

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

Rabindranath Sahu
Collector & District Magistrate,
Nayagarh
Collector & Dist. Magistrate
NAYAGARH

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

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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DILLIP KUMAR SAMANTARAY & OTHERS ...APPLICANT

VERSUS

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 reply
affidavit filed by Respondent No. 17 on dt. 21.01.2023 and
the additional affidavit dtd. 25.02.2023. I am acquainted
with the facts of the case & therefore authorized to swear
this affidavit on behalf of Respondent No. 1, 2 &3.



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Hdv.

[Handwritten signature]
Rabindra Nath Sahu

Collector & Dist. Magistrate
NAYAGARH

2. That, the counter affidavit filed by Respondent No. 6 on dt. 06.12.2022 is part & parcel of this affidavit.
3. That I have gone through all the affidavits filed by Respondent No. 17 where in the Respondent No. 17 emphasises 3 issues upon which the deponent felt necessary to file counter reply.
4. In the affidavit dt. 25.02.2023 Respondent No. 17 stated that Collector, Nayagarh alongwith Dillip Kumar Samantaray, Deepak Kumar Routary & 4 others have demanded Rs. 25 lakhs to Respondent No. 17 on 26.01.2023 at 3 P.M.

In this context, I humbly stated that I have joined as Collector & D. M., Nayagarh on 19.10.2022 prior to which this O.A. Case No. 83/2022 has been initiated and my predecessor in office has taken the matter seriously and in order to ascertain the detail position of the illegal lifting of Laterite Stone & Morrum has requested Director, Mines and Geology for a DGPS Survey of the alleged sources through ORSAC vide Memo No. 478 dtd. 14.10.2022. After my joining the Director, Geology, Odisha has submitted the detail survey report vide letter No. 1794/DOMG dt. 30.11.2022. Copy of which is attached herewith as **Annexure-1**.

Basing on the report & other files & documents available in Tahasil Office & Collectorate counter affidavit has been filed on 06.12.2022. The deponent has filed that affidavit as per the facts and figures available, without any bother to see whether it will go against the interest of anybody.



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Rabrimona Nath Samr
Collector & Dist. Magistrate
NAYAGARH

Identified by
[Signature]

Respondent No. 17 being aggrieved has lodged FIR against Respondent No. 6 with false & baseless facts entangling the petitioner & others who are no way concerned with Respondent No. 6.

The allegation was that Respondent No. 06 alongwith applicants Dillip Kumar Samantary, Deepak Kumar Routray & 4 others came to the lease area on 26.01.2023 at 3 P.M. and demanded 25 lakhs for which Respondent No. 17 has filed FIR in Chandapur Police Station.

It is pertinent to mention here that 26th day January-2023 was the Republic Day and being the Head of the District Administration Collector has to hoist the National flag in the District Headquarter pades as per the order of Govt. Accordingly Collector (Respondent No. 6) has performed his duties on the Republic Day. There are some other related programmes also observed throughout the day where Collector has to attend. It is a fact that Respondent No. 17 is telling a lie & filed a false FIR. Now FIR has been lodged by virtue of the order passed in CRLMP Case No. 377/2023 and under investigation by the appropriate authority who will take action after investigation.

5. The claim of Respondent No. 17 in his affidavit where he has categorically alleged that without enquiry into the matter through investigating agency in connection with theft of minor mineral how the Collector raised finger to the Respondent No. 17.

In this connection the deponent clarified that laterite stone quarry on Plot No. 1689 measuring an



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Rabindra Nath Sahu
Collector & Dist. Magistrate
NAYAGARH

It is signed by
[Signature]

area of Ac. 4.00 village of Mayurjhallia has been leased out in favour of Respondent No. 17 (Sushant Kumar Barad) observing the formalities. Accordingly in connivance with the Tahasildar & staff he was able to receive 'Y' Form books (transit books) more than the excess that i.e. 118 Nos. (115 previously reported+ recently located 3 Nos. which is not entered in the stock issue register). Each 'Y' Form books contains 50 Nos. of 'Y' Forms in triplicate. Out of the total 118 Nos. of 'Y' Form Books the lessee (Respondent No. 17) has returned 93 Nos. of used books where the quantity transported has not been mentioned in 6 Books and in other 87 'Y' Form books the quantity transported has been mentioned half hazardly to show the extraction less than actually transported. Till date he has not returned 25 Nos. of books.

