

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....
**REVIEW APPLICATION No. 01/2023/EZ
In
ORIGINAL APPLICATION No. 83/2022/EZ**

IN THE MATTER OF:

- 1. SUSANTA KUMAR BARAD,**
S/o Sarbeswar Barad,
Aged about 35 years,
R/o Sri Krushnapur, P.O. – Champagarh,
P.S.-Chandapur, District – Nayagarh,
Odisha – 761014,

.... Applicant(s)

Versus

- 1. DILIP KUMAR SAMANTARAY,**
S/o Lingaraj Samantara,
Aged about 35 years,
At – Bajtakot, PO – Baunsagarh,
PS – Ranpur, Dist – Nayagarh,
Odisha – 752026,
- 2. DEEPAK KUMAR ROUTRAY,**
S/o Rabi Narayan Routray,
Aged about 27 years,
At – Ostapada, PO – Kamaguru,
Dist – Nayagarh, Odisha,
Pin – 752026,
- 3. STATE OF ODISHA,**
Represented by Chief Secretary,
Government of Odisha,
Lokaseva Bhawan,
Bhubaneswar – 751001,
- 4. PRINCIPAL SECRETARY,**
Revenue and Disaster Management Department,
Government of Odisha,
Kharavela Bhawan, State Secretariat,
Bhubaneswar – 751001,
- 5. ADDITIONAL CHIEF SECRETARY,**
Forest and Environment Department,
Govt. of Odisha,
Kharavela Bhawan, State Secretariat,
Bhubaneswar – 751 001,
- 6. SECRETARY,**
Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhawan,
Jorbag Road, New Delhi,
Pin – 110003,

- 7. DEPUTY DIRECTOR GENERAL OF FORESTS (C),**
Regional Office, Eastern Zone (EZ),
Ministry of Environment, Forest and Climate Change,
A/3, Chandrasekharpur,
Bhubaneswar – 751023,
- 8. COLLECTOR-CUM- DIST. MAGISTRATE,**
Nayagarh Collectorate,
At/PO/Dist - Nayagarh, Odisha,
Pin – 752069,
- 9. TAHASILDAR,**
Ranapur Tahasil Office,
At/PO/PS - Ranapur, District-Nayagarh,
Pin – 752026,
- 10. SUPERINTENDENT OF POLICE,**
Nayagarh District Police Headquarter,
At/PO/PS - Nayagarh, Odisha,
Pin – 752069,
- 11. INSPECTOR IN CHARGE,**
Chandpur Police Station, Chandpur,
Dist – Nayapur, Odisha,
Pin - 752024,
- 12. DIVISIONAL FOREST OFFICER,**
Khordha Forest Division,
At/PO/Dist:- Khordha, Odisha,
Pin – 752055,
- 13. MEMBER SECRETARY,**
Odisha State Pollution Control Board,
Paribesh Bhawan, A/118, Unit – VII, Nilakantha Nagar,
Unit-8, Bhubaneswar,
Pin – 751012,
- 14. REGIONAL OFFICER,**
State Pollution Control Board, Berhampur,
2nd Floor, New Division Office,
IDCO Berhampur Division, Industrial Estate,
Berhampur, Ganjam,
Pin – 760008,
- 15. MEMBER SECRETARY,**
State Environment Impact Assessment Authority,
Qr.5 RFm 2/1, Unit – 9, Bhubaneswar,
Pin – 751022,
- 16. THE MEMBER SECRETARY,**
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi – 110032,
- 17. DIRECTOR OF GEOLOGY,**
Bhubigyan Bhawan,
Bhubaneswar, Khordha,
Pin – 751001,
- 18. MANAGING DIRECTOR,**
Odisha State Cashew Development Corporation Ltd.,
At/PO – Ghatikia, Bhubaneswar, Dist – Khordha,
Pin - 751029,

19. AGRAWAL INFRABUILD PVT. LTD.

Registered Office at 1st Floor,
VR Plaza, Link Road, Bilaspur,
Chhatishgarh - 495011,

Site Office at Malipada, Khordha,
Odisha, Pin – 752020,

.... Respondent(s)

Date of hearing: 19.05.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

ORDER

1. The present Review Application No.01/2023/EZ has been filed in Original Application No.83/2022/EZ by the Review Applicant, (Respondent No.17 in O.A.), seeking review of the judgment and order of this Tribunal dated 18.04.2023 passed in the said Original Application.
2. The grounds taken by the Review Applicant, *inter-alia*, are that while passing the order dated 18.04.2023, the Tribunal had relied upon the material filed by the Collector, even though the figure mentioned by the Director of Mines and Geology in his affidavit dated 05.12.2022 are contradictory to the figure mentioned by the Collector in his affidavit dated 16.04.2023. It is also stated that the Director of Mines and Geology has stated that the actual material lifted by the lessee in Quarry No.1 and Quarry No.2 is not available in this office.
3. The plea taken by the Review Applicant is rejected on the ground that the calculation of the amount of the volume of mined material finds mentioned in the Inspection Report of the Joint Committee constituted by the Tribunal and based on the findings, Environmental Compensation has been computed and, therefore, a direction has been issued to the SEIAA, Odisha, Respondent No.13, to compute Environmental

Compensation against the Respondent No.17 & 18 for excess mining of laterite stone/morrum/ordinary earth. Therefore, there is no error apparent on the face of record to sustain the ground for review.

4. We find that in para 19 of the judgment and order, the Tribunal was only referring to the facts disclosed in the affidavit of the Director of Mines and Geology and in para 20 thereof, the Tribunal was referring to the averments made by the Respondent No.17, (Review Applicant herein), in his additional counter-affidavit dated 25.02.2023 and that itself does not constitute any error apparent on the face of record to be a ground for review of the Tribunal's order.
5. Next ground taken by the Review Applicant is that in para 26 of the judgment and order, the Tribunal has mentioned that the affidavit dated 21.01.2023 filed by the Respondent No.17, Review Applicant, had not been taken on record, though on subsequent verification of the record, it has been found that the said affidavit was taken on record. Even otherwise, in para 26 of the judgment of the Tribunal, the translated copies of the documents filed subsequently by the Respondent No.17 in his additional affidavit dated 05.03.2023, have been considered as also the complaints made by him against certain accused persons and, therefore, we are of the view that there is no error apparent on the face of record warranting review of the judgment and order of the Tribunal dated 18.04.2023.
6. The other grounds taken by the Review Applicant in grounds e, f, g, h, i, j, k, l, m and n, are argumentative in nature which

have already been considered by the Tribunal and do not constitute a ground for review of the judgment and order of the Tribunal dated 18.04.2023.

7. So far as the affidavit dated 14.04.2023 filed by the Respondent No.17, Review Applicant, is concerned, it refers to the various criminal cases filed against the Collector, Sri Rabindra Nath Sahoo (IAS) and the Applicants of the Original Application with which this Tribunal cannot be concerned in proceedings under the National Green Tribunal Act, 2010, since prosecution of the FIRs and criminal cases is exclusively within the domain of the appropriate Criminal Court. Even otherwise, the rest of the arguments raised by the Respondent No.17, Review Applicant, in his affidavit, namely, that the plots in question were recorded as 'Patita' (waste land) are repetitive and have already been dealt with adequately in the judgment and order of the Tribunal dated 18.04.2023 and, therefore, non-reference of the said affidavit does not warrant review of the Tribunal's order.
8. For reasons aforesaid, the Review Application No.01/2023/EZ lacks merit and is accordingly dismissed.
9. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Afroz Ahmad, EM

May 19, 2023,
Review Application No. 01/2023/EZ
In
Original Application No. 83/2022/EZ
AK