



Before the National Green Tribunal

Eastern Zone Bench, Kolkata

O.A. No. 85/2023/EZ

M/s. Panda & Brothers

Proprietor

Kirtanananda Panda

*Through
Aswaththar
Sawade*

Saheen Tarannum & Another.

....Applicant

Versus

State of Odisha & Others.

....Respondents.

**RESPONSE BY WAY OF AFFIDAVIT FILED ON BEHALF OF THE
RESPONDENT NO. 7 M/S PANDA & BROTHERS TO THE COMPLIANCE
REPORT FILED BY THE COLLECTOR-CU, DISTRICT MAGISTRATE,
CUTTACK**

I, Sri Kirtanananda Panda, son of Late Gouranga Charan Panda, aged about 63 years, by faith-Hindu, by Occupation - Business, residing at Mahanadi Vihar, Nayabazar, Cuttack-753004, do hereby solemnly affirm and state as follows:-

M.S. Ghose
30/12/23
**NETAJI SABYASACHI GHOSE
NOTARY, ADVOCATE
GOVT. OF ORISSA
Regd. No-ON-28/03
CUTTACK TOWN**

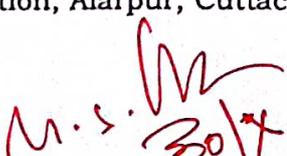
1. That I am proprietor of the respondent no. 7 and do hereby make and affirm this affidavit on behalf of the respondent no. 7, M/s Panda & Brothers. I am well acquainted with the facts and circumstances of the present case.
2. The respondent no. 5, Collector & District Magistrate, Cuttack, filed an affidavit, which was taken on record on October 11, 2023. On the said date, this Hon'ble Tribunal was pleased to direct the answering respondent to file a response to the same. This response in the form of affidavit is being filed in compliance of the aforesaid order of this Hon'ble Tribunal. I have perused the affidavit as also its Annexure and understood the meaning, contents and purports thereof.
3. By the affidavit dated October 5, 2023, the respondent no. 5 has filed the report of the Committee dated September 2, 2023.
4. The present application was filed inter alia alleging that the respondent nos. 6 and 7 are illegally stacking coal and other minerals like gypsum, kinker, Australian Dust and iron ore at a private stackyard near Billteruan Village opposite to the railway tracks leading to the Nergundi Railway Station, Alarpur, Cuttack in

M/s. Panda & Brothers

W. S. Ghose

Proprietor




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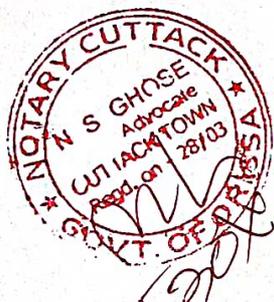
violation of the Guidelines for Environmental Management in Mineral Stack Yards and Railway Sidings, 2010 (hereinafter referred to as the "2010 Guidelines") dated April 16, 2010 issued by the Odisha Pollution Control Board, including violation of siting requirement. By an order dated August 4, 2023 this Hon'ble Tribunal was pleased to pass an order directing that a Committee be constituted, who shall visit the site in question within 10 days and submit its report within four weeks with regard to the allegations made in the application and if violations are found, the committee shall suggest remedial measures as well as determine the environmental compensation. The Committee visited the site and the report of the Committee along with their suggestions for remedial measures was signed on September 2, 2023 and was filed as Annexure to the compliance affidavit filed by the respondent no. 5.

5. The respondent no. 7 M/s Panda & Brothers is the handling agents of M/s Godavari Commodities Limited (in short "Godavari") and sub-contractor of M/s Sendoz Impex Limited (in short "Sendoz"). As advised, the response of the answering respondent is restricted to the private stack yards of M/s Godavari Commodities Limited and M/s Sendoz Impex Limited.

M/s. Panda & Brothers

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6. The main allegation as against the answering respondent is that the answering respondent is illegally running and operating minerals stack yards adjacent to the Bilteruan village and near the Nergundi Railway Siding. It has been alleged that the stack yards have been operated without obtaining the Consent to Establish and Consent to Operate from the Odisha Pollution Control Board and is in violation of the siting criteria and other requirements under the 2010 Guidelines. The aforesaid allegations have been found to be untrue and/or incorrect and it is clear that the present application was filed with an ulterior and oblique motive, as against the answering respondent no. 7 and as such, the application as against the answering respondent no. 7 is liable to be dismissed.

M/s. Panda & Brothers

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Proprietor



7. Nergundi Railway Station of the East Coast Railway is a vital point for transportation of various types of minerals to various places, with coal being the main mineral. The coal is mined from the Mahanadi Coalfields Limited, Talcher and is transported through rail to Paradeep Port as also to various Thermal Power Plants in Odisha and West Bengal and Jharkhand.

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8. The coal is transported from the mines to the stack yards by trucks where they are stored in the private stackyards, before being transported through the railways siding to the destination. The coal is transported by trucks to the stack yards where they are unloaded and thereafter, on rakes being placed by the railway at the Nergundi siding, they are again transported to the siding by trucks/tippers and are loaded on the railways' wagons for onward transportation to the consignee.
9. The loading and unloading activities carried on at the Nergundi railway sidings and the various stack yards form the main source of livelihood or income for the families of Bilteruan Village and most of the villagers are directly and indirectly involved as labourers truck divers/transporters etc. of coals, being transported through the Nergundi Railway Siding. Both the railway siding as also the private stackyard are vital to the survival of local populace including those of Bilteruan Village and DagaraSahi Village.
10. The answering respondent no. 7 is engaged, inter alia, by Godavari and Sendoz to load and unload coal as also operate their private stack yard situate near the Nergundi railway siding.



