

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

Original Application No.163/2023/EZ

Santanu Kumar Bhukta

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 20.10.2023

**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. Mr. Sankar Prasad Pani, learned Counsel appearing (in Virtual Mode) on behalf of the Applicant.
2. Additional affidavit dated 19.10.2023 has been filed by the Applicant; the same is taken on record.
3. This Original Application has been filed alleging illegal operation of Nihalprasad Road Metal Quarry-I located at village-Nihalaprasad, Tahasil – Gondia, District – Dhenkanal ove plot no.2101, Khata no.1512 area of 12.25 acres or 4.957 ha with annual extraction of road metal not exceeding 100085 cum by the lessee Ajit Sahoo, Respondent No.14 herein in violation of conditions of Environmental Clearance, Consent to Operate (CTO) and Mining Plan. It is stated that Environmental Clearance in respect of the Quarry was granted to the Tahasildar – Gondia vide letter dated 18.10.2021 but it has not been transferred in favour of the Respondent No.14 till date and therefore the said Respondent is illegally operating the Quarry

for the last 2 years in gross violation of Environmental Clearance Conditions No.9.4.

4. It is further alleged that the revised District Survey Report (D.S.R.) uploaded in the District website, Annexure III of the DSR in Sl. No.1, Nihal Prasad Road Metal Quarry 1 suggests that the area is 12.5 acres and there are serious inconsistencies in the notice for auction and substantial issues like area of deposition and erosion and replenishment which was not addressed. It is alleged that there has been no Joint Field Visit conducted prior to auction of the Sand Sairat in order to avoid public consultation.
5. It is alleged that Environmental Clearance has been obtained reducing the area of the sand lease to 5 ha while the District Survey Report (D.S.R.) suggests the area to be 8.37 ha i.e. 20.68 acres. It is alleged that there is no clear cut demarcated boundary.
6. It is also alleged that stone overloaded vehicles are making nearly 200 trips plying on the R. D. Road which is not meant for such heavily loaded vehicles. The road is damaged and full of potholes. The plying of trucks in the village road is in violation of the Environmental Clearance Conditions No.9.12, 9.13 and 9.14.
7. It is further alleged that water table in the village has gone down to more than 20 mtrs. though it should not be more than 6 mtrs. deep violating Environmental Conditions No.9.2, 9.6 and 9.8. No permission has been taken from the Central Ground Water Board (CGWB) resulting in violation of the Environmental

Conditions No.9.10. There is no reclamation of mined out area violating Environmental Clearance Conditions No.9.11.

8. Explosives are being used in mining operations but there is no valid license for use of explosives. There is no solar fencing in the quarry area and no green belt has been provided though quarry operation is going on since 2015.
9. It is further alleged that the lessee is operating the Nihal Prasad Metal Quarry No.1 pursuant to the Environmental Clearance dated 17.08.2015 for annual production capacity of 10,000 cum over plot No.2101, Khata No.1513, area 20.68 acres and though the lessee had applied for capacity expansion 43031 cum per annum but the same was not approved by the State Environment Impact Assessment Authority (SEIAA) and the Odisha State Pollution Control Board.
10. It is alleged that the Tahasildar issued a demand notice vide letter dated 16.09.2019 for 46017 cum of stone for the period 2019-2020 and letter dated 06.11.2019 for 44030 cum of stone for the period 2018-2019 for quarrying stone beyond approved quantity. Consent to Operate was granted on 20.03.2019 for 10922 cum per annum valid upto 31.03.2020. The Tahasildar, Gondia has directed the Respondent No.14 to deposit royalty. It is stated that Environmental Clearance dated 18.10.2021 was granted in favour of the Tahasildar, Gondia for Road Metal Stone Quarry over an area of 12.95 acres and annual production quantity of 1500 cum and total production will be 100085 cum per annum.
11. In our opinion, matter requires consideration.

12. Issue notice to the Respondents, returnable within four weeks.
13. Mr. Saubhagya Ketan Nayak, learned Additional Government Advocate appearing (in Virtual Mode), accepts notice on behalf of the Respondent Nos.1, 2, 3, 4, 5, 6, 10 & 11.
14. Mr. Ashok Prasad, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.13.
15. Issue notice to Respondent Nos.7, 8, 9, 12 & 14,, returnable within four weeks.
16. All the respondents shall file their affidavits without four weeks.
17. Considering the allegations made out in the Original Application, we deem it appropriate to constitute a Committee comprising of the following Members:-
 - i) Collector and District Magistrate, Dhenkanal or his representative Officer not below the rank of Additional District Magistrate (A.D.M.)
 - ii) Senior Scientist, Odisha State Pollution Control Board;
 - iii) Senior Scientist, State Environment Impact Assessment Authority (SEIAA), Odisha;
 - iv) Divisional Forest Officer (DFO), Dhenkanal; and
 - v) District Mining Officer
18. The Committee shall visit the site and submit its Report with regard to the allegations made in the Original Application within three weeks.
19. The Odisha State Pollution Control Board shall be the Nodal Body for all logistic purposes and shall file the Inspection Report on affidavit.

- 20. In case violations are found, the Committee shall recommend penalty as well as Environmental Compensation and also suggest remedial measures, if any.
- 21. Mr. Sankar Prasad Pani, learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures as well as additional affidavit dated 19.10.2023 upon Mr. Saubhagya Ketan Nayak and Mr. Ashok Prasad, learned Counsel for the Respondents within 48 hours
- 22. **List on 22.11.2023.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

October 20, 2023,
Original Application No.163/2023/EZ
SKB