

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 604 OF 2018

IN THE MATTER OF:

Sarbeswar Behura

..... Applicant

Versus

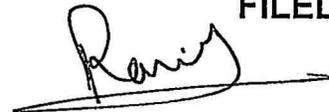
Union of India & Ors.

..... Respondents

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FILED BY:



ROVINS FRANCIS VERMA
ADVOCATE
30/187, LOWER GROUND FLOOR,
VKRAM VIHAR, LAJPAT NAGAR- IV,
NEW DELHI, 110024
MOB. NO. – 9868012182

DATED: 16.07.2025
PLACE: NEW DELHI

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**REJOINDER ON BEHALF OF APPELLANT IN REPLY TO COUNTER
FILED BY THE RESPONDENT NO. 11**

MOST RESPECTFULLY SHOWETH:

1. That the Appellant has filed the present Original Application under Sections 14 & 15 of the National Green Tribunal Act, 2010 seeking urgent directions for stopping the illegal quarrying of black stone and the unregulated mining activities being carried out by Respondent No. 11 and others in blatant violation of the environmental norms, mining regulations and without requisite statutory clearances.
2. That the Counter Reply filed by the Respondent No. 11 is misleading, vague, evasive and full of general denials. The same deserves to be rejected in toto for the reasons stated herein.
3. The Respondent has neither produced any valid and subsisting Environmental Clearance under the EIA Notification, 2006 nor a valid

Consent to Operate under the Air and Water Acts issued by the State Pollution Control Board. The mere assertion that mining is done in compliance with the law is baseless unless substantiated by valid and current statutory permissions. The Appellant relies on RTI replies and site inspection reports that show clear non-compliance.

4. At the outset, the Applicant denies each and every averment and conclusion made in said Affidavit which is contrary to and/or inconsistent with what has been submitted on record in the present Application. Furthermore, nothing stated in the present Rejoinder on behalf of the Applicant shall be construed as an admission for the want of any specific and para-wise denial or non-traverse unless and until the same is specifically admitted hereinafter.
5. That the following are the responses on behalf of the Applicant to the submissions made by the Respondent No.11 vide reply dated 18.03.2023:

PRELIMINARY SUBMISSIONS:

IMPUGNED ILLEGAL MINING OPERATIONS REPORTEDLY UNDERTAKEN BY RESPONDENT NO. 11 FOR THE PAST DECADE, IN THE ABSENCE OF REQUISITE APPROVALS.

6. The Applicant respectfully submits that one of the primary grounds raised in the Original Application concerned the ongoing illegal mining activities being carried out in the Dankari Hills area by Respondent No. 11 and other miners, without obtaining a valid lease from the competent authority. It is further submitted that the Respondent No.:11 is indulged in in any unlawful or illegal activity or has been conducting any illegal or unlawful quarrying activities continuously without obtaining the mandatory clearances by the Central Government and the State Governments or caused any degradation of the environment and ecology. Further, the Respondent No.11 has been deliberately using illegal wagon blasting techniques for the excavation of minerals which has resulted in severe vibrations, cracks in the walls of surrounding houses, and diminishing of the mountain.
7. It is reiterated that Respondent No.11 has been continuously involved in unauthorized and illegal mining activities, which not only violate the provisions of various environmental statutes, including the Environment (Protection) Act, 1986 and the Mines and Minerals (Development and Regulation) Act, 1957, but have also resulted in irreversible ecological damage and severe environmental degradation in the area.

8. The Respondent No.11 has deliberately employed illegal wagon blasting techniques, a method that is not only unscientific but also hazardous and unregulated. This method of excavation has led to dangerous ground vibrations, cracking of residential structures, and deterioration of the structural integrity of houses in the vicinity, severely affecting the lives and livelihoods of local residents.
9. Additionally, the indiscriminate and illegal mining activities have resulted in the diminution and disfigurement of the mountain terrain, thereby adversely affecting the natural landscape, biodiversity, and the overall ecological balance of the Dankari Hills.
10. The Respondent has failed to furnish any documentary proof of obtaining valid leases, environmental clearances, or permissions from the concerned regulatory authorities, despite categorical directions under law. Mere bald denials by the Respondent are insufficient to counter the detailed and substantiated averments made by the Applicant.

PROTECTION OF AFFECTED FOREST AREA•

Approximately Lakhs of trees have naturally regenerated at Dankari Hills and their protection is mandated by:

- The Orissa Forest Act 1972, prohibits the felling or harming of trees, including those with regenerative capacity, without permission. Specifically, Section 37 outlines penalties for various violations, further violation can result in imprisonment, fines and compensation and damages
- Precautionary Principle under Section 20 of the NGT Act, 2010, requiring preventive measures against environmental harm.
- Sustainable Development, as upheld in T.N. Godavarman Thirumulpad v. Union of India (2002) 10 SCC 606, emphasizing forest conservation (T.N. Godavarman).
- The respondents' failure to protect the forest area exacerbates ecological damage, necessitating immediate action.

