

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 02 OF 2024 / EZ**

Tapas Kumar Bal

...Applicant

VERSUS

State of Odisha & Others

...Respondents

24 APR 2024

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE
STATE POLLUTION CONTROL BOARD,
ODISHA, RESPONDENT NO.11**

I, Dr. Kailasam Murugesan, IFS, son of late Paramasivam Kailasam aged around 56 years, at present working as Member Secretary, State Pollution Control Board, having my office at Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-VIII, P.O. Nayapalli, Bhubaneswar, Dist – Khurda, Odisha-751012, do hereby solemnly affirm and state as under:

1. That I am the Member Secretary of the Respondent No.11 Board and, as such, am well-acquainted with the facts and circumstances with the case and competent to swear this affidavit.



2. That in compliance to the order dtd.19.01.2024 of this Hon'ble Tribunal, the R.No.11 Board has submitted the interim report in the affidavit dtd.26.02.2024 vide Annexure-R11/2 Colly. In para-5 of the said affidavit, it is undertaken as follows:

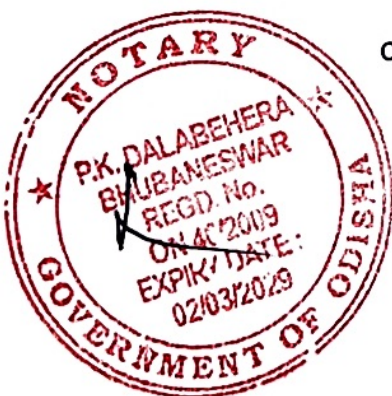
That in the meantime, the Regional Officer, Keonjhar of the R.N.11 Board has forwarded the interim report of the committee, which reveals that the committee has visited the site on dtd.09.02.2024 along with officers of different departments mentioned in the said report. It is also indicated in the report of the committee that clarification has been sought from the Tahasildar, Ghasipura, Deputy Director of Mines, Keonjhar, Superintendent Engineer, Water Resources Department and Inspector in Charge of Ghasipura and soon after receipt of clarification from the said authorities, the final report of the committee will be submitted for kind perusal of the Hon'ble Tribunal. A copy of the interim report of the joint committee along with copy of letter No.259 dtd.12.02.2024, No.272 dtd.12.02.2024, No.274 dtd.12.02.2024, No.276 dtd.12.02.2024 issued by the Regional Officer, Keonjhar of the R.No.11 Board to the aforesaid authorities for



clarification is annexed to this affidavit and marked as ANNEXURE – R11/2 Colly.

In the meantime, the committee constituted by the Hon'ble Tribunal in their order dtd.19.01.2024 has submitted the final report of joint inquiry. Copy of the final report of the committee along with its enclosures is annexed to this affidavit and marked as ANNEXURE- R11/3 Colly.

3. That this affidavit is filed in order to bring on record the final report of committee.
4. That the Respondent No.11 Board craves the leave of this Hon'ble Tribunal to file further affidavit if necessary for effective adjudication of this case.
5. That the annexure annexed to the present affidavit is true and correct copy of its original.
6. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from the official records, and that nothing material has been concealed therefrom.




DEPONENT
 Member Secretary
 State Pollution Control Board
 Odisha, Bhubaneswar

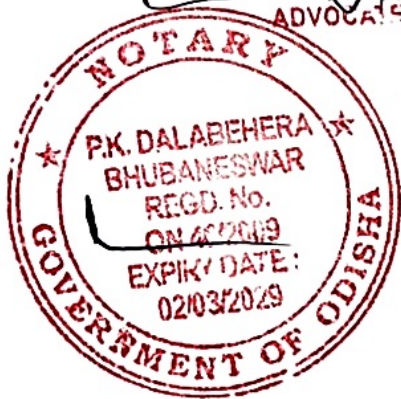
VERIFICATION:

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

Verified at Bhubaneswar on this the 24th day of April, 2024.

