

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

O.A NO.153/2023/EZ

Kabiraj Mahapatra APPLICANT

-VERSUS-

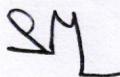
The Union of India & Others ... RESPONDENTS

I N D E X

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Cuttack.

Date. 23.07.2024 By the Respondent No.4 through



ADDL. STANDING COUNSEL

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

O.A. No. 153/2023/EZ

Kabiraj Mahapatra ... Applicant

-VERSUS-

Union of India & others ... Respondents

**AFFIDAVIT FILED BY RESPONDENT NO.4
PURSUANT TO ORDER DTD.22.04.2024**

I, Sri Dibya Jyoti Parida, aged about 36 years, Son of Sri Prasanna Kumar Parida, at present serving as the Collector & District Magistrate, Ganjam, Chatrapur, Dist-Ganjam, do hereby solemnly affirm and state as follows:-

1. That, I have been arrayed as Respondent No. 4 in the aforesaid Original Application.
2. That, this affidavit is being filed pursuant to Order dtd. 22.04.2024 of this Hon'ble Tribunal.
3. That, it is respectfully submitted that, pursuant to order dtd. 17.10.2023 of this Hon'ble Tribunal, the present Respondent No. 4 has nominated Sri Debabrata Sahoo, Addl. District Magistrate, Ganjam as member of the joint Committee vide Letter No. 4142/Rev. dtd. 04.11.2023. The Committee members visited the site on

Dibya Jyoti Parida

BY
AK

30.11.2023 and 16.02.2023. The following observation has been made by the Joint Committee.

i.) It is ascertained during the site visit that, there had been some illegal sand mining carried out in the past from the alleged site of Siripur Sand Bed and illegal excess Sand mining from Sundarada Birachaitanyapur Sand Bed Lease area located downstream of Siripur Sand Bed. Hence, in order to arrive at a conclusion on exact quantification of Sand illegally extracted from both the Sources, the Committee members unanimously decided to seek the help of Mining and Geology experts from Deptt. Of Mines and Geology for calculation of quantity of Sand illegally extracted from both Sources. Accordingly, the Committee Members requested RO, SPCB, Berhampur to move the Deputy Director of Mines, Berhampur, Ganjam with a request to assess the quantity of illegal Sand mining at the alleged site of Siripur Sand Bed and at Sundarada Birachaitanyapur sand Bed Lease area for calculation of Environmental Compensation with the help of Geologist.

4. That the quantum of illegal sand mining has been calculated by the geologist and submitted his report vide Letter No. XI-02/2022/209/SZ Dated. 16.02.2024

SS
SK

Diby
Jyoti Panda

Copy of the Report Dtd. 16.02.2024 is annexed herewith as Annexure A/4

5. That pursuant to the observation of Hon'ble Tribunal in their order dated 22.04.2024 and assessment made by the Geologist on illegal sand mining against the person involved i.e Respondent No. 10, M/s DD Builders Ltd. Plot No. 33-F, BJB Nagar, First Floor, Bhubaneswar-761014 to a tune of **2751 Cum**, The Mining Officer, Ganjam Circle, Berhampur, Steel & Mines Department, Govt. of Odisha has calculated the Royalty, Penalty, Addl. Charges & others in accordance with the OMMC Rule, 2023 towards quantum of **2751 Cum**. of extracted Sand and reported vide his Letter No. 976/Mines Dated. 24.06.2024 as per below.

1. Royalty (@ 35/- per CuM) = Rs. 96, 285/-
2. Addl. Charges (120/- per CuM) = Rs. 3, 30,120/-
3. Penalty = Rs. 5. 00, 000/-
4. DMF (@ 10 % of Royalty) = Rs. 9, 629/-
5. EMF (@ 5 % of Royalty) = Rs. 4, 814/-
6. Compensatory (@ 5 % of Royalty + Addl.) =
Rs.21, 320/-
7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

