the relevant Section 28(1) reads as under:

> *"**28. Appeals.**—(1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:*
>
> *Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time."*

11. Further power of Revision has been conferred upon State Government under Section 29 of Water Act, 1974 in respect of an order made under Section 25 and State Government may pass such order as it may think fit. The relevant provision of Section 29 reads as under:

> *"**29. Revision.**—(1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under section 25, section 26 or section 27 for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it may think fit:*
>
> *Provided that the State Government shall not pass any order under this sub-section without affording the State Board and the*

person who may be affected by such order a reasonable opportunity of being heard in the matter.

(2) The State Government shall not revise any order made under section 25, section 26 or section 27 where an appeal against that order lies to the appellate authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the appellate authority."

12. Against an order of Appellate Authority passed under Section 28 of Water Act, 1974 if an Appeal has been preferred thereunder against the order passed under Section 25, a further Appeal has been provided to the aggrieved person under Section 33B of Water Act, 1974 before this Tribunal. Against the Revisional order of State Government, if any, under Section 29 also an Appeal lies under 33B of Water Act, 1974. Section 33B reads as under:

***"33B. Appeal to National Green Tribunal.**-Any person aggrieved by,-*

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under section 29, on or after the commencement of the National Green Tribunal Act, 2010; or

(c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010,

***may file an appeal to the National Green Tribunal** established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.]"*

13. Section 16 of NGT Act, 2010 also provides for an Appeal against the order of Appellate Authority passed under Section 28 of Water Act, 1974 or the Revisional Order of State Government passed under Section 29 of Water Act, 1974. The relevant provisions contained in Section 16(a) and (b) of NGT Act, 2010 are reproduced as under:

***"16. Tribunal to have appellate jurisdiction.**- Any person aggrieved by,-*

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(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

xxx.....xxx.....xxx

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."

14. Admittedly, applicant has a remedy of Appeal under Section 28 of Water Act, 1974 against the CTO granted under Section 25 of Water Act, 1974 and this is a statutory remedy but the same has not been availed and by-passing the same, present OA has been filed.

15. Similarly, when the consent is granted under Section 21 of Air Act, 1981, such order of consent is appealable under Section 31 of Air Act, 1981 before the Competent Appellate Authority and against the order of Appellate Authority passed under Section 31, a further Appeal is provided under Section 31B of Air Act, 1981 before this Tribunal. Relevant Section 31 and 31B of Air Act, 1981 are reproduced as under:

"31. Appeals- *(1) Any person aggrieved by an order made by the State Board under this Act may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the Appellate Authority) as the State Government may think fit to constitute:*

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Appellate Authority shall consist of a single person or three persons as the State Government may think fit to be appointed by the State Government.

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(3) The form and the manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the Appellate Authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the Appellate Authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

xxx.....xxx.....xxx

***31B. Appeal to National Green Tribunal.**-Any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2010, **may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010**, in accordance with the provisions of that Act."*

16. NGT Act, 2010 vide Section 16(f) also provides for an Appeal against the order of the Appellate Authority passed under Section 31A of Air Act, 1981 before this Tribunal. The relevant Section 16(f) is reproduced as under:

***"16. Tribunal to have appellate jurisdiction.**- Any person aggrieved by,-*

xxx.....xxx.....xxx

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

xxx.....xxx.....xxx

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."

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17. In this backdrop, we have to examine whether an OA for challenging an order of Consent and Authorisation is maintainable under Sections 14 and 15 of NGT Act, 2010.

18. Sections 14 confers power upon the Tribunal to settle dispute having jurisdiction over all civil cases where a substantial question relating to environment is involved and such question arises out of the implementation of enactments specified in Schedule I. Sections 14 and 15 are reproduced as under:

> *"**14. Tribunal to settle disputes.-** (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*
>
> *(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.*
>
> *(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:*
>
> *Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.*
>
> ***15. Relief, compensation and restitution**-(1) The Tribunal may, by an order, provide-*
>
> *a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);*
> *b) for restitution of property damaged;*
> *c) for restitution of the environment for such area or areas, as the Tribunal may think fit.*
>
> *(2) The relief and Compensation and restitution of property and environment referred to in clauses (a), (6) and (c) of sub-section of (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).*

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the' applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may, be, compensation or relief received from, any other Court or authority.

19. Similarly, Section 15 confers power upon the Tribunal to pass order granting relief, compensation and restitution. Section 15(1) reads as under:

*"**15. Relief, compensation and restitution**-(1) The Tribunal may, by an order, provide-*

a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);
b) for restitution of property damaged;
c) for restitution of the environment for such area or areas, as the Tribunal may think fit."

20. Section 16 of NGT Act, 2010 provides appellate jurisdiction in respect of certain orders mentioned therein. Thus, three types of jurisdictions have been conferred upon Tribunal vide Sections 14, 15 and 16 of NGT Act, 2010.

21. Supreme Court has considered the above three provisions in ***Mantri Techzone Private Limited vs. Forward Foundation and Others,***

ANNEXURE - R-9/4 series

(20019) 18 SCC 494 and observed that Sections 14 and 15 are independent provisions conferring self-contained jurisdiction upon the Tribunal. In para 45 of the judgment, Court has said as under:

> *"**45.** Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, **Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently.** The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, **the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions."***

22. So far as Section 18 is concerned, it only recognises the right to file applications and the manner in which the application has to be filed under Sections 14 and 15 and also the Appeal under Section 16 of NGT Act, 2010.

23. In the present case, what applicant has done is that it has by-passed the remedy of Appeal against the order under Section 25 of Water Act, 1974 and Section 29 of Air Act, 1981 which were appealable under Section 28 of Water Act, 1974 and Section 31 of Air Act, 1981. Further, applicant has remedy of second appeal before this Tribunal if any adverse order against its interest is passed by the Appellate Authority under Section 28 of Water Act, 1974 and Section 31 of Air Act, 1981 but by not availing the remedy of initial Appeal, he has given up even the right of second Appeal. Applicant in fact has frog leap by filing its OA under Sections 14 and 15 of NGT Act, 2010 disturbing the entire scheme of the Statute.

24. In ***M/s Northern Plastics Ltd. vs Hindustan Photo Films Manufacturing Company Ltd., (1997) 4 SCC 452***, Supreme Court in

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para 12 of the judgment has observed that the Statutory procedure laid down by Parliament in its wisdom for enabling the challenge to the adjudication has got to be followed and by passing such Statutory procedure is a direct frog leap which is contra-indicated by the Statutory scheme of the Act. Such approach of direct frog leap by ignoring the Statutory provisions of Appeal and Revision etc. having the scheme of the Act would stultify the very scheme of the Statute which has not to be permitted.

25. In ***Tamil Nadu Pollution Control Board vs. Sterlite Industries (India) Limited and Others, (2019) 19 SCC 479,*** Supreme Court observed that in order to assail statutory orders passed by Statutory Regulators under reliance of Section 14 of NGT Act, 2010 is impermissible since Section 14 refers to original jurisdiction of Tribunal and not its appellate jurisdiction. In para 36 of the judgment, Supreme Court has said as under:

> *"...Equally disingenuous is the reference to Section 14 of the NGT Act which only refers to the original jurisdiction of the NGT and not to its appellate jurisdiction. Also, to state generally that the subject matter of environment lies with the NGT, is an argument of despair that must be dismissed for the reason that as held by us hereinabove, an appeal being a creature of statute, a statute either confers a right of appeal or it does not..."*

26. Section 14, as we have already seen, confers original jurisdiction upon Tribunal to adjudicate a substantial question relating to environment when has arisen out of implementation of enactments specified in Schedule I. It does not confer any supervisory or appellate jurisdiction upon the Tribunal to look into the correctness of the Statutory order passed by Statutory body under a relevant Statute whereagainst a further remedial hierarchy in terms of Appeal and Revision etc. is also provided in such Statute. Similarly, Section 15 is also not attracted to challenge Statutory order passed by Statutory

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authority. In the circumstances, we are clearly of the view that an OA under Sections 14 and 15 is not maintainable to challenge Statutory order of CTO since the applicant has otherwise Statutory remedy of Appeal etc. which it has failed to avail and having lost such remedy, it cannot be permitted to convert jurisdiction under Sections 14 and 15 of NGT Act, 2010 into appellate jurisdiction.

27. Coming to the merits of the matter, we find that applicant has relied on letter dated 14.07.2021 of Chief Medical Officer, Jaunpur in support of its submission that it is disposing of bio-medical waste of 1039 beds covering district Jaunpur and therefore, no additional CBWTF is necessary. We find that Chief Medical Officer has referred to only such health care facilities which are maintained by State Government in terms of its medical health policy by maintaining primary health centres, community health centres, district hospitals etc. However, under **BMWM Rules, 2016,** bio-medical waste is not confined to only the Government and semi-government health care facilities but the scope is much wider. The term "bio-medical waste" has been defined in Rule 3(f) which reads as under:

> *"**3. Definitions.**- In these rules, unless the context otherwise requires, -*
>
> *(f) **"bio-medical waste"** means any waste, which is generated **during the diagnosis, treatment or immunisation of human beings or animals or research activities** pertaining thereto or in the production or testing of biological or in health camps, including the categories mentioned in Schedule I appended to these rules;"*

28. "Bio-medical waste treatment and disposal facility" has also been defined in Rule 3(g) as under:

> *"**3. Definitions.**- In these rules, unless the context otherwise requires, -*

ANNEXURE-R-9/4 Series

(g) ***"bio-medical waste treatment and disposal facility"*** *means* ***any facility wherein treatment, disposal of bio-medical waste or processes incidental to such treatment and disposal is carried out,*** *and includes common bio-medical waste treatment facilities;"*

29. The term "Health Care Facility" and "Occupier" are also defined in Rule 3(j) and (m) which reads as under:

*"**3. Definitions.**- In these rules, unless the context otherwise requires, -*

(j) ***"health care facility"*** *means* ***a place where diagnosis, treatment or immunisation of human beings or animals is provided irrespective of type and size of health treatment system, and research activity pertaining thereto;***

(m) ***"occupier"*** *means a person having administrative control over the institution and the premises generating bio-medical waste, which* ***includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank, health care facility and clinical establishment, irrespective of their system of medicine*** *and by whatever name they are called;"*

30. Therefore, all medical health care facilities which include hospitals, nursing homes, clinic, dispensary, veterinary institutions, animal house, pathological laboratory, blood bank, health care facilities and clinical establishments are included and whatever bio-medical waste is generated by them has to be disposed.

31. Therefore, capacity of disposal of bio-medical waste has to be considered in terms of the above provisions and it is not confined to only the hospitals or medical care centres maintained by the Government or its agencies.

32. The facts disclosed by the applicant in the present OA with regard to total availability of bio-medical waste in the area and its operations does not give correct and complete information in the context of Statutory provisions and therefore, it cannot be said that there is no necessity of

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additional CBWTF in the area concerned particularly when CBWTF is being established in different District i.e., District Jaunpur and not in District Prayagraj where the applicant's facility is located.

33. There are some other obstructions in the way of applicant.

34. It is not disputed that under EIA 2006 for establishing a CBWTF, EC from the Competent Authority is required before commencement of construction activities. It is not the case of the applicant that EC has not been obtained by respondent 2 before commencing its construction activities. There is also no averment that the construction activities have been commenced by respondent 2 in violation of the provisions of Water Act, 1974 and Air Act, 1981 i.e., without obtaining Consent to Establish. These orders are also not under challenge. Those orders therefore have attained finality and establishment of CBWTF of respondent 2 is founded on these Statutory permissions. CTO is only a consequential one to allow operation of CBWTF after its establishment is completed.

35. In view of the fact that the applicant has not challenged the EC granted to respondent 2 for establishing its unit and the unit has already been established pursuant thereto, we do not find that the applicant can be allowed to assail a consequential order which only permits functioning of the unit after its establishment under valid Statutory permissions. Hence, we are clearly of the view that the relief as prayed by applicant is not liable to be granted.

36. We may also notice at this stage that the applicant's Counsel has not stated at any stage during the course of the arguments that his OA may be treated to be an Appeal probably realising the fact that no direct Appeal under Section 16 is maintainable before Tribunal in view of the judgment of Supreme Court in ***Tamil Nadu Pollution Control Board***

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vs. Sterlite Industries (India) Limited and Others (supra), hence even conversion of this OA into Appeal under Section 16 is not permissible in law.

37. In view of the discussion above, this OA is dismissed. Pending I.A. stands disposed of accordingly.

Prakash Shrivastava,
Chairperson

Sudhir Agarwal,
Judicial Member

Dr. A. Senthil Vel,
Expert Member

July 15, 2025
Original Application No.141/2024
R..

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ANNEXURE -R-9/5 series.
Kindly peruse page No-212 to 216

BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI
(PRINCIPAL BENCH)

Application No. 30 of 2011
Wednesday, the 14th day of December, 2011

QUORUM:

1. **Hon'ble Justice Shri C.V. Ramulu (Judicial Member)**
2. **Hon'ble Dr. Devendra Kumar Agrawal (Expert Member)**

Between:

M/s Athiappa Chemicals (P) Ltd.,
Through its Authorized Signatory
Jothis Kumar. K.H. R/o A-52 to A-55,
PIPDIC Industrial Estate,
Mettupalayam,
Puducherry, ...**Applicant**

and

1. Puducherry Pollution Control Committee,
   Government of Pondicherry,
   Department of Science, Technology and Environment,
   3rd Floor, Housing Board Complex,
   Anna Nagar, Puducherry-605 005.

2. Central Pollution Control Board,
   Represented by its Member Secretary
   Parivesh Bhawan,
   CBD-cum-Office Complex,
   East Arjun Nagar
   Delhi 110 032
   Represented by its Member Secretary

3. Government of Pondicherry
   Department of Science, Technology and Environment,
   3rd Floor, Housing Board Complex,

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Anna Nagar, Puducherry – 605 005

4. Union of India
   Through its Secretary,
   Ministry of Environment & Forest,
   Paryavaran Bhawan,
   CGO Complex, Lodhi Road,
   New Delhi – 110 003 .....**Respondents**

(**Advocates Appeared**: Shri A. Venayagam Balan, for the Applicant and Counsel for the Respondent 1 and 3 - Shri S Prabhu Ramasubramanian and Shri V.G. Pragasam)

JUDGMENT

(Judgment Delivered by the Bench)

This is an application filed under Section 14 of the National Green Tribunal Act 2010 challenging the Order dated 16.11.2011 issued by the Puducherry Pollution Control Committee, Pondicherry under Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 directing the Applicant to stop all the manufacturing activities until the three directions mentioned therein are complied with.

At the outset, we may notice that against the order made under Section 31-A of the Air (Prevention and Control of Pollution) Act 1981, an appeal is provided under Section 31 of the said Act which reads as under:

> Section 31 -- *"Appeals. – (1) Any person aggrieved by an order made by the State Board under this Act may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the Appellate Authority) as the State Government may think fit to constitute:*

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Appellate Authority shall consist of a single person or three persons as State Government may think fit to be appointed by the State Government.

(3) The form and the manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the Appellant Authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the Appellate Authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible."

Under Section 31 of Air Act, an effective remedy of appeal against the Order made by the Authority under section 31-A of the Air Act is available. When this Tribunal expressed doubt as to the maintainability of the appeal, the Learned Counsel for the Applicant drawn our attention to the provisions of Section 2 (m) and 14 of the NGT Act which reads as under:

"Section 2(m)-"substantial question relating to environment" shall include an instance where, --

(i) there is a direct violation of a specific statutory environmental obligation by a person by which,--
- *(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or*
- *(B) the gravity of damage to the environment or property is substantial; or*
- *(C) the damage to public health is broadly measurable."*

14. Tribunal to settle disputes.--- *(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*

(2) The Tribunal shall hear the disputes arising from the question s referred to in sub-section (1) and settle such disputes and pass order thereon."

And submitted that this Tribunal has been conferred with vast powers and the application of this nature is maintainable since a substantial question of law had arisen for the consideration of the Tribunal. According to him, the Appellate Authority is not a regular Tribunal which conducts sittings on day to day basis. The Appellate Authority sits periodically once in a month or once in two months, therefore, the appeal under Section 31 of the Air Act is not an effective remedy. Further, Section 14 of the NGT Act contemplates that this Tribunal can entertain any application and assume jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved. According to the Learned Counsel, the order passed by the authority under Section 31-A, arises under Air Act which is one of the Acts enumerated in Schedule 1 of the NGT Act and the order of the authority under Section 31-A is arbitrary, atrocious and illegal. If the appeal is not entertained within a reasonable time say one or two weeks, the Applicant would suffer irreparable loss and injury. There is no impediment in entertaining this Application under Section 14 of the NGT Act, since, for the protection of the Applicant's interest, there is no remedy available. Therefore, the factual position of non-availability of an effective remedy itself is a substantial question of law apart from other legal grounds raised for assuming jurisdiction by this Tribunal. The Tribunal can at least make some interim arrangement protecting the interest of the Applicant before an appeal is entertained by the Authority under Section 31 of the Air Act. Absolutely, there is no bar for this Tribunal to entertain a Application of this nature. The jurisdiction of this Tribunal is inclusive and not exhaustive when Section 2 (m) is read with Section 14 of the NGT Act. If the impugned order is not stayed, the legal rights of the applicant arising under the Air Act are jeopardized. If the applicant industry is closed for indefinite time, it will not only suffer economic loss but the hundred and odd employees working will be put to hardship.

ANNEXURE - R-9/5 series

Further, according to the learned counsel for the applicant, when the matter was earlier considered by the authority and directed for closure of the industry, the applicant had to approach the Hon'ble High Court of Madras by way of filing writ petitions and on both the occasions, the Hon'ble High Court was pleased to allow the writ petition by setting aside the order passed by the authority. This is the third time a similar impugned order is passed. Therefore, the remedy available to the Applicant cannot said to be both efficacious and alternative remedy. Apart from this, the learned counsel also raised certain questions virus of the Act on the ground that the delegation of powers under Section 31-A of the Act, etc.

