

Item No.01

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.10/2023/EZ

Dilip Kumar Samantray & Ors.

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 23.01.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, Advocate (in Virtual Mode)

ORDER

1. Heard Mr. Sankar Prasad Pani, learned Counsel appearing (in Virtual Mode) for the Applicants.
2. The allegation in this Original Application is that the Respondent No.11, Private Respondent, is carrying on illegal laterite stone quarries mining in Mouza-Sahadaghai, Tahasil-Tangi, District-Khordha, Odisha, in the absence of Consent to Establish, Consent to Operate and prior to transfer of Environmental Clearance in favour of the Lessee. It is stated that the Environmental Clearance dated 11.05.2022 was transferred in favour of the Patitapaban Barik, Respondent No.11 herein, for Laterite Stone Quarry over an area of 6.32 acres for a production quantity of 1500m³/annum and the total production in the entire lease period i.e., five years, would be 7500 m³ from Plot No. 719 which is a Bagayat Kisam but the Respondent No.11, prior to that date has started mining operation and Y Form has also been issued on 09.03.2022 which confirms illegal mining being carried out by him.

3. It is also stated that the Consent to Establish was granted on 12.10.2022 for Sahadaghai Laterite Stone Quarry but no Consent to Operate has been granted till date. It is further stated that three FIRs have been lodged against the Respondent No.11, Lessee, for illegally quarrying beyond the lease area and seven vehicles, two power tillers and one motorcycle engaged in illegal mining during night have been seized.
4. The allegation further is that though the Environmental Clearance was granted only for Plot No. 719 but illegal Laterite Stone Mining operation has been carried on on Plot No. 712, 713, 714, 716 & 717 without there being Environmental Clearance or Consent to Operate. Thus, there has been a violation of Condition No. 9.22 of the Environmental Clearance and there is also violation of the Hazardous Waste Management Rules, 2016.
5. It is also alleged that the area in question is full of acacia, cashew and the other associate trees and the said land is Forest Land recorded in the Sabik Records.
6. In our opinion, matter requires consideration.
7. Issue notice to the Respondents, returnable within four weeks.
8. Ms. Samapika Mishra, learned Additional Standing Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent Nos. 1, 2, 3, 4, 5, 6, 10 & 12, State Respondents, Government of Odisha.
9. Mr. Dipanjan Ghosh, learned Counsel who is present in Court, accepts notice on behalf of the Respondent Nos. 7 & 8, Odisha State Pollution Control Board.

10. Mr. Gora Chand Roy Choudhury, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.9, State Environment Impact Assessment Authority (SEIAA), Odisha.
11. Mr. Apurba Ghosh, learned Counsel who is present in Court, states that he is authorized to accept notice on behalf of the Respondent No.13, Deputy Director General of Forests (C), Ministry of Environment, Forests and Climate Change.
12. Issue notice to the Respondent Nos. 11, Patitapaban Barik, Lessee of Sahadaghai Laterite Stone Quarry, returnable within four weeks.
13. All the Respondents shall file their counter-affidavits within four weeks.
14. Considering the allegations made in the Original Application, we direct the Respondent No.4, Collector & District Magistrate, Khordha, to cause an inspection of the site in question to be carried out within four weeks and submit his report. The Members of his Committee i.e., the Inspecting Team shall also include the Divisional Forest Officer, Khordha or his senior representative as well as the Director of Mines and Geology, Khordha, or his senior representative.
15. The Committee shall submit its report within one month and in case the Committee finds that the allegations made in the Original Application are true and that illegal mining is being carried out as alleged, the District Collector & Magistrate, Khordha, shall take immediate steps and pass appropriate orders to stop such illegal mining and shall also determine Environmental Compensation in this regard.
16. The District Collector & Magistrate, Khordha, shall be the Nodal Office for all logistic purposes.

17. Mr. Sankar Prasad Pani, learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Ms. Samapika Mishra, Mr. Dipanjan Ghosh, Mr. Gora Chand Roy Choudhury and Mr. Apurba Ghosh, learned Counsel for the Respondents within 24 hours.
18. **List on 28.02.2023.**

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

January 23, 2023
Original Application No.10/2023/EZ
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