

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

O.A No.66 of 2022

In the Matter of:

SRI NIMAI CHARAN PATEL

APPLICANT

- Versus -

CHAIRMAN, STATE POLLUTION
CONTROL BOARD, ODISHA & ORS...

RESPONDENTS

I N D E X

SL.NO.DESRIPTION OF DOCUMENTS PAGES

- | | |
|---|---------|
| 1. Counter Affidavit filed on behalf of Respondents No.2, 4, 5 and 6. | 1 to 11 |
| 2. <u>ANNEXURE:A/6.</u>
Copy of feasibility report. | 12 |
| 3. <u>ANNEXURE:B/6.</u>
Copy of Go-ahead Letter. | 13 |
| 4. <u>ANNEXURE:C/6.</u>
Copy of letter No.1606 dtd.25.02.2022. | 14 |

CUTTACK,

DATED 06.08.2022


ADDL.GOV.T.ADVOCATE

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

O.A No.66 of 2022

In the Matter of:

SRI NIMAI CHARAN PATEL

APPLICANT

- Versus -

CHAIRMAN, STATE POLLUTION
CONTROL BOARD, ODISHA & ORS...

RESPONDENTS

**COUNTER AFFIDAVIT FILED
ON BEHALF OF RESPONDENTS NO.2,4, 5 & 6.**

I, Dr. Yeddula Vijay, aged about 40 years, S/o. Yeddula Samuel, Director, Animal Husbandry & Veterinary Services, Odisha, At/P.O.- Mangalabag, Dist. Cuttack, Odisha; do hereby solemnly affirm and state as follows:

1) That, I am the Respondent No.6 in the accompanying Original Application and have gone through the copy of the Original Application as well as the documents annexed thereto and understood the contents and purport thereof. I am otherwise acquainted with the facts of the present case and duly Authorized to

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995



file Counter Reply on behalf of Respondents No. 2, 4 and 5 and competent to swear this Affidavit.

2) That the present Original Application as laid is not maintainable and is liable to be dismissed.

3) That the present Original Application is also devoid of merit and is therefore liable to be dismissed.

4) That at the outset, I deny all the averments, assertions, allegations, statements and submissions made in the Original Application, save and except, those specifically admitted herein after and in reply thereto, I state as under.

5) That the Original Application as laid is not maintainable either in facts or in law and wholly misconceived.

6) That in order to promote agri entrepreneurship in the state of Odisha, among farmers and entrepreneurs the State Government under the Agriculture and Farmers Empowerment Department implements the Mukhya Mantri Krishi Ydyog Yojana(MKUY) Scheme, wherein financial Assistances in form of Back ended, Capital Investment Subsidy(CIS) is provided for setting up new Agri-enterprises.

7) That under the MKUY Scheme, farmers and entrepreneurs are eligible to avail 50% subsidy on the cost




PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

of the capital investment limited to a maximum of Rs.50 lakh.

8) That under this scheme the Respondent No.12 i.e. Smt. Sukesini Patel had submitted an application on 13.11.2020 for setting up of an Environmentally Controlled (EC) Broiler Unit with a capacity of 15,000 birds.

9) That the Block Veterinary Officer, Laikera inspected the proposed site physically and verified the relevant documents and prepared a feasibility report taking into account two major aspects i.e. technical aspects and economical aspects of the project and opined that the proposed Commercial Broiler Farming with a capacity of 15000 birds is technically feasible and economically viable. Later on, the feasibility report of the project was submitted through online mode to the MKUY website. The copy of feasibility report is annexed herewith as ANNEXURE:A/6

10) That one District Level Scrutiny Sub-Committee meeting was held on 04.04.2021 under the Chairmanship of Collector and District Magistrate, Jharsuguda to review the proposal and after thread bare discussion approved the proposal and accordingly one "Go-Ahead" Letter in



PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

favour of Smt. Sukeshini Patel(Respondent No.12) was issued by the Department of Agriculture & Farmers Empowerment, Odisha on 24.08.2021. The copy of Go-ahead Letter is annexed herewith as ANNEXURE:B/6.

