

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

Original Application No.122/2023/EZ

Ajay Kumar Behera

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 22.09.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, 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) on behalf of the Applicant.
2. The Applicant in this present Original Application has sought the following reliefs: -
 - I) *“Direct the SEIAA and SPCB to withdraw the environment clearance and CTO for violation of EC conditions and non-filing of quarterly environment compliance report*
 - II) *Show cause the SEIAA authority and SPCB for inaction despite of complaint dated 14/07/2023 and fix the responsibility of the erring officer*
 - III) *Director of Mines and Geology, Government of Odisha to assess the extent/quantum of Minor Minerals including morrum and laterite stone excavated illegally and its market value, cost of restitution and environmental compensation and recover the same from the private respondent*
 - IV) *Fix the accountability/responsibilities of the concerned Govt. authorities and Tahasildar Tangi for their inaction and willful*

dereliction of duties causing loss to the state exchequer and damage to the environment

- V) *Direct the District Collector to initiate criminal proceedings U/s 379, 420, 120B of IPC & Section 19 of Environment Protection Act 1986 against the private respondent and Tahasildar, Tangi*
- VI) *Pass such other orders/directions as may be deemed fit and proper in the bonafide interests of justice.”*

3. The allegation is that one Prahallad Biswal, Respondent No.13 is operating Laterite Stone Quarry in the Damanbhuin of Tangi Tahasil wholly illegally. It is stated that M/s. Damanbhuin Laterite Stone Quarry-A, Damanbhuin was granted Consent to Establish (CTE) on 29.06.2022 by the Odisha Pollution Control Board under Section 25 of the Water (Prevention and Control of Pollution) Act 1974 and Section 21 of Air (Prevention and Control of Pollution) Act 1981 for production of Laterite Stone of 1500 cubic meters/annum or 3615 MT/annum. The total Production Plan Period was five years which comes to 7500 cubic meters or 18075 Metric Tones in Damanbhuin mouza on Plot No.2161(P) of Khata No.708, leasehold area 4.139 Ha or 10.23 acres, Kissam: Gochar in Tangi Tahasil in the district of Khordha.
4. It is stated that Consent to Operate (CTO) has been granted on 15.07.2022. Environment Clearance has been granted to the Tahasildar Tangi on 06.07.2021 and thereafter transferred in the name of the Lessee on 15.03.2022. The Lessee was asked to deposit the royalty on 12.08.2021 and execute the agreement within three days. The Consent to Operate (CTO) was again renewed on 19.06.2023.
5. The allegation is that though the Consent to Establish (CTE) and (CTO) for operation of Laterite Stone Quarry was granted for Plot

No.2161(P), Khata No.708, however, illegal operation of quarry is being carried out on Plot No.2161 (Gochar Land), 2162 (Kisam Gramya Jungle) and Rakshit, Khata No.708.

6. It is also alleged that the lease holder has illegally started quarrying operations from Plot No.2162 adjoining the lease plot by felling trees of the Gramya Jungle Kisam.
7. It is stated that the Sign Board erected at the lease site by the Lessee mentions Plot No.2162 as part of his lease. It is further alleged that though only 1500 cum of Laterite Stone has been permitted for extraction from the lease area, but the Lessee has allegedly operated the entire lease area of 10 acres as well as of Plot No.2162 for which no quarrying lease has been granted. It is also stated that on conversion of 1500 sq. meters the area comes to 0.37 acres considering the depth of 1 mtr., but the Lessee has operated the quarry for a depth of more than 10 meters and if the quarry depth is taken to be 6 mtrs., as permitted, then the area of operation will not be more than 0.06 acres. Therefore, any mining beyond the area of 0.06 acres is illegal.
8. It is also alleged that the adjoining land as per Sabik Records are Forest Lands and mining could only have been allowed after verification of Sabik Records which has not been done in the present case. The Lessee has also not been granted any Forest Clearance for quarrying operation from Plot No.2162, nor Environmental Clearance nor Consent to Operate (CTO) has been granted for the same. It is further alleged that the Respondent No.13, Lessee is using JCB for carrying out operation though use of JCB is not permitted.
9. It is further alleged that the Sign Board indicating the name of the Lessee and Lease Period shows the same as commencing from

25.04.2022 to 24.04.2027 though the Consent to Establish (CTE) itself was granted only on 29.06.2022 and Consent to Operate (CTO) was granted on 15.07.2022 which shows that the quarrying has commenced from a date prior to the grant of CTE and CTO.

10. It is also alleged that the Conditions of the Environmental Clearance viz: Condition nos. 9.18 to 9.33 have been violated.
11. In our opinion, matter requires consideration.
12. Issue notice to the Respondents, returnable within four weeks.
13. Mr. Tarun Patnaik, learned Additional Standing Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent Nos.1, 2, 3, 4, 5, 6, 10 and 11, State Respondents, Government of Odisha.
14. Ms. Papiya Banerjee Bihani, learned Counsel who is present in the Court, accepts notice on behalf of the Respondent Nos.7 and 8, Odisha State Pollution Control Board.
15. Mr. Apurba Ghosh, learned Counsel who is appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.9, State Environment Impact Assessment Authority (SEIAA), Odisha.
16. No Counsel is present on behalf of the Respondent No.12, Ministry of Environment, Forests and Climate Change (MoEF&CC).
17. Issue notice to Respondent Nos.12 and 13, returnable within four weeks.
18. All the Respondents shall file their counter-affidavits within four weeks.
19. Considering the allegations made, we deem it appropriate to constitute a Committee comprising of the following Members: -
 - i) Senior Scientist, Odisha State Pollution Control Board;

- ii) Senior Scientist, State Environment Impact Assessment Authority (SEIAA), Odisha;
 - iii) Representative of the Collector and District Magistrate, Khordha, not below the rank of Additional District Magistrate (ADM);
 - iv) Divisional Forest Officer, Khordha; and
 - v) Senior Geologist, Directorate of Mines and Geology, Bhubaneswar
20. The Committee shall visit the site and submit its Report with regard to the allegations made in the Original Application within three weeks.
21. The Collector and District Magistrate, Khordha shall be the Nodal Office for all logistic purposes and shall file the Committee Report on affidavit.
22. In case violations are found, the Committee shall recommend penalty as well as Environmental Compensation and also suggest remedial measures, if any, as well as action under Rule 51 of Odisha Minor Mineral Concession Rules, 2016.
23. Learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Tarun Patnaik, Ms. Papiya Banerjee Bihani and Mr. Apurba Ghosh, learned Counsel for the Respondents within 24 hours.
24. **List on 02.11.2023.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

September 22, 2023,
 Original Application No.122/2023/EZ
 SKB