

101

Before the Green Tribunal, Eastern Zone Bench at Kolkata

MEMORANDUM OF APPLICATION

[Under Section 18(1) read with sections 14 & 15 and under Section 18(2) of the National Green Tribunal Act, 2010]

Original Application No. 48/2024/EZ

In the matter of:

Ankur Sharma,

son of Shri Ambooj Sharma,
resident of 13/3, Dr. P. K. Banerjee
Road, P.O., P.S. & District-Howrah,
West Bengal, PIN-711101.

..... Applicant

-VERSUS-

1. The State of West Bengal
represented by the Chief Secretary,
Government of West Bengal having
office at NABANNA (13th Floor), 325,
Sarat Chatterjee Road, Shibpur,
Howrah-711102.

Email: cs-westbengal@nic.in

2. West Bengal Pollution Control
Board represented by its Member
Secretary having office at PARIBESH
BHAVAN, 10A, Block-L.A., Sector-
III, Salt Lake City, Kolkata-700 106.

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

3. The District Magistrate,
Howrah, having office at 6, Rishi
Bankim Chandra Road, Howrah-
711101.

Email:

dmhowrahwb@gmail.com



Suzanta Mukherjee.
Executive Engineer (Civil)
W.B.P.H. & I.D.C.L

25 APR 2024

4. Howrah Municipal Corporation represented by its Commissioner having office at 4, M. G. Road, Howrah-711101. Email:commissioner.howrah@gmail.com



5. West Bengal Police Housing & Infrastructure Development Corporation Limited represented by its Chairman and Managing Director having office at ARAKSHA BHAWAN, 3rd floor, Block -DJ, Sector-II, Salt Lake City, Kolkata-700091. Email: mdwbsphcl@gmail.com

.....Respondents

Affidavit-in-Opposition on behalf of the Respondent no. 5

I, Susanta Mukherjee, son of late Biswan Prasad Mukherjee, aged about 67 years, by faith- Hindu, by occupation- Service, working for gain as Executive Engineer (Civil), Zone-N.O-II, West Bengal Police Housing and Infrastructure Development Corporation Limited at "Araksha Bhawan" 3rd Floor, Block-DJ, Sector-II, Salt Lake City, Kolkata-700091, do hereby solemnly affirm and say as follows-

1. That I am the concerned executive engineer of the respondent no. 5 herein and as such I have made myself acquainted with the facts and circumstances of this case and as such I am competent to affirm this affidavit and I am duly authorized by the respondent no. 5 to affirm this affidavit on its behalf.

2. A copy of the original application being O. A. No. 48/2024/EZ along with all annexure thereto (hereinafter referred to as "the said

Susanta Mukherjee
Executive Engineer (Civil)
W.B.P.H. & I.D.C.L

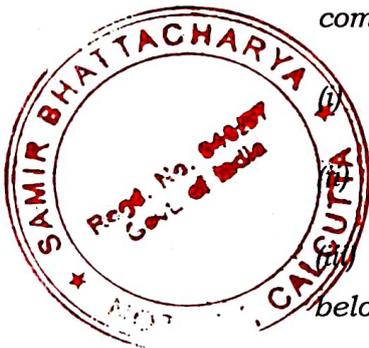
application”) has been served upon the respondent no. 5 on 8th April, 2024, which was purportedly affirmed on 26th February, 2024 by the applicant and after perusing the same I have understood the meaning, content and purport thereof. I have also been advised to specifically deal with the allegations made in the said application against the answering respondent herein and I am restricting my instant affidavit only to the extent of such allegations raised in the instant application.

3. On 13th March, 2024, the said application came up for consideration before The National Green Tribunal Eastern Zone Bench, Kolkata when, after hearing the Learned advocates for the respective parties, Their Lordships The Hon’ble Mr. Justice B. Amit Sthalekar, Judicial Member and the Hon’ble Dr. Arun Kumar Verma, Expert Member, were pleased to direct inter alia as follows:-

“.....

