

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, EASTERN ZONE KOLKATA.**

APPEAL NO. 19 OF 2023

IN THE MATTER OF:

Ashish Kumar Ghosh and Anr. **Appellants.**

-Versus.-

State of Odisha and Others. **Respondents**

I N D E X

<u>Sl. No.</u>	<u>Description of Documents.</u>	<u>Pages.</u>
1.	Rejoinder filed on behalf of the Appellants to the Respondent 18	01-08

Cuttack.

By the Appellants through,

Date. 15-10-2023


Advocate.

PRATIK DASH

At: Shree Vihar Colony, Tulasipur,
Cuttack, Odisha-753002

Email: pratik.dashadv@outlook.com

Phone No. 9853847414

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, EASTERN ZONE KOLKATA.**

APPEAL NO. 19 OF 2023

IN THE MATTER OF:

Ashish Kumar Ghosh and Anr. **Appellants.**

-Versus.-

State of Odisha and Others. **Respondents**

REJOINDER AFFIDAVIT FILED ON BEHALF

OF THE APPELLANTS:-

I Ashish Kumar Ghosh, aged about 46 years, S/o. Nigamananda Ghosh, At/P.O./P.S. Raibania, Dist-Balasore, Odisha-756033; Odisha do hereby solemnly affirm and state as, do hereby solemnly affirm and state as follows:-

1. That I am the Appellant in the aforementioned Appeal and I have gone through the contents of the on behalf of the Laxmipriya Prusty-Project Proponent (Respondent No.18) and have understood the contents thereof.
2. That the rejoinder filed by the appellant to the counter affidavit of Respondent namely MoEF & CC (Respondent no.4), CPCB (Respondent no.5), SEIAA (Respondent No.6) SPCB (Respondent no.7 and 14), Collector, Balasore on behalf of the State (Respondent No.8) may be treated as part and parcel of the present rejoinder and may be referred accordingly. The said



rejoinder is already on record filed on 14.10.2023 and served on the Respondents. A conjoint reading of the memo of appeal, the rejoinder dated 14.10.2023 as well as the present affidavit may kindly be made for the sake of brevity.

3. That in reply to Para-2 , it is false to aver that the appeal is misconceived and tainted with malafide. It is filed within the ambit of the statute i.e. the National Green Tribunal Act, 2010 under Section 16 which provides for statutory remedy to any aggrieved person for challenging the order/orders/EC granted by appropriate authority. Further, **the appellant's challenge herein is made on the grounds averred in rejoinder dated 14.10.2023 at Para 4.**

4. That in reply to Para 3 (i), (ii) & (iii) it is submitted that the averments made in Para 4 and subsequent paragraphs of the rejoinder dated 14.10.2023 suffices the challenge made. For the sake of brevity, it is also furthermore necessary to submit that the DSR is brought into question by virtue of the legality of the EC. The public hearing dated 11.05.2022 for Rajnagar Sand quarry for EC to the project proponent (Respondent no.18) has been done on the interim report of DSR which is at the teeth of the judgment dated of judgment/order passed by the Hon'ble Tribunal in O.A. No. 63/2020 on 08.02.2022 qua the EMGSM, 2020. Para 23 of the **rejoinder dated 14.10.2023 may kindly be referred.**



5. That in reply to Para 4,5 and 6 of the counter, the separate replies made in the rejoinder dated 14.10.2023 in respect of the Collector (resp. 8, Para-18-30) and SEIAA (Resp.6, Para 31-41) may kindly be referred. It is also false to aver on part of the Respondent no.18 that SEIAAA has denied the allegations of the appellants and justified the legality of EC as transportation is major issue which is admittedly the SEIAA is cognizant of, as revealed from the records that the said issue was discussed while conducting public hearing on 11.05.2022. ***It is also admitted in the said averment that the EC conditions of 7.1 to 7.7 of Part-B in Page no.5 and 6 of the EC has not been complied before the Lease agreement. Further, it is admittedly on record as submitted by the Collector that lease agreement was executed on 13.07.2023 before compliance of the EC conditions, which highly speaks of the arbitrariness and illegalities committed by the District administration in acting hand in gloves with the project proponent.***

Dr

6. That it is submitted in reply to Para 7 it is submitted that the EC which is under challenge doesn't mention the present modified mining plan and hence it is not within the knowledge of the Appellants and it is respectfully submitted there is no suppression from the Appellant's end.

