

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

M.A. No. of 2023/EZB

IN

O.A. No. 06/2016/EZB

MISCELLANEOUS APPLICATION

under National Green Tribunal Act, 2010

In the matter of:

SubhasDatta

.....Applicant

-Versus-

State of West Bengal and Others

.....Respondents

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Applicant

SubhasDatta
SUBHAS DATTA,

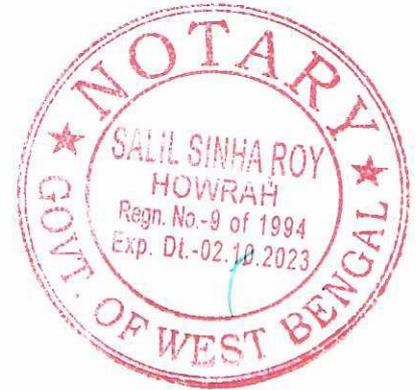
Office: 25/1, Guitendal Lane, Howrah-711 101.

Residence: 216/1, Panchanantala Road,

P.O.+P.S.+Dist. - Howrah-711 101 (for both).

Telephone: 033-26383526, Mobile: 09830752752

Email: subhasdatta@rediffmail.com



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Synopsis

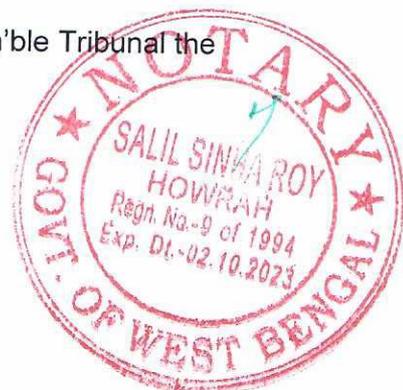
Santragachi Jheel is a vast water body within the city of Howrah next to Santragachi Rail station, which was declared as BIRD SANTUARY where thousands of migratory birds nest every winter. Due to discharges of untreated sewage from the nearby residences and establishments, this historic water body became extremely polluted.

The Applicant had filed OA (No 06 of 2016EZ) before the Hon'ble National Green Tribunal in which directions had been given on 2nd November 2017 to set-up one STP. After series of hearings and directions the matter was disposed of on 4th July 2022 giving the specific time frame to construct the STP along with the garland drain surrounding the Jheel within the period of four months. Land for such STP would be provided by the South Eastern Railway and the cost of such construction would be shared by the Howrah Municipal Corporation and South Eastern Railway in the ratio of 82% (for HMC) and 18% (for SER). There had been the direction to remove the encroachments within three months from the periphery of the Lake.

Although about six years time has elapsed since the first order to set-up the STP was given and more than one year has passed after the final order to construct the STP had been passed, there is no progress in to matter. It is gathered that five tenders have been floated by HMC to construct the STP but there is no bidder as yet. Meanwhile the upkeep of this historic water body has become the worst and about eighty percent of the Lake is now found full of water- hyacinth. The migratory birds may shift to other destinations if it is not immediately cleaned.

Without judicial intervention and further very strong direction from the Hon'ble Tribunal the stalemate will continue. Hence this Application.

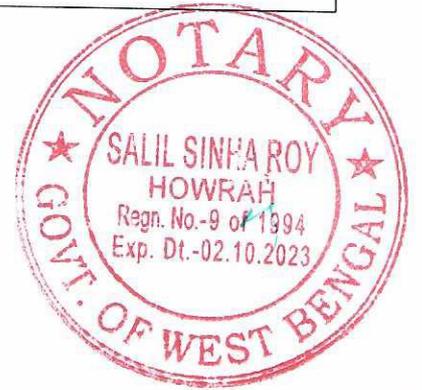
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B

List of dates

Sl.No	Date	Description
1	12.01.2016	OA 06/2016 was filed before NGT
2	18.01.2016	The first hearing of the Tribunal was held
3	02.11.2017	Direction was given to construct the STP adjacent to the Jheel
4	04.07.2022	The matter was disposed of by giving the direction to setup STP along with garland drain within 4months.
5	10.08.2023	Visit was to see the position of the jheel and photographs taken there.
6	11.08.2023	Representation sent to all concerned Represents on this issue.



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MISCELLANEOUS APPLICATION

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In the matter of:

Subhas Datta

Applicant

-Versus-

State of West Bengal and Others

Respondents

IN THE MATTER OF:

1) Subhas Datta

Son of Late Baneswar Datta,

25/1 Guitendal Lane,

P.O. P.S. + District - Howrah

Pin code- 711 101, West Bengal

Applicant

-VERSUS-

1. State of West Bengal

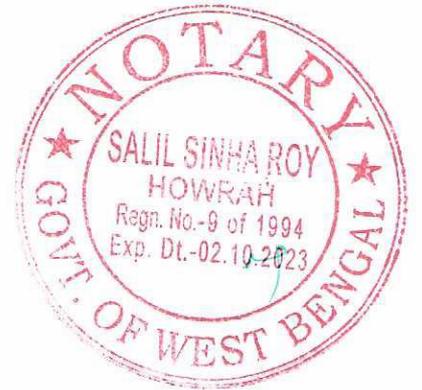
(Notice through the Chief Secretary)

Govt. of West Bengal,

325, Sarat Chatterjee Road, Howrah-711102.

Tel : 033-2253-5130

Email, Id : cs-westbengal@nic.in



2. Department of Urban Development at Municipal Affairs

(Notice through the Principal Secretary,)

Govt. of West Bengal,

Nagarayan DF 8, Sector I.Salt Lake City, Kolkata-700064

14 AUG 2023

Tel : 033-2334-9356

Email,ld : secy.ma-wb@gov.in

3. General Manager,

South Eastern Railway

1, Garden Reach Road,Kolkata-700043

Tel : 033-2439-3532

Email,ld : gm@ ser.railnet.gov.in

4. District Magistrate,Howrah

123, Rishi Bankim Chandra Road, Howrah-711101

Tel : 033-2641-2024

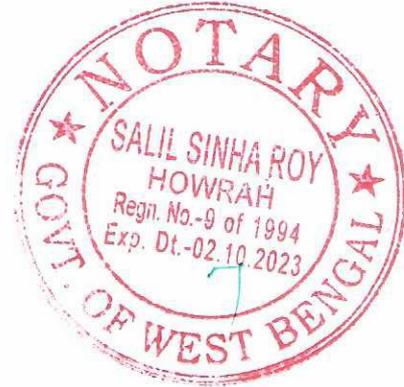
Email,ld : dis-how-wb@nic.in

5. Commissioner, Howrah Municipal Corporation.

4, Mahatma Gandhi Road, Howrah- 711101

Tel: 033-2638-3211

Email, Id commissioner.howrah@gmail.com



6. West Bengal Pollution Control Board,

(Notice through the Member Secretary,)