10. *All the Respondents shall file their counter –affidavits within four weeks.*

11. *Considering the allegations made, we deem it appreciate to constitute a Committee to elicit the veracity of the allegations comprising of the following Members:-*



Senior Scientist, West Bengal Pollution Control Board,

Senior Officer, Howrah Municipal Corporation, and

District Magistrate, Howrah, or his representative not below the rank of Additional District Magistrate,

12. *The Committee shall inspect the site in question and submit its Report within four weeks on affidavit with regard to the allegations made.*

13. *The District Magistrate, Howrah, shall be the Nodal Agency for all logistic purposes.*

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14. *The Committee Report on affidavit shall be filed by the West Bengal Pollution Control Board.*

15. *List on 25.04.2024."*

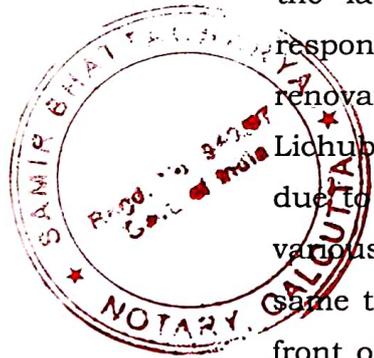
The Answering respondent no. 5 craves leave of this Hon'ble Court to refer to the said order dated 13th March, 2024 passed by this Hon'ble Court at the time of hearing, if necessary.

4. Save and except those which are matters of record and what are specifically admitted by me herein below, each and every allegation and/or contention and/or submission contained in the said application is denied and disputed as if the same is set out in seriatim herein and specifically traversed.

5. Without prejudice to the above and before dealing with or answering the allegations contained in the said application, I beg to pledge the following :-

A. That the repair and renovation work of the buildings within the compound of Lichubagan Police Quarters have been going on for the last 2-3 years. It is pertinent to mention here that the respondent no. 5 herein carrying on the said work of repair and renovation of the said buildings within the compound of the Lichubagan Police Quarters through its selected contractor and due to the said repair and renovation work of the said buildings, various kind of debris collected by the said contractor and the same temporarily kept in the vat which is situated beside road in front of the said buildings of the Lichubagan Police Quarters and the said contractor through its clearing personnel clear the said debris regularly from the said vat.

Photographs showing regular clearance of the debris from the said vat are annexed hereto and collectively marked with the letter "A".



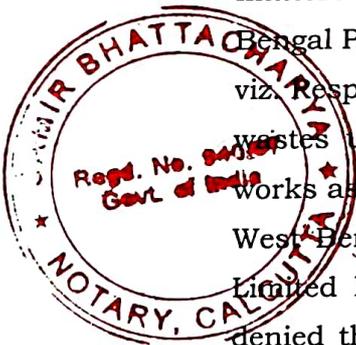
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B. The answering respondent specifically states that there is no fault on the part of the answering respondent or its contractor and their men, agents and associates regarding any pollution in the said area concern i.e. Lichubagan Police Quarters. It is further pertinent to mention here that neither the answering respondent nor its contractor and/or men, agents and associates are any way involved in polluting the said area in any manner whatsoever.

6. Without prejudice to the above I beg to deal with the paragraphs in the application ad seriatim.

7. Barring what are specifically admitted herein, all allegations made in the said Writ Petition filed by the petitioner are denied and disputed. The allegations made in the writ petition are sweeping in nature, without any element of material basis. The statements based on the newspaper reports solely are denied.

8. With reference to paragraph No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the said application, I deny each and every allegation and dispute the correctness of the submissions made therein save and except what are matters of records. It is denied that the contractors engaged by the West Bengal Police Housing & Infrastructure Development Corporation Limited viz. Respondent no. 5 have dumped heaps of construction and demolition wastes upon the said vast vacant strip of land during the renovation works as alleged or at all. It is further denied that on the other hand, the West Bengal Police Housing & Infrastructure Development Corporation Limited has already turned a blind eye as alleged or at all. It is also denied that repair/renovation of the police quarters is being carried on since 2020, Construction and Demolition Wastes are being dumped at the said vacant strip of land in gross violation of the Construction and Demolition (C&D) Waste Management Rules, 2016 further worsening the situation as alleged or at all. I crave leave to make necessary submissions in this regard at the time of hearing referring to the

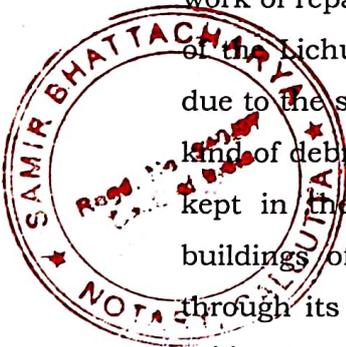


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statements made in the foregoing paragraphs and I refrain from repeating the same to avoid prolixity.