SM
ASR

Diksha Tyoti Panik

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

Copy of the Letter Dtd. 24.06.2024 is annexed herewith as **Annexure B/4**

Accordingly, notices have been issued by the Tahasildar, Chikiti vide his Notice No. 2057 Dated. 26.06.2024, No. 2051 Dated. 26.06.2024 and No. 2053 Dated. 26.06.2024 to M/s D.D Builders Ltd., Plot No. 33-F, BJB Nagar, First Floor, Bhubaneswar-761014, M/s. ARSS infrastructure project Ltd. (Respondent No. 11) and M/s. ARSS Developers Ltd. , Plot No. 38, Sector A, Zone-D, Mancheswar Industrial Estate, Bhubaneswar (Respondent No.12) respectively to deposit the accessed amount towards environmental compensation before the Tahasildar-cum-Executive Magistrate, Chikiti, Ganjam.

Copy of the Notice vide No. 2057 Dtd.26.06.2024, No. 2051 Dated. 26.06.2024 and No. 2053 Dated. 26.06.2024 of Tahasildar, Chikiti is annexed herewith as **Annexure C/4, C/5 & C/6.**

During the first field visit to the alleged site on Dtd.30.11.2023 by the joint committee comprising of (i) Sr. Scientist, Odisha, Pollution Control Board (ii) Sr. Scientist, Central Pollution Control Board, Kolkata (iii)

Dilmya Jyoti Panwar

*BY
AK*

Sr. Scientist, State Environment Impact Assessment Authority, Odisha (iv) Addl. District Magistrate, Ganjam, the nearby villagers of the alleged sand bed has reported that (i) M/s DD Builders Ltd. Plot No. 33-F, BJB Nagar, First Floor, Bhubaneswar-761014 (Respondent No- 10) (ii) M/s ARSS Infrastructure Projects Limited (RespondentNo-11) (iii) M/s ARSS Developers Limited(Respondent No- 12) are involved in illegal extraction of Sand from the alleged site. Accordingly notices has already been issued to M/s DD Builders Ltd.(Respondent No.10), M/S. ARSS Infrastructure Project Limited (Respondent No. 11) and ARSS Developers Limited (Respondent No. 12) to deposit the Royalty, Penalty & other environmental compensation as their involvement in illegal lifting of sand was observed by the joint committee during their visit to the alleged site on 30.11.2023.

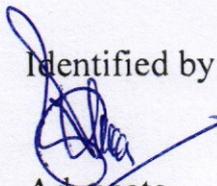
Dhyanu Jyoti Parida

6. That it is humbly submitted that at present there is no such illegal sand mining is carried out from the alleged site of Siripur Sand Bed. Tahasildar, Chikiti, Ganjam Deputy Director of Mines, Berhampur, Ganjam are also ensuring this by regular enforcement and surveillance.

Final report will be submitted by the Committee after realization of Royalty, Penalty and Additional charges and compensation amount.

SM
AK

7. That, the facts stated above are true to the best of my knowledge, belief and based on Official records.

Identified by

Advocate

Upendra Nath Pradhan
ADVOCATE, A.P.P
Executive Magistrate Court

23/7/2024

Dibya Jyoti Panda
DEPONENT

CERTIFICATE

Certified that Cartridge papers are not available.

CUTTACK

DATE: 23/7/2024




ADVOCATE
Upendra Nath Pradhan
ADVOCATE, A.P.P
Executive Magistrate Court
Chikiti



The Deponent having been identified by Sri. Upendra Nath Pradhan Advocate, solemnly affirmed before me this day this 23/7/2024 at about 3.01 A.M./P.M. Readover and explained the comments to the deponent who seemed perfectly to understand the same at the time of making this affidavit.


Executive Magistrate
Chatrapur

VERIFICATION

I, Sri Dibya Jyoti Parida, aged about 36 years, Son of Sri Prasanna Kumar Parida, at present serving as the Collector & District Magistrate, Ganjam At/P.O-Chatrapur, Dist- Ganjam, do hereby verify and state that the facts sated above in the affidavit are all based on Official records and I signed on this verification being present in the Office of my Advocate at Cuttack, on this the 24th day of Jul 2024.

Cuttack.

Dt. 23.07.2024



Dibya Jyoti Parida

VERIFICANT

AFFIDAVIT

I, Sri Dibya Jyoti Parida, aged about 36 years, Son of Sri Prasanna Kumar Parida, at present serving as the Collector & District Magistrate, Ganjam At/P.O-Chatrapur, Dist- Ganjam, do hereby solemnly affirm and state as follows.

