

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)

OA No. 51/2021(EZ)

IN THE MATTER OF: -

Satrughana Jena -----Applicant(s)

Vrs

State of Odisha & Ors. ----- Respondent(s)

M
Pradeep
* Sr. Maralidhar Sahu
Notary of Advocate
Govt. of Odisha
Bhubaneswar-
Regd. No.-76/2012
Ph:-9437089224

Affidavit on Behalf of the State Environment Impact Assessment Authority (SEIAA), Odisha (Respondent No-5) Before The Hon'ble National Green Eastern Zone Bench, Kolkata (Through Video Conferencing)

I, Dr. Pradeept Kumar Nayak S/o-Bhimasen Nayak at present working as Environmental Scientist, State Environment Impact Assessment Authority, Odisha do hereby solemnly affirm and state as follows.

1. That, I have gone through the original application and joint verification report made by committee on dtd. 31.07.2021 as per direction of Hon'ble NGT on dated 01.07.2021 and annexures appended thereto and understood the contents thereof. I am well acquainted with the facts of the case and the relevant official records. Any contention, allegation or averment not dealt with in the present affidavit shall be construed as denied.
2. That, as regards to the averments made in the Para-1 to Para-2 of O.A, it is humbly submitted that the following points are as follows:
 - a. The mine was lease executed on 27.12.2013 for the period 01.04.2013 to 31.03.2014 and further lease was executed on 25.08.2016 for the term of 03 years (three) i.e. till 2016-17 to 2018-19 and lease

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expired on 31.03.2019, since 31.03.2019 the quarry is not operating condition. Again a fresh lease was issued in favour of the successful bidder vide letter no. 1464 dt. 19.03.2021 and accordingly EC was issued by SEIAA, Odisha vide letter no. 03/SEIAA dt. 07.01.2021 and then CTO but still the lease is not operated due to some allegation made nearby villagers.

- b. The nearest villages are located 500m away from the said stone quarry.
- c. As per the peripheral condition it reveals that earlier the quarry was covered with some plant species mostly herbs and a few number of tree species.
- d. There is a Sata Dhangudi Hill which is a worship place of local villagers and is located just opposite to the site of quarry operation area. The local people are worshipping the seven stones which are located on top up the hill and are called Sata Dhangudi.
- e. During inspection, air pollution is not seen as the mining activity has expired and not in operating condition. The local people have not informed about the serious air pollution issues, except high noise during blasting when it was in operation.

That, as regards to the averments made in the Para-3 to O.A, it is humbly submitted that the following points are as follows:

- i. During inspection the committee members have not seen a single monkey, parrots, sarus crane and peacocks which were in abundance in this area.
- ii. There is no temple is situated in the hill but the local people worship the seven stones which are located top up the hill is called Sata Dhangudi. Out of seven stones one has already fallen down from the original place but it is not



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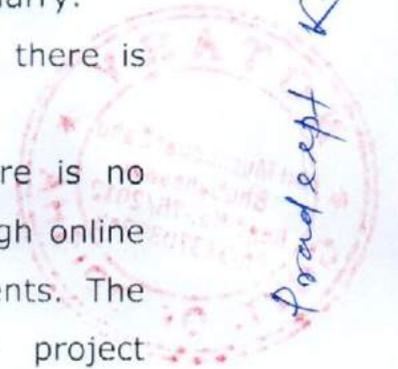
clear that it was due to blasting or some other cause.

4. That, as regards to the averments made in the Para-4 of O.A, it is humbly submitted that the following points are as follows:

- i. It is stated that the Project proponent (PP) has obtained earlier Environmental Clearance from SEIAA vide letter no.9175/SEIAA dtd. 03.01.2014.
- ii. Then the PP has obtained EC from DEIAA, Ganjam vide letter no.1353/DEIAA dtd. 14.07.2016.
- iii. Recently the PP has obtained EC from SEIAA vide letter no. 03/SEIAA dtd. 07.01.2021 and accordingly Consent to Operate was issued by SPCB for the period valid up to 31.03.2025. But after 31.03.2019 the Tahasildar has not issued any permission as already he received some complaints regarding the said quarry.
- iv. During inspection it was found that there is pillar posting and sign board.
- v. As it is a B2 category project there is no provision to apply the proposal through online method along with required documents. The online application for B2-category project proposal is under process at Ministry level.