Paribesh Bhavan, 10A, Block-LA,Salt Lake City, Kolkata - 700098

Tel : 033-2335-8231

Email,ld : ms.wbpcb-wb@bangla.gov.in

Respondents

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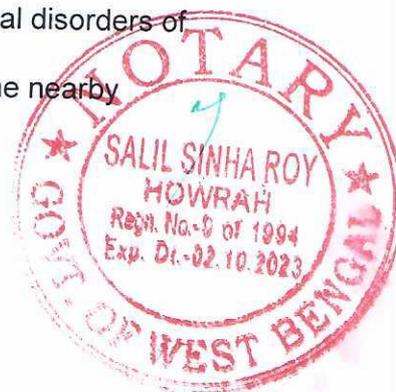
- A) The address of the applicant is as given above for the service of notices of this application and that of their representatives.
- B) The addresses of the respondents are as given above for service of notice of this application and that of their representatives.
- C) The applicant above named begs to present the Miscellaneous Application for further order or orders passed by the Hon'ble Tribunal, Eastern Zone Bench on the setting-up of STP around Santragachi Jheel.

Most Respectfully Sweath :

I Subhas Datta, aged about 73 years, son of Late Baneswar Dutta, by Religion- Hinduism, occupation Chartered Accountant, residing at 25/1, Guitendal Lane, P.S+P.O+Dist - Howrah, Pincode-711101, do hereby solemnly declare and say as follows:-

- 1) That the applicant had moved one petition before the Hon'ble National Green Tribunal, Eastern Zone Bench bearing O.A. No. 06/2016 (EZ), on the environmental disorders of Santragachi Jheel through discharges of untreated sewage water from the nearby residences/establishments.

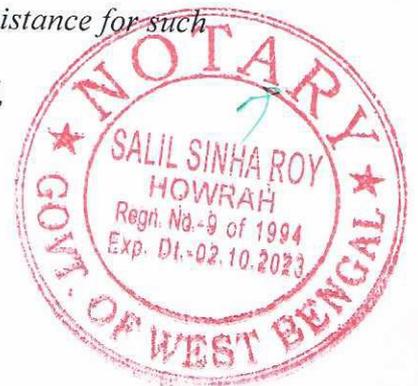
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- 4
- 2) That the aforesaid application (O.A. No. 06/2016 (EZ)) had been finally disposed of by the Hon'ble Tribunal on 4th July 2022 detailing some specific directions. The relevant operative part of the order is reproduced below:-

“Accordingly, in the interest of protection of lake and the Bird Sanctuary, leaving other pending issues to be resolved at any other appropriate forum as per law, we direct as follows:

- a) Municipal Corporation Howrah may take steps in the light of observations in para 10 above to set up necessary STP along with Garland Drain within four months to prevent discharge of untreated sewage into the lake by incurring cost from its own sources initially and sorting out its claim against the Railways separately.*
- b) Cost of STP may be first borne by the State and its claim in respect to monetary liability of the Railway may be sorted out separately at appropriate forum in accordance with law.*
- c) The Railway may provide land for the purpose of setting up of STP subject to the property remaining the Railway property without prejudice to its claim for user charges for the said land.*
- d) Railways may take steps to remove encroachment within three months from the periphery of the lake to the extent of area falling in its jurisdiction in accordance with law.*
- e) The District Administration may provide necessary assistance for such eviction as per law. If any dispute arises in this regard,*



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The State PCB may also take action in accordance with the provision of the Water (Prevention and Control of Pollution) Act, 1974 to prevent and remedy pollution.

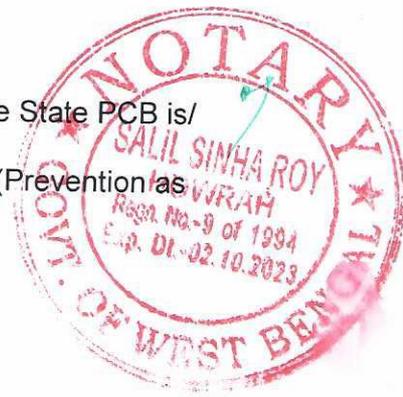
A copy of this order be forwarded to the Howrah Municipal Corporation, Railway Administration, District Magistrate, Howrah and the State PCB by e-mail for compliance.”

The photocopy of the aforesaid order dated 4t July 2022 is enclosed and marked as **Annexure-P/1.**

3. That although more than thirteen months time has already been elapsed, no positive initiative is taken by the concerned Respondents and the fouling of the Jheel water is still continuing as before. It is learnt from the Howrah Municipal Corporation sources that they have so far a floated tender for setting up the STP at the designated place five times but there is no bidder for the same. This is a very negative situation for which nothing can be done to prevent discharge of untreated sewage into the water body.

4. That meanwhile the condition of the Jheel has further been deteriorated and the recent visit undertaken by the Applicant on 10th August 2023 has revealed that the waterbody has been covered by water- hyacinth almost eighty percent of the Jheel area and the upkeep of the same appears to have been neglected. The Applicant has taken some photographs of the present position of the Lake on 10th August 2023, which are enclosed and collectively marked as **Annexure-P/2**

5. That by virtue of the order of the Hon'ble Tribunal, dated 4th July 2022, the State PCB is/ was supposed to take action in accordance with the provisions of the Water (Prevention and



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Control of Pollution) Act 1974 to prevent and remedy pollution but no such action appears to have been taken by the State P.C.B.