IDENTIFIED BY ME

[Signature] 24-4-24
ADVOCATE BHUBANESWAR



[Signature]

DEPONENT

Member Secretary
State Pollution Control Board
Odisha, Bhubaneswar

The above named Deponent being identified by *M.C. Senapati* Adv. BBSR Appears before me and state an oath on *24/4/24* at about..... AM/PM. That the contents of this affidavit are true to the best of his/her knowledge.

[Signature]
P K DALABEHERA
Notary, Bhubaneswar
Regd. No. ON-46/09

**FINAL REPORT ON JOINT ENQUIRY IN THE MATTER OF OA NO.02/2024/EZ-
(TAPAS KUMAR BAL VS. STATE OF ODISHA & OTHERS) AS PER ORDER DTD 19.01.2024 OF
HON'BLE NGT, EZB, KOLKATA**

In pursuance to the Order dtd. 19.01.2024 of the Hon'ble NGT, EZB, Kolkata in O.A. No.02/2024/EZ-Tapas Kumar Bal Vs State of Odisha & Others & subsequent Letter No. 1246/VII-L-Misc-1065, dtd 30.01.2024 of the Member Secretary, State Pollution Control Board, Odisha, the joint committee constituted by the following officials visited Kusei Sand Bed site at Deogaon on dtd. 09.02.2024 & verified the allegation made by the complainants regarding illegal operation of sand mine and violation of the Sustainable Sand Mining Management Guideline, 2016.

1. Sri Jadumani Mahala, ADM, Keonjhar
(Representative of the Collector & District Magistrate, Keonjhar)
2. Er Prasanta Kar, RO, SPCB, Keonjhar.
3. Sri Pradeepta Kumar Nayak, Environmental Scientist, SEIAA, Odisha

An interim report of the joint committee has already been submitted to the Hon'ble NGT (copy enclosed) based on the enquiry.

The Committee sought clarification from the following authorities to draw the conclusion about the extent of damage/excess mining etc done in the River Bed.

1. The Tahasildar, Ghasipura was requested to clarify the date of commencement of mining operation, Month wise data for extraction of sand, status of approach road & details of seizure /imposition of penalties for sand transportation etc. vide Letter no. 259, dtd. 12.02.2024
2. The Dy Director Mines, Keonjhar was requested vide Letter no. 272 dtd. 12.02.2024 to carry out survey for assessment of sand mining done in excess in and around the lease area.
3. The Superintending Engineer, Water Resources Department was requested vide Letter no. 274 dtd. 12.02.2024 to clarify regarding change in flow direction of the river if any due to sand mining.
4. The IIC, Ghasipura was also requested to clarify regarding seizure and imposition of penalties for illegal sand transportation in that area if any vides Letter no. 276 dtd. 12.02.2024.

Based on reply received from above authorities (except the IIC, Ghasipura) following conclusions are drawn.

1. The Kusei sand bed mining operation was commenced on dtd. 26.07.2023 by the Lessee under the Tahasildar, Ghasipura and then the Sand Mine handed over to the Mines Department on dtd. 20.11.2023 as per Letter of Revenue & Disaster Management Department, Govt. of Odisha.

There was no case of seizure or penalty imposed on said Sand Mines by the Tahasildar, Ghasipura for any excess or illegal mining (copy enclosed).

2. Joint verification was conducted by the following officials on 01.03.2024 for assessment of the excess sand mining done in and around the lease area.
 - i. Mining Officer, Anandpur, Keonjhar
 - ii. Superintending Engineer, Baitarani Irrigation Project, Salpada, Keonjhar
 - iii. Tahasildar, Ghasipura, Keonjhar


- iv. Dy Environmental Engineer, Regional Office, SPCB, Keonjhar &
- v. RQP of concerned Lease hold area.

