

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

M.A. NO.4/2024/EZ

IN

ORIGINAL APPLICATION NO. 143 OF 2022 / EZ

International Human Rights Council ...Applicant

VERSUS

District Collector, Ganjam & Others ...Respondents

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3.	Photocopy of the sealing order dtd.21.07.2023. (ANNEXURE – R3/6)	
4.	Photocopy of the letter dtd.21.07.2023 of the R.No.9 unit along with the money receipt issued by the R.No.3 Board. (ANNEXURE – R3/7 Colly)	

SPCB Odisha, R.No.3

Through

Kolkata

Date:

Smt Papiya Banerjee Bihani,
Advocates for the Respondent No.3
(State Pollution Control Board, Odisha)
e-mail: pbanerjeebihani@gmail.com
Phone No.:9831493390

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

M.A. NO.4/2024/EZ

IN

ORIGINAL APPLICATION NO. 143 OF 2022 / EZ

IN THE MATTER OF:

International Human Rights Council ...Applicant

VERSUS

District Collector, Ganjam & Others ...Respondents

**SUPPLEMENTARY AFFIDAVIT ON BEHALF
OF STATE POLLUTION CONTROL BOARD,
ODISHA, RESPONDENT NO.3 IN
COMPLIANCE TO ORDER DTD.25.01.2024.**

I, Dr. Kailasam Murugesan, IFS, son of late Paramasivam Kailasam aged around 55 years, at present working as Member Secretary, State Pollution Control Board, having my office at Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-VIII, P.O. Nayapalli, Bhubaneswar, Dist – Khurda, Odisha-751012, do hereby solemnly affirm and state as under:

1. That I am the Member Secretary of the Respondent No.3 Board and, as such, am well-acquainted with the facts



19/2/24

MANJULA KUMAR PRADHAN
 NOTARY PUBLIC
 BHUBANESWAR
 REGD.NO.ON-71/2009
 PH:-9437627119 (M)

and circumstances with the case and competent to swear this affidavit.

2. That this Hon'ble Tribunal has taken note of the affidavit dtd.28.04.2023 filed by the R.No.3 Board in compliance to the direction dtd.24.02.2023 of the Hon'ble Tribunal wherein copy of show cause notice No.1222 dtd.27.04.2023 issued by the R.No.3 Board to R.No.9 unit has been annexed as Annexure-R3/4.
3. That it is humbly submitted that in the meantime, the Regional Officer of the R.No.3 Board at Berhampur has considered the show cause notice and issued direction of closure U/s-31A of the Air (PCP) Act, 1981 and Sec.33A of the Water (PCP) Act, 1974 vide letter No.1701 dtd.31.05.2023 for not submitting the amended siting clearance certificate issued by the Collector & District Magistrate, Ganjam and also for non-payment of environmental compensation amounting to Rs.1.50 lakhs. The environmental compensation has been determined on the basis of the earlier order dtd.07.04.2016 of this Hon'ble Tribunal passed in OA No.31/2015/EZ, copy of which has already been



annexed as Annexure-R3/3 in the affidavit dtd.28.04.2023 of the R.No.3 Board. Copy of the direction of closure No.1701 dtd.31.05.2023 is annexed to this affidavit and marked as ANNEXURE – R3/5.

4. That it is humbly submitted that in pursuance to the closure direction issued vide Annexure-R3/5, the same was implemented by sealing the brick kiln unit of the R.No.9 on dtd.21.07.2023. Copy of the sealing order dtd.21.07.2023 is annexed to this affidavit and marked as ANNEXURE – R3/6. It is informed by the Regional Officer, Berhampur of the R.No.3 Board that the sealing order is still under force.

