

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, EASTERN ZONE,  
KOLKATA BENCH**

IN

**Original Application No. 72 of 2022 (EZ)**

**IN THE MATTER OF:**

Biplab Kumar Chowdhury

...Applicant

Versus

State of West Bengal & Ors.

...Respondents

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Kolkata

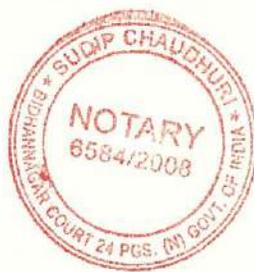
Dated : *SP* March, 2023

Respondent No. 16

Through

Reshmi Singhe  
Advocate

SL. NO. 1978 /20.23



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**EASTERN ZONE, KOLKATA**

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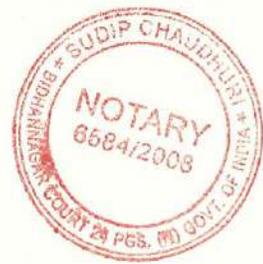
BEFORE THE NOTARY PUBLIC  
AT BIDHANNAGAR  
DIST.-NORTH 24 PARGANAS.

**COUNTER AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT,  
FOREST AND CLIMATE CHANGE (RESPONDENT No. 16)**

I, Dr. Soma Das, daughter of Shri Sukumar Das, aged about 49 years, currently working as Regional Director, Integrated Regional Office, Kolkata in the Ministry of Environment, Forest and Climate Change (MoEFCC), Integrated Regional Office, Kolkata, do hereby solemnly affirm and state as under: -

1. That I, in my official capacity Regional Director in the Ministry Environment, Forest and Climate Change, Integrated Regional Office Kolkata i.e. Respondent No.16 in the above mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.
2. That a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Reply Affidavit to the aforesaid application, as and when required.

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3. That the applicant has *inter-alia* alleged that the Respondent Nos. 13 and 14, M/s Larsen and Toubro Limited and M/s Simplex Infrastructure Limited, are operating their Stone Crushing Units in the river bed of Raidhak-II River and are extracting big stones and boulders from the river bed and thereafter they are crushing the said stones into small cubicles of stones and selling the same for commercial gain without obtaining necessary permissions.
4. That, the Hon'ble Tribunal (EZ) vide order dated 23.01.2023 directed the Ministry of Environment Forest and Climate Change;

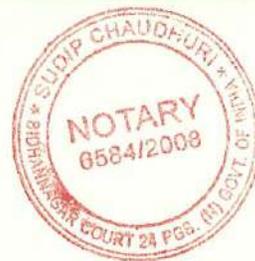
*“...to file counter affidavit specifically disclosing what action has been taken by the MoEF&CC with regard to the directions given by the National Green Tribunal, Principal Bench, to the order dated 31.01.2019 passed in Miscellaneous Application No.13/2019 arising out of Original Application No.479/2016 (Pravesh Vs. Ministry of Environment, Forests and Climate Change & Ors.) particularly in view of the matter that the ‘PRIVESH portal’ of the MoEF&CC does not contain any provision or mention in the schedule to the Environment Impact Assessment (EIA) Notification, 2006 for stone crushing units to apply for grant of Environmental Clearance.*

*In this present case, the reply of the MoEF&CC is most important to state whether stone crushing units require Environmental Clearance (EC) or not.*

*Mr. Ghosh shall communicate the order of this Tribunal dated 18.08.2022 as well as copy of the Original Application No.479/2016 to the Ministry of Environment, Forests and Climate Change (MoEF&CC) ...”*

5. It is submitted that Stone crushing units should operate only after obtaining Consent to Establish (CTE) and Consent to Operate (CTO) from concerned “State Pollution Control Boards (SPCBs) and Pollution Control Committee (PCCs) as per provisions of the Water (Prevention and Control

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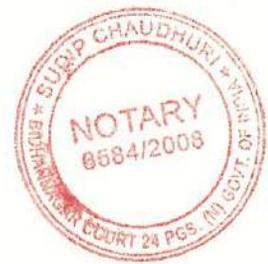


of Pollution) Act, 1974 (hereinafter referred to as 'Water Act, 1974') and the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'Air Act, 1981') and should meet the conditions of consents laid down in Consent to Establish (CTE) and Consent to Operate (CTO) issued by SPCBs/PCCs.

6. That Stone crushing units also need to comply with the Environmental Norms as stipulated under the Environment (Protection) Rules, 1986 for stone crushing unit. Illegal operation of the units should be stopped immediately by the concerned authorities. Stone Crushing Units fall under the Schedule- I of Environment (Protection) Rules, 1986 (Standards for emission or discharge of environmental pollutants) at Serial No. 11 and 37, which states:

Sr. No.	Industry	Parameter	Standards
1	2	3	4
11	Stone Crushing Unit	Suspended Particulate Matter (SPM)	The suspended particulate matter measure between 3 metres and 10 metres from any process equipment of a stone crushing unit shall not exceed 600 microgrammes per cubic metre.
37.	Stone Crushing Unit	Suspended Particulate Matter (SPM)	The Standards consist of two paras:  (i) Implementation of the following Pollution Control measures:  a. Dust containment cum

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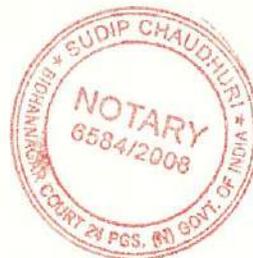
			<p>suppression system for the equipment.</p> <p>b. Construction of wind breaking walls.</p> <p>c. Construction of the metalled roads within the premises.</p> <p>d. Regular cleaning and wetting of the ground within the premises.</p> <p>e. Growing of a green belt along the periphery.</p>
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7. That, on the basis of the categorization of Industries done by the Central Pollution Control Board in exercise of its power under the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, the Stone Crushing Units have been categorized under orange category with a Pollution Index score with maximum contribution of air pollution of total pollution potential.

