

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

Original Application No. 43 of 2023

Pradeep Kumar Dhal & Others ... Applicants

-Versus-

State of Odisha and others ... Respondents

I N D E X

Sl. No.	Description of Documents	Pages
1.	Counter Affidavit on behalf of Respondent No. 02	01-06
2.	<u>ANNEXURE- A/2.</u> Copy of the joint field visit report dated 18.05.2023	07-08

Cuttack

Date: 28.6.2023

BY THE RESPONDENT NO-2.

THROUGH ADVOCATE

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

Original Application No. 43 of 2023

In the matter of:

Pradeep Kumar Dhal & Others ... Applicants

-Versus-

State of Odisha and others ... Respondents

**REPLY AFFIDAVIT
ON BEHALF OF RESPONDENT NO. 2**

I, Sri Chakravarti Singh Rathore, aged about 35 years, S/o.Hari Singh Rathore, at present working as Collector and District Magistrate, Jajpur, At/PO/Dist: Jajpur, do hereby solemnly affirm and state as follows:-

1. That I have been arrayed as the Respondent No.2 in the present Original Application.

2. That I have gone through the averments made in the original application filed by the Applicants and understood the contents thereof. I am well acquainted with the facts of the case and thus competent to swear this affidavit in my official capacity.

4. That the present original application has been filed by the Applicants inter alia with the following prayer;

“”

1. To permanently restrain the private Respondent in using of machine and direct the DM, Jajpur to recover the environment



2533
24/05/2023

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Chakravarti Singh Rathore

COLLECTOR & DISTRICT MAGISTRATE
JAJPUR

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JAJATI JANGIK PANDA
Advocate, Jajpur,
LS No.:462/2002

compensation for excess and illegal sand mining as assessed by the committee.



2. *To direct the respondent authorities to initiate Criminal Proceedings against Pvt Respondents and to take appropriate action including suspension or revocation of environment clearance letter and consent to operate order for violation of the Environment Norms and conditions imposed for sand mining.*

3. *To fix accountability of Government Respondents for lapses on their part for their inaction in enforcing the laws regulating the sand mining.*

4. *To direct the state Respondents to seize the Excavators used for sand mining in Sanla-II Sand Quarry in violation of sand mining guidelines and EC conditions.*

5. *To direct the state Respondents to make GPS Tracking of Vehicles and E-Transit Pass mandatory for Sand Mining.*

5. That all averments, contentions and/or statement contained in the Original Application filed by the Applicants, which may not have been specifically denied or traversed by the Applicants herein but are in essence, contrary to the substance of this Reply Affidavit, should not be deemed to be admitted by the reason of mere non-traverse, but should be treated as expressly denied and the Applicants should be put to strict proof in respect thereof. The Opp. Parties/ Respondents further crave leave of this Hon'ble Court to file further Affidavit/Counter if the same is deemed necessary.

Chakrabarti s/o Pawan

COLLECTOR & DISTRICT MAGISTRATE
JAJPUR

6. That this Hon'ble tribunal on 24.04.2023 has been pleased to issue notice and had directed the following:

"xx xxx xx"

MS
JAJATI JANGIK PANDA
Advocate, Jajpur,
LS No.: 462/2002

16. Considering the allegations made we deem it appropriate to constitute a Committee comprising of the following Members:-

(i) District Collector or his/her nominee not below the rank of ADM, District-Jajpur, Odisha,

(ii) Senior Scientist/Environmental Engineer from Odisha State Pollution Control Board, Odisha,

The District Collector, Jajpur, Odishashall be the nodal body for all logistic purposes and for filing the counter-affidavit bringing on record the Committee Report.

17. The Committee shall inspect the site in question and submit its report with regard to the allegations made in the Original Application and any other observations the Committee may deem fit in the circumstances of the case and also suggest remedial action along with Environmental Compensation.

Xx xxx xx"

7. That in compliance to the aforesaid order, a Committee comprising of Tahasildar, Vyasagar, Regional Officer, SPCB, and Additional District Magistrate, Kalinganagar (Nominee of the Collector, Jajpur) carried out an inspection on 18.05.2023.

