

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

O. A. No: 83 of 2022/EZ

Dillip Kumar Samantara and others APPLICANTS

- VERSUS-

THE STATE OF ODISHA & OTHERS ...RESPONDENTS

I N D E X

SR. NO.	PARTICULARS	PAGE NO.	FE E
	Supplementary Affidavit dated: 14.04.2023 of the Respondent No: 17 and its Annexure	01 to 0 70	

CERTIFIED THAT THE COPIES ARE CORRECT

BY THE RESPONDENT NO: 17

B. N. N.
14.04.2023

THROUGH ADVOCATE

Date: 14.04.2023

BIRANCHI NARAYAN MAHAPATRA

ADVOCATE, ORISSA HIGH COURT

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**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
O. A. No: 83 of 2022/ EZ**

IN THE MATTER OF:

Dillip Kumar Samantara and Others.... Applicants

-Versus-

The State of Odisha and othersRespondents

**SUPPLEMENTARY AFFIDAVIT FILED
BY THE ABOVE NAMED RESPONDENT
NO: 17 MOST RESPECTFULLY
SHOWETH AS FOLLOWS:-**

I Susanta Kumar Barad, S/O: Sarbeswar Barad, aged about 35 years, at: Sri Krushnapur, Po: Champagarh-752024, P/S: Chandapur, Dist: Nayagarh, State: Odisha do hereby state on solemn affirmation as under:-

1. That I am Respondent No: 17 of the O.A and as such I am fully conversant with the facts and proceedings of the Case.
2. That the facts and proceedings of the Counter affidavit dated: 04.12.2022 and I.A No: 189 of 2022/ EZ and supplementary affidavit dated 30.08.2022 and 13.11.2022 filed in the I.A and

*Done
14.04.2023
(Adv for the Respondent
No: 17)*

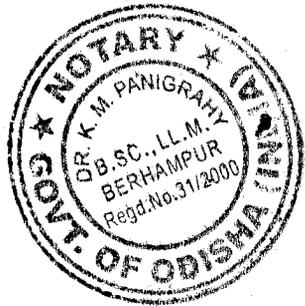
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Reply affidavit dated: 21.01.2023, Reply affidavit dated: 30.03.2023, Additional Counter affidavit dated: 25.02.2023 May kindly read as part and parcel of this affidavit.

3. That the Respondent No: 17 is already appraised the illegal acts of the Collector, Nayagarh along with the present Applicants namely Dillip Kumar Samantra and Deepak Kumar Routary in shape of additional Counter affidavit dated: 25.02.2023 and reply affidavit dated: 30.03.2023 (internal Page No: 60 to 81). After intervention of the Hon'ble Orissa High Court with reference to the orders dated: 28.02.2023 passed in CRLMP No: 377 of 2023 the Inspector- In- Charge of Chandpur Police Station, Nayagarh District registered a Criminal Case vide Police Station Case No: 68/ dated: 11.04.2023 against the Collector Sri Rabindra Nath Sahu, IAS) and Applicants namely Dillip Kumar Samantra, Deepak Kumar Routray and others Persons with reference to *U/S: 294 (Obscene acts and songs), 506 (Punishment for criminal intimidation), 385 (Putting person in fear of injury in order to commit extortion), 167 (Public servant framing an incorrect document with intent to cause injury), 181 (False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation), 200 (Using as true such declaration knowing it to be false), 209 (Dishonestly making*



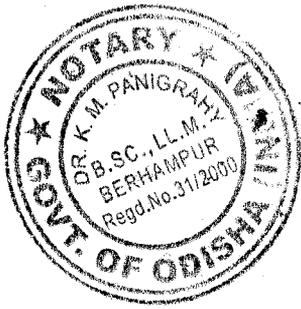
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false claim in Court), 219 (Public servant in judicial proceeding corruptly making report etc. contrary to law) and 34 (Acts done by several persons in furtherance of common intention) of Indian Penal Code,1860. Copies of the FIR dated: 11.04.2023 is annexed here to as ANNEXURE-R/17/P SERIES.

BRIEF FACTS OF THE CRIMINAL CASE REGISTERED AGAINST THE COLLECTOR SRI RABINDRA NATH SAHU (IAS) AND THE APPLICANTS NAMELY DILLIP KUMAR SAMANTRA & DEEPAK KUMAR ROUTRAY AND OTHERS IS MENTIONED BELOW FOR READY REFERENCE OF THIS HON'BLE TRIBUNAL.

On dated: 26.01.2023 at about 3 P.M the Collector, Nayagarh Sri Rabindra Nath Sahu (IAS) accompanied with Dillip Kumar Samantra, Deepak Kumar Routray (both are the Applicants in the O.A No: 83 of 2022/EZ) and Ganaswar Mandhata and others had gone to Maurjholia lateriate Stone quarry of Respondent No: 17) and the Collector demanded 25 lakhs maliciously as bribe to operate the Stone quarry otherwise the Respondent No: 17 will debarred to enter in to the



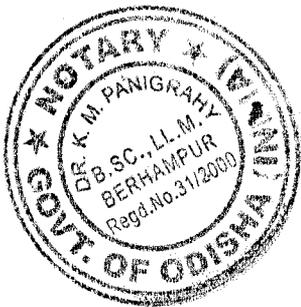
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quarry. At that time Dillip Kumar Samanatra, Deepak Kumar Routray, Ganaswer Mandhata and others abused him in obscene languages and threatened to the Respondent No: 17 to kill in life if he will not give the demanded money. The Collector has filed false affidavit on 06.12.2022 before the Hon'ble NGT in O.A Case No: 83 of 2022/EZ against the respondent No: 17 preparing and framing in correct document with an intention to cause injury to the Respondent No: 17. The Collector has knowledge that no Case has been registered against the Respondent No: 17 but he has filed affidavit before the Hon'ble NGT falsely citing him as accused. Now this Criminal Case is pending before the Hon'ble Judicial Magistrate First Class, Ranapur of Nayagarh District.



4. That the Collector has filed his affidavit on 06.12.2022 before this Hon'ble Tribunal to satisfy the Applicants namely Dillip Kumar Samanatra and Deepak Kumar Routray. It is apt to mention here that as per the affidavit dated: 05.12.2022 filed by the Director of Mines and stated in their measurement report last Page **"The actual quantity material lifted by the lessee in quarry No: 1 and quarry No: 2 is not available in this office"**. But, the Collector how and which way by

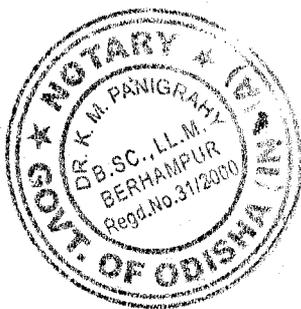
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citing the measurement report of the Mines Department has filed his affidavit dated: 06.12.2022 against the Respondent No: 17, it needs judicial scrutiny. The affidavit dated: 05.12.2022 and measurement report of the Mining department is itself more doubt and Director Mines has not cited the name of the Respondent No: 17. How the Collector was known the Respondent No: 17 has committed theft without any enquiry by the appropriate agency. It is evident from the **RTI quarry of the Tahasil office, Ranapur (available at internal Page No: 98 to 105 of the reply affidavit dated: 21.01.2023** of the Respondent No: 17) the Collector has filed his affidavit without any material. The RTI reply is itself clear that the Collector has filed false affidavit on 06.12.2022 before this Hon'ble Tribunal with intent to cause injury to the Respondent No: 17, which is not permissible in the eye of law. It is crystal clear from the RTI question No: 3 to 6 (internal Page No: 104 to 105 of the reply affidavit dated: 21.01.2023 of the Respondent No: 17) and its reply (available at Internal Page No: 99 of the reply affidavit dated: 21.01.2023) shows that the Respondent No: 17 has not committed any act in



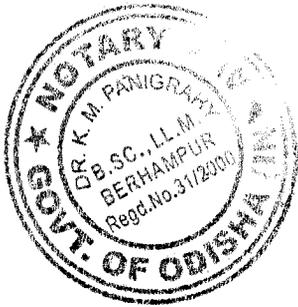
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the lease area as well as the outside the lease area. It is settled principle without any official record the Collector has no authority to made allegation against the Respondent No: 17 in the judicial proceeding. Thus, the Collector is liable to be prove it strictly beyond all reasonable doubts against the Respondent No: 17 before this Hon'ble Tribunal.

5. That the Collector has known very well that the Present Applicants of the O.A and other persons have committed theft the minor minerals and accordingly Criminal Case has been registered against them and they have released on bail by orders of the Hon'ble Orissa High Court and their seized vehicles also released by the order of the Hon'ble Orissa High Court (bail orders available at internal page No: 42 to 95 of the reply affidavit dated: 21.01.2023). Particularly the Applicant namely Deepak Kumar Routray is involved in the Case of theft of Minor Minerals which is available from the Criminal Case records of the Chandpur Police Station as well as in the file of the Judicial Magistrate First Class, Ranapur of Nayagarh District (available under internal Page No: 42 to 44, 85 and 91 of the Reply affidavit dated: 21.01.2023). The Collector while filing of his



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affidavit dated: 06.12.2022 has suppressed the facts in connection of the theft of minor minerals and involvement of the Applicants along with other persons and particularly they have already released on bail as per orders of the Hon'ble Orissa High Court and the alleged Vehicle No: OD-02-U-5592 (available under Page No: 62 to 63 of the reply affidavit dated: 21.01.2023) is also released by virtue of the orders of the Hon'ble Orissa High Court. Applicants namely Dillip Kumar Samantra, Deepak Kumar Routray, Ganaswar Mandhata, Anil Ray and Pradeep Kumar Jayasingh have formed a gang to harass the lease holder in the District of Nayagarh and Khordha District under the umbrella of the Revenue department officials. Their soul intention is to stop the legal mining then they will operate illegal mining in the open sky under the umbrella of the Revenue Department officials. The O.A has been instituted by the Applicants under the blessing of the Revenue Department officials. It is crystal clear that after filing of the O.A the Collector, Nayagarh suddenly filed his affidavit dated: 06.12.2022 against the respondent No: 17. Before filing of the O.A no allegation has been made by the Revenue Department officials against



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the lessee and till date no official record available in the Tahasil office, Mining department office as well as local Police Station against the lessee.

6. That the Collector, Nayagarh knows very well that large number of Criminal Cases has been registered against the applicants of the O.A and other Persons in connection of the theft of Minor Minerals, it is evident from the affidavit dated: 25.08.2022 of the Inspector- In- Charge of Chandpur Police station, which is available on record. But, till date no criminal Case has been registered against the Respondent No: 17 in connection of the theft of Minor Minerals. So, how the Collector was known the Respondent No: 17 has committed theft. The Collector has no authority to say anything against the Respondent No: 17 by way of imaginary pleading. The Collector has filed his affidavit dated: 06.12.2022 without any supporting material which is not permissible in the eye of law. It is settled principle pleading should be based on material evidence; otherwise no court/Tribunal will be oblige to the Parties. The Collector while filing of his affidavit dated: 06.12.2022 ignored to the affidavit dated: 25.08.2022 of the Inspector- In- Charge of the Chandpur Police station and made allegation



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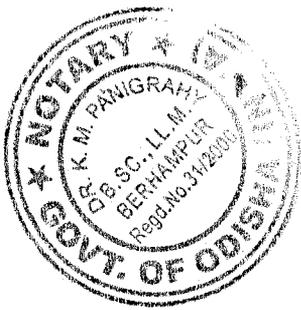
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against the Respondent No: 17 which shows undue favor to the Applicants of the O.A. The Collector has filed his affidavit dated: 06.12.2022 with intent to cause injury to the Respondent No: 17 and also prepared a road map how the Applicants will be benefited and they will commit theft by dominating to the Respondent No: 17.

7. That the Respondent No: 17 has entered to the lease area after getting statutory clearances from the Mining Department (approved Mining Plan), SEIAA and State Pollution Control Board. It is crystal clear from the affidavit dated: 25.08.2022 (SEIAA), affidavit dated: 17.09.2022 along with inspection report (SPCB) and the Respondent No: 17 is already deposited of Rs: 68, 56, 992/- for the period of 2 years mining activity (lease area is 4 Acer), in this Context the Money receipt is already filed by the present Deponent under internal Page No: 29 to 36 of the reply affidavit dated: 21.01.2023. The Tahasildar is also made an agreement/lease deed for the purpose of the lateriate stone quarry for the Period from February 2021 to February 2026 (5 years) bearing document No: 11412100312/dated: 24.02.2021 with the Respondent No: 17. The Tahsildar, Ranapur, SPCB, SEIAA and Mining Department



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no Point of time not communicated anything in respect of any illegal acts of the Respondent No: 17. Thus, the Respondent No: 17 is not entered in to the lease area forcibly and he is entitled to enter the lease area within the parameter of law. So, the operation of the Respondent No: 17 is not illegal under the preview of the law.

