

SL.No. 2198 / DL. 30/10/2023

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 85/2023/EZ

SAHEEN TARANNUM & ANR ... APPLICANTS

VERSUS

STATE OF ODISHA & ORS ... RESPONDENTS

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 6- JAYANT
KUMAR PRADHAN

I, Jayanta Kumar Pradhan, aged about 63 years, S/o Late Ananta Charan Pradhan Resident of Sikharpur, PS- Madhupatna, Cuttack, Odisha-753003 do hereby solemnly affirm and state as follows:

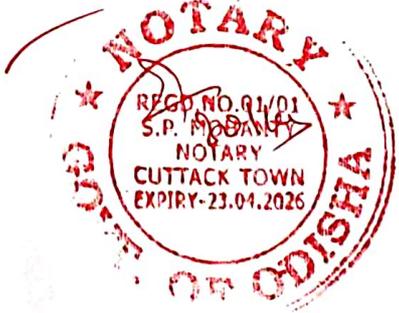
1. That I am arraigned as the Respondent No.6 in the present case. I have received the Notice dated 16.08.2023 of the Hon'ble Tribunal in the present matter and appeared through counsel. I file the response in respect of the OA in obedience to the said Notice and directions of the Hon'ble Tribunal.
2. That, I have gone through the contents of the OA as well as the documents annexed thereto and understood the contents and purport thereof. I am otherwise well acquainted with the facts of the present case and competent to make and affirm this affidavit as the Respondent No.6.
3. That, the OA as laid is not maintainable and liable to be dismissed for making baseless allegations and arraigning the Respondent No.6 without any reasons.
4. That the OA Applicant has prayed inter-alia before this Hon'ble Tribunal to:

Spil Acharya
Adv.

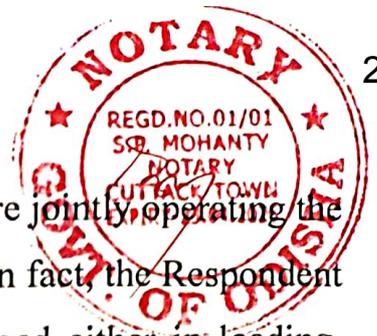


- “(i) Direct the Respondent No.6 & 7 to stop illegal operation of mineral stack yard, adjacent to Bilteruan village and near Nergundi Railway Siding in Cuttack;
- (ii) Pass an order imposing environmental compensation as per ‘Polluter Pays Principle’ and initiating strict action against Respondent No.6 & 7 for violating the provisions under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Guidelines for Environmental Management in Mineral Stack Yards and Railway Sidings, 2010;
- (iii).....
- (iv).....
- (v).....
- (vi).....”

5. That, at the outset it is submitted that the allegations made in the OA and the prayers in respect of the Respondent No.6 are incorrect, not based on facts and malafide, hence, said allegations are forthwith denied by the deponent.
6. That, the allegations made in the OA paint a picture as if the Respondent No.6 is engaged in stacking of the minerals near the Nergundi railway siding. In fact, the Respondent No.6- Jayanta Kumar Pradhan is only the landlord of some of the vacant lands situated at Mauza: Alana, Area: Nirgundi, Dist.: Cuttack, Odisha. The Respondent No. 6 being the owner of the private land has let out on rental basis to different parties its vacant lands situated at Alana, Area: Nirgundi, Dist.: Cuttack, Odisha on monthly rental basis. ~~One of the respondents has taken up the lands on plot...~~



S.P. Mohanty
Adv.



7. That, the assertion that both Respondent No. 6 and 7 are jointly operating the said stack yard is wholly without basis and incorrect. In fact, the Respondent No.6 Mr. Jayanta Kumar Pradhan is not at all engaged either in loading, unloading, transportation of coal or as any commission agent of the parties who might be carrying such activities. The Respondent No.6 is not engaged in storing and transporting any minerals from the lands.
8. That, in respect of the allegation regarding permission or NOC mentioned in report dated 2.11.2022 obtained from the Harianta Gram Sarpanch at Annexure A/2, it can be ascertained from the said NOC/permission of Gram Sarpanch that the four names who have obtained permissions from the Gram Panchayat, wherein the name of Respondent No.6 is not a grantee, rather the report only mentions the parts of lands belonging to the Respondent No.6.
9. That, in respect of the requirement of consent to establish and consent to approval, the Inspection Report of the District Magistrate states as follows:

“Observations

Stackyard:

1xxx.....

2.xxx.....Respondent No. 6 (Sri Jayant Kumar Pradhan) has leased out his land to M/s. Sendoz Impex Limited at: Mouza Alana and some plots to M/s. Godavari commodities Ltd at: Mouza Alana for operation of coal stack yard.

3. There are two units namely M/s. Sendoz Impex Limited at: Mouza Alana and M/s. Godavari commodities Ltd. at: Mouza Alana & Nelia are operating coal stack yards near Nergundi Railway siding obtaining consent to Establish and consent to operate from the SPCB, Odisha. Copies of Consent to Establish and Consent to Operate order are enclosed as Annexure- V & Annexure-VI



*S.P. Mohanty
Adv.*

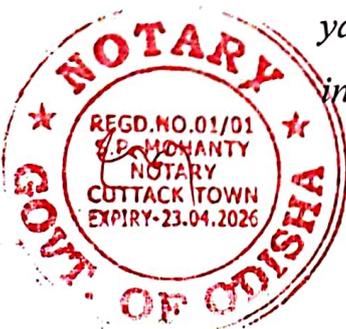


respectively. while issuing consent to establish to these stack yards SPCB has verified the siting consideration applicable for Mineral stack yard stipulated in para-4 of "Guideline for environmental management in mineral stack yards and railway sidings" dated 16.04.2010. The siting of these stack yards is complying with the distance from state/National Highway, college, Hospitals, Archeological monuments and other sensitive areas."