5. That it is further humbly submitted that the R.No.9 unit vide his letter No. 21.07.2023 has intimated the Regional Officer of the R.No.3 Board at Berhampur that the environmental compensation amounting to Rs.1.50 lakhs has already been deposited by him in the account of the R.No.3 Board and it is also verified from the records available in the R.No.3 Board that the said amount has already been credited to the Board's account through NEFT on dtd.21.07.2023. Copy of letter dtd.21.07.2023



MANJULA KUMAR PRADHAN
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 BHUBANESWAR
 REGD. NO. BN-1172009
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of the R.No.9 unit alongwith the money receipt issued to that effect issued by the R.No.3 Board is annexed to this affidavit and marked as ANNEXURE – R3/7 Colly.

6. That this affidavit is filed in compliance to the order dtd.25.01.2024 in order to bring on record the subsequent developments after filing of the affidavit dtd.28.04.2023 by the R.No.3 Board before this Hon'ble Tribunal.
7. That the Respondent No.3 Board craves the leave of this Hon'ble Tribunal to file further affidavit if necessary for proper adjudication of this case.
8. That the annexures annexed to the present affidavit are true and correct copies of their originals.
9. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from the official records, and that nothing material has been concealed therefrom.




 DEPONENT
 Member Secretary
 State Pollution Control Board
 Odisha, Bhubaneswar

MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD.NO.ON-71/2009
PH:-9437627119 (M)

17/2/24

VERIFICATION:

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, as derived from official records, and that nothing material has been concealed therefrom.

Verified at Bhubaneswar on this the 17th day of February, 2024.

[Handwritten Signature]

DEPONENT
Member Secretary
State Pollution Control Board
Odisha, Bhubaneswar

SWORN BEFORE ME



MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD.NO.ON-71/2009
PH:-9437627119 (M)

17/2/24

Annexure - R3/5

E-mail: rospcb.berhampur@ospcbboard.org
Website: www.ospcbboard.org



REGIONAL OFFICE OF THE
STATE POLLUTION CONTROL BOARD, ODISHA
DEPARTMENT OF FOREST, ENVIRONMENT & CLIMATE CHANGE, GOVERNMENT OF ODISHA
2nd Floor, New Division Office, IDCO, Berhampur Division,
Industrial Estate, Berhampur, Dist. Ganjam 760 008, Odisha, India

No. 1701 /CTO-1111/2016

Dt. 31/05/2023

By Regd. Post / E-Despatch/E-mail

DIRECTION OF CLOSURE UNDER SECTION 31A OF AIR (PREVENTION & CONTROL OF POLLUTION) ACT, 1981 AND UNDER SECTION 33A OF WATER (PREVENTION & CONTROL OF POLLUTION) ACT, 1974 AND AMENDMENT MADE THEREUNDER.

WHEREAS, you have established and been operating a fixed type Clay brick manufacturing unit (FCBTK) in the name & style of M/s. Maa Kali Bricks, Mouza-Gambhariguda, Tahasil-Sanakhemundi, Dist-Ganjam.

AND WHEREAS, sitting criteria certificate was issued in favour of Sri Kalu Charan Nayak, Proprietor of the aforesaid unit by the Collector and District Magistrate, Ganjam vide letter no. 432 dtd. 27.01.2016 for establishment of fixed type Clay brick manufacturing unit over Plot Nos. 1493 & 1494 under Khata No. 296/101, comprising of area Ac.0.230, (Kisam-Gharabari), Mouza-Gambhariguda, Tehsil: Sanakhemundi, Dist. Ganjam in terms of the sitting criteria fixed by the State Government U/s-5 of the Environment (Protection) Act, 1986 vide Notification no. 20949 dtd. 06.12.2005 of Forest and Environment Department Government of Odisha.

AND WHEREAS, based on the sitting criteria certificate, requisite documents and adequate consent fees, Consent to Establish under Section 25 of Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of Air (Prevention & Control of Pollution) Act, 1981 was granted by Regional Office, SPCB, Berhampur in favour of your Brick kiln unit vide Board's letter no. 385 dtd. 16.02.2016 for the production of Clay Kiln Bricks-20,000,00 Nos./Annum.