8. That the joint committee is also enquired in to the lease area of the Respondent No: 17, which is available under the internal Page No: 12 and 13 of the affidavit dated: 25.08.2022 of the SEIAA.
9. That the inspection report dated: 13.09.2022 of the SPCB is also very clear that the Respondent No: 17 is not involved any illegal acts, which is available in the affidavit dated: 17.09.2022 of the SPCB.
10. That the Plots in question has been recorded as Patita (waste land), which has been cited by the Applicants under Page No: 45 of the O.A. The Applicants as well as the Collector has failed to file any document of the Revenue Department to shows that the land Kissam is forest. It is a settled principle without any official record nobody is authority to say the Plots in question has been record as forest Kissam. The Applicants are ignoring to their own material filed under Page



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No: 45 of the O.A has made an allegation against the Respondent No: 17. After inspection of the site the Joint committee opined their views which are available under internal Page No: 12 and 13 of the affidavit dated: 25.08.2022 of the SEIAA.

11. That the applicants have filed a fake document under Page No: 70 of the O.A which is not signed by the Respondent No: 17. The present Respondent is already given his reply in respect of the issues in his Counter affidavit dated: 04.12.2022 at Para-12 and again appraised the facts in his Reply affidavit dated: 30.03.2023 at Para-8.



12. That the Respondent No: 17 is also submitted his E.C Compliance along with its Postal acknowledgements to the SEIAA and other authorities, which is available under internal Page No: 23 to 59, the Deponent is already explained this facts at Para-9 of the Reply affidavit dated: 30.03.2023.

13. That the Plots in question has been settled in the year 2011-12 in the name of the Bikram Parida (which is clear from the RTI Reply dated: 31.12.2022 (Para-2) of the Ranpur Tahasil Office (internal Page No: 99 of the reply affidavit dated: 21.01.2023 and in the year 2012-13 to 2019-20 the

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source was not settled and again in the year 2021-22 the Source was settled in favor of the Respondent No: 17. Before enactment of the OMMC Rule, 2016 the Source was settled and measurement report is not available before the Mining department/ Revenue Department since the Period 2011-12 to till settlement of the Source in the name of the Respondent No: 17. It is evident from the affidavit dated: 25.08.2022 of the Inspector- In- Charge of Chandpur Police station large number of peoples including the Present applicant namely Deepak Kumar Routray involved in the illegal mining activities. Surprisingly, the Collector while filing of the affidavit dated: 06.12.2022 suppressed the real issues before this Hon'ble Tribunal and unnecessary made an allegation against the respondent No: 17. The Collector is liable to prove strictly before this Hon'ble Tribunal how much quantity of mining has been done since the period 2011-12 to till settlement of the source in favor of the Respondent No: 17. Prior enactment of the OMMC Rule, 2016 the Source has been settled in favor of the Bikram Parida and the said lessee (Bikram Parida) how much quantity of mining has been done, which has been not reflected in the affidavit dated:



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06.12.2022 of the Collector, Nayagarh. Accordingly the measurement report of the Mining Department is itself speaks that there is no information available in their office how much quantity of Mining has been done in the lease area of the Respondent No: 17. The measurement report is itself silent in which Period how much quantity of the mining has been done since the period 2011-12 to till settlement of the source in the name of the respondent No: 17. In view of this the Collector is liable to prove the mining activity in the lease area since the Period 2011-12 to till settlement of the source in the name of the Respondent No; 17. It is evident from the RTI reply dated: 31.12.2022 of the Tahasil office Ranapur that other Persons namely Dharnidhar Majhi has been committed theft the lateriate Stone from the lease area since the period 2005. It is crystal clear from the RTI reply of the Tahasil office since the Period 2005 illegal mining activity has been done in the Plots in question. Thus, the Respondent No: 17 is not involved any kind of illegal acts since the Period 2005 to till date. So, how the Collector without verifying the records of the Tahasil office, Police Station filed his affidavit on 06.12.2022 against the Respondent No: 17,



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which is motivated and biased steps he has taken under the influence of the Applicants of the O.A.

14. That the Collector Sri Rabindra Nath Sahu (IAS) was joined in the Nayagarh District on 19.10.2022 and he has filed his affidavit on 06.12.2022 before this Hon'ble Tribunal without verifying the official records from the Tahasil office as well Police Station in connection of the affairs of the Case. How and from which record the Collector was known the Respondent No: 17 has committed theft, it needs judicial scrutiny. The Deponent is already raised this issue in his Reply affidavit dated: 21.01.2023 at Para-11 (internal Page No: 15).



15. That the Source has been created after preparation of the District Survey reports (DSR), it is evident from the internal Page No: 38 to 41 of the reply affidavit dated: 21.01.2023.

16. That the Tahasildar, Ranpur issued work order in favor of the Respondent No: 17 with reference to No: 1244/dated: 04.04.2022 for the period up to 31.03.2023 (available under internal Page No: 106 of the reply affidavit dated: 21.01.2023).

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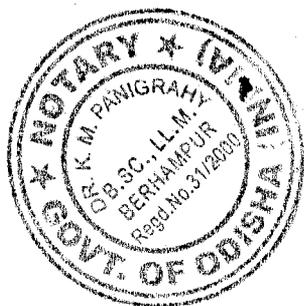
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17. That the Competent/ controlling authority i.e. Tahasildar and Collector not objected anything to the Respondent No: 17 since the period of operation to till date in connection of the any kind of illegal acts. But, the Collector first time raised allegation against the Respondent No: 17 in his affidavit dated: 06.12.2022. Both the authorities are allowing to the Respondent No: 17 for operation of the quarry within preview of the law.

18. That the Respondent No: 17 has filed an I.A No: 189 of 2022/EZ and stated at Para-4(I) to XII the O.A No: 83 of 2022/EZ is not maintainable at all. The Applicants have no locus Standi to challenge the E.C/CTO/CTE/ Mining Plan in the present form.

19. That the Respondent No: 17 has categorically stated in the Supplementary affidavit dated: 30.08.2022 (filed in I.A No: 189 of 2022/EZ) and stated there in at Para-03 to 14 and 17 that the O.A is not maintainable from the four corner of law.

20. That the Respondent No: 17 is also filed an Supplementary affidavit dated: 13.11.2022 (which is available in I.A No: 189 of 2022/EZ) and stated there in at Para-3 spot verification should be conducted in presence of the present Deponent. But, without knowledge of the Respondent No: 17 the authorities have done the measurement for

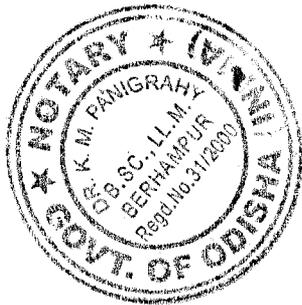


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which the Respondent No: 17 was not able to appraise the real facts during the Course of measurement. Thus, the measurement done by the officials is not correct and the report has been prepared by them is wrong/biased/motivated and it is not based on factual aspects. The said measurement report filed by the Director, Geology is not based on factual aspect as well it will not stand under the preview of the technical/scientific method. The lease area of the Respondent No: 17 is 4 Acer, but they have cited in their report that the lease area is 6 Acer, which is completely wrong and non application of the mind. The Respondent No: 17 is already deposited amount of Rs: 68, 56, 992/- for the period of 2 years mining activity (lease area is 4 Acer), in this Context the Money receipt is already filed by the present Deponent under internal Page No: 29 to 36 of the reply affidavit dated: 21.01.2023. But, the measurement report is itself speaks that there is wrong interpretation /calculation of the actual lease area. The Deponent is entitled for mining 7704+ 7704 Cum. (for the period of 2 year according to the deposit amount as well as the approved Mining Plan). But, the Respondent No: 17 has done mining activity 2791.099 Cum of lateriate Stone as cited in the measurement report. So, the mining activity is below quantity as per the approved mining plan for the period of 2 year. The



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quantity of Excavation of Murom 77,488.602 CUM is wrong calculation, if it will be compared with the quantity of laterite Stone Mining. But, in the area there is no Murom Source available which is cleared from the official records of the Tahasil office, Ranpur received on 31.12.2022 under RTI Act, 2005 (available under internal Page No: 99, Sl. No: 3 of the Reply affidavit dated: 21.01.2023) and RTI questions available at internal Page No: 104 and 105, Sl No: 3 of the reply affidavit dated: 21.01.2023). The Present Respondent is clearly mentioned this issue in his reply affidavit dated: 21.01.2023 at Para-8. Laterite Stone (locally known as red Color Mankada Pathra) dust is a not a Murom and it is not proved as Murom as per the technical / scientifically analysis / research and there is non availability of Murom which is clear by the Tahasil office in their RTI reply dated: 31.12.2022. During the time of approval of the Mining Plan for the laterite Stone quarry no issue was arise in respect of the Murom. Thus, the Applicants as well as Mining/ Geology department officials along with Collector are misleading to this Hon'ble Tribunal by taking different plea against the Respondent No: 17. Surprisingly, without identification of the Murom Source how the question will arise regarding illegal Murom Mining.



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21. That the Present Applicants namely Dillip Kumar Samantra and Deepak Kumar Routray and Ganeswar Mandhata, Anil Kumar Ray, Pradeep Jayasingh and others owned gang are freely operating their illegal mining activities and accordingly as per orders dated: 28.03.2023 Passed in CRLMP No: 570 of 2023 by the Hon'ble Orissa high Court the Present deponent lodged F.I.R dated: 07.04.2023 against them before the Chandpur Police Station. The aforementioned Persons have committed theft the Minor Minerals from the Plot No: 712, 713, 714, 716 and 717 of Shadaghai Mouza under Achutapur Revenue Inspector Circle of Khordha District. The alleged persons are regularly and frequently committing theft of Minor Minerals in the open Sky. They have filed 2 Cases O.A No: 83 of 2022/EZ and O.A No: 10 of 2023/EZ before this Hon'ble Tribunal. The intentions of the alleged Persons are not for protection of the Environment, they are trying to stop the legal mining of the lease area and thereafter they will run illegal mining freely. For which act of the alleged persons is not maintainable under the law. Copies of the F.I.R dated: 07.04.2023 and Hon'ble Orissa High Court order dated: 28.03.2023 passed in CRLMP No: 570 of 2023 is annexed here to as ANNEXURE-R/17/Q Series.



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22. That the measurement report filed by the Director of Mines of Odisha is itself not clear that from which Period the illegal Mining started in the area and each year data since the period 2005 to till date is not furnished by them. So, how the report will be conclusive and it will be not prove/stand by way of technically and scientifically. Thus, the measurement report is itself shows that which is prepared by way of the imagination. By way of imaginary calculation the lessee could not held responsible and the said report could not stand under the law. It is clear case how they have made secrecy to the lessee during the Course/time of measurement and not taken to the consideration of the averments/ prayers made by the Respondent No: 17 which is evident from the affidavit dated: 13.11.2022 (Para-3). Without any conclusive proof the lessee could not be held responsible under the law. Before initiation of any proceeding against any person the officials are duty bound to prove who has done illegal acts and it related from which Period and particularly date/time and Place of occurrence is highly required to reach conclusion against the offender. Otherwise it is very difficult prove the offence any Person. It is evident from the materials available on record to shows that non of the officials are not able to speak in which period/date/time the illegal acts has been done. How the State officials were not able to identify in connection of the illegal Mining in 144 Acer of the land during the time/date of illegal acts. After filing of the Case how the Collector was known the lessee has committed theft, it needs prove beyond all reasonable doubts.