6. That with regard to the construction of STP adjacent Santragachi Jheel it is significant to state that the first direction for the same was given by Hon'ble Tribunal as back as on 2nd November 2017. It is about six years has gone but the STP has not seen the light of the day. The time line had been extended again and again but the position has not improved till date. It is, therefore felt that penalty should be imposed on the concerned Respondents for such failures under the Water (Prevention and Control of Pollution) Act 1974. The Applicant has sent memorandum to the concerned authorities and the photocopy of such representation dated 11.08.2023 with postal receipt is enclosed and marked as **Annexure-P/3**

7. That balance of convenience and inconvenience stands in favour of the Applicant.

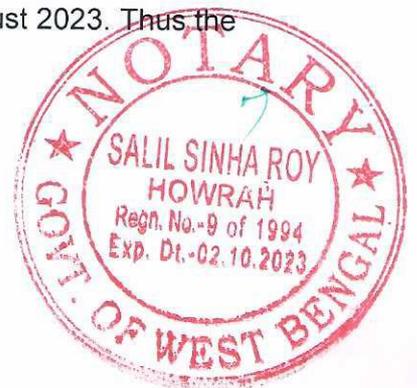
The Applicant has a strong prima facie case and a delay in passing an order as prayed for herein below shall defeat the purpose of rendering justice to this application made bonafide and for the ends of justice.

LIMITATION

8. The Applicant states that environmental disorder of the Santragachi Jheel is a continuous process on which the Applicant, as well as other environmental activists are agitating before different forms from time to time. The applicant has visited the Jheel on 10th August 2023 and sent memorandum to the concerned Represents on 11 the August 2023. Thus the application is filed within the period of limitation.

9. This application is made bonafide and for the ends of justice.

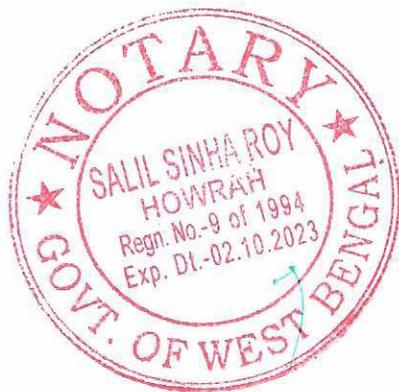
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PRAYER

Your applicant therefore humbly prays Your Honour for the following orders: -

- I. To direct the concerned Respondents to immediately comply with all the directions passed by the Hon'ble Tribunal in 06/2016 (EZ) on 4th July 2022 in the matter of environmental hazards of Santragachi Jheel.
- II. To direct the Respondents concerned to take all steps in controlling and monitoring the discharge of untreated sewage to the Santragachi Jheel.
- III. To direct the Respondents concerned to immediately clean up the water hyacinth from the Jheel.
- IV. To direct the State P.C.B. to initiate action as per the Water (Prevention Control of Pollution) Act 1974
- V. Such other and/or further order or orders be made and/or direction or directions be given as the Hon'ble Tribunal may deem fit and proper.



Subsonal
Deponant

14 AUG 2023

SI, NO... 63067

AFFIDAVIT

I, Subhas Datta, son of Late Baneswar Datta, aged about 73 years, by occupation- Chartered Accountant, by religion - Hinduism, residing at 25/1, Guitendal Lane, Post

Office, Police Station and District - Howrah, Pin - 711101, do hereby declare and

S Datta state that the contents of the paragraph Nos. 1, 2, 4..... are true to my knowledge and the contents of paragraph Nos. 3, 6.....

are my information derived from the relevant records which I verily believe to be true and the rests are my respectful submissions before the Hon'ble Tribunal.

Prepared by me in my office.

Subhas Datta
(Subhas Datta)

Subhas Datta
DEPONENT

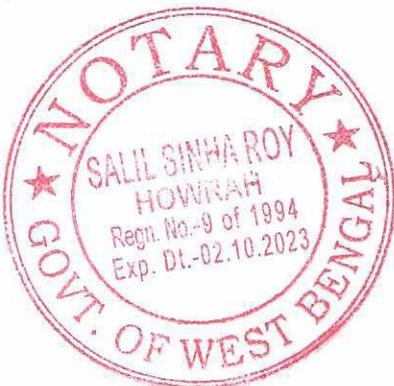
Applicant-in-Person

IDENTIFIED BY ME &
SIGNED/L.T.I. TAKEN IN MY PRESENCE

Advocate

Affirmed before me on 14th August 2023

Kalpada Dhali (Army Rtd)
Advocate, M.A., LL.B
Registration No.-WB/669/2007
Judges' Court, Howrah



SOLEMNLY AFFIRMED & DECLARED
BEFORE ME ON IDENTIFICATION

14.8.23
SALIL SINHA ROY
NOTARY HOWRAH

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Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 06/2016/EZ

Subhas Datta

Applicant

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 04.07.2022

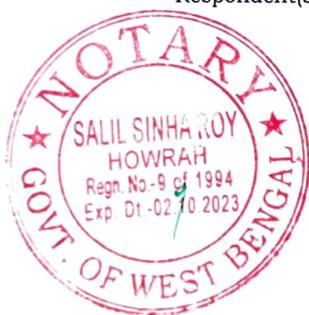
**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant:

Mr. Subhas Datta, in person

Respondent(s):

Mr. Prithwish Basu, Advocate for R-1,2,4&13,
Mr. Sandipan Banerjee, Advocate a/w Ms. Amrita Pandey,
Advocate for R-3,
Mr. Somir Kumar Daskar, Advocate a/w Mr. Pramod Kumar
Droliia, Advocate for R-5,8,9,10&11,
Mr. Dipanjan Ghosh, Advocate for R-6,
Ms. Paushali Banerjee, Advocate for R-12,



ORDER

The Issue

1. Grievance in this application is against failure of Municipal Corporation Howrah, the Railway Administration and the State PCB to prevent damage to Santragachi Jheel, Kolkata, which is a notified Bird Sanctuary. Damage to the lake is taking place *inter-alia* by discharge of untreated sewage, from area falling under Municipal Corporation Howrah,

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and other waste. Damage to the lake is also due to encroachment for commercial purposes.

2. The Applicant has stated that pollution of the lake is resulting in disturbing the migratory birds requiring protection under the Wildlife Protection Act, 1972. The lake is within the jurisdiction of Railways.

Procedural History

3. The application was filed on 12.01.2016 and first came up for hearing on 20.01.2016. The Tribunal issued notice to the Respondents with the observation that Municipal Corporation, Howrah and Forest Department may take remedial action to seal the outlets of pollution and against illegal constructions. The State PCB was required to furnish a status report about the compliance of environmental norms. Thereafter, directions have been issued from time to time and compliance status examined. It will suffice to refer to orders dated 15.09.2017, 01.06.2020, 30.09.2021 and 01.12.2021.

Order dated 15.09.2017 – sewage generation by Railways and by Howrah Municipal Corporation and State Authorities.