5. That, as regards to the averments made in the Para-5 of O.A, it is humbly submitted that during inspection the committee has not observed any wild animal movement in the quarry area.

6. That, as regards to the averments made in the Para-6 of O.A, it is humbly submitted that the information provided by the ACF, Parlakhemundi vide letter no. **2773** dtd. **02.08.2021** it can reveals that the distance from the said stone quarry to Chnadrhiri R.F is 6km which is part of Eco-Sensitive Zone of Lakhari Wild Life Sanctuary. The



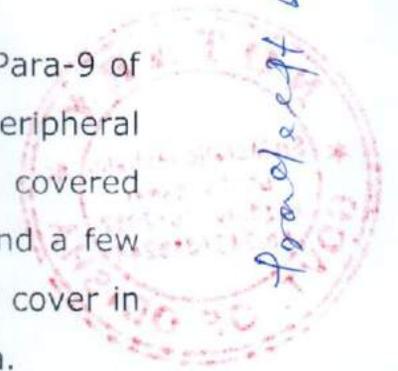
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Eco-Sensitive Zone of Lakhari Wild Life Sanctuary is in draft stage so, by default the ESZ will be 10 Km from the stone quarry in this case. As the quarry will come under ESZ of Lakhari Wild Life Sanctuary which is not permissible to operate quarry without clearance from Standing Committee of the National Board for Wildlife prior to its operation.

7. That, as regards to the averments made in the Para-7 of O.A, it is humbly submitted that the Patiguda stone quarry has been closed on 31.03.2019 after the expiry of lease period. The villages are located beyond 500 mts of the stone quarry. There has been no report regarding damage of houses during operation period of the quarry.
8. That, as regards to the averments made in the Para-8 of O.A, it is humbly submitted that during inspection by the Regional Office, State Pollution Control Board, Berhampur on 28.06.2021, it was observed that the Pattiguda stone quarry was not in operation and no activities were carried out. It was also ascertain by the Revenue Inspector, Podamari Revenue Circle during inspection that the unit is not in operation since 31.03.2019.

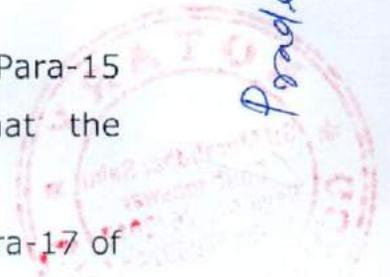
9. That, as regards to the averments made in the Para-9 of O.A, it is humbly submitted that as per the peripheral condition, it reveals that the quarry would be covered earlier with some plant species, mostly herbs and a few number of tree species. Now, the there is green cover in other parts of the hill, except the excavation area.

10. That, as regards to the averments made in the Para-10 of O.A, it is humbly submitted that during inspection it was found that there are two other stone quarry which are 750 m away from the Patiguda Stone Quarry was illegally excavated around 2 years back as it reveals from peripheral circumstances and also informed by local villagers along with petitioner through unauthorized but not know by whom.



