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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO.- 11 OF 2025**

**IN THE MATTER OF:**

ARUNA KUMAR JENA AND OTHERS                      **APPLICANTS**

VERSUS

STATE OF ODISHA AND ORS                      **RESPONDENTS**

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PLACE: Bhubaneswar

DATE: 18/03/2026

SANKAR PRASAD PANI

ASHUTOSH PADHY

ADVOCATE

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**STATE OF ODISHA AND ORS**

**RESPONDENTS**

**REJOINER AFFIDAVIT ON BEHALF OF APPLICANT TO THE REPLY FILED**

**BY RESPONDENT NO.-15.**

**IT IS MOST RESPECTFULLY SHOWETH**

I, Subash Chandra Jena, S/o- Sukadev Jena, Aged about 61 years, At Kanpur, Po-Thannual, Dist- Jajapur, Pin- 755024, do hereby solemnly affirm, and declare That I am one the applicants in the above-mentioned Original Application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit,

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1. That the original application was filed challenging the illegal operation of Road Metal Quarries in BAJABATI BSQ 3 and 5 (CLUSTER SL NO.3) under Dharmasala Tahasil of Jajpur district in Odisha.
2. That the applicants along with the villagers made a public complaint to all the concerned authorities on dated **02/12/2024** and the same was sent through email on dated 03/12/2024 but action was taken only **on 29<sup>th</sup> December 2025** by **SEIAA** in terms of suspension of EC, thereby suggesting inaction on the part of State Respondents and regulatory Authorities despite of complaint and clear evidence of violation of EC and CTO conditions.
3. That when the concerned authorities did nothing even after receipt of the complaint of the villagers, the present applicants have filed the present OA and on dated **23/01/2025** hon'ble Tribunal issued notice to all the respondents to file replies to the allegations raised by the applicants and directed all the respondents to file their counter affidavit within four weeks. That the Respondent 11(MoEFCC) in their affidavit said that the entire issue is to be dealt by SEIAA Odisha.
4. That the 09/07/2025 Deputy Director of Mines Jajpur Circle (Respondent No. 15) filed one affidavit wherein he has attached one assessment report (page 425 onwards) wherein in the conclusion part it is categorically



mentioned that *“The survey conducted on dated 22.02.2025 and the analysis reveals that the excavation has exceeded the admissible depth of 6 meters and it is observed that the excavation has been carried out in the "Mining Restricted Area" as mentioned in the approved mining plan (Ref. Plate No. IV) in respect to Bajabati Black Stone Quarry-3”*. It is further submitted that in the same report it is also clearly mentioned that *“The survey conducted on dated 22.02.2025 and the analysis reveals that the excavation has not exceeded the admissible depth of 6 meters, However, it is observed that the excavation has been carried out in the "Mining Restricted Area" as mentioned in the approved mining plan (ref. plate No IV) in respect to Bajabati Black Stone Quarry-5”*. That from the above-mentioned observation, it is crystal clear that the private respondent use to operate the quarry in violation of the environmental clearance conditions from the very beginning and the permit granting agencies such as DDM, Tahasildar, SEIAA, SPCB have not taken action.

5. It is not out of place to mention here that as per the Rule 37 of **Odisha Minor Mineral Concession Rules 2016**, the depth of the **quarry below the surface shall not exceed six meters**, however in the present case the DDM allowed the project proponent to operate the quarry even after the maximum

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permissible depth of 6 meters. Relevant portion of OMMC Rules 2016 is reproduced as follows,