4. Relevant extract of the order dated 15.09.2017 reads as under:-

“On the question of share of the railway authorities i.e. respondent No. 5, towards the cost of the project, the Dy. Chief Engineer (Works) S.E. Railway in his affidavit filed today on behalf of the respondent No. 5 has averred as follows :-

“3. That regarding sharing the project cost by the respondent no.5 i.e., the Railways the attention of this Ld. Tribunal is drawn towards the following facts:

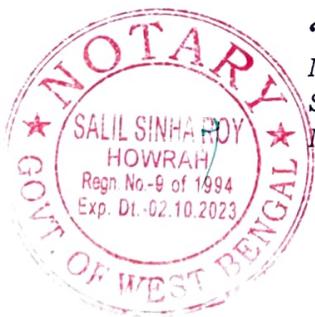
a) The final DPR submitted by the respondent no.7 Mackintosh Burn Ltd. on 15.03.2017 in Chapter 2, Page 7 of 57 at Para 2.1 mentions that:

Considered population on HMC site = 5973 heads

Considered Population on Railway Site = 1318 heads

Waste water generation is @ 135 ltrs./day per person

Thus, out of the total sewage generation of 9,84,285 ltrs./ day.



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The quantity of sewage generated on HMC site = $135 \times 5973 = 8,06,355$ ltrs./day

And that on Railway site = $135 \times 1318 = 1,77,930$ ltrs./day

Hence from the above findings and/or observations it is humbly stated that the area under the HMC generates $806355/984285 \times 100 = 81.93\%$ sewage while the Railway side area generates $177930/984285 \times 100 = 18.07\%$ sewage.”

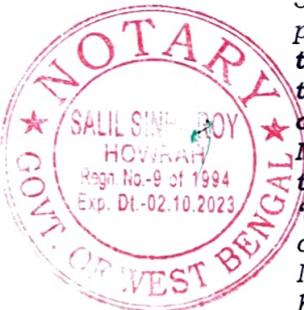
Although Ms. Amrita Pandey, ld. counsel for the respondent No. 3, Howrah Municipal Corporation has expressed her doubt on figure arrived at by the Railways, the facts stated in para 3(a) of their affidavit extracted above, are explicit. It clearly reflects that the figure of 18% offered by the Railways towards cost of the project has been worked out reasonably based on the rates quoted in the DPR and not in an arbitrary manner. We are, therefore, inclined to accept the offer.”

Order dated 1.6.2020 – agreement on construction of STP and removing of encroachments

5. Vide order dated 01.06.2020, the Tribunal noted the agreement reached before it about providing of land by the Railways for setting up STP, cost of the project being shared by the Howrah Municipal Corporation (HMC) and the Railways in the ratio of contribution of sewage and encroachments being removed. The relevant extract from the order is reproduced below:-

“

3. Without going into various events that transpired during the past proceedings, suffice it to note that **it had been agreed that (i) the Railway would provide for the land for setting up STP for treatment of the sewage diverted away from the ‘Jheel’; (ii) the cost of the project would be shared between the Howrah Municipal Corporation (HMC) and the Railways in the ratio of the contribution of sewage and, (iii) encroachments from the ‘Jheel’ would be removed.** The records would reveal that construction of the project was to be undertaken by the Respondent No. 7, M/s Mackintosh Burn Ltd. Inordinate delay had been caused both by the Howrah Municipal Corporation (HMC) and the Railway Authorities on the question of the lease of the land, the release of funds towards cost of the projects and removal of encroachers, The last one having been caused primarily on account of the inept handling by the HMC.”



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Order dated 30.9.2021 – progress on steps as per order dated 01.6.2020

6. Vide order dated 30.09.2021, the Tribunal reviewed the progress about the remedial measures with regard to encroachments and preventing pollution and constituted a Committee to examine the Detailed Project Report prepared by the Kolkata Metropolitan Development Authority as well as comments raised by Railways and to resolve the pending issues and furnish a report to this Tribunal. Relevant discussion in the said order is as follows:-

“12. In the affidavit which has been filed by the Respondent No.5, South Eastern Railway, it is stated that the Railways had never objected to the construction of Sewage Treatment Plant (STP) (now garland drain) and Waste Stabilization Pond. The Howrah Municipal Corporation has cited three reasons for not constructing the STP and the garland drain which are as under:-

- (i) Removal of encroachments in the surroundings of Santragachi Jheel**
- (ii) Non-reduction of land cost by Railway**
- (iii) Railways not agreeing to change the cost sharing of STP.**

13. The above cited reasons given by the Howrah Municipal Corporation has been contested by the Railways on the following grounds:

- (i) As directed by Hon'ble NGT vide order dated 02.11.2017, South Eastern Railway has already conducted individual hearing of each case and passed eviction orders and thereafter District Magistrate has been requested by the Divisional Railway Manager (Engg.), Kharapur vide letter No. W/L-CELL/SRC-Jheel dated 23.03.2021 to take suitable action on behalf of State Govt. so that Railways can implement the eviction order against the unauthorized occupants beside Santragachi Jheel which is still awaited. Therefore, citing the non-removal of encroachments as a reason by HMC for not constructing STP and for adopting alternative scheme in their affidavit is not correct and proper. Photocopy of the said letter has been annexed herewith and marked with the letter R/1.
- (ii) Land cost is furnished by Land Revenue Department of State Govt. based on which the Land Lease charges are calculated. So if at all the land cost was to be reduced considering the purpose of the project in hand it was to be reduced by Land Revenue Department of Sate Govt. Railway had got no role to play in this."

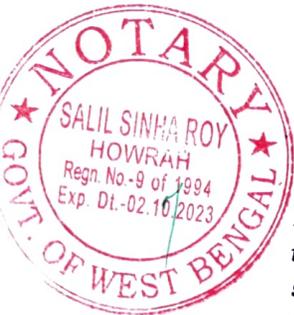


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In this regard, it is submitted that State Government has already reduced the land cost by around 1/3rd considering the project to be for public purpose. This is evident by the letter of Assistant Secretary to Govt. of W.B. LLR and RR department communicated vide letter No. 2410-LP/242/16-1S dated 05.07.2018. As per this letter the commercial market value is Rs. 3.63 Lakh per decimal whereas the commercial market value of land was Rs. 11.0 Lakh per decimal (as per WB Govt. Website).

