

BEFORE THE NATIONAL GREEN TRIBUNAL

(EASTERN ZONE BENCH, KOLKATA)

O.A. No. of 2024/EZB

ORIGINAL 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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S.Datta

S.Datta

Applicant

Subhasdatta

SUBHAS DATTA

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

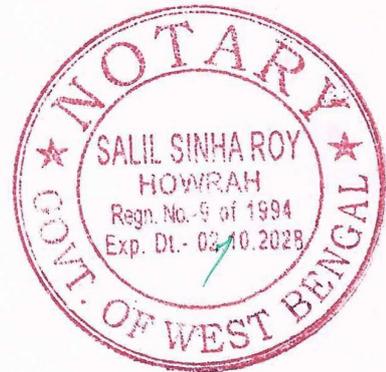
Residence: 55/2, Panchanantala Road,

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

Telephone : 033 -2638 3526,

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21 MAY 2024

SYNOPSIS OF THE CASE

Stone Crushing Units in North Bengal are rampant, most of which operate either on the river bed or at close proximity to the rivers, which basically fall from the hilly parts of the areas. The applicant had moved before the judicial forum from time to time on the hazards being caused by this red category industry.

It is evident that out of many such crushers mostly illegal, one unit has been set up almost on the river bed of Teesta, which is a major river of North Bengal flowing near Sevok Road (NH 10) and the same falls within Mahananda Wild Life Sanctuary. Moreover the said unit has practically blocked the natural flow of another river, named as Nandi river that finally connects the Teesta river.

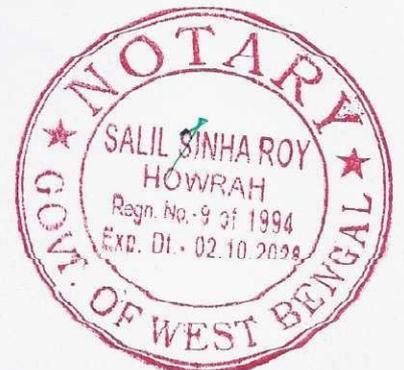
There is total violation of all the environmental norms as set by the Central Pollution Control Board and there is total disregard to the order passed by the Special Bench of the National Green Tribunal in OA No. 136/2015/EZB, dated 30th May 2022.

The irregularities/illegalities are as follows:-

- a) The distance criteria have been flouted because it is on the river bed (Not at a distance of 200 meters) and at very close proximity to the river bridge and NH 10.
- b) No name plate is there at the entrance stating all the required details.
- c) No water-sprinkler is used causing huge dust pollution in vast areas.
- d) Inside roads are not metallic.
- e) The transport vehicles are not covered.
- f) No plantation (2-3 rows) of tall trees has been made.

The unit is operating well within the restricted zone of Mahananda Wild Life Sanctuary. The controlling authorities are ignoring these environmental hazards and without judicial intervention, the problems cannot be resolved.

Hence this application.

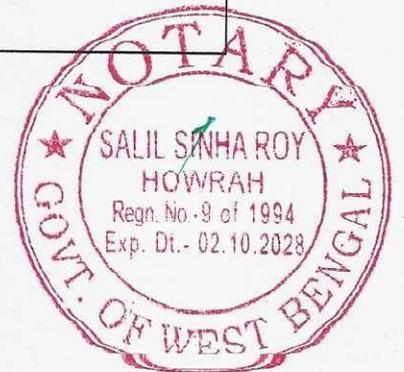


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B

LIST OF DATES

SI No.	Dates	Particulars
1.	22.09.2020	Ministry of Environment, Forest and Climate Change had published the Gazette Notification on Mahananda Wild Life Sanctuary.
2.	30.05.2022	Special Bench of National Green Tribunal had passed the order requiring 200 meters distance from river for the stone crusher.
3.	July 2023	Environmental Guideline has published by Central Pollution Control Board for stone crusher unit..
4.	07.05.2024 to 11.05.2024	The applicant has visited the site in question and took photographs.
5.	15.05.2024	Memorandum had been sent to various authorities seeking redressed..