7. That on careful perusal of the modified mining plan under (*Annexure A/19 Chapter -3, 10.b. Mining, Page 23*), if semi mechanised or mechanised transporting vehicles are used the transporting vehicles would have the capacity of 6 cubic meter with 4 no.of fleets. This clearly indicate that the vehicles with capacity of more than 10 tonnes would be allowed to move over the bridge and road, which was also objected by one Santosh Kumar Das. (*Annexure-7series, Para 29 of the rejoinder dated 14.10.2023 may kindly be referred*).

8. In further reply to Para-7&8, it is submitted at the very outset that the inspection report of the Deputy Environmental Scientist of RO SPCB, Odisha Balasore prepared on 29.08.2023 is completely ambiguous, concocted and has adverse observation with regards to **the absence of pillar posting and source being submerged in river water gives a probable doubt on the manner in which identification of sand source being done contrary to guidelines contained in EMGSM, 2020.** Therefore, approved mining plan under annexure A/19 also has to stand the moment scrutiny of law.

9. That in reply to Para -9, the averments made in Para 30 and Annexure-6series and & series may kindly be referred.

10. That in reply to Para 10, it is submitted that the **it is also admitted in the affidavit of SEIAA that the EC**

conditions of 7.1 to 7.7 of Part-B in Page no.5 and 6 of the EC has not been complied before the Lease agreement..

11. That it is false to aver that there would be no mining in chadha (island) as there has been no identification of Sand source byway of pillar posting. Therefore, the modified mining plan under annexure A/19 is improper.

12. That in reply to Para 12, it is submitted that the matter is before this Hon'ble Tribunal pending adjudication and the Appellants humbly submit that with regards to the absurd allegations before commencement of mining activity. The contents Annexure-6 series and 7 series in rejoinder dated 14.10.2023 may kindly be referred

13. It is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to quash the EC dated. 21.06.2023 issued by SEIAA respondent no.6 in favour of respondent no.18 as at Annexure-1 and to restrain the respondents from carrying out any activity with regard to sand mining in the Rajnagar Sand Sairat and further be pleased to issue appropriate direction for initiation of appropriate proceeding against the erring respondents and any other orders as deemed fit and proper

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

Dr

- 7 -

Cuttack BY THE APPLICANT THROUGH

Date - 15-10-2023

for the Party
ADVOCATE

UNDERTAKING

The English translation of the Odia Annexures if any will be filed as and when directed by the Hon'ble Tribunal. The applicants seek the liberty of this Hon'ble Tribunal to file additional documents which could not be arranged.

BEFORE HON'BLE NATIONAL GREENTRIBUNAL
EASTERN ZONE BENCH, KOLKATA.
APPEAL NO.19 /2023 /EZ



IN THE MATTER OF:
Ashish Kumar Ghosh and anotherAPPLICANTS

VERUS

State of Odisha & OthersRESPONDENTS

SANDIP KU. MOHANTY
Notary. ON 15/12

AFFIDAVIT

I, Ashish Kumar Ghosh, aged about 46 years, S/o. Nigamananda Ghosh, At/P.O/P.S. Raibania, Dist-Balasore, Odisha-756033; Odisha do hereby solemnly Affirm and state as

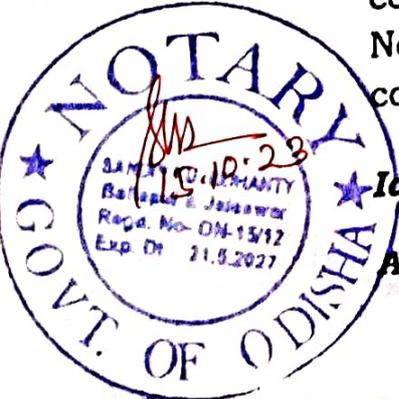
1284
15.10.2023
Notary

1. That I am the one of the petitioner in the abovementioned appeal Application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying affidavit and the same is true and correct and is drafted on my instruction.

Ashish Kumar Ghosh.
DEPONENT

VERIFICATION

Verified on dtd 15/10/2023 at Taleswar that the contents of the above affidavit are true and correct. No part of it, is false and nothing material has been concealed there from.



Identified by:
Advocate 15.10.23

Ashish Kumar Ghosh.
DEPONENT

Solemnly Sworn before me
by Ashish Kumar Ghosh
being identified by Mr. ...
Self Adv
on dt/15.10.23 at 12:36 P.M.

Sandip Kumar Mohanty
Notary. ON-15/12
15.10.2023

15.10.23