

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

**O.A. No.20 of 2021/EZ  
With  
I.A. No.17/2021/EZ**

Swarup Kumar Rath & Ors ... Applicant(s)

-Versus-

Union of India & Ors ... Respondent(s)

**: I N D E X :**

SL.NO.	DESCRIPTION OF DOCUMENTS	PAGES.
1.	Compliance Affidavit filed on behalf of Respondent No.04 and 08 pursuant to the direction dated 12.07.2021 passed by the Hon'ble National Green Tribunal.	01-04
2.	<b>Annexure-A</b> Copy of letter No.955 dated 03.08.2021 issued to Tahasildar, Sadar & Kishananagar	05
3.	<b>Annexure-B</b> Copy of letter No.1528 dated 05.08.2021 of Tahasildar, Kishanagar	06-07
4.	<b>Annexure-C</b> Copy of letter No. 3691 dated 05.08.2021 of Tahasildar, Sadar	08-09

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Kolkata

Date: 05/08/2021

  
Addl. Govt. Advocate

*Bhabhani*  
Executive Magistrate  
Cuttack Sadar  
05.08.21

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**COUNTER AFFIDAVIT FILED ON BEHALF OF PRINCIPAL  
SECRETARY TO GOVT. R&DM DEPARTMENT, ODISHA, RESPONDENT  
NO.04 PURSUANT TO THE DIRECTION PASSED VIDE ORDER  
DATED 12.07.2021 OF THE HON'BLE NATIONAL GREEN  
TRIBUNAL, PRINCIPAL BENCH, NEW DELHI.**

I, Sri Bhabani Shankar Chayani, aged about 57 years, Son of late Damodar Chayani, at present working as Collector-cum-District Magistrate, Cuttack, Dist: Cuttack do hereby solemnly affirm and state as follows:-

1. That, I am the Respondent No.08 to the aforesaid original application. I am acquainted with the circumstances of the case and competent to file this counter affidavit for self and on behalf of Principal Secretary to Govt. in Revenue & Disaster Management Department, Odisha (Respondent No.4) , being duly authorized for the purpose.

*Bhabani Shankar Chayani*

*Amranchand*  
05.08.21  
Executive Magistrate  
Cuttack Sadar

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2. That in the aforesaid matter, the Hon'ble National Green Tribunal vide order dated 12.07.2021 has been pleased to direct the Respondents file counter affidavit regarding what action has been taken against the illegal land encroachers and those causing obstruction to the free flow of river water.

3. That, it is pertinent to mention here that, pursuant to the order dated 7.06.2021 and 12.07.2021 of Hon'ble Tribunal passed in this Original Application, the Tahasildar, Sadar and Kishannagar were instructed to furnish report regarding encroachment of river bed Sukapaika by land grabbers and illegal lifting of sand by the encroachers from the river bed vide this office letter No.955 Dtd.03.08.2021.

Copy of the letter is annexed herewith as **Annexure-A**.

4. It is humbly submitted that, the Tahasildar, Kishannagar vide letter No.1528 Dated 05.08.2021 has reported that, there is encroachment over the dead Sukapaika river, but allegation regarding allowing encroachment is not correct. Since the mouth of the river was closed, the local people in that area used the dead river and its bed for cultivation purpose. There is no pucca construction neither over the dead river nor over the river bed. Allegation regarding non-discharge of

*Bhabani Shankar Chayani*

rain water and waste water is also not correct as the encroachment is not pucca construction.

*Shobani*  
05.08.21  
Executive Magistrate  
Cuttack Sadar

Further , the Tahasildar, Kishanagar has reported that, allegation regarding lifting of huge quantity of sand is false. As the mouth of the river was closed since 1951, the river as well as its bed loses its characteristics and now the river bed is dead. The river as well as its bed is covered with hyacinth, shrubs etc. Hence the sand available in the dead river as well as in the river bed is not suitable for any purpose.

Copy of the letter No.1528 dated 05.08.2021 of Tahasildar, Kishanagar is enclosed herewith as "**Annexure-B**"

5. That, it is pertinent to mention here that, the Tahasildar, Sadar vide letter No. 3691 dated 05.08.2021 has reported that, there is no permanent structure found in the course of the river bed of Sukapaika river. Copy of the letter received from Tahasildar, Sadar is annexed herewith as "**Annexure-C**" .

