

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

.....

**MISCELLANEOUS APPLICATION No.21/2023/EZ
In
ORIGINAL APPLICATION NO.115/2021/EZ**

IN THE MATTER OF:

Tribunal on its Own Motion,

Re.: Illegal filling of Bijuli Bandh (Water Body),
Sundergarh, Odisha,

....Applicant(s)

Versus

- 1. Union of India,**
Through the Secretary,
Ministry of Jal Shakti, Department of Water Resources,
Shram shakti Bhavan, Rafi Marg,
New Delhi-110001,
- 2. Chief Secretary to Govt. of Odisha,**
State Secretariat, Bhubaneswar-751001, Odisha,
- 3. Member Secretary,**
Odisha Pollution Control Board,
Paribesh Bhawan, A/118, Nilakanthan Nagar,
Unit-VIII, Bhubaneswar-751012, Odisha,
- 4. Collector & District Magistrate,**
Sundargarh, Odisha,
- 5. Odisha Wetland Authority,**
Forest, Environment and Climate Change Department,
Govt. of Odisha, Kharavel Bhavan,
Bhubaneswar, Odisha,
- 6. Member Secretary,**
The State Environment Impact Assessment Authority (SEIAA),
5RF-2/1, Acharya Vihar, Unit-IX,
Bhubaneswar, Odisha-751022,

**7. Sri Aurobindo Integral Education & Research Centre,
Sundergarh,**

Through its Secretary, Shr. Niranjan Mohanty,
S/o Gopal Charan Mohanty,
At/Po/Dist-Sundargarh, Odisha,
Pin – 770001,

....Respondent(s)

COUNSEL FOR APPLICANT(S):

Suo Motu,

COUNSEL FOR RESPONDENT(S):

**Mr. Ashok Prasad, Advocate for R-1,
Mr. S. K. Nayak, AGA for State Respondents, Govt. of Odisha,
Ms. Papiya Banerjee Bihani, Advocate for R-3,**

JUDGMENT

PRESENT:

**HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)
HON'BLE Dr. ARUN KUMAR VERMA (EXPERT MEMBER)**

**Reserved On:- February 9th, 2024
Pronounce On:- March 04th, 2024**

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| 1. Whether the Judgment is allowed to be published on the net? | Yes |
| 2. Whether the Judgment is allowed to be published in the NGT Reporter? | Yes |
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The M.A. No.21/2023/EZ filed in Original Application No.115/2021/EZ is being taken-up.

2. The Original Application No.115/2021/EZ was disposed of by this Tribunal vide its order dated 08.04.2022 with the following directions:-

“17. We, therefore, direct the Collector, Sundargarh to take steps for recovery and restoration of this land measuring 0.615 acres as a water body and determine Environmental Compensation and cost of restoration/restitution of this land as water body re-forming part of the Bijuli Bandh. The Collector, Sundargarh shall take the assistance of the Odisha State Pollution Control Board in this regard. Compliance report shall be submitted by the Collector, Sundargarh within four months, i.e. by 30.08.2022.”

3. Thereafter, the M.A. No.01/2023/EZ was filed by Sri Aurobindo Integral Education & Research Centre, Sundargarh, praying for setting aside of the order of the Tribunal dated 08.04.2022 and 19.10.2022 with a direction that the Applicant be permitted to present his case and defend himself as he was not a party to the Original Application No.115/2021/EZ. The Tribunal accordingly allowed the M.A. No.01/2023/EZ and set aside the orders of 08.04.2022 and 19.10.2022 and restored the Original Application No.115/2021/EZ to its original number and directed that Sri Aurobindo Integral Education & Research Centre, Sundargarh, be impleaded in the array of Respondents as Respondent No.7.

4. Thereafter, the Original Application No.115/2021/EZ was heard and again disposed of by the Tribunal vide its order dated 24.02.2023 with the following directions: -

“25. We are of the view that this Committee needs to re-visit its Report and examine the Revenue Records and determine correctly the Khata/Khatian Number, Plot Numbers and the area of the Bijuli Bandh as well as of Sri Aurobindo Integral Education & Research Centre, Sundargarh and determine as to whether the said Education Centre is actually encroaching upon the Bijuli

Bandh, Water Body and to what extent and over which Plot Numbers and which Khata and, if the Committee finds on the basis of such inquiry, in which a representative of the Sri Aurobindo Integral Education & Research Centre, Sundargarh shall also be associated, that the Education Centre has indeed encroached upon the Water Body i.e., Bijuli Bandh; it shall determine Environmental Compensation and cost of restoration/recovery of the Water Body giving due notice and opportunity of hearing to the Respondent No.7 i.e., Sri Aurobindo Integral Education & Research Centre, Sundargarh and thereafter take steps for removal of such encroachment and restoration of the Water Body to its original pristine form. The amount recovered by way of Environmental Compensation in addition to additional funds to be provided by the State authorities shall also be spent on beautification of the Bijuli Bandh by creating a walkway, planting of adequate quality and quantity of trees and shrubs maintaining biodiversity all around the periphery of the Bijuli Bandh. The Committee shall also consider installation of adequate number of fountains in the Bijuli Bandh for circulation of water to ensure its proper oxygenation and BOD levels.

26. Affidavit of compliance shall be filed by the Collector, Sundargarh with the Registrar, NGT/EZ by 31.05.2023.”

5. When the order was not being complied with, the present M.A. No.21/2023/EZ has been taken up.

6. Affidavit dated 08.02.2024 has been filed titled ‘Compliance Affidavit’ by the Collector, Sundargarh, stating therein that Aurobindo Integral Education & Research Centre, Sundargarh, Respondent No.7 in the O.A., had encroached Government land recorded as Bijuli Bandha but the said encroached area has been vacated. With regard to the payment of compensation and restoration charges, the Respondent No.7 has been served with

three notices on 17.12.2023, 18.01.2023 and 09.12.2023 by the Sub-Collector, Sadar, Sundargarh, to take steps for payment but the said Respondent did not pay heed to the letters or make payment. Thereafter, again a notice was served to the Respondent No.7 and called for hearing on 10.12.2023 vide letter dated 09.12.2023. It is stated that Respondent No.7 appeared in the hearing and expressed his inability to deposit the said compensation and restoration charges but in view of the encroachment and damage caused to the Bijuli Bandha, the Sub-Collector, Sadar, Sundargarh, instructed the Respondent No.7 to deposit the said amount within a period of seven days but he has not deposited the said amount of Rs.39,38,518/- (Rupees Thirty Nine Lakhs Thirty Eight Thousand Five Hundred Eighteen only) towards cost of environmental compensation and cost of restoration charges whereupon a Certificate Case under OPDR Act, 1962, has been instituted against the Secretary, Aurobindo Integral Education & Research Centre, Sundargarh, amounting to Rs.39,52,114/- (Rupees Thirty Nine Lakhs Fifty Two Thousand One Hundred Fourteen only) in the Court of Collector & Certificate Officer, Sundargarh vide OPDR Case No.02/2024 on 12.01.2024. Relevant documents to that effect have been filed along with the affidavit.

7. In this view of the matter, nothing further remains for adjudication by this Tribunal in the present M.A., since the Court of competent jurisdiction has already initiated proceedings for recovery of Environmental Compensation and cost of restoration.

8. The M.A. No.21/2023/EZ is accordingly disposed of.

9. There shall be no order as to costs.

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B. AMIT STHALEKAR, JM

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DR. ARUN KUMAR VERMA, EM

**Kolkata,
March 04th, 2024,
Miscellaneous Application No.21/2023/EZ
In
Original Application No.115/2021/EZ
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