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23. That the Collector, Nayagarh and the Applicants are liable to prove their allegations against the Respondent No: 17. The Collector has filed his affidavit on 06.12.2022 only to satisfy the applicants and the said affidavit is not based on factual aspects and it is not derived from the official records. The Tahasil office record shows that after filing of the affidavit by the Collector there is no allegation against the Respondent No: 17, which is crystal clear and evident from the RTI reply dated: 31.12.2022 of the Public Information Officer, Ranapur Tahasil Office. So, the Tahasil office record shows that the Respondent No: 17 is innocent law abiding citizen and the Collector has filed his affidavit by way of imagination. The Inspector-In-Charge of the Chandpur Police Station is itself Clear from his affidavit dated: 25.08.2022 that the Applicant namely Deepak Kumar Routray and other Persons have committed theft. The measurement report as well as affidavit dated: 05.12.2022 filed by the Director of Geology, Odisha is also crystal clear that how much quantity of Mining has been done by lessee in this connection no information available in their office. In view of the above facts and circumstances the Respondent No: 17 could not be held responsible under the law.



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24. That the measurement report submitted by the Director, Geology of Odisha is not based and prepared by way of scientific method, it is clear from the report there is no information available in respect of the illegal Mining period / date chart. How the illegal Mining activities will be prove without date chart and Particularly who is involve without date Chart, it will be not clear and person concern could not be held responsible under the Criminal law. So, it is clear from the report that it is prepared by way of imagination. It is also mentioned in the 2nd Page of the report Quarry No: 1, 2, 3 and 5 were partly submerged with water during the time of survey. However Spot RL were determined with the help of bamboo and meter tape by the local Peoples who entered in to the water logged quarry under the supervision of survey team. Thus, it is a clear Case and the report is itself clear that they have not done measurement by way of DGPS, it is an admitted facts. Thus, the quarry measurement report is not authentic and it is prepared by way of imagination to satisfy the Applicants. Thus, the measurement is liable to be declare as illegal and not based on factual aspects as well as not prepared by way of technically/ scientifically method.



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25. That the Collector is duty bound to say before this Hon'ble Tribunal in which Period the illegal Mining activity has been done and which way he has made allegation against the lessee, it needs prove by way of clinching evidence. It is a settled Principle without identifying the date / time and Place of Occurrence how the authority will reach a conclusion, who has committed theft. Definition of theft is derived from the Indian Penal Code and the State is duty bound to prove the specific date/ time of occurrence against the Respondent No: 17. But, the Collector is remaining silent in this aspect and by making imaginary Pleading filed his affidavit dated: 06.12.2022 before this Hon'ble Tribunal. It is evident from the affidavit dated: 25.08.2022 of Inspector- In- Charge of Chandpur Police Station that large number of Peoples including Applicant namely Deepak Kumar Routray involved in the illegal mining acts and they have already identified by the Police. But, how and which way the Collector made an allegation against the Respondent No: 17, it is a moot question in this Case.

26. That the Applicants have made unnecessary allegations against the Respondent No: 17 ignoring the materials available on record. The applicants should be warned not to file such type of case against the innocent law abiding citizens. Environmental law is not enacted to harass the



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innocent People. The Applicants should be aware that Social interest/ protection of the Environment and safeguard of the fundamental rights of the innocent people's protection is highly required. Failing which the basic foundation of law will be collapsed.

27. That it is Evident from the materials available on record to shows that the Respondent No: 17 is not involved in any illegal acts. But, the Collector as a responsible officer of the State how he has made allegation against the Respondent No: 17, it needs judicial scrutiny.

28. That the Hon'ble Apex Court observed at Para-14 in the matter of Kantha Vibhag Yuva Koli Samaj Parivartan Trust and Others- Versus-State of Gujarat and Others with reference to the Civil Appeal No: 1046 of 2019 decided on 21.01.2022 as follows:- *COPY of the Judgement is annexed hereto as Annexure-R/17/R series.*

14. *"It is first important to differentiate expert committees which are set by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before courts when decisions are taken solely based upon them. The precedents of*



FORM PART
NOTARY PUBLIC

Susanta Kumar Das

(24)

*this court unanimously note that courts should be circumspect in rejecting CA 1046/2019 12 the opinion of these committees, unless they find their decision to be manifestly arbitrary or mala fides. On the other hand, courts/tribunals themselves set up expert committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these expert committees does not substitute the adjudicatory role of the court or tribunal. The role of an expert committee appointed by an adjudicatory forum is only to assist it in the exercise of adjudicatory functions by providing them better data and factual clarity, **which is also open to challenge by all concerned parties.***



FORM PART
NOTARY PUBLIC

24/4/23

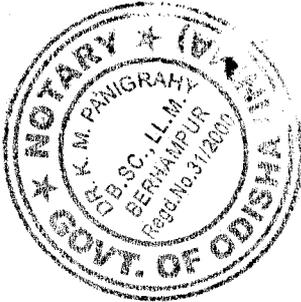
SUSANTA KUMAR BOSE

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Allowing for objections to be raised and considered makes the process fair and participatory for all stakeholders". In view of this the measurement report filed by the Director, Geology is illegal and not in accordance with law.

29. That the Hon'ble Apex Court observed at Para-99 in the matter of The State of Uttar Pradesh & Others etc. etc- Versus- Uday Educational and Welfare Trust and another etc. etc with reference to the Civil Appeal No: 2407-2412 of 2021 decided on 21.10.2022 as follows:-

99. *"We find that before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and bonafides of the applicants must be tested. In the present case, there is scope to infer that the litigation could be at the behest of the existing WBIs who wanted to avoid competition and continue to get raw material at a cheaper rate. There is also scope to infer that it could be at the behest of the WBIs in the adjoining Yamuna Nagar district of Haryana where lakhs of tons of timber is exported from the State of Uttar Pradesh. There is scope to infer that it could be in the interest of middlemen who are engaged in*



Susanta Kumar Boroi

FORM PART
NOTARY PUBLIC

14/4/23

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exporting timber from Uttar Pradesh to Haryana. We would, therefore, only request the learned NGT that, when credentials and bonafides of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely to adversely affect the rights of many, it should ensure the bonafides and credentials of such litigants”.

So, this Hon’ble Tribunal while adjudication of the Case the credentials and bonafides of the Applicants may kindly taken to the consideration for the interest of justice. Judgement copy annexed hereto as Annexure - R117/S Series.



30. That the Respondent No: 17 is craves leave of this Hon’ble Tribunal to file further affidavit, if necessary for proper adjudication of the matter.

VERIFICATION

I Susanta Kumar Barad, S/O: Sarbeswar Barad, aged about 35 years, At: Sri Krushnapur, Po: Champagarh-752024, P/S: Chandapur, Dist: Nayagarh, State: Odisha do her by verify that the contents of Para 01 to 30 believed to be true and that I have not suppressed any material fact.

Verified at Berhampur on 14.04.2023.

IDENTIFIED BY

14.04.2023

Susanta Kumar Barad

ADVOCATE
(B.N. Mahapatra)

DEPONENT

DECLARATION

The deponent having been identified by Advocate B.N. Mahapatra, I solemnly affirm before me this the 14.04.2023 before the Notary at 11.00 A.M./P.M. read over and explained the deponent who seems perfectly to have understood the contents and the affidavit.

Dr. K.M. Panigrahy
NOTARY
Berhampur (Ganjam)
No.
Time

Dr. K.M. Panigrahy
Notary Berhampur (Ganjam)
Regd. No. 31/2000

Comp/A

27

Annexure-R/17/P series

N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जांच फार्म -I)

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

प्रथम सूचना रिपोर्ट

(धारा 154 दंड प्रक्रिया संहिता के तहत)

1. District (जिला): NAYAGARH P.S. (थाना): CHANDPUR PS Year (वर्ष): 2023
FIR No. (प्र.सू.रि. सं.): 0068 Date and Time of FIR (प्र.सू.रि. की दिनांक और समय): 11/04/2023 21:00 hrs

2. S.No. (क्र.)	Acts (अधिनियम)	Sections (धारा(एँ))
1	IPC 1860	294
2	IPC 1860	506
3	IPC 1860	385
4	IPC 1860	167
5	IPC 1860	181
6	IPC 1860	200
7	IPC 1860	209
8	IPC 1860	219
9	IPC 1860	34

3. (a) Occurrence of offence (अपराध की घटना):
1. Day (दिन): Thursday Date From (दिनांक से): 26/01/2023 Date To (दिनांक तक): 26/01/2023
Time Period (समय अवधि): Pahar 5 Time From (समय से): 15:00 hrs Time To (समय तक): 15:00 hrs
(b) Information received at P.S. (थाना जहां सूचना प्राप्त हुई): Date (दिनांक): 11/04/2023 Time (समय): 21:00 hrs
(c) General Diary Reference (रोजनामचा संदर्भ): Entry No. (प्रविष्टि सं.): 005 Date & Time: 11/04/2023 21:00 hrs

4. Type of Information (सूचना का प्रकार): Written

5. Place of Occurrence (घटनास्थल):

1. (a) Direction and distance from P.S. (थाना से दूरी और दिशा): NORTH-WEST, 13 Km(s) Beat No. :
(b) Address (पता): MAURAJHALIA QUARRY
(c) In case, outside the limit of this Police Station, then (यदि थाना सीमा के बाहर है तो):
Name of P.S. (थाना का नाम): CHANDPUR PS District (State) (जिला (राज्य)): NAYAGARH (ODISHA)

6. Complainant / Informant (शिकायतकर्ता/सूचनाकर्ता):

(a) Name (नाम): SUSANTA KUMAR BARAD 35 yrs
(b) Father's Name (पिता का नाम): SARBESWAR BARAD
(c) Date/Year of Birth (जन्म तिथि / वर्ष): 1988 (d) Nationality (राष्ट्रीयता): INDIA
(e) UID No. (यूआईडी सं.):
(f) Passport No. (पासपोर्ट सं.): Date of Issue (जारी करने की तिथि):
Place of Issue (जारी करने का स्थान):
(g) Id details (Ration Card, Voter ID Card, Passport, UID No., Driving License, PAN)
S.No. (क्र.सं.) | Id Type (पहचान पत्र का प्रकार) | Id Number (पहचान संख्या)

TRUE COPY ATTESTED

BY ADVOCATE

Susanta Kumar Barad

28

Annexure-R/17/P series

N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

S.No.(क्र.सं.)	Id Type (पहचान पत्र का प्रकार)	Id Number (पहचान संख्या)
1		

(h) Address (पता):

S.No.(क्र.सं.)	Address Type (पता का प्रकार)	Address (पता)
1	Present Address	SRIKRUSHNAPUR, CHANDPUR PS, NAYAGARH, ODISHA, INDIA
2	Permanent Address	SRIKRUSHNAPUR, CHANDPUR PS, NAYAGARH, ODISHA, INDIA

(i) Occupation (व्यवसाय): BUSINESS

(j) Phone number (दूरभाष सं.):

Mobile (मोबाइल सं.): 91-7008504022

7. Details of known/suspected/unknown accused with full particulars (जात / संदिग्ध / अज्ञात अभियुक्त का पूरे विवरण सहित वर्णन):

S.No. (क्र.सं.)	Name (नाम)	Alias (उपनाम)	Relative's Name (रिश्तेदार का नाम)	Present Address (वर्तमान पता)
1	SRI RABINDRANATH SAHOO IAS		's Name : THE COLLECTOR OF NAYAGARH	1. THE COLLECTOR OF NAYAGARH, CHANDPUR PS, NAYAGARH, ODISHA, INDIA
2	DILLIP KUMAR SAMANTARAY		Father's Name : LINGARAJ SAMANTARAY	1. BAJRAKOT, RANPUR, NAYAGARH, ODISHA, INDIA
3	DEEPAK KUMAR ROUTRAY		Father's Name : RABI NARAYAN ROUTRAY	1. OSTAPADA, CHANDPUR PS, NAYAGARH, ODISHA, INDIA
4	GANESWAR MANDHATA		Father's Name : PANANGA BHUSAN MANDHATA	1. CHAMPAGADA, CHANDPUR PS, NAYAGARH, ODISHA, INDIA
5	OTHER 4 PERSONS			1. CHANDPUR, CHANDPUR PS, NAYAGARH, ODISHA, INDIA

8. Reasons for delay in reporting by the complainant/informant (शिकायतकर्ता / सूचनाकर्ता द्वारा रिपोर्ट देरी से दर्ज कराने के कारण):

9. Particulars of properties of interest (संबन्धित सम्पत्ति का विवरण):

S.No. (क्र.सं.)	Property Category (संपत्ति श्रेणी)	Property Type (सम्पत्ति का प्रकार)	Description (विवरण)	Value (In Rs/-) (मूल्य (रु में))
-----------------	------------------------------------	------------------------------------	---------------------	----------------------------------

10. Total value of property (In Rs/-)-सम्पत्ति का कुल मूल्य (रु में):

11. Inquest Report / U.D. case No., if any (मृत्यु समीक्षा रिपोर्ट / यू.डी. प्रकरण सं., यदि कोई हो):

S.No. (क्र.सं.) UIDB Number (यू.डी. प्रकरण सं.)