AND WHEREAS, Consent to Operate under Section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of Air (Prevention & Control of Pollution) Act, 1981 has been granted by Regional Office, SPCB, Berhampur to your Brick Kiln unit vide Board's letter no. 47 dtd. 05.01.2021 for the production of Clay Kiln Bricks-20,000,00 Nos./Annum valid upto 31.03.2024 subject to strict compliance of the consent conditions.

AND WHEREAS, as per direction of the Hon'ble NGT, EZ Bench, Kolkata dtd.24.02.2023 vide O.A.No.143/2022/EZ-International Human Rights Council Versus District Collector, Ganjam & Ors. a joint inspection was carried out on dtd.11.04.2023 in your presence and the following observations were made.

- i) The chimney and the trench area of brick kiln manufacturing unit (operational area) has been established and being operated since 2016 over Plot No. 1465 (Homestead Land) under Khata No.296/104 of an area Ac.0.300 dec.,(Kisam-Gharabari) & Plot No. 1466 (Homestead Land) under Khata No.296/108 of area Ac.0.150 dec., (Kisam-Gharabari) in Mouza-Gambhariguda, Tehsil: Sanakhemundi, Dist. Ganjam in lieu of Plot Nos. 1493 & 1494 under Khata No. 296/101, comprising of area Ac.0.230 as mentioned in sitting criteria certificate issued from the Collector and District Magistrate, Ganjam vide letter No. 432 dtd. 27.01.2016 in favour of Sri Kalu Charan Nayak.
- ii) Plot Nos. 1465 & 1466 (Homestead Land) of the Respondent No. 9 are adjacent to the Plot Nos. 1493 & 1494 under Khata No. 296/101 on which sitting criteria certificate was issued from the Collector and District Magistrate, Ganjam for establishment of Brick Kiln unit.

(P.T.O.)

iii) The other alleged Plot no. 1498/2541 under Khata No. 296/76 of area Ac.0.110 decimal (BilaKissam) was a vacant land and no industrial activities were carried out in that area observed during inspection (Copy of Inspection report is enclosed).

AND WHEREAS, the joint inspection report reveals that you have established and been operating the brick kiln unit since 2016 over Plot No. 1465 (Homestead Land) under Khata No.296/104 of an area Ac.0.300 dec.,(Kisam-Gharabari) & Plot No. 1466 (Homestead Land) under Khata No.296/108 of area Ac.0.150 dec., (Kisam-Gharabari) in Mouza-Gambhariguda, Tehsil: Sanakhemundi, Dist. Ganjam without obtaining valid sitting clearance certificate issued from the Collector and District Magistrate, Ganjam as per the sitting criteria fixed by the State Government vide Notification no. 20949 dtd. 06.12.2005 of Forest and Environment Department.Government of Odisha.

AND WHEREAS, you have also filed affidavit before the Hon'ble NGT in the above O.A. mentioning that establishment and operation of Fixed Chimney Brick Kiln unit is over Plot No. 1466, which belongs to Homestead land and for which no siting clearance certificate has been obtained from the competent authority.

AND WHEREAS, the Hon'ble NGT in their order dtd. 24.02.2023 further directed the Board and District Collector & District Magistrate, Ganjam to determine the environmental compensation against your unit which has been impleaded as the Respondent.No.9 in the above OA in the light of their observation made in the order.

AND WHEREAS, you have furnished the copy of representation which has been submitted to the District Collector & Magistrate, Ganjam vide letter no. Nil dtd. 19.04.2023 for amendment of sitting criteria issued vide letter no. 432 dtd. 27.01.2016 i.e. inclusion of Plot No. 1465 & 1466 in the sitting criteria certificate.

AND WHEREAS, show cause notice was issued to your unit vide Board's letter no. 1222 dtd 27.04.2023 for the violations observed during joint inspection conducted on 11.04.2023 in compliance to the order dtd. 24.02.2023 of the Hon'ble NGT, EZ Bench, Kolkata in the matter of O.A. No.143/2022/EZ-International Human Rights Council Versus District Collector, Ganjam & Ors. but you have failed to submit any reply to the said show cause notice although the stipulated period has already been over.