11) That after getting the Go-ahead letter under the MKUY Scheme, the Respondent No.12 started construction of the EC broiler poultry unit.

12) That while the construction work of the EC poultry farm at Talamunda village was underway, the Petitioner raised objections and asserted that the under construction Poultry farm falls in a residential area in violation of the Environmental guidelines dtd.10.01.2022 issued by the Central Pollution Control Board (CPCB) for setting up of poultry farms. The Petitioner subsequently, submitted a Grievance Petition on 25.11.2021 through online to the Regional Office of State Pollution Control Board with a prayer to stop the construction work of the EC Broiler farm. After receipt of the Grievance, a team of Officials including Deputy Environment Scientists and Regional Officer of State Pollution Control Board inspected the site on 02.12.2021 and submitted a report to Member Secretary, State Pollution Control Board, Odisha vide letter No.1642 dtd.20.12.2021. From the Report of the Regional Officer, SPCB, it was observed that the weekly




PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

Wednesday market is at a distance of more than 700 meters from the EC Broiler Farm and the distance of the Anchalik Mahila Mahavidyalaya is more than 1 km from the EC Broiler Farm.

13) That the petitioner submitted another grievance and after receipt of the grievance, the Respondent No.8, i.e. the CDVO, Jharsuguda requested the Tahasildar, Laikera to measure the distance of the Anchalik Mahila Mahavidyalaya, the Weekly Wednesday Market and the residence of the petitioner from that of the EC Broiler farm.

14) That the R.I. Pakeipadar inspected the proposed site on 16.03.2022 and measured the actual distance of the proposed site from the residential zone and submitted his report on 25.03.2022. As per the report submitted by the R.I. the actual distance of the under construction EC Broiler Farm of Smt. Sukeshin Patel is as follows:-

- a. From Residence of the Complainant Sri Nimai Charan Patel-232 Meters.
- b. From weekly Jhariabahal Market 246 Meters.
- c. From Anchalik Mahila Mahavidyalaya, Talamunda-365 meters.

15) That the CDVO, Jharsuguda vide his letter No.778 dtd.08.04.2022 submitted a report to the Collector and District Magistrate.





16) That as per the instruction of the Collector & District Magistrate, Jharsuguda, the Respondent No.12 i.e. Sukesini Patel was instructed to suspend the construction work of EC Broiler Farm vide letter No.1600 dtd.25.02.2022 of the CDVO, Jharsuguda. The copy of the letter No.1606 dtd.25.02.2022 is annexed herewith and marked as ANNEXURE:C/6.

17) That as per the guidelines of CPCB, issued in January 2022, the proposed EC Broiler Farm at Talamunda is coming under Small Category with a capacity of 15000 birds and for the present, only poultry farms handling more than 25,000 birds at a given time is coming under consent administration of the State Pollution Control Board. So, there was no need to obtain the Consent to Establish (CTE) and Consent to Operate(CTO) approved under Water Act, 1974 and Air Act, 1981 from State Pollution Control Board.

18) That the averments made in Paragraphs-1 to 4 of the Original Application shall be dealt with at the time of hearing.

19) That the averments made in Paragraph-5 of the Original Application are hereby disputed and denied. It is humbly submitted that there has been no illegal sanction of the Project "EC Broiler Farm" at Talamunda. The proposed EC Broiler Farm was approved and "Go Ahead"



PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

letter was issued in favour of Respondent No. 12 i.e. Smt. Sukesini Patel by the Agriculture and Farmers Empowerment Department after following due and proper procedure through the District Level Scrutiny-Sub Committee (DLSSC-MKUY), Jharsuguda.