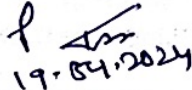
The Dy Director Mines, Keonjhar furnished the joint verification & measurement report submitted by the Mining Officer cum competent Authority of Anadpur Sub-Division to the joint committee vide Letter No. 536, dtd. 05.04.2024 (Copy enclosed).

The joint verification report reveals that

- a. Total sand mining done is 7365.162 Cum out of which 6427.545 Cum carried out within Lease area & 937.617 Cum outside the Lease area (only Keonjhar side).
 - b. Sand Mining of 937.617 Cum carried out outside the Lease area is illegal.
 - c. As per records (till verification) the Lessee has dispatched 2496 Cum of sand (604 Cum through manual TP i.e. Form Y + 1892 Cum through e TP on online Platform of Government).
 - d. So, Total 4869.162 Cum of excess sand mining has been done which includes the mining carried out within & outside the Lease area.
3. The Superintending Engineer, Baitarani Irrigation Division, Salapada, Keonjhar vide letter no. 1907, dtd 11.03.2024 has informed that there is no change in flow direction of the River due to sand mining in and around the lease area (copy enclosed).

The District Administration & the Department of Mines, Keonjhar should develop mechanism to stop any illegal sand Mining & Transportation in the locality on war foot basis.


Sri Pradeepta Kumar Nayak
Env Scientist, SEIAA, Odisha


Er Prasanta Kar
RO, SPCB, Keonjhar


Sri Jadumani Mahala
Addl District Magistrate, Keonjhar

**INTERIM REPORT ON JOINT ENQUIRY IN THE MATTER OF OA NO.02/2024/EZ-
(TAPAS KUMAR BAL VS. STATE OF ODISHA & OTHERS) AS PER ORDER DTD. 19.01.2024 OF
HON'BLE NGT, EZB, KOLKATA**

In pursuance to the Order dtd. 19.01.2024 of the Hon'ble NGT, EZB, Kolkata in O.A. No.02/2024/EZ-Tapas Kumar Bal Vs State of Odisha & Others & subsequent Letter No.1246/VII-L-Misc-1065, Dtd.30.01.2024 of the Member Secretary State Pollution Control Board Odisha a joint committee was constituted with the following officials to enquire about the allegation made by the complainants regarding illegal operation of sand mining and violation of the Sustainable Sand Mining Management Guideline, 2016.

1. Sri Jadumani Mahala, ADM, Keonjhar
(Representative of the Collector & District Magistrate, Keonjhar)
2. Er Prasant Kar, RO, SPCB, Keonjhar.
3. Sri Pradeepta Kumar Nayak, Environmental Scientist, SEIAA, Odisha

With the approval of the Collector & District Magistrate, Keonjhar the committee visited the site on 09.02.2024 & following officers of different Departments accompanied the Committee.

1. Sri Nilakantha Behera, Tahasildar, Ghasipura, Keonjhar
2. Er N Das Bebartta, DEE, RO, SPCB, Keonjhar
3. Smt. Dibyajyoti Dibyadarshini, Addl. Tahasildar, Ghasipura
4. Smt. Anasuya Behera, RI, Keshudurapal

Sri Niranjana Sahoo, Representative of the Sand Bed was also present during the enquiry.

SALIENT FEATURES OF THE SAND BED

Type & Category	Sand Bed, Red Category	
Location	Plot No.1297, Khata No.352 Village-Deogaon, Tehasil- Ghasipura, Dist-Keonjhar	
Lease Hold Area	4.654 Ha (11.50 Ha.)	
Lease Period	Date of Lease Execution	10.07.2023
(2023-24 to 2027-28)	Validity of Lease	09.07.2028
Production Quantity (m ³) as per	2023-2024	7000 Cum
EC validity & CTO	2024-2025 (up to 31.12.2024)	1750 Cum

