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**STATE POLLUTION CONTROL BOARD, ODISHA**

[DEPARTMENT OF FOREST AND ENVIRONMENT, GOVERNMENT OF ODISHA]  
**Paribesh Bhawan, A/118, Nilakanthanagar, Unit – VIII,  
Bhubaneswar – 751 012, INDIA**

No. 3487

Date: 19.03.2020

VII – L – Misc – 797

**Through E-mail/By Speed Post**

To

The Registrar  
National Green Tribunal  
Principal Bench,  
Faridkot House, Copernicus Marg,  
New Delhi - 110 001  
E-mail: [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in)

Sub: OA No.858/2019/PB – Hrudananda Behera & Others vs. State of Odisha.

Sir,

The Hon'ble Tribunal in their order dtd.30.10.2019 passed in the above OA have directed the District Magistrate, Jharsuguda, SEIAA, Odisha and Odisha State Pollution Control Board to look into the matter and take appropriate action in accordance with law and furnish a factual and action taken report to the Hon'ble Tribunal.

Accordingly, I am forwarding the Joint Inspection Report carried out on dtd.16.03.2020 of the alleged illegal sand mining in IB River in the district of Jharsuguda for reference and request you to place the matter before the Hon'ble Tribunal on dtd.31.03.2020 for their kind perusal and orders.

Yours faithfully,

Encl: As above.

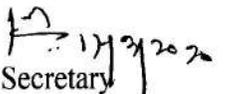
  
Member Secretary

Memo No. 3488 / Date: 19.03.2020

**Through E-mail**

Copy along with copy of enclosure forwarded to Collector & DM, Jharsuguda / Member Secretary, SEIAA, Odisha / Regional Officer, SPC Board, Jharsuguda for information

Encl: As above.

  
Member Secretary

O/C



Tel No.06645 – 273284/273294

REGIONAL OFFICE  
STATE POLLUTION CONTROL BOARD, ODISHA  
(DEPARTMENT OF FOREST & ENVIRONMENT, GOVT. OF ODISHA)  
Plot No. 370/5971, At –Babubagicha (Cox Colony), St. Marry Hospital Road,  
Post – Industrial Estate, Jharsuguda- 768 203  
E-mail: [rospcbjharsuguda@gmail.com](mailto:rospcbjharsuguda@gmail.com)  
[rospcb.jharsuguda@ospcboard.org](mailto:rospcb.jharsuguda@ospcboard.org)

No. 393 /

Date 16/03/2020

To

The Member Secretary  
State Pollution Control Board, Odisha  
Bhubaneswar

Sub: **Joint Investigation Report of alleged illegal sand mining in IB River in the district of Jharsuguda by Lessee Sri Dayanidhi Pradhan and Sri Surya Prakash Badhai contained in the Original Application no. 858/2019 filed by Sri Hurdanand Behera & Others before Hon'ble NGT Principal Bench New Delhi – Reg.**

Ref: Your letter No.2828/VII-L-Misc-797, Dt.11.03.2020

Sir,

With reference to the above cited subject and letter under reference, this is to inform that the above matter was jointly enquired by SEIAA, Odisha, District Administration, Jharsuguda and RO, SPCB, Jharsuguda on dtd.16.03.2020. The Joint Investigation Report is enclosed herewith for your kind information and necessary action.

Encl:- As above

Yours faithfully

*N. Hallieller*  
Regional Officer

**Joint Investigation Report of alleged illegal sand mining in IB River in the district of Jharsuguda by Lessee Sri Dayanidhi Pradhan and Sri Surya Prakash Badhai contained in the Original Application no. 858/2019 filed by Sri Hurdanand Behera & Others before Hon'ble NGT Principal Bench New Delhi.**

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The aforesaid sand beds of IB River was inspected on 16.03.2020 to verify the correctness of the allegations contained in the Original Application no. 858/2019 filed by Sri Hurdanand Behera & Others before Hon'ble NGT Principal Bench New Delhi by a team of following officials

1. Shri D. K. Pradhan, Tahasildar, Jharsuguda
2. Dr. P.K.Nayak, Environmental Scientist, SEIAA, Odisha
3. Shri. R. K. Sahu, Asst. Environmental Engineer, Regional Office, SPCB, Jharsuguda
4. Sri Suman Kumar Markey, Revenue Supervisor, Jharsuguda Tahasil

**Background:**

IB River is a tributary of Mahandi River flowing directly to Hirakud Reservoir and has about 15 numbers of potential sand beds (minor minerals) in the district of Jharsuguda. Out of these 15 Sand Beds, 11 sand beds are in operation and operational sand beds have valid EC and approved mining plan. Details of Sand Beds are enclosed for reference. The sand beds are under strict monitoring of Tahalsidar Jharsuguda and other revenue authorities of District Administration through transport permit system & other enforcement mechanisms.

**Observations:**

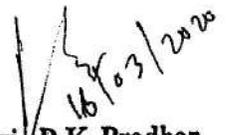
- The alleged lessee Sri Dayanidhi Pradhan and Sri Surya Prakash Badhai have four numbers of sand beds which was granted for 2015-20. The allegation that more than five nos. of Sand lease was granted in the river bed of IB to Sri Dayanidhi Pradhan & Sri Surya Prakash Badhai was not correct.
- Lahandabud A sand Bed lease was granted to Sri Surya Prakash Badhai and Lahandabud B, Lahandabud C and Jamera Sand Bed C was granted to Dayanidhi Pradhan for sand mining as per the approved mining plan.
- Out of these four sand beds, only Lahandabud C sand bed and Jamera sand bed C is presently in operation. However it was not in operation on the day of inspection because of water logging as continuously rainfall before last 3 days. No visible & significant distinct marks of sand mining below 3m meter from the surface water or below ground water table was observed.
- No problem of shortage of drinking water due to the operation of the sand beds was noticed in the nearby villages like Sargimal, Bhudipadar, Rajpur and Brajarajnagar etc.
- IB River Course has not been hampered/ affected completely due to operation of these aforesaid sand beds as observed on the day of inspection. But it is noticed that the flow of water course slightly change the direction at Jamera sand bed C but not hampered fully.