8. That after Inspection of the Committee on 18.05.2023, the following observations were noticed:-

a) During the visit of the committee, it is observed that most part of the lease area is submerged with water. So, the quantity of extraction of sand could not be ascertained.



Chakravarti Srijan Kumar
COLLECTOR & DISTRICT MAGISTRATE
JAJPUR

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JAJATI JANGIK PANDA
Advocate, Jajpur,
LS No.:462/2002

- b) During the visit of the committee, it is observed that the mining is operated within the approved area of A 12.00.
- c) During the visit of the committee, it is observed that the leased area of the quarry is well demarcated by pillar postings.
- d) During the field visit, it is observed that manual labourers are engaged in the quarry for excavation of sand. But, no JCB machine and Heavy Trucks are found on the spot.



The Copy of Enquiry Report of the Committee Dtd. 18.05.2023 is annexed as **Annexure A/2**.

9. That, in so far the allegations of excess mining is concerned, it is pertinent to mention here that the quantity of the extracted sand could not be ascertained as most part of the lease area is submerged with water, due to intermitted rain. However, the quantity of excess Sand extracted, if any will be assessed immediately once the water recedes and the report thereof shall be submitted at the earliest.

Chakrawarti Singh Rathore

COLLECTOR & DISTRICT MAGISTRATE
JAIPUR

10. That, in so far the allegations of using JCB Machine and Heavy Trucks, it is humbly submitted that Enforcement Teams are present at Tahasil level for monitoring of illegal activities and mining. It is relevant to state that Enforcement Teams are making frequent visits/ raids upon Sairat Sources to restrict such illegal activities and strong action will be taken if any type of illegal activities is noticed in future.

M.W.
JAJATI JANGIK PANDA
Advocate, Jaipur,
LS No.:462/2002

11. That, in reply to the averments made in Paragraph No 1 of the Original Application, it is humbly submitted that transportation of sand in being made on the road approved in the Mining Plan without any violation/deviation.



12. That, in reply to the averments made in Paragraph No 4 of the Original Application, it is humbly submitted that after receipt of Public Complaint, the Tahsildar, Vyasagar has been directed to monitor the Sairat Source personally and to take appropriate action when any violation of Rules/Terms & conditions is found.

13. That, in reply to the averments made in Paragraph No 5 to 8 of the Original Application, it is humbly submitted that the allegations made in these paragraphs are denied by the Opp. Parties. It is pertinent to mention here that these facts has been enquired by the joint committee on 18.05.2023 and no such violations are noticed.

Chakrawarti Singh Purohit

COLLECTOR & DISTRICT MAGISTRATE
JAIPUR

14. That, in reply to the averments made in Paragraph No 9 to 11 of the Original Application, it is humbly submitted that the Tahasildar, Vyasagar and IIC, Korei have been instructed to keep close watch on this matter. The Tahasildar, Vyasagar alongwith other Revenue Officials are making surprise raids and enforcement frequently to restrict any such type of illegal activities. Any violation of guidelines will be viewed seriously to lead strong action against the person(s) involved in the illegal activities.

Advocate
AJAJATI JANGIK PANDA
Advocate, Jaipur,
LS No.: 462/2002

15. That, in reply to the averments made in Paragraph No 13 of the Original Application, it is humbly submitted that no illegal mining by means of machines is found in the said Sairat Source and the sand is transported in the permitted vehicles within the load limit and covered with tarpaulin sheets. Hence, the allegations made in this paragraph are denied by the deponents.

16. That, in view of the aforesaid facts and circumstances of the case, the present application being devoid of any merit is liable to be dismissed.

17. That, the averments made in the present application which have not been specifically admitted are deemed to have been denied.

18. That, the facts stated in this reply affidavit are true to the best of my knowledge and based on records.

Identified by

Chakravarti Singh Adhwa
 COLLECTOR & DISTRICT MAGISTRATE
 DEPONENT
 JAJPUR

M.P.
 JAJATI JANGIK PANDA
 Advocate, Jaipur,
 LS No.: 462/2002

Date

Certificate

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

M.P.
 JAJATI JANGIK PANDA
 Advocate
 Advocate, Jaipur,
 LS No.: 462/2002

M.P.
 JAJATI JANGIK PANDA
 Advocate, Jaipur,
 LS No.: 462/2002

**OBSERVATIONS MADE DURING JOINT VISIT CONDUCTED
ON 18-05-2023 IN PERSUANT TO THE ORDER OF HON'BLE NGT,
EASTERN ZONE, KOLKATA IN OA NO 43/2023/EZ**

The Hon'ble NGT, Eastern Zone, Kolkata vide order dated 24.04.2023 directed to constitute a committee to inspect the area in question.