We are afraid; we may not be able to agree with the submissions made by the learned counsel for the Applicant. The National Green Tribunal is a statutory Tribunal and it cannot examine the virus challenged of any act or provision thereof. It is for the constitutional courts to examine such matters. A statutory Tribunal can interpret the provisions of law with which it is supposed to deal with. Therefore, we cannot go into the questions raised by the Applicant such as:

> *"Whether essential powers and functions of the Central Pollution Control Board under the Act can be delegated to the respondent Committee which is constituted under Section 11 of the Air (Prevention and Control of Pollution) Act 1981. Whether the exercise of such powers by the Respondent Committee under Section 31-A amounts to excessive delegation beyond the scope of delegation etc."*

Apart from this, against the impugned order, an appeal is provided under Section 31 of the Air Act., as noticed above. Merely because the appellate authority under Section 31 of the Air Act conducts sittings periodically, this Tribunal cannot assume jurisdiction under Section 14 of the NGT Act. The question of entertaining a Application under Section 14 of the NGT Act, bypassing the effective appeal provided under section 31 of the Air Act does not arise. In fact, against an order passed by the Appellate Authority under

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Section 31 of the Air Act, an appeal is provided under Section 16 (f) of the NGT Act which reads as under:

> 16. Tribunal to have appellate jurisdiction: -- Any person aggrieved by.....
> (f) *"An order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981)".*

Thus, entertaining an application of this nature amounts to allowing the Applicant to jump the statutory appeal which is not permissible under the law. Unless, all the forum available under the Act are exhausted by the Applicant including the appeal under Section 31 of Air Act, it cannot approach this Tribunal directly -- whatever, may be the merits and the questions of Law raised and arise for consideration. This Tribunal being statutory in its nature, cannot entertain the Applicant of this nature much less any substantial question of law has arisen under Section 14 of the NGT Act for consideration. Therefore, we are of the considered opinion that the Application is not maintainable and being devoid of merits and is liable to be dismissed.

Accordingly, the Application stands dismissed at admission stage itself.

(Dr. Devendra Kumar Agrawal)
Expert Member

(Justice C.V. Ramulu)
Judicial Member

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Item No.4

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)

Original Application No. 54/2019 (CZ)
(I.A.No.19/2020)

Yashovardhan Shandilya Sharma — Applicant (s)

Versus

Union of India & Ors. — Respondent(s)

Date of completion of hearing and reserving of order: **23.05.2022**
Date of uploading of order on the website: **30.05.2022**

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s): Mr. Dhruv Mehta, Sr. Adv
Mr. Ishaan George, Adv
Mr. Arvind Soni, Adv
Mr. Om Shankar Shrivastava, Adv
Mr. Yadvendra Yadav, Adv
Md. Iqraam, Adv

ORDER

1. Challenge in this Original Application is environmental clearance granted in favour of Respondent dated 11.04.2019 whereby and where-under on 29.01.2019, in 2nd meeting at Agenda No. 2.5.3 Expert Appraisal Committee considered the application and proposal for environmental clearance for expansion of Onshore Oil and Gas Production from Existing 300,000 barrels of oil per day (BOPD) to 400,000 BOPD and 165 Million Standard Feet per Day (MMSCFD) from RJ-ON-90/1 Block, Barmer (Gujarat) by M/s Cairn India Limited and was recommended as follows:

"2.5.3.1 During deliberations, the EAC noted the following:-

The proposal is for environmental clearance to the project for expansion of onshore oil and gas production from the existing 300,000 BOPD (barrels oil per day) to 400,000 BOPD and 165 MMSCFD (Million

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Standard Cubic Feet per day) to 750 MMSCFD by M/s Vedanta Limited (Cairn Oil & Gas Division) from RJ-ON-90/1 Block at Barmer (Rajasthan). The project involves oil augmentation to produce up to 500 MMSCFD of natural gas (400 MMSCFD) in gas processing terminal & 100 MMSCFD from gas satellite field).

The project/activity is covered under category A of item 1(b) 'Offshore and onshore oil and gas exploration, development & Production' of schedule to the Environment Impact Assessment (EIA) Notification under category 'A' and requires appraisal at central level by sectoral Expert Appraisal Committee (EAC).

Total area of the Oil & Gas Block is 3111 sq km. Out of it, the project would involve and area of 1501.7 ha covering Districts of Barmer & Jalore in the State of Rajasthan. Addition 150 ha of land in District Barmer will be used for the proposed expansion. Industry will develop greenbelt in an area of 33% i.e.211 ha out of total operational area of the project. The estimated project cost is Rs. 12,000 crores including existing investment of Rs. 28,000 crores. Total capital cost earmarked towards environmental pollution control measures is Rs. 1200 crores and the recurring cost (O&M) will be about Rs. 120 crores per annum.

There are no National Parks, Wildlife Sanctuaries, Biosphere Reserves, Tiger/Elephant Reserves and wild life Corridors etc within 10 distance from the project site. River Luni (seasonal river) flows at a distance of - 3km in South.

ToR for the project was granted on 11th February 2018. Public hearing was conducted by the Rajasthan State Pollution Control Board on 28th September 2018 in District Barmer. The main issues raised during the public hearing are related to health issues, ground water quality, CSR budget and spent, green belt development, employment to the locals, pollution control & management, air and noise pollution, contractor payments, local contract award, solid waste disposal, site restoration, community RO plant and its operational, wastewater collection & treatment etc.

Total water requirement is estimated to be 93,500 m3/day proposed to be met from deep saline ground water. No fresh water will be required. The unit has already obtained permission from CGWA for withdrawal of 53500 cum/day of water. For 1500 cum/day, application has been submitted to CGWA which is reported to be under process. To meet the increased production of oil & gas, additional saline water of 25000 cum/day shall be required, for which application is yet to be submitted.

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Effluent of 192,000 m³/day maximum quantity will be treated through ETP, Nano and RO Plant. The treated water will be injected to the reservoir.

Existing unit has 7 no's x 115 TPH blend of Associated gas (AG) and Natural gas (NG) fired boiler. All the combustion equipment's will have adequate stack height, acoustic enclosures and fuel filters. All the stack emissions will be monitored periodically and fugitive emission study will also be carried out at periodic interval.

The expenditure towards CER for the project would be 0.125% of the project cost as committed by the project proponent.

The EIA/EMP report is in compliance of the ToR issued for the project, reflecting the present environment concerns and the projected scenario for all the environmental components. Issues raised during the public hearing have been dully addressed by the project proponent.

Earlier, EC was granted by the Ministry vide letter dated 11th August 2014 (Corrigendum issued on 26th April, 2016) for augmentation of hydrocarbon Production (2 lakh BOPD) to 3 lakh BOPD) in RJ-ON-90/01 Block in favour of M/s Vedanta Limited (Cairn Oil & Gas Division). The monitoring report on compliance status of above EC conditions issued by the Regional office at Lucknow to the project proponent vide letter dated 30th August, 2018 and was found to be satisfactory.

Consent to Operate for the existing capacity has been obtained from the State PCB vide letter dated 9th February, 2017 which is valid up to 30th November, 2021.

2.5.3.2 The Committee, after deliberations, recommended the project for grant of environmental clearance, subject to compliance of terms and conditions as under:-

- *Necessary permission as mandated under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, as applicable from time to time, shall be obtained from the State Pollution Control Board as required.*
- *As proposed by the project proponent, Zero Liquid Discharge shall be ensured and no waste/treated water shall be discharged to any surface waste water body, sea and/or on land.*
- *To control source and the fugitive emissions, suitable pollution control devices shall be installed to meet the*

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prescribed norms and/or the NAAQS. The gaseous emissions shall be dispersed through stack of adequate height as per CPCB/SPCB guidelines.

- *Necessary authorization required under the Hazardous and Other Wastes (Management and Trans-Boudary Movement) Rules, 2016, Solid Waste Management Rules, 2016 shall be obtained and the provisions contained in the Rules shall be strictly adhered to.*
- *Ambient Air, Quality Emission Standards issued by the Ministry vide G.S.R. No. 826(E) dated 16th November. 20019 for PM_{10}, $PM_{2.5}$, SO_2, NO_X, CO, CH_4, HC, Non-methane HC etc.*
- *During exploration, production, storage and handling, the fugitive emission of methane, if any, shall be monitored using infra-red camera/appropriate technology.*
- *The project proponent also to ensure trapping/storing of the CO_2 generated, if any, during the process handling.*
- *Approach road shall be made pucca to minimize generation of suspended dust.*
- *The company shall make all arrangements for control of noise from the drilling activity. Acoustice enclosure shall be provided for the DG sets along with the adequate stack height as per CPCB guidelines.*
- *Total water requirement shall not exceed 93,500 m3/day proposed to be met from ground water, and prior permission shall be obtained from the concerned regulatory authority/CGWA.*
- *The company shall construct the garland drain all around the drilling site to prevent runoff of nay oil containing waste into the nearby water bodies. Separate drainage system shall be created for oil contaminated and non-oil contaminated. Effluent shall be properly treated and treated waste water shall conform to CPCB Standards.*
- *Drill cuttings separated from drilling fluid shall be adequately washed and disposed in HDPE lined pit. Waste mud shall be tested for hazardous contaminants and disposed according to HWMH Rules, 2016. No effluent/drilling mud/drill cutting shall be discharged/disposed off into nearby surface water bodies. The company shall comply with guidelines for disposal of solid waste, drill cutting and drilling fluids for onshore*

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drilling operation notified vide GSR.546(E) dated 30th August, 2005.

- Oil spillage prevention and mitigation scheme shall be prepared. In case of oil spilliage/contamination, action plan shall be prepared to clean the site by adopting proven technology. The recyclable waste (oily sludge) and spent oil shall be disposed of to the authorized recyclers.
- The Company shall take necessary measures to prevent fire hazards, containing oil spill and soil remediation as needed. Possibility of using ground flare shall be explored. At the place of ground flaring, the overhead flaring stack with knockout drums shall be installed to minimize gaseous emissions during operations.
- The company shall develop a contingency plan for H_2S release including all necessary aspects from evacuation to resumption of normal operations. The workers shall be provided with personal H_2S detectors in locations of high risk of exposure along with self containing breathing apparatus.
- The Company shall carry out long term subsidence study by collecting base line data before initiating drilling operation till the project lasts. The data so collected shall be submitted six monthly to the Ministry and Regional Office.
- Blow Out Preventer system shall be installed to prevent well blowouts during drilling operations. BOP measures during drilling shall focus on maintaining well bore hydrostatic pressure by proper pre-well planning and drilling fluid logging etc.
- Emergency Response Plan shall be based on the guidelines prepared by OISD, DGMS and Govt. of India.
- The Company shall take measures after completion of drilling process by well plugging and secured enclosures, decommissioning of rig upon abandonment of the well and drilling site shall be restored the area in original condition. In the event that no economic quantity of hydrocarbon is found a full abandonment plan shall be implemented for the drilling site in accordance with applicable Indian Petroleum Regulations.
- All the commitments made to the public during public hearing/consultation shall be satisfactorily implemented.

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- *At least 1.5% of the total project cost shall be allocated for Corporate Environment Responsibility (CER) and item-wise details along with time bout action plan shall be prepared and submitted to the Ministry's Regional Office.*
- *Occupational health surveillance of the workers shall be carried out as per the prevailing Acts and Rules.*
- *Restoration of the project site shall be carried out satisfactorily and report shall be sent to the Ministry's Regional Office.*
- *Oil content in the drill cuttings shall be monitored by some Authorized agency and report shall be sent to the Ministry's Regional Office.*
- *An audit shall be done to ensure that the Environment Management Plan is implemented in totality and report shall be submitted to the Ministry's Regional Office.*
- *Company shall have own Environment Management Cell having qualified persons with proper background.*
- *Company shall prepare operating manual in respect of all activities, which would cover all safety & environment related issues and measure to be taken for protection. One set of environment manual shall be made available at the drilling site/project site. Awarness shall be created at each level of the management. All the schedules and results of environmental monitoring shall be available at the project site office. Remote monitoring of site should be done.*
- *Process safety and risk assessment studies shall be further carried out using advanced models, and the mitigating measures shall be undertaken accordingly."*

2. Considering the above report vide order impugned dated 11.04.2019, MoEF & CC accorded EC to the project for enhancement of Onshore Oil and gas Production as mentioned above under the provisions of The EIA notification, 2006. Aggrieved by the order, the present O.A has been filed challenging the EC.

3. The matter was taken up by this Tribunal on 03.03.2020 and notices were issued to all respondents with directions to submit their replies.

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4. In response to the above, respondents have filed the replies and the applicant has also filed response against the reply. We have heard the learned counsels for the parties and perused the record.

5. The submission of the applicant are as follows:

(i) The Rajasthan Joint Venture comprising of Vedanta Limited and oil and Natural Gas Corporation (ONGC) limited, is involved in hydrocarbon exploration and production activities in block RJ-ON-90/1. Production Sharing contract has been signed between Cairn India Limited, Cairn Energy Hydrocarbons Limited (CEHL), ONGC and Govt. of India for the Block. The Lease of the land belongs to ONGC. Cairn oil and Gas Division (part of Vedanta Group) is the operator for the block. The block is located in the Barmer and Jalore districts of South-Western Rajasthan and spread in the following way:

Barmer: Baytu, Barmer, Sindhari & Sheo in North

Tehsil Gudamalani & Dhorimana in the South

Jalore : Tehsil Bageda, Chitalwana, Sanchore.

In the North, Mangala Processing Terminal is located near Kavas in Baytu & Barmer Tehsil

Raageshwari Gas Terminal is located near Nagar in Gudamalani.

(ii) That the block comprises of three development areas DAI- comprising the Mangala, Aishwarya, Raageshwari and Saraswati fields, DA2- consisting of Bhagyam and Shakti fields, DA3- comprising the Kaameshwari west fields covering an area of 311 Sq. km which encompasses a total of 320 villages and one urban settlement i.e. Uttarlai, out of which major part falls in Barmer District while smaller part falls in Jalore District. The 10 km. area surrounding Mangala Processing Terminal comprises of 35 villages while 10km

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surrounding Raageshwari Gas Terminal comprises of 27 villages and remaining 258 villages and an urban settlement in other part of the Block.

(iii) That as on 31-05-2018, Vedanta Limited has drilled around 500 wells including 200 exploratory and appraisal wells and has made 38 hydrocarbon discoveries in the block with Mangala discovery termed as largest in India. The Block is located 94% in Barmer and minor portion 6% falls under Jalore district. It has two terminals:

1) The Mangala Processing Terminal at Nagana Village. Bhagyam field and Aishwarya field are both located in the vicinity of Mangala field.

2) Rageshwari Gas Terminal at Dhandalawas village in Gudamalani Tehsil, Barmer.

The Map of the entire region demarcating Barmer and Jalore as produced by Cairn India Limited and other maps depicting the markings of oil fields.

(iv) That Respondent company has laid the Mangala Development Pipeline (MDP) to evacuate crude oil produced from the Block to Govt. of India nominated buyers in Gujarat and the coastal refineries in India. The MDP consists of 680 km long, buried, electrically heated and insulated, 24 "crude oil pipeline and 590 km, 8" natural gas pipeline passing through Rajasthan and Gujarat and that in the year 1979-80 the district of Barmer was hit by heavy floods due to which the population in Gudamalani village, Dhandalawaas, Kandhi ki Dhani suffered a huge loss of life and property. To avoid similar situation in future, the Forest Department planted thousands of trees in private lands of villagers in the year 1985-86.

That the Respondents have cut trees in large numbers to establish well-pad no. 5, 8 and 11 on the banks of Luni River.

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This has resulted in diminishing the green cover which is necessary around an industrial establishment to minimize the effect of pollution more so in a water deficient state like Rajasthan. The variety of trees cut by the respondents include Khejari end Rohira which are of immense significance across the State. Moreover, they have not done any compensatory plantation to make good the loss caused neither have they developed a green zone as per the conditions of the Environment clearance.

(v) That according to Terms and Conditions para 9(b), 'Zero Liquid Discharge shall be ensured and no waste/treated water shall be discharged to any surface water body, sea and/ or on land'.

Violation: The chemical from the well-pad seeps through the nearby fields of the farmers. As a result, the wells and surface water both polluted. Also the well-pad no. 5, 8 and 11 are constructed on the bed of Luni River which is the source of drinking water for the nearby villages. In such a condition, the poor farmers and their families are constrained to buy water from outside even when there are tube-wells dug in their own fields. photographs of overflowing waste pits, chemical strewn in fields, smoke from chimneys are enclosed.

(vi) That same is also a violation of Terms and Conditions para 9(d) wherein it was directed that provisions of Hazardous and Other Wastes (Management and Trans-Boundary Movement) Rules, 2016 and Solid Waste Management Rules, 2016 shall be strictly adhered to.

(vii) That according to Terms and Conditions para 9(c). 'To control source and fugitive emissions, suitable pollution control devices shall be installed to meet the prescribed norms and/or

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the NAAQS. The gaseous emissions shall be dispersed through stack of adequate height as per CPCB/SPCB guidelines.'

Violation: The chimneys on the site of the well-pads emit fire and resultant smoke in huge quantity which has resulted in burning of fields of the farmers and caused air pollution which has resulted in skin diseases and eye irritation among the villagers. The representations of farmers appraising the situation to the Collector are enclosed. Representation to Vedanta is enclosed. Representation to Member Secretary, Pollution Control Board, Rajasthan are enclosed. Representation to Chief Minister, Rajasthan is attached. Representation to Director General Hydrocarbon, New Delhi is enclosed. The smoke bellowing from the gas chimney on Well Pad no. 1, Raageshwari Gas Terminal, located in Dhandhalawas village, resulted in destruction of the Zeera fields of the farmers residing in the adjoining areas.

(viii) That according to Terms and Conditions Para 9(i), 'The company shall make all arrangements for control of noise from the drilling activity. Acoustic enclosure shall be provided for the DG sets along with the adequate stack eight as per CPCB guidelines.

Violation: Heavy machinery is being deployed by the respondent company which is a constant source of noise pollution in the area as the heavy machinery is being used day and night which causes nausea and head ache among the residents of the area. The blasting done by the respondent to extract oil is often felt at the surface area as well, which has led to vibrations in the village and resultant cracks in the walls of the villagers.

(ix) That according to Terms and Conditions Para 9(s), 'After completion of drilling operations, the company shall take

adequate measures for plugging of wells, decommissioning of rig upon abandonment of the well and drilling site shall be restored to the original condition and report shall be submitted to the Ministry's Regional office.'

Violation: There are at present 68 sites which have been abandoned but not restored according to the terms and conditions. The list of the sites is enclosed.

(x) That according to Terms and Conditions para 9(t), 'All the commitments made to the public during public hearing/consultation shall be satisfactorily implemented.