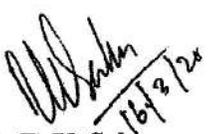
- Lahandabud A sand Bed of Lessee Sri Surya Prakash Badhai and Lahandabud B sand Bed of Lessee Sri Dayanidhi Pradhan was not in operation since 08.02.2019 due to cancellation of leases for violation of agreement executed as per OMMC Rule 27(13) part -IV-3 for excess removal of sand. Lessee Sri Surya Prakash Badhai(Lahandabud A sand Bed) and Sri Dayanidhi Pradhan(Lahandabud B sand Bed) have been penalised to pay royalty & penalty of Rs 1,12,27685/- and Rs 1,44,78,761/- for excess removal of sand vide Tahasil office letter no. 2939 dtd. 22.06.2017 and letter no. 2941 dtd. 22.06.2017 respectively. Accordingly Both Lessee Sri Surya Prakash Badhai(Lahandabud A sand Bed) and Sri Dayanidhi Pradhan(Lahandabud B sand Bed) have paid Rs. 25,84,680/- and Rs. 20,25,800/- against the aforesaid penalised amount. Tahasildar, Jharsuguda have directed to both Lessee to deposit the rest amount of royalty and penalty i.e RS. 86,43,005/- and Rs. 1,24,52,961/- vide letter no. 1061 dt. 19.02.2019 and 1050 dtd. 19.12.2019 respectively. The lease cancellation orders and direction letters for royalty & penalty are enclosed for kind reference.

**Conclusion:**

- Out of four alleged sand beds, two leases namely Lahandabud A & B sand Beds were cancelled and not in operation since 08.02.2019. Both Jamera Sand Bed C and Lahandabud sand bed C is presently in operation having Valid EC & approved mining plan. No problem of shortage of drinking water due to the operation of the sand beds was noticed in the nearby villages like Sargimal, Bhudipadar, Rajpur and Brajarajnagar etc
- The operation of these sand beds has not been affecting fully the water flow of River for changing its course. The operation of Sand Beds are under constant monitoring & surveillance of Tahalsidar Jharsuguda and other revenue authorities of District Administration through transport permit system & other enforcement mechanisms.

  
**Dr. P.K.Nayak,**  
 Environmental Scientist  
 SEIAA, Odisha

  
**Shri. D.K. Pradhan,**  
 Tahasildar, Jharsuguda

  
**Er. R. K. Sahu**  
 Asst. Env. Engineer  
 SPC Board, Jharsuguda

  
**Sri S. K. Markey**  
 Revenue Supervisor

**Sand Beds Alloted along the IB River Bed Under Jharsuguda Tahasil**

SI No.	Name of the Lessee	Name of River Sand Bed	Area of Lease in Ac.	Lease Period	EC Status	Operation Status
1	Ramesh Kumar Yadav	Tharkaspur Sand Bed	15.00	2015-2020	Granted	Operationalised
2	Navin Mishra	Charbhati Sand Bed	12.57	2015-2020	Granted	Operationalised
3	Navin Mishra	Talpatia Sand Bed A	30.00	2015-2020	Granted	Operationalised
4	Navin Mishra	Talpatia Sand Bed B	50.00	2015-2020	Granted	Operationalised
5	Dayanidhi Pradhan	Jamera San Bed C	14.00	2015-2020	Granted	Operationalised
6	Dayanidhi Pradhan	Lahandabud Sand Bed C	20.00	2015-2020	Granted	Operationalised
7	Aman Sharma	Panchpada Sand Bed A	30.00	2015-2020	Granted	Operationalised
8	Satbir Sing Bedi	Panchpada Sand Bed B	27.00	2015-2020	Granted	Operationalised
9	Satbir Sing Bedi	Panchpada Sand Bed C	27.00	2015-2020	Granted	Operationalised
10	Shyamsundar Das	Panchpada Sand Bed D	26.00	2015-2020	Granted	Operationalised
11	Aashish Yadav	Panchpada Sand Bed E	15.00	2015-2020	Granted	Operationalised
12	Surya Prakash Badhai	Lahandabud Sand Bed A	24.00	2015-2020	Granted	Not in Operation (Lease Cancelled)
13	Dayanidhi Pradhan	Lahandabud Sand Bed B	20.00	2015-2020	Granted	Not in Operation (Lease Cancelled)
14	Radheshyam pradhan	Budhipadar sand bed	20.00	2017-2022	Not Granted	Not in Operation
15	Mukesh Ku Sharma	Tangarpali Sand Bed	20.00	2017-2022	Granted	Not in Operation

TAHASIL OFFICE: JHARSUGUDA

No. 1061 /Date 19-2-19

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To

Sri Surya Prakash Badhai  
S/O - Santosh Kumar Badhai  
At - Main Road, Brajrajnagar  
Dist - Jharsuguda

Sub: Regarding unauthorized lifting of sand from Lahandbud Sand Bed A.

Ref: 1. This office letter No. 4989, dt. 09.11.2017  
2. This office letter No. 2939, dt. 22.06.2017  
3. District office letter No. 8575, dt. 11.10.2017 address to Tahasildar, Jharsuguda.

