

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. NO. ____ OF 2024
IN
ORIGINAL APPLICATION NO. 82 OF 2023**

IN THE MATTER OF:

SANTOSH PUR MITALI SANGHA APPLICANT

VERSUS

STATE OF WEST BENGAL AND ORS. RESPONDENTS

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THROUGH



**RITWICK DUTTA RAHUL CHOUDHARY KAUSTAV DHAR MUKUT BISWAS
ADVOCATES**

COUNSELS FOR THE APPLICANT

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Place: KOLKATA/DELHI

Date: 22.05.2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. No. _____ OF 2024
IN
ORIGINAL APPLICATION NO. 82 OF 2023**

IN THE MATTER OF:

SANTOSHPUR MITALI SANGHA APPLICANT

VERSUS

STATE OF WEST BENGAL AND ORS. RESPONDENTS

SYNOPSIS

That the present Execution Application has been filed under Section 25 of the National Green Tribunal Act, 2010, seeking execution and compliance of order dated 02.04.2024 passed by this Hon'ble Tribunal in the matter of *Santoshpur Mitali Sangha vs. State of West Bengal & Ors.* (Original Application 82 of 2023).

This Hon'ble Tribunal vide order dated 02.04.2024 was pleased to pass an Order directing the following:

- i. A boundary wall of adequate height along the periphery of the Suravai Sadan Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, and wastewater into the adjoining areas within two months i.e., by 31.05.2024.
- ii. A proper drainage/garland drain to be constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc. within two months i.e., by 31.05.2024.
- iii. Immediate steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala within one month i.e., 02.05.2024.

The Applicant herein reproduces the relevant extracts of the order dated 02.04.2024:

"6. Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage / garland drain is also constructed to contain the flow of sewage / slush / bovine urine and bovine waste etc.

*7. We, therefore, allow the I.A. No.12/2024/EZ and **direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage / slush / bovine urine / bovine waste from flowing to the outside.** The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.*

8. Let the said construction of boundary wall and garland drain be constructed within two months i.e. by 31.05.2024.

15. Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing."

Despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of May 2, 2024, and May 31, 2024, respectively, Respondent Nos. 7 and 8 have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. It should be emphasized that with the monsoon season approaching, failure to adhere to the aforementioned directives within the specified timeframe would exacerbate the situation on the ground. This clearly shows the deliberate nature of the contemptuous conduct of the Respondent Nos. 7 and 8.

Consequences resulting from the failure to comply with the directives issued by this Hon'ble Tribunal:

The Applicant herein submits that the monsoon is not far off and hence the increased Rainfall will exacerbates the challenges of waste management in the Gaushala. The excessive water will lead to the runoff of bovine waste into nearby adjacent agricultural lands and water bodies, causing pollution and environmental degradation. That there will be absolute overflow of bovine wastes which are accumulated in the adjacent land. During monsoon seasons, the pits storing this dung will overflow due to heavy rain, not only leading to contamination of soil and water sources but also contamination of groundwater as the same will percolate and seep deep into the groundwater thereby contaminating the same. Furthermore, another major issue is with regard to the waterlogging and odour issues. Since, the Gaushala completely lacks proper drainage facilities, the poor drainage systems will result in waterlogging, creating breeding grounds for mosquitoes and other disease vectors. Additionally, the decomposition of organic waste under waterlogged conditions will produce foul odors, posing health hazards to both animals and nearby communities, living adjacent to the Gaushala. The clogging of the wastes due to inadequate drainage system leads to breeding ground for mosquitoes during the monsoon and thus creates extreme unhygienic conditions and is thus prone to health hazards. The foul smell from the dairy creates severe nuisance to the people living in the adjacent area as they have no option but to inhale the impure-foul air present in the atmosphere. The unit discharges the cattle dung and urinal waste water which produces various gases like methane, ammonia, nitrogen oxides etc. which are emitted into the atmosphere and is majorly responsible for odour issues inviting incurable diseases and monsoon will aggravate and worsen the situation.

Thus, the Applicant who is concerned about the social and environmental issues in his region is seeking execution and compliance of the order dated 02.04.2024 in Original Application 82 of 2023.

