

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA

IN

O.A. No. 83/2022/EZ

IN THE MATTER OF:

DILLIP KUMAR SAMANTARAY & OTHERSAPPLICANT

VERSUS

STATE OF ODISHA & OTHERSRESPONDENT(S)

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Date- 16.04.2023
Place- Nayagarh

Rabindra Nath Sahu
Collector & District Magistrate,
Collector & District Magistrate
NAYAGARH

Saswata Pattnaik
(SASWATA PATNAIK)
ADDL. GOVT. ADV.

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DILLIP KUMAR SAMANTARAY & OTHERS ...APPLICANT

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STATE OF ODISHA & OTHERSRESPONDENT(S)



REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENT
NO. 6, 7, 1, 2 & 3 i.e. COLLECTOR & DISTRICT
MAGISTRATE, NAYAGARH, TAHASILDAR, RANPUR,
CHIEF SECRETARY ODISHA, ADDL. CHIEF
SECRETARY R & DM DEPTT., ADDL. CHIEF
SECRETARY, FOREST & ENVIRONMENT DEPTT.,
GOVT OF ODISHA.

I, Sri Rabindra Nath Sahu, IAS, aged about 58 years,
S/o- Madhab Chandra Sahu at present working as Collector
& District Magistrate, Nayagarh do hereby solemnly affirm
and declare as under;

1. That I have gone through the contents of the Original application and the additional affidavit dtd. 04.04.2023 filed by the petitioner and understood the contents made therein. I am otherwise acquainted with the facts of the case and therefore authorized to swear this affidavit on behalf of Respondent No. 1, 2 & 3.

Rabindra Nath Sahu
Collector & Dist. Magistrate
NAYAGARH

By
Rabindra Nath Sahu

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2. That, the facts & proceedings of the counter affidavit dt. 06.12.2022 filed by Respondent No. 06 may kindly be read as part & parcel of this affidavit.
3. As regards the averment made in **Para-1** of the Addl. Affidavit, it is stated that Respondent No. 6 has already admitted in Para 7 of the counter affidavit dt. 06.12.2022 filed by self regarding the inaction of the then Tahasildar, Ranpur alongwith some of the field & office staff of the Tahasil Office Ranpur who are squarely responsible for such illegal extraction Minor Mineral by Respondent No. 17 & 18 taking the advantages sanction of sairat lease.
4. As regards the averment made in **Para-2**, it is a fact that due to illegal issue of 115 Nos. of 'Y' Form books to the lessee (Respondent No. 17) within the year 2020-21 to 2022-23 (upto 28.06.2022), it became easy to loot the minor minerals on the part of the lessee. It is not out of place to mention here that later it came to the notice that another 3 'Y' Form books are returned by the lessee which was not entered in the 'Y' Form Register of Tahasil Office. Thus in toto the lessee has received 118 nos. of 'Y' Form books.
5. Respondent No. 6 has nothing to comment in respect of **Para-3**.
6. The averment made in **Para-4** is admitted. Respondent No. 17 & 18 had extracted Minor Mineral beyond the lease area as per the Survey report. It is also a fact that the lease granted for Ac. 4.00 out of Plot No. 1689 of village Mayurjhallia as a newly created source so any extraction made in the quarry is post 2020.
7. As regards the averment made in **Para-5**, it is humbly stated that Tahasildar being the appropriate authority has



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Rabindranatha Saha ✓
Collector & Dist. Magistrate
NAYAGARH

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issued Temporary permit in favour of Agarwal Infrabuild Pvt. Ltd. blindly without verifying the records etc. and not followed the guidelines properly. In this connection R-6 in his counter affidavit dt. 6.12.2022 has also stated to fix up the responsibility against the officers & staff for such illegal activities. Even if Temporary permit granted to Respondent No. 18 on the same date of application by Sri A.K. Pattnaik O.P. I/C Tahasildar, Ranpur without observing the formalities. It is a fact that E.C. is not required for ordinary soil but cunningly permit was issued for ordinary soil to avoid E.C. and lifted morrum illegally in place of ordinary soil. Though the lessee has deposited requisite fees etc. for the quantity mentioned in the permit, neither the Tahasildars nor the other filed staff have visited the spot to ascertain the quantity of minor mineral actually extracted by the lessee. The lessee (Respondent No. 18) has also not submitted the return before closing of the permit.