12. First Information contents (प्रथम सूचना तथ्य):

On dt-11.04.2023 at 09.00 PM received the CRLMP No - 377/23 of Honble High Court Odisha, Cuttack in which Complt. Susanta Kumar Barad (35) S/o-Sarbeswar Barad of village Srikrushnapur, PS- Chandpur, Dist- Nayagarh alleged that on dt- 26.01.2023 at about 03.00 PM The collector Nayagarh Sri Rabindranath Sahoo (IAS) accompanied with Dillip Kumar Samantaray, Deepak Kumar Routray, Ganeswar Mandhata and others had gone to Maurjhalia

2

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BY ADVOCATE

Susanta Kumar Barad

29

Annexure-R/17/P serials.

N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जांच फार्म -I)

12. First Information contents (प्रथम सूचना तथ्य):

laterite stone quarry of Informant and the collector demanded 25 lakhs Maliciously as bribe to operate stone quarry otherwise he will be debarred to enter into the quarry. At that time Dillip Kumar Samantaray, Deepak Kumar Routray, Ganeswar Mandhata and others abused him in absence languages threatened him to kill in life if he will not give the demanded money. The Collector has filed a false affidavit before Honble in N.G.T in O.A Case No-83/2022 against the Informant preparing and framing incorrect document with an intention to cause injury to the informant. The collector has knowledge that no case has been registered against the informant but he has filed before the Honble N.G.T falsely citing him as accused.

13. Action taken: Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2.

(की गयी कार्यवाही : चूंकि उपरोक्त जानकारी से पता चलता है कि अपराध करने का तरीका मद सं. 2 में उल्लेख धारा के तहत है।)

(1) Registered the case and took up the investigation: Mukesh Kumar Behera (Inspector) / or (या) (प्रकरण दर्ज किया गया और जांच के लिए लिया गया):

(2) Directed (Name of I.O.) (जांच अधिकारी का नाम): Rank (पद):

No. (सं.): Mobile No. (मोबाइल सं.): 9439240760 to take up the Investigation (को जांच अपने पास में लेने के लिए निर्देश दिया गया) or (या)

(3) Refused investigation due to (जांच के लिए):

or (के कारण इंकार किया या)

(4) Transferred to P.S. (थाना): District (ज़िला):

on point of jurisdiction (को क्षेत्राधिकार के कारण हस्तांतरित) .

F.I.R. read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant / informant free of cost. (शिकायतकर्ता / सूचनाकर्ता को प्राथमिकी पढ़ कर सुनाई गयी, सही दर्ज हुई माना और एक कॉपी निशुल्क शिकायतकर्ता को दी गयी।)

R.O.A.C. (आर. ओ. ए. सी.)

14. Signature/Thumb impression of the complainant / informant.

(शिकायतकर्ता / सूचनाकर्ता के हस्ताक्षर / अंगूठे का निशान):

15. Date and time of dispatch to the court

(अदालत में प्रेषण की दिनांक और समय):



11.04.2022

Signature of Officer in charge, Police Station
(थाना प्रभारी के हस्ताक्षर)

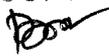
Name (नाम): Mukesh Kumar Behera

Rank (पद): I (Inspector)

No. (सं.):

Mobile No. (मोबाइल सं.): 9439240760

TRUE COPY ATTESTED


BY ADVOCATE

3

SUSANTA KUMAR DAS

(30)

Annexure-R/17/P serial.

To,

BY SPEED POST

Date: 09.03.2023

The Inspector- In-Charge

Chandpur Police Station, at/Po: Chandpur-752024

Dist: Nayagarh, Odisha

Sub: F.I.R against Sri Rabindra Nath Sahu (IAS), Collector-Cum-District Magistrate, Nayagarh District of Odisha, Dillip Kumar Samantray, Deepak Kumar Routray and Ganeswar Mandhata and others with reference to under Section -154 (1) Cr.P.C- **reg.**

Ref: i. Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata O.A Case No: 83 of 2022/EZ-**reg.**

ii. Hon'ble Apex Court observations made In the matter Lalita Kumari v. Govt. of U.P [W.P.(Crl) No; 68/2008]-**reg.**

iii. Hon'ble Orissa High Court orders dated: 28.02.2023 Passed in CRLMP No: 377 of 2023-**reg.**

Sir,

I Susanta Kumar Barad, S/O: Sarbeswar Barad, aged about 35 years, at: Sri Krushnapur, Po: Champagarh-752024, P/S: Chandapur, Dist: Nayagarh, State: Odisha, Mob No: 7008504022 beg to draw your kind attention as follows:-

1. That on 26.01.2023 at about 3 P.M the Collector(Sri Rabindra Nath Sahu (IAS) of Nayagarh and his henchmen Dillip Kumar Samantory, S/O: Lingaraj Samantra, at: Bajrakot, Po: Baunsagarh, P/S: Ranapur, Dist: Nayagarh, Deepak Kumar Routray, S/O: Rabi Narayan Routray, aged about 28 years, at: Ostapada, Po: Kamaguru, P/S: Dist: Nayagarh,

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BY ADVOCATE

Susanta Kumar Barad

31

Annexure-R/17/P/2001

Ganeswar Mandhata, S/O; Pananga Bhusan Mandhata, at/Po: Champagada, P/S: Chandapur, Dist: Nayagarah and other 4 Persons suddenly came to the maurojholia leased lateriate Stone quarry of the informant and the Collector demanded 25 Lakhs illegal Money from the informant and accordingly he said with rowdy voice if I will not give the demanded money the administration will be debarred/ imposed restriction to enter in to the quarry. At that time Dillip, Ganeswar and Deepak threatened to kill me, if I will not give the demanded Money. In presence of the Collector the accused namely Deepak / Dillip / Ganeswar said to me "TO MAGIA SALA JALDI PAISA JOGADA KARA", otherwise collector will take revenge against you and they will defame to me by making false allegation by publishing news in print/Electronic media/Social media/face Book/Twetter / whats app post. The informant requested to the accused Persons with folded hand and stated that he is unable to give the huge amount as a bribe. During that time other persons have seen the occurrence and they will give their independent statements during the course of inquiry.

2. That Sri Rabindra Nath Sahu (IAS) has filed affidavit on 06.12.2022 before the Hon'ble NGT is completely false, fabricated and got up story as created by him with intent to cause injury to the informant. It is evident from the RTI reply dated: 31.12.2022 of the Tahasil Office, Ranapur, Odisha.
3. That it is evident from reply affidavit dated: 21.01.2023 of the informant for the Hon'ble NGT O.A Case No: 83 of 2022/EZ shows that the Sri Rabindra Nath Sahu (IAS) is trying to cover up the criminal Cases in respect of theft of Minor Minerals and other offences pending against Dillip Kumar Samantray and Deepaka Kumar Routray (both are Applicants before the Hon'ble NGT in O.A No: 83 of 2022/EZ) and other persons. In this Context the informant enclosed

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BY ADVOCATE

SUSANAKUMAR BAROJ

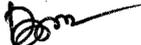
32

Annexure-R/17/P series.

the Bail orders of the Hon'ble Orissa High Court as well the Copies of the trial Court records of the proceedings in the affidavit dated: 21.01.2023 for the Hon'ble NGT Proceedings. The Applicant before the Hon'ble NGT have got bail from the Hon'ble Orissa High Court for theft of Minor minerals and , but the Collector suppressed such facts before the Hon'ble NGT while filing of his affidavit dated: 06.12.2022 in O.A Case No: 83 of 2022/EZ.

4. That the affidavit dated: 06.12.2022 filed by the Collector, Nayagarah is not based/derived from the Ranapur Tahasil office records. It is evident from the RTI reply dated: 31.12.2022 of the Tahasil Office, Ranapur, Odisha. The RTI reply is clearly shows that the informant is not involved in any case of illegal mining. But, the Collector, Nayagarh has filed affidavit on 06.12.2022 before the Hon'ble NGT in O.A Case No: 83 of 2022/EZ and stated there in some base less issues against the informant.
5. That the Collector without verifying the Ranapur Tahasil office records he has filed affidavit dated: 06.12.2022 before the Court of justice (NGT) according to his will and pleasure and the collector has no authority to made allegation against the informant without enquiry by the investigation agency. The Collector has no authority to say who has committed offence. The investigating agency is authority to ascertain the truth in connection of the offence which has been raised by the Collector in his affidavit dated: 06.12.2022 filed before the Hon'ble NGT. Surprisingly, without making enquiry by the investigating agency the Collector has made allegation against the informant is highly illegal and he has committed offence under section 167 I.P.C.

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BY ADVOCATE

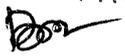
Subanta Kumar Baroo

33

Annexure-R/17/PS/2022

6. That it is settled principle Public Servant has no authority to disobey the law and particularly the Collector made an allegation before the Hon'ble NGT against the informant without any valid reason. Thus, the accused persons have committed offence under Section 166, 167, 181, 182, 193, 199, 200, 202, 209, 219, 294, 506, 384 of I.P.C, 1860 and the Collector has made false statement/evidence by way of affidavit before the Hon'ble NGT and suppressed /omitted the real facts and shown undue favour and trying to save to the Dillip Kumar Samantory / Deepak Kumar Routray and other accused Persons. Even though the accused Persons have been released on bail by virtue of the order of the Hon'ble Orissa High Court. But, the Collector suppressed such facts before the NGT while filing of the affidavit. So, it is clear Case that there is unholy nexus among the Collector, Nayagarah and the accused namely Dillip Kumar Samantory / Deepak Kumar Routeray (Applicants before the NGT). The accused persons regularly committed theft of Minor Minerals under the blessing/umbrella of the Collect, Nayagarh. So, this Case may kindly enquiry by the CID (CB), Odisha to find out the real truth and how many government officials have been involved and joins hands with the accused persons will be clear after enquiry.
7. That while filing of the affidavit before the Hon'ble NGT on 06.12.2022 by the Collector, Nayagarh ignored to the contents / averments of the affidavit dated: 25.08.2022 filed in O.A Case No: 83 of 2022/EZ before the NGT by Sri Mukesh Kumar Behera, IIC, Chandpur Police Station. The content of the affidavit of the I.I.C, Chandpur P.S proves that the accused Persons are involving in the theft of Minor Minerals, but no name of the informant has been found in the Police

TRUE COPY ATTESTED


BY ADVOCATE

SUSANTA KUMAR BOYOT

34

Annexure-R/17/P series

Station record. But, how the collector, Nayagarh has been prepared/manufactured the imaginary story against the informant, it needs high level enquiry and punish the accused Persons according to law.

8. That the affidavits filed by the informant and all the parties in the O.A No: 83 of 2022/EZ may kindly seize from the custody of the informant and make a seizure list for fair enquiry/trail of the Case.
9. That the informant is submitting this report as per order dated: 28.02.2023 passed in CRLMP No: 377 of 2023 by the Hon'ble Orissa High Court. **Certified Copy of the orders dated: 28.02.2023 passed by the Hon'ble Orissa High Court in CRLMP No: 377 of 2023 is enclosed here with for your ready reference and needful action.**

Yours faithfully,

Susanta Kumar Barad
Susanta Kumar Barad

(Susanta Kumar Barad)

Date: 09.03.2023

Copy Submitted to:

1. **The Director General Of Police (DGP),** Odisha Police Head Quarter, Buxi Bazar, Cuttack-753001, Odisha
2. **The Special Director General of Police,** Human Rights protection Cell, Odisha Police Head Quarter, Buxi Bazar, Cuttack-753001, Odisha
3. **The Commissioner- Cum- Secretary,** Home Department, Government of Odisha, State Secretariate-751001, Bhubaneswar, Odisha for kind information and necessary action.