Hence, the present Execution Application.

LIST OF DATES

25.07.2023	<p>The Applicant of the present Application had filed an Original Application No. 82 of 2023 before this Hon'ble Tribunal on the grounds that the Survi Sadan Gaushala has been operating illegally and unscientifically without obtaining any valid CTO and CTE from the West Bengal Pollution Control Board in complete violation of the Water Act and Air Act and also in complete violation of several provisions of the 'Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the CPCB, July, 2021. It is pertinent to note here that an application for post facto CTO was submitted by the Gaushala on 28.08.2023 only after the filing of the Original Application No. 82 of 2023 before this Hon'ble Tribunal on 25.07.2023 and the post facto CTO has been granted on 21.09.2023 despite being fully conscious of the fact that the unit is operating in complete violation of several provisions of the Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the CPCB. Despite being aware of all the illegalities, CTO has been granted by the PCB.</p>
02.04.2024	<p>This Hon'ble Tribunal vide order dated 02.04.2024 was pleased to pass an Order directing the following:</p> <ol style="list-style-type: none"> <li data-bbox="568 1787 1385 2217">i. A boundary wall of adequate height along the periphery of the Suravai Sadan Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, and wastewater into the adjoining areas within two months i.e., by 31.05.2024. <li data-bbox="568 2244 1385 2378">ii. A proper drainage/garland drain to be constructed to contain the flow of sewage/slush/bovine urine

and bovine waste etc. within two months i.e., by 31.05.2024.

- iii. Immediate steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala within one month i.e., 02.05.2024.

The Applicant herein reproduces the relevant extracts of the order dated 02.04.2024:

"6.Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage/garland drain is also constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc.

*7.We, therefore, allow the I.A. No.12/2024/EZ and **direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage / slush / bovine urine / bovine waste from flowing to the outside.** The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.*

8.Let the said construction of boundary wall and garland drain be constructed within two months i.e. by 31.05.2024.

15.Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into

	<p><i>the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing.”</i></p> <p>Despite the clear directives issued by this Hon’ble Tribunal to be adhered to within the specified time frame of May 2, 2024, and May 31, 2024, respectively, Respondent Nos. 7 and 8 have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon’ble Tribunal, causing progressive environment degradation. It should be emphasized that with the monsoon season approaching, failure to adhere to the aforementioned directives within the specified timeframe would exacerbate the situation on the ground. This clearly shows the deliberate nature of the contemptuous conduct of the Respondent Nos. 7 and 8.</p>
22.05.2024	Hence, the present Execution Application.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. NO. ____ OF 2024
IN
ORIGINAL APPLICATION NO. 82 OF 2023**

IN THE MATTER OF:

SANTOSHPUR MITALI SANGHA

Through its authorized signatory

Shri Avi Bag, Secretary.

Banerjee Para, Village - Santoshpur, P.O. – Adi Kashimpur,

P.S. Duttapukur, North 24 Parganas – 743248.

Email: bagavi.1983@gmail.com Ph: +91 9830557087

.... APPLICANT

VERSUS

1. STATE OF WEST BENGAL

Through the Chief Secretary,

Department of Environment,

5th Floor, Pranisampad Bhawan,

Block LB-II, Salt Lake, Sector-III,

Bidhannagar, Kolkata – 700106.

Email: cs-westbengal@nic.in Ph: 03322535130

2. WEST BENGAL STATE POLLUTION CONTROL BOARD

Through its Member Secretary,

Paribesh Bhawan, 10A, Block-LA,

Sector-III, Bidhannagar,

Kolkata – 700106

Email: ms@wbpcb.gov.in Ph: 03323358213

3. CENTRAL POLLUTION CONTROL BOARD

Through the Member Secretary,

Parivesh Bhawan, CBD-cum-Office Complex,

East Arjun Nagar, Delhi -110 032.

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4. DISTRICT MAGISTRATE

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Barasat, Kolkata-700124.

Email: dm-bar-wb@nic.in Ph: 03325523662.