As far as the contravention of the circular No. CPCB/IPC-V/NGT/Poultry/2022 dated 10.01.2022 is concerned, it is humbly submitted that;

1. Based on number of handling of Birds, the proposed EC Broiler Farm at Talamunda is coming under Small Category with a capacity of 15000 birds and hence, there is no need to obtain the Consent to Establish(CTE) and Consent to Operate(CTO) under Water Act, 1974 and Air Act, 1981 from State Pollution Control Board.
2. Regarding Contravention of minimum maintainable distance of 500 meters from the residential zone is concerned, it is submitted that as per the Report of the R.I.,Pakeipadar the distance of proposed EC Broiler farm from the residence of the Complainant is 232 meters, from the weekly Jhariabahal market is 248 meters and from Anchalika Mahila Mahabidyalaya is 365 meters which is violated




PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

Clause No.7 of the Environmental Guidelines for Poultry Farms Circular No. CPCV/IPC-V/NGT/Poultry/2022 dated 10.01.2022.

All other allegations/averments made in this paragraph are hereby disputed and denied.

20) That the averments made in paragraph No.6 of the Original Application are disputed and denied. It is humbly submitted that the assertion of the Applicant regarding sanction of Rs. 50, 00,000/- (Rupees Fifty Lakhs only) by the Animal Resources Department in favour of the Respondent No.12 is completely false and incorrect. It is humbly submitted that, in MKUY Schemes, the Government provides financial Assistances in form of Capital Investment Subsidy (CIS) or Back end Subsidy on loan to entrepreneurs for setting up new Agro-Industries in Odisha. In the instant case, as alleged by the Applicant, no Financial Assistance to the tune of Rs. 50, 00, 000/- has been sanctioned to the Respondent No.12 by the ARD Department.

All other allegations/averments made in this paragraph are disputed and denied.

21) That the averments made in Paragraphs - 7 to 16 of the Original Application shall be dealt with at the time of hearing.




PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

22) That in reply to the averments made in Paragraph -17 of the Original Application, it is humbly submitted that, after receipt of the Complaint from the Applicant, the Tahasildar, Laikera inspected the proposed site on 16.03.2022 and measured the actual distance of the Proposed site from the residential Zone and submitted his report. The Respondent No. 8 i.e. the CDVO, Jharsuguda submitted a compliance report to Respondent No.7 i.e. the Collector & District Magistrate, Jharsuguda vide Letter No.778 dtd.08.04.2022 and the work has been stopped vide Letter No.1606/Dtd.25.2.2022. Hence, the allegations of the Applicant that the appropriate Authorities have not taken any steps are completely false, baseless and incorrect.

All other allegations/averments made in this paragraph are hereby disputed and denied.

23) That in reply to the averments made in Paragraph -18 of the Original Application, it is submitted that as per the findings of the Enquiry Report submitted by the Technical Team, the construction work of the said EC Broiler Farm has been stopped by Respondent No12.

24) That the averments made by the Applicant in paragraph- 19 of the Original Application shall be dealt with at the time of hearing.




PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995

25) That in reply to the averments made in paragraph – 20 of the Original Application, it is humbly submitted that the Construction work of the EC Broiler Farm has been stopped by Respondent No.12.

26) That, the averments made in Paragraphs – 21 to 25 of the Original Application shall be dealt with at the time of hearing.

27) That the averments/allegations which have not specifically denied herewith, deemed to have been denied.

28) That, the facts stated in the foregoing paragraphs are true to my knowledge, based on available official records.

Identified by :

[Handwritten signature]
ASST

[Handwritten signature]
DEPONENT

CERTIFICATE

Certified that due to non-availability of cartridge papers, thick papers are being used.



Date: 06.08.2022

[Handwritten signature]

ADDL. GOVT. ADVOCATE

Solemnly Sworn before
me by.....*[Handwritten signature]*
being identified by.....*[Handwritten signature]* Advoca
at Cuttack Town Dated...*06/08/2022*
06/08/2022
P.K. Mohanty, Notary, Cuttack Town
Regd. No-ON-04/1995

VERIFICATION

I, Dr. Yeddula Vijay, aged about 40 years, S/o. Yeddula Samuel, Director, Animal Husbandry & Veterinary Services, Odisha, At/P.O.- Mangalabag, Dist. Cuttack, Odisha; do hereby solemnly verify and state that the contents of the above affidavit are true and correct.