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Deon

BY ADVOCATE

35

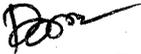
ANNEXURE-R/17/18018

At- 9.00pm
Dt- 11.4.2023

Received the written report of Compt from
The Hon'ble High Court of Orissa High Court, cuttack vide
CRLMP No-377 dt 2023. As it reveals a cog case
I registered Chandapuri PS case No-68, dt 11.4.2023
US-294/506/385/167/181/200/209/219/341 PC and took
up investigation of the case and supplied a copy
of FIR to the Compt at free of cost.

MKR
11.4.2023
110, Chandapuri P

TRUE COPY ATTESTED


BY ADVOCATE

SUSANTA KUMAR BAROT

36

Annexure-R/17/Q series.

To,

SPEED POST

The Inspector- In-Charge

Date: 07.04.2023

Chandpur Police Station, Dist: Nayagarh, Odisha

Sub: F.I.R against Dillip Kumar Samantray, Deepak Kumar Routray, Anil Kumar ray, Pradeep Jayasingh, and Ganeswar Mandhata and others with reference to under Section -154 (1) Cr.P.C- **reg.**

Ref: i. Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata order dated: 06.01.2022 passed in O.A Case No: 48 of 2020 in connection of illegal mining is coming under the preview of the Money laundering Act, 2002 -**reg.**

ii. Hon'ble Apex Court observations made In the matter Lalita Kumari v. Govt. of U.P [W.P.(Crl) No; 68/2008]

iii. Hon'ble Orissa High Court order dated: 28.03.2023 Passed in CRLMP No: 570 of 2023 (Copy Enclosed)

Sir,

I Susanta Kumar Barad, S/O: Sarbeswar Barad, aged about 35 years, at: Sri Krushnapur, Po: Champagarh-752024, P/S: Chandapur, Dist: Nayagarh, State: Odisha, Mob No: 7008504022 beg to draw your kind attention as follows:-

1. That on 03.03.2023 at about 2 P.M one of the accused namely Dillip Kumar Samantory, S/O: Lingaraj Samantra, at: Bajrakot, Po: Baunsagarh, P/S: Ranapur, Dist: Nayagarh, Deepak Kumar Routray, S/O: Rabi Narayan Routray, aged about 28 years, at: Ostapada, Po: Kamaguru, P/S: Dist: Nayagarh, Ganeswar Mandhata, S/O; Pananga Bhusan

TRUE COPY ATTESTED

BY ADVOCATE

Susanta Kumar Barad

37

Annexure-R/17/Q series.

Mandhata, at/Po: Champagada, P/S: Chandapur, Dist: Nayagarah, Anil Kumar Ray, S/O: Hata Kishor Nayak, at/Po: Tankol, PS: Jankia, Dist: Khordha, Pradeep Jayasingh, S/O: Gadadhar Jayasingh, at/Po: Tankol, P/S: Jankia, Dist: Khordha have committed theft/ illegally Excavated of lateriate stone/ Murom by using Power triller/JCB from the Plot No: 712, 713, 714, 716 and 717 of Sahadaghai Mouza under Achyutapur Revenue Inspector Circle of Khordha District. The aforementioned accused persons have taken large scales lateriate Stone/ Morum with 15 Nos of tipper(without number plate in the vehicle) I have seen at about 3 PM on 03.03.2023 the minor mineral loaded vehicles along with accused persons are came at Borabarjhara under Chandpur PS. The accused persons have filed case against me before the Hon'ble NGT in O.A No: 83 of 2022/EZ and also they have filed another Case O.A No: 10 of 2023/EZ. The accused Persons were came in front of the Minor Mineral loaded Vehicle Maruti Alto CAR No: OD 02U 5592 by escorting the minor minerals. The said vehicles have been released by order of the Hon'ble High Court CRLMC No: 2239 of 2021 (GR Case No: 421 of 2020 in the file of the JMFC Ranapur). The accused person namely Ganeswar Mandhata and Deepak Kumar Routray are also involving Chandpur PS Case No: 24 of 2022 corresponding GR Case No: 69 of 2022 in the file of the JMFC, Ranapur. The Hon'ble Orissa High Court is also observed in the order dated: 30.03.2022 passed in ABLAPL No: 2500 of 2022, ABLPL No: 13843 of 2021 (Chandpur PS case No: 140 of 2021, PS Case No: 152 of 2022 corresponding GR Case No: 387 of 2022 in the JMFC, Ranapur) registered against Deepak Kumar Routray and another. The Maruti Alto car was also released by the Hon'ble Orissa High Court with reference to the CRLREV No: 297 of 2021. Accused persons namely Dillip Kumar Samantra is also involved in Ranapur PS Case No: 130 of 2020 corresponding GR Case No: 169 of 130 of 2020 of JMFC, Ranapur.

TRUE COPY ATTESTED

Don
BY ADVOCATE

Susanta Kumar Baroi

38

Annexure-R/17/Q series.

2. That the accused persons are repeatedly and frequently involving Minor Mineral theft Cases. Hence, their bails should be liable to be cancel according to law and the State Government should be made an prayer before the Hon'ble Orissa High Court to cancel the bails of the offenders. The informant objected to the accused Persons not to commit theft the Minor Minerals from the Government source. Then the accused persons namely Dillip Kumar Samantary threatened me by showing Pistol and threatened to kill me. Hence, the incident occurred under the Chandpur Police Station Jurisdiction and the Police may kindly enquiry in to the matter and punish the accused persons according to law.
3. That due to such acts of the accused persons the State Government is bearing heavy loss and they are operating their illegal business by taking Plea as a RTI activist / Environmentalist.
4. That the accused person are liable to be penalized under Section 379/411/34/506 IPC read with Section 12 of Orissa Minerals(prevention of theft smuggling and other unlawful Activities Act, 1988, 51(1) OMMC Rule, 2016/ Section 4 of the Prevention of Money Laundering Act, 2022/ 25/27 Arms Act.
5. That the Police is empower to initiate proceeding against the accused persons under the provision of Section 4 of the Prevention of Money Laundering Act, 2022 and other provisions which is envisaged under the law. As per order dated 06.01.2022 passed by the Hon'ble NGT in O.A Case No: 48 of 2020 and directed to the State of Odisha illegal mining is coming under the preview of the Money laundering Act, 2002.
6. That this F.I.R again lodged by the informant having regard to the orders dated: 28.03.2023 Passed in CRLMP No: 570 of 2023.

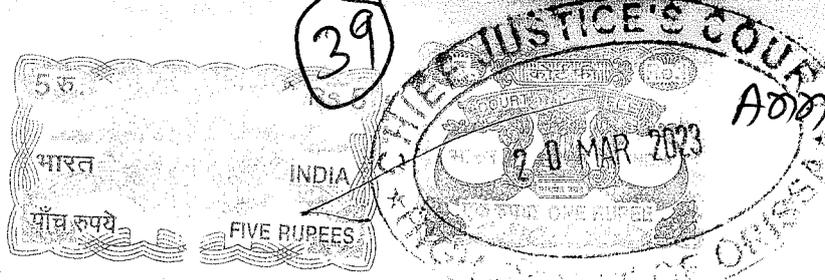
Yours faithfully,

Susanta Kumar Barad
(Susanta Kumar Barad)

Date: 07.04.2023

TRUE COPY ATTESTED

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BY ADVOCATE



IN THE HIGH COURT OF ORISSA, CUTTACK.

CRLMP NO. 570 OF 2023.

In the matter of:

Code-092100

An application under Articles 226 of the Constitution of India..

A N D

In the matter of:

An application challenging the inaction of the authorities in not registering the FIR and not taking any action.

Presented in Court

2023-23

B.O.

A N D

In the matter of:

Susanta Kumar Barad,
Aged about 35 years,
S/o. Sarbeswar Barad,
At- Sri Krushnapur,
Po.- Champagarh,
P.S.- Chandapur,
Dist. Nayagarh.

... Petitioner

- Versus -

- (1) The Superintendent of Police,
Nayagarh, Po./Dist.- Nayagarh.
- (2) The Inspector-In-Charge,
Chandpur Police Station,
Dist. Nayagarh, Odisha. ...

Opp. Parties.

TRUE COPY ATTESTED

BY ADVOCATE



2

40

Annexure-R/17/Q series.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.570 of 2023

Susanta Kumar Barad

....

Petitioner

Mr. S. Senapati, Advocate.

-versus-

The Superintendent of Police,
Nayagarh & others

Opp. Parties

Mr. Ch. S. Mishra,
Additional Government Advocate.

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

28.03.2023

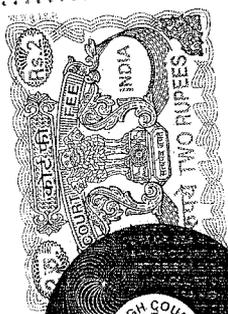
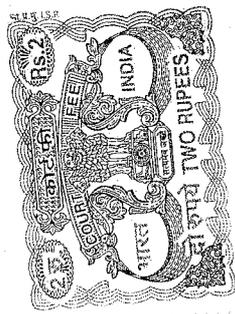
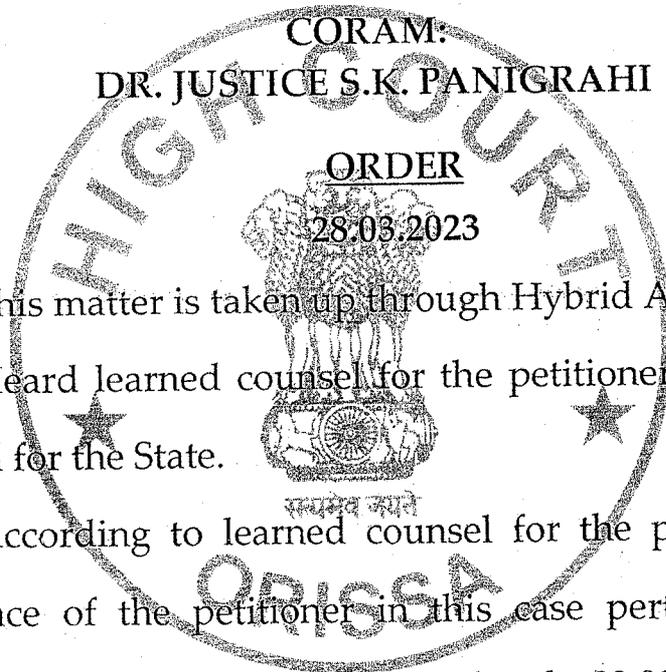
Order No.

1.

1. This matter is taken up through Hybrid Arrangement.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. According to learned counsel for the petitioner, the grievance of the petitioner in this case pertains to non-registration of his complaint dated 03.03.2023 under Annexure-1 as F.I.R. by I.I.C., Chandpur Police Station (opposite party no.3). As no action has been taken, the petitioner has approached the Superintendent of Police, Nayagarh (opposite party no.2) by sending a grievance petition dated 09.03.2023 through Registered Post. But till date, nothing has been done. In such background, he prays that necessary direction be issued to the opposite party no.2



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BY ADVOCATE

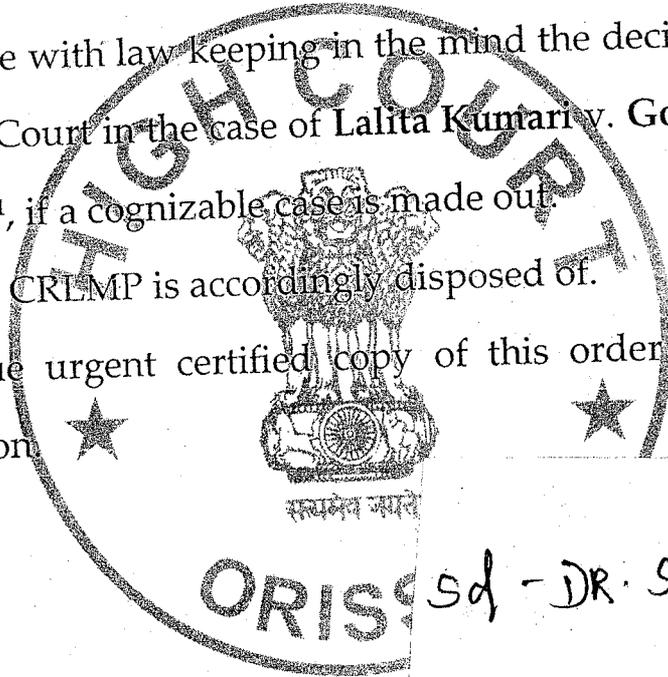
42

to take a decision on the said grievance petition within a specific time period.