8. As averred in **Para-6**, it is a fact that laterite stone quarry over an area of Ac. 4.00 has been leased out in favour of Respondent No. 17 from hal Plot No. 1689 with hal kissam Patita. The corresponding sabik kissam of the land was Jungle. As per sabik ROR Ac. 110.00 of land had been leased out in favour of Cashew Development Corporation leaving the vacant land. In the year 2019-20 the Tahasildar taken only Ac. 4.00 of land as a new sairat source without verifying the sabik position.
9. The averment made in **Para-7** is admitted. The lessee has looted the minor mineral with the help of 'Y' Form which has been issued more than the excess of requirement with

Rabindra Nath Sahu
Collector & Dist. Magistrate

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ill intention. The integrity of Tahasildars as well as staff in issuing the 'Y' Form is doubtful. It is also seen that the 'Y' Forms has not been properly used & filled up by the lessee. The quarterly Return of materials extracted has also not been submitted by the lessee and Tahasil office also has not bothered about it which helped the lessee (Respondent No. 17) to unilaterally loot the Minor Minerals by getting free pass. In this connection Respondent No. 6 has also filed another affidavit in response to the additional affidavit filed by Respondent No. 17.

10. Respondent No. 6 has nothing to comment for **Para- 8 to 18**.
11. As regards the averment made in **Para-19**, it is humbly stated that as per the report submitted by Director Mines & Geology, Govt. of Odisha, the lessees (Respondent No. 17 & 18) who have illegally lifted the minor minerals have been issued demand notice amounting to Rs.2,81,59,945/- to realise the cost of the materials etc. if the imposed amount will not be recovered from the lessee then action as per Odisha Public Demand Recovery Act. will be initiated against the lessee alongwith other criminal proceeding as per the provision of law.
12. As averred in **Para-20**, it is a fact that Respondent No. 17 tried to complicate the issue by filing false FIR against the Collector & D. M., Nayagarh with baseless allegations like illegal demand of money to the tune of Rs. 25 lakh entangling the petitioner & others who are quite unknown for Respondent No. 6 (Collector & D. M., Nayagarh). It is worthwhile to mention here that on 26.01.2023 which is the



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Collector & Dist. Magistrate
NAYAGARH

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Republic Day, Collector & D. M., Nayagarh hoisted the National Flag at District level parade in the District headquarters as per the order of Govt. of Odisha and to attend other related programmes in different places in the headquarters throughout the day. So the allegation of Respondent No. 17 that on 26.01.2023 at 3.30 P.M. Collector alongwith the petitioner and others have visited the quarry site & asked for Rs. 25 lakh is just an imaginary story created to defame the Collector who has given affidavit on 06.12.2022 in connection with the O.A. No. 83/2022. Since as per order of Hon'ble High Court in CRLMP No. 377/2023 FIR has already been lodged and the allegation made in the FIR is under investigation, steps will be taken by the investigating authority as per law.

13. The humble Respondent No. 6 has no comments on **Para 21 to 23.**

14. As regards the averment made in **Para 24**, it humbly stated that action as deemed fit will be initiated against the delinquent officer & staff for dereliction of duty and causing loss of State Exchequer soon after getting direction from Hon'ble NGT.

15. In order to counter **Para-25**, it is humbly stated that with due respect to the orders dt. 26.08.2022 of the Hon'ble NGT passed in O.A. No. 83/2022, my predecessor in office has intimated Director, Geology, Odisha for DGPS Survey of the source through ORSAC to ascertain the quantum of laterite and morrum illegally extracted vide Memo No. 478 dtd. 14.10.2022. After getting the report necessary demand notice has been issued to the lessees to deposit the charged amount with penalty for such illegal extraction. If the



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Rabindra Nath Sahu
Collector & Dist. Magistrate
NAYAGARH

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lessee fails to deposit the amount charged against, then case will be initiated under Odisha Public Demand Recovery Act. with other criminal action as deemed proper under OMMC Rules, 2016.

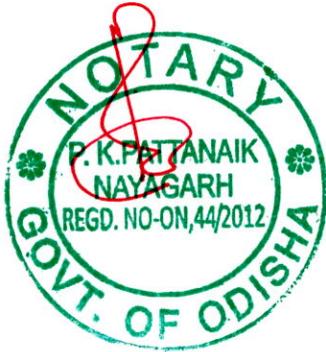
Nayagarh

Identified by

Nayak

Dt. 16.4.2023

Rabindra Nath Sahu
By the Deponent
Collector & Dist. Magistrate
NAYAGARH



The deponent having been identified by Sri... *P.K. Nayak* Adv., Nayagarh solemnly affirmed before me on *16/4/23* and the deponent states the contents of this affidavit are true to his / her knowledge and belief.


16/4/23
PRADOSH KU. PATTANAIK
NOTARY, NAYAGARH
Regd.No-44/2012

VERIFICATION

I, Sri Rabindra Nath Sahu, I.A.S. presently working as Collector & District Magistrate, Nayagarh do hereby verify that, the contents of the above Counter Affidavit are true and correct to my knowledge based on official records, no part of it is false and nothing material has been concealed there from.

Rabindra Nath Sahu
Verificant
Collector & Dist. Magistrate
NAYAGARH

Saswata Pattnaik
(SASWATA PATNAIK)
ADDL. GOVT. ADVOCATE