



BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO.46 OF 2023 EZ

RURAL ORGANISATION FOR
SOCIAL EMPOWERMENT (R.O.S.E)

.....APPLICANT

-VERSUS-

STATE OF ODISHA & OTHERS

.....RESPONDENTS

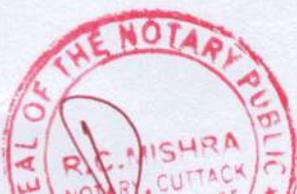
**COMPOSITE REJOINDER AFFIDAVIT FILED ON
BEHALF OF RURAL ORGANISATION FOR SOCIAL
EMPOWERMENT – APPLICANT TO THE COUNTER
AFFIDAVIT FILED BY RESPONDENT NO.1 & 5**

Kalakar Barik
Secretary
RURAL ORGANISATION FOR SOCIAL EMPOWERMENT

I, Kalakar Barik, S/o Late Sukhadev Barik, At-
Sukadeipur, P.O.-Sribantapur, P.S.- Kuakhia, Dist.- Jajpur,
Odisha, do hereby solemnly affirm and state as follows:

*Adm
Adm*

1. That, I am Secretary of the abovenamed Organisation / Applicant in the accompanying rejoinder and being aware of the facts thereof, I am competent to swear the present affidavit.
2. That, I have gone through the averments made in the Counter Affidavit filed by the Respondent No.1 & 5 and have



understood the contents therein and I am swearing the present affidavit in reply thereof.

3. That, the petitioner humbly craves leave the Hon'ble Tribunal a file a composite rejoinder affidavit in reply the Counter Affidavit filed by the Respondent No.1 & 5.

4. That, the outset it is most humbly and most respectfully submitted here that this Hon'ble Tribunal while issuing notice vide order dated 01.05.2023 was pleased to direct the Constitution of the Committee for visiting and inspection of the site of the Respondent No.9. Pursuant to such orders of this Hon'ble Tribunal the Members of the Committed so constituted visited to the site of Respondent No.9 and after visit and inspection of the site of Respondent No.9 have submitted their report which forms part of the affidavit dated 04.07.2023 filed by the A.D.M Dhenkanal. The said report has been summarized on the following points:-

- a. Violation of Rule-34 of OMMC Rules, 2016 and Production of forged / fraudulent documents such as Contract Award etc.
- b. Violation of terms and conditions under blasting activities involved in the quarrying.

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Secretary
RURAL ORGANISATION FOR SOCIAL EMPOWERMENT

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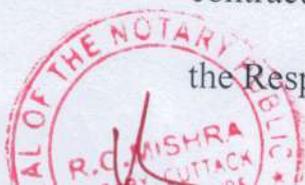
- c. Violation in terms and conditions stipulated in the Environmental Clearance granted by the SEIAA.
- d. Illegal excavation and transportation of road metal beyond the quarry area of Nihalprasad Road Metal Quarry V & VI.
- e. If violation is found, assessment of the Environmental Compensation on account of environment.

5. That, it is humbly submitted here that the Respondent No.8 – OPTCL vide letter no.642(4) dated 17.07.2023 have stated that the Respondent No.9 has fabricated two letters for the purpose of obtaining renewal of temporary permit for excavation of the miner mineral. It is therefore, submitted that the Respondent No.9 has committed fraud for obtaining renewal of the temporary permits basing on which it has excavated the miner mineral. It is, means of elucidation submitted here that, the Tahasildar, Gondia had requested the OPTCL to verify the genuineness of 3 letters of OPTCL which were produced by the Respondent No.9 for the purpose of obtaining renewal of temporary permit for extension on excavation of miner mineral contract award, out of these 3 letters which were produced by the Respondent No.9, two letters were subsequently found to be

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Secretary
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fabricated. These 2 letters are (1) letter no.2449(11) dated 26.11.2015 and (2) letter no.1014(12) dated 29.12.2022. The OPTCL Authority go on to say that the aforesaid fabricated letters bearing false numbers and fake signature have been produced by the Respondent No.9 before the Tahasildar, Gondia for taking illegal advantage of the goodwill of the OPTCL.

6. That, it is humbly submitted here that the Respondent No.1 & 5 in their counter affidavit have admitted the fact that the Respondent No.9 has used fraudulent documents to obtained permit for carrying out quarrying operations and are awaiting kind orders of this Hon'ble Tribunal to proceed against the Respondent No.9.

7. That, it is further reiterated here that the Google Map as under Annexure-A/15 clearly depicts that the crusher unit of the Respondent No.9 is situated at a mere distance of 240 mtr. From the approved quarry. This fact finds credence from the contention of the Respondent NO.9 in its counter affidavit to the effect that it has sought for and amendment of the condition no.9.21 of the E.C wherein there is a bar for establishment of a crusher unit within a distance of the one kilometre from the

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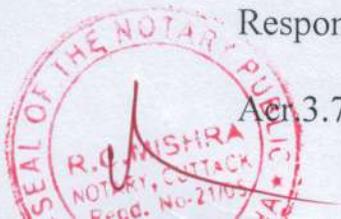
quarry site. As such the Respondent No.9 has admitted to having violated the specific terms and condition of the E.C.