4. Considering the submissions made and without expressing any opinion on the merits of the case, this Court directs petitioner to approach the I.I.C., Chandpur Police Stations (opposite party no.3) in person along with a fresh complaint and a copy of this order within a period of seven days. In the event, such a motion is made, the said I.I.C. is directed to take a decision on the said complaint in accordance with law keeping in the mind the decision of the Supreme Court in the case of *Lalita Kumari v. Govt. of U.P. & Others*¹, if a cognizable case is made out.

5. The CRLMP is accordingly disposed of.

6. Issue urgent certified copy of this order on proper application



Sd/- DR. S.K. Panigrahy

TRUE COPY ATTESTED
[Signature]
BY ADVOCATE

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Comp. by S. Sahoo
29-03-23



49

Annexure-R/17/Q Series 1

To,

SPEED POST

The Inspector- In-Charge

Chandpur Police Station, Dist: Nayagarh, Odisha

Sub: F.I.R against Dillip Kumar Samantray, Deepak Kumar Routray, Anil Kumar ray, Pradeep Jayasingh, and Ganeswar Mandhata and others with reference to under Section -154 (1) Cr.P.C- **reg.**

Ref: i. Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata order dated: 06.01.2022 passed in O.A Case No: 48 of 2020 in connection of illegal mining is coming under the preview of the Money laundering Act, 2002 -**reg.**

ii. Hon'ble Apex Court observations made In the matter Lalita Kumari v. Govt. of U.P [W.P.(Crl) No; 68/2008]

Sir,

I Susanta Kumar Barad, S/O: Sarbeswar Barad, aged about 35 years, at: Sri Krushnapur, Po: Champagarh-752024, P/S: Chandapur, Dist: Nayagarh, State: Odisha, Mob No: 7008504022 beg to draw your kind attention as follows:-

1. That on 03.03.2023 at about 2 P.M one of the accused namely Dillip Kumar Samantory, S/O: Lingaraj Samantra, at: Bajrakot, Po: Baunsagarh, P/S: Ranapur, Dist: Nayagarh, Deepak Kumar Routray, S/O: Rabi Narayan Routray, aged about 28 years, at: Ostapada, Po: Kamaguru, P/S: Dist: Nayagarh, Ganeswar Mandhata, S/O; Pananga Bhusan Mandhata, at/Po: Champagada, P/S: Chandapur, Dist: Nayagarah, Anil Kumar Ray, S/O: Hata Kishor Nayak, at/Po: Tankol, PS: Jankia, Dist: Khordha, Pradeep Jayasingh, S/O:

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Don
BY ADVOCATE

SUSANTA KUMAR BARAD

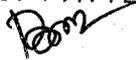
(43)

Annexure R/17/Q series.

Gadadhar Jayasingh, at/Po: Tankol, P/S: Jankia, Dist: Khordha have committed theft/ illegally Excavated of lateriate stone/ Murom by using Power triller/JCB from the Plot No: 712, 713, 714, 716 and 717 of Sahadaghai Mouza under Achyutapur Revenue Inspector Circle of Khordha District. The aforementioned accused persons have taken large scales lateriate Stone/ Morum with 15 Nos of tipper(without number plate in the vehicle) I have seen at about 3 PM on 03.03.2023 the minor mineral loaded vehicles along with accused persons are came at Borabarjhara under Chandpur PS. The accused persons have filed case against me before the Hon'ble NGT in O.A No: 83 of 2022/EZ and also they have filed another Case O.A No: 10 of 2023/EZ. The accused Persons were came in front of the Minor Mineral loaded Vehicle Maruti Alto CAR No: OD 02U 5592 by escorting the minor minerals. The said vehicles have been released by order of the Hon'ble High Court CRLMC No: 2239 of 2021 (GR Case No: 421 of 2020 in the file of the JMFC Ranapur). The accused person namely Ganeswar Mandhata and Deepak Kumar Routray are also involving Chandpur PS Case No: 24 of 2022 corresponding GR Case No: 69 of 2022 in the file of the JMFC, Ranapur. The Hon'ble Orissa High Court is also observed in the order dated: 30.03.2022 passed in ABLAPL No: 2500 of 2022, ABLPL No: 13843 of 2021 (Chandpur PS case No: 140 of 2021, PS Case No: 152 of 2022 corresponding GR Case No: 387 of 2022 in the JMFC, Ranapur) registered against Deepak Kumar Routray and another. The Maruti Alto car was also released by the Hon'ble Orissa High Court with reference to the CRLREV No: 297 of 2021. Accused persons namely Dillip Kumar Samantra is also involved in Ranapur PS Case No: 130 of 2020 corresponding GR Case No: 169 of 130 of 2020 of JMFC, Ranapur.

2. That the accused persons are repeatedly and frequently involving Minor Mineral theft Cases. Hence, their bails should be liable to be cancel according to law and the State

TRUE COPY ATTESTED


BY ADVOCATE

Susanta Kumar Boroi

44

Annexure-R/17/Q Series

Government should be made an prayer before the Hon'ble Orissa High Court to cancel the bails of the offenders. The informant objected to the accused Persons not to commit theft the Minor Minerals from the Government source. Then the accused persons namely Dillip Kumar Samantary threatened me by showing Pistol and threatened to kill me. Hence, the incident occurred under the Chandpur Police Station Jurisdiction and the Police may kindly enquiry in to the matter and punish the accused persons according to law.

3. That due to such acts of the accused persons the State Government is bearing heavy loss and they are operating their illegal business by taking Plea as a RTI activist / Environmentalist.
4. That the accused person are liable to be penalized under Section 379/411/34/506 IPC read with Section 12 of Orissa Minerals(prevention of theft smuggling and other unlawful Activities Act, 1988, 51(1) OMMC Rule, 2016/ Section 4 of the Prevention of Money Laundering Act, 2022/ 25/27 Arms Act.
5. That the Police is empower to initiate proceeding against the accused persons under the provision of Section 4 of the Prevention of Money Laundering Act, 2022 and other provisions which is envisaged under the law. As per order dated 06.01.2022 passed by the Hon'ble NGT in O.A Case No: 48 of 2020 and directed to the State of Odisha illegal mining is coming under the preview of the Money laundering Act, 2002.

Yours faithfully,

TRUE COPY ATTESTED


BY ADVOCATE

Susanta Kumar Barad

(Susanta Kumar Barad)

Date: 03.03.2023

45

Annexure-R/17/Q series.

To,

SPEED POST

Dt: 09.03.2023

The Superintendent of Police

Nayagarh Police District, at/Po/Dist: Nayagarh-752069, Odisha

Sub: Issue necessary direction to the I.I.C, Chandpur Police Station of Nayagarh District to register a criminal case against Dillip Kumar Samantray, Deepak Kumar Routray, Anil Kumar ray, Pradeep Jayasingh, and Ganeswar Mandhata and others with reference to the F.I.R dated: 03.03.2023 of the informant addressed to the I.I.C, Chandpur Police Station of Nayagarh District under Section -154 (1) Cr.P.C- **reg.**

Ref: i. F.I.R dated: 03.03.2023 of the informant addressed to the I.I.C, Chandpur Police Station of Nayagarh District-reg.

II. Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata order dated: 06.01.2022 passed in O.A Case No: 48 of 2020 in connection of illegal mining is coming under the preview of the Money laundering Act, 2002 -**reg.**

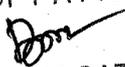
iii. Hon'ble Apex Court observations made In the matter Lalita Kumari v. Govt. of U.P [W.P.(Crl) No; 68/2008]

Sir,

I Susanta Kumar Barad, S/O: Sarbeswar Barad, aged about 35 years, at: Sri Krushnapur, Po: Champagarh-752024, P/S: Chandapur, Dist: Nayagarh, State: Odisha, Mob No: 7008504022 beg to draw your kind attention as follows:-

Susanta Kumar Barad

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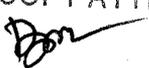

BY ADVOCATE

46

Annexure-R/17/Q series.

1. That on 03.03.2023 at about 2 P.M one of the accused namely Dillip Kumar Samantory, S/O: Lingaraj Samantra, at: Bajrakot, Po: Baunsagarh, P/S: Ranapur, Dist: Nayagarh, Deepak Kumar Routray, S/O: Rabi Narayan Routray, aged about 28 years, at: Ostapada, Po: Kamaguru, P/S: Dist: Nayagarh, Ganeswar Mandhata, S/O; Pananga Bhusan Mandhata, at/Po: Champagada, P/S: Chandapur, Dist: Nayagarah, Anil Kumar Ray, S/O: Hata Kishor Nayak, at/Po: Tankol, PS: Jankia, Dist: Khordha, Pradeep Jayasingh, S/O: Gadadhar Jayasingh, at/Po: Tankol, P/S: Jankia, Dist: Khordha have committed theft/ illegally Excavated of lateriate stone/ Murom by using Power triller/JCB from the Plot No: 712, 713, 714, 716 and 717 of Sahadaghai Mouza under Achyutapur Revenue Inspector Circle of Khordha District. The aforementioned accused persons have taken large scales lateriate Stone/ Morum with 15 Nos of tipper(without number plate in the vehicle) I have seen at about 3 PM on 03.03.2023 the minor mineral loaded vehicles along with accused persons are came at Borabarjhara under Chandpur PS. The accused persons have filed case against me before the Hon'ble NGT in O.A No: 83 of 2022/EZ and also they have filed another Case O.A No: 10 of 2023/EZ. The accused Persons were came in front of the Minor Mineral loaded Vehicle Maruti Alto CAR No: OD 02U 5592 by escorting the minor minerals. The said vehicles have been released by order of the Hon'ble High Court CRLMC No: 2239 of 2021 (GR Case No: 421 of 2020 in the file of the JMFC Ranapur). The accused person namely Ganeswar Mandhata and Deepak Kumar Routray are also involving Chandpur PS Case No: 24 of 2022 corresponding GR Case No: 69 of 2022 in the file of the JMFC, Ranapur. The Hon'ble Orissa High Court is also observed in the order dated: 30.03.2022 passed in ABLAPL No: 2500 of 2022, ABLPL No: 13843 of 2021 (Chandpur PS case No: 140 of 2021, PS Case No: 152 of 2022 corresponding GR Case No: 387 of 2022 in the JMFC,

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BY ADVOCATE

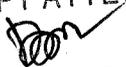
Susanta Kumar Borah

47

Annexure-R/17/Q³Series.

Ranapur) registered against Deepak Kumar Routray and another. The Maruti Alto car was also released by the Hon'ble Orissa High Court with reference to the CRLREV No: 297 of 2021. Accused persons namely Dillip Kumar Samantra is also involved in Ranapur PS Case No: 130 of 2020 corresponding GR Case No: 169 of 130 of 2020 of JMFC, Ranapur.

2. That the accused persons are repeatedly and frequently involving Minor Mineral theft Cases. Hence, their bails should be liable to be cancel according to law and the State Government should be made an prayer before the Hon'ble Orissa High Court to cancel the bails of the offenders. The informant objected to the accused Persons not to commit theft the Minor Minerals from the Government source. Then the accused persons namely Dillip Kumar Samantary threatened me by showing Pistol and threatened to kill me. Hence, the incident occurred under the Chandpur Police Station Jurisdiction and the Police may kindly enquiry in to the matter and punish the accused persons according to law.
3. That due to such acts of the accused persons the State Government is bearing heavy loss and they are operating their illegal business by taking Plea as a RTI activist / Environmentalist.
4. That the accused person are liable to be penalized under Section 379/411/34/506 IPC read with Section 12 of Orissa Minerals(prevention of theft smuggling and other unlawful Activities Act, 1988, 51(1) OMMC Rule, 2016/ Section 4 of the Prevention of Money Laundering Act, 2002/ 25/27 Arms Act.
5. That the Police is empower to initiate proceeding against the accused persons under the provision of Section 4 of the Prevention of Money Laundering Act, 2022 and other provisions which is envisaged under the law. As per order dated 06.01.2022 passed by the Hon'ble NGT in O.A Case No: 48 of 2020 and directed to the State of Odisha illegal

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BY ADVOCATE

Susanta Kumar Boroi

48

Annexure-R/H/Q series.

mining is coming under the preview of the Money laundering Act, 2002.