9. With reference to paragraph Nos. 13, 14, 15, 16, 17, 18, 19, 20 and 21 of the said application, I deny each and every allegation and dispute the correctness of the submissions made therein save and except what are matters of records. It is denied that it is also duty of West Bengal Police Housing & Infrastructure Development Corporation Limited to ensure that all premises under its jurisdiction are properly maintained and proper disposal of solid and liquid waste are carried on as alleged or at all. I crave leave to make necessary submissions in this regard at the time of hearing referring to the statements made in the foregoing paragraphs and I refrain from repeating the same to avoid prolixity.

10. With reference to paragraph Nos. 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 of the said application, I deny each and every allegation and dispute the correctness of the submissions made therein save and except what are matters of records. It is submitted the repair and renovation work of the buildings within the compound of Lichubagan Police Quarters have been going on for the last 2-3 years. It is pertinent to mention here that the respondent no. 5 herein carrying on the said work of repair and renovation of the said buildings within the compound of the Lichubagan Police Quarters through its selected contractor and due to the said repair and renovation work of the said buildings, various kind of debris collected by the said contractor and the same temporarily kept in the vat which is situated beside road in front of the said buildings of the Lichubagan Police Quarters and the said contractor through its clearing personnel clear the said debris regularly from the said vat. It is further submitted there is no fault on the part of the answering respondent or its contractor and their men, agents and associates regarding any pollution in the said area concern i.e. Lichubagan Police Quarters. It is further pertinent to mention here that



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neither the answering respondent nor its contractor and/or men, agents and associates are any way involved in polluting the said area in any manner whatsoever. I crave leave to make necessary submissions in this regard at the time of hearing referring to the statements made in the foregoing paragraphs and I refrain from repeating the same to avoid prolixity.

11. With reference to paragraph No. 33 of the said application and the various grounds stated there under. It is submitted that the said grounds do not make out any case of interference by this Hon'ble Court.

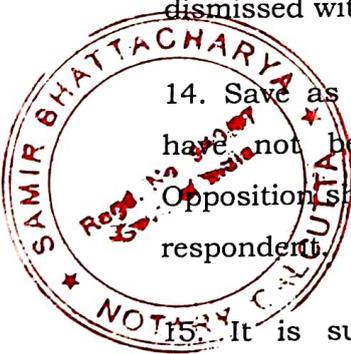
I crave leave to refer to the statements made in the forgoing paragraphs of this affidavit in this regard and I refrain from repeating the same for avoiding prolixity.

12. With the facts and circumstances stated herein above it is humbly submitted that no case were made out by the applicant calling for interference in this application. Therefore, this Hon'ble Court may be pleased to dismiss the application in limine with cost.

13. In the facts and circumstances stated above it is humbly submitted that the application is not maintainable and the prayers made in the said application should be rejected and the instant application should be dismissed with exemplary costs.

14. Save as aforesaid all other allegations and/or insinuations which have not been specifically dealt with in the instant Affidavit-in-Opposition shall be deemed to have been strictly denied by the answering respondent.

15. It is submitted that the said application has been filed by suppressing material facts and the applicant has come to this Hon'ble Court with unclean hands. The said petition is motivated, speculative, harrasive, coercive, vexatious and the same is liable to be dismissed with exemplary costs.



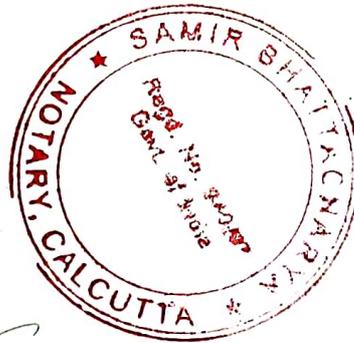
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16. That the statements made in paragraphs 1 to 15 of the foregoing affidavit are true to my knowledge and the rest are my respectful submissions before this Hon'ble Court.

Susanta Mukherjee
DEPONENT

Prepared in my office

Nilayin Bhattacharya
Advocate.