5. PRADHAN, KASHIMPUR GRAM PANCHAYAT

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North 24 Parganas, West Bengal 743248.

6. BLOCK DEVELOPMENT OFFICER

Barasat-I Development Block,

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West Bengal 700124.

Ph: +91 33 2552 3344.

7. SURAVI SADAN GAUSHALA

Through the President of Rajasthan Gokalyan Trust,

Santoshpur, Barasat. North 24 Parganas.

West Bengal – 743248.

Ph: +91 6359-4569.

8. RAJASTHAN GOKALYAN TRUST

Through its President

Santoshpur, Barasat. North 24 Parganas.

West Bengal – 743248.

Ph: +91 6359-4569.

.... RESPONDENTS

**EXECUTION APPLICATION U/S 25 OF THE NATIONAL GREEN
TRIBUNAL ACT, 2010 FOR EXECUTION OF ORDER DATED
02.04.2023 IN O.A. NO. 82 OF 2023:**

MOST RESPECTFULLY SHOWETH:

1. That the present Execution Application has been filed under Section 25 of the National Green Tribunal Act, 2010, seeking execution and compliance of order dated 02.04.2024 passed by this Honble Tribunal in the matter of *Santoshpur Mitali Sangha vs. State of West Bengal & Ors.* (Original Application 82 of 2023). This Hon'ble Tribunal vide order dated 02.04.2024 was pleased to pass an Order directing the following:

- i. A boundary wall of adequate height along the periphery of the Suravai Sadan Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, and wastewater into the adjoining areas within two months i.e., by 31.05.2024.
- ii. A proper drainage/garland drain to be constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc. within two months i.e., by 31.05.2024.
- iii. Immediate steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala within one month i.e., 02.05.2024.

2. The Applicant herein reproduces the relevant extracts of the order dated 02.04.2024:

"6.Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage/garland drain is also constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc.

*7.We, therefore, allow the I.A. No.12/2024/EZ and **direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage /slush /bovine urine / bovine waste from flowing to the outside.** The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.*

8.Let the said construction of boundary wall and garland drain be constructed within two months i.e. by 31.05.2024.

15.Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing."

3. Despite the specific directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of May 2, 2024, and May 31, 2024, respectively, Respondent Nos. 7 and 8 have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. It should be emphasized that with the monsoon season approaching, failure to adhere to the aforementioned directives within the specified timeframe would exacerbate the situation on the ground. This clearly shows the deliberate nature of the contemptuous conduct of the Respondent Nos. 7 and 8.

Copy of the Order dated 02.04.2024 passed by this Hon'ble Tribunal is annexed herewith as **ANNEXURE A/1.**

Non-compliance of the Order dated 02.04.2024 passed by this Hon'ble Tribunal:

4. That the Applicant of the present Application had filed an Original Application No. 82 of 2023 before this Hon'ble Tribunal on the grounds that the Survi Sadan Gaushala has been operating illegally and unscientifically without obtaining any valid CTO and CTE from the West Bengal Pollution Control Board in complete violation of the Water Act and Air Act and also in complete violation of several provisions of the 'Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the CPCB, July, 2021.
5. That after due consideration of the facts and law at hand, vide order dated 04.08.2023, this Hon'ble Tribunal directed for a Joint Report by the Joint Committee constituted upon the allegations raised by the

Applicant. Thereafter, the inspection was conducted by the Joint Committee constituted on 29.08.2023 and in this regard a report was submitted in the form of an affidavit dated 22.09.2023 by the West Bengal Pollution Control Board.

6. It is pertinent to note here that an application for post facto CTO was submitted by the Gaushala on 28.08.2023 only after the filing of the Original Application No. 82 of 2023 before the Hon'ble Tribunal on 25.07.2023 and the post facto CTO has been granted on 21.09.2023 despite being fully conscious of the fact that the unit is operating in complete violation of several provisions of the Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the CPCB. Despite being aware of all the illegalities, CTO has been granted by the PCB. The same has been categorically recorded in the Joint Committee Report.
7. It is submitted that in wilful violation of the said direction of this Hon'ble Tribunal, the Respondent Nos. 7 and 8 have still not initiated any work with regard to the following which is clear from the photographs taken at the Applicant on 21.05.2024:
 - a) Restoration of the adjoining areas where bovine wastes are poured;
 - b) Construction of the boundary wall along the periphery of the Gaushala;
 - c) Construction of Garland drain.