8. That, it is humbly submitted reiterated here that the Opp. Party No.9 is excavating road metal from vast areas outside the lease area even to the extent of 4 to 5 acres as is evident from the report dated 07.10.2022 as at Annexure-A/3 of the Original Application. This is also evident from the joint inspection report submitted by the committee form pursuant to the order of this Hon'ble Tribunal read with the revenue map and the google map as under Annexure-A/12 to Annexure-A/14. Such activities of the Opp. Party No.9 not only falls foul of the mining plan and quarry lease granted in his favour but also violates the terms and conditions stipulated under the environmental clearance granted to him and the O.P No.9 has consciously chosen to destroy and damage the sensitive ecology existing in and around the leased out area.

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9. That, it is further humbly reiterated here that the Google maps as at Annexure-13 & 14 of the Original Application clearly depicted there has been large scale illegal mining by the Respondent No.9 beyond the lease area of approximately Acr.3.75dec. or 15164 sqmtr.

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10. That, it is humbly reiterated here that a conjoint reading of Annexure-A/8 and A/9 demonstrate that the Tahasildar, Gondia – Respondent No.6 vide letter no.4915 dated 11.11.2020 seeking necessary clearance and clarification from GAIL since the proposed site for allotment of sairat source has a natural gas pipe line of GAIL lying at a private plot near it. The GAIL Authorities while responding to such letter of the Tahasildar, Gondia, vide their letter dated 14.12.2020 gave their clearance / no objection for using the proposed site as the sairat source / quarry source. It is relevant to point out here that most curiously in Annexure-B to the aforesaid report the Opp. Party No.6 – Tahasildar, Gondia has chosen not to mention regarding the blasting activities that would be required carried out on the quarry site for doing excavation works. Therefore, the Tahasildar, Gondia has misrepresented by suppression of relevant information regarding blasting. As such the no objection of the GAIL was given without disclosure of the fact that there would be blasting at the quarry site which would in every likelihood have an impact on the natural gas pipe line lying nearby at a distance of almost 100 meters. Subsequently, on dated 02.11.2022 the Tahasildar, Gondia vide his letter no.3649

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again sought a clarification from the Chief General Manager of GAIL with regard to blasting permission to operate and excavate from the road metal quarry adjacent to the area used by M/s.- GAIL India Ltd. for gas pipe line project. This letter for the first time disclosed that the blasting operations would be conducted at the quarry site for the purpose of excavation and further that the villagers Nua Kastipal while filed allegations petition with regard to the adverse impact that the blasting may cause to the natural gas pipe line of GAIL. Strangely even though there is no reply from GAIL to such letter dated 02.11.2022, as on date but the Opp. Party No.6 – Tahasildar, Gondia has gone ahead and granted permission to the Opp. Party – Respondent No.9 to operate his quarry. In this connection the report of the Joint Enquiry Committee on the feasibility of the source is important to notice wherein the Committee has specifically taken note of the fact that the local people have raised concern regarding the presence of natural gas pipe line of GAIL on a private plot in the vicinity of the quarry area. Accordingly, the committed have recommended that necessary permission be obtained from GAIL prior to even considering grant of lease. However, the Opp. Party No.6 – Tahasildar, Gondia has gone ahead and granted

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Secretary
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*Ans.
R.C.*



permission for quarrying operations without any permission / no objection from GAIL as highlighted above.

11. That, the averments which are not specifically denied are hereby denied.

12. That, the applicant humbly craves leave to file any further affidavit as may be required in the facts and circumstances of the case.

13. That, the facts stated above are true to the best of my knowledge and belief.

Identified by


Advocate ~~XXXXXX~~
(A-Mishra)

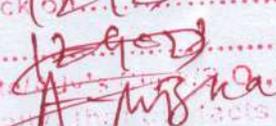
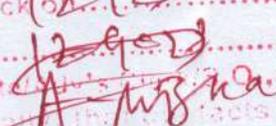
KALANOO BARIK
Deponent
Secretary
RURAL ORGANISATION FOR SOCIAL EMPOWERMENT

CERTIFICATE

Certified that due to want of cartridge papers thick and durable plain papers have been used.

Cuttack

Date: 12.09.2023

Solemnly affirm on in Oath by the Deponent 
at Cuttack on 12.09.23 being identified by Advocate
by 
Advocate  AG's office/Notary
Personally. The facts stated above are true to the best of his/her knowledge.



RAMA CHARAN MISHRA, NOTARY
REGD. No-21/95