With reference to the subject cited above, I am to inform you that, the Sairat lease of Lahandabud Sand Bed-a measuring an area of Ac. 24.00 over plot No. 380/1838 of Khata No. 176 in Mouza Lahandabud is cancelled by the Collector, Jharsuguda vide order dt. 08.02.2019 in OMMC Appeal No. 02/2017 for violation of agreement executed as per OMMC Rule 27(13) Part-IV-3 for excess removal of sand unauthorizedly in accordance with approved Mining Plan. Further, the collector has stated that the Tahsildar, Jharsuguda has rightly calculated the Royalty @ Rs. 159.00 per Cum for unauthorized extraction of and removal of sand by you in the aforesaid order. Thus, you are liable to pay assessment of Rs. 1,12,27,685.00 (rupees one crore twelve crore twelve lakhs twenty seven thousand six hundred sixty eighty five only) made by the Tahsildar, Jharsuguda communicated vide this office letter No. 2939, dt. 22.06.2017 by far the report of the Enforcement Squad. As per the direction of the Collector, Jharsuguda communicated vide letter No. No. 8575, dt. 11.10.2017, you have already deposited Rs. 25,84,680.00 (Rupees twenty five lakhs eighty four thousand six hundred eighty only) with the undersigned. Hence you are liable to deposit the rest amount of Rs. 86,43,005.00 (rupees eighty six lakhs forty three thousands five only) towards Royalty, DMF and Penalty.

You are therefore directed to deposit the above amount within seven days, failing which action as deemed proper will be initiated against you as per OPDR Act.

This may be treated as "Most Urgent".

Memo No. 1062 Date. 19-2-19

Tahasildar, Jharsuguda

Copy to the RI, H. Katapali for information and necessary action.

Memo No. 1063 Date. 19-2-19

Tahasildar, Jharsuguda

Copy submitted to the Sub-Collector, Jharsuguda/Collector, Jharsuguda for favour of kind information and necessary action with reference to District office Memo No. 1923, dt. 11.02.2019.

Tahasildar, Jharsuguda

o/c

Rec'd  
by  
Surya Prakash Badhai with objection.

Extract of order passed by the Collector, Jharsuguda in  
OMMC Appeal No.02/2017 on dt.8.02.2019

Surya Prakash Badhai S/o Santosh Badhai  
At-Main Road ,Brajrajnagar, Jharsuguda.

Vers

Tahasildar, Jharsuguda.

ORDER

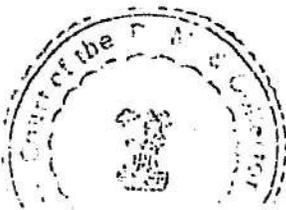
The Case is taken up today for Order. The Advocate for the petitioner has been heard. Perused the order dated 14.11.2017 passed by the Hon'ble High Court, Odisha in WP(C) No. 21031 of 2017, wherein the Hon'ble High Court, Odisha has directed that in case an appeal is filed in accordance with the provisions of Rule-46 of the OMMC Rules, 2016 before the Sub-Collector, Jharsuguda within 15 days alongwith the certified copy of the Order, the same shall be heard and decided on merit without taking any objection with regard to delay. In connection with the submission of the petitioner regarding re-measurement of sand bed was conducted and report submitted on 2.6.2017 to which the Sub-Collector, Jharsuguda was also a signatory, an appeal to the said Sub-Collector would not proper it has also been directed by the Hon'ble High Court that the O.P No-2 i.e Collector, Jharsuguda to transfer the hearing of the appeal to some other Sub-Collector of the District which shall be heard and decided in accordance with law

Since Jharsuguda district is a single Sub-Division revenue district, I think it will be better to deal in the Court of Collector, Jharsuguda hence this OMMC Appeal.

Gone through the Appeal petition filed U/s46 of the OMMC Rules, 2016. This Appeal has been filed being aggrieved on the order dt.22.06.2016 passed by the Tahasildar, Jharsuguda directing the petitioner to deposit Royalty & Penalty etc amounting to Rs.1,12,27,685.00 basing on the measurement of sand sairat source of Lahandabud-A under Jharsuguda Tahasil.

The main ground of challenges in this Appeal are

- 1) The remeasurement under taken by the Tahsildar, Jharsuguda do not confirm in the field position.
- 2) The Appellant is a lease holder of the same sairat source i.e Lahandabud S/B-A for a period of 5(five) years and as per rules he had started execution after obtaining approval of Mining Plan and Environment Clearance from the competent authorities.
3. As per the approved Mining Plan the petitioner is only entitled to lift 8703.24 Cum of sand per year but basing on the complaints lodged by the rival businessmen, there was a field visit undertaken by the Opp. Party and it is alleged that excess quantity of 63909 Cum of sand than the approved quantity of sand has been removed as below.



Total quantity of sand extracted as per field report.	Quantity for which Royalty and DMF has been deposited up to March, 2017.	Excess quantity of sand removed without prior permission.
71437 Cum.	7528 Cum.	63909 Cum.

4. While calculating the royalty etc. by the O.P, the actual lifting of the petitioner was not taken in to consideration and basing on the measurement report the consequential demand was issued amounting to Rs.1,12,27,685.00.

5. The said field visit report was an exparte report with out involving the leasee.

6. The Opp. Party in case of unauthorized lifting of sand from the same river bed on which the sairat source is located is charging royalty as per the rate prescribed under OMMC Rules but in this case it has been charged beyond the rate fixed by the Govt.