This fact was also recorded in the order dated 02.11.2017 of Hon'ble NGT and it was duly submitted by South Eastern Railway during the hearing that due to the reduced cost of land, the project cost would be substantially reduced from initially Rs. 30.00 Cr. to about Rs. 20.00 Cr. Photocopy of the letter dated 02.11.2017 is annexed herewith and marked with the letter R/2.

- (iii) **The share of cost of STP to be borne by Railway had already been decided as 18% (Eighteen Percent) by Hon'ble NGT in its order dated 15.09.2017. Therefore, the question of changing the cost sharing does not arise and citing this as a reason by HMC for adopting alternative scheme is also not correct and proper.** Photocopy of the letter dated 15.09.2017 is annexed herewith and marked with the letter R/3."



14. The Railway Respondents have prayed for some more time and it is also stated that **they have no objection to the new proposed scheme of garland drain and waste stabilization pond which is to be executed on Railway land and within the Railway premises and cost of the project is also to be shared by the Railways, therefore, before accepting the Detailed Project Report (DPR), the Railway would like to scrutinize the proposal/ DPR to examine the following issues:-**

- (i) **Environmental impact of the project,**
- (ii) **Cost sharing of the project by the Railways.**

15. Ms. Paushali Banerjee, learned Counsel, on the other hand, has referred to paragraph 2 of the affidavit of KMDA dated 23.08.2021 which reads as under:

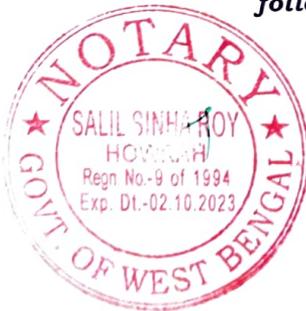
"2. I say that in compliance of the orders of this Hon'ble Tribunal I say the followings:-

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- (i) Garland drain to be constructed around all sides of the Jheel including interception and diversion of all outfalls to convey the untreated effluents into the STP.
- (ii) Provisions will be made for a low-cost sanitation treatment process by providing a WSP (Waste Stabilization Pond) STP and two pumping stations one is for incoming and another is for discharging the treated effluent at the outfall point at Kaziranga Khal.
- (iii) There is a small pond belongs to the S.R. Rly. On the opposite side of the road adjacent to the Jheel and it has been discussed that the pond will be converted into WSP by dividing the pond into three parts as required in the process design for treating the waste water by Waste Stabilization Pond (WSP).
- (iv) Accordingly KMDA has already engaged Consultant by floating e N.I.T as per GoWB norms and Work Order has been issued vide memo no. SE (GAP)/W & S/2W-1/2021-22/56 dated 05.07.2021 (Flat-A) for preparation of DPR. The DPR is now final and submitted for approval."

16. Ms. Banerjee also submits that the **Detailed Project Report (DPR) has been prepared by the Kolkata Metropolitan Development Authority on the recommendations which have been duly vetted by Professor Amit Dutta, Department of Civil Engineering, Jadavpur University. She further informs that on this Detailed Project Report, the Railways have given lengthy comments and, therefore, she prays that a Committee may be constituted by the Tribunal to examine this matter SO that the matter can be resolved expeditiously.**

17. **We, therefore, constitute a Committee comprising of the following Members:**



- (i) **Chief Engineer, Kolkata Metropolitan Development Authority;**
- (ii) **Chief Engineer, South Eastern Railways;**
- (iii) **Municipal Commissioner, Howrah Municipal Corporation;**
- (iv) **Professor Amit Datta, Civil Engineer, Jadavpur University; and**
- (v) **District Magistrate, Howrah.**

18. This Committee shall examine the Detailed Project Report prepared by the KMDA as well as the comments raised by the Railways and thrash out all the issues and file its report before this Tribunal within two months."

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Further consideration vide order dated 1.12.2021

7. The last order which we find it necessary to refer is order dated 01.12.2021 which discusses the latest stand of the authorities of the State of West Bengal as well as Railways as follows:-

4. The paragraphs 9, 10, 11 & 12 of the affidavit are reproduced herein below:-

"9. Until arrangement is made for re-location of the encroachments, **the Government of West Bengal is duty bound to take steps for prevention of pollution of the Santragachi Jheel.** Under the circumstances, it has been decided that:

- i) Bio-Toilets would be set up in the area, along with bins for the use of residents
- ii) Regular waste and garbage removal would be undertaken by Howrah Municipal Corporation.
- iii) Information Communication & Education boards would be placed and awareness generation programmes will be conducted to not pollute the jheel water.
- iv) A dedicated agency will be engaged by the West Bengal Bio diversity Board for bio-diversity management of Santragachi Jheel.
- v) Prevention of periodic reports will be undertaken by the West Bengal Pollution Control Board regarding water quality of Santragachi Jheel.

10. In fact the West Bengal Bio-diversity Board has engaged Nature Mates-Nature Club an agency for vegetation management in 10. Santragachi Wetland. Accordingly, Rs. 8, 10,000/- (Rupees Eight Lakh Ten Thousand only) has been allotted to the said organization. The scope of the work is as follows:

- (i) Removal of water hyacinth retaining 30% of the total area of the Jheel (33 acre);
- (ii) Removal of water hyacinth has to done twice - once during the monsoon and again during winters, before the expected arrival time of migratory birds;
- (iii) Retained vegetation corner should be distributed and managed properly;
- (iv) To create at least 10 floating islands of various sizes'(minimum 300 sq ft) with water hyacinth and other bio-materials, keeping conducive conditions for the birds;



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- (v) Monitoring and management of the vegetation has to be done upto 31st March, 2022.

Copy of the approval letter issued to Nature Mates along with some photographs, are collectively annexed and marked with letter-R/2.

11. That Howrah Municipal Corporation is also taking steps for removal of solid waste every day, so that no pollutants reach the water body.

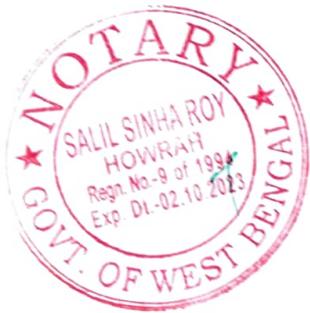
Some photographs of regular garbage cleaning drives are annexed herewith and marked as Annexure - R/3.

12. That I have directed the District Magistrate, Howrah to hold another joint inspection with Railways authorities to identify the spots for setting up waste bins and bio-toilets. On 23.09.2021, an inspection was held. But during the inspection the Railway authority refused to assist for setting up of bio-toilets and placing of waste bins without express order of the Hon'ble NGT. District Magistrate, Howrah has been instructed to give a detailed report of the inspection in her affidavit.