It is seen from the returned 'Y' Form books that the lessee has lifted 14067.000 cum of Laterite stone from the leased source. In this aspect, It is clarified that the quantity of laterite shown in the triplicate copy of 'Y' Form is much less than actually lifted which is also a challenged factor as the lessee has mentioned only one cum in the triplicate 'Y' Form copy where the minimum transit capacity of a tractor is about 3 cum and mostly the laterite stones are transported through Truck or in Mini truck. It is apt to say that as per the survey under taken by the ORSAC team it is found that only 1066.769 cum of laterite stone has been extracted from the leased source. If simply we accept the quantity mentioned in the returned 'Y' Form books excess of 13000.231 cum laterite stone has



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Rabindra Nath Sahu
Collector & Dist. Magistrate
NAYAGARH

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Adv.

been extracted from the source. Then the lessee (Respondent No. 17) has to prove that from where he brought the excess laterite and sold. It is needless to say that the lessee (Respondent No. 17) has extracted the laterite stone from the nearby source illegally without extracting from his legal source and sold the laterite stone through the 'Y' Form. The lessee has deposited Rs.68,56,992/- towards royalty calculated taking the quantity to be extracted in 2 years. It is not a believable fact that without taking the minor mineral from the source, the Respondent No. 17 has deposited such a high amount towards royalty etc in the Govt. Treasury . With malafide intention he has extracted less quantity from his legal source & theft from nearby source to justify later that he has not taken the permissible minimum guaranteed quantity of the minor mineral as per the mining plan . The detail status report of 'Y' Form books is enclosed as **Annexure-2** as documentary evidence.

The Respondent No. 17 in his affidavit has categorically alleged that the I.I.C., Chandapur P.S. has initiated Criminal cases against the persons who have transported the minor minerals illegally but not a single case is filed against him by the I.I.C., Chandapur or the Tahasildar, Ranpur.

The humble deponent submits that during enforcement the Tahasildar or I.I.C., Chandapur P.S. have initiated case or collected penalty from those who have not shown 'Y' Form at the time of transit. In this instant case Respondent No. 17 is the lease holder and having transit pass for transportation so it is obvious that nobody



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[Signature]*

*Rabindra Nath Sahu -
Collector & Dist. Magistrate
NAYAGARH*

suspected him thus initiation of case does not arise. It is admitted that due to lapses of successive Tahasildars & field officers watch and ward of minor mineral has not been done properly for which Respondent No. 17 could be able to extract the minor minerals from his nearby source for which Govt. lost revenue. This is sufficient documentary evidence to prove that Respondent No. 17 has illegally extracted laterite stone and liable for Criminal action.

That it is humbly submitted that Respondent No.17 in order to avoid the penalty imposed for illegal lifting in diverting the attention by filing such false and fabricated FIR against the deponent .



Identified by
Nayagarh
Dt. 16.04.2023

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

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

16/4/23

PRADOSH KU. PATTANAİK
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 PATNAİK
ADDL. GOVT. ADV.

Annexure - A

BY E-MAIL



**DIRECTORATE OF MINES & GEOLOGY
STEEL AND MINES DEPARTMENT, GOVT. OF ODISHA,
BHUBANESWAR**

Heads of Department Building, Unit-V, Pin-751001
Tel No.: 0674-2391537, Fax No.: 0674-2391684
Email ID: dirmines_odisha@rediffmail.com

No. GI(j)-2/22 1794 /DoMG, Dt. 30-11-2022

From

G. Rajesh, IFS
Director of Mines and Geology,
Odisha, Bhubaneswar

To

The Collector & District Magistrate
District Nayagarh

Sub: Submission of survey report on illegal excavation in Mayurjhalla laterite/ordinary earth/ morrum in plot no 1689 under Ranpur Tahasil of Nayagarh district of NGT Application No 83/2022-regarding

Ref: Your letter No. 599/T & L Dt 22.11.2022

Sir,

In reference to the letter on the subject cited above, enclosed herewith please find the soft copy and hard copy of the above report for preparation of P.W.C in connection with NGT application No 83/2022 at your end.

This is for your information and necessary action.

Yours faithfully

Enclos: Soft copy along with plates and annexure & hard copy on brief notes of illegal excavation of Mayurjhalla area.