PENALTY

- The illegal extraction of Black Stones from the affected forest area by Respondent No. 11 has caused a loss of crores of rupees to the Government.
- The Supreme Court's ruling in Common Cause v. Union of India (2017) 9 SCC 499, mandating proportional penalties to deter environmental crimes (Common Cause).

- A penalty of ₹100 crores aligns with the Polluter Pays Principle and reflects the ecological and economic gravity of the offense.

Thus, the invocation of Section 14 is well within the scope of the National Green Tribunal Act, 2010, as the substantial question raised clearly pertains to non-compliance of environmental regulations, air pollution and water pollution likely being caused by the impugned mining activities.

Furthermore, Section 15 of the National Green Tribunal Act, 2010, allows this Hon'ble Tribunal to order relief and compensation to victims of environmental damage caused due to violations of the Water Act, 1974, the Air Act, 1981, and the Environment (Protection) Act, 1986. Accordingly, the Applicant prays for imposition of Environmental Damage Compensation (EDC) as per the provisions of Section 15 of the National Green Tribunal Act, 2010, in adherence with the Polluter Pays Principle enshrined in Section 20 of the National Green Tribunal Act, 2010 for all the above-mentioned violations.

In view of the facts and circumstances of the case, and the submissions made hereinabove, it is respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) Reply submitted by the Respondent No. 11 is vague report and not considered relevant provision of law, therefore it is liable for rejection.
- b) To constitute and appoint the independent joint committee to ascertain the entire environmental damages cause by respondent no. 11.
- c) Pass any further order or direction that this Hon'ble Tribunal may deem fit, just and proper as per facts and circumstances in the interest of environment

AND FOR THIS ACT OF KINDNESS THE APPELLANT AS IN DUTY BOUND SHALL EVER PRAY.

FILED BY:



**(ROVINS FRANCIS VERMA)
ADVOCATE**

**30/187, LOWER GROUND FLOOR,
VKRAM VIHAR, LAJPAT NAGAR- IV,
NEW DELHI, 110024
MOB. NO. – 9868012182**

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...Appellant

Versus

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AFFIDAVIT

I, Sarbeswar Behura, S/o Kangali Behura, aged about 55 years, resident of Saroi, P.S, Dharmasala, Dist. Jajpur, Odisha presently at Cuttack, Odisha do hereby solemnly affirm and declare as under:

1. I state that I am the applicant in the original application and am aware about the facts and circumstances of the present case and am therefore competent to sign and affirm the present affidavit before this Hon'ble Tribunal.
2. I state that the present Rejoinder has been drafted by my counsel upon my instructions. The legal submissions therein are based upon the legal advice and are believed to be correct.
3. I state that the contents of the present Rejoinder are not reproduced in the present affidavit at the sake of brevity and the same may be read from the application and may be considered to be a part and parcel of the present affidavit.

Identified by
(M. S. Sahu)
Advocate

Sarbeswar Behura
DEPONENT



Neepak K. Purohit
Notary, Cuttack
Regd. No-ON-24/2008
Govt. of Odisha



VERIFICATION

I, the deponent above named, do hereby solemnly affirm and confirm that the above stated facts are true to the best of my knowledge and belief and nothing material has been concealed therefrom.

Verified at Cuttack, Odisha on this the 12th day of July 2025

Sanjeev Kumar Bhowmik
DEPONENT



Rajesh kumar singh <rajeshsinghadv@gmail.com>

Service of Rejoinder to Reply filed by Respondent No. 11 in O.A. No. 604 of 2018, titled as Sarbeswar Behura Vs. UOI & Ors. on behalf of Applicant

1 message

Rajesh kumar singh <rajeshsinghadv@gmail.com>

Wed, Jul 16, 2025 at 3:43 PM

To: secy-moef@nic.in, dir.m-png@gov.in, soestt-png@gov.in, revsec.od@nic.in, fsec.or@nic.in, paribesh1@ospcboard.org, chairman.seiaaodisha@gmail.com, rdcsbp@nic.in, dm-jajpur@nic.in, admjajpur.od@nic.in, kalyanilab@yahoo.co.in, "tdrdharmasala@gmail.com" <tdrdharmasala@gmail.com>, "sribashjena2020@gmail.com" <sribashjena2020@gmail.com>, "mukulkr1722@gmail.com" <mukulkr1722@gmail.com>

Sir,

Please find attached herewith the captioned of Rejoinder to Reply filed by Respondent No. 11 in O.A. No. 604 of 2018, titled as Sarbeswar Behura Vs. UOI & Ors. on behalf of Applicant.

Please acknowledge the receipt of the same.

Office of Rovins F. Verma
Advocate for the Appellant
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Lajpat Nagar-IV, New Delhi-110024
Email:- rovins10@gmail.com
Mob. No. 9868007232, 9868012182.

**Rejoinder to Reply filed by Respondent No. 11 in OA No. 604 of 2018.pdf**

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