8. That, the Ministry of Environment Forest and Climate Change (MoEF&CC) vide Office Memorandum dated 22.09.2008 has stated that;

*“...crushing and screening (sizing of ore) without upgrading of quality of ore is not covered by the provisions of the EIA Notification, 2006. However, necessary clearance under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act,*

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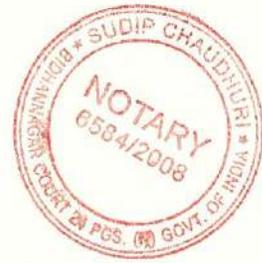


1981 and any other Acts as may be applicable to such projects should be obtained..."

A copy of the said OM is annexed herein and marked as **Annexure- R-16/1**.

9. It is submitted that stone crushing activity is not listed in the schedule of the EIA Notification, 2006 as amended from time to time. This notification only includes those activities/projects in its schedule which requires more checks and balances in addition to those listed in CTE/CTO conditions and requires further environmental impact studies to generate baseline data which forms the basis for determining the feasibility of those activities/projects.
10. That, the baseline study helps in evaluation and prediction of impacts on the various environmental attributes in the study /project area by using scientifically developed & widely accepted environmental impact methodology to determine air quality, water quality, noise, land environment, ecology, biodiversity and socio-economic parameters. Since, the operation of stone crushers mostly results into fugitive emissions, thus carrying of EIA studies and including it into the schedule of EIA may not be scientifically prudent. The condition laid down in CTE/CTO suffices the environmental safeguards required to minimise the adverse impacts owing to the functioning of stone crushers. The matter was deliberated in detail in the Ministry and it was opined that present regime of CTE/CTO is adequate for the functioning of stone crushers.
11. The Ministry of Environment, Forest, and Climate Change (MoEF&CC) launched Parivesh Portal to facilitate online submission of the proposals seeking Environment Clearances. Only the activities listed in the schedule of EIA, 2006 are available on Parivesh Portal.

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12. It is submitted that the present reply may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s)/Direction(s) as deemed fit and proper under the facts and circumstances of the present case. Further, the other ancillary issues raised in the application under reply do not pertain to the answering respondent.

*Soma Das*  
**DEPONENT**

**वन महानिरीक्षक**  
**INSPECTOR GENERAL OF FORESTS**  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE  
एकीकृत क्षेत्रीय कार्यालय/INTEGRATED REGIONAL OFFICE  
आई बी-198, सेक्टर-III, सॉल्ट लेक सिटी, कोलकाता-700106  
IB-198, SECTOR-III, SALT LAKE CITY, KOLKATA - 700106

**VERIFICATION**

I, the above named deponent do hereby verify that the contents of the above affidavit are true and correct on the basis of official record maintained by the Respondent No. 16 in daily course of its business, no part of it is false and nothing material has been concealed there from.

Verified at Kolkata on this the *Soma Das* day of March, 2023.



*Soma Das*  
**ATTESTED**  
**S. CHAUDHURI**  
\* NOTARY \*  
GOVT. OF INDIA  
Regd. No.-6584/08  
Bidhannagar Court  
Dist.-North 24 Pgs.

**29 MAR 2023**

*Soma Das*  
**DEPONENT**

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**INSPECTOR GENERAL OF FORESTS**  
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आई बी-198, सेक्टर-III, सॉल्ट लेक सिटी, कोलकाता-700106  
IB-198, SECTOR-III, SALT LAKE CITY, KOLKATA - 700106

**No. J-11013/41, 2006-IA.II(I)**  
Government of India  
Ministry of Environment and Forests  
I.A. Division

Paryavaran Bhawan,  
CGO Complex, Lodi Road,  
New Delhi-11003

Dated the 22<sup>nd</sup> September, 2008

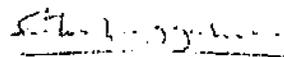
**CIRCULAR**

**Subject: Clarification regarding applicability of EIA Notification, 2006 in respect of the Beneficiation Plant-regarding.**

State Pollution Control Board, Orissa has sought clarification regarding applicability of EIA Notification dated 14<sup>th</sup> September, 2006 to stand alone iron ore crusher, when the process involves crushing and screening (sizing of ore only) through dry route without upgrading the quality of ore. The matter has been examined in the Ministry.

It is clarified that crushing and screening (sizing of ore) without upgrading of quality of ore is not covered by the provisions of the EIA Notification, 2006. However, necessary clearance under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981 and any other Acts as may be applicable to such projects should be obtained.

This issues with the approval of the competent authority.

  
(Dr. S.K. Aggarwal)  
Director

To:

- (1) The Member Secretary, All SPCBs/ UT Pollution Control Committees.
- (2) The Secretary, Department of Environment of all States/ UTs.
- (3) The Member Secretary of all SEIAAs
- (4) All Officers of IA Division
- (5) All Regional Offices of the Ministry of Environment and Forests.

Copy to:

1. PS to MOS (E).
2. PPS to Secretary (E&F).
3. PPS to AS(JMM).