**DIRECTOR OF MINES &
GEOLOGY, ODISHA**

True copy attached
GRW
16/11/22
Tahasildar, Ranpur

84

**A brief note on illegal excavation of Laterite/Ordinary earth/ Morrum in
Mayurjhallia village, Plot no 1689, Area-144.99 Acres, Ranpur tehsil,
Nayagarh District**

In connection with National Green Tribunal Eastern Zone, Bench, Kolkata, Original Application No 83/2022, Director of Geology, Respondent No 15 has determined the illegal Excavation of Laterite, morrum and ordinary earth in Mayurjhallia village of plot no 1689, Area 144.99 ac in Ranpur Tahasil of Nayagarh district.

As per letter No.5795/DG/29.09.2022, the Tahasildar, Ranpur, District Nayagarh submitted the cadastral map indicating two lease areas vide letter No 3653/dated 15.10.2022 to this office along with another cadastral map showing illegal excavation in plot No 1689 of Mayurjhallia village. Based on letter no.GI(j)-2/22-350/ DoMG dated 27.10.2022 of Director of Mines & Geology and the cadastral map provided by Tahasildar, Odisha Space Applications Centre (ORSAC), Bhubaneswar undertook DGPS survey in Mayurjhallia Laterite and Mayurjhallia Ordinary Earth quarry over 4.00 Ac and 2.00 Ac respectively on dt 31.10.2022. After completion of DGPS survey, the illegal excavation areas shown by Ranpur Tahasildar was covered by Electronic Total Station survey on dt 31.10.2022 and 01.11.2022.

The following officers were present during Survey.

1. Sri D. K. Sahoo, Deputy Director of Mines & Geology, Odisha, Bhubaneswar
2. Sri. Pravakar Panda, Tahasildar, Ranpur Tahasil, Dist. Nayagarh
3. Sri A.K. Kanoongo, Sr. Scientist, ORSAC
4. Sri. A.K. Atubudhu, Asst. Executive ORSAC
5. Sri S.P. Sarangi, Engg. Asst (Survey), ORSAC
6. Sri S. N. Patra, Engg. Asst (Survey), ORSAC
7. Sri A. Patra, Engg. Asst (Survey), ORSAC
8. Sri S.N. Mohanty, Surveyor, Techno Chamber, Bhubaneswar
9. Sri S. K. Swain, RQP, Techno Chamber, Bhubaneswar

ORSAC team carried out identification of 06 nos of ground control points (GCP showing GEO 1 to 6)) in the given cadastral sheet and conducted DGPS survey in the field over 6 GCPs of cadastral sheet and 08 boundary pillar points of the lease area along with RL of same boundary pillars.

The area under investigation is featured in parts of T.S. No. E45B5 (74E/5). The boundary pillars of the lease area i.e. Mayurjhallia laterite quarry (4.00Ac) and Mayurjhallia ordinary earth quarry

*True copy
sheet*

S. K. Swain
16/11/22

Tahasildar, Ranpur

19-9

Ac) were demarcated by DGPS survey. The geo co-ordinates of the pillar points and RL are below:

Pillar Point ID	Latitude	Longitude	RL (in m)
P1	19°59'49.848745"N	85°24'47.412030"E	43.62275
P2	19°59'46.752689"N	85°24'46.856736"E	42.1102
P3	19°59'49.317755"N	85°24'53.593040"E	42.9974
P4	19°59'46.171463"N	85°24'53.090959"E	40.36155
P5	19°59'50.993014"N	85°24'43.921177E	44.348
P6	19°59'49.912248"N	85°24'47.024923"E	43.41005
P7	19°59'47.153101"N	85°24'46.239143"E	41.95958
P8	19°59'48.14052N	85°24'42.96492"E	43.348

After getting the RL and co-ordinates of boundary pillar points of lease areas by DGPS survey, the survey was conducted in detail by the survey team with the aid of Electronic Total station instrument for delineation of excavated areas(both lease & illegal). The lease areas and all excavation areas in the said plot were identified by Tahasildar, Ranpur, concerned RI and Revenue Supervisor. The lists of maps provided by Tahasildar, Ranpur, by ORSAC & Surveyor by Total station survey are given below.