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11. That, as regards to the averments made in the Para-11 of O.A, it is humbly submitted that there is no morrum quarry was located near the said stone quarry area.
12. That, as regards to the averments made in the Para-12 of O.A, it is humbly submitted that the Stone quarry is meeting the distance criteria of CPCB w.r.t. blasting as per the order dated 28.02.2020 of the Hon'ble NGT in the O.A. No. 304/2019.
13. That, as regards to the averments made in the Para-13 of O.A, it is humbly submitted that the quarry was inspected by the officials of this Regional Office, State Pollution Control Board, Berhampur on 28.06.2021 and the quarry is found in closed and non operational condition. As informed by the Revenue Inspector, Podamari RI Circle, Sanakhemundi, the unit is not in operation since 31.03.2019.
14. That, as regards to the averments made in the Para-14 para-16 of O.A, it is humbly submitted that all villages, road and other infrastructure are located 500m away from the quarry, so it has not violated the distance criteria issued by CPCB.
15. That, as regards to the averments made in the Para-15 para-16 of O.A, it is humbly submitted that the Respondent has nothing to comment.
16. That, as regards to the averments made in the Para-17 of O.A, it is humbly submitted that there is a Stone Crusher located around 1km away from the stone quarry. There is no EC condition given in EC that no stone crusher will be allowed within 1km from the stone quarry.
17. That, as regards to the averments made in the Para-18 of O.A, it is humbly submitted that the Project Proponent has not submitted earlier EC compliance report on the half yearly basis.
18. That, as regards to the averments made in the Para-19 of O.A, it is humbly submitted that the Respondent has nothing to comment.



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19. That, as regards to the averments made in the Para-20 of O.A, it is humbly submitted that the PP has obtained valid EC, CTO and approved mining plan.
20. That, as regards to the averments made in the Para-21 of O.A, it is humbly submitted that during inspection some local villagers complaint to the inspection team regarding cracking in house wall.
21. That, as regards to the averments made in the Para-22 of O.A, it is humbly submitted that the Respondent has nothing to comment.
22. That, as regards to the averments made in the Para-23 of O.A, it is humbly submitted that the Respondent has nothing to comment.
23. That, as regards to the averments made in the Para-24 to para-25 of O.A, it is humbly submitted that the Respondent has nothing to comment.
24. That, as regards to the averments made in Para-12 of Hon'ble NGT order dated 01.07.2021, it is humbly submitted that the following points are as follows:
 - a. The said stone quarry was operated from 27.12.2013 to 31.03.2019 with valid EC and CTO. As the source is not operational since 31.03.2019 and villagers and petitioners were present alleged that the quarry was operated after expire of lease period. In this regards a FIR is lodged by the Tahasildar, Sanakhemundi in order to identify the persons who have illegally extracted stone from the said source beyond the lease period. The committee has advised the Tahasildar to quantify the quantum stone illegally excavated and accordingly recover royalty/penalty but still it is pending at District Administration end.
 - b. During inspection, it was found that there are two other stone sources over two other plots which are located around 750m away from the Patiguda Stone Quarry and stone has been found to be illegally excavated by some unknown persons as informed by



Pradip Kumar Nayak

villagers. The sources are not included in the DSR and no EC/ CTO has been issued for any other quarry near Patiguda stone quarry. The committee also suggested to quantifying the quantum of stone illegally excavated from two quarries by Mining officer but still it is pending at District Administration end.

- c. There has been no visible environmental degradation caused on account of stone quarrying in Patiguda stone quarry. During the operation period of the quarry the lessee has obtained valid EC & CTO from the competent Authorities. However, the royalty, penalty and other dues will be recovered after identification of the person involved in the illegal stone mining and the quantum of stone excavated.
- d. As per the information provided by the ACF, Parlakhemundi vide letter no. **2773** dtd. **02.08.2021** it can be revealed that the distance from the said stone quarry to Chnadragiri R.F is 6km which is part of Eco-Sensitive Zone of Lakhari Wild Life Sanctuary. The Eco-Sensitive Zone of Lakhari Wild Life Sanctuary is in draft stage so, by default the ESZ will be 10 Km from the stone quarry in this case. As the quarry will come under ESZ of Lakhari Wild Life Sanctuary which is not permissible to operate quarry without clearance from Standing Committee of the National Board for Wildlife prior to its operation. The SEIAA, Odisha has issued revocation of EC of Patiguda Stone Quarry vide letter no. 2078/SEIAA dtd. 07.08.2021 as it is coming Eco-Sensitive Zone of Lakhari valley Wildlife Sanctuary.
- e. The project proponent had obtained valid EC and CTO from Competent Authorities for the lease period.
- f. In the meanwhile, a FIR has been filed by Tahasiladr, Sanakhemundi vide letter no. 3311 dtd. 02.08.2021,



Pradeep Kumar Nayak

towards illegal stone mining beyond the date of expiry of lease period in Patiguda Mouza.