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In the matter of:

SubhasDatta

.....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

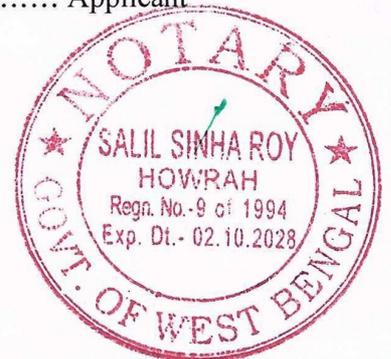
Pin code – 711101, West Bengal

..... Applicant

1. STATE OF WEST BENGAL,

(Notice through the Chief Secretary),

Nabanna, 325, Sarat Chatterjee Road,



1

21 MAY 2024

Shibpur, Howrah - 71102

Tel -033-22535130

cs-westbengal@nic.in

2. DEPARTMENT OF ENVIRONMENT,

(Notice through the Principal Secretary),

Govt. of West Bengal,

Environment Department,

5th Floor, Pranisampad Bhawan,

Block LB-II, Slat Lake, Sec-III,

Bidhannagar, Kolkata - 700 106

Tel-033-2335-2742

psecy.env-wb@gov.in

3. IRRIGATION AND WATERWAYS DEPARTMENT

(Notice through the Secretary),

Govt. of West Bengal,

Jalasampad Bhawan,

1st Floor, DF Block, Sector – I,

Bidhannagar, Calcutta – 700091.

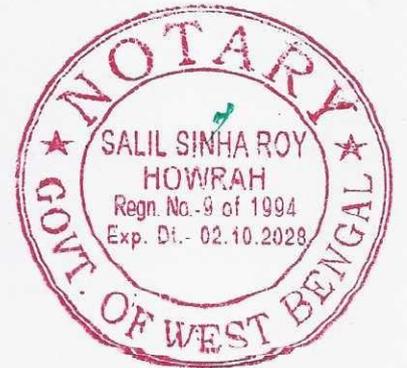
Tel- 033-2321 5616

iwd.prsecy@gmail.com

4. DEPARTMENT OF FOREST

(Notice through the Additional Chief Secretary),

Govt. of West Bengal,



Araanya Bhawan,
10A, Block LA, Sec-III,
Calcutta – 700106
Tel- 033-2335 4030
acsforestwb@gmail.com

5. MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

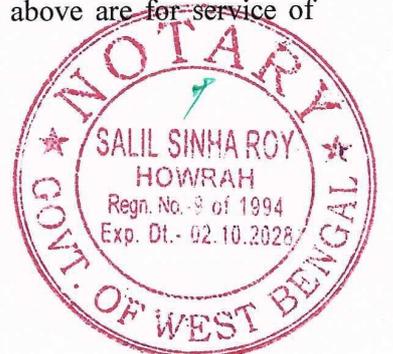
Spaltz (Notice through the ~~Joint~~ Secretary),
Govt. of India,
2nd Floor, Agni Block, Indira Paryavaran Bhawan, Jorbagh Road,
New Delhi – 110003
Tel – 91-11-20819220
Spaltz secy-moef@nic.in
ameeta.prasad@gov.in

6. WEST BENGAL POLLUTION CONTROL BOARD

(Notice through the Member Secretary),
Paribesh Bhawan, 10A Block L.A, Sec-III,
Salt Lake, Bidhannagar, Kolkata - 700106
Tel-0332335-8213
ms.wbpcb-wb@bangla.gov.in

- A. The address of the Applicant as given above is for the service of notices of this application and that of their representatives.
- B. The addresses and e-mail details of the respondents as given above are for service of notices of this application and that of their representatives.

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C. The applicant named above begs to present the Original Application on the issue of the dismal position of environmental degradations arising due to illegal operations of the Stone Crushing Unit on the river bed of Teesta and substantially in the Mahananda Wild Life Sanctuary at Darjeeling/Jalpaiguri. There are various types of violations on environmental aspects as set out by Central Pollution Control Board and the distance criteria that should have been followed. Without immediate judicial intervention these environmental disorders cannot be stopped.

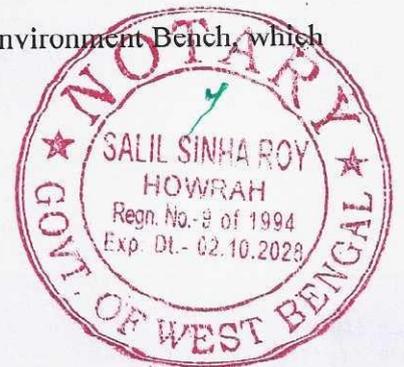
Most Respectfully Sheweth

I, Subhas Datta, aged about 74 years, son of Late Baneswar Datta, by Religion – Hindu, 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:-

FACTS IN BRIEF:

1. That the applicant is the environmental activist and public spirited person. He is engaged in different social, environmental and philanthropic activities since 1977. The applicant is second to none in the fields of ventilating the grievances of the common people. There is hardly any major public issue in the State of West Bengal on which the applicant has not tried to project the peoples' demands before different appropriate authorities.
2. That the applicant has organized series of movements on ecology, environment and on different social aspects of the State of West Bengal. Some of such activities had to face police atrocities, arrests and institution of false and fabricated criminal proceedings against the applicant. On the basis of the Writ Petition (No. 380 of 1995) filed by the applicant in April 1995 before the Hon'ble Supreme Court of India the first Environment Bench, which

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is popularly called as the Green Bench, had been constituted in the High Court at Calcutta in June 1996.