Quarry no 1, 2 3 and 5 were partly submerged with water during the time of survey. However RL were determined with the help of bamboo and meter tape by the local people who entered the water logged quarry under the supervision of Survey team. (Photographs attached)

ANNEXURE:

- Annexure-1 Abstract of quarry wise excavation of morrum/laterite and ordinary earth in Mayurjhallia area.
- Annexure-2 Excavation of laterite & morrum of Quarry 1 (Mayurjhallia Laterite quarry),
- Annexure-3 Excavation of laterite, morrum and ordinary earth of Quarry 2 (Mayurjhallia ordinary earth quarry)
- Annexure-4 Excavation of laterite & morrum of Quarry 3
- Annexure-5 Excavation of laterite & morrum of Quarry 4

True copy attested.
S/He
16/4/23
Tahasildar, Ranpur

Annexure-7 Excavation of laterite & morrum of Quarry 6

5:

- Map-1 Cadastral map of indicating two Lease areas in plot no 1689(provided by Tahasildar)
- Map-2 Cadastral map of indicating illegal excavation areas in plot no 1689(provided by Tahasildar)
- Map-3 DGPS surveyed maps over the lease areas, Ranpur Tahasil, Nayagarh District

ES:

- Plate-1 Map showing total excavation in all 06 quarries in Mayurjhallia Village of plot No 1689
- Plate-2 Map showing excavation of Laterite/Morrum of quarry-1 (Mayurjhallia Laterite quarry)
- Plate-3 Section showing laterite excavation of Quarry-1
- Plate-4 Section showing Morrum excavation of over quarry-1
- Plate-5 Map showing illegal excavation of Laterite/Morrum/ ordinary earth of quarry-2(Mayurjhallia Laterite quarry)
- Plate-6 Section showing Laterite excavation of quarry-2
- Plate-7 Section showing excavation of morrum over Quarry-2
- Plate-8 Map showing illegal excavation of morrum/Laterite of Quarry-3
- Plate-9 Section showing Laterite excavation of quarry-3
- Plate-10 Section showing morrum excavation of Quarry-3
- Plate-11 Map showing excavation of Laterite/Morrum of quarry-4
- Plate -12 Section showing Laterite excavation of Quarry-4
- Plate -13 Section showing morrum excavation of Quarry-4
- Plate-14 Map showing excavation of Laterite/Morrum of quarry-5
- Plate-15 Section showing Laterite excavation of Quarry-5
- Plate-16 Section showing morrum excavation of Quarry-5
- Plate-17 Map showing excavation of Laterite/Morrum of quarry-6
- Plate -18 Section showing morrum excavation of Quarry-6
- Plate -19 Section showing Laterite excavation of Quarry-6

Take copy attached.
Shri
16/7/22
 Tahasildar, Ranpur

**Abstract of Quarry wise Excavation of Morrum/ Laterite and Ordinary Earth of Mayurjhalla area by
Cross sectional area Method**

Name of the Quarry	Area in Acres	Granted Lease Area in Acres	Laterite Excavation in Lease Area	Illegal Excavation of Laterite	Morrum Excavation in Lease Area	Illegal Excavation of Morrum	Ordinary Earth Excavation in Lease Area	Total Excavation
			(cum)	(cum)	(cum)	(cum)	(cum)	(cum)
Quarry-1	6.367	4.00	1066.769	1724.330	33760.996	43727.606	--	80279.701
Quarry-2	9.748	2.00	907.548	3688.962	27604.442	79284.338	5239.1	116724.39
			237.725	--	--	--	--	237.725
Quarry-3	2.775	--	--	37704.604	--	23487.234	--	61191.838
			--	--	--	705.102	--	705.102
Quarry-4	0.35	--	--	613.518	--	2905.720	--	3519.238
Quarry-5	3.917	--	--	7775.204	--	28059.531	--	35834.735
			--	817.633	--	--	--	817.633
Quarry-6	0.282	--	--	14.875	--	2233.403	--	2248.278
Total	23.439	--	2212.042	52339.126	61365.438	180402.934	5239.100	301558.640

Observation:

In the above plot no out of total 144.99 Ac., excavation has been done over an area of 23.439 Ac. which has been identified by Tahasildar, Ranpur in the field. Out of 23.439 Ac excavated area, only 6.00Ac. (4.00Ac + 2.00Ac.) area are coming under lease area. The volume of excavation in lease area as well as outside of lease area has been calculated by Cross sectional area method in AutoCAD software by Techno Chamber, Bhubaneswar.

1. Mayurjhalla laterite quarry: (Quarry-1)

In the above table, it is found that in the quarry-1, the area has been expanded up to 6.367 Ac whereas the lease area was 4.00 Ac. All total 2791.099 cum of laterite and 77,488.602 cum of morrum have been excavated from Mayurjhalla laterite quarry.