The photographs captured by the Applicant on May 21, 2024, indicate that there has been no construction progress on the wall, and the bovine waste from the nearby agricultural land remains uncleared. These images unmistakably reveal the continued presence of temporary barriers/wall, contrary to the directives of this Hon'ble Tribunal.

Copy of the images taken by the Applicant on 21.05.2024 are annexed herewith as **ANNEXURE A/2.**

8. Further, the Applicant submits that this Hon'ble Tribunal in the matter titled **Social Action for Forest and Environment (SAFE) v. Union of India & Ors. (2019 SCC Online NGT 392)**, has held that this Hon'ble Tribunal has the powers, right as well as the duty of getting its Orders executed:

*"21. 'Polluter Pays' principle can be applied by every regulatory authority and compensation can be and must be recovered from every polluter and the amount which is to be recovered spent for the restoration of the environment. **Mere passing of orders by the Tribunal is of no value unless the same are faithfully executed. Execution is in the hands of the authority. As executing court, it is not only the right but also the duty of this Tribunal to take such measures as may ensure compliance.** Mode of execution is laid down in CPC (Section 51), i.e., arrest and detention, appointment of a receiver or in such manner as nature of relief may require. There are provisions for prosecution, including of heads of departments of the Government. On 'Polluter Pays' principle, damages can be recovered not only from the polluters but also from the State functionaries who collude with the polluters. The authorities have not been fully successful in their performance of duties to protect environment."*

Consequences resulting from the failure to comply with the directives issued by the Hon'ble Tribunal:

9. The Applicant herein submits that the monsoon is not far off and hence the increased Rainfall will exacerbates the challenges of waste management in the Gaushala. The excessive water can lead to the runoff of bovine waste into nearby water bodies, causing pollution and environmental degradation. That there will be absolute overflow of bovine wastes which are accumulated in the adjacent agricultural land. During monsoon seasons, the pits storing this dung can overflow due to heavy rain, not only leading to contamination of soil and water sources but also contamination of groundwater as the same will percolate and seep deep into the groundwater thereby contaminating the same.

Furthermore, another major issue is with regard to the waterlogging and odour issues. Since, the Gaushala complete lacks proper drainage facilities, the poor drainage systems in the gaushala will result in waterlogging, creating breeding grounds for mosquitoes and other disease vectors. Additionally, the decomposition of organic waste under waterlogged conditions will produce foul odors, posing health hazards to both animals and nearby communities, living adjacent to the Gaushala. The clogging of the wastes due to inadequate drainage system leads to breeding ground for mosquitoes during the monsoon and thus creates extreme unhygienic conditions and is thus prone to health hazards. The foul smell from the dairy creates severe nuisance to the people living in the adjacent area as they have no option but to inhale the impure-foul air present in the atmosphere. The unit discharges the cattle dung and urinal waste water which produces various gases like methane, ammonia, nitrogen oxides etc. which are emitted into the atmosphere and is majorly responsible for odour issues inviting incurable diseases and monsoon will aggravate and worsen the situation. Thus, the Applicant who is concerned about the social and environmental issues in his region is seeking execution and compliance of the order dated 02.04.2024 in Original Application 82 of 2023.

GROUNDS

10. That the Applicant is filing the present execution application on following amongst other grounds which he may take at the time of hearing of the Application:
 - A. Because the Applicant is approaching this Hon'ble Tribunal under Section 25 of the NGT Act seeking execution of the directions contained in order dated 02.04.2024 as this Hon'ble Tribunal has all the powers of Civil Court to execute its own order;
 - B. Because Respondent Nos. 7 and 8 have till date not initiated any work with regard to the construction of a boundary wall of adequate

height along the periphery of the Suravai Sadan Gaushala which needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, and wastewater into the adjoining areas within two months i.e., by 31.05.2024;