STATUS OF STATUTORY CLEARANCES

- i. Mining Plan has been approved by the Geologist, o/o the Joint Director of Geology, Keonjhar dtd 23.02.2022 for the period 2022-23 to 2026-27 for Kusei Sand Bed for excavation of 35000 Cum @ 7000 Cum /Annum of sand during the lease period.
- ii. Environmental Clearance has been granted in favour of the Tahasildar, Ghasipura vide SEIAA EC Identification No. EC23B001OR180821 dtd 27.04.2023 valid for two years for maximum extraction of material of 7000 Cum in the 1st year and 1750 Cum in the 2nd year and subsequently the above EC transferred in favour of Lessee vide Letter no. SIA/OR/MIN/300884/2023, dtd. 21.06.2023.
- iii. Consent to Operate has been granted in favour of Sri Gorle Ramesh, Lessee (Through the Tahasildar, Ghasipura, Keonjhar) by RO, SPCB, Keonjhar vide no 1456, dtd. 26.07.2023 for Kusei Sand Bed for production of 7000 Cum for the year 2023-24 and 1750 Cum for the year 2024-25 (up to 31.12.2024).

OBSERVATIONS

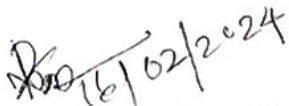
During site visit following observations were made.

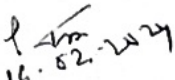
1. There were no sand mining activities during the visit.
2. The mining lease left side boundary (W) was found to be demarcated by concrete pillar postings whereas, pillar of its right side lease boundary (E) was found to be not visible due to submergence. Left bank of River Kusei is in Keonjhar district whereas Right bank is in Jajpur district.
3. The NE lease boundary is in close-proximity of the bridge but there is a stipulation in EC that mining shall not be undertaken in a mining lease located in 200-500 meter of bridge. No mining activities was observed up to about 300 meters from the bridge during the visit.
4. Left part of lease area (about 10 to 20m) found to be covered under wild grass with sand bed underneath and Right part (water side, about 50 to 70m) covered with sand.
5. It is revealed from the mined-out area that mining has been carried out by both mechanically (using excavators) and manually. Sri Sahoo informed that excavators were used to construct the approach road and to remove the grass covers.
6. It was observed that sand mining has also been carried out beyond the lease area i.e. both in Keonjhar & at Jajpur side. The sand Mining also been done in pockets adjoining to lease area (W side of lease boundary, Keonjhar Side) which mostly covered under wild Grass. Sri Sahoo informed that miscreants are carrying out the mining activities adjoining to their lease area in large scale particularly during night hours.
7. No waterway of the river found to be obstructed during visit.
8. The connecting road from the sand quarry to Deogaon main road of about 550 meters length found to be Kuchha type and it also not passes through any village. The approach road found to be not maintained properly by the Lessee causing inconvenience to the local public.

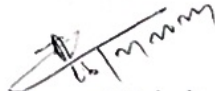
In view of above, Committee decided to seek clarification from the following authorities to draw the conclusion about the extent of damage/excess mining etc done.

1. The Tahasildar, Ghasipura has been requested to clarify the date of commencement of mining operation, Month wise data for extraction of sand, status of approach road & details of seizure /imposition of penalties for sand transportation, vide Letter no. 259, dtd. 12.02.2024 (copy enclosed).
2. The Dy Director Mines, Keonjhar has been requested vide Letter no. 272 dtd. 12.02.2024 (copy enclosed) to carry out survey for assessment of sand mining done in excess in and around the lease area.
3. The Superintending Engineer, Water Resources Department has been requested vide Letter no. 274 dtd. 12.02.2024 (copy enclosed) to clarify regarding change in flow direction of the river if any due to sand mining.
4. The IIC, Ghasipura has been requested to clarify regarding seizure and imposition of penalties for illegal sand transportation in that area if any vide Letter no. 276 dtd. 12.02.2024 (copy enclosed).

Since clarifications has been sought from different Departments regarding various issues the final report will be submitted soon after receiving the reply from their end.


