

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BANCH DELHI AT NEW DELHI

I.A. No. 385 OF 2024

IN

ORIGINAL APPLICATION NO. 604 OF 2018

IN THE MATTER OF:

Sarbeswar Behura

....Applicant

VERSUS

Union of India & Ors.

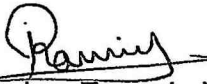
...Respondents

INDEX

S.No.	Particulars	Pages No.
1	Reply On Behalf of the Applicant i.e Sarbeswar Behura along with supporting affidavit	1 - 12
2	Proof of Service	13

Filed by

Through

  
Rovins Francis Verma  
(Advocate)

O/o. - 30/187, Lower Ground Floor,  
Vikram Vihar, Lajpat Nagar-IV,  
New Delhi-110024  
Mob.- 9868007232, 9868012182,  
Mail id: rovins10@gmail.com

Dated: **30.09.2024**

Place: New Delhi

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 385 OF 2024

IN

Original Application No. 604/2018

**IN THE MATTER OF:**

Sarbeswar Behura

... Applicant

Versus

Union of India & Ors.

... Respondent(s)

**REPLY ON BEHALF OF THE APPLICANT/SARBESWAR  
BEHURA TO THE PRESENT IA NO. 385 OF 2024**

**Most Respectfully Showeth:**

1. That the present application has been filed on behalf of the Respondent No.11 alleging to transfer the present proceedings of Original Application No. 604/2018 from the Principal Bench of Hon'ble National Green Tribunal, New Delhi to Eastern Zone Bench, Kolkata as the same has territorial jurisdiction over the present dispute. It is submitted that the present application is mala fide and is an attempt to misguide this Hon'ble Tribunal as Respondent No.11 knows fully well that this Tribunal has the jurisdiction to adjudicate the present case and

its proceedings but has still chosen to file the instant IA in the present proceedings with ulterior motive.

2. That the present OA was filed by the Applicant under Section 14 and 15 read with Sections 18 (1) and (2) of the National Green Tribunal Act, 2010 to apprise this Hon'ble Tribunal of the issue of unrestrained illegal extraction of minor minerals and its transportation in Jajpur District, Dharamshala Tehsil, Odisha which has adversely affected both the flora and fauna spread across 6000 acres of hilly forest area and the villagers who have suffered financial harm in form of cracks in house walls due to illegal usage of wagon, stone crushers and operation of quarries and health hazards due to polluted air and water. The Applicant in his said OA humbly prayed for:

- a. *Pass an order to direct closure of all the mining/quarrying operations in and around the Dankari Hill Forest Area.*
- b. *Pass an order to direct for enquiry into the matter including the illegal operation of quarry in Dankari Hill from the period 2022 till date by any independent agency.*
- c. *Pass an order to frame strict guidelines to fix accountability of the concerned statutory authorities under the laws enumerated in Schedule 1 to the NGT Act, 2010 in order to safeguard the*

*environment from the damage caused by unauthorized mining.*

- d. Pass an order to direct Respondents to recover the loss sustained by the state from the persons including Government officers found responsible for illegal extraction of minerals.*
- e. Pass an order to provide relief and compensation for the restitution of the damaged environment and to preserve Dankari Hill and its surroundings for the proposed project.*
- f. Pass any such or further orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."*

3. Further, the Respondent No. 11 challenged the order dated 31.8.2018 passed by this Hon'ble Tribunal by way of Civil Appeal No. 10113/2018 before the Hon'ble Supreme Court and the same was allowed by the Hon'ble Supreme Court by order dated 19.03.2024 and further directed to decide the OA as fresh.
4. That the present Original Application No. 604/2018 falls within the jurisdiction under section 14 of the National Green Tribunal, 2010.

It is further submitted that in the Original Application the Applicant herein has arrayed Union of India (MoEF & CC) and Ministry of Petroleum and Natural Gas as a Respondent No.: 1 & Respondent No.: 2 respectively.

Further, it is pertinent mention here that the Respondent No.:1 vide Letter dated 02.05.2017 addressed to collector Jajpur, Odisha. Wherein, the Respondent No.: 1 and Respondent No.: 2 informed, that the Chandikhol in Jajpur District, Odisha has been selected by Ministry of Petroleum and Natural Gas, Govt of India for construction of one SPR of 4.4. million Metric Ton under phase -II of the strategic Storage Programme and the storage facilities will be located underneath of the Dankari Hill with minimal surface footprint. Further, in the said letter it was also observed by the Respondent No.1 that the quarrying activity (including illegal quarrying activity) at the identified location as well as within the buffer zone of 500 meters around the site is still going on and that would be detrimental to the execution of project. Accordingly issued instructions to the State Government to take necessary measures to stop quarrying activities within Dankari Hill and area within 500 meter of the Buffer Zone. It is imperative to mention here that consequent to the Letter dated 02.05.2017 issued by Respondent No.1 and 2 the applicant herein filed present Original Application.