- C. Because Respondent Nos. 7 and 8 have till date not initiated any work with regard to the construction of a proper drainage/garland drain which needs to be constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc. within two months i.e., by 31.05.2024;
- D. Because Respondent Nos. 7 and 8 have till date not initiated any work and has miserably failed to take steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala and restore the same within the stipulated timeframe of one month i.e., 02.05.2024;
- E. Because despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of May 2, 2024, and May 31, 2024, respectively, Respondent Nos. 7 and 8 have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. It should be emphasized that with the monsoon season approaching, failure to adhere to the aforementioned directives within the specified timeframe would exacerbate the situation on the ground;
- F. Because the monsoon is not far off and hence the increased Rainfall will exacerbates the challenges of waste management in Gaushalas. The excessive water can lead to the runoff of bovine waste into nearby water bodies, causing pollution and environmental degradation. That there will be absolute overflow of bovine wastes which are accumulated in the adjacent land;
- G. Because during monsoon seasons, the pits storing this dung will overflow due to heavy rain, not only leading to contamination of soil

and water sources but also contamination of groundwater as the same will percolate and seep deep into the groundwater thereby contaminating the same;

H. Because in **State of Madhya Pradesh v. Centre for Environment Protection Research and Development & Ors. (2020) 9 SCC 781**, the Hon'ble Supreme Court had declared that an Order of National Green Tribunal are binding and enforceable on governmental authorities. It was held:

*"59. The order passed by the learned Tribunal are binding on and enforceable against the appellant State. As observed above, the learned Tribunal had the power, authority and jurisdiction to direct the appellant State to strictly implement compliance with Rules 115 and 116. **An order of the Tribunal under the National Green Tribunal Act is enforceable in the manner provided in Section 25 of the NGT Act.**"*

I. Because the Hon'ble Tribunal's Principal Bench in **Rayons-Enlighting Humanity & Anr vs. MoEF & Ors. Original Application No. 186 of 2013** has held on the issue of application of Section 25 of the NGT Act, 2010 has held that the NGT has been granted the powers of a Civil Court to execute the orders/directions of the Tribunal. Therefore, this Hon'ble Tribunal has the power and jurisdiction to consider the instant Execution Application. In paragraph 39 of the said Judgment the NGT held that:

"39. In relation to the orders of the Tribunal, Section 25 of the NGT Act vests it with the powers of a 'civil court' and the order or decision of the Tribunal shall be executed as a decree of a civil court, that is, to say that all powers of execution under the CPC are specifically vested in the Tribunal for execution of its award, order or decision. In relation to execution of a decree, the civil court is vested with the power of attachment of property, arrest and detention in the civil prison and to deal with the question of resistance to

*execution of a decree. As such, all these powers could be deemed to be vested with the Tribunal. In the present case, both the orders dated 28th May, 2013 and 18th July, 2013 were passed in the court in the presence of the learned counsel appearing for the parties and in fact even the officers of the Respondent-authority. The respondents have not raised any question, and rightly so, with regard to knowledge or contents of the orders of the Tribunal. **The flouting of an order which has the effect or consequence of an injunction will touch the jurisdiction of the Court of the Tribunal for application under Order XXXIX Rule 2-A of the CPC. The Tribunal has to ensure that the orders passed by it must be effectively and fruitfully implemented and should not be permitted to be frustrated by any party as all these relate to the matters of environmental significance and public health at large.** The Courts have also taken a view that the provisions of Order XXXIX, Rule 2A would be given effect to even in preference to the Contempt of Court Act, 19. Once an order is passed by the Tribunal, it is not open to a party to go behind the order either by looking into the pleadings of the Tribunal or the mind of the Presiding Officer. **The order must be construed on its plain language and all concerned are under an obligation to ensure implementation of the order in question.** It is equally true that the object of passing such an order is not to punish a person for disobedience of injunction order but to ensure the enforcement and compel the party to act according to the injunction. An application under Order XXXIX, Rule 2A of the CPC is maintainable only when there is disobedience of any injunction granted or other order passed under Order XXXIX, Rule 1 or 2 or breach of any terms on which injunction was granted or order was made [(Food Corporation of India v. Sukh Deo Prasad 2009(4) SCALE 38; Sarkar Code of Civil Procedure, 11th Ed.)]”*