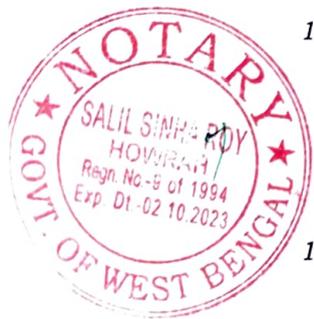
It is respectfully submitted that the Government of West Bengal is taking all possible measures to keep the Santragachi Jheel pollution free. Pending removal of encroachments in the way suggested above, the Railways authority may be directed to cooperate with District Magistrate and other State Government Agencies/Departments to allow setting up of bio-toilets and placing of waste bins in the area and to cooperate with the Department of Urban Development & Municipal Affairs for setting up of Sewerage Treatment Plant. Further, the Railways authority may also be directed to provide alternative land for the re-settlement of the encroachers. The State Government is committed to taking all measures as per the solemn directions passed by Hon'ble NGT from time to time."

5. It is stated in paragraph 12 of the affidavit that during the inspection on 23.09.2021, the Railway Authorities have refused to assist for setting up of bio-toilets and placing of waste bins without express order of the NGT.
6. We, therefore, direct the Respondent No.5, South Eastern Railway, to file its affidavit particularly in reply to the, paragraph 12 of the affidavit dated 23.09.2021 filed by the Chief Secretary, Govt. of West Bengal. The Railway Authorities shall also indicate what action has been taken by them to assist the District Magistrate Howrah.

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7. One affidavit dated 29.09.2021 has been filed on behalf of the District Magistrate, Howrah; the same is taken on record.
8. In the affidavit of District Magistrate, Howrah, it is stated in paragraph 4 that in the meeting with the representatives of the Railway Authorities, **it was disclosed that 128 number of shops were allotted under a system known as TAHBAZARI, wherein the Railway Authorities have allowed the shopkeepers to run their shops from morning till evening on payment of a daily fee collected by the Inspector of Works. It is also stated that later it was discovered by the Railway Authorities that 160 number of families had made permanent constructions against whom eviction order was later issued. It is also stated that the Urban Development and Municipal Affairs Department, Govt. of West Bengal, has informed that the Detailed Project Report (in short DPR) of the proposed Sewerage Treatment Plant (in short 'STP) at Santragachi has been prepared and the cost of the project will be about 28.82 crores excluding the cost of the land which shall be shared by the State and the Railway Authorities on the basis of the sewerage generation. It is also stated that the proposed STP in the nature of Waste Stabilization Pond is to be constructed belonging in a small pond to the South-Eastern Railways which is situated adjacent to the Santraganchi Jheel.**
9. The affidavit of the Urban Development and Municipal Affairs Department, Govt. of West Bengal, also discloses that the Ministry has confirmed that the encroachment will not cause any hindrance to the laying of the proposed STP channels and the pond as required land is neither encroached nor falls under the encroached area.
10. In our previous order dated 15.09.2017, it has been mentioned that the **Howrah Municipal Corporation generates about 81.93% of sewerage while the Railways generates about 18.07% sewerage.** In this view of the matter, the cost as per the DPR is to be borne by the Railway Authorities and by the State Authorities in this ratio.
11. In paragraph 17 of our order dated 30.09.2021, we had constituted a Committee and the Committee was required to examine the DPR prepared by the Respondent No.12, Kolkata Metropolitan Development Authority (KMDA), as well as the comments raised by the Railways and thresh out all the issues.
12. Ms. Paushali Banerjee, learned Counsel submits that the Committee has inspected the site on 09.10.2021 and the inspection report is almost complete and will be filed within one week.
13. **Let the Committee report along with the copy of the DPR be filed within one week and the e-copy/ soft copy of the**



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same shall be served upon the Applicant as well as the learned Counsel for the other Respondents before filing it in the Tribunal.”

Finding and further directions

8. We have heard Learned Counsel for the parties with a view to pass final order in the light of proceedings in the last more than six years. As noted earlier, main issues which call for decision are prevention of pollution of lake by preventing discharge of untreated sewage from the Howrah Municipal Corporation and Railway Colony and removal of encroachments from the buffer zones/periphery of the lake.

9. The earlier orders noted above show that the Municipal Corporation has to treat 82% sewage and Railways 18%. Land is to be given by Railways. Pending dispute is about terms. The Stand of the State Authorities is that they have prepared a rehabilitation housing scheme known as 'Banglar Bari' for resettlement of the encroachers but since the encroachment is on Railways land, the Railways must provide the land.

10. We are of the view that on account of pendency of above dispute, Municipal Corporation Howrah or the Railways cannot claim right to discharge untreated waste into the lake which is a criminal offence. Basic responsibility is of the Corporation to prevent such discharge. Giving land for settling encroacher is not the obligation of the Railways under any law. Thus, the Municipal Corporation Howrah must set up appropriate STP/pollution control mechanism to prevent raw sewage entering into lake as they are generating 82% of sewage. STP along with Garland Drain may be designed and operated so as to comply with standards of water quality of atleast " B " Class, as per orders of this Tribunal in respect of wetlands dated 25.11.2021 in OA No. 351/2019. All sources of sewage and its

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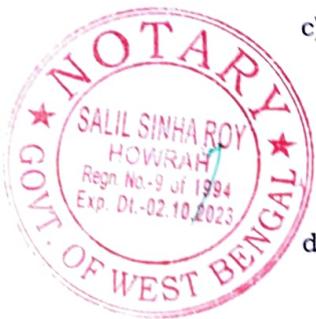
carriage system may be properly intercepted and diverted to STP. No garbage be dumped in the lake or its peripheral boundaries.

11. Accordingly, in the interest of protection of lake and the Bird Sanctuary, leaving other pending issues to be resolved at any other appropriate forum as per law, we direct as follows:

- a) Municipal Corporation Howrah may take steps in the light of observations in para 10 above to set up necessary STP along with Garland Drain within four months to prevent discharge of untreated sewage into the lake by incurring cost from its own sources initially and sorting out its claim against the Railways separately.
- b) Cost of STP may be first borne by the State and its claim in respect to monetary liability of the Railway may be sorted out separately at appropriate forum in accordance with law.
- c) The Railway may provide land for the purpose of setting up of STP subject to the property remaining the Railway property without prejudice to its claim for user charges for the said land.
- d) Railways may take steps to remove encroachment within three months from the periphery of the lake to the extent of area falling in its jurisdiction in accordance with law.
- e) The District Administration may provide necessary assistance for such eviction as per law. If any dispute arises in this regard, it will be open to the concerned parties to remedy the same at appropriate forum in accordance with law.

