

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

Original Application No.140/2024/EZ

Fakir Mohan Patel

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 16.07.2024

**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) a/w
Mr. Ashutosh Padhy, Advocate (in Virtual Mode)

ORDER

1. Heard Mr. Sankar Prasad Pani assisted by Mr. Ashutosh Padhy, learned Counsel appearing (in Virtual Mode) for the Applicant.
2. This Original Application has been filed by the Applicant alleging that illegal sand mining has been carried out in Mahanadi River at Chikhili in Ambavona Tahasil of Baragarh District, Odisha. It is stated that on 09.06.2024 the Mining Officer, Bargarh, along with Mining Squad and Ambavona Police Station, raided the sand stock of Respondent No.8, Private Respondent, and penalized him for 1,000 CM of sand. It is stated that the said Private Respondent has paid fine of Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand only) on 11.06.2024.
3. It is also stated that thereafter a further complaint was received and on 22.06.2024 the Mining Officer, Bargarh, found huge sand stock in the presence of one Mr. Rohit Patel, (father of the Respondent No.8) to be around 8,688 CM in quantity. It is also stated that the Mining Officer was requested to inspect three more

spots of sand hoarding by the Respondent No.8 but he did not do so saying that one site is in Jharsuguda District and is not within his jurisdiction. It is stated that the bridge near which the illegal sand mining is taking place connects Bargarh and Jharsuguda Districts. It is stated that on the other side of the river is Mahulpali in the Jharsuguda District where there are sand stocks of the Respondent No.8 to cater the demand of that district. It is stated that on the date of measurement, there was one Tata Hitachi Proclaim stated to be engaged in the loading of sand on to trucks but the Mining Officer ignored seizing of the said vehicle.

4. It is also stated that photographs of 08.06.2024, 20.06.2024 and 22.06.2024 show mining operation in Mahanadi river is ongoing and there is vehicular transportation continuing even after 22.06.2024 after the previous raid conducted on 09.06.2024.
5. It is further alleged that the Respondent No.8 has illegally mined sand about 2 lakhs cubic meters, considering the annual trading and mining of sand i.e., 50,000 CM, and thereby caused a loss at least Rs.10 crores to the State exchequer. It is also stated that Chikhili is a flood prone area and in 2022 a severe flood occurred in that area. It is also stated that satellite pictures retrieved from google earth on 25.01.2024 show that sand mining is being carried out using suction pump laid on boat inside the Mahanadi river and sand is being dumped on the river bank for subsequent transportation.
6. Matter requires consideration.
7. Issue notice to the Respondents, returnable within four weeks.
8. Mr. Saubhagya Ketan Nayak, learned Additional Government Advocate who is present in (Virtual Mode), accepts notice on behalf

of the Respondent No.1, 2, 3, 5 & 6, State Respondents, Government of Odisha.

9. Mr. Dipanjan Ghosh, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.4, Odisha State Pollution Control Board.
10. Mr. Sankar Prasad Pani, learned Counsel for the Applicant states that the Respondent No.7, Central Pollution Control Board, is not a necessary party to the present proceedings and prays that the same may be deleted from the array of Respondents.
11. We accordingly direct that the Respondent No.7 be deleted from the array of Respondents.
12. Issue notice to the Respondent No.8, returnable within four weeks.
13. All the Respondent shall file their counter-affidavits within four weeks.
14. 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,
 - (i) Mining Officer, Bargarh, and
 - (ii) District Collector, Bargarh,
15. The Committee shall inspect the site in question and submit a Fact Finding Report within four weeks with reference to the allegations made in the Original Application.
16. The District Collector, Bargarh, shall be the Nodal Office for all logistic purposes and for filing counter-affidavit bringing on record the Committee Report.

17. The Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon the Counsel for the Respondents who have accepted notices, within 48 hours.

18. **List on 30.08.2024.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

July 16, 2024,
Original Application No.140/2024/EZ
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