As understood from Tahasildar, Ranpur, the lease deed was made on dt 24.02.2021 and CTO issued on dt 29.07.2021.

As per the approved mining plan (date of approval-13.07.2020) of Mayurjhalla laterite quarry over 4 Ac, the annual production of laterite was 7704 cu.m.

The total production will be around 7704+6163.20cu.m(from 23.02.2022 to 23.10.2022)
=13,867.20 cu.m.

As per the calculation, 1066.769cu.m.laterites has been excavated in the lease area by the lessee against approved quantity mentioned in the mining plan. Other material excavated within the lease area and outside the lease area of Quarry-1 may be treated as illegal.

True copy attached
Shw
16/11/22
Tahasildar, Ranpur

Total illegal excavation of Quarry-1

Laterite=1724.330cu.m. Morrum=77488.6026cu.m

2. Mayurjhalla ordinary Earth quarry:

The mining plan was approved on dt 22.10.2021. As under stood from Tahasil office, this quarry was operated by temporary quarry permit. As per approved mining plan in first year, the production will be 10,002 cum and 1746 cum in next subsequent 4 years. If it considers for one year, the first year quantity i.e 10,002 cum may be considered as production.

From the above table, the quantity of ordinary earth in quarry -2 is calculated to be 5239.10cu.m which has been lifted by the lessee against the approval quantity shown in the mining plan. Rest of the materials excavated in lease area as well as outside of lease area in the quarry-2 may be consider as illegal. The illegal quantities of respective materials are listed in the above table.

Total illegal excavation of Quarry-2

Laterite=4834.235 cum, Morrum=106888.7800cu.m.

3. Illegal excavatıon of Quarry- 3

Laterite=37,704.604 cu.m., Morrum=24,192.336 cu.m.

4. Illegal excavation of Quarry -4

Laterite=613.518 cu.m., Morrum=2905.720 cu.m.

5. Illegal excavation of Quarry- 5

Laterite=8592.837 cu.m., Morrum=28,059.531 cu.m.

6. Illegal excavation of Quarry- 6

Laterite=14.875 cu.m., Morrum=2233.403 cu.m.

The actual material lifted by the lessee in Quarry 1 and Quarry 2 is not available in this office.

An amount of rupees around Rs. 2,40,000/- (Rupees two lakh forty thousand) only has been incurred towards the survey, preparation of maps and resource estimation to ascertain the status of excavation in the lease area as well as illegal excavation in Mayurjhalla village under Ranpur Tahsil of Nayagarh district. Rs.2,00,000/- (Rupees two lakh) will be met by Director of Mines and Geology towards the cost of DGPS survey in the lease area by ORSAC and Rs. 40,000/- (Rupees forty thousand) only has been met by Tahsildar, Ranpur.

The cost of illegal excavation will be estimated by the Tahasildar , Ranpur as per Rule.

Tone copy attested
S/ho
16/1/23
Tahasildar, Ranpur

11/09

Submitted

AKS
11.11.22

(D. K Sahoo, DDG)

Status of 'Y' form Book received and returned by the lessee Sri Susanta Kumar Barad from the year 2020-21 to 2022-23

Sl No	Year	Nos. of 'Y' form book received by lessee	Minor mineral extracted as per the quantity mentioned in the triplicate copy of Y form book by the lessee in Cum	'Y' form book not returned yet	Quantity not mentioned in the individual Y form Books	'Y' form books returned with ambiguity in mentioning in Cum	Minor Mineral extracted from the sources as per measurement report of Director of Mines and Geology, Odisha in Cum	Illegal extraction of Minor Minerals found from the return 'Y' form books submitted by the lessee (Col. 4- Col.8) in Cum	Remarks
1	2	3	4	5	6	7	8	9	10
1	2020-21	3	450.000	0	1	2	1066.769	13000.231	3 nos. of 'Y' form books detected which are not entered in the 'Y' form issue Register but the lessee has returned the same after use
2	2021-22	51	6767.000	4	2	45			
3	2022-23	64	6850.000	21	3	40			
Total:-		118	14067.000	25	6	87	1066.769	13000.231	

True copy attached

[Signature]
16/4/23

Tahasildar, Ranpur

[Signature]
Collector & District Magistrate
Nayagarh