Violations:

(xi) The issues which were raised in the public hearing for environment clearance dated 11-08-2014 (earlier EC) are still not catered to. Despite repeated representations by villagers to the Respondent Company as also the Respondent Authorities, no measures to solve problems of the villagers have been taken. An application dated 28-08-2017 by a villager to Tehsildar Baytu is enclosed, along with the spot-inspection report of the Tehsildar dated 01-09-2017 confirming the loss of the fruit yield of the villager caused by the run-off water from the premises of Well Pad no.1. The situation still remains the same.

(xii) As per MOEF Notification dated 14-09-2006, it is compulsory for the Pollution control Board to organize a public Hearing before issuance of the EC. However, the respondent company adopted mala fide ways to organize the public hearing on 20-08-2018 in Kavas, secretly among few people who were not even residents of the area. Even the Sub-Divisional Officer, Tehsildar, Patwari and Sarpanch of nearby Aishwarya and Mangla oil field were not informed. Buses and cars were hired

to bring people from far off areas and pose as if they were villagers. After much protest, the public hearing was cancelled. Copy of RTI Reply regarding proceedings of meeting on 20-08-2018 is enclosed.

(xiii) Again on 28-09-2018 a public hearing was called for after protest and agitation by villagers. The problems were given in writing and receipt was obtained, however no solution has yet been arrived at by the respondents. Despite the problems still persisting and in the knowledge of the Respondent Authorities, the Respondent Company was granted Environmental Clearance on 11-04-2019. Copy of complaints is enclosed. Minutes of public Hearing are enclosed.

6. Learned counsel for the Respondent No.1, Ministry of Petroleum & Natural Gas has submitted that all Off-shore and onshore oil and gas exploration, development and production activities are classified as 'A' category project in schedule 1(b) of Environment Impact Assessment (EIA) Notification, 2006, requiring grant of Terms of Reference (TOR), Preparation of EIA report, conduct of Public Hearing, and appraisal and Environmental Clearance(EC) by the Respondent no -21 Ministry of Environment, Forest and Climate Change in short "MoEF & CC"). The EC, so issued after following the procedure laid down in EIA Notification, 2006 and its amendments from time to time, is subject to the compliance of terms and conditions mentioned in environmental clearance letter.

7. The Government desires that all types of Petroleum resources which may exist in India, whether within territorial waters (Ultra Deep, Deep or Shallow Water), exclusive economic zone, the continental shelf of India, or On land, be discovered and exploited in accordance with Good International petroleum Industry Practices India". The responsibility, both for adhering to GIPIP and for complying with the relevant Laws, Orders, Regulations etc. of the Government relating to Environmental protection

etc. is clearly responsibility of the Contractor as per the expressed provisions of the PSC and RSC. In addition to the EC, the Respondent project proponent / Operator has obtained the Consent to Establish (CTE) and Consent to operate (CTO) under the provisions of the Water (Control and Prevention of Pollution) Act, 1974 and, the Air (Control and Prevention of Pollution) Act, 1981 from the Respondent No 5/ RSPCB.

8. Off-shore and onshore oil and gas exploration, development and production activities are classified as 'A' category project in schedule l(b) of EIA Notification 2006 (in short hereinafter may termed as "EIA") requires, grant of Terms of Reference (TOR), Preparation of EIA & EMP report, conduct of public Hearing, and appraisal and Environmental Clearance (EC) by the Respondent no-2 I Ministry of Environment, Forest and Climate Change MoEF & CC. The EC, so issued after 2006. The petitioner has failed to raise the substantial question related to the environment in the instant case.

9. The Production sharing contract (PSC) for the Pre-NELP Block RJ-ON-90/I was signed on 15.05.1995 (effective date) for a period of 25 years. PSC for RJ-ON-9O/I block has expired on 14.05.2020. On request of Contractor, GOI permitted Contractor as an interim measure to continue with the ongoing petroleum operations in the Block till the execution of the Addendum or for three months w.e.f. l5th May 2020, whichever is earlier. Additionally, to the above-mentioned letter of GOI vided letter dated27.10.2020has granted permission as interim measure upto 21.01 .2021 with the same conditions as stipulated in letter dated 14.05.2020. The present consortium consists of Vedanta/CIL (35%), CHEL (35%) & ONGC (30%). The Contract Area comprises of three Development Areas (DAs) for where Petroleum Mining Leases (PMLs) has been granted, encompassing multiple discoveries, and measuring 3,1I I sq km. (DAI-I859 km, DA2- 430 kms, DA3 -822 km). The field is situated in Barmer and Jalore District of Rajasthan. A total 38 nos. of discoveries are made in the

block. MDP referred to here is the Barmer-Salava- Bhogat pipeline which is laid down by the Operator which is Heated and insulated 670 km 24,,dia pipeline connecting Barmer to coastal location at Bhogat, Gujarat and 593 km of 8" natural gas pipeline taking gas from Raageshwari gas fields and supplying fuel gas.

10. As per condition stipulated under Sr. No 9 (xiii) of the Environmental Clearance letter dated 11th August 2014, the respondent Operator is required to create a green belt over at least 33 % of plant area. The compliance monitoring of the stipulated conditions pertains to Respondent No-2 / MoEF& CC and others concerned State agencies. The Conditions incorporated in Sr. No 9 (b) and 9 (d) of the EC dated 11th April, 2019 issued by R-2, entails regarding Zero Discharge and Hazardous (Management and Trans-Boundary Movement) Rules, 2016, Solid Waste Management Rules, 2016 respectively. However, Monitoring of compliance to stipulated conditions is undertaken by R-5/ RSPCB and R-2/MoEF&CC.

11. It is further submitted that the grievances which have been referred by the Applicant were properly addressed. The condition stipulated in Sr. no 9 (i) of the EC regarding control of noise pollution from DG sets, provision of acoustic enclosures and stacks of adequate height with DG sets. The averments made by the Petitioner with respect to the use of heavy machinery, blasting etc are a constant source of noise pollution for the residents in the area and has caused health impacts is without strict proof of it. The monitoring authorities shall ascertain through continuous monitoring of the site in question.

12. As advised by MC in MCM-41 dated 09.06.2015 Operator created the SRF Account in Jan'2016 and Contractor is contributing annually in accordance with SRF scheme 1999 to the Site restoration fund each year starting FY 2015-16. As informed 18 sites have been restored. Further, as per SRF 1999 and SRF guidelines 2018, the Petroleum sites shall be compulsorily restored at field level in due course of time. Para 9(s) of the

EC conditions stipulates about restoration of drilling sites to the original condition and its compliance would need to be monitored by designated monitoring agencies.

13. The instant petition is barred by the limitation as the cause of action first arouse in the year 2000 when the project came which was well within the knowledge of the petitioner and further on 11.08.2014 on grant of augmentation of Hydrocarbon Production to the respondent / M/s Cairn India Ltd. has exceeded the limitation as prescribed under National Green Tribunal Act 2010.

14. Learned counsel for the applicant has raised the question of public hearing and reply to the objections raised by the Applicant, learned counsel for the MoEF & CC has submitted that the public hearing for the proposed expansion project was supposed to be held on 20.08.2018 at Rajkiya Ucch Prathamik Vidhyalaya, Sar Ka Paar, Gram Panchayat Dhunda, Kawas District Barmer, Rajasthan. However, District Collector stating the law and order issue cancelled the Public hearing. The rescheduled Public Hearing was held on September 28th, 2018 at 11.00 am at the same above venue. The Public hearing was conducted in presence of District Collector, Barmer, Shri Shiv Prasad M Nakate and Regional Officer RSPCB Balotra, Barmer, Shri Vinay Katta.

15. The proposal for grant of EC of the respondent company was deliberated upon by the EAC (expert appraisal committee) in its 2nd meeting held on 29th - 30th January, 2019. Thereafter, the project was recommended for grant of EC only after the complete satisfaction that all the issues raised during the public hearing have been duly addressed by the Respondent company. Based on the recommendations of EAC, the EC was accorded by the answering respondent for the enhancement of onshore oil and gas production from the existing 300,000 BOPD (barrels oil per day) to 400,000 BOPD and 165 MMSCFD (Million Standard cubic feet per day) to 750 MMSCFD by M/s Vedanta Limited (Cairn Oil and Gas Division) from RJ-ON-90/1 block at Barmer (Rajasthan) on 11.04.2019. The EC was

granted subject to certain specific conditions which have been enumerated inter-alia as:

(a) *Necessary permission as mandated under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, I9B l, as applicable from time to time, shall be obtained from the State Pollution Control Board as required.*

(b) *As proposed by the project proponent, Zero Liquid Discharge shall be ensured and no waste/treated water shall be discharged to any surface water body, sea and/or on land.*

(c) *To control source and the fugitive emissions, suitable pollution control devices shall be installed to meet the prescribed norms and/or the NAAQS. The gaseous emissions shall be dispersed through stack of adequate height as per CPCB/SPCB guidelines.*

(d) *Necessary authorization required under the Hazardous and Other Wastes (Management and Trans-Boundary Movement) Rules, 2016, Solid Waste Management Rules, 2016 shall be obtained and the provisions contained in the Rules shall be strictly adhered to.*

(e) *Ambient air quality shall be monitored at the nearest human settlements as per the national Ambient Air Quality Emission Standards issued by the Ministry vide G.S.R No. 826 (E) dated 16.11.2009 for PM10, PM 2.5, SO2, NOX, CO, CH4, HC, non-methane HC etc.*

(f) *During exploration production, storage and handling, the fugitive emission of methane, if any, shall be monitored using Infra-red camera/appropriate technology.*

(g) *The project proponent also to ensure trapping/storing of the CO2 generated, if any, during the process and handling.*

(h) *Approach road shall be made pucca to minimize generation of suspended dust.*

(i) *The company shall make all arrangements for control of noise from the drilling activity. Acoustic enclosure shall be provided for, the DG sets along with the adequate stack height as per CPCB guidelines.*

(j) *Total water requirement shall not exceed 93,500 m3/day proposed to be met from ground water, and prior permission shall be obtained from the concerned regulatory authority/ CGWA.*

(k) *The company shall construct the garland drain all around the drilling site to prevent runoff of any oil containing waste into the nearby water bodies. Separate drainage system shall be created for oil contaminated and non-oil contaminated. Effluent shall be properly treated and treated wastewater shall conform to CPCB standards.*

(l) *Drill cuttings separated from drilling fluid shall be adequately washed and disposed in HDPE lined pit. Waste mud shall be tested for hazardous contaminants and disposed according to HWMH Rules, 2016. No effluent/drilling mud/drill cutting shall be discharged/disposed off into nearby surface water bodies. The company shall comply with the guidelines for disposal of solid waste, drill cutting and drilling/fluids for onshore drilling operation notified vide G,SR. 546(E) dated 30th August, 2005.*

(m) *Oil spillage prevention and mitigation scheme shall be prepared. In case of oil spillage/contamination, action plan shall be prepared to clean the site by adopting proven technology. The recyclable waste (oily sludge) and spent oil shall be disposed of to the authorized recyclers.*

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(n) The Company shall take necessary measures to prevent fire hazards, containing oil spill and soil remediation as needed. Possibility of using ground flare shall be explored. At the place of ground flaring, the overhead flaring stack with knockout drums shall be installed to minimize gaseous emissions during operation.

(o) The company shall develop a contingency plan for H2 S release including all necessary aspects from evacuation to resumption of normal operations. The workers shall be provided with personal H2S detectors in locations of high risk of exposure along with self-containing breathing apparatus.

(p) The company shall carry out long term subsidence study by collecting base line data before initiating drilling operation till the project lasts. The data so collected shall be submitted six monthly to the Ministry and Regional Office.

(q) Blow Out Preventer system shall be installed to prevent well blowouts during drilling operations. BOP measures during drilling shall focus on maintaining well bore hydrostatic pressure by proper pre-well planning and drilling Jluid logging etc.

(r) Emergency Response Plan shall be based on the guidelines prepared by OISD, DGMS and Govt. of India.

(s) The company shall take measures after completion of drilling process by well plugging and secured enclosures, decommissioning of rig upon abandonment of the well and drilling site shall be restored the area in original condition. In the event that no economic quantity of hydrocarbon is found a full abandonment plan shall be implemented for the drilling site in accordance with the applicable Indian Petroleum Regulations.

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(t) All the commitments made to the public during public hearing/consultation shall be satisfactorily implemented.

(u) At least 1.5% of the total project cost shall be allocated fo, Corporate Environment Responsibility (CER) and item-wise details along with time bound action plan shall be prepared and submitted to the Ministry's Regional Office.

(v) Occupational health surveillance of the workers shall be carried out as per the prevailing Acts and Rules.

(w) Oil content in the drill cuttings shall be monitored by some Authorized agency and report shall be sent to the Ministry's Regional Office.

(x) Company shall prepare operating manual in respect of all activities, which would cover all safety & environment related issues and measures to be taken for protection. One set of environmental manual shall be made available at the drilling site/ project site. Awareness shall be created at each level of the management. All the schedules and results of environmental monitoring shall be available at the project site office. Remote monitoring of site should be done.

(y) Process safety and risk assessment studies shall be further carried out using advanced models, and the mitigating measures shall be under taken accordingly.

16. It is further submitted that the regional office of the answering respondent conducted a site inspection of the unit on 26.10.2021, wherein the main contentions raised by the Applicant herein were examined. The answering respondent received the copy of the monitoring report on 02.11.2021 and as per the procedure in the Ministry, the monitoring cell of the Impact Assessment division shall examine the report for the compliance of the stipulated conditions of the EC and propose/recommend appropriate necessary action.

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17. During the pendency of the application, MoEF & CC conducted an enquiry to submit the factual report to this Tribunal and compliance are enumerated as follows:

Sr. No.	Specific conditions	Compliance status
A	*Necessary permission as mandated under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, as applicable from time to time, shall be obtained from the State Pollution Control Board as required.*	*Complied.* *The PP has all the well pads under consent mechanism and obtains consents under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 from the State Pollution Control Board for individual well pads. The PP also obtains authorization under the Hazardous Waste Rules 2016. During the visit he unit representative reported that there are total 123 Consent to Operate for the project and out of which 121 are having valid CTO and two applications are pending at the level of State Board.*
B	*As proposed by the project proponent, Zero Liquid Discharge shall be ensured and no waste/treated water shall be discharged to any surface water body, sea and/or on land.*	*Being Complied.* *As per the standard process, to extract petroleum oil from the wells, water is injected from the injection water wells and oil is extracted from the producer wells. The produced wastewater is treated for the removal of physical impurities such as total suspended solids and Oil and treated water is injected back into the reservoir for maintaining reservoir pressure and void replacement. In addition to this, reject from desalination plant, treated filter backwash water & ETP reject are also disposed in deep disposal wells which are reported to be of the depth of more than 1000 meters below ground level. There are three sewage treatment plants for treatment of sewage' The treated water from STPs is used for greenbelt development within the premises. Septic tank soak pits are provided at well pads for handling of sewage' During the visit of some of the main well pads of Mangla and Raageshwari well pads, no wastewater discharge outside the premises was observed.*
C	*To control source and the fugitive emissions, suitable pollution control devices shall be installed to meet the prescribed norms and/or the*	*Being Complied.* *At the processing terminals, it was*

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	NAAQS. The gaseous emissions shall be dispersed through stack of adequate height as per CPCB/SPCB guidelines.	observed that at, vessels and tanks, vapour recovery units have been provided and recovered vapor is being fed to fuel gas system. Provisions of flaring of gases has been provided and was observed in operation during the visit. Stacks have been provided on boilers. During the visit analysis report from accredited laboratory were available on site regarding Ambient Air and stack emissions.
D	Necessary authorization required under the Hazardous and Other Wastes (Management and Trans-Boundary Movement) Rules, 2016, Solid Waste Management Rules. 2016 shall be obtained and the provisions contained in the Rules shall be strictly adhered to.	Complied. The Proiect proponent obtains Authorizations under the Hazardous and Other Wastes (Manasement and Trans-Boundary Movement) Rules, 2016 for individual well pads. There are total 110 well pads and authorization is being obtained for individual well pad. During the time of visit. details of how many well pads are having valid authorization was not readily available.
E	Ambient air quality shall be monitored at the nearest human settlements as per the National Ambient Air Quality Emission Standards issued by the Ministry vide G.S.R. No. 826(E) dated l6thNovember, 2009 for PM10, PM2.5, S02, NOx, CO, CH4, HC, Non.methane HC etc.	**Complied.** As appraised by the unit representative Environmental Monitoring is being carried out based on the Rajasthan State Pollution Control Board (RO) approved plan & reports from accredited laboratory have been submitted by the unit.
F	During exploration, production, storage and handling, the fugitive emission of methane, if any. shall be monitored using Infra-red camera (appropriate technology	Complied. PP has installed Gas detectors at multiple locations in terminal and at well pads to detect the leakage of gases.
G	The project proponent also to ensure Trapping/storing of the CO2 generated, if any, during the process and handling.	Partially Complied. At present. the gas containing high CO2 (>85%) is being burned in Thermal Oxidizer (TO) and ROE after mixing with fuel gas to avoid cold venting of associated gas. The study for trapping/storing of the CO_2 generated during the process and handling is yet to be done.
H	Approach road shall be made pucca to minimize generation of suspended dust	Complied. It was observed during visit that Well pad corridor roads arc made pucca to minimize dust generation. Adequate road sweeping and housekeeping was observed at processing terminals and well pads.
I	The company shall make all arrangements for control of noise	Complied. The unit has submitted analysis