25. That, the facts stated above are true to my knowledge, based on available official records and joint verification report and the rest are humble submissions before the Hon'bleNGT Easter Zone Bench, Kolkata.

Identified by



Advocate

Praadep Kumar Nayak

Deponent

VERIFICATION

Verified at Bhubaneswar on this day of -----
that the contents of the above affidavits are true and correct on the basis of the records maintained by the respondent in the daily course of its business, no part of it is false and nothing has been concealed therefore.

Place: Bhubaneswar

Date: *24/8/2021*

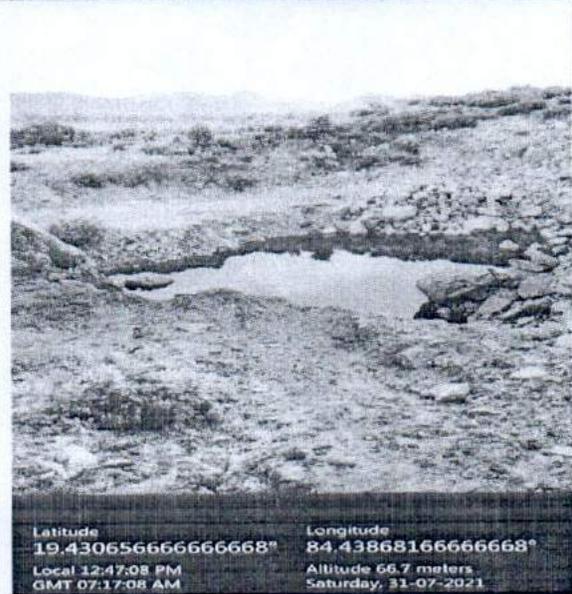
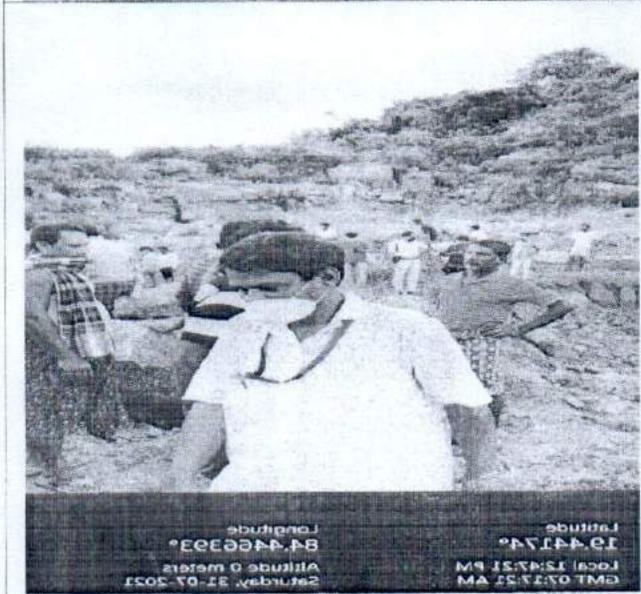
Praadep Kumar Nayak

Deponent

Sri Muralidhar Sahu
Notary of Advocate
Govt. of Odisha
Bhubaneswar 75
Regd. No.-76/2012
Ph:-9437089248



Latitude 19.429396666666666° Longitude 84.43663166666666°
Local 12:38:33 PM Altitude 57.5 meters
GMT 07:08:33 AM Saturday, 31-07-2021



Latitude 19.429396666666666° Longitude 84.43663166666666°
Local 12:47:08 PM Altitude 66.7 meters
GMT 07:17:08 AM Saturday, 31-07-2021

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**State Environment Impact Assessment Authority, (SEIAA),
Odisha**

5RF-2/1, Unit - IX, Bhubaneswar - 751022, Tel: 0674-2541029

No. 2078/SEIAA

Dt. 07.08.2021

To

The Tahasildar, Sanakhemundi,
Tahasil -Sanakhemundi
Dist -Ganjam

Sub: Revocation of Environmental Clearances of Pattiguda Stone Quarry over an area of 9.125 acres or 3.6928 ha. at village Pattiguda, Tahasil-Sanakhemundi, Dist-Ganjam of Tahasildar, Sanakhemundi - reg.