1. That I am the Respondent No. 4 in this case. I am well acquainted with the facts of the case and as such competent to swear this affidavit in my official capacity.

That the facts stated above are true to the best of my knowledge and based on official records.



Identified by

Upendra Pradhan
 Advocate
 ADVOCATE, A.P.P
 Executive Magistrate Cour.
 Chikiti
 23/3/2019

Dibya Jyoti Parida
 DEPONENT

The Deponent having been identified by Sri *Upendra Nath Pradhan* Advocate, solemnly affirmed before me this day this *22/3/2019* at about *3:00* A.M./P.M. Randerover and explained the comments to the deponent who seemed perfectly to understand the same at the time of making this affidavit.



23-03-24
 Executive Magistrate
 Chatrapur

- 9 -

Annexure A/4



GOVERNMENT OF ODISHA
OFFICE OF THE JOINT DIRECTOR GEOLOGY

SOUTH ZONE, BERHAMPUR
Engineering School Square, Berhampur- 760010
PHONE: +91 680 2291878, Email: jdgszbam@yahoo.com

Letter No. XI-02/2024/209 /SZ, Berhampur

Date: 16.02.2024

From

Deputy Director Geology
O/o - The Joint Director Geology
South Zone, Berhampur

To

The Deputy Director Mines
Ganjam Circle, Berhampur
Email: ddm.berhampur@orissaminerals.gov.in

Sub: Report on field visit of Siripur and Sundarada Birachaitanyapur River sand bed under Chikiti Tahasil of Ganjam District.

Ref: Your Memo No. 78/Mines dated 16.01.2024.

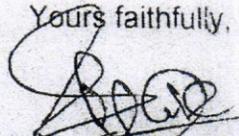
Sir,

With reference to the subject & Memo No. cited above, this is to inform you that Sri Sourava Pradhan, Geologist has visited the alleged site of Siripur River Sand Bed and Sundarada Birachaitanyapur River Sand Bed today i.e. on 16.02.2024.

The field visit report submitted by Sri Pradhan, Geologist is enclosed herewith for your information and necessary action.

Encl: As Above.

Yours faithfully,

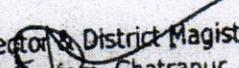

Deputy Director Geology
O/o - The Joint Director Geology
South Zone, Berhampur

Memo No. 210 /SZ, Berhampur

Date: 16.02.2024

Copy forwarded to the Regional Officer, Regional Office of The State Pollution Control Board, Berhampur Division, Odisha, Email: rospcb.berhampur@ospboard.org for kind information.

TRUE COPY.


Collector & District Magistrate
Ganjam, Chatrapur


Deputy Director Geology
O/o - The Joint Director Geology
South Zone, Berhampur

REPORT ON FIELD VISIT OF SIRIPUR RIVER SAND BED AND SUNDARADA BIRACHAITANYAPUR RIVER SAND BED UNDER CHIKITI TAHASIL OF GANJAM DISTRICT

As per letter no-192/SZ, Berhampur dated 09.02.2024 of Joint Director Geology, SZ, Berhampur the joint field visit has been conducted on 16.02.2024 for calculating the quantity of sand extracted from the alleged site of Siripur Sand Quarry, and Sundarada Birachaitanyapur Sand Quarry area.

The following members were present during the field visit

1. Additional District Magistrate (revenue), Ganjam
2. Tahasildar Chikiti
3. Dr Pradeept Kumar Nayak, Environmental Scientist (SEIAA), Odisha, Bhubaneswar
4. Representative of RO SPCB, Odisha, Berhampur division
5. Mining Officer Ganjam Circle, Berhampur
6. Sourava Pradhan, Geologist Representative of JDG, SZ, Berhampur

The concerned RIs were present during the field visit and identified the sources as per the revenue map. Volumetric method is used for the calculation of extracted quantity of sand with the help of hand-held GPS (Garmin GPSmap 60CSx) and measuring tape and with the help of Google Earth software.