3. That various activities of the applicant have been recognized by several media giants during the past few decades, brief of which is as follows: -

a) Times of India, the leading English daily had projected the applicant as the “Hero of the Country” in the year 2007.

b) India Today, the prestigious English Weekly had recognized the applicant as one of the “fifty pioneers of the country” and published a special edition on 7th July 2008, detailing the activities undertaken by him.

c) Hindusthan Times, the leading English daily had recognized the applicant in 2012 as one of the “25 change makers of the country” and given felicitation.

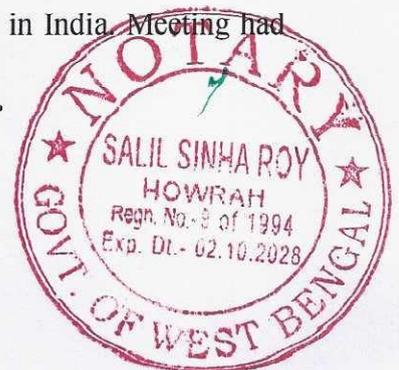
d) Times of India, the English daily, had nominated the applicant as “Hero of Calcutta – 2013.”

e) The Telegraph, one leading English daily published from Calcutta and National Insurance Company had given “True Legends Award 2018” to the applicant.

4. That several other forms of recognitions have been given to the applicant from time to time, the brief of some of which is as follows:

a) Research work had been carried out by one German Scholar covering the applicant’s activities in 2000, which was afterwards published as book titled “Taking the State to Court” by the Oxford University Press, London.

b) European Green Party leaders had invited the applicant in 2009 to Brussels, Belgium to discuss the possibility of forming Green Party in India. Meeting had been held with U. K. Green Party leader in London in 2009.



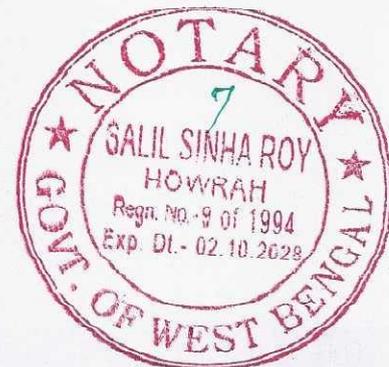
c) In order to adopt the same practices for Ganga cleaning the applicant had participated in Thames River cleaning operation in London, organized by Thames 21, in 2005.

d) Several weeklies in different languages have published articles on the applicant's activities during the last few decades.

e) He had visited London/Glasgow in 2013 and met the respective port authorities to ascertain the methodology of dredging by saving the marine bio-diversity for adopting the same process by the Calcutta Port Trust.

f) There are about thirteen thousand newspaper clippings on various news covering the activities of the applicant carried out during the last more than three decades.

5. That during the past forty years the applicant has been continuously fighting hard to save and protect the environment and ecology of the State of West Bengal and some of the Eastern and North Eastern States of the country. The applicant has brought about one hundred and thirty environmental matters and also various matters of public interest before the Hon'ble Apex Court of the Country, Environment Bench (Green Bench) and Public Interest Litigation Bench of the High Court at Calcutta, National Green Tribunal and also have been interacting on various related issues and assisting/assisted the Hon'ble Courts (High Court and NGT) as Amicus Curiae in some matters.
6. That few of the moves of the applicant have been recognized otherwise by and or before the Judicial forum, the brief of which is as follows:-



a) On the basis of the pleadings/petition before the High Court at Calcutta The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act 2006 was enacted.

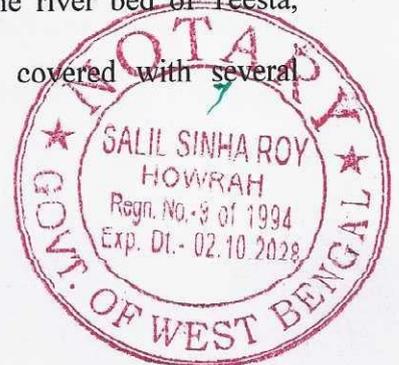
b) Based on his petition before the High Court, Calcutta, compensation under The Public Liability Insurance Act 1994 had been awarded to the victims of air pollution caused by a reputed industrial house for the first time in the country.

c) Six Supreme Court Judges from Thailand came to Calcutta and had interactive sessions with the applicant where the Consulate General of US had also been present. The Hon'ble Judges had visited the High Court at Calcutta to view/hear proceedings and the arguments made by him before the Public Interest Litigation Bench of the High Court at Calcutta.