Ref: This office EC letter no 03/SEIAA dated 07.01.2021.

Sir,

In inviting a reference to the above cited subject, it is to inform you that the Environmental Clearances have been granted by SEIAA to the above mentioned stone quarry of Pattiguda village as per the application & based on information submitted by the Tahasildar, Sanakhemundi of Ganjam District vide letter no. 3039/Sairat dated 05.08.2020.

Basing on the appraisal of the information submitted in the documents by the Project Proponent (Tahasildar), the State Expert Appraisal Committee (SEAC) had recommended for Environmental Clearance and State Environment Impact Assessment Authority (SEIAA) had granted Environmental Clearances to the above said stone quarry on the recommendation in pursuance of the provision of EIA Notification, 2006.

It has been brought to the notice of SEIAA vide letter no. 2773/4F dated 02.08.2021 of Divisional Forest Officer, Paralakhemundi Division that the Tahasildar while submitting the application vide letter no. 3039/Sairat dated 05.08.2020 had suppressed the information regarding the exact distance of the quarry from the Lakhary Valley Wildlife Sanctuary and the quarry is coming within 10km of Sanctuary boundary. This was also brought to the notice of the joint verification committee constituted in obedience to order of Hon'ble NGT vide order dated 01.07.2021 in OA No. 51/2021/EZ that the quarry is located at a distance of 6 km away from the Sanctuary boundary.

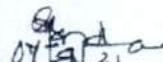


Prior approval of NBWL is required for operating the stone quarry, which has not been obtained in this case.

As the EC was granted based on the wrong information suppressing the vital facts furnished by the Tahasildar, SEIAA, Odisha hereby revokes the Environmental Clearances granted earlier vide letter no. 03/SEIAA dated 07.01.2021 to the above said stone quarry with immediate effect under the Provision of EIA Notification, 2006 and Environment Protection Act, 1986.

Any appeal against this order shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under section 16 of the National Green Tribunal Act, 2010.

Yours faithfully,


07/08/21
Member Secretary

Memo No 2079/SEIAA /Dt. 07.08.2021

Copy to

1. Additional Chief Secretary, Forests & Environment Dept., Government of Odisha for information.
2. Member Secretary, State Pollution Control Board, Odisha, Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-8, Bhubaneswar for information.
3. Member Secretary, SEAC, Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-VIII, Bhubaneswar for information.
4. Deputy D.G Forest., Regional Office (EZ), Ministry of Environment & Forests, A-31, Chandrasekharpur, Bhubaneswar for information.
5. Principal Secretary, Revenue and DM Department, Govt. of Odisha Bhubaneswar for information.
6. The Collector, Ganjam and Sub-Collector, Chhatrapur, Dist-Ganjam for information and necessary action.
7. Guard file for record.


07/08/21
Member Secretary



OFFICE OF THE
COLLECTOR & DISTRICT MAGISTRATE
GANJAM, CHATRAPUR



Revenue Section
Email ID: dist_ganjam@yahoo.in
dm-ganjam@nic.in

Letter No. 2778 / Rev

Dated: 12.08.2021

To

**Sri Janmejy Katikia,
Addl. Govt. Advocate,
O/O the Advocate General, Odisha, Cuttack**

Sub:- Submission of joint enquiry report as per the order dated 09.08.2021 in connection with original Application No. 51/2021/EZ filed by Satrugana Jena Vrs. State of Odisha & Others.

