

BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN  
ZONE BENCH, KOLKATA

APPEAL NO-4/2022/EZ

RUDRA MOHAN SAMAL & OTHERS ..... APPELLANTS

-VRS-

SEIAA, ODISHA & OTHERS ..... RESPONDENTS

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Cuttack

Date : 16-11-2022

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

**APPEAL NO-4/2022/EZ**

**RUDRA MOHAN SAMAL & OTHERS ..... APPELLANTS**

**VRS**

**SEIAA, ODISHA & OTHERS ..... RESPONDENTS**

FURTHER AFFIDAVIT ON BEHALF OF THE APPELLANTS TO THE  
COUNTER AFFIDAVIT DT. 22.08.22 AND FURTHER AFFIDAVIT  
DT. 07.09.22 FILED BY THE RESPONDENT NO .6 i.e TAHASILDAR,  
KANIHA , DIST- ANGUL.

*Rudra Mohan Samal*

I, Shri Rudra Mohan Samal aged about 52 years son of Late Gokul Samal  
At- Suleipal Po- Gandamala P.s- Rengali Dam Site Dist-Angul do hereby  
solemnly affirm and state as follows;-

1.That I am one of the Appellant in this case. I have gone through the counter  
affidavit filed by respondent no 6 i.e Tahasildar Kaniha in the case and have  
under stood the contents thereof. Being acquainted with the facts of the case,  
I am filing this Affidavit.

2. That the Respondent no 5 has filed the counter and further Affidavit in the  
similar type of the counter of the Respondent no 6 and as such the further  
Affidavit is being filed which may kindly be accepted for counter of the  
Respondent no 5 and Respondent no 6.

3.That the Appellants filed the present appeal petition challenging the illegal  
action of the respondent no 1, State Level Impact Assessment Authority

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Bhubaneswar in granting clearance allowing the Respondent no 7 to lift the sand from Suleipal Sand Sairat.

4. That the main ground of challenge in the Appeal petition were as follows:-

(i) That 10 acres of land which were identified for lifting of sand was only place in the river bed which is being used as place to meet daily necessities of the Suleipal village and for bathing, washing and to meet daily necessities. Para (a) page 6 of the Appeal Petition.

(ii) That dead body of the villagers were being buried at that place which has become place of sentiment for the villagers and place of worship. The villagers also perform the Shrada Ceremonies at that place. The previous burial place of the village was washed away due to flood and out of Govt. fund the present Burial Ground has been constructed over the said sand Sairat, identified by revenue Inspector. The photograph of the place clearly indicate the crematory and the road passing through it. Para (a) page 6 of the appeal petition and para (n) page 13 and **Annexure 9** page 73.

(iii) There are no passages for transportation of sand from river bed. The passage is to be paved over private plot of the villagers to which villagers have objected and Respondent no 7 is lifting the sand forcefully over the private plot of the villagers. Para (a) Page 6 of the appeal petition.

(iv) There are no other places in the river bed to meet daily necessities and puja and Shrada Ceremony. On the one hand there is Samal Barrage and on the other hand there is Rengali Dam constructed over Brahmani River. Entire river bed over Brahmani River near Suleipal is submerged with water except the present place. If the area is allowed for lifting the sand, there will be no place for use of villagers. Para (a) page 6 of the appeal petition.

(v) When the revenue Inspector of the area categorically pointed that there are no passage for transportation of the sand from the river bed and the plot no 4030 is river and plot 4030/1 is sand Sairat and the plot no 4029 is govt.

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*A. K. Saha  
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land and plot no 4049 is govt. plot and plot no 3918 is private Rayati plot in between the sand Sairat to Main Road. But the report of Tahasildar that there are passage to river bed, is totally false. Para (d) page 6 and Para (f) page 9 of the appeal petition and Annexure 2 page 36 and Annexure 3 page 40 of the appeal petition.

(vi) The sands are being carried through the village Road which is totally congested area and the Primary school, Anganwadi Centre, High School and Temples are existing in the both side of the village and the residents are also residing in the both side of the Road .The Road is village Road and trucks are passing through the village Road. Para p and Para q of the page 14 of the appeal petition.

(vii) The notice alleged to have been served upon the villagers have not been actually served and the report that villagers have signed the report is also illegal and totally false. No village Committee or the Palli Sabha have been organised in the village. Para g page 10 of the Appeal petition

5. That the Respondent no 6 i.e Tahasildar Kaniha Dist.-Angul filed the Affidavit dt 22.08.22 only on the following grounds;-

(i) Since there was no objection to the general notice dt. 11.02.20 issued by Tahasildar lease has been granted observing OMMC Rules 2016. At this stage raising of objection is totally illegal.

(ii) Since Kamar samal refused to allow proponent to lift the sand over his plot another passage has been found over the private plot belonging to Sri Sudersan Mohanty over the plot no 3973. Annexure B/6

(iii) Since the distance of Rengali Multipurpose Dam Project at Upstream and Samal Barrage at downstream is more than one km from the mining lease site it does not attract Rule 3 and 4 of the OMMC Rule 2016. Para 4 page 3 of the Counter.



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(iv) The general notice dt. 01.02.20 was given as it is evident from its publication at village Kothaghar on 11.02.20. Para 8 page 3 of the counter.

(v) The facts regarding auction of the Suleipal sand quarry was published in two local dailies i.e in Dharitri and Samaya on dt.16.09.20. Villagers have not submitted any objection. Para 10 of the counter and Annexure C/6 of the counter.

(vi) Since there was no objection from the villagers subsequent action was taken. Para 11 of the counter.