7. That the applicant has been working on different environmental and social aspects concerning North Bengal areas of the State and from time to time has/had moved to the High Court at Calcutta and the National Green Tribunal with different petitions. In the year 2015 the Applicant had moved a massive petition, being O.A. No. 136/2015/EZB, before the National Green Tribunal, containing several aspects on environmental hazards being caused in the entire North Bengal districts like Darjeeling, Jalpaiguri, Coochbihar, Alipurduar etc. Several hundreds of photographs have been filed along with the said application, which had extensively covered the illegal mining from different rivers of the said region of the State. After series of hearings and several directions, the application had finally been disposed of on 30th May 2022.

8. That in the said O.A. No. 136/2015/EZB illegal mining from the river bed of Teesta, adjacent to rail crossing on Sevok Road (NH 10) had been covered with several

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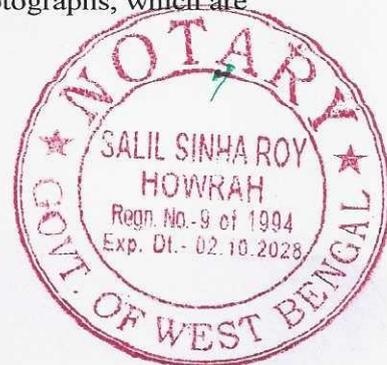
photographs. At the time of moving the said petition and during the course of hearing of the same, it could be evident that stones and boulders were being lifted from the river by engaging series of lorries, forklift trucks, J.C.Bs, mobile cranes etc., the photographs of which had been submitted before the Hon'ble Tribunal from time to time.

9. That during a recent visit undertaken by the applicant on 7th and 11th may 2024 it has been observed that a big stone-crusher unit has been set up near to Sevok Rail crossing on the Teesta river itself and in the Eco-Sensitive Zone of Mahananda Wild Life Sanctuary by violating all environmental norms and other set criteria for distance to be maintained by the stone crushing units.
10. That according to the Environmental Guidelines for Stone Crushing Units, dated 2009, issued by CPCB, recorded by the National Green Tribunal, Special Bench in OA No. 136/2015/EZ on 30.05.2022, any such unit requires distance of 200 meters from the river. But the concerned unit has been set up almost on the river itself. The photographs taken clearly show that huge quantity of materials have been dumped on the river of Teesta itself. The applicant prefers to enclose the order of the Special Bench, National Green Tribunal, dated 30th May, 2022, which is marked as ANNEXURE – P/1

The applicant begs to draw the kind attention of the Tribunal to paragraph 14, page 13 of the said order.

11. That on 7th and 11th May 2024 the applicant has taken some photographs of the said stone crushing unit on the Teesta river from which it will be clearly evident that the said stone crushing unit has practically dumped huge quantity of material just on the river of Teesta. The proximity to the rail bridge can also be evident in those photographs, which are enclosed and marked as ANNEXURE – P/2.

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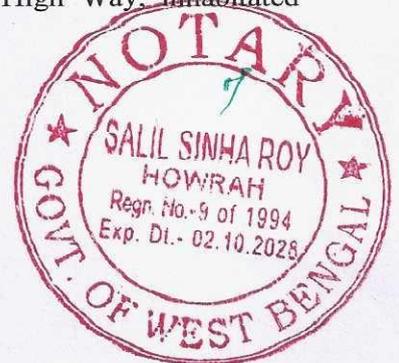


12. That in this context it is pertinent to mention that early May of 2024 is the dry season when the water level of all the hilly rivers of North Bengal becomes very low or mostly dry. Even at this stage it will be evident that the staggged materials have touched the river water. During the monsoon period the water level of Teesta along with most of other rivers, becomes very high and during the last devastating HARPA BAN (Sudden very high tide in the river) in Teesta in November 2023 the sediment level of the river has gone-up by 15 to 20 feet in the upstream at Teesta Bazar area for which there is every possibility that in the next monsoon the natural calamity will reach the climax at the downstream of Teesta and the entire Stone Crushing unit, situated on the river may be washed away. If therefore, appears that allowing the industrial unit to such close proximity to the river will be construed as an act of HAKIRI. The civil society cannot allow such distarous activity.