37. Conditions of quarry permit:— (1) The holder of a quarry permit shall obey the following conditions, namely:—

(a) **The depth of the quarry below the surfaces shall not exceed six meters;**

6. It is pertinent to mention here that the Deputy Director of Mines Jajpur Circle (Respondent No. 15) on dated **27/01/2025** issued one letter to M/S TKS Consultancy Services (page 326) **for Joint assessment of unauthorized extraction of minor minerals (black stone) from the safety zone of Bajabati BSQ-3 & Bajabati BSQ-5** under Tahasil Dharmasala of Jaipur district and again on dated **10/02/2025** issued another letter to file the assessment report(Page No.324), however the final report was filed by the Respondent No. 15 only on **8<sup>th</sup> Dec2025** which suggests the DDM is trying to delay the proceedings.
7. That the Deputy Director of Mines Jajpur Circle on dated 07/05/2025 issued one letter to the Chief Executive of Odisha Space Application Centre, (ORSAC) to check the authenticity of the report prepared by M/S TKS Consultancy Services and the **ORSAC also confirmed the mining in**

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**restricted zone** vide its letter dated 03/09/2025 (Page No. 497-498) but no action taken against the Pvt Respondent

8. That after obtaining the confirmation from ORSAC the Deputy Director of Mines Jajpur Circle on dated 07/05/2025 (Page No. 499) issued one letter to the Member Secretary SEIAA, Odisha to take necessary action against the lessee for violation of Environmental Clearance Conditions and Mining Plan conditions. Instead of issuing stop mining operation the **DDM tries to shift the responsibility** to other authorities.
9. It is not out of place to mention here that during pendency of the matter **quarry permit of the Respondent No.14 expired** on dated **12/10/2025** for both the quarries i.e Bajabati BSQ-3&5, however even after expiry of quarry permit the lessee use to extract stones from the quarry in question, photographs dated 22,24,25,31<sup>st</sup> of October 2025 of the quarry in question also suggests the lessee use to carry out mining after expiry of the quarry permit. Photographs dated 22,24,25,31/10/2025 suggesting ongoing mining activity in absence of valid quarry permit are annexed at Annexure-2 of the IA 94/2025 page 525-531 of the paper book. **But no prosecution has been initiated against the private respondent for operating without permit.**
10. It is further submitted that the State Pollution Control Board is a monitoring and regulatory body who use to regulate and monitor the compliance of the

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CTO and CTE issued by them but in the present case the SPCB (Respondent-6 &7) **use to renew the CTO without verifying the compliance of previous granted CTO. This act of SPCB amounts to dereliction of duty and suggest hand in glove with the private respondent.**

11.It is needless to state that the Deputy Director of Mines has issued the first mining permit in the month of September 2024 which was valid from **25-09-2024 to 24-12-2024**. That the **first permit was expired on 24-12-2024** and thereafter the mining department has a duty / obligation to assess the quantity of stone extracted prior to grant of subsequent quarry permit but in the present case without assessing the quantum of extracted materials the Deputy Director of Mines renewed the **quarry permit from 13/01/2025 to 12/10/2025**, which clearly indicates the latches and failure to discharge his responsibility and further allowing the quarry operator to extract/operate the mines without ensuring the compliances of permit conditions/ Environmental Clearance conditions/ Consent To Operate conditions.

12.It is most humbly submitted that as per the Rule 36 of Odisha Minor Mineral Concession Rules 2016, the period of a quarry permit shall not exceed three months at a time. However in the present case the DDM has renewed the

&amp;

quarry permit for 9 months, which is valid from **13/01/2025 to 12/10/2025**.

Relevant portion of OMMC Rules 2016 is reproduced as follows,

**“36. Duration of quarry permit:—The period of a quarry permit shall not exceed three months at a time.”**

13.It is further submitted that the lessee was operating the quarry without having valid permit from the mining department photographs dated 27/12/2024 TO 09/01/2025 suggesting the lessee use to operate the quarry without valid permit. Copy of the photographs dated 27/12/2024 to 09/01/2025 suggesting the lessee use to operate the quarry without valid permit is annexed at annexure-3 of IA 94/2025, page 532-538 of the paper book.