In pursuant to the above order, the site was inspected on dtd. 18-05-2023 as per schedule fixed by the Collector & District Magistrate, Jajpur. Following officers were present during the visit.

1. Sri Santosh Kumar Mishra, Additional District Magistrate, Kalinganagar (Nominee of Collector & DM, Jajpur).
2. Sri Pramod Kumar Behera, Regional Officer, SPCB, Kalinganagar.
3. Sri Ashok Kumar Majhi, Tahasildar, Vyasaganar.

General Observation: -

The lessee of Sanla-II Baitarani River Sand Quarry has obtained all the statutory clearances from the competent authorities i.e. Environment Clearance (EC) from SEIAA, Bhubaneswar vide Letter No. 3260/07.10.2021, 3633/18.12.2021 & File No. SIA/OR/MIN/294456/2022 Dtd 09.01.2023, Consent to Establish (CTE) from Regional Officer, SPCB, Kalinganagar vide letter No. 08/ 03.01.2022 and Consent to Operate (CTO) from Regional Officer, SPCB, Kalinganagar vide letter No. 104/ 16.01.2023. Quarry Lease agreement is valid upto dt. 31.01.2024.

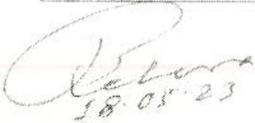
The followings were observed during the field visit with respect to the direction of the Hon'ble NGT.

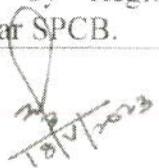
Sl No	Issues raised before the Hon'ble NGT by the petitioner	Observation
1	Excess Mining: The lessee use to extract and transport more than 1000cubic meters per day by engaging at least 200 vehicles of different size and capacity. Excess mining to the tune of more than 100 Hyva Truckload /day (one Hyva is having load capacity of 16Cubic Metres of sand) and around 100trips of tractors (1 Tractor is of 3cubic	During the visit of the committee, it is observed that most part of the lease area is submerged with water. So, the quantity of extraction of sand could not be ascertained.

[Signature]
True Copy Attested

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**COLLECTOR & DISTRICT MAGISTRATE
JAJPUR**

	metres) which is around 1900 CM/Day when the permission is only for 14,500CM for the 2022 and only 3625 for year 2023. As per the revised CTO the permitted sand is only 17 Cubic Metre per day considering maximum 210 days of sand mining in a year.	
2	That the mining is spread on an area of more than 56 acres and hundreds of heavy vehicles as well as machines engaged for sand mining is evident from the google earth images dated 13/05/2022.	During the visit of the committee, it is observed that the mining is operated within the approved area of A 12.00.
3	No Pillar posting in the lease area: Though the mining plan suggests that the lease area has been demarcated by the Revenue Inspector but on ground there has been no demarcation and no distinct pillar posting allowing the mining to spread randomly all across the riverbed.	During the visit of the committee, it is observed that the leased area of the quarry is well demarcated by pillar postings.
4	Mechanical Mining: It is humbly submitted that the mining is supposed to be of Dry Pit and Manual means of mining and loading. However the mining is done by engaging 3 Earth Mover/Machines of different capacity which is strictly prohibited and not approved by any of the regulating authorities.	During the field visit, it is observed that manual labourers are engaged in the quarry for excavation of sand. But, no JCB machine and Heavy Trucks are found on the spot.
5	Compliance to conditions of CTO: No monitoring of compliance of conditions of CTO by Regional Offices of Kalinganagar SPCB.	During the field visit, no violation of the conditions as imposed in consent to operate order is found.


18.05.23
Regional Officer
SPCB, Kalinganagar


18/05/2023
Tahasildar, Vyasagar


18/05/23
Additional District Magistrate
Kalinganagar

True Copy Attested


COLLECTOR & DISTRICT MAGISTRATE
JAJPUR