6. That the informant is already submitted F.I.R dated: 03.03.2023 before the I.I.C, Chandpur Police Station of Nayagarh Distict, but till date the I.I.C has failed to register Case against the accused persons. It shows that the I.I.C is trying to cover up the accused persons. Even though the accused Persons are already involved large number criminal cases regarding theft of minor Minerals from the different sources and they have committed other serious offences under the umbrella of the Police administration as well as Revenue officials. Thus, the accused persons are liable to be penalized according to law.
7. That in view of the above facts and circumstances this authority may kindly direct to the I.I.C, Chandpur Police Station to register the criminal case against the accused persons. Failing which the basic foundation of the law will be collapsed and the accused persons will be scot free.

Yours faithfully,

Susanta Kumar Barad
(Susanta Kumar Barad)

Date: 09.03.2023

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Barad
BY ADVOCATE

49

ADJEXUSE-R/17/R series.

CA 1046/2019

1

Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 1046 of 2019

**Kantha Vibhag Yuva Koli Samaj Parivartan
Trust and Others**

Appellants

Versus

State of Gujarat and Others

Respondents

JUDGMENT

Dr Justice Dhananjaya Y Chandrachud, J

1 Admit.

2 This appeal under Section 22 of the National Green Tribunal Act 2010¹ arises from a judgment and order of the Principal Bench of the National Green Tribunal² dated 28 September 2018, by which it dismissed OA No 81 of 2014 (WZ).

3 OA No 81 of 2014 (WZ), instituted under Sections 14 and 15 of the NGT Act, was

1 "NGT Act"

2 "NGT"

Validity unknown

Digitally signed by
DEEPAK KUMAR
Date: 2023.02.22
16:19:51
Reason:

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Dr
BY ADVOCATE

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Annexure-R/17/R series.

CA 1046/2019

2

pending before the NGT for nearly four years since July 2014. It had been filed by the appellants, who are environmental organisations and individuals directly affected by the degradation of the environment in the area in question. The OA pertained to the issue of the dumping of unsegregated and untreated Municipal Solid Waste³ at an open landfill site admeasuring 188 hectares at Survey No 111 /A, Block No 177, Khajod Village, Taluka Choryasi in the district of Surat, which is surrounded by thirty-five villages. The landfill site had been set up by the fourth respondent, Surat Municipal Corporation⁴, which had started dumping 850 Metric Tonnes of waste per day on 24 January 2003. The extent of dumping increased to 1600 Metric Tonnes of waste per day by 16 January 2014. It was alleged, *inter alia*, that the dumping of waste in the open area without prior treatment was in violation of the Municipal Solid Waste (Handling and Management) Rules 2000 and Bio Medical Waste (Management and Handling) Rules 1998. Further, while SMC had been issued multiple warnings during site visits and inspections, the situation did not improve. It was alleged that the waste disposal led to an irreversible contamination of local water bodies and ground water, caused severe air pollution due to the burning of waste, damaged the ecology of the nearby villages and was affecting the health of the citizens and livestock in the vicinity. The appellants sought directions, *inter alia*, for: (i) restraining the dumping of MSW at the landfill site; (ii) restoration of the environment in the surrounding areas; (iii) restitution of the landfill site to its original condition; (iv) compensation to all those affected in the nearby villages upon

³ "MSW"

⁴ "SMC"

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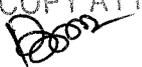

BY ADVOCATE

determination of damages by a committee set up to assess the landfill site; and (v) implementation of the Solid Waste Management Rules 2016⁵.

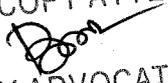
4 The Western Zone Bench of the NGT issued notice on 8 August 2014. A series of orders emanated from the Western Zone Bench of the NGT in connection with the issues raised. It would suffice to note a few of those orders:

- (i) On 20 March 2015, the NGT noted that "*prima facie* there is ring of truth in the averments made by the Applicants, to indicate that MSW plant, is being mismanaged" and that the burning of the untreated MSW was causing severe air pollution affecting the health of the residents of the nearby villages. Interim directions were issued to prevent this from taking place during the pendency of the OA;
- (ii) On 22 December 2015, the NGT again reproached SMC for not preparing a proper action plan and audit for the management of MSW in the district of Surat. However, on the appellant's issue of their participation in the management of the landfill site, the NGT noted that it would be decided during the final hearing;
- (iii) On 7 March 2016, the NGT directed the Commissioner of SMC to be present and to provide a statement on the following issues: (a) extent of waste collected, treated and disposed of in accordance with the mandate of the Municipal Solid Waste (Handling and Management) Rules 2000; (b) the officers who have failed

⁵ "SWM Rules"

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BY ADVOCATE

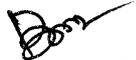
- to enforce the Rules and have failed to comply with the directions of the NGT; (c) the time schedule within which proper waste management will be done in the area in terms of the Rules; and (d) filing an undertaking that waste management shall be done in letter and spirit;
- (iv) On 16 May 2017, the NGT noted that in pursuance of its previous directions, SMC had filed an affidavit indicating, *inter alia*, the action plan which it proposed to execute for handling the problem of MSW within its jurisdiction. The NGT was informed that the issue pertaining to the closure of the Khajod dumping site was pending before the Standing Committee of SMC. Hence, the NGT directed the Standing Committee to take a decision and issue a work order for commencing the work of the closure of the open dumping site within a month. Moreover, SMC was directed to place on the record the details of the lands where the projects are to be commissioned;
- (v) On 19 September 2017, a statement was made on behalf of SMC that it is under an obligation to comply with the SWM Rules and that the site at Khajod is designated for a landfill, an MSW processing plant and a waste-to-energy plant of 100 TPD on a public-private partnership basis;
- (vi) Pursuant to the order of the NGT dated 19 September 2017, the appellants formulated certain action points for implementation of the SWM Rules. On 26 September 2017, an undertaking was filed on behalf of SMC by the Municipal

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Commissioner setting out the steps which would be taken for dealing with MSW, transportation, storage, and processing as well as on other related matters. The undertaking stipulated that there shall be no landfilling or dumping of unprocessed and unsegregated MSW after two years subject to "100% working of the Solid Waste Processing Plant" and certain other conditions;

- (vii) On 6 November 2017, an order was passed by the NGT setting out that it would be hearing SMC, *inter alia*, on the qualified nature of the undertaking which was furnished by it, having regard to the SWM Rules and on the proposed use of the Khajod landfill site despite its potential as a landfill site being concluded. The NGT also indicated that it would be hearing submissions on the commissioning of the waste-to-energy plant and the waste-to-compost plant within a given time frame;
- (viii) An order was passed by the NGT on 5 December 2017, dealing particularly with the issue of quantification of compensation to the farmers due to the damage caused by the burning of solid waste and ground water pollution;
- (ix) On 2 July 2018, the NGT issued directions stating that the submissions which were urged before it by SMC were unacceptable. The NGT declined to accept the contention that the waste-to-energy plant could only be completed by December 2019, and directed that it ought to be completed by March 2018; and

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(x) On 17 July 2018, the NGT noted that SMC's current action plan *prima facie* did not fulfill the requirements of Clause J of Schedule-I of the SWM Rules in relation to closure and rehabilitation of old dumping sites and legacy waste. Hence, it directed SMC to file an affidavit recording its compliance.

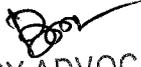
5 A considerable amount of judicial time and attention was entailed during the course of the hearings associated with the above orders. Earlier Benches of the NGT at the Western Zone Bench had been monitoring the status of compliance with the SWM Rules. The NGT was seized with diverse aspects pertaining to the disposal of MSW by SMC, including the modalities which have to be followed while commissioning projects in the future for the conversion of waste to energy.

6 Rather surprisingly, when the proceedings came up on 28 September 2018 before the Principal Bench of the NGT, the OA was disposed of on the ground that in another OA – OA No 606 of 2018 – the NGT had constituted Apex, Regional and State Level Committees to monitor the implementation of the SWM Rules. The OA filed by the appellants was thus closed with liberty to represent the case and ventilate all grievances before the appropriate committee. For convenience of reference, the order passed by the NGT is extracted below:

"As this OA relates to implementation of Solid Waste Management Rules, 2016, we are of the considered opinion that it is covered by the order passed by the larger Bench of the Tribunal dated 20th August, 2018 in OA No 606 of 2018.

The Applicant would be at liberty to represent its case and ventilate

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all grievance before the Committee which shall look into it and finally decide the same.

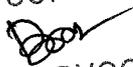
Consequently, OA No 81 of 2014 stands disposed of. There shall be no order as to cost.

M.A. No. 1392 of 2018 and 1393 of 2018

These Applications do not survive for consideration as the main Application has been decided and are accordingly dismissed."

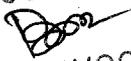
7 At this juncture, it is also important to elaborate on NGT's judgment and order dated 31 August 2018 in OA No 606 of 2018. Those proceedings arose from writ petitions filed before this Court in relation to the proper implementation of SWM Rules across the country, which were later transferred to the NGT. The NGT noted in its decision that though it had earlier issued directions for the implementation of the SWM Rules, they had not been complied with. Later, in a meeting organised by the Central Pollution Control Board with all the States and Union Territories, it was recommended that the NGT should form Apex, Regional and State Level Committees for the implementation of the SWM Rules and the directions issued by the NGT, and that these Committees should submit quarterly reports to the NGT. Thus, the NGT directed the following:

- (i) The Apex Monitoring Committee was set up for one year, till further orders. Its role was to interact with the relevant Ministries and the Regional Monitoring Committees, and it could formulate guidelines/directions which may be useful to the Regional Monitoring Committees and the States/Union Territories. It

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- was to meet preferably every month, and also preferably meet the Regional Monitoring Committees once a month. It shall then submit its report to the NGT every quarter. Further, it was also directed that the Committee set up a website for dissemination of information, so as to enable public participation;
- (ii) The Regional Monitoring Committees were set up for one year, till further orders, for each zone – North, East, West, South and Central. They were to ensure effective implementation of the SWM Rules, and that mixing of bio-medical waste with MSW does not take place and bio-medical waste is processed in accordance with the Bio-Medical Waste Management Rules 2016. The Committees were to preferably meet every week, and meet the Apex Monitoring Committee, have *inter se* interactions and meet the States when necessary. They were to submit their reports to the Apex Monitoring Committee twice a quarter, and also submit a report to the NGT after the first quarter. Much like the Apex Monitoring Committee, the Regional Monitoring Committees were also directed to set up websites; and
- (iii) The State Level Committees were set up for one year, till further orders, for each State and Union Territory. They were to preferably meet with local bodies once every two weeks, and the local bodies were to furnish them reports twice a month. They were to decide on technical and policy issues in accordance with the SWM Rules and consistent with the directions of Apex and Regional

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Monitoring Committees. Further, they were to send their reports to the Regional Monitoring Committee on a monthly basis. It was also directed that public involvement may be encouraged and status of MSW be placed in the public domain.

The NGT directed that the Committees would be at liberty to issue directions for execution of the orders of the NGT to any authority.

8 Ms Shilpa Chohan, learned Counsel appearing on behalf of the appellants, has submitted that relegating the appellants to a committee was wholly inappropriate having regard to the progress which had been achieved by the Western Zone Bench of the NGT in unravelling various aspects of the case. Moreover, it is urged that the jurisdiction to provide restitution and award compensation is entrusted to the NGT and hence, it was not appropriate or proper to dispose of the OA by relegating the decision to a committee.

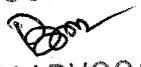
9 On the other hand, Mr Tejas Patel, learned Counsel appearing on behalf of SMC, submits that the appellants have produced absolutely no material on the basis of which a claim for compensation can be made. Moreover, it was urged that they have a remedy of ventilating their grievances before the appropriate committee.

10 The OA was filed by the appellants under Sections 14 and 15 of the NGT Act.

Section 14⁶ of the NGT Act vests the NGT with jurisdiction over all civil cases where a

⁶ "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

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substantial question relating to the environment is involved, and such question arises out of the implementation of the enactments specified in Schedule I to the statute. Sub-Section (1) of Section 15 is in the following terms:

"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."

11 In **Mantri Techzone (P) Ltd. v. Forward Foundation**⁷, a three-Judge Bench of this Court outlined that Section 15(1)(c) of the NGT Act entrusts broad powers to the NGT. Speaking for the Court, Justice S Abdul Nazeer held:

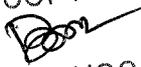
"43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever

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."
7 (2019) 18 SCC 494

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Annexure-R/17/R series.

the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.”