Sir,

Inviting a kind reference to the subject cited above and as per **Para. 4** of order of Hon'ble NGT dated **09.08.2021**, I am to submit herewith the report of the committee as framed by the Hon'ble NGT in the said matter. This may kindly be apprised to the Hon'ble Court within due time.

In view of the above, I am deputing the Tahasildar, Sanakhemundi for submission of the said report before you on behalf of Collector, Ganjam.

This is for your kind information and appropriate action please.

Yours faithfully,

**DISTRICT MAGISTRATE,
GANJAM, CHATRAPUR**

Memo No. 2779 / Rev.

Dated. 12/08/2021

Copy forwarded to the Tahasildar, Sanakhemundi for information and necessary action. He is directed to proceed to Office of the A.G. Odisha, Cuttack for submission of the joint enquiry report to the engaged Special Counsel on 13.08.2021.

**DISTRICT MAGISTRATE,
GANJAM, CHATRAPUR**

Joint verification report in the matter of Satrughna Jena Vs State of Odisha & Ors of NGT O.A No. 51/2021/ EZ KOLKATA order dated 01.07.2021

1.0 Background:

With reference to Hon'ble NGT order dated 01.07.2021 directed at serial number 12 in the matter of O.A. No. 51 of 2021 (EZ) filed by Sri Satrughna Jena Vs Sate of Odisha & Others, it was directed to "*constitute a joint committee comprising of following members i.e. the District Collector, Ganjam, Senior Scientist from OSPCB, Senior Scientist from SEIAA, Odisha and Senior Scientist from Integrated Regional Office of MoEF & CC, Bhubaneswar. The SEIAA, Odisha is the Nodal Officer for the case and the committee shall submit its report based on the allegation mentioned the O.A.*"

In view of the said order, a team consisting of the following members: *The District Collector, Ganjam, Senior Scientist from SPCB, Ganjam, Senior Scientist from SEIAA, Odisha and Senior Scientist from Integrated Regional Office of MoEF & CC, Govt. of India,* visited the area to look into the matter on **31.07.2021**. The petitioner was also present during the joint inspection.

2.0 Present Status of the allegation against the stone quarry: As per the order of the Hon'ble NGT(EZ) dated 1-7-2021 directed at serial number 12.

The committee made assessment of the present status of allegation against the Stone quarry granted in favour of Sri Santosh Kumar Bisoyi, S/o-Subash Bisoyi, At-Jani Street, Podamari, Ganjam and the observations against each aspect of the order is recorded as below:

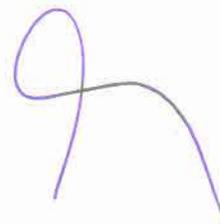
Sl. No	Aspects	Observation
a.	The committee will enquire into the excess mining over and above 1080 CM per annum by Respondent No.10 in the mine which has got Environmental Clearance (EC).	<ul style="list-style-type: none"> • At the first instance, the quarry lease was executed on 27.12.2013 for the period from 01.04.2013 to 31.03.2014. • Further, the lease was extended for a period of 3 years from 25.08.2016 and the lease validity expired on 31.03.2019. • Since 31.03.2019 the quarry has not been operational. • As the source is not operational since 31.03.2019, a FIR is lodged by the Tahasildar in order to identify the persons who have illegally extracted stone from the said quarry beyond the lease period from 31.03.2019. • The Committee has advised the Tahasildar to pursue the matter with the police in order to identify the persons involved in the illegal extraction and to recover the royalty and other dues as applicable from the defaulter.
b.	The Committee will enquire the illegal stone mining going on within 7 acres of land adjoining to the legal mining area which is alleged to be operating without EC/Consent to operate (CTO).	<ul style="list-style-type: none"> • During inspection by the committee, it was found that there are two other stone sources over two other plots which is located around 750 m away from the Patiguda Stone Quarry and stone has been found to be illegally excavated by some unknown persons as informed by the villagers. • These sources are not included in the DSR. • No EC/CTO has been issued for any other quarry near the Patiguda stone quarry. • These plots beyond the erstwhile leased quarry have also been included in the FIR filed by the Tahasildar.
c.	The Committee will assess the environmental degradation caused on account of illegal stone mining and loss caused to the Govt. exchequer and also calculate the environmental compensation, if violation is found in both the mines.	<ul style="list-style-type: none"> • There has been no visible environmental degradation caused on account of stone quarrying in Patiguda stone quarry. • During the operational period of the quarry, the lease holder had obtained EC and CTO from the competent authorities. • However, the royalty, penalty and other dues as applicable under the OMMC rules will be recovered by the Tahasildar after identification of the persons involved in the illegal stone mining after due enquiry from police side.
d.	The Committee will also record whether the alleged illegal mining is within the eco-sensitive zone of the Lakhari Valley Sanctuary.	<ul style="list-style-type: none"> • As per the information provided by the ACF, Parlakhemundi vide letter no. 2773 dtd. 02.08.2021 it reveals that the distance of the said stone quarry from Chandragiri R.F is 6 km which is part of the Eco-Sensitive Zone of Lakhari Wild Life Sanctuary.