6. That, it is humbly submitted that, the Water Resource Department, Odisha is the Executing Agency for the rejuvenation of dead river Sukapaika.

*Shobani Shankar Charyani*

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

Identified by:-

*[Signature]*  
Advocate

*Bhabani Shankar Chayani*  
Deponent.  
Collector, Cuttack.

**Certificate**

Certified that the cartridge papers are not readily available.

Cuttack

Date: 05/08/2021

*[Signature]*  
Addl. Govt. Advocate

**AFFIDAVIT**

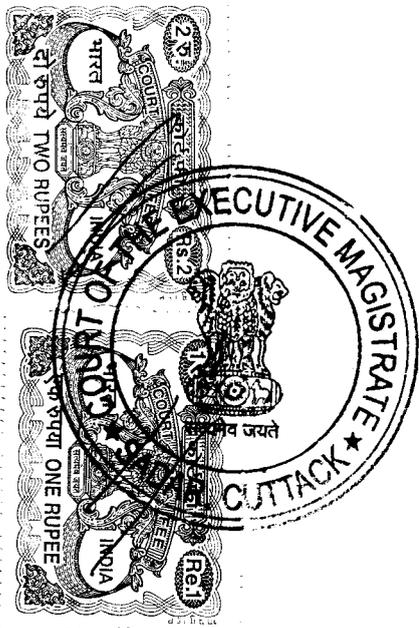
The above named deponent being officially known to me solemnly affirms that, the contents of the above noted affidavit are true.

Place-Cuttack

Date:- 05/08/2021

*[Signature]*  
**Executive Magistrate**  
**Cuttack Sadar, Cuttack**  
Executive Magistrate  
Cuttack Sadar

*[Signature]*  
Executive Magistrate  
Cuttack Sadar



*[Handwritten]*  
405210  
05/08/2021



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ANNEXURE - A

OFFICE OF THE DISTRICT MAGISTRATE & COLLECTOR, CUTTACK  
(JUDICIAL SECTION)

No. 955 /Judl. Dtd. 03-08-2021

To,  
The Tahasildar, Sadar, Cuttack & Kishannagar

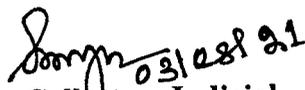
Sub:- OA No.20/2021/EZ (I.A. No. 17/2021/EZ) filed by Swarup Kumar Rath & others Union of India & others.

Sir,  
Enclosed find herewith Letter No.27031 Dtd. 19.07.2021 of Addl. Govt. Advocate, O/o Advocate General of Odisha, Cuttack along with order dated 07.06.2021 of Hon'ble National Green Tribunal, New Delhi passed in OA No.20/2021/EZ (I.A. No.17/2021/EZ) filed by Swarup Kumar Rath & others . I am directed to say that, the Hon'ble Tribunal has directed the respondents to file necessary counter affidavit by 06.08.2021 regarding rejuvenation of river Suka Paika (a branch of river Mahanadi). The Govt. in R& DM Department, Odisha has authorized Collector & DM, Cuttack to file counter affidavit on behalf of Secretary , R & DM Department.

In view of the above, you are requested to furnish necessary compliance report regarding encroachment of river bed by land grabbers and illegal lifting of sand by the encroachers to this office for preparation of counter affidavit to be submitted by 04.08.2021 before the Hon'ble NGT.

This may be treated as "MOST URGENT".

Yours faithfully,

  
Deputy Collector, Judicial  
Collectorate, Cuttack

Attested by me  
  
Deputy Collector (Judicial)  
Collectorate, Cuttack

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ANNEXURE - B

OFFICE OF THE TAHASILDAR, KISHANNAGAR

Letter No. 1528 / Date 5/8/2021,

To,  
The Collector, Cuttack

Sub:- Submission of compliance report for filing of counter affidavit in OA No.20/2021/EZ (I.A. No. 17/2021/EZ) filed by Swarup Kumar Rath & others Union of India & others.