It has been prayed for quashing the remeasurement report and the demand arises there on vide Notice No.2939dt.22.6.2017 of Tahasildar, Jharsuguda amounting to Rs.1,12,27,685.00 (Rupees one crore forty four lakhs seventy eight thousand seven hundred sixty one )only. Perused the Sairat Case Record of Lahandabud Sand Bed -A.

On an allegation regarding excess extraction and removal of sand from the sairat source a team of officer have conducted the field visit on dt.17.03.2017 under the leadership of the Sub-Collector, Jharsuguda. It has also been mentioned in their field visit report that during field visit the member of the leasees were present. The total areas which were operated by the leasee was measured by metallic Tape of 100 feetd length in supervision of all officers in presence of the parties. Again on the representation filed by the leasee on dt.23.03.2017 for remeasurement the learned Collector has also directed for remeasurement vide his letter No.2933 dt.12.04.2017. The remeasurement was conducted on 2.06.2017 by the team of officers comprising of the Sub-Collector, Jharsuguda, Mining Officer, Sambalpur, Asst. Engineer, Irrigation Sub-Division, Burla, Tahasildar, Jharsuguda, Executive Engineer Burla Irrigation Division, Burla, Asst. Executive Engineer, Jharsuguda Block and Junior Enngineer, Jharsuguda Block. The team has submitted their report of remeasurement and accordingly The Tahahsildar, Jharsuguda has issued Demand Notice vide No.2939 dt.22.06.2017. The Demand has been calculated including DMF(District Mineral Fund @10% of Royalty amount and Penalty for violating the terms and conditions of the lease ag -reement for Rs.50,000.00. It is also seen that the demand has been calculated excluding the qquantity for which the Royalty and DMF has been paid by the leasee up to March,2017 for 7528 cum of sand.

Regarding the rate of calculation of royalty @ Rs.259.00 per Cum. , that has been finalized during the time of bidding on dt. 18.08.2015 which is the 2nd highest bidding price offered by the leasee himself for which it has been settled in his favour. The leasee has also executed Registered lease Agreement as per Rule-61 (1) of the OMMC Rules,2004 for payment of all dues relating to this sairat lease. Since the calculation of royalty has been made by the Tahasildar Jharsuguda towards excess extraction and removal of minor minerals from the same source, i.e Lahandabud Sand Bed -B and the excess extraction & removal has been made by the leasee



himself. the Tahsildar, Jharsuguda has rightly calculated the Royalty @ Rs.159.00 Per Cum for unauthorised extraction and removal of sand by the leasee.

In view of the facts and in my considered views I am of the opinion that the leasee Surya Prakash Badhai S/o Santosh Kumar Badhai of Main Road Brajrajnagar P.S-Brajrajnagar district Jharsuguda is liable to pay the assessment made by the Tahasildar, Jharsuguda vide his Notice No.2939 dt.22.06.2017.

The Sairat lease of Lahandabud Sand Bed -A measuring an area of A.24.00 over Plot No.380/1838 and Khata No.176 in Mouza Lahandabud is cancelled for violation of agreement executed as per OMMC Rule-27(13) Part-IV-3 for excess removal of sand unauthorisedly in accordance with approved Mining Plan.

The Tahahildar, Jharsuguda is directed to take immediate steps for settlement of the source as per OMMC Rules ,2016.

Dictated

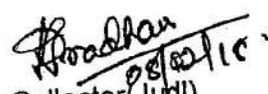
SD/-

Collector, Jharsuguda.

Memo No. 1923 dt. 11/02/2019

Copy to the Sub-Collector, Jharsuguda for information and necessary action.

Copy to the Tahasildar, Jharsuguda alongwith the Sairat case record bearing No.29/2015, 46/S/2013-14, 46/S/2014-15 & Mining plan Lahandabud Sand bed -A is returned herewith for information and necessary action.

  
Dy Collector (Judl)  
Collectorate, Jharsuguda.



TAHASIL OFFICE: JHARSUGUDA

No. 2929 /Date 22-06-17

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To

Sri Surya Prakash Badhai  
S/O - Santosh Kumar Badhai  
At - Main Road, Brajrajnagar  
Dist - Jharsuguda

Sub: Regarding unauthorized lifting of sand from Lahandbud Sand Bed A.

With reference to the subjected cited above, I am to say that as per your request joint field verification for the remeasurement of lifting of excess quantity of sand from Lahandbud Sand Bed B has been conducted by the Sub-Collector, Jharsuguda, Tahasildar, Jharsuguda, Executive Engineer, Burla Irrigation Division, Burla, Mining Officer, Office of DDM, Sambalpur, Asst. Engineer, Burla Irrigation Division, Burla, Junior Engineer Jharsuguda Block, Asst. Executive Engineer, Jharsuguda Block and Revenue Inspector, H. Katapali on Dt. 02.06.2017.

The re-verification and re-measurement conducted by the above team, it has come to the notice that you have extracted 63,909 cum of sand in excess, without getting prior permission of the Competent Authority as detailed below.

Total Quantity extracted as per report of the field visit	Quantity for which Royalty and DMF have been deposited up to March, 2017	Excess quantity of sand extracted without prior permission
71437 cum	7528 cum	63909 Cum

Hence you are liable for following assessment and penalty as per OMMC Rules, 2016.

1	Royalty for 63909 cum of sand @ Rs.159.00 per cum	Rs. 1,01,61,531.00
2	DMF @ 10% of the Royalty	Rs. 10,16,154.00
3	Penalty for violating the terms and conditions of the lease agreement and Mining Plan	Rs. 50,000.00
	<b>Total</b>	<b>Rs. 1,12,27,685.00</b>

(Rupees one crore twelve lakhs twenty seven thousand six hundred sixty eighty five only)

Further as per the direction of the Collector, Jharsuguda, you have deposited Rs. 25,84,680.00 (Rupees twenty five lakhs eighty four thousand six hundred eighty only) with the undersigned. Hence you are liable to deposit the rest amount of Rs. 86,43,005.00 (Rupees eighty six lakhs forty three thousands five only) towards Royalty, DMF and Penalty.

