

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

Original Application No.02/2024/EZ

Tapas Kumar Bal	Versus	Applicant(s)
State of Odisha & Ors.		Respondent(s)

Date of hearing: 19.01.2024

**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) for the Applicant.
2. This Original Application has been filed by the Applicant alleging that the Respondent No.14, Sri Sai Constructions, is carrying on illegal operation of sand mining in Kusei Sand Bed Deogaon over an area of 11.50 acres or 4.654 hectares in Village-Deogaon, Ghasipura Tahasil of Keonjhar District, Odisha, Khata No.352, Plot No.1297/1, in violation of the Sustainable Sand Mining Management Guideline, 2016.
3. It is stated that the Mining Lease was granted in favour of the Respondent No.14 over an area of 11.50 acres for 7000 cum volume of sand in the first year and 1750 cum in the second year. Environmental Clearance was granted on 27.04.2023 and thereafter amended Environmental Clearance was also granted on 21.06.2023. Consent to Operate was granted by the State Pollution Control Board with 43 general conditions and 20 specific conditions.

4. The allegation is that the Respondent No.14 is violating the condition no.8 by transporting heavy loaded vehicles through the village road without permission for the same from the concerned authorities.
5. The allegation further is that though the mining is supposed to be done through Dry Pit and manual means for mining and loading, the Respondent No.14 is using earth mover/machines of different capacities which is strictly prohibited by the Sand Mining Rules and Guidelines.
6. It is further alleged that three machines are being used for sand mining being Hyundai 210 with 5.7m boom length and 2.9 arm length. The bucket capacity of the machine is around 1.22 cum. Photographs have also been filed as Annexure-3 to the Original Application in support of the allegations made.
7. It is further stated that the present Kusei river is intersecting Jajpur and Keonjhar Districts and the sand quarry in question is adjoining Jajpur and sand is being illegally mined from the Jajpur side whereas transportation of the mined mineral is being done on the Keonjhar side.
8. It is also alleged that the lessee, Respondent No.14 is illegally mining sand beyond the permitted lease area and mining is being carried out from Bangarkota Mouja in Danagadi Tahail of Jajpur District and from Kochianandi Mouza in Keshadurapal R.I. Circle under Ghashipura Tahail of Keonjhar District and both places are roughly 500 meters away in the upstream of the permitted lease area.
9. It is also alleged that excess mining to the tune of more than 50 Hyva (12 wheeler and 16 wheeler) load/day (one Hyva is having

loading capacity of 22 cum of sand) is being done and at least 1000 cum/day of sand is being mined whereas the permission under lease is only 7000 in year 2023-24 which is about 33.33 cum/day, considering maximum 210 days of sand mining in a year.

10. It is also alleged that the mining was carried out even in monsoon which is prohibited under the Rules, 2016.
11. It is further alleged that about 960 truck loads of sand have been excavated and transported by the lessee from 08.09.2023 till 8.10.2023 in the Kusei Sand Sairat Deogaon.
12. Matter requires consideration.
13. Issue notice to the Respondents, returnable within four weeks.
14. Mr. Dipanjan Ghosh, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.11, Odisha State Pollution Control Board.
15. Mr. Rashmi Singhee, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.12, SEIAA, Odisha.
16. Ms. Amrita Pandey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.13, Ministry of Environment, Forests and Climate Change.
17. Issue notice to the Respondent Nos.1,2,3,4,5,6,7,8,9&10, State Respondents, Government of Odisha and Respondent No.14, Sri Sai Constructions, 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 to elicit the veracity of the allegations comprising of the following Members:-

- (i) Senior Scientist, Odisha State Pollution Control Board,
 - (ii) Senior Scientist, SEIAA, Odisha, and
 - (iii) Collector & District Magistrate, Keonjhar, Odisha, or his representative not below the rank of Additional District Magistrate,
20. The Committee shall inspect the site in question and submit its Report within four weeks on affidavit with regard to the allegations made.
21. The Odisha State Pollution Control Board shall be the Nodal Agency for all logistic purposes and for filing the Report of the Committee on affidavit.
22. The Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Dipanjan Ghosh, Ms. Rashhmi Singhee and Ms. Amrita Pandey Counsel for the Respondents within 48 hours.
23. **List on 11.03.2024.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

January 19, 2024,
Original Application No.02/2024/EZ
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