

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

IN THE MATTER OF:

ORIGINAL APPLICATION NO. 137/2023/EZ

Bhoomi Adhigrahan Visthapan Avam,
Punarwas Kissan Samiti
(through its President Gaurav Singh)
...Applicant

-VERSUS-

STATE OF JHARKHAND & ORS.

...Respondents

AFFIDAVIT IS BEING FILED BY THE COLLECTOR CUM
DEPUTY COMMISSIONER, GARHWA, JHARKHAND.

I, Shekhar Jamuar, son of Late A.M Jamuar, aged
about 58 years, by Religion - Hinduism, by
Occupation - Service under the State Government
of Jharkhand in the office of Deputy
Commissioner, Garhwa, Jharkhand, having its
office at Garhwa, Jharkhand do hereby solemnly
affirm and state as follows:

1. That I am the Deputy Commissioner, Garhwa,
Jharkhand and I am aware to the facts in
the instant case and as such I am competent
to make and affirm the instant Affidavit.

2. That I am a law abiding Citizen of India and very much respect the Constitution and Judicial System of India.
3. That the present original application filed by the applicant for revoking consent to operate (CTO) of Panchadumar Sand Mining Project of JSMDC along-with other reliefs, is not maintainable and hence is fit to be dismissed.
4. That at very outset without interring into the reply of the allegations made in each paragraph as well as grounds of the original application the answering respondents submits and states some facts in brief which are essential for proper and just adjudication of the matter.
5. That the allegations about mining operation of sand from Pachadumar Sand Mining Project conducted by JSMDC Ltd. is at present not true. The fact is that under the provision of Jharkhand Sand Mining Policy 2017, Sand Mining from Plot No. 2363, area 20.24 Ha situated in village Pachadumar under Ketar Block of Dist. Garhwa was permitted to be operated through JSMDCL (Jharkhand State Mining Development Corporation Limited). However the said project was at present

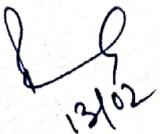

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closed and inoperative due to lack of CTO (consent to operate).

6. That it is submitted and stated further on behalf of the answering respondents that due to some clerical error Plot No. 2563 has been mentioned in the NOC issued by the DFO (N), Garhwa letter instead of Plot No. 2363. This fact was came to the knowledge when it is revealed the total area of Plot No. 2569 less than 1.00 acre and the area of operation was allotted for 20.24 acre. This error has been rectified by the DFO (N), Garhwa himself vide letter No. 3012 dated 02.06.2018.

Copy of letter No. 3012 dated 02.06.2018 is annexed herewith as Annexure-I.

7. That it is further submitted that Sand Mining was started by the JSMDCL Ranchi after getting Environmental clearance from SEIAA (State Environmental Inspect Assessment Authority) Ranchi and after receipt of CTE and CTO from Jharkhand State Pollution Control Board.


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8. That not any this for obtaining Environmental clearance, no objection certificate (NOC) has been issued by C.O., Ketar and D.F.O. North Garhwa. But as stated above due to Clerical error wrong Plot No. has been mentioned instead of Plot No. 2363 which was rectified by the DFO (N), Garhwa as stated above.

9. That it is further submitted and stated that all formalities has been completed prior to mining of the sand from Pachadumar Sand Mining Project. So, it can not be termed as illegal mining. As far allegations regarding distance from the Kaimur wildlife sanctuary Bihar is concern, it is completely false to say that the sand Ghat is situated within 900 meter of Kiamur wildlife sanctuary Bihar. The DFO (N) Garhwa after verifying the distance issued NOC for the project.

10. That it is further submitted and stated that in pursuance of the order of the Hon'ble Tribunal passed on 05.10.2023 a committee was formed on 17.11.2023 for enquiry. However it is revealed that SEIAA and SEAC were constituted for three years on the basis of notification of Government of India 3978(A) dated 03.11.2020. So, the

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session of the both SEIAA and SEAC has been terminated on 02.01.2023 and the same has not been reconstructed yet. The committee visited at the spot and find that presently no mining has been done from the Pachadumar Sand Mining Project. So it is false to allege that there is mining operation is going on at this side.

Copy of the Memo No. 1437/M dated 17.11.2023 is annexed herewith as Annexure-II.

11. That as far the allegations about submission of false document by JSMDC Ltd. Is concern this matter is purely related between JSMDC Ltd and the respondent No. 10 so these respondents unable to make any comment upon such allegation.
12. That as far the allegations levelled against these respondents that these respondents are aware of existence of Kaimur Wildlife Sanctuary of Bihar within the distance of less than 900 meter of the Pachadumar Sand Mining site on 02.02.2022 is completely wrong and baseless. These respondents have no knowledge of such distance as it is the jurisdiction of

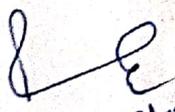
Department of Forest i.e. respondents No. 10 only.