14.Similarly the SEIAA authority has also a duty to monitor the compliance of EC conditions which they have failed to do in the present case. That on dated 02/12/2024 a public complaint has made to the SEIAA authorities despite of that no inquiry has been made in respect of the allegations made in the public complaint and further the SEIAA authority suppose to verify the compliance report filed by the Project proponent, however in the present case neither the project proponent has filed the compliance report nor the SEIAA authority has taken any action for non-filing of the compliance



report. This is in clear violation of Judgement in Sandeep Mittal passed by Honble NGT in addition to the EC conditions.

15. It is further stated that the project proponent is supposed to file quarterly environmental compliance report and as on date no such environmental compliance report has been filed by the project proponent of Bajabati BSQ 3 and 5 for which the EC is liable to be revoked for the breach of EC condition No. 2.23 which states that ***“The conditions stipulated in the environmental clearance will be closely monitored on the ground by the lease granting authority, i.e. the Tahasildar/ Mining Officer, who shall ensure compliance of the stipulated conditions and take corrective measures promptly in case of any non-compliance and also ensure that the project proponent submits quarterly compliance reports.”*** But as on date no stringent action has been taken against the PP for non compliance of the EC condition therefore the approach of the SEIAA authority by abdicating its own responsibility may be taken seriously by Hon’ble Tribunal and the SEIAA authority may be show caused for the negligence/ failure to discharge its responsibility and violations of the directions of the Hon’ble Tribunal.

16. It is surprising to note that the minable quantity has not been reduced despite of reduction in mining lease area and for which the working area of the lease

has been further reduced. So it is surprise to find that the quantity of the minerals to be extracted have been fixed as same is practically impossible and clearly non application of mind by the RQP who have prepared the Mining Plan as well as the approving authority Deputy Director of Mines.

17. That the DDM has filed one affidavit on dated 05/04/2025 which does not deal with the quantity of excavation and is absolutely an eye wash to delay the whole proceeding before this hon'ble Tribunal. The filing of reports in bits and pieces by the DDM clearly indicates its failure to discharge the statutory obligation and lack of respect to the proceeding before this Honble Tribunal. The DDM should have come put with clear report on breach of conditions, depth of quarry and total quantity extracted soon after the Notice issued in January 2025.

18. Prima facie the quarry was operating in violation of CPCB guideline suggesting 200 meter minimum distance from residential/ public buildings, inhabited sites, protected monuments, Heritage sites, National/State Highway, District roads, public roads, Railway line/area, Ropeway or Ropeway trestle or station, Bridges, Dam, Reservoirs, river, Canals, lakes or Tanks. In the present case the following public roads are within 200 meter from the quarry,

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| Sl No. | Name of the Road         | Distance from the Quarry   |
|--------|--------------------------|----------------------------|
| 1      | Nakpol- Mandia R&B road  | Approximately 190.84 meter |
| 2      | Kanpur- Bajabati RD road | Approximately 200 meter    |
| 3      | Village Road Bajabati    | Approximately 115 meter    |
| 5      | Idco Road                | Approximately 96 meter     |

Copy of the google earth image suggesting the distance of the roads from the quarry is annexed at annexure-4 of the IA 94/2025, page 539 of the paper book. That one Snake bridge is within of 500 meters from the quarry area. These issues have not been considered while filing the reply by DDM

**19. It is not out of place to mention here that the assessment of the minerals excavated was conducted on dated 06/11/2025, however the mining has been done by the lessee till 29/12/2025. Hence from 06/11/2025 to 29/12/2025 the quantity of minerals excavated needs to be assessed.**

20. It is not out of place to mention here that in the EC letter there is a stipulated condition which says that, “2.20 Reclamation & Restoration:-Pursuant to MoEF & CC, O.M No 22-34/2018-1A.III dated 16.01.2020 and in compliance to the directions dated 8th January 2020 of Hon'ble Supreme Court in W.P. (Civil) No.114/2014 in the matter of Common Cause vs Union

*of India, the mining lease holder shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to other mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. The Project Proponent shall submit a detailed plan of action in this regard to Tahasildar/Mining Officer within six months, indicating definite timelines and physical outcomes for the reclamation & restoration of the mined-out area. The Tahasildar/ Mining Officer shall submit a compliance report to SEIAA, Odisha at the end of lease period.”* **However in the present case the restoration and reclamation of the quarry in question have not taken place as on date.**

21. It is further submitted that there has been **no assessment of quantity of over burden and topsoil if available at designated site however more than 10% of the total excavation were being treated as over burden** and has **not been corroborated with the existing over burden and top soil**. Let the Respondent No. 15 place on record the **quantum of top soil and over burden stacked** and existing at the designated site as per the approved mining plan.