Place: Cuttack

Date: 06 .08.2022

Yeddula Vijay

[Signature]
VERIFICANT

06/08/2022

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No- ON-04/1995



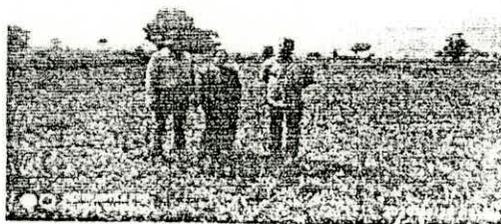
Department of Agriculture and Farmers' Empowerment



Feasibility Report

Reference No	JHA ARD 2020-21/5
Previous Experience	Yes
Road Connectivity	Yes
Distance from nearby Village	2
Electrification	No
Pollution Control Clearance	No
Self Finance	1840000
Uncensored Loan	5520000
Margin Component	1840000
Bank Consent Letter	Yes

Photo



Latitude 21.9645512

Longitude 84.3040688

Verified the above mentioned information submitted by the entrepreneur by personally visiting the project site. I certify that the **Commercial Broiler Farming** with **15000 Numbers** capacity and a total capital investment cost of ₹ **5503000** is technically feasible and economically viable.



Department of Agriculture and Farmers'
Empowerment



Go-Ahead Letter



(APICOL COPY)

Go-Ahead No.: MKUY/JHA/ARD/2021-22/1

Date of Issue: 2021-08-24

Valid till: 2023-08-24

Sri/Smt. SUKESINI PATEL of , Category General, S/O D/O W/O POULASTI PATEL AT - TALMUNDA District - JHARSUGUDA and Pincode - 768221 is allowed for an establishment of the Commercial Broiler Farming Project under Animal Resources Development sector in his/her field at Village Talmunda, GP/Ri Circle PAKELPADA, Block/Tehsil LAIKERA, Dist JHARSUGUDA After the successful establishment and trial of the Project, he/she will be entitled to the Subsidy of 50 % of the Project Cost (Fixed Capital) limited to Rs. 50,00,000 (in words: Rupees Fifty Lakhs only). He/She will execute the project through Bank finance. The project has to be completed by 2023-08-24.

General male : ₹ 480000 for 4000 numbers as capping.

SC,ST,female,Agri and Allied graduate : ₹ 600000 for 4000 numbers as capping.

Name: Dr Aloka Kumar Das

Signature of the DNO, JHARSUGUDA

26/7/22

OFFICE OF THE CHIEF DISTRICT VETERINARY OFFICER, JHARSUGUDA
AT:- NEAR BIG BAZAAR, PO/DIST:-JHARSUGUDA
Email ID cdvojsq@gmail.com

Letter No 1606 / CDVO

Date 25/7/2022

To

Smt. Sukesini Patel,
W/o Sri Poulasti Patel,
At- Talmunda, PO- Pakelpada,
Block- Laikera, Dist- Jharsuguda.

Sub: Suspension of civil construction work of EC Broiler farm at Pakelpada.

Madam,

As per the instruction of District Magistrate & Collector Jharsuguda you are advised to suspend the construction work of EC Broiler farm which is under construction at Pakelpada until further orders.

Yours faithfully

P. S. Singh 25/7/22
Chief District Veterinary Officer,
Jharsuguda

Memo No 1607 / CDVO

Date 25/07/2022

Copy submitted to District Magistrate & Collector, Jharsuguda for favour of information & necessary action

P. S. Singh 25/7/22
Chief District Veterinary Officer,
Jharsuguda

Memo No 1608 / CDVO

Date 25/7/22

Copy submitted to the Director Animal Husbandry & Veterinary Services, Odisha, Cuttack for favour of kind information & necessary action

P. S. Singh 25/7/22
Chief District Veterinary Officer,
Jharsuguda