12 The OA filed by the appellants raised issues falling within the jurisdiction of the NGT under Section 14, since it relates to the implementation of the SWM Rules. The SWM Rules have been notified pursuant to the powers conferred by Sections 3, 6 and 25 of the Environment (Protection) Act 1986, which is Entry 5 in Schedule I of the NGT Act. None of the prayers sought by the appellants are of a nature that cannot be granted by the NGT in accordance with its powers under Section 15(1) of the NGT Act. The OA was being continuously heard by the Western Zone Bench of the NGT since August 2014, and it had already issued significant interim directions.

13 Hence, the issue before us is only whether the Principal Bench of the NGT correctly directed the appellants to now approach one of the Committees set up by it, rather than continue with the proceedings in the OA. To understand this, we must first consider the role of such committees which are set up by courts and tribunals alike.

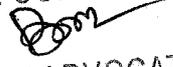
14 It is first important to differentiate expert committees which are set by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before courts when decisions are taken solely based upon them. The precedents of this court unanimously note that courts should be circumspect in rejecting

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the opinion of these committees, unless they find their decision to be manifestly arbitrary or *mala fide*⁸. On the other hand, courts/tribunals themselves set up expert committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these expert committees does not substitute the adjudicatory role of the court or tribunal. The role of an expert committee appointed by an adjudicatory forum is only to assist it in the exercise of adjudicatory functions by providing them better data and factual clarity, which is also open to challenge by all concerned parties. Allowing for objections to be raised and considered makes the process fair and participatory for all stakeholders.

15 Sections 14 and Section 15 entrust adjudicatory functions to the NGT. The NGT is a specialized body comprising of judicial and expert members. Judicial members bring to bear their experience in adjudicating cases. On the other hand, expert members bring into the decision-making process scientific knowledge on issues concerning the environment. In **Hanuman Laxman Aroskar v. Union of India**⁹, a two-Judge Bench of this Court noted that the NGT is an expert adjudicatory body on the

⁸ **Basavaiah (Dr.) v. Dr. H.L. Ramesh**, (2010) 8 SCC 372 (in relation to appointment in an academic institution); **State of Kerala v. RDS Project Ltd.**, (2020) 9 SCC 108 (in relation to safety of a flyover project)
⁹ (2019) 15 SCC 401

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Annexure-R/17/R Series.

environment. The Court held:

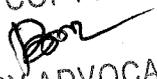
"133. The NGT Act provides for the constitution of a tribunal consisting both of judicial and expert members. The mix of judicial and technical members envisaged by the statute is for the reason that the Tribunal is called upon to consider questions which involve the application and assessment of science and its interface with the environment..."

134. NGT is an expert adjudicatory body on the environment."

The NGT does not have a dearth of 'expertise' when it comes to the issues of environment.

16 Section 15 empowers the NGT to award compensation to the victims of pollution and for environmental damage, to provide for restitution of property which has been damaged and for the restitution of the environment. The NGT cannot abdicate its jurisdiction by entrusting these core adjudicatory functions to administrative expert committees. Expert committees may be appointed to assist the NGT in the performance of its task and as an adjunct to its fact-finding role. But adjudication under the statute is entrusted to the NGT and cannot be delegated to administrative authorities. Adjudicatory functions assigned to courts and tribunals cannot be hived off to administrative committees. In **Sanghar Zuber Ismail v. Ministry of Environment, Forests and Climate Change and Another**¹⁰, a three-Judge Bench of this Court noted that the NGT cannot refuse to hear a challenge to an Environmental Clearance under Section 16(h) of the NGT Act and delegate the process of adjudicating on compliance to

¹⁰ 2021 SCC OnLine SC 669

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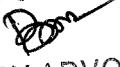
Annexure-R/17/R series.

an expert committee. The Court held:

“8...the NGT has not dealt with the substantive grounds of challenge in the exercise of its appellate jurisdiction. Constitution of an expert committee does not absolve the NGT of its duty to adjudicate. The adjudicatory function of the NGT cannot be assigned to committees, even expert committees. The decision has to be that of the NGT. The NGT has been constituted as an expert adjudicatory authority under an Act of Parliament. The discharge of its functions cannot be obviated by tasking committees to carry out a function which vests in the tribunal.”

17 The NGT has in the present case abdicated its jurisdiction and entrusted judicial functions to an administrative expert committee. An expert committee may be able to assist the NGT, for instance, by carrying out a fact-finding exercise, but the adjudication has to be by the NGT. This is not a delegable function. Thus, the order impugned in the appeal cannot be sustained. The consequence of the impugned order is to efface the meticulous exercise which was carried out by the earlier Benches. Valuable time has been lost in the meantime and crucial issues pertaining to the environment in the present case have been placed on the back-burner.

18 Hence, we are of the view that it would be appropriate to set aside the impugned order and to restore OA No 81 of 2014 (WZ) to the file of the NGT. We accordingly allow the appeal and set aside the impugned order dated 28 September 2018. OA No 81 of 2014 (WZ) is restored to the file of the NGT. The NGT shall commence with the hearing of the proceedings from the stage which was arrived at before the impugned order dated 28 September 2018 was passed. Unfortunately, more than three years have

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Annexure-R/17/R series.

passed in the meantime, a delay which could have been avoided had the NGT proceeded to adjudicate upon the issues which were raised before it.

19 This Court has not expressed any opinion on the merits of the issues which are raised before the NGT. The NGT will take an appropriate view and issue appropriate directions in continuation of the directions which hold the field, after hearing the parties.

20 The Court was apprised that the impugned order was passed by the Principal Bench since the Western Zone Bench of the NGT was not functioning at the relevant time. Hence, OA No 81 of 2014 (WZ) may now be heard by the Bench which is assigned with the requisite jurisdiction to hear the subject matter of the OA.

21 The appeal is accordingly allowed in the above terms.

22 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Bela M Trivedi]

New Delhi;
January 21, 2022
CKB

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Annexure-R/7/R series.

ITEM NO.18

Court 4 (Video Conferencing)
S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SECTION XVII

Civil Appeal No.1046/2019

KANTHA VIBHAG YUVA KOLI SAMAJ PARIVARTAN
TRUST & ORS.

Appellant(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

Date : 21-01-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s)

Ms. Shilpa Chohan, Adv.
Mr. Ssawahiq Siddique, Adv.
Dr. Pratyush Nandan, Adv.
Mr. Rajesh Singh, AOR

For Respondent(s)

Ms. Aastha Mehta, Adv.
Ms. Deepanwita Priyanka, Adv.

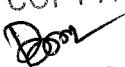
Ms. Ruchi Kohli, AOR

Mr. Avijit Roy, AOR

Mr. Tejas Patel, AOR
Mr. Kaushal Pandya, Adv.

UPON hearing the counsel the Court made the following
O R D E R

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(65) Annexure-R/17/R series.

- 1 Admit.
- 2 The appeal is allowed in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)

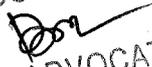
A.R. -cum-P.S.

(Signed Reportable Judgment is placed on the file)

(SAROJ KUMARI GAUR)

COURT MASTER

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Annexure-R/17/Series.

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2407-2412 OF 2021

**THE STATE OF UTTAR PRADESH
& ORS. ETC. ETC.**

...APPELLANT (S)

VERSUS

**UDAY EDUCATION AND WELFARE
TRUST AND ANR. ETC. ETC.**

...RESPONDENT(S)

WITH

CIVIL APPEAL NOS. 3144-3146 OF 2022

CIVIL APPEAL NOS.3132-3134 OF 2022

CIVIL APPEAL NOS.3135-3137 OF 2022

CIVIL APPEAL NO.3138 OF 2022

CIVIL APPEAL NOS.4061-4062 OF 2022

CIVIL APPEAL NO.3141 OF 2022

CIVIL APPEAL NOS.2547-2548 OF 2020

CIVIL APPEAL NOS.3142-3143 OF 2022

CIVIL APPEAL NOS.3147-3149 OF 2022

J U D G M E N T

B.R. GAVAI, J.

1. For the reasons stated in the applications for

impleadment/intervention, the same are allowed.

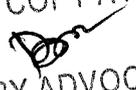
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Annexure-R/17/S-Series.

2. This bunch of appeals challenges the order dated 18th February 2020, passed by the learned National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "the learned NGT") in Original Application Nos.313, 335 and 396 of 2019, thereby quashing and setting aside the notice dated 1st March 2019 issued by the State of Uttar Pradesh for establishing new wood based industries (hereinafter referred to as "WBIs") and also setting aside all the provisional licenses given in pursuance thereof.
3. The appeals also challenge the orders dated 18th March 2020, 2nd December 2020, and 21st December 2020 vide which the review applications filed by the State of Uttar Pradesh and the provisional license holders have been rejected.
4. Civil Appeal Nos.2407-2412 of 2021 are filed by the State of Uttar Pradesh. The rest of the Civil Appeals are filed by the provisional license holders, who were granted licenses in pursuance of the notice dated 1st March 2019, issued by the State of Uttar Pradesh.

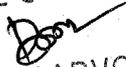
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Annexure-R/17/S series.

FACTUAL BACKGROUND

5. For the sake of convenience, we will refer to the facts as found in Civil Appeal Nos. 2407-2412 of 2021 filed by the State of Uttar Pradesh.
6. There are series of orders passed by this Court and the Central Empowered Committee (hereinafter referred to as "CEC") appointed by this Court, issuing various directions for prohibiting/regulating the felling of trees as well as the establishment of WBIs. We will refer to them extensively in the subsequent paragraphs.
7. In pursuance of the order passed by this Court dated 5th October 2015 in Writ Petition (Civil) No.202 of 1995 (T.N. Godavarman Thirumalpad vs. Union of India), the Ministry of Environment and Forest and Climate Change ("MOEFCC" for short) issued Wood Based Industries (Establishment and Regulation) Guidelines 2016 (hereinafter referred to as "2016 Guidelines") vide Notification No. S.O. 3456 (E) dated 11th November 2016.

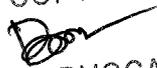
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Annexure-R/17/S series.

plantation; what were the aims and objectives of the said original applicants; and what are the sources of funding, etc. Shri Mehta and Shri Chahar, learned Senior counsel, fairly submitted that apart from the fact that they (original applicants) had previously filed some public interest litigations wherein orders were passed in their favour, they had no other information.

98. Shri Dhruv Mehta, learned Senior Counsel has rightly relied on the judgment of this Court in the case of **Ankita Sinha and Others (supra)** to submit that the learned NGT is empowered to take suo motu cognizance. This Court has held that, taking into consideration the nature of functions of the learned NGT, it cannot be equated with other Tribunals and in environmental matters, it will also have a power to take *suo motu* cognizance. However, when the credentials and bonafides of a litigant approaching the learned NGT are seriously raised, the same cannot be ignored.

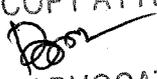
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ADDITIONAL R/17/S series.

99. We find that before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and *bonafides* of the applicants must be tested. In the present case, there is scope to infer that the litigation could be at the behest of the existing WBIs who wanted to avoid competition and continue to get raw material at a cheaper rate. There is also scope to infer that it could be at the behest of the WBIs in the adjoining Yamuna Nagar district of Haryana where lakhs of tons of timber is exported from the State of Uttar Pradesh. There is scope to infer that it could be in the interest of middlemen who are engaged in exporting timber from Uttar Pradesh to Haryana. We would, therefore, only request the learned NGT that, when credentials and *bonafides* of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely

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Annexure - R/17/S Series.

to adversely affect the rights of many, it should ensure the bonafides and credentials of such litigants.

100. Though we are allowing the appeals, setting aside the orders of the learned NGT, and upholding the action of the State Government in granting licenses, we would like to remind the State and its authorities that it is their duty to protect the environment. The State and its authorities should ensure that necessary steps are taken for arresting the problem of declining forest and tree cover. The State and its authorities should make meaningful and concerted efforts to ensure that the green cover in the State of Uttar Pradesh is not reduced and to ensure that it increases.

101. The conservation of forest plays a vital role in maintaining the ecology. It acts as processors of the water cycle and soil and also as providers of livelihoods. As such, preservation and sustainable management of forests deserve to be given due importance in formulation of policies by the State. In this regard, it will be apposite to refer to certain earlier pronouncements of this Court.

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