13. That the Eco-Sensitive Map of Mahananda Wild Life Sanctuary, as per Annexure 11B of the Gazette Notification of India: Extraordinary, dated 22nd September 2020, it is evident that Sevok Road is within the said Map. The Stone Crushing unit in question is situated between Sevok Road and Teesta River. It is evident that the distance criteria for permitting the stone querying has not been followed by the said unit. According to the criteria minimum distance of 200 meters from both sides of the river bridge and railway land is to be maintained. It, therefore, appears that the violations by the said crushing unit is manifold as follows:-

- a) The minimum distance from the river has not been maintained.
- b) The distance norms between the bridge and the unit has been violated.
- c) Moreover distance from railway line, National High Way, inhabited area have not been maintained.

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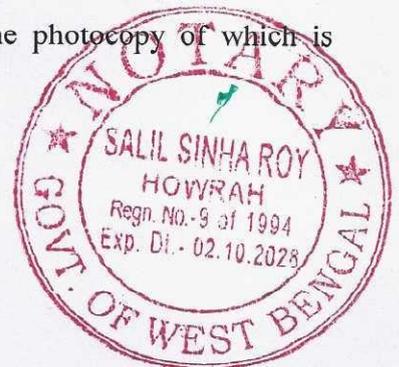


14. That there are other various types of violations of Environmental Guidelines for the stone crusher unit, which go as follows:-

- a) No water sprinkling system exists there for which a vast area of human habitations are severally polluted during the operations of the crusher. The local inhabitants have complained in this regard.
- b) G1/MS/brick wall should be provided along the periphery of the crusher, which has not been done.
- c) Plantations of 2-3 rows of tall trees have not been carried out.
- d) At the entrance there is no name-plate of the unit with details like:-
 - I) Address of the unit.
 - II) Name and address of the owner.
 - III) Plant capacity.
 - IV) Date of issue of CTE/CTO.
- e) The vehicles transporting and carrying the materials are not covered.
- f) There appears to be no metallic/concrete roads within the premises of the crushing unit.
- g) The G1/MS/brick wind breaking wall with appropriate height has not been constructed.
- h) There is no CCTV camera at the entrance of the unit.

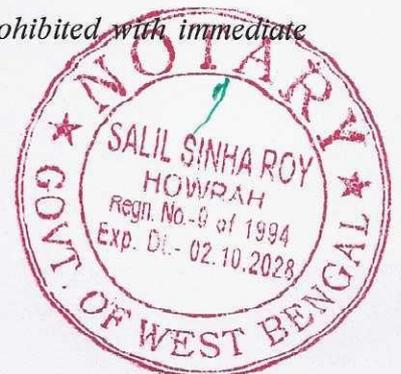
The applicant prefers to state that the aforesaid violations have been indulged by the said unit in terms of the Environmental Guidelines for Stone Crushing Unit, as published by the Central Pollution Control Board in July 2023, the photocopy of which is enclosed and marked as ANNEXURE- P/3.

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15. That in this context it is pertinent to mention that said crusher has practically blocked the normal flow of Nandi river, which is connecting the Teesta river. Nobody has got any authority to block the natural flow of any tributary river to the main river, i.e, Teesta. The applicant has taken the photographs on 7th May 2024 showing the viaduct on Nandi river, under the Sevok Road (NH 10) to allow the flow of the said river to Teesta but unfortunately such stone crushing unit has blocked the natural flow of such water. The said photograph is enclosed and marked as ANNEXURE – P/4.
16. That Stone Crushing units are highly polluting in nature and are considered to be a Red Category industry. It is a matter of surprise that how such polluting unit and violator has been allowed to operate there without any sorts of checks and controls. The unit is operating in the Eco-Sensitive Zone of Mahananda Wild Life Sanctuary and is working substantially on the reclaimed land of the river of Teesta.
17. That in respect of Eco-Sensitive Zone of Mahananda Wild Life Sanctuary it may be stated that Ministry of Environment, Forest and Climate Change in Gazette Notification dated 22nd September 2020 has finally declared the same as Wild Life Sanctuary, which is characterised by forest and riverine eco system. This place is acting as corridor for sustaining population of Wild elephants in between Teesta and Mechi river. The list of activities prohibited or to be reguted has earmarked commercial mining, stone quarrying and crushing units at the top of the list. The particular description in the Gazette Notification goes as follows :-

“All new and existing mining (minor and major minerals), stone quarrying and crushing units shall be prohibited with immediate



effect expect for meeting the domestic needs of bona fide local residents including digging of earth for construction.”