It is Further submitted that the Tehsildar, Dharmasala vide a letter dated 25.10.2011 directed that no quarry holder shall operate any wagon blasting in the interest of safety of the people. The Collector Jajpur, vide letter dated 03.10.2015, sought a team of doctors to take steps against the diseases in the area due to unsafe drinking water and pollution. The Tehsildar wrote a letter dated 27.11.2015 to Respondent No. 11 – Shri Sribash Jena not operate stone quarry without Environmental Clearance

and consent to operate. The Government of India vide letter dated 23.03.2017 addressed to the Principal Secretary, Revenue State of Orissa stated that strategic petroleum reserve is to be constructed at Chandikhol in Orissa and no quarry activities should be permitted within a zone of 500 meters around the site. In terms of the said letter, the Revenue Department of Government of Orissa vide letter dated 02.02.2017 asked the Collector, Jajpur to stop illegal mining in the above buffer zone. The Revenue Inspector was directed to demarcate the area of Dankari Hills from 500 meters buffer zone surrounding the mountains.

Despite of the above, letters issued by various government officials and Government of India, the Respondent No.11 did not stop indulging in unlawful and illegal activities.

5. In the present case, the dispute/ questions that the Tribunal is adjudicating fall within the Principal Bench at New Delhi's Jurisdiction.

It is pertinent to mention here that the adjudicating bodies i.e. Respondent No. 1 and 2 for the said matter have their registered office at Delhi i.e. within the territorial jurisdiction of this Hon'ble Tribunal.

6. The ambit and scope of jurisdiction are decipherable. The Jurisdiction of this Hon'ble Tribunal is exclusive as the issues that have been raised in the present OA directly fall within the ambit and scope of Respondent No.1 and Respondent No.2 which have offices in Delhi.

7. It is humbly submitted that, Respondent No.1 is a specialized body/ministry, with the expertise to handle multidimensional environmental issues and having its registered office in New Delhi that falls within the scope of this Hon'ble Tribunal.
8. That it is the said case of the Applicant herein that Respondent No.11 has been conducting illegal and unlawful quarrying activities continuously without obtaining the mandatory clearances by the Central Government and the State Governments.
9. It is humbly submitted that in view of the above judgments and orders and considering the seriousness of the non-compliance of the environmental procedures established by the Hon'ble Supreme Court as well as the Hon'ble National Green Tribunal from time to time, the present case matter has to be adjudicated before this Hon'ble National Green Tribunal, only.

It is further submitted that only Respondent No.11 has filed the present transfer application and has approached the Hon'ble Tribunal with unclean hands.

10. That it is submitted that out of the total of 11 Respondents, it is only Respondent No.11 who has approached the Hon'ble Tribunal and filed the present Transfer Application to derail the process of justice. It is further submitted that Respondent No.11 has committed illegal activities and given rise to the violation of environmental protection enactments and has further caused the degradation of the environment and ecology intentionally.

11. That 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.
12. That these illegal and unlawful acts of Respondent No. 11 have resulted in the death of many poor villagers due to kidney-related ailments caused by the contamination of drinking water accompanied by severe pollution, groundwater, depletion, etc.
13. That in *Dalip Singh vs. State of Uttar Pradesh and others (2010) 2 SCC 114*, the Hon'ble Supreme Court considered the question whether relief should be denied who did not state correct facts in the application filed before the prescribed authority and who did not approach the High Court with clean hands, observed that while exercising discretionary and equitable jurisdiction, the facts and circumstances of the case should be seen in their entirety to find out if there is miscarriage of justice. **If the appellant has not come forward with clean hands, has not candidly disclosed all the facts that he is aware of and he intends to delay the proceedings, then the Court will non-suit him on the ground of contumacious conduct.**
14. It is humbly submitted that in view of the above narrated facts, the transfer application should be dismissed at the outset as Respondent No. 11 instead of stopping the illegal and unlawful quarry activities is trying to misguide the ongoing proceedings before this Hon'ble Tribunal.

15. At the outset, it is submitted that save and except what are matters of records, the contents of all paragraphs, grounds, each and every averment, submissions, and contentions made by Respondent No.11 in the Application are denied as wrong, incorrect and untenable in law as well as in facts of the present case, and the same are denied in entirety as if they have been traversed and replied to individually, until and unless any of the contents are specifically admitted.