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11. The private stackyard of both Godavari and Sendoz are being operated after having obtained the Consent to Establish and Consent to Operate from the Odisha State Pollution Control Board, which are Annexure V and Annexure VI to the report. While physically inspecting the sites of the stack yards, the committee found as follows:

- a. "While issuing consent to establish to these stack yards SPCB has verified the siting consideration applicable for Mineral Stack Yard stipulated in Para-4 of "Guideline for environmental management in mineral stack yards and railway sidings" dated 16.04.2010. The siting of these stack yards is complying with the distance from State/National Highway, College, Hospitals, Archeological Monuments and other sensitive areas".
- b. "The stack yards are not located at 200m distance as per the allegation made by the petitioner. Basing on the location of the plots; the average distance of the stack yards varies from 350 meters to 640 meters approximately."

12. Therefore, the entire petition is based on wrong premise and should be dismissed.

13. It is reiterated that the private stackyards of Godavari and Sandoz are operated in accordance with the norms as prescribed in the 2010 guidelines and the same shall also be evident in the report.

M/s. Panda & Brothers
Wijayendra Panda
 Proprietor



N.S. Ghose
NETAJI SABYASACHI GHOSE
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14. The report has been forwarded by the answering respondent to both Sendoz and Godavari under cover of a letter dated 16.10.2023. Without prejudice to the statements above, both Sendoz and Godavari have agreed to implement the remedial measures suggested by the Committee for the sake of the welfare of the people as also for the betterment of the environment. The answering respondent no. 7 craves leave to refer to the relevant correspondence at the time of hearing if necessary.

M/s. Panda & Brothers
W. Panda
 Proprietor

15. It is humbly submitted that this response may be taken on record and the application may be dismissed as against the answering respondents to the exemplary cost.

16. The statements made in paragraphs 1 to 14 are true to my knowledge and those made in paragraph 15 are my respectful submissions before this Hon'ble Court.

M/s. Panda & Brothers

W. Panda
 Proprietor

DEPONENT

Prepared in my office.

A. S. Ghose
 Advocate

The above named deponent being identified by Mr./Ms. A. S. Ghose, Advocate appears before me at 3.00 P.M. on this the 20th day of 2023. I solemnly affirms that the facts stated are true to his/her knowledge and belief.

M. S. Ghose
 NOTARY
 CHITTACK TOWN

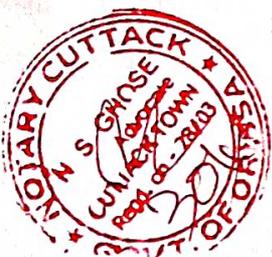
NETAJI SABYASACHI GHOSE
 NOTARY, ADVOCATE
 GOVT. OF ORISSA
 Regd. No-ON-28/03



VERIFICATION

I, Sri Kirtanananda Panda, son of Late GourangaCharan Panda, aged about 63 years, residing at Mahanadi Vihar, Nayabazar, Cuttack-753004, the proprietor of the respondent no. 7 herein do hereby declare and state that the statements made in paragraph 1 to 15 of the foregoing response are true to my knowledge and the remaining are my humble submissions before this Learned Tribunal.

I sign this verification at the Court House on this 30th day of October, 2023.



Prepared in my office

[Handwritten Signature]

Advocate

[Handwritten Signature]

M/s. Panda & Brothers

[Handwritten Signature] Proprietor

DEPONENT

the above named deponent being identified by Mr./Ms. A. Jain Advocate appears before me at 9.30 AM/PM. on this the 30th day of 20 solemnly affirms that the facts stated are true to his/her knowledge and belief.

[Handwritten Signature]
NOTARY
CUTTACK TOWN
30/10/23



AFFIDAVIT

I, Sri Kirtanananda Panda, son of Late GourangaCharan Panda, aged about 63 years, by faith – Hindu, by occupation – Business, residing at Mahanadi Vihar, Nayabazar, Cuttack-753004, do hereby solemnly affirm and say as follows:

1. I am the proprietor of the respondent no. 7 and I am conversant with the facts and circumstances of the case and am duly authorized and competent to sign and affirm this affidavit.
2. The statements made in paragraph 1 to 15 of the foregoing response including the Verification are true to my knowledge and those contained in paragraph 16 are my respectful submissions before the Learned Tribunal.
3. That the statements made above are all true to my knowledge.



Prepared in my office
and identified by me

A. Jais...
Advocate

M/s. Panda & Brothers
Kirtanananda Panda
DEPONENT Proprietor

The above named deponent being read
by Mr./Ms. *A. Jais...* Advocate
appears before me at *3* P. AM/PM.
on this the *30th* day of *July* 20*14*
solemnly affirms that the facts stated
are true to his/her knowledge and belief

[Signature]
NOTARY
CUTTACK TOWN
30/7/14