

**IN THE COURT OF REVENUE DIVISIONAL COMMISSIONER,  
SOUTHERN DIVISION, ODISHA, BERHAMPUR**

Explosive Appeal Case No. 03/18

(Order by Sri T. Ao, I.A.S,

Revenue Divisional commissioner, (SD), Berhampur)

Decided on **02.01.2020**

Sri Dayaram Patel,

S/o Late Harjibhai Patel

Vill: Rojgaripara, Main Road, At/ Po: Kondagaon,

Dist: Kondagaon, State: Chattisgarh

.....Petitioner

-Versus-

1. The Additional Dist. Magistrate,

Dist: Nabarangpur,

2. The Tahasildar, Kodinga,

Dist: Nabarangpur.

.....Opposite party

**Prayer**

This appeal petition is filed U/s-121 of Explosive Rules, 2002 to set aside order No. 1738 dt. 27.12.2017 of A.D.M., Nabarangpur rejecting the application for grant of Explosive licence for use of explosive in Sanasirisiaguda stone quarry-III under Kodinga Tahasil of Nabarangpur Dist.

**Contention:-**

The petitioners are the lessee of a quarry/mining unit under the name of Sanasirisiaguda Pathar Khadan-3 vide TMC No. 07/2015 who executed lease deed with Tahasildar, Kodinga to execute the stone quarry selected as the project proponent being one of the highest bidder to acquire the Sairat under Orissa minor mineral concession (Amendment) Rules, 2014 & subsequent OMMC Rules, 2017. In order to operate the project, the appellant applied for issuance of explosive license which was rejected by Collector, Nabarangpur. Hence this appeal petition to set aside orders of Collector, Nabarangpur and to order for issue of explosive license in favour of the petitioner.



### Documents enclosed :-

- Copy of L. No. 284 dt. 19.2.18 of ADM, Nabarangpur
- Copy of O.O. No. 1738 dt. 27.12.17 of Collector, Nabarangpur.
- Copy of agreement deed for lease of Sairat for the period from 2016-17 to 2020-21
- Copy of L. No. 739 dt. 30.1.2016 of state Environment Impact Assessment Authority (SEIAA), Odisha
- Copy of L. No. 192 dt. 18.1.2003 of State Pollution Control Board (SPCB), Odisha
- Copy of office order No. 673 dt. 12.12.2012 of Collectorate, Nabarangpur
- Copy of Agreement deed dt. 26.12.14 between M/S Deomali Mining works, Similiguda and Dayaram Patel.

### ORDER

This case was taken up for hearing on 22.06.19. Petitioner was present & submitted that he had applied for permission to possess at one time up to 25 Kgs of explosive (Nitrate Mixture), 1500 meters of safety fuse and 1500 no. of detonators of class-I, 2 & 3 in a magazine. He further submitted a copy of L. No. 15 dt. 02.06.17 of Revenue Inspector, Kottagm of Kodinga Tahasil, wherein the RI, Kottagm has enclosed copy of NOC of the local residents.

Perused the PWR submitted by ADM, Nabarangpur vide his L. No. 5438 dt. 22.11.2018 which reveals that:

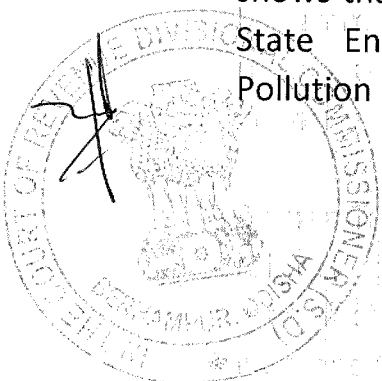
- The Tahasildar, Kodinga has executed lease deed in favour of the appellant towards long term lease wherein it has been mentioned that the petitioner has to abide by the conditions prescribed by the State Environment Impact Assessment Authority (SEIAA) and State Pollution Control Board.
- The SEIAA in its clearance report has made a condition that the quarrying should not be carried within 500m of structures, bridges, dams, weirs, ground water extraction points, water supply headwork's, extraction points for irrigation & any other cross drainage structures.