(vii) Since villagers were lifting sands at their sweet will ,to arrest the loss the sand Sairat was put to auction

(viii) The village Road has been constructed by using Govt. fund. Villagers have encroached the road by erecting passage to their house and Verandah.

(ix) Respondent no 7 is very accommodative and as per demand of villagers he has paid amount to village committee.

6. That in pursuance to the direction of the Hon'ble Tribunal, the Respondent no 6 has filed the further Affidavit dt 07.09.22 on the following grounds

(i) In compliance to condition no 9.6 of the Environment Clearance Certificate (Annexure 7) issued by the Environment Impact Assessment Authority 10 pillars were installed by the project proponent on demarcation of lease site by Revenue Supervision and Revenue Inspector. Since miscreants are damaging the said pillars, said pillars have been installed with concrete base. Photograph vide Annexure G/6 Series.

(ii) The laden Capacity of the village road is 7.50 tonnes with single Axle and Two tyres vehicle. The sands are transported by means of tractor/TATA 407(Mini Truck).

(iii) Since as per plan 7,140 cubic metre of sand has been allowed per annum daily lifting of sand come to 7 tractor load at 3 cubic metre. So no specific



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permission is required by project proponent from Govt. By paying money to the villagers the villagers have allowed the sand to be lifted.

7. That as per the Affidavit of the State Pollution Control Board i.e Respondent no 8 (Annexure R8/1) it reveals that;-

- (i) The Mining area is approximately 2.70 ha.
- (ii) The Suleipal Village is 450 metre from the site
- (iii) The distance of Samal Barrage from Suleipal village is 12 km and Rengali Dam is 12 km from the sand quarry.
- (iv) Quarry is connected with Suleipal-Arkil Road through two Kachcha Road one passing adjacent to crematory and another passing adjacent to river bank.
- (v) Crematory of Suleipal village is located 50m away from the quarry site.
- (vi) Bathing Ghat is about 500 metre away from the quarry site.
- (vii) The Environment clearance (Annexure 7 of the Appeal petition **page 64**) was granted on 07.10.21 with condition vide clause 9.1 that maximum depth of digging of sand to be 0.5m and maximum sand extraction allowable is 5000 cum in a year. It was also stipulated vide Clause 9.4 that any change in the plan and quantity should require prior approval of SEIAA but the Project proponent violating the condition and without approval of SEIAA is lifting the sand 7140 cubic metre in a year and since the date of execution of agreement i.e 24.11.21 the project proponent has lifted **2140** cubic metre extra for one year violating the condition of the Environment clearance.

(viii) The Environment Clearance was granted vide clause 9.2 that clearance is given for one year conditionally till 30.12.22 subject to submission of satisfactory replenishment study report but no report has been so far submitted and as such the clearance should be withdrawn.

(ix) The Environment Clearance was granted vide clause 9.3 that the project proponent should carry river bed mining manually by engaging local labourer



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but the project proponent is lifting the sand by engaging tractor and JCB. The Photograph regarding engagement of tractor and JCB are filed herewith as Annexure 10 series.

(x) The Environment Clearance was granted vide clause 9.6 that the lease area and actual working area shall be demarcated erecting durable masonry and concrete pillars and the counter Affidavit of the Respondent 8 also vide observation also stated that no pillar posting was done. The Tahasildar Respondent no 6 stated in the counter that 10 pillars have been installed in the lease area at conspicuous area. But the actual working zone has not been demarcated. Besides the averment that miscreants are destroying the pillar is baseless in view of the counter of the Respondent no 8 that there were no pillars.

(xi) The Environment Clearance was granted vide clause 9.11 & 9.12 that no transportation shall be made through village and plying of sand extraction truck may be allowed on roads path ways close to schools temples, hospitals and other public places without written permission of the authority and during non peak hours. Clause 9.13 also stipulates that the vehicles should not be overloaded and shall be covered with tarpaulin. But the project proponent is lifting the sand in the tractor with overloading and without covering with Tarpulin. Photograph of such carrying of sand in the village Road is filed herewith as **Annexure 11**

(xi) The Environment Clearance was granted vide clause 9.14 that the project proponent shall plant and nurse 100 saplings of native tree species but the project proponent has not planted single tree.

(xii) The Environment Clearance was granted vide clause 9.23 that a copy of the clearance letter shall be sent by the proponent to concerned Grama



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Panchayat , Panchayat Samiti etc but the project proponent has not submitted the clearance letter to anybody violating the condition.

8. That in view of the facts stated above, the Affidavit filed by the respondent no 6 and 5 are liable to be dismissed.

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

Identified by

A.K. Sahoo  
Advocate  
D. 16-11-2022

*Ramdra Mohar Samal*  
Deponent

### VERIFICATION

I the above named Deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

Identified by

A.K. Sahoo  
Advocate  
D. 16-11-2022

*Ramdra Mohar Samal*  
VERIFICANT

### CERTIFICATE

This affidavit has been filed in thick white paper in absence of cartridge paper

Cuttack  
D. 16-11-2022

Ajit Kumar Sahoo  
Advocate for the Appellants



Ajit Kumar Sahoo  
Orissa High Court, Cuttack  
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PS- Lalbag, Dist- Cuttack, Pin- 753002,  
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Solemnly affirm on in oath by the Deponent  
at Cuttack on... 16/11/22... being indentified  
by... *A.K. Sahoo*...  
Advocate/Adv's Clerk/ASO, AG'S office/Notary  
Personally, that the facts stated above are  
true to the best of his/her knowledge

*Rama Chandramishra*  
RAMA CHANDRAMISHRA, NOTARY  
CUTTACK TOWN, Regd. No. 21403

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ANNEXURE - 10 Series.



9



10

ANNEXURE - 11