You are therefore directed to deposit the above amount within seven days, failing which action as deemed proper will be initiated against you as per OMMC Rules, 2016.

*Received with objection  
Surya Prakash Badhai*

*[Signature]*  
Tah. Sd/- Jharsuguda

TAHASIL OFFICE: JHARSUGUDA

No. 294 / Date 22.06.17

39

To

Sri Dayanidhi Pradhan  
S/O - Gariba Pradhan  
At - Remja, PS - Brajrajnagar  
Dist - Jharsuguda

Sub: Regarding unauthorized lifting of sand from Lahandbud Sand Bed B.

With reference to the subjected cited above, I am to say that as per your request joint field verification for the remeasurement of lifting of excess quantity of sand from Lahandbud Sand Bed B has been conducted by the Sub-Collector, Jharsuguda, Tahasildar, Jharsuguda, Executive Engineer, Burla Irrigation Division, Burla, Mining Officer, Office of DDM, Sambalpur, Asst. Engineer, Burla Irrigation Division, Burla, Junior Engineer Jharsuguda Block, Asst. Executive Engineer, Jharsuguda Block and Revenue Inspector, H. Katajali on Dt. 02.06.2017.

The re-verification and re-measurement conducted by the above team, it has come to the notice that you have extracted 50,645 cum of sand in excess, without getting prior permission of the Competent Authority as detailed below.

Total Quantity extracted as per report of the field visit	Quantity for which Royalty and DMF have been deposited up to March, 2017	Excess quantity of sand extracted without prior permission
53645 cum	3000 cum	50645 Cum

Hence you are liable for following assessment and penalty as per OMMC Rules, 2016.

1	Royalty for 50645 cum of sand @ Rs.259.00 per cum	Rs. 1,31,17,055.00
2	DMF @ 10% of the Royalty	Rs. 13,11,706.00
3	Penalty for violating the terms and conditions of the lease agreement and Mining Plan	Rs. 50,000.00
	Total	Rs. 1,44,78,761.00

(Rupees one crore forty four lakhs seventy eight thousand seven hundred sixty one only)

Further as per the direction of the Collector, Jharsuguda, you have deposited Rs. 20,25,800.00 (Rupees twenty lakhs twenty five thousand eight hundred only) with the undersigned. Hence you are liable to deposit the rest amount of Rs. 1,24,52,961.00 (rupees one crore twenty four lakhs fifty two thousands nine hundred sixty one only) towards Royalty, DMF and Penalty.

You are therefore directed to deposit the above amount within seven days, failing which action as deemed proper will be initiated against you as per OMMC Rules, 2016.

Received with  
Obeyan  
Dayanidhi Pradhan

2  
Lecy  
Subhadra

Extract of order passed by the Collector, Jharsuguda in  
OMMC Appeal No.01/2017 on dt.8.02.2019

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Dayanidhi Pradhan S/o Late Gariba Pradhan  
Vill-Remaj P.S-Brajrajnagar Dist-Jharsuguda  
Ver.  
Tahasildar, Jharsuguda.

ORDER

Case is taken up today. The Advocate for the petitioner has been heard. Perused the order dated 14.11.2017 passed by the Hon'ble High Court, Odisha in WP(C) No. 21033 of 2017, wherein the Hon'ble High Court, Odisha has directed that in case an appeal is filed in accordance with the provisions of Rule-46 of the OMMC Rules, 2016 before the Sub-Collector, Jharsuguda within 15 days alongwith the certified copy of the Order, the same shall be heard and decided on merit without taking any objection with regard to delay. In connection with the submission of the petitioner regarding re-measurement of sand bed was conducted and report submitted on 2.6.2017 to which the Sub-Collector, Jharsuguda was also a signatory, an appeal to the said Sub-Collector would not proper it has also been directed by the Hon'ble High Court that the O.P No-2 i.e Collector, Jharsuguda to transfer the hearing of the appeal to some other Sub-Collector of the District which shall be heard and decided in accordance with law.

Since Jharsuguda district is a single Sub-Division revenue district, I think it will be better to deal in the Court of Collector, Jharsuguda hence this OMMC Appeal.

Gone through the Appeal petition filed U/s46 of the OMMC Rules, 2016. This Appeal has been filed being aggrieved on the order dt.22.06.2016 passed by the Tahasildar, Jharsuguda directing the petitioner to deposit Royalty & Penalty etc amounting to Rs.1,44,78,761.00 basing on the measurement of sand sairat source of Lahandabud-B under Jharsuguda Tahasil.

The main ground of challenges in this Appeal are

- 1) The remeasurement under taken by the Tahsildar, Jharsuguda do not confirm the field position.
- 2) The Appellant is a lease holder of the same sairat source.

i.e Lahandabud S/B-B for a period of 5(five) years and as per rules he had started execution after obtaining approval of Mining Plan and Environment Clearance from the competent authorities.

3. As per the approved Mining Plan the petitioner is only entitled to lift 4000 Cum of sand per year but basing on the complaints lodged by the rival businessmen, there was a field visit undertaken by the Opp. Party and it is alleged that excess quantity of 50645 Cum of sand than the approved quantity of sand has been removed as below.