- The Tahasildar, Kodinga in his L. No. 2696 dt. 05.12.17 has submitted that the quarry is only 110 meters away from road, 300 m away from nearest village, 450 m away from pond & 150m away from the tube well.
- The Asst. Fire Officer, Nabarangpur in his L. No. 672 dt. 08.1.17 has submitted that proposed site is situated within a radius of 100m from the road & water source (Pond).
- In view of stipulation prescribed by SEIAA & State Pollution Control Board & basing on report of Tahasildar, Kodinga & Asst. Fire Officer, Nabarangpur, the Collector, Nabarangpur rejected the application submitted by the petitioner in form No. AE-3 for grant of explosive license.

### Findings

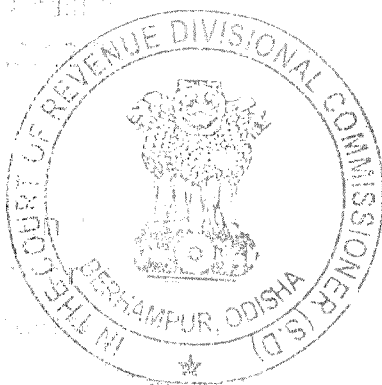
- The order No. 1738 dtd. 27.12.2017 of Collector, Nabarangpur shows that the petitioner submitted application for grant of license in form LE-3 to possess explosives for use in Sanasirisiaguda stone quarry-III of Kodinga Tahasil.
- As per Scheduled –IV of Explosive Rules, 2008, form LE-3 is meant for use for agricultural purpose or in small quarry, explosives not exceeding 25 Kilograms of class 1 or 2 or 3 and 1500 numbers of detonators and 1500 metres of detonating fuse or safety fuse at any one time in a magazine and **licensing authority is District Magistrate.**
- As per Table-I of schedule-VIII of Explosive Rules, 2008 safety distance to railway road is 21M and dwelling houses, offices, factories etc is 45M for manufacture and permanent storage of Commercial explosive up to 50 Kg whereas the petitioner applied for storage of commercial explosive up to 25 Kg.
- The lease deed executed in favour of the appellant towards long term lease shows that the petitioner has to abide by the conditions prescribed by the State Environment Impact Assessment Authority (SEIAA) and State Pollution Control Board.



- The SEIAA in its clearance report has made a condition that the quarrying should not be carried within 500m of structures, bridges, dams, weirs, ground water extraction points, water supply headwork's, extraction points for irrigation & any other cross drainage structures.
- The report submitted by Tahasildar, Kodinga vide letter No.2380 dtd.31.12.2019 shows that the distance of quarrying site is about 500m from the built up structures which fulfils criteria prescribed by the SEIAA for quarrying in the leasehold land. But the Collector, Nabarangpur had rejected the application for grant of Explosive licence for use of explosive in Sanasirisiaguda stone quarry-III under Kodinga Tahasil basing on report of Tahasildar,Kodinga submitted vide letter No.2696 Dtd.5.12.2017 wherein the distance of quarrying site from the built up structures was shown as 110m.
- Distance of quarrying site from the built up structures furnished in reports of Tahasildar,Kodinga in letter No.2380 dtd.31.12.2019 and letter No.2696 Dtd.5.12.2017 are contradicting each other and need proper verification.

Taking the above facts into consideration, I arrive at the conclusion that apart from the safety distance, there is no other safety concern for grant of Explosive licence for use of explosive in Sanasirisiaguda stone quarry-III in favour of the Petitioner.

In view of the above, the Petition is disposed off with direction to Collector, Nabarangpur-cum-licensing authority to re-verify the exact distance of quarry site from the built up structures and pass appropriate orders thereof as per law.



Revenue Divisional commissioner,  
Sothern Division, Berhampur