10. That, para 5 of the Inspection Report of the District Magistrate states that a private company which has leased out lands from the Respondent No.6 and others has been exceeded the land use beyond its permitted area. It is submitted that the Respondent No.6 cannot be made liable for any violation of norms or exceeding land use area by some other entity, especially when the Respondent No.6 is not even involved in the business of stacking, loading or transporting the minerals.
11. That, some other relevant paragraphs from the Inspection Report which shows that the allegations made in the OA are incorrect are as follows:

"10. During the inspection there was no loading unloading activity, movement of truck/tipper was observed at the coal stack yard, approach road and at Nergundi Railway siding area. This is due to non-availability of rake for transportation of coal.

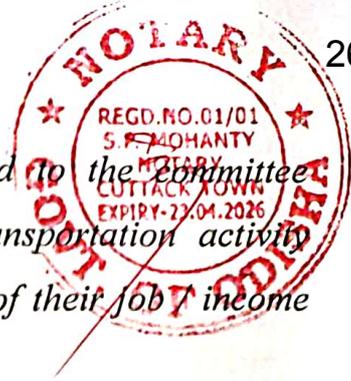
12. During the visit of committee, a large crowd (more than 250 people) of Bilteruan vilragers was gathered at the siding area and their Representatives also interacted with the committee members. The villagers stated that their lively-hood is mainly depends on loading, unloading and the transportation of coal from the stack yards to the Railway siding area. Most of the villagers are directly/ indirectly engaged in this activity in form of Daily Labor/ Truck



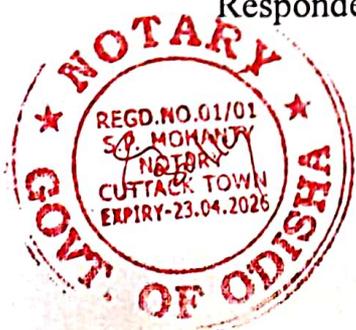
Jpsil Mohanty
Adv

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driver/ truck owners etc. They also requested to the committee members for continual operation of coal transportation activity otherwise their family may be affected by loss of their job income source."



12. That, further it is submitted that the Inspection Report of the District Magistrate has recommended fines in respect of two entities, however, there are no recommendations made in respect of the Respondent No.6. These facts show that there is no involvement of the Respondent No.6 in respect of the allegations made in the OA.
13. That, the present OA does not implead any of the parties against whom the allegations mentioned in the OA can be made out or the parties who might have violated the norms, however, the present Respondent No.6 has been impleaded and baseless allegations have been made only to harm the reputation and harass the Respondent No.6.
14. That, the Respondent No.6 has owns some plots of land in the abovementioned Mouza for the last many years and has given out some of the plots on lease on monthly rent basis. The Respondent No.6 is not even involved in the business of stacking, loading or transporting the minerals.
15. That, since the Respondent No.6 has neither violated any norms nor polluted the environment through its acts, the principle of polluter pays cannot be imposed on the Respondent No.6. The principle of 'Polluter Pays' essentially means that the polluter should bear the expenses of preventing and controlling pollution to ensure that the environment is in an acceptable state. Hence, the prayer made in the OA in this regard is liable to be dismissed.
16. That, in view of the aforestated facts mentioned, the allegations against Respondent No.6 being baseless and unreasonable, the prayers made against



Adv.



the Respondent No.6 cannot be granted, hence, it is prayed that the prayers made in respect of Respondent No.6 may be rejected by this Hon'ble Tribunal.

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

Jeyanta Kumar Das
Deponent

Identified by:

A/C

Cuttack

Date: *20/10/21*

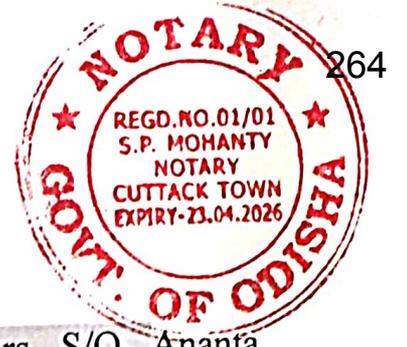
Jpsil Acharya
(Through Advocate)



Janta Kumar Das
Name..... *S/O M. K. Das*
Vill..... *Silapat, Cuttack*
Dist..... *Cuttack*
...*U.S. Silapat* ...*Cuttack*
On... *20/10/21* ... the facts
stated above are true to the best of my knowledge and belief.

20/10/21
S. P. MOHANTY
NOTARY
CUTTACK TOWN
REGD. No-01/01

Jpsil Acharya
Adv.



VERIFICATION

I, Jayanta Kumar Pradhan, aged about 63 years, S/O. Ananta Charan Pradhan Resident of Sikharpur, PS- Madhupatna, Cuttack, Odisha-753003 do hereby verify and declare that the facts stated above are true to the best of my knowledge and are based on record and I have signed this verification after the contents are read over and explained to me by my advocate in the office of my advocate on this day of 30th day of October, 2023.

Cuttack

Date: 30.10.2023

VERIFICANT