Sri Pradeepta Kumar Nayak
Env Scientist, SEIAA, Odisha


Er Prasanta Kar
RO, SPCB, Keonjhar


Sri Jadumani Mahala
Addl. District Magistrate, Keonjhar

OFFICE OF THE TAHASILDAR, GHASIPURA.

Letter No. 1440 /Touzi/Dt. 21-2-24

To

The Regional Officer, State Pollution Control Board, Keonjhar

Sub: -

Information on M/S Kusei River Sana Bed, Deogaon, Ghasipura, Keonjhar.

Ref:-

Your letter No.259/Dt. 12.2.24.

Sir,

With reference to the letter on the subject cited above, I am to submit on the following points as sought for:-

1. The lease agreement was made on dt.10.7.23.and consent to operate order from the Regional Officer, Pollution control Board, Keonjhar on dt.25.7.23.Then date of commencement mining operation on dt.26.7.23.

2.On verification of Xerox copy of mining plan the year wise production of sand is 7000 cum.

3.As per Revenue and Disaster Management Department letter No.883/R & D.M. Kusei River Sand Bed, Deogaon has already been handed over to the Mines Deptt. vide this office letter No.5057/Touzi dt.20.11.23.for control and management. The lessee has not produced Quarterly report return in this office w.e.f. July, 23.

4.As per report of R.I.Keshadurapal there is no seizer of penalty for excess and illegal mining by the undersigned of the said sand source.

This is for information and necessary action.

Yours faithfully,

Tahasildar, Ghasipura

Memo No

/Touzi/Dt

Copy Submitted to the Sub-Collector, Anandapur / Additional Dist.

Magistrate, Keonjhar for favour of kind information and necessary action.

Tahasildar, Ghasipura.

21-02-2024
 HBT matter / urgent
 RBF



**OFFICE OF THE DEPUTY DIRECTOR OF MINES
KEONJHAR CIRCLE, KEONJHAR.
STEEL & MINES DEPARTMENT, GOVT. OF ODISHA.**

Email ID: mo.keonjhar@orissaminerals.gov.in

No. 536 /Mines,
To

Dt. 05.04.2024.

The Regional Officer
State Pollution Control Board, Odisha,
Baniapat, Keonjhar.

Sub: Information on M/s. Kusei river Sand Beed, Deogaon, Ghasipura,
Keonjhar.

Ref: SPCB, Keonjhar Letter No.272/dt.12/02/2024 & Mining Officer-cum-
Competent Authority, Anandapur Letter No.368/dt.04/04/2024.

Sir,

With reference to the subject & letter cited above, I am to enclose herewith the report of Joint Verification along with joint measurement of M/s. Kusei River Sand Bed, Deogaon which is submitted by the Mining Officer cum Competent Authority of Anandapur sub-division, Keonjhar for favour of your kind information and necessary action at your end.

Yours faithfully,

[Signature]
Deputy Director Mines,
Keonjhar Circle, Keonjhar.

[Signature]
06/04/24
Encl- Joint Verification & joint measurement
report (2 Copies).

[Handwritten notes]
06.04.2024
NBT matter,
most urgent
DSE

[Circular stamp]
139
06.04.2024

Report on joint verification of M/s Kusei River sand bed, Deogaon, Ghasipura, on Dt 01.03.2024

The following Competent authority were present during the field visit.

1. Mining Officer , Anandapur
2. Supertendent Engineer, Baitarani irrigation Project, Salapada.
3. Tahasildar Ghasipura
4. ~~SP~~ Enviromental Engineer, SPCB
5. RQP of the concerned lease hold area.

A joint field verification was conducted on date 01.03.2024 by the above authorities based on order dt.19.01.2024 of Hon' ble NGT Kolkata in OA No-01/2024/EZ

During Visit it was observed that total 5nos of pit are available within the lease hold area and other 6nos of pit are located in north –west part adjoining as well as outside the lease hold area .All these pits were measured by manual tape measurement method .