Total quantity of sand extracted as per field report.	Quantity for which Royalty and DMF has been deposited up to March, 2017.	Excess quantity of sand removed without prior permission.
53645 Cum.	3000Cum.	50645 Cum.



4. While calculating the royalty etc. by the O.P, the actual lifting of the petitioner was not taken in to consideration and basing on the measurement report the consequential demand was issued amounting to Rs.1,44,78,761.00.

5. The said field visit report was an ex parte report with out involving the leasee.

6. The Opp. Party in case of unauthorized lifting of sand from the same river bed on which the sairat source is located is charging royalty as per the rate prescribed under OMMC Rules but in this case it has been charged beyond the rate fixed by the Govt.

It has been prayed for quashing the remeasurement report and the demand arises there on vide Notice No.2941dt.22.6.2017 of Tahasildar, Jharsuguda amounting to Rs.144,78,761.00 (Rupees one crore forty four lakhs seventy eight thousand seven hundred sixty one )only.

Perused the Sairat Case Record of Lahandabud Sand Bed -B.

On an allegation regarding excess extraction and removal of sand from the sairat source a team of officer have conducted the field visit on dt.17.03.2017 under the leadership of the Sub-Collector, Jharsuguda. It has also been mentioned in their field visit report that during field visit the member of the leasees were present. The total areas which were operated by the leasee was measured by metallic Tape of 100 feetd length in supervision of all officers in presence of the parties. Again on the representation filed by the leasee on dt.23.03.2017 for remeasurement the learned Collector has also directed for remeasurement vide his letter No.2933 dt.12.04.2017. The remeasurement was conducted on 2.06.2017 by the team of officers comprising of the Sub-Collector, Jharsuguda, Mining Officer, Sambalpur, Asst. Engineer, Irrigation Sub-Division , Burla, Tahasildar, Jharsuguda, Executive Engineer Burla Irrigation Division, Burla , Asst. Executive Engineer, Jharsuguda Block and Junior Enngineer, Jharsuguda Block. The team has submitted their report of remeasurement and accordingly the The Tahahsildar, Jharsuguda has issued Demand Notice vide No.2941 dt.22.06.2017. The Demand has been calculated including DMF(District Mineral Fund @10% of Royalty amount and Penalty for violating the terms and conditions of the lease ag -reement for Rs.50,000.00. It is also seen that the demand has been calculated excluding the qquantity for which the Royalty and DMF has been paid by the leasee up to March,2017 for 3000 cum of sand.

Regarding the rate of calculation of royalty @ Rs.259.00 per Cum. , that has been finalized during the time of bidding on dt. 18.08.2015 which is the highest bidding price offered by the leasee himself for which it has been settled in his favour. The leasee has also executed Registered lease Agreement as per Rule-61 (1) of the OMMC Rules,2004 for payment of all dues relating to this sairat lease. Since the calculation of royalty has been made by the Tahasildar Jharsuguda towards excess extraction and removal of minor minerals from the same source i:e Lahandabud Sand Bed -B and the excess extraction & remova has been made by the leasee



himself. the Tahsildar, Jharsuguda has rightly calculated the Royalty @ Rs.259.00 Per Cum for unauthorised extraction and removal of sand by the leasee.

In view of the facts and in my considered views I am of the opinion that the leasee Dayanidhi Pradhan S/o-Gariba Pradhan of village Remja P.S-Brajrajnagar district Jharsuguda is liable to pay the assessment made by the Tahasildar, Jharsuguda vide his Notice No.2941 dt.22.06.2017.

The Sairat lease of Lahandabud Sand Bed -B measuring an area of A.20.00 over Plot No.380/1838 and Khata No.176 in Mouza Lahandabud is cancelled for violation of agreement executed as per OMMC Rule-27(13) Part-IV-3 for excess removal of sand unauthorisedly in accordance with approved Mining Plan.

The Tahahildar, Jharsuguda is directed to take immediate steps for settlement of the source as per OMMC Rules ,2016.

Dictated

SD/

Collector, Jharsuguda.

Memo No. 1922 dt. 11/02/2019

Copy to the Sub-Collector, Jharsuguda for information and necessary action.

Copy to the Tahasildar, Jharsuguda alongwith the Sairat case record bearing No.30/2015, 47/S/2013-14, 47/S/2014-15 & Mining plan Lahandabud Sand Bed -B and Sairat case record bearing No.48/S/2013-14, 48/S/2014-15 & Mining plan Lahandabud Sand Bed-C is returned herewith for information and necessary action.



*[Signature]*  
Dy Collector(Judl) 08/02/19.  
Collectorate, Jharsuguda

Extract of order passed by the Collector, Jharsuguda in  
OMMC Appeal No.02/2017 on dt.8.02.2019

Surya Prakash Badhai S/o Santosh Badhai  
At-Main Road ,Brajrajnagar, Jharsuguda.

Vers

Tahasildar, Jharsuguda.

ORDER

The Case is taken up today for Order.. The Advocate for the petitioner has been heard. Perused the order dated 14.11.2017 passed by the Hon'ble High Court, Odisha in WP(C) No. 21031 of 2017, wherein the Hon'ble High Court, Odisha has directed that in case an appeal is filed in accordance with the provisions of Rule-46 of the OMMC Rules, 2016 before the Sub-Collector, Jharsuguda within 15 days alongwith the certified copy of the Order, the same shall be heard and decided on merit without taking any objection with regard to delay. In connection with the submission of the petitioner regarding re-measurement of sand bed was conducted and report submitted on 2.6.2017 to which the Sub-Collector, Jharsuguda was also a signatory, an appeal to the said Sub-Collector would not proper it has also been directed by the Hon'ble High Court that the O.P No-2 i.e Collector, Jharsuguda to transfer the hearing of the appeal to some other Sub-Collector of the District which shall be heard and decided in accordance with law

Since Jharsuguda district is a single Sub-Division revenue district. I think it will be better to deal in the Court of Collector, Jharsuguda hence this OMMC Appeal.