The application is disposed of.

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The State PCB may also take action in accordance with the provision of the Water (Prevention and Control of Pollution) Act, 1974 to prevent and remedy pollution.

A copy of this order be forwarded to the Howrah Municipal Corporation, Railway Administration, District Magistrate, Howrah and the State PCB by e-mail for compliance.

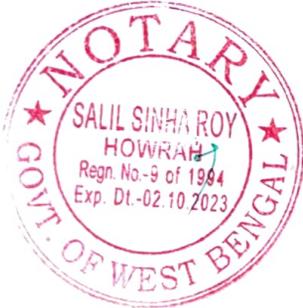
Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

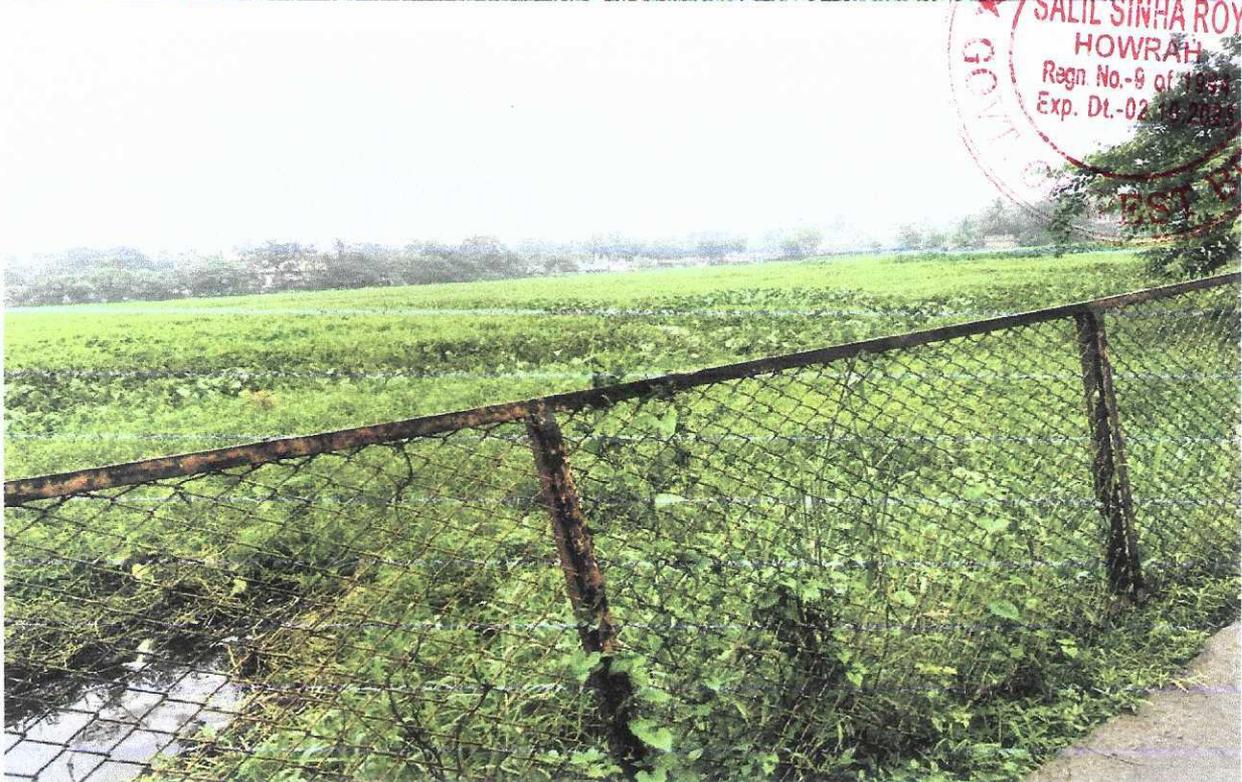
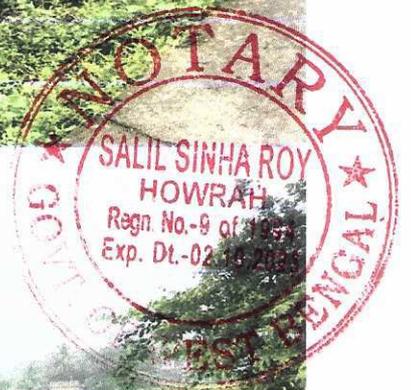
Saibal Dasgupta, EM

Prof. A. Senthil Vel, EM



July 04, 2022
Original Application No. 06/2016/EZ
SN

14 AUG 2023



Photographs taken on 10.08.23 showing the position of Santragachi Jheel full of water hyacinth.

14 AUG 2023



NOTARY
Exp. Dt.-02.10.2023
OF WEST BENGAL

Photographs taken on 10.08.23 showing the position of Santragachi Jheel full of water hyacinth.

14 AUG 2023

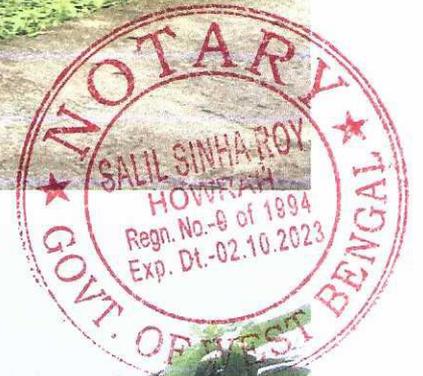


NOTARY
SAMI SANKAR ROY
HOWRAH
Regn. No.-9 of 1994
Exp. Dt.-02.10.2023
GOVT. OF WEST BENGAL



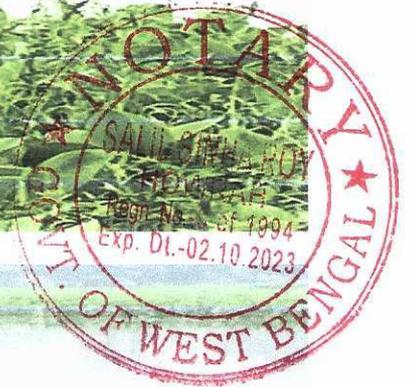
Photographs taken on 10.08.23 showing the position of Santragachi Jheel full of water hyacinth.