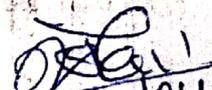
13. That it is further submitted and stated on behalf of the answering respondents that at present only Draft Publication of Eco Sanative Zone of Kaimur wild life sanctuary is available which has been published in 1979. Final publication of the same has not been made yet.
14. That it is further submitted and stated that although the sand mining from the Pachadumar sand mining project of JSMDCLtd. Has not been operated presently and is completely stopped. The inspection committee has also find this fact during their site visit. So, this original application at this juncture became infructuous. Hence, the same is fit to be dismissed.
15. That it is respectfully stated and submitted here that all the contention/averments made in the plaint of original application are hereby denied and disputed save and except which has been specifically admitted by the answering respondents in the counter instant affidavit. Further the answering respondent crave leave of this Hon'ble Tribunal to be

allowed to file Additional/Supplementary counter affidavit giving detailed reply to the averments made in the plaint of original application as and when required by this Hon'ble Tribunal.

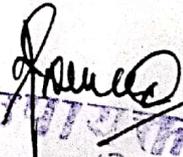
16. That the present proceeding is false, vexatious and the petitioner is not entitled to get any relief as claimed and as such the present proceeding is fit to be dismissed as limine with compensatory cost to these respondents.
17. That the present Affidavit is being filed bona fide and in the interest of Justice.
18. I state that the statements contained in 1 and 2 paragraph are true to my knowledge, the statements contained in other paragraphs are true to my information derived from the official records of the case, which I verily believe to be true and the rest is/are my respectful submissions before this Hon'ble Tribunal

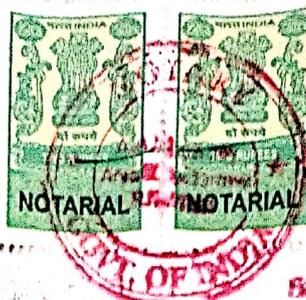
Submitted.


13/02/24
Paresh Kumar Tiwari
Government Pleader
Garhwa


13/2/24

Approved


13.2.24



Book No. 05 460
Date 13/02/2024

VERIFICATION

I, Shekhar Jamuar, son of Late A.M Jamuar, aged about 58 years, by Religion - Hinduism, by Occupation - Service under the State Government of Jharkhand in the office of Deputy Commissioner, Garhwa, Jharkhand, having its office at Garhwa, Jharkhand and that I am dealing with the connected records of the case in possession of the office of Deputy Commissioner, Garhwa, Jharkhand.

Date:

Shekhar
13.2.24
Signature

Place:

Shekhar 13/2/24
Identified by me:
Advocate
E No. J1701A/2001



Abhaney
NOTARY
Date 13/02/2024

ANNEXURE - I

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कार्यालय :- वन प्रमण्डल पदाधिकारी, गढ़वा उत्तरी वन प्रमण्डल।

प्रेषक,

पत्रांक :- 3012

सेवा में,

वन प्रमण्डल पदाधिकारी
गढ़वा उत्तरी वन प्रमण्डल।

जिला खनन पदाधिकारी
गढ़वा।

विषय :-

गढ़वा/दिनांक :- 2.6.2018

मौजा-पाचाडूमर, अंचल-केतार, थाना-केतार के प्लॉट नं०-2363 (अंश) पुराना, रकबा-50.01 एकड़ क्षेत्र पर बालू घाट के प्रो० जे० एस० एम० डी० सी० लि० द्वारा बालू घाट के पर्यावरणीय स्वीकृति हेतु जाँच प्रतिवेदन के संबंध में।

प्रसंग :-

आपका पत्रांक-928/एम०, दिनांक-02.06.2018

महाशय,

उपर्युक्त विषयक प्रासंगिक पत्र के आलोक में प्रो० जे० एस० एम० डी० सी० लि० के मौजा-पाचाडूमर, अंचल-केतार, थाना-केतार, थाना नं०-30 के प्लॉट नं०-2363 (अंश) पुराना, रकबा-50.01 एकड़ क्षेत्र पर बालू घाट के पर्यावरणीय स्वीकृति (E.C.) हेतु बिन्दुवार प्रतिवेदन निम्नवत् है :-