The Xerox copy of the Gazette Notification of MOEF&CC dated 20th September 2020 is enclosed and marked as ANNEXURE – P/5.

18. That in the context it is relevant to mention that during the last two years the said crushing unit has been set-up in between the area of Teesta and Mahananda Wild Life Sanctuary and the same cannot have and/or should not have CTE and finally CTO in any form.

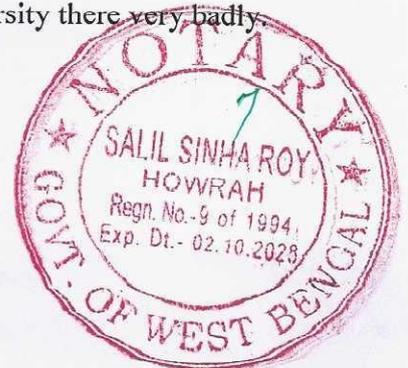
19. That at the time of visiting the site of the Sanctuary on 7th May and 11th May 2024 the applicant has gone inside the North Range Beat office of Mahananda Wild Life Sanctuary on Sevok Road (NH 10) and interacted with the officials of the Beat office and learnt from that the Mahananda Wild Life Sanctuary has stretched upto the spot/place called as Kalijhora at the upstream of Teesta river. The applicant has also observed while passing through the Sevok Road (NH 10) that sign board has been put up on Sevok Road (NH 10) at the Wild Life Sanctuary, which reads as follows:-

*“YOU ARE PASSING THROUGH MAHANANDA WILD LIFE
SANCTUARY NORTH RANGE/DARJEELING WILD LIFE
SANCTUARY.”*

Photographs have been taken by the applicant on this score which are enclosed and marked as ANNEXURE – P/6.

20. That it may thus be concluded that the place where the stone-crushing unit has been set up stands well with the Mahananda Wild Life Sanctuary and the operation of the same may cause extreme harm to the eco-sensitive area and damage the bio diversity there very badly.

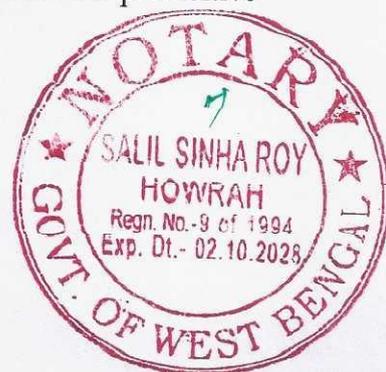
21 MAY 2024



GROUNDS

- I. For that the concerned the Respondents have not taken steps for the protection of the Mahananda Wild Life Sanctuary, where red category industry has been illegally operating.
- II. For that the Respondents concerned have failed to take steps as envisaged in the Notification of Ministry of Environment, Forest and Climate Change issued on 22nd September 2020.
- III. For that the concerned Respondents have allowed the Stone Crusher Unit by flouting the order and directions given by the Hon'ble National Green Tribunal in maintaining safe distance criteria from the river.
- IV. For that the Respondents concerned have failed to take steps to stop ill functioning of the stone crusher being operated in the prohibitive area between the Mahananda Wild Life Sanctuary and Teesta river.
- V. For that the concerned Respondents have not taken any step against Stone Crusher Unit being operated in total violation of the Environmental Guidelines of Central Pollution Control Board.
- VI. For that the Respondents concerned have failed to take steps for the proper preservation and conservation of the Mahananda Wild Life Sanctuary.
- VII. For that the concerned Respondents have wrongfully allowed the prohibitive acts in this Eco-Sensitive Zone.

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- VIII. For that the Respondents concerned have failed to take steps to protect the environment, ecology, flora and faunas of the Wild Life Sanctuary of Mahananda.
- IX. For that the Respondents concerned have failed to take steps under The Water (Prevention and Control of Pollution) Act 1974.
- X. For that the Respondents concerned have not taken steps as prescribed in The Air (Prevention and Control of Pollution) Act 1981.
- XI. For that the Respondents have failed to take steps under The Environment (Protection) Act 1986.

