

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONAL BENCH, KOLKATA  
ORIGINAL APPLICATION NO. 190 /2024/EZ**

IN THE MATTER OF

M/s Bhagwati Stone Crushers

.....Applicant

VERSUS

State of Jharkhand & ORS

..... Respondents

**WRITTEN ARGUMENT ON BEHALF OF THE APPLICANT**

1. That the present application has been Filed as Divisional Forest Officer in Memo No. 1069 dated 27.06.2024 , Chaibasa Forest Division (**Annexure-4** ) reported that the proposed stone mining project location is at a distance of more than 250 meters away from reserved forest/protected forest, 10 Km away from National Park/Wildlife Sanctuary/Eco Sensitive Zone. However, according to DFO, Chaibasa the area falls under No Mining Zone under Management Plan for Sustainable Mining (in short MPSM) in Saranda and Chaibasa in Singhbhum district of Jharkhand State.
2. That any prohibition against mining operations on a non forest land/raiayati land can only be imposed by way of a notification declaring the area as prohibited area under Wildlife (Protection) Act,1972 and/or eco sensitive

- zone under Environment (Protection) Act,1986 and rules made thereunder and not otherwise.
3. That the DFO, Chaibasa has reported "No Mining Zone" based upon executive order contained in Office Memorandum F.No. 11-65/2014-FC(Pt) dated 08.06.2018 of Ministry of Environment, Forests and Climate Change, Government of India (**Annexure- 2**) regarding Management Plan for Sustainable Mining (in short MPSM) and not upon any statutory provision.
  4. The Divisional Forest Officer failed to apply his mind as in his reply dated 9/07/24 ( Annexure -6) it was stated that the village Baliyapada ( wherein the plot of the Applicant is situated) is not mentioned in table no.5 that is the table of areas that is to be considered under mining zone -I and allied activities. It is pertinent to mention here that the village Baliyapada ( wherein the plot of the Applicant is situated) also do not fall under the no mining zone, therefore MPSM is not at all applicable in this instant matter.
  5. The executive order F.No. 11-65/2014-FC(Pt) dated 08.06.2018 of Ministry of Environment, Forests and Climate Change, Government of India is no replacement for prohibitory notification under Wildlife (Protection) Act,1972 and/or eco sensitive zone under Environment (Protection) Act,1986 and rules made thereunder. The Applicant have also filed Judgements of The Apex Court in the matter of DDA & Ors vs Jogindra Monga & Ors (2004) 2 SCC & Godrej Boyce Mfg & ors Vs State of Maharashtra (2009)5 SCC wherein it is clearly decided by the Apex court that Provisions of regulatory provisions can be changed by amendment and not by circulars/executive orders.
  6. That the respondents have not been able to place on record any document regarding applicability of the report of MPSM dated 08.06.2018 on minerals other than iron ore/manganese ore and over non forest area.

7. That there is no ambiguity that delineation of Mining Zone and Conservation Area/No Mining Zones in Saranda and Chaibasa in West Singhbhum district in the M. B Shah Commission of Inquiry and the Management Plan for Sustainable Mining, is specific to iron and manganese ore only and therefore cannot be extrapolated to minerals other than iron and manganese ore.
8. That the maxim Expressum Facit Cessare Taciturn [Expressum facit cessare tacitum-Expression precludes implication] which means that 'where there is express mention of certain things then anything not mentioned is excluded'. The Management Plan is specific to iron and manganese ore and other minerals are not mentioned in the Plan, the minerals not mentioned are therefore excluded from the ambit of the Plan. The Apex Court in **B. Shankara Rao Badami v. State of Mysore** (AIR 1969 SC 453) opined that the well-known maxim is a principle of logic and common sense and not merely a technical rule of construction. The Apex Court opined in (2018) 8 SCC 501 *State (NCT of Delhi) v. Union of India* interpretation is resorted to only when there is some ambiguity in words or expression used in the statute.
9. That subsequently and as a follow up of MPSM, the Supreme Court of India has passed order dated 13.11.2025 (**Annexure- S-3**) for declaration of Saranda Wildlife Sanctuary with eco sensitive zone settling the long pending issue at rest and as such the executive order of MOEFCC, Government of India dated 08.06.2018 regarding MPSM has attained finality. The obvious corollary of Supreme Court order dated 13.11.2025 is that all the area outside the proposed Saranda Wildlife Sanctuary and its proposed eco sensitive zone are free from executive order of MoEFCC, Government of India dated 08.06.2018. Supreme Court have directed the

State Government to notify the area of the wildlife sanctuary comprising of 126 compartments as notified in 1968 notification excluding six compartments in MPSM i.e. KP-2, KP-10, KP-11, KP-12, KP-13 & KP-14 Or in other words the, executive order of MoEFCC, Government of India dated 08.06.2018 has turned infructuous as far as area outside the proposed Saranda Wildlife Sanctuary and its eco sensitive zone is concerned subsequent to Supreme Court order dated 13.11.2025.

10. That the Applicant has plotted a map of proposed Saranda Wildlife Sanctuary with its proposed eco sensitive zone as per order dated 13.11.2025 of Supreme Court of India and the location of proposed stone mining area of Applicant in the lat-long map of West Singhbhum district of Jharkhand State. The overlap map would reveal that the proposed Saranda Wildlife Sanctuary with its proposed eco sensitive zone and the proposed stone mining area of Applicant are located in different administrative blocks and situated at a distance of 62.30 Km of aerial distance (**Annexure-S-1 & S-2.**). The DFO in its report dated 27/06/24 have already stated that the stone crusher of the Applicant do not fall within 10 kilometers of any National Park/ Wildlife Sanctuary/ESZ. The guidelines for declaration of ESZ around wildlife sanctuary and national parks state the procedures for adopting ESZ which can not be beyond 10 kilometers. In T.N. GODAVARMAN THIRUMULPAD VERSUS UNION OF INDIA & ORS Apex court in judgement dated 28/04/23 clarified that mining activities are restricted within 1 km of National Park/Wildlife Sanctuary.

**11. AFFIDAVIT OF RESPONDENT NO.1.**

A. Respondent no.1 i.e. MOEF have stated in their Affidavit that the this instant matter falls within the domain of the State Government .

**12. AFFIDAVIT OF RESPONDENT NO.4**

- A. The respondent no.4 stated that the mining plot do not fall under table 5 and the table deals with villages that allows mining in accordance with M. B Shah Commission of Inquiry and the Management Plan for Sustainable Mining.
13. Hence the prayer contained in the Original Application be allowed as the executive order of MoEFCC, Government of India dated 08.06.2018 regarding MPSM is not applicable in this instant matter, moreover it has turned infructuous as far as area outside the proposed Saranda Wildlife Sanctuary and its eco sensitive zone is concerned subsequent to Supreme Court order dated 13.11.2025.

*Pavshali Banerjee*  
*Advocate*  
*for the Applicant*  
*29/3/26*