Further it was noticed that a part of water flow comes within the south-west corner of the lease in between pillar no.1to 3. The said area was also measured for volumetric calculation adopting above method .

As the said lease was executed on 10.07.2023 and consent to operate from SPCB was obtained on dt 25.07.2023, the lessee was permitted to operate the leasehold area vide letter no 2610/Touzi dt 26.07.2023 by tahasildar Ghasipura.

On verification of records of the lease, it was found that during the lease period a quantity of 2496 Cum sand total has already been dispatched by the lessee till date out of which 604 Cum of sand has been dispatched by manual T.P form Y' & 1892 Cum of sand through E.T.P.

Conclusion

At last it was found that a total quantity of 7365.162 Cum (approx) of sand has already been extracted as per pit measurement where as the lessee has dispatched only 2496 cum.

Hence as per assessment, excess quantity is of 4869.162 Cum (approx) of Sand has been mined out.

End: Measurement report.

Tahasildar
Ghasipura

Dy.Env.Engineer SPCB
Keonjhar

Mining Officer, Anandapur
Keonjhar

Supt.Engineer
Baitarani irrigation Project, Salapada

RQP
M/s –Kusei Sand Bed, deogaon

**Joint Measurement of sand mining conducted by comprising team
in respect of Kusel Sand bed, Deogaon on Dt 01.03.2024**

Within Lease Area

Sl No	No Of Pit	Length In Mtr.	Breath In Mtr.	Height In Mtr.	In Cum
1	1	18.70	16.00	0.4	119.680
2	2	41.50	8.275	1.2	412.095
3	3	16.55	11.000	1.0	182.050
4	4	8.90	6.80	1.0	60.520
5	5	32.40	18.00	1.0	583.200
Total -					1357.545 Cum.

Outside Lease Area

Sl No	No Of Pit	Length In Mtr.	Breath In Mtr.	Height In Mtr.	In Cum
6	1	37.50	7.70	1.10	317.625
7	2	24.00	12.00	0.60	172.800
8	3	24.10	9.20	0.85	188.462
9	4	16.55	11.00	1.00	182.050
10	5	13.20	4.90	1.00	64.680
11	1	6.00	4.00	0.50	12.000
Total-					937.617 Cum.

Water Flow Area(Within Lease)

Sl No	No Of Pit	Length In Mtr	Breath In Mtr.	Height In Mtr.	In Cum
12	1	169.00	30.00	1.00	5070.00

Total Volume of Excavation = 7365.162 Cum.

It reveals from the joint measurement report that.

- i) Sand mining of quantity 6427.545 cum has been done within the lease area i.e:- Sand bed and also in the river flow till date.
- ii) Sand mining of quantity 937.617 cum also carried out outside the lease area till date which is completely illegal.

Tahasildar
(Ghasipura)

Superintendent Engineer
Baitarani Irrigation Project

Mining Officer
Anandapur

Dy. Env. Engineer
S.P.C.B, Keonjhar

M/s:- Kusei Sand Bed, Deogaon

OFFICE OF THE SUPERINTENDING ENGINEER,
 BAITARANI IRRIGATION DIVISION, SALAPADA, DIST-KEONJHAR.
 (email – eebaid2010@gmail.com)



No 1907 Dt- 11/03/24

To
 The Regional Officer
 State Pollution Control Board,
 Odisha, Keonjhar

Sub:- Information on M/S Kusei River Sand bed, Deogaon, Ghasipura, Keonjhar


Ref:- Your Good office Letter No-274 dt-12.02.2024.


Sir,

With reference to the subject cited above, It is to inform you that, there is no change in flow direction due to sand mining in and around the lease area..

This is for favour of your kind information and necessary action.

Yours Faithfully,


 Superintendent Engineer
 Baitarani irrigation Division,
 Salapada..


 04.04.2024

DSE


 04/04/24