AND WHEREAS, you have not submitted amended Siting clearance certificate issued from the District Collector & Magistrate, Ganjam till date for the alleged site.

AND WHEREAS, you have not deposited the Environmental compensation amounting to Rs.1.50 lakhs as your unit has been categorized the defaulter brick kiln unit falling under category D as per order of Hon'ble NGT, EZB, Kolkata dtd.07.04.2016 passed in the matter of OA No.31/2015/EZ - Bishnu Prasad Misro v. State of Odisha & Ors since you have established and been operating the brick kiln unit over the plot without any siting clearance certificate issued by the Collector & DM, Ganjam as well as without valid consent to establish and operate from the SPC Board, although you have been asked to deposit the same vide Letter No1635 dtd 26.05.2023.

AND WHEREAS, you have established and been operating the brick kiln unit over the alleged plot without any siting clearance certificate issued by the Collector & DM, Ganjam as well as without valid consent to establish and operate from the SPC Board.

(P.T.O.)

AND WHEREAS, you are operating the fixed type Clay brick manufacturing unit without obtaining consent to establish/consent to operate of this Board as required under section 21 of the Air (PCP) Act, 1981 and Section 25 of the Water (PCP) Act, 1974.

NOW THEREFORE, by virtue of power conferred under section 31A of the Air (PCP) Act, 1981 and under section 33A of the Water (PCP) Act, 1974 and amendment made there under, you are hereby directed to close down your unit forthwith until you obtain consent to establish and consent to operate from the State Pollution Control Board, Odisha and report compliance to this office immediately. If you fail to close down the operation of your unit, action as deemed fit shall be initiated against you and your unit without further notice.

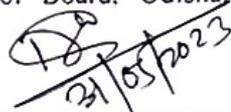

REGIONAL OFFICER

To

Sri Kalu Charan Nayak, Proprietor
M/s. Maa Kali Bricks
At.-Karakhandi, P.O.-Adapada
Dist. Ganjam (Odisha)

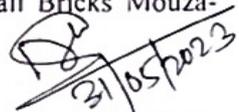
Memo No. 1702 Dtd 31/05/2023 /Regd. Post

Copy submitted to the Member Secretary, State Pollution Control Board, Odisha, Bhubaneswar for kind information.


REGIONAL OFFICER

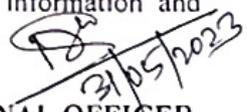
Memo No. 1703 Dtd 31/05/2023 /Regd. Post

Copy submitted to the Collector & District Magistrate, Ganjam, Chatrapur for kind information and necessary action. It is also requested to instruct the Tahasildar, Sanakhemundi and Inspector-In-Charge, Pattapur Police Station to ensure closure of M/s Maa Kali Bricks Mouza-Gambhariguda, Tahasil-Sanakhemundi, Dist- Ganjam.


REGIONAL OFFICER

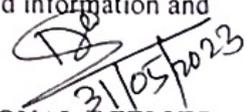
Memo No. 1704 /Dt. 31/05/2023 / Regd. Post

Copy forwarded to the Superintendent of Police, Berhampur for kind information and necessary action.


REGIONAL OFFICER

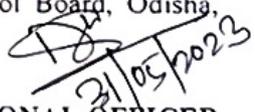
Memo No. 1705 /Dt. 31/05/2023 / Regd. Post

Copy forwarded to the Executive Engineer, TPSODL, Berhampur for kind information and necessary action.


REGIONAL OFFICER

Memo No. 1706 Dtd 31/05/2023 /Regd. Post

Copy forwarded to the Senior Law Officer-L-II, State Pollution Control Board, Odisha, Bhubaneswar for kind information.