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	from the drilling activity. Acoustic enclosure shall be provided for the DO sets along with the adequate stack height as per CPCB guidelines.	reports from accredited laboratory. Necessary steps for abatement of noise pollution at source have been taken. DO sets having acoustic enclosures have been provided.
J	Total water requirement shall not exceed 93300 m^3/day proposed to be met from ground water. Prior permission in this regard shall be obtained from the concerned regulatory authority/ CGWA.	Partially Complied. The unit is having CGWA approval for abstraction of 51,500 m3/day of ground water and it was reported that about 25,000 m3/day water is being used in the process at end stage. However, no logbooks or records regarding water uses were available on site during the visit. Further, the renewal application of CGWA NOC is pending at the level of CGWA.
K	The company shall construct the garland drain all around the drilling site to prevent runoff of any oil containing waste into the nearby water bodies. Separate drainage system shall be created for oil contaminated and non-oil contaminated. Effluent shall be properly treated, and treated wastewater shall conform to CPCB standards,	Complied. It was observed during visit that drains are provided at well pads for collection of storm water. The drilling wastewater is stored in concrete and HDPE lined pits inside drilling sites and treated for muse/disposal through deep dump well.
L	Drill cuttings separated from drilling fluid shall be adequately washed and disposed in HDPE lined pit. Waste mud shall be tested for hazardous contaminants and disposed according to HWMH Rules, 2016. No effluent drilling mud/drill cutting shall be discharged/disposed-off into nearby surface water bodies. The company shall comply with the guidelines for disposal of solid waste, drill cutting and drilling fluids for onshore drilling operation notified vide GSR.546(E) dated 301 August, 2005.	Complied. The Water Based Mud (WBM) is used as the drilling fluid for drilling the upper section of well (-250 - 500 meters) or up to complete target depth of the well subject to geological formation. Synthetic Oil Based Mud (SBM) is being used in case of hard strata only. The WBM cuttings are used as fillers and in other secondary uses being non hazardous in nature. The SBM drill cuttings are being sold to the Cement Industry for final disposal through co-processing. One HDPE Lined and temporary capped hazardous landfill site for oil containing sand and drill cutting was observed at Mangla Terminal.
M	Oil spillage prevention and mitigation scheme shall be prepared. In case of oil spillage/ contamination, action plan shall be prepared to clean the site by adopting proven technology. The recyclable waste (oily sludge) and spent oil shall be disposed of to the authorized recyclers.	Being Complied. An Oil Spill Management Plan has been prepared and a dedicated oil spill response team has been deployed at Mangla Terminal. Oil bearing sand and sludge is being disposed partly at Cement Industry through co-processing and partly at the captive TSDF at Mangla Terminal.
N	The Company shall take necessary measures to prevent fire hazards, containing oil spill and soil remediation as needed. Possibility of using ground flare shall be explored.	Being Complied. During the visit it was observed that necessary efforts have been made to prevent the fire hazard and oil spillage hazard..the process systems have been

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	At the place of ground flaring, the overhead flaring stack with knockout drums shall be installed to minimize gaseous emissions during operation.	provided with Emergency Shut Down Devices (ESDs)/ valves to isolate the supply during any leaks and prevent spills. Oil spill contingency plan has been prepared and a full-fledged dedicated oil spill response team has been stationed at Mangla Terminal. Fire fighting measures such as fire hydrant system, foam system, portable fire extinguishers, water spray systems, fireproof electrical fittings, and fire and gas detection systems etc have been provided. The flare systems having height of flare stack as approx 25 to 30 meters have been provided at Mangla Processing Terminal and Raageshwari Gas Terminal.
O	The company shall develop a contingency plan for H_2S release including all necessary aspects from evacuation to resumption of normal operations. The workers shall be provided with personal H_2S detectors in locations of high risk of exposure along with self-containing breathing apparatus.	Complied. A H_2S management plan has been prepared and it was appraised by the unit representative that a One day H_2S certification program is being conducted for all the Cairn technical employees and field supervisory staff. Personnel working at well pads and operational areas inside terminals are provided with personal H_2S escape mask. H_2S detection system at MPT. Mangala Terminal was observed.
P	The Company shall carry out long term subsidence study by collecting base line data before initiating drilling operation till the project lasts. The data so collected shall be submitted six-monthly to the Ministry and Regional Office.	Complied. The baseline data at about 10 locations in various fields within RJON block has been collected by the unit using Geodetic grade DGPS equipment and same has been submitted along with six monthly compliance report. The land subsidence monitoring is also being done and submitted with six monthly compliance report.
Q	Blow Out Preventer system shall be installed to prevent well blowouts during drilling operations. BOP measures during drilling shall focus on maintaining well bore hydrostatic pressure by proper pre-well planning and drilling fluid logging etc.	Complied. Blow out preventer stack is installed on wells during drilling and a detailed SOP for BOPs has been made.
R	Emergency Response Plan shall be based on the guidelines prepared by OISD, DGMS and Govt. of India.	Complied. The Incident/Emergency Response Plan is in place based on national and international guidelines. Each field in the Block has a separate Response Plan. This plan has been submitted to the regulatory and district administration.
S	After completion of drilling operations, the company shall take adequate measures for plugging of wells, decommissioning of rig upon abandonment of the well, and drilling site shall be restored to the	Not Complied. During the visit it was appraised by the unit representative that there are 64 abandoned areas and 39 of abandoned sites are due to be restored due to

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	original condition and the report in this regard shall be submitted to the Ministry's Regional Office. In case of no economical prospecting of Hydrocarbon, complete abandonment plan shall be implemented in accordance with the applicable Indian Petroleum Regulations.	various reasons.
T	All the commitments made to the public during public hearing/consultation shall be satisfactorily implemented.	No separate report with reference to commitments made during the public hearing was available on site during the visit.
U	At least 1.5% of the total project cost shall be allocated for Corporate Environment Responsibility (CER) and item-wise details along with time bound action plan shall be prepared and submitted to the Ministry's Regional Office.	Not Complied. No details with reference to expenditure and activities done thus far by the PP have been submitted. Itemized details of expenditure were also not available on site during the visit.
V	Occupational health surveillance of the workers shall be carried out as per the prevailing Acts and Rules.	Complied. Records regarding health checkups of workers were available on site during the visit.
W	Oil content in the drill cuttings shall be monitored by some Authorized agency and report shall be sent to the Ministry's Regional Office.	Complied. Analysis reports with reference to this condition were available on site during the visit.
X	Company shall prepare operating manual in respect of all activities. Which would cover all safety & environment related issues and measures to be taken for protection. One set of environmental manual shall be made available at the drilling site/ project site. Awareness shall be created at each level of the management. All the schedules and results of environmental monitoring shall be available at the project site office. Remote monitoring of site should be done.	Being Complied. Standard Operating Procedures have been developed for rig move and drilling related activities such as Permit to Work, Confined Space entry, Lock Out Tag Out, Work at Height, route survey map, waste management etc. A 14SE manual specific to the drilling operations covering all the Occupational health, safety and environmental requirements has also been prepared.
Y	Process safety and risk assessment studies shall be further carried out using advanced models, and the mitigating measures shall be undertaken accordingly.	Complied. Process safety and risk assessment studies like; HAZOP (Hazard and Operability), HAZID (Hazard Identification), QRA (Qualitative Risk Assessment), FERA (Fire &. Explosion Risk Assessment) and COMAH (Control of Major Accident Hazards) have been carried out and being adhered to mostly.

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Sr. No.	General Condition	Compliance Status
i.	The project authorities must strictly adhere to the stipulations made by the state Pollution Control Board (SPCB), State Government and/or any other statutory authority.	Agreed for compliance by the PP.
ii.	No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forest and Climate Change. In case of deviations or alterations in the project proposal from those submitted to this Ministry for clearance, a fresh reference shall be made to the Ministry to assess the adequacy of conditions imposed and to add additional environmental protection measures required. if any.	Agreed for compliance by the PP.
iii.	The locations of ambient air quality monitoring stations shall be decided in consultation with the State Pollution Control Board (SPCB) and it shall be ensured that at least one stations each is installed in the upwind and downwind direction as well as where maximum ground level concentrations are anticipated.	Complied. Analysis reports from accredited laboratory has been submitted by the unit.
iv.	The National Ambient Air Quality Emission Standards issued by the Ministry vide G.S.R. No. 826(E) dated 16th November, 2009 shall be complied with.	Complied. Analysis reports from accredited laboratory has been submitted by the unit.
v.	The overall noise levels in and around the plant area shall be kept well within the standards by providing noise control measures including acoustic hoods, silencers, enclosures etc. on all sources of noise generation. The ambient noise levels shall conform to the standards prescribed under Environment (Protection) Act, 1986 Rules, 1989 viz.75 dBA (day time) and70 dBA (night time).	Complied. The unit has submitted analysis reports from accredited laboratory. Necessary steps for abatement of noise pollution at source have been taken.
vi.	The Company shall harvest rainwater from the roof tops of the buildings to recharge ground water, and to utilize the same for different industrial operations within the plant.	Complied. Rainwater recharge pits have been developed in Mangla Processing Terminal and in RGT. Rainwater from roof top and surface run-off are collected and used for secondary gainful purposes. Steps have also been taken for rain water harvesting in accordance to CGWA conditions. During the visit it was appraised by the unit

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		representative that Rainwater recharge pit (of capacity -58,000 m3) at NR-1 (Madpura Barwala, Baitu) has been made with provision to conserve the water in deep saline aquifer. Rainwater recharge structures have been developed in 28 operating well pads at various locations within the RJ Block
vii.	Training shall be imparted to all employees on safety and health aspects of chemicals handling. Pre-employment and routine periodical medical examinations for all employees shall be undertaken on regular basis.	Complied. As appraised by unit representative, Training on various HSE aspects, including chemicals handling and management, is imparted to all the employees and contractors periodically. Records with reference to periodical medical examinations were also available on site during the visit.
viii.	The company shall comply with all the environmental protection measures and safeguards proposed in the documents submitted to the Ministry. All the recommendations made in the EIA/EMP in respect of environmental management, risk mitigation measures and public hearing shall be implemented.	Agreed for Compliance by the unit.
ix.	The company shall undertake all measures for improving socio-economic conditions of the surrounding area. CSR activities shall be undertaken by involving local villagers, administration and other stake holders. Also, eco-developmental measures shall be undertaken for overall improvement of the environment.	Not Complied. Itemized details regarding expenditure under CSR
x.	A separate Environmental Management Cell equipped with full-fledged laboratory facilities shall be set up to carry out the Environmental Management and Monitoring functions	Complied. PP has separate environmental management cell under the control of senior executives.
xi.	The company shall earmark sufficient funds towards capital cost and recurring cost per annum to implement the conditions stipulated by the Ministry of Environment, Forest and Climate Change as well as the State Government along with the implementation schedule for all the conditions stipulated herein. The funds so earmarked for	Complied. Sufficient funds have been earmarked towards capital cost and recurring cost per annum to implement environmental initiatives and related facility operations.

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	environment management/pollution control measures shall not be diverted for any other purpose.	
xii.	*A copy of the clearance letter shall be sent by the project proponent to concerned Panchayat, Zila Parishad/ Municipal Corporation, Urban local Body and the local NGO, if any, from whom suggestions/ representations, if any, were received while processing the proposal.*	*Reported to be Complied.*
xiii.	*The project proponent shall also submit six monthly reports on the status of compliance of the stipulated Environmental Clearance conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF&CC, the respective Zonal office of CPCB and SPCB. A copy of Environmental Clearance and six monthly compliance status report shall be posted on the website of the company.*	*Complied.* *Last six monthly compliance reports have been submitted by the unit.*
xiv.	*The environmental statement for each financial year ending 31st March in Form-V as is mandated shall be submitted to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of environmental clearance conditions and shall also be sent to the* *respective Regional offices of MoEF&CC by email.*	*Complied.*
xv.	*The project proponent shall inform the public that the project has been accorded environmental clearance by the Ministry and copies of the clearance letter are available with the SPCB/Committee and may also be seen at Website of the Ministry at http:l/moef.nic.in. This shall be advertised within seven days from the date of issue of the clearance letter, at least in two local newspapers, that are widely circulated in the region of which one shall be in the vernacular language of the locality concerned*	*Complied.* *PP submitted the copies of the newspaper clippings.*

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	and a copy of the same shall be forwarded to the concerned Regional office of the Ministry.	
xvi.	*The Ministry reserves the right to stipulate additional conditions, if found necessary at subsequent stages and the project proponent shall implement all the said conditions in a time bound manner. The Ministry may revoke or suspend the environmental clearance, if* *implementation of any of the above conditions is not found satisfactory.*	*Agreed for compliance by the PP.*
xvii.	*The above conditions will be enforced, inter-alia under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention &. Control of Water Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Hazardous Waste (Management, Handling and Trans-boundary Movement) Rules, 2016 and the Public Liability Insurance Act, 1991, read with subsequent amendments therein*	*Agreed for compliance by the PP.*

18. The specific observations are as follows:

"Following are the specific observation with reference to Hon'ble NGT OA 5412019:-

1. *The Well-Pad no. 5, 8 and 11 at RGT are situated near the banks of the Luni River/Effluent/oil discharge from these well pads was not observed and plantation around the boundary of the premises of these well pads was observed.*
2. *As per the standard process, to extract petroleum oil from the wells, water is injected from the injection water wells and oil is extracted from the producer wells. In order to enhance the production, Enhanced oil recovery mechanism by the way of polymer injection is also practiced. In addition to this, reject from desalination plant, treated filter backwash water & ETP reject are also disposed in deep disposal wells which are*

reported to be of the depth of more than 1000 meters below ground level. Although no oil seepage or spillage on surface from these well pads was observed but in absence of the ground water analysis reports from nearby village no comments can be made on the possibility of seepage of chemical/oils in nearby fields. A view can be taken to direct State Pollution Control Board to carry out ground water sampling of the areas which are in closed proximity of the well pads.

3. *With reference to hazardous water management of the project it was observed that well pads are well under Consent Mechanism (Under Air and Water Act) and Authorization under the under the Hazardous and Other Wastes (Management. and Trans-Boundary Movement) Rules, 2016 for individual well pads is also being obtained. No unscientific storage / handling of hazardous waste on the well pads visited during the site visit was observed. Hazardous wastes like oil bearing sand, Synthetic Oil Based Mud drill cuttings are being sold to the Cement Industry for final disposal through co-processing and one HDPE Lined and temporary capped hazardous landfill site was also observed at Mangla Terminal.*

4. *With reference of contentions raised as "The chimneys on the site of the well-pads emit fire" it was observed that the chimney at the Mangla processing terminal i.e. MPT is having flaring mechanism to burn the high moisture inert gases. Similarly, at some of the fields like Aishwariya field, the associated gases generated from the process are CO2 rich (More than 85 %) they are also separated and flared at the mother well pad itself to avoid cold venting of associated gases. The unit is getting monitoring conducted from third*

party monitoring agencies and latest analysis reports submitted during the visit are attached as Annexure A-1.

5. *With reference to restoration of the abandoned sites, it has been reported that about 39 sites are remaining to be restored.*
6. *For transportation of crude oil and gas, Mangala Development Pipeline (MDP) has been developed which is a 680 km long, buried, electrically heated and insulated, 24" crude pipeline and an 8" natural gas pipeline passing through Rajasthan and Gujarat has also been established. The pipeline was reported to be operated on PLC based SCADA System with provisions of leakage detection. The system generated report of leakage incident was not available on site during the visit."*

19. Learned counsel for the Respondent No.3, CGWA has submitted that protection of the felling of trees are within the domain of forest department and the violations of rules or the conditions of the EC are duly checked and verified by the Pollution Control Board and statutory authority.

20. Respondent No. 5 in its reply has stated that:

(i) That the officials of the answering respondent conducted site investigation on the directions issued by the District Collector vide letter dated 05.06.2018 on the basis of complaint given by Kisan Sangarsh Samiti. During the course of site visit of well pad 11, large numbers of trees of Jouliflora near the vicinity of well were observed.

(ii) That as per process details shared by company, the oil producing reservoirs are situated at depth of more than 80Om below the ground surface, the oil reservoir is overlaid by thick impermeable formation and it is not directly connected to any groundwater aquifer. Whereas, the freshwater aquifer is found at shallow depth (within 200m below, ground level). Oil and gas wells drilling are carried out as per International drilling

guideline and practices. The upper section i.e. freshwater aquifer section is being drilled using only water-based mud (WBM, primarily 90% is water and -10% bentonite earth material & others) to protect the ground water aquifer from any contaminations during the drilling activity. All the wells are then fitted with double casing with high grade carbon steel followed by cement slurry pack around the secondary casing to avoid leakage out of the well and protect the freshwater aquifer during production stage, produced fluid during the production stage is directly transported to processing terminals through closed loop pipelines.

(iii) That a complaint regarding waste water injection into underground water from Mangla Processing Terminal received on Sampark portal has already been disposed. In this regard it is submitted that the disposal of reject water into deep dump well has been permitted vide Environment Clearance issued by MoEF & CC vide letter dated 31.03.2006 & 14.06.2013. In reference to the EC, RSPCB has issued the Consent to Operate to industry on dated 24.11.2016 by imposing the condition regarding disposal of reject water into deep dump well whose depth is more than 1000 meter.

(iv) That the Cairn has its own captive Hazardous & Solid Waste Management Facility within Mangla Processing terminal Kawas District Barmer to serve as an integrated waste treatment and disposal facility for hydrocarbon exploration and production from RJ-ON-90/1 Block area. It is further submitted that the Industry is having valid Authorization for operating a facility for collection, Co-processing, Disposal, Generation, Incineration, Reception, Reuse, Storage, Transport, Treatment, Utilization of Hazardous Wastes under Hazardous Waste (Management Handling & Transboundary)

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Rules 2016 issued by RSPCB and same is valid up to 28.02.2022. The industry submits periodic compliance reports in this regard to the answering respondent.

(v) That the answering respondent has received a complaint regarding noise pollution and poisonous gases affecting nearby area of Aishwarya Well pad no, 08, The official of t}re answering respondent conducted inspection so as to verify the complaint, during the course of inspection it was observed that the company has provided ail the pollution control measures and accordingly the complaint was dropped.

(vi) That as verified during periodic inspections of various sites, conducted by RO, RSPCB at Cairn's facilities (well pads, terminal, camps), all point sources (DGs/GEGs/Elevated Flares /Thermal Oxidizer) are provided with adequate stack height. In case of ground flare, the refractory brick wall is provided of adequate height to minimize impact due to fire and heat from flare to surrounding area.

(vii) That Ambient air & noise monitoring was carried out by team of Central Laboratory, RSPCB, Jaipur on 22.01.2018 and 23.01.2018 analysis results of same are well within the prescribed standards.

21. The Respondent no.10 and 11 has raised some preliminary objection as follows:

(i) That the Application, in any case does not raise "substantial question relating to environment", and further, the Applicant Lacks *locus standi* to prefer the Application. The Applicant has not disclosed any significant particulars about himself such as his antecedents or any contribution he has made to the lives of the community in Barmer, Rajasthan. No details are furnished as to precisely when the Applicant came to be seized of the issues raised in the present Application and whose cause he seeks to espouse. It

is respectfully submitted that the Application as filed is not bona fide, particularly as the credentials of the Applicant are less than genuine as will be indicated in the latter part of the present reply.

(ii) Challenges the Environmental clearance granted on 11.04.2019 which was granted to the Respondent for expanding the onshore oil and gas production from existing 300,000 bpd to 4,00,000 bpd and 165 MMSFD to 750 MMSFD from RJ-ON-90/1 Block, Barmer. However, in the Application, the Applicant has admitted that he was well-aware of the public consultation process as well as the process initiated for the grant of EC well before the same. That being so, the present application is grossly barred by efflux of time and the same deserves to be dismissed. It is also pertinent to note that in the declaration regarding limitation, the Applicant has stated that the present application has been filed under Section 18 r/w S. 14 of the NGT Act, 2010.