Ref:- District Office letter No.955/Judl.Dtd.03.08.2021

Sir,  
With reference to the letter on the above noted subject, I am to submit herewith the compliance report annexed herewith as Annexure-A for kind perusal and necessary action at your end.

Yours faithfully,

  
5/8/2021  
TAHASILDAR, KISHANAGAR

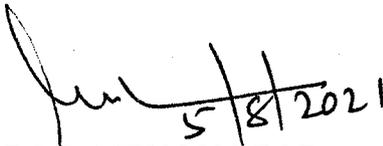
Accepted by me  
  
Deputy Collector (Judicial)  
Collectorate, Cuttack

**Compliance report for filing of counter affidavit in OA No.20/2021/EZ (I.A. No. 17/2021/EZ) filed by Swarup Kumar Rath & others Union of India & others**

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- i. It is a fact that, there is encroachment over the dead Suka-Paika river but allegation regarding allowing encroachment is not correct. Since the mouth of the river was closed , the local people in that area used the dead river and its bed for cultivation purpose. There is no pucca construction neither over the dead river nor over the river bed. Allegation regarding non-discharge of rain water and waste water is also not correct as the encroachment is not pucca construction.
  
- ii. The dead river Sukapaika , a tributary of river Mahanadi having its mouth at village-Ayatpur, which is under Sadar Tahasil of Cuttack District. After covering 5KM, it flowed 22 KM in the villages which are coming under Kishannagar Tahasil before it rejoins its parent river Mahanadi near Bankola.
  
- iii. Allegation regarding lifting of huge quantity of sands is not correct. As the mouth of the river was closed since 1951, the river as well as its bed loses its characteristics and now the river bed is dead. The river as well as its bed are covered with hyacinth, shrubs etc. Hence the sand available in the dead river as well as in the river bed are not suitable for any purpose.

Attested  
by me  
Deputy Collector (Judicial)  
Collectorate, Cuttack

  
5/8/2021  
TAHASILDAR, KISHANAGAR



OFFICE OF THE TAHASILDAR, SADAR, CUTTACK  
E-mail- [tah1.etc@nic.in](mailto:tah1.etc@nic.in), Ph. No.-0671-2507053

Letter No. 3691  
II S - 82/2021

/Judl. Dt. 05.08.2021

To

The Deputy Collector, Judicial,  
Collectorate, Cuttack.

Sub:- OA No.20/2021/EZ(I.A. No. 172021/EZ) filed by Swarup Kumar Rath & others Vrs. Union of India & others .

Ref:- Letter No. 955/Judl. Dtd. 03-08-2021.

Madam,

In inviting a kind reference to the subject cited above, the field enquiry has been conducted on the encroachment of river bed of Suka Paika by land grabbers and illegal lifting of sand on dated 05.08.2021. On enquiry it is revealed that there is no permanent structure found in the course of the river bed Suka Paika river. The copy of the report is enclosed herewith for ready reference.

This is for favour of kind information and necessary action.

Yours faithfully,

*[Signature]*  
Tahasildar, Sadar, Cuttack.  
*[Initials]*

*Witnessed by me*  
*[Signature]*  
Deputy Collector (Judicial)  
Collectorate, Cuttack

To  
The Tahasildar, Sadar,  
Cuttack.

Sub: Permanent Structure on river bed of Suka  
Paika river - Regarding.

Sir,

With reference to the Subject Cited above,  
We are to submit a detail report as mentioned  
below:

(i) That, we made a field enquiry from village  
Danduasipada to Demodarpus through mouza  
Brahmanbad covering a distance of 7 kms (approx.)  
of Cuttack Sadar Tahasil out of 27 kms (approx.)  
of river Suka Paika.

(ii) That, the field enquiry reveals that no permanent  
structure is found on the course of the river  
bed Suka Paika river.

This is for favours of your kind information  
& necessary action.

Yours faithfully,



05.08.21

(R. I. Kandaopus)

Pld  
Aim

dt. 5.08.2021

  
R.I.

Attended by me

  
Deputy Collector (Judicial)  
Collectorate, Cuttack

9/8/2021  
Judicial - DA