क्र० सं०	निर्धारित बिन्दु	प्रतिवेदन
1.	आवेदित क्षेत्र वन भूमि है या नहीं?	आवेदित क्षेत्र वन भूमि नहीं है।
2.	आवेदित क्षेत्र वन सीमा की दूरी क्या है?	सीमांकित वन भूमि से आवेदित क्षेत्र की दूरी 900 (नौ सौ) मीटर है।
3.	10 कि०मी० की परिधि में कोई नेशनल पार्क स्थित है या नहीं?	नहीं।
4.	10 कि०मी० की परिधि में कोई अभ्यारण स्थित है या नहीं?	नहीं।
5.	10 कि०मी० की परिधि में कोई घोषित जैव विविधता स्थित क्षेत्र है या नहीं?	नहीं।

आपका विश्वासी

वन प्रमण्डल पदाधिकारी
गढ़वा उत्तरी वन प्रमण्डल।

ANNEXURE - II

दिनांक 17.11.2023 को श्री पंकज कुमार सिंह, अपर समाहर्ता, गढ़वा की अध्यक्षता में सम्पन्न माननीय NGT, Eastern Zone Kolkata में दाखिल O.A no. 137/2023/EZ (भूमि अधिग्रहण विस्थापन एवं पूर्णवास समिति बनाम झारखण्ड राज्य) में पारित आदेश के आलोक में गठित कमिटी की बैठक की कार्यवाही :-

1. सर्व प्रथम अधोहस्ताक्षरी द्वारा बैठक में उपस्थित सभी सदस्यों का स्वागत करते हुये बैठक की कार्यवाही प्रारम्भ की गयी।
2. बैठक के दौरान अपर समाहर्ता, गढ़वा, (उपायुक्त, गढ़वा द्वारा नामित सदस्य) जिला खनन पदाधिकारी, गढ़वा एवं क्षेत्रीय पदाधिकारी, झारखण्ड राज्य प्रदुषण नियंत्रण पर्वद, राँची के प्रतिनिधि उपस्थित हुए।
3. सदस्य सचिव, राज्य स्तरीय पर्यावरणीय समाघात निर्धारण प्राधिकरण (SEIAA) द्वारा समर्पित ज्ञापांक-477/दिनांक- 14.11.2023 पर चर्चा की गई, जिसमें बताया गया है कि पर्यावरण वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार द्वारा अधिसूचना सं०-का० आ०-3978 (अ) दिनांक 03.11.2020 के माध्यम से SEIAA एवं SEAC का गठन, अतिरिक्त 03 वर्षों के लिए अधिसूचित किया गया था, जिसका कार्यकाल दिनांक-02.11.2023 को समाप्त हो गया है। पुनः गठन की सूचना अप्राप्त है। अतः SEIAA एवं SEAC के अवधी समाप्त होने की स्थिति में कोई भी तकनीकी विशेषज्ञ उपलब्ध नहीं है। ऐसी स्थिति में SEIAA राँची द्वारा किसी विशेषज्ञ को नामित करने में कठिनाई है।
4. कमिटी में उपस्थित सदस्यों द्वारा केतार अंचल के मौजा पाचाडुमर बालू घाट का स्थल निरीक्षण किया गया। वर्तमान में में० जे०एस०एम०डी०सी०एल० द्वारा बालू खनन कार्य नहीं किया जा रहा है। SEIAA के प्रतिनिधि एवं वन प्रमण्डल पदाधिकारी, उत्तरी वन प्रमण्डल, गढ़वा के अनुपस्थिति के कारण लगाये गये आरोपों के संबंध में निर्णय नहीं लिया जा सका।
5. भूमि अधिग्रहण विस्थापन एवं पूर्णवास समिति के द्वारा लगाये गये आरोप पर्यावरण स्वीकृति एवं वन प्रमण्डल पदाधिकारी के प्रतिवेदन से संबंधित है। अतः सभी सदस्यों का उपस्थित होना आवश्यक प्रतीत होता है।
6. माननीय NGT, Eastern Zone Kolkata से अनुरोध किया जा सकता है कि SEIAA एवं SEAC का गठन होने तक प्रतिवेदन दाखिल करने के लिए समय की मांग की जा सकती है।

अंत में सधन्यवाद बैठक की कार्यवाही समाप्त की गयी।

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अपर समाहर्ता,
गढ़वा।

ज्ञापांक.....1437...../एम०, दिनांक.....17.11.2023
प्रतिलिपि :- क्षेत्रीय पदाधिकारी, झा०रा०प्र०नि०प० राँची को सूचनार्थ एवं आवश्यक कार्यवाई हेतु प्रेषित।
प्रतिलिपि :- उपायुक्त, गढ़वा को सादर सूचनार्थ समर्पित।

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अपर समाहर्ता,
गढ़वा।