14 AUG 2023



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14 AUG 2023



Photographs taken on 10.08.23 showing the position of Santragachi Jheel full of water hyacinth.

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Photographs taken on 10.08.23 showing the position of Santragachi Jheel full of water hyacinth.

9

14 AUG 2023

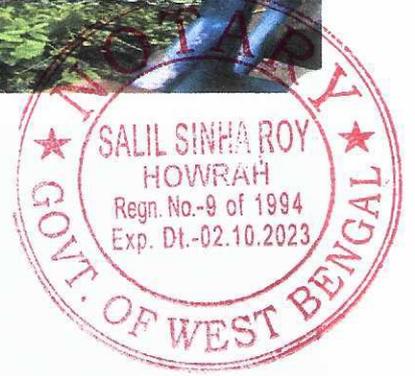


NOTARY
SAILU SINHA ROY
HOWRAH
Regn. No.-9 of 1994
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14 AUG 2023



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Annexure - P/3

Subhas Datta
Chartered Accountant
Environmental Activist

Resi: 25/1, Guitendal Lane, Howrah-711 101
55/2, Panchanantala Road, Howrah-711 101
Office: S. R. Dutt Associates
17, Sagar Dutta Lane, Calcutta-700 073

Contact: (033) 2638 3526, 9830752752 (M)
Email: subhasdatta@rediffmail.com

11.08.2022

To
The Principle Secretary,
Urban Development and Municipal Affairs Department, West Bengal
Nagarayan, DF-8, Sector 1, Salt Lake City,
Kolkata - 700064

Sir,
Ref -Construction of STP to prevent discharge of untreated sewage
into SantragachiJheel.

1. That vicde order dated 4th July 2022, the National Green Tribunal, Special Bench had directed in OA 06/2016/EZ as follows -

"Municipal Corporation Howrah may take steps in the light of observation in pare 10" to set up necessary STP along with Garland Drain within four months to prevent discharge of untraded sewage into the lake by incurring cost from its own sources initially and sorting out its chain against the Railways separately authority"

2. That although more than 13 (thirteen) mouths time has already elapsed no such initiative has been undertaken physically and the historical Waterbody is being contaminated through the untreated sewage water discharges to the Jheel. The Copy of such order dated 4th July 2022 had duly been forwarded to the Howrah Municipal Corporation, Railway Administration, District Magistrate and the State PCB,

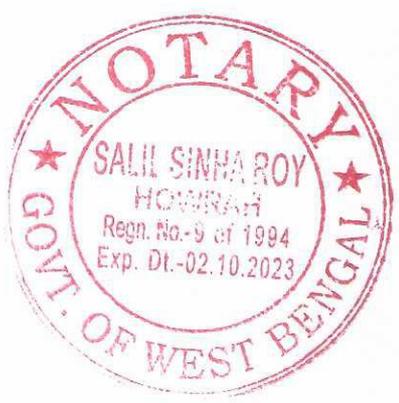
3. That the undersigned had visited the Jheel on 10th August 2023 when it was found that almost eighty percent of the Waterbody got covered by water hyacinth and the upkeep of the Jheel is totally neglected. Every year thousands of migratory birds nest there which is a BIRD SANCTUARY.

4. That it was also directed by the NGT as follows-
"The State PCB may also take action in accordance with the provision of the Water (Prevention at Control of Pollution) Act, 1974 to prevent and remedy pollution".

That the order of the Hon'ble NGT has not been given any cognizance at all. You are therefore, requested to initiate necessary steps forthwith.

Regards.
Yours faithfully
S. Subhas Datta
(Subhas Datta)

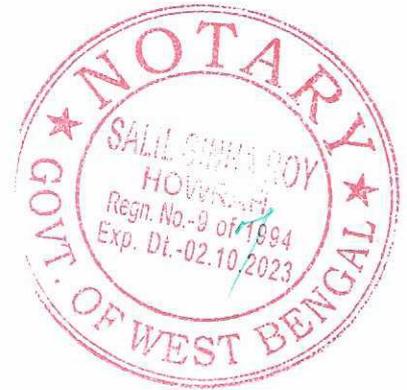
Applicant-in Person
in OA 06/2016/EZ



14 AUG 2023

C.C.

- 1) General Manager.
South Easter Railway.
11, Garden Reach Road Kolkata, West Bengal, Pin-700043
- 2) District Magistrate, Howrah.
123, Rishi Bankim Chadha Road, Howrah-711101
- 3) Commissioner, Howrah Municipal Corporation.
4, Mahatma Gandhi Road, Howrah- 711101
- 4) Member Secretary, W. B. Pollution Control Board,
Paribesh Bhawan, 10A Block LA, Sec-III, Salt Lake, Bidhannagar, Kolkata- 700106.



EW3972993893N IVR:6987397299389
 SP HOWRAH BPC (711101)
 Counter No:4,11/08/2023,13:04
 To:THE PRINCIPAL,URBAN DEVEL.& MJ
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 From:S.DATTA ,HOWRAH
 Rs:20qms
 Amt:41.30(Cash)Tax:6.30
 (Track on www.indiapost.gov.in)
 (Dial 18002666868) (Wear Masks, Stay Safe)



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 Counter No:4,11/08/2023,13:04
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 PIN:711101, HOWRAH BPC
 From:S.DATTA ,HOWRAH
 Rs:20qms
 Amt:17.70(Cash)Tax:2.70
 (Track on www.indiapost.gov.in)
 (Dial 18002666868) (Wear Masks, Stay Safe)



EW3972993933N IVR:69873972993933
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 Counter No:4,11/08/2023,13:04
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 PIN:700043, South Eastern Railway SO
 From:S.DATTA ,HOWRAH
 Rs:20qms
 Amt:41.30(Cash)Tax:6.30
 (Track on www.indiapost.gov.in)
 (Dial 18002666868) (Wear Masks, Stay Safe)



EW3972994477N IVR:69873972994477
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 From:S.DATTA ,HOWRAH
 Rs:20qms
 Amt:41.30(Cash)Tax:6.30
 (Track on www.indiapost.gov.in)
 (Dial 18002666868) (Wear Masks, Stay Safe)



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 (Dial 18002666868) (Wear Masks, Stay Safe)



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