REGIONAL OFFICER

Annexure - R3/6

CAMP OFFICE, SANAKHEMUNDI, GANJAM

Sub: - Compliance report of Sealing of M/s. Maa Kali Bricks, At-Gambhariguda, Tahasil- Sanakhemundi, Dist.- Ganjam

In pursuance to closure direction issued by the State Pollution Control Board, Odisha, U/S 33A of the Water (Prevention and control of Pollution) Act, 1974 and 31A of the Air (Prevention and Control of Pollution) Act, 1981 vide its letter no. 1701 dtd. 31.05.2023 and letter no. 2662 dtd. 15.07.2023 of the Collector & District Magistrate, Ganjam, Chatrapur and in continuation to the order of the Hon'ble NGT, EZ Bench, Kolkata in matter of O.A. No. 143/2022/EZ dtd. 24.02.2023, the following brick kiln manufacturing unit M/s. Maa Kali Bricks At-Gambhariguda, Tahasil- Sanakhemundi, Ganjam is sealed on 21.07.2023 at 4.00 PM by the following officers in presence of representative of the brick kiln unit as per the schedule of closure:

1. Chimney.
2. Trench Area.
3. Brick stack.

R.K. Sobari
Patapur PS.

IIC, Patapur

Bhu
21/7/23

Asst. Env. Scientist
SPCB, Odisha, Berhampur

Dea
21/07/23
Tahasildar
Sanakhemundi

Kalu Ch Nayak

Shri Kalu Charana Nayak, Proprietor

S/o- Jagili Nayak

M/s. Maa Kali Bricks.

At/P.O.- Gambhariguda, Sanakhemundi, Dist.- Ganjam

Annexure - R3/7 Colly

To

The Regional Officer
State Pollution Control Board, Odisha
Berhampur

SUB- (Deposited the Environmental Compensation of amount of RS. 1.5 Lakh against your order dtd. 24.02.2023 of the Hon'ble NGT , EZB in the matter of O.A No. 143/2022/EZ into your providing bank account details as per your vide letter no. 1635, dtd. 26.05.2023 .through NEFT on dtd. 21/07/2023)

REF - Your show cause notice issued under section 33A of water (Prevention and Control of pollution) Act.1974 and under section 33A of Air (Prevention and Control of Pollution) Act.1981 and amendment made thereunder vide letter no. 1222 dtd. 27.04.2023 .

Sir ,

I deposited the environmental compensation of amount of RS. 1.5 Lakh with regard to your letter no. 1222 dtd. 27.04.2023 as per order dtd. 24.03.2023 of the Hon'ble NGGT, EZB , Kolkata in the matter of OA No. 143/2022/EZ into your providing Bank account by your letter no.1635, dtd.26.05.2023 through NEFT on dtd. 21/07/2023. And the NEFT transaction No. UBINJ23202230768 , Date.21/07/2023 .

Account Details

A/C No. – 510101003978299

Maa Kali Bricks

Kalu Charan Nayak (Proprietor)

DT- 21.07.2023

Kalu ch. Nayak
Sri. Kalu Charan Nayak ,
Proprietor
M/S Maa Kali Bricks
AT- Karakhandi , PO- Adapada
District - Ganjam

*ARs (BKS)
Plz fund it to the
H.O*

*[Signature]
21/7/23*

*[Signature]
21/7/23*

STATE POLLUTION CONTROL BOARD ODISHA REGIONAL OFFICE BERHAMPUR	
DATE	21 JUL 2023
RECEIVED	
NO	1308
DT	

MONEY RECEIPT



STATE POLLUTION CONTROL BOARD, ODISHA

BHUBANESWAR - 751012

No. 28083

Book No. 1081

Date 01-02-24

RECEIVED from Maa Kali Bricks, Sanakhemundi Tahasil
Garjam,by B.D./Cheque/Cash NEFT at Canara Br., dt-21-7-23Rupees One Lakh Fifty thousand only.towards Env. Comp. Penalty imposed from Bricks.

₹	1,50,000/-
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[Signature]
 Accounts Officer/Accountant
 01-02-24