Gone through the Appeal petition filed U/s 46 of the OMMC Rules, 2016. This Appeal has been filed being aggrieved on the order dt. 22.06.2016 passed by the Tahasildar, Jharsuguda directing the petitioner to deposit Royalty & Penalty etc amounting to Rs. 1,12,27,685.00 basing on the measurement of sand sairat source of Lahandabud-A under Jharsuguda Tahasil.

The main ground of challenges in this Appeal are

- 1) The remeasurement under taken by the Tahsildar, Jharsuguda do not confirm in the field position.
- 2) The Appellant is a lease holder of the same sairat source i.e Lahandabud S/B-A for a period of 5(five) years and as per rules he had started execution after obtaining approval of Mining Plan and Environment Clearance from the competent authorities.
3. As per the approved Mining Plan the petitioner is only entitled to lift 8703.24 Cum of sand per year but basing on the complaints lodged by the rival businessmen, there was a field visit undertaken by the Opp. Party and it is alleged that excess quantity of 63909 Cum of sand than the approved quantity of sand has been removed as below.

Total quantity of sand extracted as per field report.	Quantity for which Royalty and DMF has been deposited up to March, 2017.	Excess quantity of sand removed without prior permission.
71437 Cum.	7528 Cum.	63909 Cum.



TAHASIL OFFICE: JHARSUGUDA

No. 1051 / Date 19.2.19

33

To

Sri Sri Dayanidhi Pradhan  
S/O - Gariba Pradhan  
At - Remja, PS - Bhojrajnagar  
Dist - Jharsuguda

Sub: Regarding unauthorized lifting of sand from Lahandubud Sand Bed B.

Ref: 1. This office letter No. 4991, dt. 09.11.2017  
2. This office letter No. 2941, dt. 22.06.2017  
3. District office letter No. 8575, dt. 11.10.2017 addressed to Tahsildar, Jharsuguda.

With reference to the subject cited above, I am to inform you that, the Salrat lease of Lahandubud Sand Bed-a measuring an area of Ac. 20.00 over plot No. 380/1838 of Khata No. 176 in Mouza Lahandubud is cancelled by the Collector, Jharsuguda vide order dt. 08.02.2019 in OMMC Appeal No. 01/2017 for violation of agreement executed as per OMMC Rule 27(13) Part-IV-3 for excess removal of sand unauthorizedly in accordance with approved Mining Plan. Further, the collector has stated that the Tahsildar, Jharsuguda has rightly calculated the Royalty @ Rs. 259.00 per Cum for unauthorized extraction of sand removal of sand by you in the aforesaid order. Thus, you are liable to pay assessment of Rs. 1,44,78,761.00 (rupees one crore twelve crore twelve lakhs twenty seven thousand six hundred sixty eight five only) made by the Tahsildar, Jharsuguda communicated vide this office letter No. 2941, dt. 22.06.2017 by far the report of the Enforcement Squad. As per the direction of the Collector, Jharsuguda communicated vide letter No. No. 8575, dt. 11.10.2017, you have already deposited Rs. 20,25,800.00 (Rupees twenty lakhs twenty five thousand eight hundred only) with the undersigned. Hence you are liable to deposit the rest amount of Rs. 1,24,52,961.00 (rupees one crore twenty four lakhs fifty two thousands nine hundred sixty one only) towards Royalty, DMF and Penalty.

You are therefore directed to deposit the above amount within seven days, failing which action as deemed proper will be initiated against you as per OPDR Act.

This may be treated as "Most Urgent".

Memo No. 1051 Date. 19.2.19

Copy to the RI, H. Katapali for information and necessary action.

Tahsildar, Jharsuguda

Memo No. 1052 Date. 19.2.19

Copy submitted to the Sub-Collector, Jharsuguda/Collector, Jharsuguda for favour of kind information and necessary action with reference to District office Memo No. 1923, dt. 11.02.2019.

Tahsildar, Jharsuguda

Tahsildar, Jharsuguda

Recd

Obeysingh

H. P. H.

TAHASIL OFFICE: JHARSUGUDA

No. 1061 /Date 19-2-19

54

To

Sri Surya Prakash Badhai  
S/O - Santosh Kumar Badhai  
At - Main Road, Brajrajnagar  
Dist - Jharsuguda

Sub: Regarding unauthorized lifting of sand from Lahandbud Sand Bed A.

Ref: 1. This office letter No. 4989, dt. 09.11.2017  
2. This office letter No. 2939, dt. 22.06.2017  
3. District office letter No. 8575, dt. 11.10.2017 address to Tahasildar, Jharsuguda.

With reference to the subject cited above, I am to inform you that, the Sairat lease of Lahandabud Sand Bed-a measuring an area of Ac. 24.00 over plot No. 380/1838 of Khata No. 176 in Mouza Lahandabud is cancelled by the Collector, Jharsuguda vide order dt. 08.02.2019 in OMMC Appeal No. 02/2017 for violation of agreement executed as per OMMC Rule 27(13) Part-IV-3 for excess removal of sand unauthorizedly in accordance with approved Mining Plan. Further, the collector has stated that the Tahsildar, Jharsuguda has rightly calculated the Royalty @ Rs. 159.00 per Cum for unauthorized extraction of and removal of sand by you in the aforesaid order. Thus, you are liable to pay assessment of Rs. 1,12,27,685.00 (rupees one crore twelve crore twelve lakhs twenty seven thousand six hundred sixty eighty five only) made by the Tahsildar, Jharsuguda communicated vide this office letter No. 2939, dt. 22.06.2017 by far the report of the Enforcement Squad. As per the direction of the Collector, Jharsuguda communicated vide letter No. No. 8575, dt. 11.10.2017, you have already deposited Rs. 25,84,680.00 (Rupees twenty five lakhs eighty four thousand six hundred eighty only) with the undersigned. Hence you are liable to deposit the rest amount of Rs. 86,43,005.00 (rupees eighty six lakhs forty three thousands five only) towards Royalty, DMF and Penalty.