(iii) That the Applicant seeking to set aside the Environmental Clearance dated 11.04.2019 was required by law to file Application under Section 16 of the NGT Act which states as under:

> *"16. Tribunal to have appellate jurisdiction.- Any person aggrieved by,- (h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or c/ass of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986).*
>
> *may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal.*
>
> *Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed*

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under this section within a further period not exceeding sixty days."

(iv) In this vein it is important to point out that the claim of the Applicant that the Environmental Clearance dated 11.04.2019 came into the Public Domain only on 31.05.2019 as claimed by him Is also false and deserves to be rejected. It may be pointed out that a public notice informing the grant of this EC by MOEF&CC and availability of its copies with RSPCB and on MoEF&CC website was published by the answering Respondent as follows:

- First India Express (English), Jaipur on 17-04-2019
- Janta Shakar (Hindi) Barmer District edition on 17-04-2019

Additionally, copies of the EC letter were submitted to various government offices including the District collector and local NGos. As the complainant claims to have been closely watching the present grant of EC, it is no longer open for the Applicant to claim that despite the document getting uploaded on the website of the MOEF prior to 17.04.2019, its reference being made in the newspapers and copies of the same being provided to all local bodies and widely publicized by 17.04.20.19, he remained unaware of the EC being granted till 30.05.2019. It may be pertinent to refer to the judgment of this Hon'ble Tribunal in save Mon Region Federation and **Lobsang Choedar v. Union of India, Manu/GT/0029/2013**, where it was clearly laid down that publishing on the website of MoEF or project proponent or communication to local authorities is considered as 'date of communication'.

(v) That the EC itself was granted on 11.04.20219 and was uploaded online immediately as well as widely circulated in the period between 11.04.2019 and 17.04.2019. The present Application only raises a cause of action qua the Environmental clearance being granted without following due process and has sought cancellation

of the EC. Section 16 as described above clearly provides that once the EC is granted i.e. 11.04.2019 an appeal may be preferred against such a grant within 30 days i.e. the appeal ought to have been filed by 11.05.2019. Section 16 also stipulates that in the event of a delay, upon the Appellant satisfying the Hon'ble Tribunal, the same may be condoned by a period not exceeding 60 days. Therefore, at best, any appeal along with an application to condone delay ought to have been preferred within 90 days i.e. it could have been filed before 10.07.2019. Notably, the Applicant has neither filed an Appeal under Section 16, with a very oblique motive, but instead chooses to file an Application on 09.10.2019.

(vi) The Applicant has conveniently claimed that his knowledge of the EC commenced only on 31.05.2019 i.e. when an RTI reply was received by him, which argument deserves to be rejected as the EC was in public domain immediately and had been widely publicized by the answering Respondent before 17.04.20'19. Without prejudice to the contention of the answering Respondent that only an Appeal under Section 16 may have been preferred in a petition seeking to set aside an Environmental Clearance, it is argued that by his own admission the Applicant's knowledge of the EC dated 11.04.2019 commences on 31.05.2019. Considering only for the sake of argument that such date is to be considered the starting point for an Appeal under Section 1 6 of the NGT Act, such an Appeal ought to have been filed by the Applicant within 30 days i.e. 30.06.2019 but not later than 90 days i.e.29.08.2019. Though such an appeal would still be time barred, the Applicant has failed even to abide by the same and any cause of action against the grant of the EC was hopelessly barred by limitation as any delay beyond 90days cannot be condoned by the Tribunal itself. The Applicant has also not provided any explanation as to why the Appeal was not preferred within the 90 days period from 11.04.2019 i.e. before 10.07.2019

with an application for condonation of delay, which may have been within the scope of consideration by this Hon'ble Tribunal even if the RTI reply had been received on 31.05.2019. Instead, the Applicant has conveniently chosen to state that a delayed RTI reply prevented him from preferring an appeal under Section 16 of the Act.

(vii) That the sole prayer sought in the present Application is to "pass an order to cancel the Environmental clearance granted in favour of the Respondent Company as on 11.04.2019". As cancellation of the EC is the only prayer sought, the present Application cannot be considered as a case of recurring cause of action as has been claimed by the Applicant in the Application. Applicant's attempt at seeking a relief that may be claimed exclusively under Section 16 of the Act (i.e. seeking cancellation of the EC) by disguising the cause of action within Section 14 with the mala fide intent to avoid limitation is nothing but an abuse of process of this Tribunal.

(viii) The present Application deals with two aspects, while on the one hand the Applicant has throughout the Application the Applicant has made sporadic references to allegations/complaints of pollution made by third parties in the years 2017 to 2018, none of which pertain to the grant of EC dated 11.04.2019, while the second part deals with the supposed non-compliance of the Public Consultation requirement occurred on 20.08.2018 for which thereafter a second public hearing was called on 28.09.2018, which renders this particular allegation meritless at the very outset. The EC under challenge was granted on 11 .04.2019 and as such for the Applicant to challenge the said EC under Section 14 of the NGT Act, which is not maintainable in the first place, the specific point in time qua the question of limitation that this Tribunal would be concerned with ought to be when the 'cause of action first arose', and to that end the Respondents herein submit that the present Application is

hopelessly barred by limitation as the date of grant of EC cannot be the 'cause of action first arose' for an application under Section 14.

(ix) Applications under Section 14 of the NGT Act are to be filed within the prescribed period given in the respective provisions and the period of limitation is to be computed from the date of accrual of 'first cause of action'. It is further submitted that the legislative intent and the scheme governing period of limitation are expressed unambiguously in the said provisions by use of the phrase 'cause of action first arose' and, therefore, the premise of continuing cause of action is clearly ruled out. Merely because the Applicant claims to have learnt of the Environmental Clearance on a later date, the same will not shift to become the starting point for the computation of limitation u/ s 16 as the Environment Clearance granted to any industry is a public document which is made available on the MOEF's website immediately upon the same being granted. Arguendo, even if the limitation was to be computed from the date when Environment Clearance was granted i.e. 1 11.04.2019, the limitation is seen to have expired.

(x) That a cause of action is a set of facts sufficient to justify a right to sue and such a right to sue "first arose" i.e. when the Applicant had an ostensible justification to sue. The claim of the Applicant of a continuing cause of action also fails to have any weight as such an interpretation would have the effect of rendering otiose the words 'first arose' employed by Section 14 of the NGT Act, 2010. The interpretation offered by the Applicant places an erroneous interpretation on section 14 of the NGT Act. The said section employs the words "six months from the date when the cause of action for such dispute first arose." It is pertinent to note that it was in the judgment of Khatri Hotels Private Limited and Another Vs. Union of India and Another, (2011) 9 SCC 126 that the Hon'ble

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Supreme Court had brought out the distinction in the usage of the words 'first' by Parliament in the context of the concept of limitation.

(xi) Thus neither does Section '16 nor Section 14 have any place for the concept of continuing cause of action. The claim of the Applicant seeking to establish the concept of continuing cause of action even though Parliament has consciously excluded the same is contrary to the ratio laid down by this Tribunal in **Aradhana Bhargava vs MoEF (2013) SCC Online NGT 84** as under:

> *"23. From the very reading, it would be quite clear that the Tribunal has jurisdiction over all civil cases only where a substantial question relating to the environment including enforcement of any legal right related to environment is involved and also the said substantial question should also arise out of the implementation and is included in one of the seven enactments specified under the Schedule-1. Even, if the applicant is able to satisfy the above requisites, the Tribunal can adjudicate the disputes only if it is made within a period of six months from the date on which the cause of action in such dispute first arose and the Tribunal for sufficient cause can condone the delay for a period not exceeding 60 days in making the application.*
>
> *24. Under Section 15 of the Act, an application for relief and compensation to the victims of pollution and other environmental damage under the enactments specified in Schedule-I or for restitution of the property damage or for restitution of environment for such area or areas, the applicant could be filed within a period of five years from the date of which the cause of action for such compensation or reliefs First arose. Also, if sufficient cause was shown, the Tribunal is empowered to condone the delay for a period not exceeding 60 days. Significant it is to note that the expression ,cause of action for such dispute first arose" is*

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employed. By employing the above expression, the legislative intent indiacting that the period of limitation would commence only from the date on which the first event constituting the dispute arose, is explicit. This is not only an indication but also the caution that the later dates on which subsequent events arose should not be taken into account for computing the period of limitation.

28. Trait law it is that the special taw of limitation, in any given enactment, will always exclude the general law of limitation. The NGT Act, 2010, a special enactment specifically provides period of limitation under section 14(3) and 15(3), as stated supra. The principal Bench, NGT has already held in Jesurethinam & Ors Vs. Ministry of Environment, Union of India & Ors, reported in 2012 (2) FLT 811 NGT that, when a specific provision for limitation is provided under the special statute, the general provisions of the Limitation Act, 1963 are inapplicable Hence the Tribunal is afraid whether theory of continuing cause of action can be made applicable to the resent factual position of the case for which the specific period of limitation is available under the NGT Act, 2010.

(xii) The interpretation furthered by the Applicant that for the purposes of the computation of limitation u/s 14 of the NGT Act, time will commence only after a prospective litigant has verified all facts, even if such a litigant is admittedly aware of the supposed or alleged violation in alien to the object of Section 14. It is submitted that it is untenable in law to suggest that when a person concludes his own verification of facts that the cause of action will commence for him for that would be leaving in the hands of a litigant the time when the law of limitation ought to commence for him. This view is supported in a decision of the Hon'ble Bombay High Court in the judgment of Windsor Realty Pvt. Ltd Vs Secretary, MoEF & (8) Ors (Writ petition No.594 of 2015 : Judgment dated 1.3.2016), where the Hon'ble High

Court while considering the question of limitation under NGT Act had made it clear that 'prima facie, cannot be interpreted by any stretch of imagination that the cause of action would arise from the date of knowledge of the applicant of the alleged violation taking place or from the date on which the Environmental Authorities were informed about violation and inaction on their part. Attention may be drawn to the judgment of this Hon'ble Tribunal in **Jai Javan Jai Kisan & ors vs. vidarbha cricket Association** (Application No.33/2016 disposed on 13th January, 2017.

(xiii) The prior EC had been granted on 11.08.2014 and the Respondents herein have been conducting their operations within the boundaries of the said Environmental Clearance without any complaints being raised in that regard till date. The EC dated 11.04.2019 being only for expansion of the existing capacity it was necessary for the Applicant to prove or bring some information on record as to how the increase in capacity would adversely affect the environment or at the very least make averments to that effect, neither of which has been done by the Applicant, and the Applicant has failed to do so as there is no such material existing whatsoever. As such, the alleged cause of action to institute the instant Application (which is denied) would have arisen at that instance. On this ground as well, the instant application is clearly barred by limitation and/or ultra vires Section 14(3) of the NGT Act. Throughout the application, the Applicant has relied upon documents and alleged complaints of third parties from periods years prior to the EC dated '1 1 .04.2019 and more so, as the specific issues raised have already been answered satisfactorily with the concerned statutory authorities who are responsible for the same, all of which shall be answered in the reply on merits. All the allegations raised by the Applicant are entirely baseless and non-existent and specific instances raised, each of which shall be duly addressed in the detailed reply are

admittedly claims of incidents that transpired several years ago. The lackadaisical manner in which the Applicant has made allegations against the Respondents who have been operating in India for more than past two decades as explained earlier indicates an attempt by malafide vested interests of the Applicant. The same necessarily requires due consideration by this Tribunal as to the intent behind the present Application.

(xiv) "The court has to be satisfied about

(a) The credentials of the applicant;

(b) The prima facie correctness or nature of information given by him;

(c) The information being not vague and indefinite. The information should show gravity and seriousness involved. The court has to strike a balance between two conflicting interests:

(i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and

(ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal, It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerude as crusaders of justice. They pretend to act in the name of pro bono public, though they have no interest of the public or even of their own to protect."

(xv) The Hon'ble Supreme Court in the case of *Ayubkhan Noorkhan Pathan Vs State (2013) 4 SCC 465*, where the Court had observed:

"10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. (Vide Shanti Kumar R. Canji v. Home Insurance Co. of New York and State of Rajasthan v. Union of India)"

(xvi) The Respondents presently contributes -25% to India's domestic crude production and has vision to produce and contribute 50% of India's oil and gas in the future. Moreover, the Cairn Oil & Gas vertical is the largest private sector producer of crude oil in India and is in a JV Partnership with Oil and Natural Gas Corporation Ltd. (ONGC Ltd).

The presence of the Respondent company in Barmer district of Rajasthan has resulted in the following outcomes for the district:

(a) *over the last five years, (b) Barmer has the highest per capita income in Rajasthan and is greater than the per capita income of lndia per se. Barmer contributed 7.11 to Rajasthan,s GDP, second only to Jaipur, (c) the efforts of the answering Respondents in terms of CSR in the Barmer District are explained in detail in the succeeding paragraphs.*

22. The respondent has argued that the applicant is not person aggrieved and in reply thereof the applicant relied on Vimal Bhai Vs MoEF and Ors, [Appeal No. 5 of 2011] on 14th December, 2011 dealt with the interpretation of section 16 and section 18 to explain the meaning of 'person aggrieved' under the NGT Act and observed:

"The person injured per-se as occurred in Section 18 (2) of the NGT

Act is only for the purpose of claiming relief, compensation or settlement of disputes, is altogether different from the person aggrieved as available in Section 16. Person aggrieved and person injured are two different words which connote different meaning. Under Section 16, any person aggrieved can approach this Tribunal by way of filing an appeal, whereas, under Section 18 (2), the person injured per-se, whether it is an individual or a body of individual or a social organization or a Hindu joint family, etc.

Further, under Section 14 and 16 any person can approach this Tribunal for appropriate relief including the relief under Section 18.

The only exception to be made for treating an appeal/application as not maintainable could be a matter which falls beyond the seven (7) Acts as notified in Schedule I of the NGT Act 2010 and in a case of mala-fide and vexatious litigation brought before this Tribunal and not otherwise."

23. In M.C. Mehta Vs University Grants Commission & Ors on 17th July, 2014 (Original Application No.12 of 2014), the Tribunal examined and explained intent of legislature and scope of Section 14,15 and 16 of the NGT Act, 2010 held:

> *"12. This Tribunal is vested with three different jurisdictions. Firstly, it has the original jurisdiction in terms of Section 14 of the 10 NGT Act to deal with all civil cases raising a substantial question relating to environment and where such questions arise out of the implementation of the enactments specified in Schedule I of the NGT Act. Secondly, it is vested with appellate jurisdiction against the various orders / directions / decisions as stated in Section 16 (a) to (j) of the NGT Act. Thirdly it has a special jurisdiction in terms of Section 15 to grant relief of compensation and restitution as per the scheme contemplated under that provision. Admittedly, the present application has been filed under Section 14 of the NGT Act. Thus, it must plead and raise the following:*
>
> *It should be a civil case.*
>
> *Where a substantial question relating to environment or*

enforcement of any legal right relating to environment is involved.

Such question arises out of implementation of enactment specified in Schedule I of the NGT Act.

13. Once these three ingredients are satisfied, then Section 14 does not appear to place any restriction on the locus or character of the Applicant who wishes to move an application under Section 14 of the Act. Similarly, Section 15 also does not describe the description of an Applicant who can move the Tribunal for seeking reliefs like compensation, restitution of the property and the environment. In contradistinction thereto, Section 16 restricts the Applicant entitled to file an Appeal to be 'any person aggrieved'. In other words, it is only a person aggrieved who can invoke the jurisdiction of the Tribunal under Section 16 and not any Applicant. Section 18 deals with the procedure which has to be followed by an applicant or appellant, who prefers to file an application or appeal before the Tribunal. It deals with all the three jurisdictions specified under Section 14, 15 and 16 of the NGT Act. However, Section 18 (2) of the NGT Act provides the details in regard to locus and character of an Applicant who is entitled to move the Tribunal by filing an Application for grant of relief or compensation or settlement of dispute. Section 18(2) has been worded by the legislature with wide amplitude besides covering any person aggrieved and the legal representatives of the various categories. In terms of Section 16, it includes various other persons as described under clauses (a) to (d) and

(f) of sub-Section 2 of Section 18. The locus and character of an applicant specified under these provisions has to receive liberal construction and would cover variety of applicants. As far as Section 14 (1) of the NGT Act is concerned, the only restriction that appears to be imposed is that it must satisfy the prerequisites stated in that Section."

24. Respondent had submitted that the applicant is not aggrieved within the definition of the law and stated that :

"5. Section 18 of the NGT Act grants following persons the right to file an Application;

"a) The person, who has sustained the injury; or

(b) The owner of the property to which the damage has been caused; or

(c) Where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or

(d) Any agent duly authorized by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or

(e) Any person aggrieved, including any representatives body

10. The Applicant admittedly does not reside in the vicinity of the project site and is in fact residing at a distance of over 20 Kms from the project site. None of the local residents residing in the vicinity of project have raised complaints of any environmental degradation being caused by the construction. As such the concern expressed by the Applicant in respect of purported environmental degradation due to construction carried out by this Respondent is a mere ruse to hold himself out as an aggrieved person before this authority. Thus the actions of Applicant are obviously male fide and for oblique personal motives."

25. Respondent no. 9 had submitted that:

"8. The applicant has claimed to have filed the above Application under Section 14 and 15 of the NGT Act read with Section 18 of the said act on the basis that he is a socially concerned person and is concerned about the alleged rapid degradation of the environment in the city of Mumbai. However, the said Sections 14 and 15 (which contain the powers of the NGT to hear applications as specified therein) and sub-section (2) of the said Section (18) (which provides an exhaustive list of the persons entitled to file such applications) provide a remedy under the NGT Act only for persons who are personally and directly impacted. The said provisions do not entitle socially concerned persons who are not 'Aggrieved Persons' within the context of the NGT Act to file an application. As the Project of Respondent no. 9 is situated at

village Ambivali, Andheri (West), Mumbai, whereas the address of the applicant is shown in the application as being at Matunga Road in Mumbai, the applicant is clearly not affected by the said Project and is not an "Aggrieved Person". The Applicant is, therefore, not entitled to file the above Application and the said Application is not maintainable. "

26. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A petition is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the Appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty b a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. In-fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the Appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. (Vide: *State of Orissa v. Madan Gopal Rungta MANU/SC/0012/1951MANU/SC/0012/1951: AIR 1952 SC 12; Saghir Ahmad and Anr. v. State of U.P. MANU/SC/0110/ 1954 MANU/SC/0110/1954:AIR 1954 SC 728; Calcutta Gas Co. (Proprietary) Ltd. v. State of West Bengal and Ors. MANU/SC/0063/1962 MANU/SC/0063/1962: AIR 1962 SC1044;RajendraSinghv.State of Madhya Pradesh MANU /SC/0690/1996 MANU /SC/0690/1996:AIR 1996 SC 2736; and Tamilnad Mercantile Bank Shareholders Welfare Association (2) v. S.C.Sekar and Ors. MANU/SC/8375/2008 MANU/SC/8375/2008 : (2009) 2*

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SCC 784).

27. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. *(Vide: Shanti Kumar R. Chanji v. Home Insurance Co. of New York MANU/SC/0017/1974 MANU/SC/0017/1974 : AIR 1974 SC 1719; and State of Rajasthan and Ors. v. Union of India and Ors. MANU/SC/0370/1977MANU/SC/0370/1977: AIR 1977 SC 1361).*

28. In *Anand Sharadchandra Oka v. University of Mumbai MANU/SC/7106/2008MANU/SC/7106/2008 : AIR 2008 SC 1289*, a similar view was taken by Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons.

29. In *A. Subhash Babu v. State of A.P. MANU/S C /0845/2011 MANU/SC/0845/2011 : AIR 2011 SC 3031*, Court held:

> *"The expression 'aggrieved person' denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of complainant's interest and the nature and the extent of the prejudice or injury suffered by the complainant."*

30. In *Ghulam Qadir v. Special Tribunal and Ors. MANU /SC /0608 / 2001MANU /SC /0608 /2001 : (2002) 1 SCC 33, Court* considered a similar issue and observed as under:-

> *"There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where*

the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the Petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article. The orthodox rule of interpretation regarding the locus standi of a person to reach the Court has undergone a sea change with the development of constitutional law in our country and the constitutional Courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hyper- technical grounds. ----In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi."

31. Hon'ble Supreme Court in *Ravi Yashwant Bhoir v. District Collector, Raigad and Ors. MANU/SC/0186/2012MANU /SC / 0186/2012 : (2012) 4 SCC 407,* held as under:

> *"Shri Chintaman Raghunath Gharat, ex-President was the complainant, thus, at the most, he could lead evidence as a witness. He could not claim the status of an adversarial litigant. The complainant cannot be the party to the lis. A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eye of the law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called damnum sine injuria.*
>
> *The complainant has to establish that he has been deprived of or denied of a legal right and he has sustained injury to any legally protected interest. In case he has no legal peg for a justifiable claim to hang on, he cannot be heard as a party in a lis. A fanciful or sentimental grievance may not be sufficient to confer a locus standi to sue upon the individual. There must be injuria or a legal grievance which can be appreciated and*

not a stat pro ratione voluntas reasons i.e. a claim devoid of reasons.

Under the garb of being a necessary party, a person cannot be permitted to make a case as that of general public interest. A person having a remote interest cannot be permitted to become a party in the lis, as the person who wants to become a party in a case, has to establish that he has a proprietary right which has been or is threatened to be violated, for the reason that a legal injury creates a remedial right in the injured person. A person cannot be heard as a party unless he answers the description of aggrieved party."

32. In *Vinoy Kumar v. State of U.P. MANU/SC/ 0252 / 2001 MANU/SC/0252/2001 : AIR 2001 SC 1739,* Court held:

> *"Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of person is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief."*

33. It is further submitted that there is no sufficient cause to file this application and since appeal has not been filed challenging the EC, this Original Application is not maintainable. It is further submitted that the relief for challenging the EC is maintainable only by filing the appeal, and thus there is no sufficient cause.

34. Sufficient cause or reasonable cause was dealt in the matter of M.A. No. 247/2012 in Appeal No. 76/2012, *Nikunj Developers vs. State of Maharashtra & Ors.* decided on 14.03.2013 which was reported in MANU (GT) 0030/283, it was held as follows:

> *"5. The stand taken by the non-applicant is that there is no cause much less a 'sufficient cause' shown by the applicant, for condonation of delay. There is complete*

inaction and negligence on part of the applicant, right from 2nd of June, 2012, till 20th September, 2012, the date on which the appeal was filed. Even if it is taken to be correct that the brother of applicant no. 3 was ill and he died as a result of his illness on 13th June, 2013, even then there is no reason stated post 13th June, 2012 as to why the appeal was not filed till 20th September, 2012. In the alternative, the submission is that even if it is assumed that there is sufficient cause shown by the applicant for condonation of delay, still this Tribunal shall have no jurisdiction to condone the delay because the appeal has been filed beyond the prescribed period of 90 days, which includes even the extended period of 60 days. Thus, in their submission, the appeal filed by the appellant is liable to be dismissed, being barred by limitation.

6. Now, firstly, we have to examine the interpretation of the expression 'sufficient cause', as it emerges from the various judgments of the courts, particularly the Supreme Court of India. The use of expression 'sufficient cause' in Section 16 of the NGT Act is not a legislative innovation but is a derivative reference from other enactments. Section 5 of the Limitation Act, 1963, also uses the same expression 'sufficient cause'. An applicant praying for condonation of delay in instituting the appeal under Section 16 of the NGT Act is required to show a sufficient cause, if the appeal is filed beyond a period beyond 30 days from the date of communication of the Environmental Clearance order as prescribed.

7. The expression 'sufficient cause' is not to be construed in isolation. The attendant circumstances and various other factors have to be taken into consideration by the Courts/Tribunals while dealing with the question of condonation of delay. Thus, it is important at this stage to deal with the meaning and connotation, that this expression has received in various judicial pronouncements, in some elucidation.

8. The term 'sufficient cause' has to be considered keeping in view the facts and circumstances of each case. The expression 'sufficient cause' implied by the legislature

is adequately elasticto enable the Courts to apply the law in a meaningful manner, which subserves the ends of justice - that being the life-purposefor the existence of the institution of Courts. This view was expressed by Supreme Court in Collector, Land Acquisition, Anantnag and Anr. v. Katiji and Ors. AIR 1987 SC 1335.

9. The term 'sufficient cause' must receive a liberal meaning and has to be incorporated so as to introduce the concept of reasonableness, as it is understood in its general connotation. Certainly, the Limitation Act is a substantive law and its provisions have to be adhered to in a manner that once, a valuable right accrues in favour of one party, as a result of unexplained sufficient or reasonable cause and directly as a result of negligence, default or inaction of the other party, such a right cannot be taken away lightly and in a routine manner.

10. The Courts have also taken the view that the expression 'sufficient cause' be considered with pragmatism in a justice oriented approach rather than the technical detection of sufficient cause for every day's delay.

11. 'Sufficient cause' must necessarily be tested on the touchstone of doctrine of reasonableness. It may not be a very appropriate approach to apply principles of limitation with absolute rigidity resulting in irreparable injustice to the parties; a balanced approach may better serve the ends of justice.

12. In P.K. Ramachandran vs. State of Kerala and Anr., J.T. 1997 (8) 189, the Supreme Court took the view that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.

13. However, the Courts have also taken the view that the approach of the Courts must be to do even-handed justice on merits in preference to the approach which scuttles the decision on merits, thus, showing greater inclination to accept a liberal approach.

14. The equitable principles have also been applied to the law of limitation but with great circumspection. The clear language of law will always prevail over the equitable principles as equity cannot defeat the law. At this stage we may notice some of the principles which have been reiterated with approval by the Supreme Court in the case of Rajghunath Rai Bareja and another vs Punjab National Bank and Ors. (2007) 2 SCC 230 where the Court held as under:

"30. Thus, in Madamanchi Ramappa and Anr. v. Muthaluru Bojjappa [1964]2SCR673 this Court observed:

"What is administered in Courts is justice according to law, and considerations of fair play and equity however important they may be, must yield to clear and express provisions of the law".

31. In Council for Indian School Certificate Examination v. Isha Mittal and Anr. : (2000)7SCC521 this Court observed:

"Considerations of equity cannot prevail and do not permit a High Court to pass an order contrary to the law."

32. Similarly in P.M. Latha and Anr. v. State of Kerala and Ors. [2003]2SCR653 this Court observed:

"Equity and law are twin brothers and law should be applied and interpreted equitably, but equity cannot override written or settled law"

33. In Laxminarayan R. Bhattad and Ors. v. State of Maharashtra and Anr. [2003]3SCR409 this Court observed:

It is now well settled that when there is a conflict between law and equity the former shall prevail....

34. Similarly in Nasiruddin and Ors. v. Sita Ram Agarwal [2003]1SCR634 this Court observed:

In a case where the statutory provision is plain and unambiguous, the court shall not interpret the same in a different manner, only because of harsh consequences arising therefrom....

35. Similarly in E. Palanisamy v. Palanisamy (Dead) by

Lrs. and Ors. AIR2003SC153 this Court observed:

...Equitable considerations have no place where the statute contained express provisions....

36. In India House v. Kishan N. Lalwani [2002]SUPP5SCR522 this Court held that:

...The period of limitation statutorily prescribed has to be strictly adhered to and cannot be relaxed or departed from by equitableconsiderations....

39. In Hiralal Ratanlal v. STO [1973] 2 SCR 502, this Court observed:

In construing a statutory provision the first and foremost rule of construction is the literary construction. All that the Court has to see at the very outset is what does the provision say. If the provision is unambiguous and if from the provision the legislative intent is clear, the Court need not call into aid the other rules of construction of statutes. The other rules of construction are called into aid only when the legislative intent is not clear.

15. In a more recent judgment, the Supreme Court, in Balwant Singh (Dead) Vs. Jagdish Singh and Ors. (2010) 8 SCC 685, while dealing with the expression 'sufficient cause', elaborately stated the principles of condonation of delay. It also elucidated the approach to be adopted by a Court in such cases and held as under:

"It must be kept in mind that whenever a law is enacted by the legislature, it is intended to be enforced in its proper perspective. It is an equally settled principle of law that the provisions of a statute, including every word, have to be given

full effect, keeping the legislative intent in mind, in order to ensure that the projected object is achieved. In other words, no provisions can be treated to have been enacted purposelessly. Furthermore, it is also a well settled canon of interpretative jurisprudence that the Court should not give such an interpretation to provisions which would render the provision ineffective or odious. Once the legislature has enacted the provisions of Order 22, with

particular reference to Rule 9, and the provisions of the Limitation Act are applied to the entertainment of such an application, all these provisions have to be given their true and correct meaning and must be applied wherever called for. If we accept the contention of the Learned Counsel appearing for the applicant that the Court should take a very liberal approach and interpret these provisions (Order 22Rule 9 of the CPC and Section 5 of the Limitation Act) in such a manner and so liberally, irrespective of the period of delay, it would amount to practically rendering all these provisions redundant and inoperative. Such approach or interpretation would hardly be permissible in law. Liberal construction of the expression 'sufficient cause' is intended to advance substantial justice which itself presupposes no negligence or inaction on thepart of the applicant, to whom want of bona fide is imputable. There can be instances where the Court should condone the delay; equally there would be cases where the Court mustexercise its discretion against the applicant for want of any of these ingredients or where it does not reflect 'sufficient cause'as understood in law. [Advanced Law Lexicon, P. Ramanatha Aiyar, 2nd Edition, 1997] The expression 'sufficient cause' implies the presence of legal and adequate reasons. The word 'sufficient' means adequate enough, as much as may be necessary to answer the purpose intended. It embraces no more than that which provides a plentitude which, when done, suffices to accomplish the purpose intended in the light of existing circumstances and when viewed from the reasonable standard of practical and cautious men. The sufficient cause should be such as it would persuade the Court, in exercise of itsjudicial discretion, to treat the delay as an excusable one. These provisions give the Courts enough power and discretion to apply a law in a meaningful manner, while assuring that the purpose of enacting such a law does not stand frustrated. We find it unnecessary to discuss the instances which would fall under either of these classes of cases. The party should show that besides acting bonafide, it had taken all possible steps within its power and control and had approached the Court without any unnecessary delay. The test is whether or not a cause is sufficient to see if it could have been

avoided by the party by the exercise of due care and attention."

18. .....According to the non-applicant, the Tribunal will have no jurisdiction to condone the delay in view of the language of Section 16 of the NGT Act, which reads as under:

"16. Tribunal to have appellate jurisdiction - Any person aggrieved by,-

*********** h. an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986;*

*********** may, within a period of thirty days from the date on which the order or decision or direction or determination iscommunicated to him, prefer an appeal to the Tribunal:*

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."

19. From language of the above provision it is clear that the Tribunal loses jurisdiction to condone the delay if the delay is ofmore than 90 days. Every appeal has to be filed within 30 daysfrom the date of communication of the order. That is, what an applicant is required to ensure before the appeal is heard on merits. However, the Tribunal has been vested with the jurisdiction to entertain the appeal which is filed after 30 days from the date of communication of an order. This power to condone the delay has a clear inbuilt limitation as it ceases to exist if the appeal is filed in excess of 60 days, beyond the prescribed period of limitation of 30 days from the date ofcommunication of such order. To put it simply, once the period of 90 days lapses from the date of communication of the order, the Tribunal has no jurisdiction to condone the delay. The language of the provision is clear and explicit. It admits of no ambiguity and the legislative

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intent that Tribunal should not and cannot condone the delay in excess of 90 days in all, is clear from the plain language of the provision.

20. As stated in the cases Hiralal Ratan Lal and India Houses (supra) the period of limitation statutorily prescribed, has to be strictly adhered to and cannot be relaxed and or departed from, on equitable consideration. Further, in construing a statutory provision, the first and the foremost rule of construction is that of literary construction. We do not see any reason to expand the scope of the provision and interpret the proviso to Section 16 in the manner that Tribunal can be vested with the power of condoning the delay beyond 90 days. Such interpretation would be contrary to the specific language of the Section and would defeat the very legislative intent and object behind this provision.

21. This controversy need not detain us any further as it is no more res integra and stands answered by the judgment of the Supreme Court in the case of Chhattisgarh State Electricity Board Vs. Central Electricity Regulatory Commission and others (2010) 5 SCC 23 where the court held as under:

"29. Section 34(3) of the Arbitration and Conciliation Act, 1996, which is substantially similar to Section 125 of the Electricity Act came to be interpreted in Union of India v. Popular Construction Company : (2001) 8 SCC 470. The precise question considered in that case was whether the provisions of Section 5 of the Limitation Act are applicable to an application challenging an award under Section 34 of the Arbitration and Conciliation Act, 1996. The two-Judge Bench referred to earlier decisions in Mangu Ram v. Municipal Corporation of Delhi: (1976) 1 SCC 392, Vidyacharan Shukla v. Khubchand Baghel AIR 1964 SC 1099, Hukumdev Narain Yadav v. L.N. Mishra (supra), Patel Naranbhai Marghabhai v. Dhulabhai Galbabhai : (1992) 4 SCC 264 and held:

12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are "but not thereafter" used in the proviso to Sub- section (3). In our opinion, this phrase

would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase "but not thereafter" wholly otiose. No principle of interpretation would justify such a result.

16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award "in accordance with" Sub-section (2) and Sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, Sub-section (3) would not be an application "in accordance with" that Sub-section. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that "where the time for making an application to set aside the arbitral award under Section 34 has expired ... the award shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court".

This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to "proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow" (Section 17). Now the consequence of the time expiring under Section 34 of the 1996 Act is that the award becomes immediately enforceable without any further act of the court. If there were

any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act.

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30. In Singh Enterprises v. C.C.E., Jamshedpur and Ors. (supra), the Court interpreted Section 35 of Central Excise Act, 1944, which is pari materia to Section 125 of the Electricity Act and observed:

8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Limitation Act, 1963 (in short "the Limitation Act") can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days' time can be granted by the appellate authority to entertain the appeal. The proviso to Sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days' period.

22. The same view was reiterated in Commissioner of Customs, Central Excise v. Punjab Fibres Ltd. : (2008) 3 SCC 73.

"31. In Commissioner of Customs and Central Excise v. Hongo India Private Limited and Anr. (2009) 5 SCC 791, a

three-Judge Bench considered the scheme of the Central Excise Act, 1944 and held that High Court has no power to condone delay beyond the period specified in Section 35H thereof. The argument that Section 5 of the Limitation Act can be invoked for condonation of delay was rejected by the Court and observed:

"30. In the earlier part of our order, we have adverted to Chapter VI-A of the Act which provides for appeals and revisions to various authorities. Though Parliament has specifically provided an additional period of 30 days in the case

of appeal to the Commissioner, it is silent about the number of days if there is sufficient cause in the case of an appeal to the Appellate Tribunal. Also an additional period of 90 days in the case of revision by the Central Government has been provided. However, in the case of an appeal to the High Court under Section 35G and reference application to the High Court under Section 35H, Parliament has provided only 180 days andno further period for filing an appeal and making reference to the High Court is mentioned in the Act.

32. As pointed out earlier, the language used in Sections 35, 35B, 35EE, 35G and 35H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days.

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35. It was contended before us that the words "expressly excluded" would mean that there must be an express

reference made in the special or local law to the specific provisions ofthe Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law whichhere in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions ofthe Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisionsof Sections 4 to 24 of the Limitation Act by an express reference,it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of
the Central Excise Act relating to filing of reference application to the High Court.

32. In view of the above discussion, we hold that Section 5 of the Limitation Act cannot be invoked by this Court for entertaining an appeal filed against the decision or order of the Tribunal beyond the period of 120 days specified in Section 125 of the Electricity Act and its proviso. Any interpretation of Section 125 of the Electricity Act which may attract applicability of Section 5 of the Limitation Act read with Section 29(2) thereof will defeat the object of the legislation, namely, to provide special limitation for filing an appeal against the decision or order of the Tribunal and proviso to Section 125 will become nugatory."

23. Section 34 of the Arbitration and Conciliation Act, 1996 uses the expression 'not thereafter' while the provision under our consideration uses the terms 'not exceeding'. Both these expressions use negative language. The intention is to divest the Courts/Tribunals from power to condone the delay beyond the prescribed period of

limitation. Once such negative language is used, the application of provisions of Section 5 of the Limitation Act or such analogous provisions would not be applicable.

24. The use of negative words has an inbuilt element of 'mandatory'. The intent of legislation would be to necessarily implement those provisions as stated.