- J. Because in **Asim Sarode & Anr. vs. MPCB & Ors., 2014 SCC OnLine NGT 1880** this Hon'ble Tribunal while issuing ad-interim orders directing respondents to ensure that there shall be no incident

of burning of tyres, particularly bulk of tyres at the public places like public road, in the locality surrounded by the residential houses directed that:-

*"By way of Ad-interim measure, we direct that the respondents and if necessary, on information given by the Activists or the Applicants, as the case may be, the local police through the State of Maharashtra, Gujarat and Goa, shall ensure that there shall be no incident of burning of tyres, particularly bulk of tyres at the public places like public road, in the locality surrounded by the residential houses, which is likely to cause smoke and health hazard. **Any dereliction in this directions, may entail penal consequences as enumerated in Section 26 of the National Green Tribunal Act, 2010, if the same is brought to the notice of this Tribunal. The Applicants may separately furnish copy of this order to the concerned Police Authorities, including the Director General of Police of all the States, Inspector General of Police, the Commissioners of Police etc. for due compliances and the MPCB also to do its part for proper compliance of the order."***

LIMITATION

This Execution Application, seeking the execution of Order dated 02.04.2024 is being filed within the period of limitation. The Order for which execution is being sought is dated 02.04.2024 and Respondent Nos. 7 and 8 is undertaking activities in violation of the same. As till date no construction of boundary wall and garland drain has been initiated and no restoration of the adjacent land is taken place which was supposed to be complied by 02.05.2024. Therefore, the Applicant is filing the present Application before this Hon'ble Tribunal.

PRAYER

In light of the above stated facts and circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to:

- I. Direct compliance of the directions issued by this Hon'ble Tribunal as contained in order dated 02.04.2024 in Original Application No. 82 of 2023;
- II. Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

BEFORE THE NOTARY PUBLIC
At Area: Alipore
Dist: South 24 Parganas

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

E.A. NO. _____ OF 2024
IN

ORIGINAL APPLICATION NO. 82 OF 2023



IN THE MATTER OF:

SANTOSH PUR MITALI SANGHA

....APPLICANT

VERSUS

STATE OF WEST BENGAL AND ORS.

...RESPONDENTS

AFFIDAVIT

I, Avi Bag, S/o Late Dulal Bag, aged about 43 years, R/o Santoshpur, Banerjee Para, P.O. Adl Kashimpur, P.S. Duttapukur, North 24 Parganas – 743248, do hereby solemnly affirm and state as follows:

1. I am the person authorized by the Applicant Organisation In the above titled Execution Application and conversant with the facts and circumstances of the case and competent to swear this Affidavit.

That the contents of the accompanying Application are true and correct and nothing material has been concealed therefrom.

Avi Bag

DEPONENT

VERIFICATION

Verified at Kolkata on this 21st day of May, 2024 that the contents of the above mentioned Affidavit are true and correct and nothing material has been concealed therefrom.

Avi Bag
DEPONENT

BISHWANATH MUKHERJEE
NOTARY
Govt. of India
Regd. No. 13783

21 MAY 2024

Item No.09

Court No.1

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

Original Application No.82/2023/EZ
(I.A. No.12/2024/EZ)

Santoshpur Mitali Sangha

Applicant(s)

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 02.04.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Ritwick Dutta, Advocate a/w
Mr. Kaustav Dhar, Advocate and
Mr. Mukut Biswas, Advocate

For Respondent(s): Mr. Rajib Ray, Advocate for R- 1,4 &6 (in Virtual Mode),
Mr. Ayush Kumar Dadhich, Advocate for R-2,
Mr. Dipanjan Ghosh, Advocate for R-3 (in Virtual Mode),
Mr. Suman Dutt, Advocate (in Virtual Mode) a/w
Ms. Shipra Naskar, Advocate for R- 7 & 8

ORDER

1. Ms. Shipra Naskar, learned Counsel files Vakalatnama on behalf of the Respondent Nos.7 & 8; the same is taken on record.
2. We have heard the learned Counsel for the parties in part.
3. Considering the Report of the Committee of an Inspection/Enquiry conducted on 29.08.2023, we are of the view that in the interregnum a boundary wall to the Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, sewage, waste water into the adjoining areas.

