

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

Original Application No.90/2023/EZ

Rural Organisation for Social Empowerment (R.O.S.E.)	Applicant(s)
Versus	
State of Odisha & Ors.	Respondent(s)

Date of hearing: 14.08.2023

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

For Applicant(s) : Mr. Abhishek Kejriwal, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Janmejaya Katikia, AGA for R-1, 5, 6 & 7 (in Virtual Mode),
Ms. Rashmi Singhee, Advocate for R-2 (in Virtual Mode),
Mr. Apurba Ghosh, Advocate for R-3 (in Virtual Mode),
Ms. Papiya Banerjee Bihani, Advocate for R-4

ORDER

1. Heard Mr. Abhishek Kejriwal, learned Counsel appearing (in Virtual Mode) for the Applicant.
2. The Applicant is aggrieved by Notification dated 20.01.2023 made under the provisions of Section 36-A of the Wildlife (Protection) Act, 1972 of 97 sand sairat sources by the Government of Odisha in the vicinity of Similipal-Hadgarh-Kuldiha-Conservation Reserve. It is alleged that the region of the said sand sairat sources advertised and leased out is densely forested and is proposed to be notified as a Reserved Forest, namely, the Sukhuapata Reserved Forest and, therefore, quarrying activities carried out in the Eco-Sensitive Zone of Kuldiha Wildlife Sanctuary, without prior approval of the Central Government is illegal and in violation of the Forest (Conservation) Act, 1980 and if such quarrying activities are permitted to continue unabated, it will severely threaten the well-being of the ecosystem in the area and lead to severe loss of wildlife and precious biodiversity.

3. It is further alleged that the said Notification of 20.01.2023 is in violation of the judgment of the Hon'ble Supreme Court in (2022) 5 SCC 33, *Binay Kumar Dalei & Others. vs. State of Odisha & Others.*, wherein the Hon'ble Supreme Court while considering a challenge to the order of the National Green Tribunal, Principal Bench dated 18.02.2020 passed in Original Application No.02/2019 (EZ) with Original Application No.03/2019 (EZ) had made the following observations and given directions as under: -

“20. The point that arises for consideration of this Court in this appeal is in a narrow compass. The Appellants have filed this appeal aggrieved by that part of the order issued by the NGT by which mining activity in the vicinity of Similipal - Hadgarh - Kuldiha – Similipal Elephant Corridor has been ordered to be stopped. According to the Appellants and the State Government there is no justification for stopping mining activity in the area which does not fall within the eco-sensitive zone. Whereas, the learned Senior Counsel for Respondent No.8 contended that no mining activity can be permitted even in the vicinity of an eco-sensitive zone unless the Comprehensive Wildlife Management Plan has been implemented and Section 36A of the Act has been complied with. The objection on behalf of Respondent No. 8 is only on the ground that the comprehensive wildlife management plan has not been implemented and that Section 36A of the Act has not been complied with. The learned Advocate General for the State of Odisha submitted that the mining operations will be permitted only after implementation of the Comprehensive Wildlife Management Plan. He stated that compliance of Section 36A of the Act for declaration of the elephant corridor as conservation reserve is in the advanced stage of consideration by the State Government.

21. The dispute can be resolved by giving a direction to the State Government to implement the Comprehensive Wildlife Management Plan and complete the process of declaration of

the traditional elephant corridor as conservation reserve as provided in Section 36A of the Act.

22. Therefore, the State of Odisha is directed to implement the Comprehensive Wildlife Management Plan as suggested by the Standing Committee of NBWL before permitting any mining activity in the eco-sensitive zone. The State is also directed to complete the process of declaration of the traditional elephant corridor as conservation reserve as per Section 36A of the Act expeditiously. The mining operations of 97 quarries shall be permitted only thereafter.”

4. In our opinion, matter requires consideration.
5. Issue notice to the Respondents, returnable within four weeks.
6. Mr. Janmejaya Katikia, learned Additional Government Advocate appearing (in Virtual Mode), accepts notice on behalf of the Respondent Nos.1, 5, 6 & 7, State Respondents.
7. Ms. Rashmi Singhee, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.2, Ministry of Environment, Forests and Climate Change.
8. Mr. Apurba Ghosh, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.3, State Environment Impact Assessment Authority (SEIAA), Odisha.
9. Ms. Papiya Banerjee Bihani, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.4, Odisha State Pollution Control Board.
10. All the Respondents shall file their counter-affidavits within four weeks.
11. The learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its Annexures upon Mr. Janmejaya Katikia, Ms. Rashmi Singhee, Mr. Apurba Ghosh and Ms.

Papiya Banerjee Bihani, learned Counsel for the Respondents within 24 hours.

12. We also request the Additional Advocate General, Odisha, to assist this court at the stage of final disposal in this matter since he had appeared before the Hon'ble Supreme Court in the same matter in which directions were given by the Hon'ble Supreme Court referred to hereinabove.

13. **List on 15.09.2023.**

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

August 14, 2023,
Original Application No.90/2023/EZ
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