25. Introduction or alteration of words which would convert the mandatory into directory may not be permissible. Affirmative words stand at a weaker footing than negative words for reading the provisions as 'mandatory'. It is possible that in some provision, the use of affirmative words may also be so limiting as to imply a negative. Once negative expression is evident upon specific or necessary implication, such provisions must be construed as mandatory. The legislative command must take precedence over equitable principle. The language of Section 16 of the NGT Act does not admit of any ambiguity, rather it is explicitly clear that the framers of law did not desire to vest the Tribunal with powers, specific or discretionary, of condoning the delay in excess of total period of 90 days. At this stage, we may also refer to Principle of Statutory Interpretation by Justice G.P. Singh, 13th Edition, where it is stated as under:

"(c) Use of negative words another mode of showing a clear intention that the provision enacted is mandatory, is by clothing the command in a negative form. As stated by CRAWFORD: "Prohibitive or negative words can rarely, if ever, be directory. And this is so even though the statute provides no penalty for disobedience." As observed by SUBBARAO, J.: "Negative wordsare clearly prohibitory and are ordinarily used as a legislative device to make a statute imperative". Section 80 and Section 87-B of the Code of Civil Procedure, 1908; section 77 of the Railways Act, 1890; Section 15 of the Bombay Rent Act, 1947; section 213 of the Succession Act, 1925; section 5-A of the Prevention of Corruption Act, 1947; section 7 of the Stamp Act, 1899; section 108 of the Companies Act, 1965; section 20(1) of the Prevention of Food Adulteration Act, 1954; section 55 of the Wild Life Protection Act, 1972 (as

amended in 1956); section 10A of Medical Council Act, 1965 (as amended in 1993) and similar other provisions have therefore, been construed as mandatory. A provision requiring 'not less than three months' notice' is also for the same reason mandatory.

But the principle is not without exception. Section 256 of the Government of India, 1953, was construed by the Federal Court as directory though worded in the negative form. Directions related to solemnization of marriages though using negative words have been construed as directory in cases where the enactments in question did not provide for the consequence that the marriage in breach of those directions shall be invalid. Considerations of general inconvenience, which would have resulted in holding these enactments mandatory, appear to have outweighed the effect of the negative words in reaching the conclusion that they were in their true meaning merely director. An interesting example, where negative words have been held to be directory, is furnished in the construction of section 25-F of the Industrial Dispute Act, 1947, where compliance of clause (c) has been held to be directory; although compliance of clauses (a) and (b) which are connected by the same negative words is understood as mandatory. These casesillustrate that the rule, that negative words are usually mandatory, is like any other rule subordinate to the context, and the object intended to be achieved by the particular requirement."

26. The provision of Section 16 of the NGT Act are somewhat similar to Section 34 of Arbitration and Conciliation Act, 1996. Thus, adopting an analogous reasoning, as was adopted in Chhattisgarh State Electricity Board (supra), we would have no hesitation in coming to the conclusion that we have no jurisdiction to condone the delay when the same is in excess of 90 days from the date of communication of the order to any person aggrieved.

27. Thus, the application must fail on this ground alone. We are of the considered view that the Tribunal has no jurisdiction to condone the delay of 19 days in filing the present appeal, the same being in excess of 90 days computed from the admitted date of communication of

order, that is 2nd June, 2012."

28. The NGT Act is a special enactment and hence, there is statutory prescription of the special period of limitation under Section 14(3) and 15(3) of the Act which will certainly exclude the general law of limitation. The assumption that the project proponent has illegally commenced the construction on 04.11.2012 was factually incorrect and misleading. The plain and simple language of Section 14(3) i.e. unless it is made within the period of six months from the date on which the cause of action/dispute first arose negates the principles of continuing cause of action. If the plea of continuing cause of action is accepted within the limitation, the statute would be eschewed of the important and vital words namely "first arose". On the facts of the present case, Section 22 of the Limitation Act will have no effect. Though, the same being a part of the general law of limitation since it would stand excluded by the special provision of limitation. In the special law, under Section 14(3) and 15(3) of the Act. The NGT Act is a special law enacted for the effective and expeditious disposal of cases related of Environment (Protection) Act and conservation of forest and other natural resource. Hence, the law provides the period of limitation which would be have overriding effect over the Limitation Act which is general law. If the plea of the applicants of principles of continuing cause of action for the purpose of brining a dispute under Section 14(1) within the limitation or reliefs under Section 15 (1) within the limitations of 15(3) is to be accepted, then it would lead to the serious, anomalous and undesirable consequences. Apart from that it would be contrary to the"

23. Speaking on the jurisdiction powers and proceedings of the Tribunal, Section 14 of the NGT Act, 2010 reads as follows:

"14. Tribunal to settle disputes. — (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified on Schedule- I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the application was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

27. It would be apt and appropriate to reproduce the following observation made by the Principal Bench, NGT presided over by the Hon'ble Justice Shri Swatanter Kumar, Chairperson, NGT, New Delhi in Appeal No. 01 of 2013 Ms. Medha Patkar v. Ministry of Environment & Forest, Union of India on the point of limitation:

"The Tribunal must adopt a pragmatic and practical approach that would also be in consonance with the provisions of the Act providing limitation. Firstly, the limitation would never begin to run and no act would determine when such limitation would stop running as any one of the stakeholders may not satisfy or comply with all its obligations prescribed under the Act. To conclude that it is only when all the stakeholders had completed in entirety their respective obligations under the respective provisions, read with the notification of 2006, then alone the period of limitation shall begin to run, would be an interpretation which will frustrate the very object of the Act and would also cause serious prejudice to all concerned. Firstly, the completely frustrates the purpose of prescription of limitation. Secondly, a project proponent who has obtained environmental clearance and thereafter spent crores of rupees on establishment and operation of the project, would be exposed to uncertainty, dander of unnecessary litigation and even the possibility of jeopardizing the interest of his project after years have lapsed. This cannot be the intent of law. The framers of law have enacted the provisions of limitation with a clear intention of specifying the period

within which an aggrieved person can invoke the jurisdiction of this Tribunal. It is a settled rule of law that once the law provides for limitation, then it must operate meaningfully and with its rigour. Equally true is that once the period of limitation starts running, then it does not stop. An applicant may be entitled to condonation or exclusion of period of limitation. Discharge of one set of obligations in its entirety by any stakeholder would trigger the period of limitation which then would not stop running and equally cannot be frustrated by mere non-compliance of its obligation to communicate or place the order in public domain by another stakeholder. The purpose of providing a limitation is not only to fix the time within which a party must approach the Tribunal but is also intended to bring finality to the orders passed on one hand and preventing endless litigation on the other. Thus both these purposes can be achieved by a proper interpretation of these provisions. A communication will be complete once the order granting environmental clearance is place in public domain by all the modes referred to by all or any of the stakeholders. The legislature in its wisdom has, under the provisions of the Act or in the notification of 2006, not provided any other indicator or language that could be the precept for the Tribunal to take any other view.""

35. He has further relied on *2016 SCC Online Bom 5613, Windsor Realty Pvt. Ltd. v. Ministry of Environment and Forest*, where it was held as follows:

"26. There are two conflicting interests viz right of citizens to ensure that there is due compliance of the provisions of Environment (Protection) Act, 1986 and, at the same time Developers and Builders who have already completed the Project are not harassed by the applications being filed after considerable lapse of time. These two conflicting interests will have to be reconciled by laying down proper law in accordance with the provisions of the Act.

a. Section 14(3) of the National Green Tribunal Act, 2010 reads as under:

"14(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the dae on which the

cause of action for such dispute first arose."

b. A bare perusal of the said section clearly discloses that period of limitation is six months from the date on which the cause of action first arose. Prima faice, therefore it cannot be interpreted by any stretch of imagination that it would arose from the date of knowledge of the original applicant of the alleged violation taking place or from the date on which the Environmental Authorities were informed about violation and inaction on their part. There appears to be a lot of confusion in the mind of NGT Bench, Pune on various aspects of continuous cause of action. Perusal of the said Section indicates that the concept of continuous cause of action cannot apply to the complaints which are filed before the NGT because had it been so, the legislature would not have stated that the limitation would be six months from the date on which the cause of action for such dispute first arose. If the interpretation which is sought to be given to the provision by the NGT Bench, Pune in the impugned order is accepted, the complaint could be filed by the aggrieved person at any point of time, claiming that he came to know about the violation after 10 or 20 years. At the same time, if there is any violation of the provisions of the Environment (Protection) Act, 1986, the same have to be addressed and looked into. The only question is by which Authority."

36. He has further relied on *2013 SCC Online NGT 72, Raza Ahmad V.State of Chhattisgarh:*

"26. It would be apt and appropriate to reproduce the following observation made by the Principal Bench, NGT, New Delhi in Appeal No. 01 of 2013 Ms. Medha Patkar v. Ministry of Environment & Forest, Union of India on the point of limitation:

"The Tribunal must adopt a pragmatic and practical approach that would also be in consonance with the provisions of the Act providing limitation. Firstly, the limitation would never begin to run and no act would determine when such limitation would stop running as any one of the stakeholders may not satisfy or comply with all its obligations prescribed under the

Act. To conclude that it is only when all the stakeholders had completed in entirety their respective obligations under the respective provisions, read with the notification of 2006, then alone the period of limitation shall begin to run, would be an interpretation which will frustrate the very object of the Act and would also cause serious prejudice to all concerned. Firstly, the completely frustrates the purpose of prescription of limitation. Secondly, a project proponent who has obtained environmental clearance and thereafter spent crores of rupees on establishment and operation of the project, would be exposed to uncertainty, dander of unnecessary litigation and even the possibility of jeopardizing the interest of his project after years have lapsed. This cannot be the intent of law. The framers of law have enacted the provisions of limitation with a clear intention of specifying the period within which an aggrieved person can invoke the jurisdiction of this Tribunal. It is a settled rule of law that once the law provides for limitation, then it must operate meaningfully and with its rigour. Equally true is that once the period of limitation starts running, then it does not stop. An applicant may be entitled to condonation or exclusion of period of limitation. Discharge of one set of obligations in its entirety by any stakeholder would trigger the period of limitation which then would not stop running and equally cannot be frustrated by mere non- compliance of its obligation to communicate or place the order in public domain by another stakeholder. The purpose of providing a limitation is not only to fix the time within which a party must approach the Tribunal but is also intended to bring finality to the orders passed on one hand and preventing endless litigation on the other. Thus both these purposes can be achieved by a proper interpretation of these provisions. A communication will be complete once the order granting environmental clearance is place in public domain by all the modes referred to by all or any of the stakeholders. The legislature in its wisdom has,

under the provisions of the Act or in the notification of 2006, not provided any other indicator or language that could be the precept for the Tribunal to take any other view."

a. It is not that the Tribunal is unmindful of the fact that the subject matter in question related to environment which is of serious concern and the Tribunal is specially constituted to deal with all environment disputes and dismissing the appeal as not maintainable would appear to be unreasonable. But the Tribunal is helpless, being a statutory body, the Tribunal is bound by the language of the statute. Hence, in view of the discussions made above, the Tribunal has no option than to dismiss the appeal not maintainable as barred by time and one outside the jurisdiction of the Tribunal. Hence, the appeal is dismissed accordingly. No order as to cost."

37. In *2015 SSC Online NGT 145 V. Sundar Proprietor Chemicals IndiaVs. Union of India:*

"31.....The question 'what is communication' came up for consideration before the Principal Bench of NGT in Save Mon Region Federation and Lobsang Choedar v. Union of India, Manu/GT/0029/2013 and it was held as follows:

"18. The limitation as prescribed under Section 16 of the NGT Act shall commence from the date of order is communicated. As already noticed, communication of the order has to be by putting it in the public domain for the benefit of the public at large. The day the MOEF shall put the complete order of Environmental Clearance on its websidte and when the same can be downloaded without any hindrance or impediments and also put the order on its public notice board, the limitation be reckoned from that date. The limitation may also trigger from the date when the Project Proponent uploads the Environmental Clearance order with its environmental conditions and safeguards upon its website as well as publishes the same in the newspapers as prescribed under Regulation 10 of the Environmental Clearance Regulations, 2006. It is

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made clear that such obligation of uploading the order on the website by the Project Proponent shall be complete only when it can simultaneously be downloaded without delay and impediments. The limitation could also commence when the Environmental Clearance order is displayed by the local bodies, Panchayats and Municipal Bodies along with the concerned departments of the State Government displaying the same in the manner afore-indicated. Out of the three points from which the limitation could commence and be computed, the earliest in point of time shall be the relevant date and it will have to be determined with reference to the facts of each case. The applicant must be able to download or know from the public notice the factum of the order as well as its content in regard to environmental conditions and safeguards imposed in the order of the Environmental Clearance. Mere knowledge or deemed knowledge of order cannot form the basis for reckoning the period of limitation.

* * *

39. Once we examine the provision of Section 16 of the NGT Act in the light of the above principle, it is clear that the provision is neither ambiguous nor indefinite. The expressions used by the legislature are clear and convey the legislative intent. The communication of an order granting the Environmental Clearance has to be made by the MoEF as wellas the Project Proponent in adherence to law. The communication would be complete when it is undisputedly put in the public domain by the recognised modes, in accordance with the said provision. The limitation of 30 days would commence from that date. If the appeal is presented beyond the period of 30 days, in that event, it becomes obligatory upon the applicant to show sufficient cause explaining the delay. The delay must be bona fide and not a result of negligence or intentional inaction or mala fide and must not result in the abuse of process of law. Once these ingredients are satisfied the Tribunal shall adopt a balanced approach in light of the facts and circumstances of a given case".

36. Trite law it is that the special law of limitation in any given enactment will always exclude the general law of

limitation. The NGT Act, 2010, a special enactment specifically provides a period of limitation under section 14(2) and 15(3). The Principal Bench, NGT has already held in Jesurathinam v. MoEF, Union of India reported in 2012 (2) FLT 811 NGT that when a specific provision for limitation is provided under the special statute, the general provisions of the Limitation Act, 1963 are inapplicable. Hence, the Tribunal is afraid whether the theory of continuing cause of action can be made applicable to the present factual position of the case for which the specific period of limitation is available under the NGT Act, 2010.

38. The rule 14 of the NGT, Rules 2011 reads as follows:

> *"14. Plural remedies.-An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another"..*

38. On the above version, the contention of the learned counsel for the Respondent is that this Original Application is not maintainable for the relief of cancellation of Environmental Clearance.

39. The submission of the Respondent No.9 Oil and Natural Gas Corporation of India Ltd are as follows:

(i) That ONGC is the largest crude oil and natural gas Company in India, contributing around 71 per cent to Indian domestic production. As a responsible PSE, ONGC always ensures compliance of applicable laws, rules and regulations in respect of all its activities as well as encourages compliance of applicable laws, rules and regulations by its operators as well.

(ii) ONGC and Cairn Oil and Gas of Vedanta Ltd. are the Joint Venture Partners of the onshore block RJ-ON-90/1 (the "Block") located in Barmer and Jalore district, in the state of Rajasthan, India. Cairn Oil and Gas is the Operator of the Block. As per the Production Sharing Contract (PSC) between Government of India, ONGC, Cairn Oil and Gas (Operator), the Operator is responsible for carrying out the Petroleum Operations of the Block in compliance with the applicable laws, rules and regulations.

(iii) A brief description of the operations at the Block is explained as under:

(a) The block RJ-ON-90/1 consists, among others, of Mangala, Bhagyam and Aishwariya (MBA) fields which are the three largest finds in Rajasthan. The Mangala field, considered to be the largest onshore hydrocarbon find in India in last two decades, was discovered in January 2004. Production from MBA fields contributes to approximately 25% of India's total domestic Crude Oil production and plays a pivotal role in fulfilling Country"s requirement of crude oil and natural gas. The Mangala Processing Terminal (MPT) is spread over 1.6 km2 and is a core asset processing crude oil produced from Rajasthan. After processing, the crude oil is transported to refineries through a continuously heated and insulated pipeline. As the Block is important to the country's energy security and the present Application does not place on record an iota of information regarding alleged pollution or any other infraction of prevailing environmental and pollution laws.

(iv) That ONGC has not received any complaint against the Operator alleging such large scale tree cutting. If at all such illegal tree cutting had taken place the same would have been investigated by the Forest Officials and MoEF and action would have been taken. Moreover, the allegation in Para 11 is factually wrong as Well-Pad Nos. 5,8 and 11 are not constructed on the banks of the Luni River.

(v) Claims of seepage from well-pads are clearly false as the reservoirs are situated at great depths and the extraction activity is regularly monitored by Rajasthan State Pollution Control Board (RSPCB), CPCB and the DGH. In fact, as per the EC regular updates need to be provided to the concerned authorities regarding extraction which are verified by authorities. There are no particulars provided to show that farmers are being forced to buy water from outside due to the activities at the Block and the same are denied at the outset. Further, any such pollution would have been duly complained at such time to the RSPCB or District Collector who would be able to verify the authenticity of the same. Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 require a permission to be taken and regular reports to be submitted to authorities who will be able to verify if there was any violation of the provisions or conditions in the permission granted. The Block is

being operated with all necessary permissions in place and with regular reports being provided in the absence of which the authorisations and consents would have been revoked. However, ONGC, being the JV Partner has not received any such complaints or grievances against the Operator for violation of the provisions of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008. If at all any such violation had taken place, ONGC would have been made aware as the Blocks operations would have been affected.

(vi) The emitting of fire is a process of flaring which is vital to the process to eliminate toxic gases. Moreover, as per the CPCB/SPCB requirements, the chimneys are to be maintained at a height of 30m which is monitored and verified by the RSPCB as well as the CPCB. In addition, there are regular studies conducted apart from inspections by RSPCB as per the Consent to Operate conditions to verify if the pollution control measures are as per stipulations. ONGC has not received any complaints from private individuals or authorities regarding such allegations. Moreover, it is specifically denied that residents and villagers are facing any health hazards attributable to the operations at the Block or due to alleged pollution. It is specifically denied that there is skin disease or eye irritation among the villagers or that the operations at the Block have led to such diseases and that necessary inspections, verifications and investigations would have been carried out by the RSPCB, CPCB, DGH and other authorities to verify such allegations.