22. That despite of no permission to dewater from the quarry, the Pvt respondent continued to do so in violation of EC conditions.

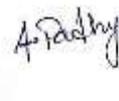
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Photographs of Pumps used to dewater have been annexed in OA. This also indicates the quarry has reached ground water level much before and it continued to operate illegally. Dewatering was not limited to Monsoon season but continued even in post Monsoon and summer.

23. That the Tahasil/Mining authorities have obligation to ensure implementation of laws & entrusted to protect govt. assets but in this case the concerned authorities have grossly failed to discharge their duty. They never filed any complaint or filed any FIR U/s 379 & 414 (under old laws) and relevant sections in new laws with police station or exercise their power to desist an offender from unauthorized extraction of minor minerals rather supported it to continue such illegal lifting of minor minerals by becoming mute spectator.
24. It is further submitted that as of now no environmental compensation has been computed despite clear findings of excess mining, mining in restricted zone, and violation of other environmental clearance conditions.

PLACE; BHUBANESWAR

DATE- 18/03/2026



APPLICANT THROUGH  
ADVOCATE

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STATE OF ODISHA AND OTHERS....

RESPONDENTS

AFFIDAVIT

18 MAR 2025

I, Subash Chandra Jena, S/o- Sukadev Jena , Aged about 61 years, At - Kanpur, Po-Thannual, Dist- Jajapur, Pin- 755024,do hereby solemnly affirm, and declare as under:

1. That I am one the applicants in the above mentioned Original Application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

That I have read over the contents of the accompanying affidavit and the same is true and correct and is drafted on my instruction.

*Subash Ch Jena*

DEPONENT

VERIFICATION

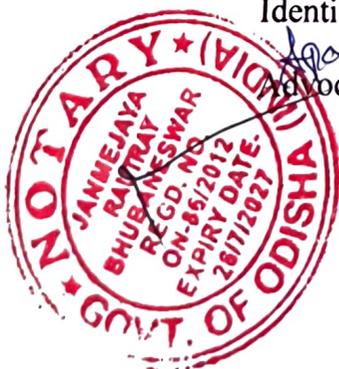
Verified on this 18 MAR day of 2025 at BBSR that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Identified By

*Subash Ch Jena*  
Advocate

*Subash Ch Jena*

DEPONENT



The above named deponent...  
Identified by Sri...  
Advocate: *Subash Ch Jena*  
Appears before me on...  
at...A.M./P.M. ...  
I do solemnly swear / the contents of this affidavit are true to the best of his / her / their knowledge and belief  
Notary, *Subash Ch Jena*  
REGD. NO. ON-86/2012  
Mob No-7978581217



Sankar Pani &lt;sankarprasadpani@gmail.com&gt;

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**Rejoinder affidavit on behalf of Applicant to the Reply filed by Respondent No-15.**

1 message

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**Sankar Pani** <sankarprasadpani@gmail.com>

Thu, Mar 19, 2026 at 10:39 AM

To: officeoframanyadav@gmail.com, gigicgeorge.adv42@yahoo.in, Anamika Pandey <legumjure@gmail.com>, Ashok Prasad <Ashokadvhc@gmail.com>, Sibojyoti Chakrabarti <subho.advocate@gmail.com>, Rashmi Bothra <rashmibothra24@gmail.com>, Papiya Banerjee Bihani <pbanerjeebihani@gmail.com>, adv.adityaaa@gmail.com

Dear Sir/Madam, please find the attachment.

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