I.A. No.12/2024/EZ:-

4. This Interlocutory Application has been filed by Respondent No.8 with the prayer that he may be provided police assistance in the erection of the boundary wall along the periphery of the Suravi

Sadan Gaushala in Mouza-Santoshpur, P.S.-Barasat, District-North 24 Parganas.

5. The allegation in his Interlocutory Application is that the local persons are preventing him from construction of the boundary wall with the result that some of the findings noted in the Committee Report are being rendered unimplementable.
6. Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage/garland drain is also constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc.
7. We, therefore, allow the I.A. No.12/2024/EZ and direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage/slush/bovine urine/bovine waste from flowing to the outside. The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.
8. Let the said construction of boundary wall and garland drain be constructed within two months i.e. **by 31.05.2024.**
9. I.A. No.12/2024/EZ is accordingly disposed of.
10. We also find that the Enquiry Committee had conducted enquiry on 29.08.2023 and thereafter, Consent to Operate (CTO) was granted to the Respondent Nos.7 & 8, Gaushala, on 21.09.2023. The Report clearly mentions that 150 KLD of water is being utilized by the Gaushala whereas the Consent to Operate (CTO) has been granted only for 40 KLD. We wonder whether the West Bengal Pollution

Control Board had taken the Committee Report into consideration before granting Consent to Operate (CTO).

11. We are also of the view that since the Consent to Operate (CTO) was granted on 21.09.2023, a fresh Inspection Report is required from the West Bengal Pollution Control Board with regard to the compliance of the conditions mentioned in the Consent to Operate (CTO) particularly with reference to the findings of the Enquiry Committee of the enquiry dated 29.08.2023.
12. We, therefore, direct the West Bengal Pollution Control Board to carry out its fresh inspection by 07.06.2024 particularly bearing in mind the compliances of the conditions given in the Consent to Operate with reference to the CPCB guidelines dated July, 2021 and the Report should be submitted by the first week of July, 2024.
13. Mr. Suman Dutt, learned Counsel for the Respondent Nos.7 & 8 further submitted that since the Gaushala is located in a rural area there is no adequate drainage system and, therefore, disposal of the slush, slurry and bovine urine after treatment would still remain a problem for which suggestions have to be given by the West Bengal Pollution Control Board.
14. The submission Mr. Suman Dutt, learned Counsel for Respondent Nos.7 & 8 has been disputed by Mr. Ritwick Dutta, learned Counsel for the Applicant. Considering the same, we direct the West Bengal Pollution Control Board to consider this aspect of the matter while filing their additional affidavit along with fresh Inspection Report.
15. Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper

boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing.