40. The Applicant has filed the objection against the reply to the effect that preliminary objections are baseless and the Applicant has raised substantial question for environment. The environment clearance should have been published in newspapers where industry operates and the newspapers has mentioned in the reply does not contain the environmental conditions and the safeguards which is mandatory to be made in public. The Applicant has relied on ***In Save Mon Region Federation & Anr Vs Union of India & Ors on 14 March, 2013, National Green Tribunal, Principal Bench, New Delhi (Appeal No. 39 of 2012), in M/s Goel Ganga Developers v. Union of India (Civil Appeal No. 10854 of 2016), in Doaba Paryavaran Samiti vs. Union of India MANU/SC/0922/2015, Forward Foundation's case (O.A. No.***

222/2014: The Forward Foundation A Charitable Trust & Ors. vs. State of Karnataka and Ors. dated 07th May, 2015)

41. Respondent No. 10 and 11 submitted as follows:

(i) *That the Regional officer, Rajasthan State Pollution Control Board (RSPCB)had even inspected the site based on a complaint dated 30.05.2018, received by it from Kisan Sangarsh Samiti and after an enquiry, RSPCB submitted a final report dated 10.07.2018 that there was no large scale or illegal cutting of trees by the Respondent herein as has been incorrectly claimed by the Applicant. However, the said officer had reported cutting of delisted trees by locals of the area for fuel and other purposes around the project areas. The department found no evidence of large scale tree cutting as had been claimed by the complainants and even noted that substantial afforestation activities had been conducted by the Company. However, the Applicant seeks to discredit the steps taken by the authorities by referring to certain unverified claims of purported violation by the Respondent Company. It may also be necessary to point out that the Rajasthan Pollution Control Board categorically noted in its letter that the complainants had merely submitted a signed letter without names or addresses or contact details of the purported signatories and the letter contained unsubstantiated allegations. It is further submitted that a greenbelt is developed within the block area and the Respondents have as part of their community initiatives developed greenbelts in & around its operation areas and have planted around 70,000 saplings within the terminals and well pads and further 45,000 saplings have been planted at different receptor locations. Apart from the above, the respondents have also planted 36,000 trees towards Compensatory Afforestation in the Barmer District alone. In addition to this, Respondent company also facilitate farmer part of agriculture livelihood to develop the "Wadis" with desert or local climate specific fruit bearing plants in the project area. Importantly, under CSR Barmer Unnati program, which is aimed to increasing the income of farming community through productivity enhancement of agriculture and livestock, ~1214 horticulture units "wadi" has been developed with total ~100,000 saplings of fruit bearing trees planted across Barmer and Jalore district. It is also pertinent to note that the development of Green Belt, afforestation and other planting activities are regulated by the concerned statutory body.*

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(ii) *Respondent who has deployed vast resources to provide safe, potable drinking water to thousands of residents of this area, as evidenced in the Respondent's preliminary reply:*

(a) *124 RO plants have been established across Barmer district, Rajasthan in partnership with the Public Health Engineering Department (PHED), Government of Rajasthan, Waterlife and Fontus.*

(b) *A number of innovative 'water kiosks', running on solar power, have also been established to ensure that the community can access safe drinking water at their convenience. The project aims to serve ~1.1 million villagers and address issues related to high Total Dissolved Solute (TDS), fluoride and nitrate content in water that may result in health conditions such as fluorosis and blue baby syndrome.*

(c) *In addition, Cairn has also initiated a project for Operation & Maintenance of 32 old RO plants on community ownership model.*

(d) *22 RO plants which were either not maintained properly or defunct due to lack of community ownership were functionalized and maintained regularly thus benefitting thousands of rural families. In addition, 2 old RO plants out of 8 plants, identified as non-functional and lacking community ownership, are shifted to new locations having high demands from the community and commissioned successfully.*

(e) *Besides installing RO plants, ten bore wells were constructed in water constraint areas under the project "Access to Water for All" in collaboration with PHED. These bore wells cover ten gram-panchayats serving to over 2000 families every day.*

(f) *Company has Provided 12 nos. stand-alone domestic water filtration system with 500 litres overhead water storage tank to the farmer families in Mangala oil field.*

(iii) *The Respondent is regularly monitored by the Central Ground Water Authority under the Ministry of Water Resources. The Respondent is operating under valid and subsisting permissions/NOC's issued by the Central Ground Water Board (CGWB) and in lieu of which the CGWB is given compliance reports by the Respondent Company. As part of the Ground Water Monitoring done by the Respondent, data is collected from hundreds of wells as well as Aquifer Monitors which are taken care of by the Respondent herein. These periodic reports which are*

issued to the CGWB and these reports are consistently verified by the concerned Govt. Departments as well. Notably, as both the CGWB and CGWA are regularly apprised of the Ground Water condition at the site and the reports duly monitored, and none of these agencies have even after conducting due inspections found any infraction of the conditions on which permissions have been granted. The Applicant's claims of pollution are far-fetched and lack any basis whatsoever.

(iv) The issue of ground water pollution was thoroughly investigated through a subject matter expert as well as by the Regional office of the RSPCB. It was found that there was no contamination from the Respondent's operations. It was found that the problem of colour and smell in some ground water wells reported by some persons residing in the villages is due to inherent property of aquifer and there was no contamination found from the Respondent's operations. Notably, both the report of the RSPCB as well as the answering Respondent have found that there is no effect of the company's activities on the water quality in the area. Due to robust operational procedures and vigilant monitoring, till date there is no contamination of groundwater on account of oil field operations in the area. The company disposes the oil waste periodically to the cement industries in Rajasthan towards co-processing and there is no oil waste discharged outside the plant.

(v) The Captive Solid Waste Management Facility has been developed by the Respondents with all required approvals/permissions within the Mangala Processing Terminal to serve as an integrated waste disposal facility for the entire RJ-ON-90/1 Block. That Approval for the above TSDF (Treatment, Storage & Disposal Facility) facility has been received from Ministry of Environment & Forest (MoEF) and specific approval for landfill design has been obtained from the Rajasthan State Pollution Control Board (RSPCB). The Respondents also regularly carry out periodic inspections through reputed third-party agencies to ensure that there is no harm has been caused to the environment. The Respondents submit periodic reports to the RSPCB and the MoEF qua inspections carried out and Respondent company's management of the waste. It is further submitted that the Respondent's operations are being carried out onlyafter due permissions/approvals have been obtained, subject to certain conditions and the compliance of these conditions by the Respondent company is regularly monitored by the RSPCB. There has not been any incident of oil leakage from the respondents'

pipelines or in the Well-Pads and other operations. There are automated systems in place to address any spillage issues as per the conditions of the Environmental Clearance and the same is regularly monitored by the MoEF.

42. The issues raised in the application with regard to the cutting of trees, disposal of oil waste, air quality and other issues has been explained by the Respondent as follows:

(a) Cutting of trees:

- *This allegation raised by the Kisan Sangharsh Samiti has been addressed in the earlier paragraphs wherein it has been categorically stated that the answering Respondent has not cut any listed trees and the landowners had provided the land for the development of Well-Pad 11 free from all encumbrances.*

(b) Disposal of Oil Waste:

- *Waste water generated from well maintenance activities is always discharged into secured solar evaporation pits within the company's areas of operations.*
- *Each of these evaporation pits is lined by High Density Poly Ethylene (HDPE) sheet, concrete, and provided with earthen/brick bund walls to prevent surface run-off into the pit or overflow from pits. A 10% freeboard is maintained at all times.*
- *Periodic inspection is carried out by the company's environmental team. The water collected in the pits generally has a layer of floating synthetic oil (used in drilling) which makes it unsuitable for mosquito breeding.*
- *Due to robust and compliant operational procedures and vigilant monitoring, till date there is no evidence of any contamination of groundwater on account of oil field operations in the area. The company disposes the oil waste periodically to the cement industries in Rajasthan towards co-processing and there is no oil waste discharged outside the plant.*

(c) Air Quality

ANNEXURE R-9/6 series

- *Ambient air quality in and around the company's area of operations are monitored periodically through NABL accredited third-party agency. The concentration of parameters such as PM10, PM2.5, SO2, NOx, CO & O3 are found to be well below the permissible limits.*
- *The ambient air quality monitoring reports are submitted to the RPSCB and the MoEF&CC periodically.*

(d) Use of ground water

- *The Respondent makes it clear that it is not using surface water for any industrial purposes. Also, the Respondent company does not buy or obtain surface water from the farmers for industrial purposes.*
- *It is pertinent to mention in this context that the permissible salinity limit of drinking water (fresh groundwater) is 2,000 mg/L as per the norms of Bureau of Indian Standards (IS 10500:2012).*
- *Whereas, Company extracts highly saline groundwater having salinity 6000mg/Lto 15,000 mg/L for its southern oil field operations including Raageshwari Gas Terminal at approx. 225m below, at which depth, drinking water does not exist. The saline groundwater is being desalinated through dedicated captive reverse osmosis (RO) plant to make it fit for the operational use. Therefore, all company operations are carried out only using water which is unfit for human use or consumption.*
- *Owing to reasons stated above, no other stakeholders are utilizing this deep saline aquifer.*

(e) Odour Smell in Water:

- *The answering Respondent's investigations have indicated that the black color of the ground water is only in the initial few minutes of flow and is due to the presence of suspended pyrite which is inherent to the geological formation in the regional aquifer.*
- *There is also presence of H2S gas inherently in the aquifer which leads to the foul smell and also contributes to the blackish color initially observed in the water. However, this*

problem goes away once the water is aerated / exposed to the environment.

- The company has carried out extensive water quality tests of water samples from private bore wells, located nearby the company's operation well pads, by an independent 3rd party NABL accredited Lab " Vimta Lab" during July, August and Sept 2018.
- Analysis reports have been correlated with historical data of Ground Water Dept. (GWD) PHED, Government of Rajasthan. RSPCB, Govt. of Rajasthan has taken up this issue and collected samples from two different bore wells (including complainants) in July 2018. (This report has been prepared and admitted by the Applicant herein and has been annexed to the present Reply as Annexure R-7)
- All these tests depict clearly that there is no contamination from hydrocarbon operations. The physical condition of the water in few private water wells are because of the inherent nature of the aquifer and not because of any contamination from the Respondent Company's operations.
- Furthermore, It has also been found that this problem emanating from the aforesaid inherent nature of the aquifer, is limited to few private water wells in the area and examination of hundreds of other private water wells (including PHED water supply wells) in the area which have not shown any water quality issues like smell and color black.

(f) Green Belt Development:

- The Greenbelt development activities of the answering respondent have been discussed in the present reply and the details have been annexed in the reply as Annexure R-3.
- To address the concerns of the community, Company has carried ambient dust sampling in areas surrounding CPF, and analyzed the same for chemical composition, i.e. polymer traces or contamination. None of these were found in the collected ambient air dust samples.
- Further RSPCB officials from Balotra City, Distt. Barmer visited CPF and nearby fields on 03.07.2018 in view of the

letters/complaints that were received and have not recorded any abnormality. In addition, soil testing was also carried out and no abnormality whatsoever was found by the officials during this visit, the details of which have been cited above.

(g) Waste Disposal:

- *The company is committed towards environment protection and ensures that no waste, whether hazardous or non-hazardous, is leave the operation premises or dumped in nearby field.*
- *For waste management, the company has a dedicated waste management team which manages and disposes the waste as per Environment norms. Hazardous waste is stored in secured landfill which is designed as per CPCB guidelines and approved from RSPCB.*
- *Further, the company is sending the company's hazardous waste to Cement Industries where it is utilized as an alternate to raw fuel. So far approx. 5700 MT of waste has been sent to Cement Industries. Nonhazardous recyclable waste is also segregated, stored separately, and disposed as per the norms that have been provided in the CPCB guidelines.*
- *Approx. 80000 MT of Hazardous waste disposals routed through end-of-life disposal approach called "co-processing" and also recover of alternative raw material for the cement industry.*

(h) Ground Vibrations:

- *The company has been constantly monitoring the land subsidence and conducting periodic surveys over the entire area including the water well monitoring since 2010. No land subsidence has been observed over the company's fields under production including areas of water abstraction.*
- *These monitoring and survey reports are submitted and monitored by CGWB and other concerned Govt. agencies.*
- *As part of this, the company analyzes the metrics of equipment vibration on the company's well pads and these have been found to be within permissible limits. There has*

been no damage to the civil structures in the company's well pads till date and therefore any vibration or ground movement due to well pad equipment operation is not possible.

(i) ***Wildlife Protection and Development:***

Company has taken the following notable measures to protect flora and fauna of the area:

- *Planting of only native species of trees in the greenbelt.*
- *Carrying out social forestry projects in association with local forest authorities and communities to increase green cover of the area.*
- *Drinking water facility for wild animals has been developed within protected forest area at Gaangli village in Sindhri Tehsil, Barmerand handed over to District Forest Department, Barmer from June, 2017.*
- *The facility includes a bore well (200 m depth) fitted with solar power submersible pump and flow meter and a Galjar (pond) of size 30X30X2 feet.*
- *Insulation of 33KV overhead feeder power line from MPT to various remote well pads to provide safe perching for birds, including peacocks, and to prevent electrocution.*
- *Wildlife rescue vehicle has been procured and handed over to Forest Department Barmer. This vehicle can be used to Transport wild animal injured by accident to animal care facility in Barmer for treatment.*
- *Wildlife protection display boards/signage's are provided by the Company to display along the road side.*
- *Conducted biodiversity impact assessment studies to assess potential impacts and develop plan to improve biodiversity in the company's operational area.*
- *Under passes/culverts have been provided wherever possible. In addition to that Company follows Journey Management Plan and speed limits, vehicle movements monitored through Vehicle Tracking System and has system to control night travel as well as speed Breaker with signage provided to control travel and speed of vehicle to avoid*

wildlife accident on road and to ensure safety of travellers as well.

- *Defensive driving training being provided to all drivers to avoid road accident involving animals in the area. A detailed green belt development plan has been developed with assistance from School of Desert Science, Jodhpur. Green belt development has been taken up at site and community land in the RJON field in line with this plan. Approx. 121 ha land (including compensatory plantation by native tree species only) near to Bodhi Naadi, in Chokhla Panchayat, Goliya Jatmal and Sanchore Pashumela Maidan, Batadoo, Khariya Tala,Kudla, Nagar etc. have been developed as shelter belt.*

(j) Cleaning of Waste Pits:

- *In line with the company's commitment for Environment Protection, all the company's waste pits are constructed only for temporary storage of wastewater for natural evaporation from where it is further periodically transferred to centralized treatment facility for treatment and re-use in injection.*
- *All these wastewater pits are secured and constructed with impervious geo-membrane sheet (HDPE liner) followed by layer of brick work and cement mortar with bund walls to prevent any surface / rainwater inflow & out-flow from the waste water pits and as per approvals from the relevant Govt. Authorities.*
- *All these pits are being regularly monitored for levels and other conditions.*
- *Further, Wastewater being transferred to centralized treatment facility where it is treated as per norms and reused for Injection Purpose.*

(k) Recharge wells:

- *Rainwater Harvesting (RWH) / Recharge structures are constructed as part of regulatory compliances of Central Ground Water Authority (CGWA) to fulfil the mandatory requirement to undertake the RHW /recharge measures in order to replenish the groundwater resources and enhance the availability of fresh groundwater to the community.*

- *These RWH structures are designed with standard filter media (sand and gravels) which filters out the physical impurities (silts) which runoff carries along with it. These structures collect only rainfall runoff from the open area. The rainfall*
- *runoff is being filtered through sand filters (sand and gravel).*

(l) Health issues and diseases:

- *To understand this issue, the company has analyzed historic data for the company's own employees working in Barmer and data collected from the various Mobile Health Vans operated by the Respondent company that go around the villages across the company's operational area addressing medical concerns of the local population.*
- *The company's analysis has found no abnormal trends in any diseases including skin diseases.*

(m)CSR initiatives details sought:

(n) *The company covers several CSR initiatives across a range of requirements.*

(o) Crop Compensation:

- *It is submitted that the answering Respondent makes payments titled as crop compensation on taking the farmer's land on lease rent. Notably, this amount as crop compensation is paid in addition to the lease rent over the land and is paid taking into account the future income that could have been earned from the land by the farmer and is part of a contractual agreement whereby the farmers hand over possession of their properties willingly to the answering Respondent. Where on account of flash rain and excessive rainfall, a farmer claims assistance in terms of compensation for their lands, the answering Respondent provides such financial assistance for losses that may have been suffered and these claims are assessed by the answering respondent on a case-to-case basis. It may be pertinent to note in this context that as on the date of the public hearing for the*

present EC, there were no agreed claims that were pending for payment of crop compensation.

(p) Surrender sites not handed over:

- *A detailed response to this has been provided in the succeeding paragraph and as a response to Para 17 of the present Application.*
  It may be noted in this context that all almost all the stated letters had similar issues which were comprehensively dealt during the public hearing.

  In this regard it is pertinent to refer to a letter issued to the RSPCB wherein certain complaints had been raised by the parties who have been referenced in the said Petition. Notably, another complaint referred to in Para 14 was duly considered by the DGH and pursuant to an inspection, a report was provided to the DGH addressing the said issue. Similarly, the Collector of Barmer, Rajasthan as well as the Rajasthan State Pollution Control Board duly conduct inspections whenever such complaints are received. The Respondent has placed on record in the succeeding paragraphs such responses to the queries raised by the Collector based on the letters that have been placed on record. The Respondent herein duly co-operates with the relevant government department which conducts the inspection and submits its reports and takes measures based on any recommendations which are received. In this context, it may be pertinent to refer to the letters to the RSPCB and the DGH dated 25.01.2019 and 04.01.2019 respectively."

43. On the basis of the discussions made above, conclusions are as follows:

1. The Original Application as filed is not maintainable.
2. The Applicant has challenged the Environment clearance which can be challenged by way of filing the appeal, which has not been filed and now it is time barred.

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3. The State Pollution Control Board and the Central Ground Water Authority has periodically inspected the unit and no violation has been found.
4. There are proper provisions for tree plantation, disposal of oil waste, use of ground water, green belt development which has been narrated above.
5. The grievances as mentioned by the public or local have been addressed and remedial measures have been taken by the project proponent.
6. The ONGC and Cairn Oil and Gas are the joint venture partners and nothing has been stated to be in violation of environment condition.
7. The oil block is important to the countries energy security and the oil production places pivotal role and contributes approximately 25 % of the total domestic crude oil requirement.
8. The contents of the complaint as referred relates back to the grant of EC which have been properly addressed and do not survives after the grant of EC. No violation has been alleged with regard to the conditions after grant of EC.
9. The statutory authority, CPCB and SPCB has filed the reply with the facts that during the course of present proceedings the site was inspected and nothing was found to be in violation of environment rules.

44. On the basis of above, the **Original Application No. 54/2019 is devoid of any merit and deserves to be dismissed and accordingly dismissed.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

30th May, 2022
O.A. No. 54/2019(CZ)
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