LIMITATION

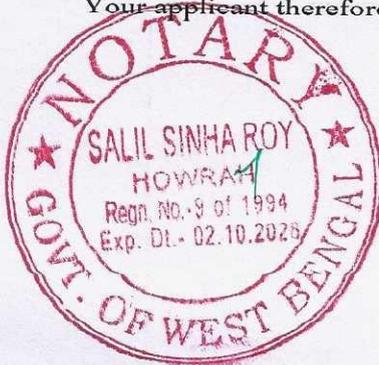
21. That the applicant states that the environmental and other problems being caused by the Stone Crushing Unit at the prohibited areas are the outcome of continuous activities for a long period. The applicant has been working very actively to prevent such wrong activities in this Eco-Sensitive Zone for a long period. He has moved to different authorities on these scores for redressal. He has visited the place on 7th and 11th May, 2024 and has sent *Spalte* memorandums to all the concerned Respondents on 15th May, 2024, *the photocopy of which is enclosed as Annexure P/7* Therefore, the application is filed well within the period of limitation.

PRAYERS

This application is made bonafied and for the ends of justice.

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

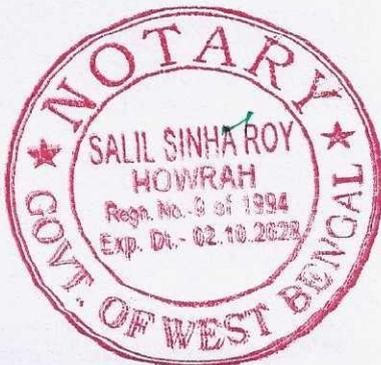
- i) To direct the Concerned Respondents to initiate actions for stopping the operation of illegal stone crusher unit being operative at the place between Mahananda Wild



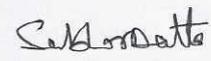
21 MAY 2024

Life Sanctuary and on Teesta river at Darjeeling/Jalpaiguri.

- ii) To direct the Concerned Respondents to take steps for preserving and conserving the Mahananda Wild Life Sanctuary , Darjeeling/Jalpaiguri.
- iii) To direct the Respondents concerned not to allow operation of stone crusher in the eco-sensitive zone of Mahananda Wild Life Sanctuary, Darjeeling/Jalpaiguri.
- iv) To direct the Respondents concerned not to allow the violation of distance criteria for setting-up the Stone Crushing Unit on the river Teesta and close to rail bridge and National Highway.
- v) To direct the Respondents concerned to appropriately take action against the Stone Crushing Unit for violating the environmental norms as prescribed by Central Pollution Control Board.
- vi) To direct the concerned Respondents not to foul the river Teesta by dumping the materials on the the river water.
- vii) To direct the Respondents concerned to remove all the barriers created by the stone crushing unit stopping the flow of Nandi river connecting to Teesta river.



- viii) To direct the Respondents concerned to assess the environmental damages being caused by the illegal stone crushing unit set up within the prohibitive area.
- ix) To direct the concerned Respondents to take appropriate steps as envisaged under The Water (Prevention and Control of Pollution) Act, 1974.
- x) To direct the Respondents concerned to take immediate steps as stipulated under The Air (Prevention and Control of Pollution) Act 1981.
- xi) To direct the Respondents concerned to take immediate steps as envisaged under The Environment (Protection) Act 1987.
- xii) Such other and/or further order or orders be made and/or direction or directions be given as Hon'ble Tribunal may deem fit and proper.


Subhas Datta



VERIFICATION

I, Sri Subhas Datta, son of Late Baneswar Datta, aged about 74 years, by occupation Chartered Accountant, by religion Hinduism, residing at 25/1, Guitendal Lane, Post Office, Police Station and District - Howrah, Pin code - 711101, do hereby declare and state that the contents of the paragraph nos. 2 to 8, 10, 11, 14, 15, 17, 19 & 21 are true to the best of knowledge and the contents of the paragraph nos. 9, 12, 13 & 18 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.

Subhas Datta
DEPONENT

Prepared by me in my office

Subhas Datta
(Subhas Datta)

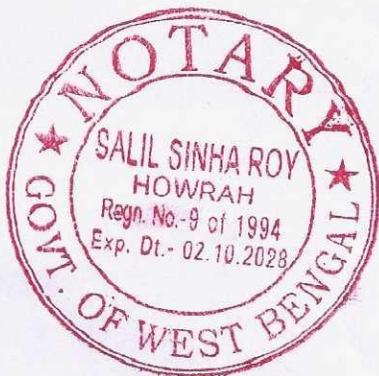
Applicant-in-person

Date : 21.05.2024

Place: Howrah.