You are therefore directed to deposit the above amount within seven days, failing which action as deemed proper will be initiated against you as per OPDR Act.

This may be treated as "Most Urgent".

Memo No. 1062 Date. 19-2-19

Tahasildar, Jharsuguda

Copy to the RI, H. Katapali for information and necessary action.

Memo No. 1063 Date. 19-2-19

Tahasildar, Jharsuguda

Copy submitted to the Sub-Collector, Jharsuguda/Collector, Jharsuguda for favour of kind information and necessary action with reference to District office Memo No. 1923, dt. 11.02.2019.

Tahasildar, Jharsuguda

OK  
Received  
by  
Surya Prakash Badhai with objection.

Item No. 16

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 858/2019

Hurdanand Behera & Ors.

Applicant(s)

Versus

State of Odisha

Respondent(s)

Date of hearing: 30.10.2019

**CORAM:** HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

Application is registered based on a complaint received by post

**ORDER**

Grievance in this application is against illegal sand mining of river bed in river IB in district Jharsugda by Sri Dayanidhi Pardhan and Sri Surya Prakash Badhai. This is affecting the water flow of the river and causing shortage of drinking water for inhabitants.

Let the District Magistrate, Jharsugda, SEIAA, Odisha, and Odisha State Pollution Control Board (State PCB) look into the matter and take appropriate action in accordance with law and furnish a factual and action taken report to this Tribunal within one month from the date of receipt of copy of this order by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in). The State PCB will be the nodal agency for coordination and compliance.

A copy of this order, along with complaint, be sent to the District Magistrate, Jharsugda, SEIAA, Odisha and State PCB by e-mail for compliance.

Needless to say that order of National Green Tribunal is binding as a decree of Court and non-compliance is actionable by way of punitive action including prosecution, in terms of the National Green Tribunal Act, 2010.

List for further consideration on 17.02.2020.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Satyawan Singh Garbyal, EM

October 30, 2019  
Original Application No. 858/2019  
A

LP Regn. No. 2913/19

17/5/19

Date - 04-06-19

To,  
Hon'ble Justice Sri Adarsh Goyal  
Chairperson  
National Green Tribunal,  
Faridkot House, Copernicus Marg,  
New Delhi.

GA No. 852/19

CH No. 535/19

Sub: Illegal mining of sand in the river IB in district of Jharsuguda, Odisha by deploying of heavy earth moving machineries.

Sir,

We the localities of Jharsuguda district in state of Odisha, draw your kind attention and special intervention for the following few lines.

1. That, more than 5 no. of sand lease was granted in the river bed of IB Sri Dayanidhi Pradhan & Sri Surya Prakash Badhai for mining of sand during year 2015-20.
2. The above lease holders undertaking illegal mining beyond the lease area with deployment of heavy earth moving machineries. The deployment of heavy earth moving machineries which is going beyond 3 meters from the surface and below the ground water table.
3. The above illegal mining is continuing in connivance with the District Administration namely, Addl. Tahsildar Golak Bihari Mangraj, Akshay Bag, Brajrajnagar police SDPO NC Dandena. Which is going unabated despite local complain and newspaper flash (copy encl).
4. Due to the rampant illegal sand mining the water flow of river IB has been changed remarkably causing shortage of drinking water in the nearby villages like Sargimal, Budhipadar, Remja, Rajpur, Brajrajnagar etc.
5. The above illegal mining may be a reason of change river course during monsoon. Which may rendered artificial floods in the local villages.
6. It is pertinent to mention here that the local Revenue authorities as under taken a raid at Lahandabad sand Bed-B during the year 2016-17 as imposed of penalty above Rs. One Crore. Which has not yet been

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ws/pax

2290/LP/19

recovered for the Sand mafia and also illegal mining is going on the said lease.

Therefore, we will request your highness for early intervention and for withdrawal of Environment clearance in the sand lease by SEIAA, Bhubaneswar for stoppage of large scale illegal sand mining and deployment of heavy machineries by the sand mafia Sri Dayanidhi Pradhan & Sri Surya Prakash Badhai, Brajrajanagar, Dist- Jharsuguda of Odisha and allow us to continue our peaceful life and lively hood depending on river IB.

Thanking You.

Copy to.

1. Chairman SEIAA, Odisha.
2. Member Secy. OSPCB.
3. Nikunja B. Dhal, Pricipal Secy to GOO.
4. Collector, Jharsuguda.
5. DG Vigilance, Cuttack.

Localites of Jharsuguda District

- (1) Hemanta Singh Behara
- (2) Banmaji Mohar
- (3) Digambar Raull
- (4) Hemanta Dhanan
- (5) Sarma Sahoo
- (6) Bipin Dash
- (7) Jagadish Singh
- (8) Samanta Chhatra
- (9) Deepak Kumar Singh
- (10) Mahendra Singh
- (11) Mahendra Bhatia
- (12) Sunil KHANNA
- (13) Ramani Mishra
- (14) Jagadish Singh
- (15) ...