17. **List on 08.07.2024.**

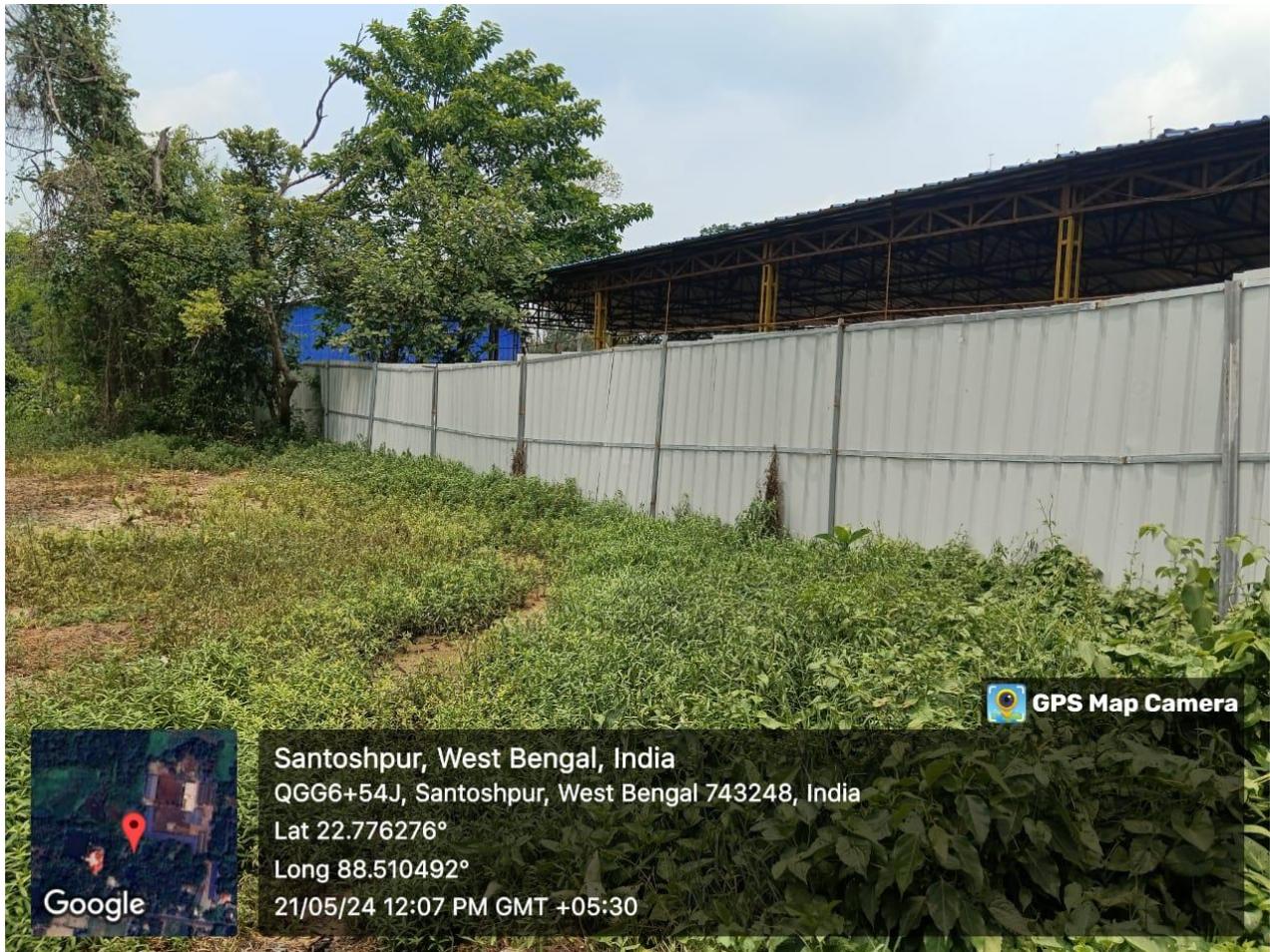
.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

April 02, 2024,
Original Application No.82/2023/EZ
(I.A. No.12/2024/EZ)
MN

ANNEXURE A/2

The photographs captured by the Applicant on May 21, 2024, indicate that there has been no construction progress on the wall, and the bovine waste from the nearby agricultural land remains uncleared. These images unmistakably reveal the continued presence of temporary barriers/wall, contrary to the directives of this Hon'ble Tribunal.



**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA**

VAKALATNAMA

IN THE MATTER OF:-

Santoshpur Mitali Sanga

... APPLICANT

V E R S U S

State of West Bengal & ORS.

... RESPONDENT

KNOW ALL to whom these present shall come that I/We **Avi Bag**, Applicant the above named Applicant, do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :-

**Ritwick Dutta Rahul Choudhary Kaustav Dhar Mukut Biswas N-73, Lower
Ground Floor, Greater Kailash-1, New Delhi -110048**

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 21th day of May, 2024.

Accepted subject to the terms of fees.

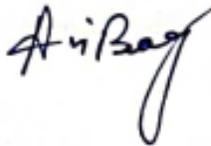




Ritwick Dutta



Rahul Choudhary
ADVOCATE



...
CLIENT



Kaustav Dhar



Mukut Biswas
Advocate