

# Satrughana Jena vs State Of Odisha on 31 October, 2022

Item No.5

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(By Circulation)

Review Application No.09/2022/EZ  
In  
Original Application No.51/2021/EZ

IN THE MATTER OF:

Satrughana Jena,  
  
S/o Hari Jena,  
  
Aged about 44 years,  
  
R/o At/P0-Podmari, P.S.-Patapur,  
  
District-Ganjam, Odisha,  
  
Pin - 761014,

....Applicant(s)

Versus

1. State of Odisha,  
Through Chief Secretary,  
Odisha Lokaseva Bhawan, Bhubaneswar,
2. District Collector, Ganjam,  
At/Po-Chatrapur, District-Ganjam,  
Odisha - 758001,
3. Tehsildar, Sanakhemundi,  
At/Po-Sanakhemundi, District-Ganjam,  
Pin - 756001,
4. Member Secretary,  
Odisha State Pollution Control Board,  
A/118, Unit-VII, Nilakanthanagar,  
Bhubaneswar, Odisha,

Pin - 751012,

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5. Member Secretary,  
State Environment Impact Assessment Authority (SEIAA), Odisha,  
5RF-2/1, Acharya Vihar, Unit-IX, Bhubaneswar,  
Pin - 751022,
6. Superintendent of Police,  
At/Po/District-Ganjam,  
Pin - 756001,
7. Mining Officer, Ganjam Circle, Berhampur,  
Pin - 757001,
8. Deputy Chief Controller of Explosives,  
F35/A, BJB Nagar, Bhubaneswar, Odisha,  
Pin - 751014,
9. Integrated Regional Office, MoEF& CC,  
A/3, Rail Vihar, Chandrasekharapur, Bhubaneswar, Odisha,  
Pin - 751023,
10. Santosh Bisoyi,  
S/o Subas Bisoyi,  
At-Podamari, P.S.-Patapur,  
District-Ganjam, Odisha,  
Pin - 761144,
11. Divisional Forest Officer, Paralakhemundi Division,  
At/Po-Paralakhemundi, District-Gajapati,

....Respondent(s)

Date of hearing: 31.10.2022

CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

#### ORDER

1. Review Application No.09/2022/EZ has been filed seeking review of the judgment and order of this Tribunal dated 01.09.2022 passed in Original Application No.51/2021/EZ. The reliefs claimed

in the review application are as under: -

"I. For considerations of the facts made out in the application and the subsequent objection to the committee report in form of rejoinder.

II. The assessment of the illegal mining is still incomplete and so also the environment compensation has not been properly calculated and the same exercise be completed in a stipulated period and Hon'ble NGT may fix a date for filing of compliance affidavit.

III. Appropriate action against Tahasildar for his failure to discharge his duty and criminal complicity in terms of loss to the state exchequer as per order dated 25th August 2021 and 5th January 2022.

IV. Though EC has been revoked but no prosecution has been initiated against the Tahasildar for false information in the application for Environment Clearance as well as illegal mining, hence prosecution may be initiated as per order dated 5th Jan 2022.

V. That the Hon'ble Tribunal may direct the District Collector or appropriate authority for prosecution against the Respondent No 10 for filing false affidavit and manufacturing a imaginary story of alleged 5Cr loot of stone by the Applicant VI. Since there has been no action in terms of inquiry in regard to the unknown FIR in Patapur PS Case, let there be a direction to complete the inquiry in a time bound manner and file the charge sheet in trial court."

2. The Tribunal while disposing of the Original Application had in paragraph-24 recorded a finding that from the FIR the name of Respondent No.10 had not been mentioned but the Plot No.2033, Khata No.0.620, area 3.69 hectares belonged to the Respondent No.10 or atleast belonged to him till 31.03.2019 when his lease period expired. Therefore, the question would be whether the Respondent No.10 was involved in illegal stone quarrying beyond 31.03.2019 which would be a matter for investigation by the appropriate criminal Courts.

3. The Tribunal further observed that the question whether the Respondent No.10 is to be allowed to carry on his stone quarry operations over the plot in question would be subject to grant of fresh lease and grant of fresh Environmental Clearance followed by a fresh Consent to Operate, since his earlier lease had already expired on 31.03.2019 long before filing of the present Original Application.

4. With regard to the prayer of the Applicant for a direction to the Enforcement Directorate or Economic Offence Wing of Crime Branch, Govt. of Odisha, to identify the persons involved in illegal mining and also compute Environmental Compensation and take action against Srinivas Behera, prayer made in I.A. No.165/2022/EZ, the Tribunal had observed that since FIR has already been lodged by the Tahasildar-Sanakhemundi on 02.08.2021 with the concerned Police Station it is not

necessary to refer the matter to the Enforcement Directorate or Economic Offence Wing of Crime Branch, Govt. of Odisha, and it would suffice to give directions to the State Government to take the criminal proceedings in the FIR dated 02.08.2021 to its logical conclusion.

5. The Original Application, was, therefore, disposed of with a direction to the State Respondents, SEIAA, Odisha and the Odisha State Pollution Control Board, to examine the issue with regard to allowing the Respondent No.10 to operate his stone quarry in question strictly in accordance with law.

6. The Applicant in his Review Application is aggrieved that no action has been taken against the Tahasildar, Sanakhemundi for his failure to discharge his duties and criminal complicity for causing loss to the State Exchequer and that no prosecution has been initiated against the Tahasildar.

7. In our opinion, giving such directions was not necessary since FIR had already been lodged on 02.08.2021 and therefore, subject to the investigation and outcome of the trial, it is expected that the State Respondents would take necessary and appropriate action in accordance with law, if necessary against the Tahasildar, if his complicity and connivance in allowing illegal mining emerged from the enquiry in the FIR.

8. The Tribunal in paragraph-10 of its order has already observed that vital information had been suppressed by the Tahasildar which showed malafide intention of the said Tahasildar and his complicity with the illegal miners.

9. The Tribunal has further noted in paragraph-22 of its judgment and order that the question whether the Respondent No.10 was carrying on illegal stone quarrying in his lease area by way of quarrying in excess of lease permit or not, or was carrying on illegal quarrying from the other two sources outside his lease area, was a matter for investigation by the Tahasildar/District Magistrate of the concerned area and if it was found that it was the Respondent No.10 who was carrying out the illegal stone quarrying activities, FIR has to be lodged against him. Needless to say the matter would be investigated by the District Magistrate concerned.

10. Even in the Joint Verification Report referred in the affidavit of the SEIAA, Odisha dated 24.04.2021, it has been noted that FIR has been lodged by the Tahasildar to identify the persons who have illegally extracted stone from the quarry in question beyond the lease period from 31.03.2019.

11. Therefore, for reasons aforesaid since appropriate directions have already been issued by the Tribunal and the complicity or otherwise, of the Tahasildar concerned, in causing loss to the State Exchequer is a matter which would be subject to the investigation of the FIR. We find no merit in this Review Application and also find no error of facts or law in the Review Application and the same is accordingly dismissed.

12. There shall be no order as to costs.

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B. Amit Sthalekar, JM .....

Saibal Dasgupta, EM October 31, 2022 Review Application No.09/2022/EZ In Original Application  
No.51/2021/EZ MN