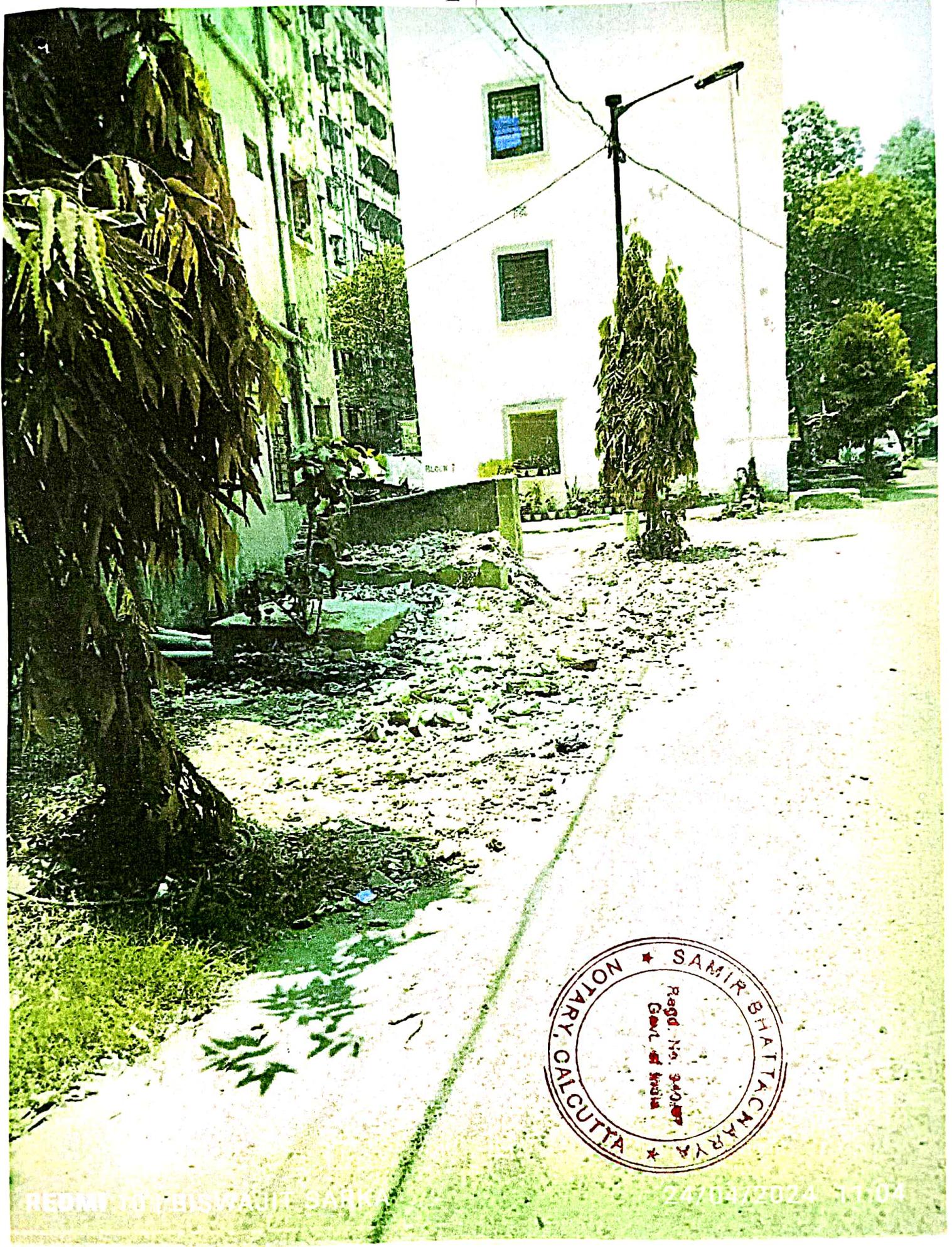


Solemnly Affirmed and
Declared before me U/S 139
CPC/U/S 297 (C) CRPC

25.4.24
Notary

Samir Bhattacharya
Notary Govt. of India
Regd. No.- 940 / 97
CITY CIVIL COURT, CALCUTTA

25 APR 2024



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NOTARY, CALCUTTA
Regd. No. 940/07
Govt. of India