		<ul style="list-style-type: none"> • The finalisation of Eco-Sensitive Zone of Lakhari Wild Life Sanctuary is in draft stage and by default the ESZ will be considered to be 10 Km from the sanctuary in such cases. • As the quarry will come under ESZ of Lakhari Wild Life Sanctuary, it will not be permissible to operate quarry without clearance from Standing Committee of the National Board for Wildlife prior to its operation. • However, during the lease period, the quarry had been functional only after obtaining Environmental Clearance (EC) from SEIAA/DEIAA as and when required.
e.	The Committee will further look into the alleged violation of Environment Clearance and consent to operate, conditions of the legal mine.	<ul style="list-style-type: none"> • The project proponent had obtained EC and CTO from Competent Authorities for the lease period.
f.	The Committee will also state what penal action by way of FIRs has been taken against those involved in illegal mining of stone, if any.	<ul style="list-style-type: none"> • In the meanwhile, a FIR has been filed by Tahasildar, Sanakhemundi vide Letter.No. 3311 dt. 02.08.2021, towards illegal stone mining beyond the date of expiry of lease period in Patiguda Mouza.

3.0 Overall Observations:

The committee members observed the following during the time of inspection :

- i. The Project Proponent (PP) has operated the stone quarry with valid EC, CTO and approved mining plan for the period 01.04.2014 to 31.03.2019 and after 31.03.2019 the quarry has not been operational as informed by the Tahasildar and local villagers who were present during the time of inspection.
- ii. There are two other stone sources which is located around 750 m away from the Patiguda Stone Quarry and has been alleged to be illegally operated by unknown persons as informed by the villagers and these sources are not included in the DSR.
- iii. The eco-sensitive zone (ESZ) of Lakhari Vally wild life sanctuary is in draft stage and is yet to be finalized.
- iv. Pillar posting has been made to demarcate the lease area.



4.0 Recommendations :

1. Until finalization of the Eco-Sensitive Zone (ESZ) of Lakhari Valley Wildlife Sanctuary, the Project Proponent (PP) or any other person shall not be allowed for further operation of the quarry.
2. Once the persons involved in the illegal mining are identified by the Police, the Tahasildar shall issue demand notice for recovery of all dues as applicable based on the extent of over-excavation across all the three stone sources in Patiguda mouza.

Sri Sandeep Nandi
12.08.21

Sri Sandeep Nandi
Scientist B
Integrated Regional
Office of MoEF & CC,
Govt. of India.

Dr. P. K. Nayak
12/08/2021

Dr. P. K. Nayak
Env. Scientist, SEIAA,
Bhubaneswar.

Sri Mitrasen Majhi
12/08/21

Sri Mitrasen Majhi
Regional Officer,
S.P.C.B, Berhampur.

SUBMITTED

Sri Vijay Amruta Kulange
12.8

Sri Vijay Amruta Kulange
Collector & Dist. Magistrate, Ganjam.