As the river sand bed are replenished every year after the monsoon hence the extracted quantity of sand before the monsoon cannot be measured.

Quantity of sand extracted from Siripur Sand Quarry:

Area of extracted sand (in M²) = 4585

Average depth of sand bed (in M) = 0.6

Volume of sand extracted (in M³) = 2751 (Area × average depth of sand bed)

Quantity of sand extracted from Sundarada Birachaitanyapur Sand Quarry:

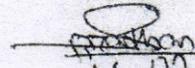
Area of extracted sand (in M²) = 3961

Average depth of sand bed (in M) = 0.8

Volume of sand extracted (in M³) = 3167 (Area × average depth of sand bed)

TRUE COPY

Collector, District Magistrate
Ganjam, Chatrapur


16.02.24
Geologist
O/O Joint Director, Geology
(S.Z.) Berhampur



MINING OFFICER, GANJAM
STEEL AND MINES DEPARTMENT, GOVT. OF ODISHA
BERHAMPUR - 760011
Email: mo.ganjam@gmail.com

No. 976 / Mines

Dt. 24-06-24

From

The Mining Officer,
Berhampur Circle, Ganjam

To

The Tahasildar Chikiti.

Sub: Calculation of Royalty, Penalty, Addl. Charges & etc. towards illegal extraction of sand from Siripur Sand Bed under Chikiti Tahasil.

Ref: Letter No. 2012/Rev Dt- 21-06-2024.

Sir,

Under reference to your letter and in accordance with the OMMC Rule 2023, The following calculation has been made for the quantity of 2751 CuM of extracted sand.

Royalty (@35/- Per CuM) = $35 \times 2751 = 96,285$ /-
Additional Charge (120/- Per Cum) = $120 \times 2751 = 3,30,120$ /- {As per Rule 27(15) of OMMC 2023}
Penalty = 5,00,000 /- {As per Rule 51 of OMMC 2023}
DMF (@ 10 % of Royalty) = 9,628.5 /-
EMF (@ 5 % of Royalty) = 4,814.25 /-
Compensatory (@ 5 % of Royalty + Addl.) = 21,320.25 /-
IT (2 % of Royalty + Addl.) = 8,528.1 /-
TOTAL = 9,70,696.1 /-

Therefore, on amount of **Rs. 9,70,696.1/-** May be realized from M/s D.D Builders towards the above quantum of sand.

This is for favour of kind information and necessary action.

TRUE COPY

Your faithfully

COLLECTOR & DIST. MAGISTRATE
GANJAM, CHATRAPUR


24/6/24
Mining Officer, Ganjam

Memo No: 977

Date: 24-06-24

Copy Submitted to The Collector, Ganjam, Chhatrapur / Sub-Collector,
Berhampur for information.


24/6/24

Mining Officer, Ganjam



Annexure C/1346

OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Email: tah_chikiti@yahoo.in

Letter No: - 2057/1

Date:- 26.06.2024

To

M/s D.D Builders Ltd.
Plot No. 33-F,
BJB Nagar, First Floor
Bhubaneswar- PIN- 761014

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: 1. Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, in compliance to the Order of the NGT, a Committee has visited the Sand site to assess the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that the illegal lifting of Sand has made by you and it is also evident from record available in this Office, that you have been penalised for illegal lifting of Sand from the above said Source in different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum**.

As you had involved in illegal lifting of Sand from the said Source and as admitted by you through depositing the penalty and Royalty in different dates, you have liable to deposit the Royalty, Additional Charges, Penalty, DMF, EMF, Compensatory Aforestation & IT as calculated by the Mining Officer, Ganjam, Berhampur, Steel & Mines Department, Govt. of Odisha, Berhampur- 760011 vide his Letter No. 976/Mines Dated. 24.06.2024 for the aforementioned quantum of Sand as calculated below and deposit before the undersigned immediately. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

TRUE COPY

1. Royalty (@ 35/- per CuM) = Rs. 96, 285/-
2. Addl. Charges (120/- per CuM) = Rs. 3, 30, 120/-
3. Penalty = Rs. 5, 00, 000/-
4. DMF (@ 10 % of Royalty) = Rs. 9, 629/-
5. EMF (@ 5 % of Royalty) = Rs. 4, 814/-
6. Compensatory (@ 5 % of Royalty + Addl.) = Rs. 21, 320/-
7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

COLLECTOR & DIST. MAGISTRATE
GANJAM, CHATRAPUR

Received by
Accountant - Rakshit
01/07/24
249594639

Tahasildar, Chikiti

26/6/24
TAHASILDAR
CHIKITI (GANJAM)

Memo No: 2058

Date: 26.06.2024

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector, Berhampur for favour of kind information.