**PARA WISE REPLY**

16. The contents of the Para No.1 of the present IA need no reply. The submissions made hereinabove may be read as part and parcel of the present para.
17. The contents of the Para No.2 of the IA except as to matter of record are wrong and denied. It is vehemently denied that Respondent No. 11 is the long-term mining lease holder with respect to Dankari Stone Quarry and the lease having been legally granted by the State of Orissa.
18. The contents of the Para No. 3 except as to matter of record are wrong and denied. The submissions made hereinabove may be read as part and parcel to the present para.
19. The contents of the Para No. 4 are except as to matter of record are wrong and denied. The Applicant respectfully submits that the averments made in the

corresponding para of the IA are denied for want of knowledge. It is denied that there are many other operators carrying on mining activities in and around the Dankari hill region, however, the Applicant in the Original Application is selectively targeting the mining operations carried on by the Respondent No. 11 herein by moving several frivolous litigations against him in different Forums by resorting to "Forum Shopping".

20. The contents of the Para No. 5 except as to matter of record are wrong and denied. The submissions made hereinabove may be read as part and parcel to the present para.
21. The contents of the Para No. 6 are wrong and denied for want of knowledge except as to matter of record.
22. The contents of the Para No. 7 are wrong and denied.
23. The contents of the Para No. 8 are wrong and denied. It is denied that, the Eastern Zone Bench, Kolkata of the Hon'ble NGT has territorial jurisdiction over the present dispute.
24. The contents of the Para No. 9 are wrong and denied.

In view of the aforementioned facts and circumstances, this Hon'ble Tribunal may graciously be pleased to dismiss the present Miscellaneous Application filed for transfer of the proceedings in

Original Application No. 604/2018 from this Principal Bench to Eastern Zone Bench, Kolkata.

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

FILED BY:



[ROVINS FRANCIS VERMA]

Advocate for the Applicant

Dated: 30.09.2024

Place: New Delhi

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 385 OF 2024

IN

Original Application No. 604/2018

(MA No. 1286/2018)

IN THE MATTER OF:

Sarbeswar Behura . . . Applicant

Versus

Union of India &Ors. . . Respondent(s)

AFFIDAVIT

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

- 1 That state that I am the Applicant in the accompanying Application, I am well conversant with the facts and records of the case and herefore I am competent to swear this affidavit.

Deepak Kumar Purohit  
Notary, Cuttack  
REGD. NO. DN-24/2008



2 That I have read and understood the contents of the accompanying reply, which has been drafted as per my instructions and state that the contents thereof are true as per verification.

*[Handwritten signature]*

*[Handwritten signature]*  
DEPONENT

VERIFICATION

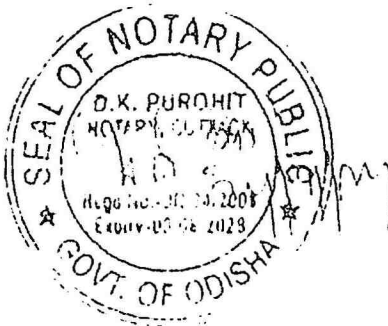
I, above named deponent do hereby verify and declare that the contents of para No.1 & 2 of my above affidavit are true to my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verified at Cuttack on this the 24<sup>th</sup> day of September, 2024.

*[Handwritten signature]*  
DEPONENT

Notary Public  
D.K. Purohit  
Cuttack  
Reg. No. ON-24/2008  
Govt. of Odisha

*[Handwritten signature]*  
Dheeraj Kumar Purohit  
Notary, Cuttack  
Reg. No. ON-24/2008  
Govt. of Odisha



---

**Service of Reply to Transfer Application in IA No. 385 of 2024 in O.A. No. 604 of 2018, titled as Sarbeswar Behura Vs. UOI & Ors. on behalf of Applicant**

---

**Rajesh kumar singh** <rajeshsinghadv@gmail.com>

Mon, Sep 30, 2024 at 12:25 PM

To: secy-moef@nic.in, dir.m-png@gov.in, soestt-png@gov.in, revsec.od@nic.in, fesec.or@nic.in, paribesh1@ospcboard.org, seianodisha@gmail.com, 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>, ddm.jajpur@orissaminerals.gov, "sribashjena2020@gmail.com" <sribashjena2020@gmail.com>, "mukulkr1722@gmail.com" <mukulkr1722@gmail.com>

Sir,

Please find attached herewith the captioned of Reply to Transfer Application in IA No. 385 of 2024 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  
30/187, Lower Ground Floor, Vikram Vihar  
Lajpat Nagar-IV, New Delhi-110024  
Email:- [rovins10@gmail.com](mailto:rovins10@gmail.com)  
Mob. No. 9868007232, 9868012182.



**Reply to Transfer Application in IA No. 385 of 2024 in O.A. No. 604 of 2018 on behalf of Applicant.pdf**

2882K