Tahasildar, Chikiti

[Handwritten signature]
26/6/24

TAHASILDAR
CHIKITI (GANJAM)



OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Letter No. 2051

Date 26.06.2024

To

M/s ARSS Infrastructure Projects Limited.
Plot No. 38, Sector-A, Zone-D
Mancheswar Industrial Estate
Bhubaneswar- PIN- 751010

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: - Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, in compliance to the Order of the NGT, a Committee has visited the Sand site on Dtd. 30.11.2023 to assess the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that, the illegal lifting of Sand has made by you and in pursuant to the observation of Hon'ble Tribunal in their Order dated 22.04.2024 and assessment made by the Geologist on illegal sand mining that, you have been penalised for illegal lifting of Sand from the above said Source in different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum.**

Hence you have liable to deposit the Royalty, Additional Charges, Penalty, DMF, EMF, Compensatory Aforestation & IT as calculated by the Mining Officer, Ganjam, Berhampur, Steel & Mines Department, Govt. of Odisha, Berhampur- 760011 vide his Letter No. 976/Mines Dated. 24.06.2024 for the aforementioned quantum of Sand as calculated below and deposit before the undersigned immediately. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

1. Royalty (@ 35/- per CuM) = Rs. 96, 285/-
2. Addl. Charges (120/- per CuM) = Rs. 3, 30, 120/-
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5. EMF (@ 5 % of Royalty) = Rs. 4, 814/-
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7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

TRUE COPY

COLLECTOR & DIST. MAGISTRATE
GANJAM, CHATRAPUR

Tahasildar Chikiti
TAHASILDAR
CHIKITI (GANJAM)

-16-

Memo No: 2052

Date: 26.06.2024

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector, Berhampur for favour of kind information.

[Handwritten Signature]
Tahsil Officer
CHIKITI (GANJAM)



Annexure - C/6

OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Letter No. **2053**

Date **26.06.2024**

To

M/S ARSS Developers Limited.
Plot No. 38, Sector-A, Zone-D
Mancheswar Industrial Estate
Bhubaneswar- PIN- 751010

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: - Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, in compliance to the Order of the NGT, a Committee has visited the Sand site on Dtd. 30.11.2023 to assess the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that, the illegal lifting of Sand has made by you and in pursuant to the observation of Hon'ble Tribunal in their Order dated 22.04.2024 and assessment made by the Geologist on illegal sand mining that, you have been penalised for illegal lifting of Sand from the above said Source in different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum.**

Hence you have liable to deposit the Royalty, Additional Charges, Penalty, DMF, EMF, Compensatory Aforestation & IT as calculated by the Mining Officer, Ganjam, Berhampur, Steel & Mines Department, Govt. of Odisha, Berhampur- 760011 vide his Letter No. 976/Mines Dated. 24.06.2024 for the aforementioned quantum of Sand as calculated below and deposit before the undersigned immediately. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

1. Royalty (@ 35/- per CuM) = Rs. 96, 285/-
2. Addl. Charges (120/- per CuM) = Rs. 3, 30, 120/-
3. Penalty = Rs. 5, 00, 000/-
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5. EMF (@ 5 % of Royalty) = Rs. 4, 814/-
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7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

TRUE COPY

COLLECTOR / DIST. MAGISTRATE
GANJAM, CHATRAPUR

Tahasildar Chikiti
TAHASILDAR
CHIKITI (GANJAM)

-18-

Memo No: 2054

Date: 26.06.2024

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector,
Berhampur for favour of kind information.

Tahasildar, Chikiti
TAHASILDAR
CHIKITI (GANJAM)