IDENTIFICATION BY **MSB**
SIGNED/L.T.L TAKEN IN MY PRESENCE
Kalipada Dhali
Advocate

Kalipada Dhali (Army Rtd)
Advocate, M.A., LL.B
Registration No. - WB/609/2007
Judges' Court, Howrah



SOLEMNLY AFFIRMED & DECLARED
BEFORE ME ON IDENTIFICATION

17

Salil Sinha Roy
SALIL SINHA ROY
NOTARY HOWRAH

21 MAY 2024

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 136/2015/EZ
M.A No. 191/2017/EZ

Subhas Datta

Applicant

Versus

State of West Bengal & Ors.

Respondent(s)

WITH

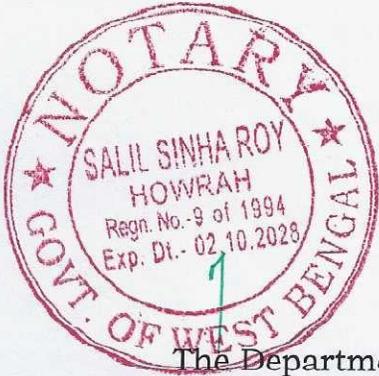
Review Application No.23/2017/EZ

In

Original Application no. 136/2015/EZ

&

M.A. 320/2017/EZ



The Department of Tourism, Govt. of West Bengal

Applicant

Versus

Subhas Datta & Anr.

Respondent(s)

Date of hearing: 30.05.2022

**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. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

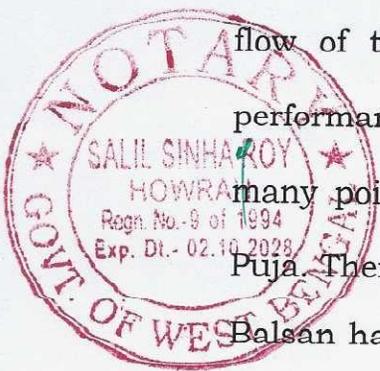
Applicant: Mr. Subhas Datta, Applicant in person

Respondent(s): Ms. Madhumita Bhattacharjee, Advocate for R-1 to 7, 10 to 13,
Mr. Dipanjan Ghosh, Advocate for R-8,
Mr. Soumitra Mukherjee, Advocate for R-9,
Mr. Somnath Roy Chowdhury, Advocate for R-15 & applicant in
M.A.No.191/2017),
Ms. Paushali Banerjee, Advocate for R-20,
Ms. Arpita Chowdhury, Advocate for R-22,

21 MAY 2024

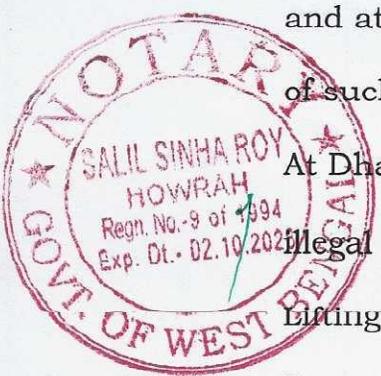
The Issue

1. Grievances in the OA relates to establishment of illegal hotels/ 'home stays' etc. in forest areas, in Tiger Reserve and on flood plain zones of rivers, without statutory consents of the State PCB. The applicant has also complained against other non-forest activities in reserved forests, including illegal river bed mining/stone crusher, in violation of siting guidelines, without requisite EC and in violation of Wildlife (Protection) Act, 1972.
2. Case set out in the application is that the applicant visited different places of the North West Bengal from 17th to 23rd November, 2015. He found serious environmental degradation of environment, ecology, flora and fauna. There is rampant lifting of sand, stone and boulders from river Mahananda. Human settlements have taken place on the alluvian land of the river. There is tethering of cattle and cattle sheds on the river bank of Mahananda from where waste is flown into the river. Several Piggeries were found on the river bank/island of the river from where filthy waste water finds its way to the river. There is blocking of normal flow of the river at several places on the river due to *Chhat* Puja performances. At several places artificial islands have been built and at many points temporary cause-ways have been made during the *Chhat* Puja. There is indiscriminate lifting of sand/stone/ boulder from the river banks harming the river bed and normal flow of river. From Mechi river which divides India and Nepal, boulders are lifted from the river bed and the same are carried to a nearby place within the buffer zone of Kalabari Forest area, where a big crusher unit is performing the crushing activities, causing considerable environmental hazard in the forest area which is a frequently used corridor by elephants coming from Dalka and



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Bagdogra Forests for which underpass and passages have been made. Boulders are carried from river Balasan at Tihana point to Ghoshpukur. Rampant lifting of boulders takes place from the river bed of Tista near Sevok. Some human carriers are engaged for carrying coal from the bottom of the hill, due to which the top portion of the hill area becomes loose and landslides take place. Earlier pitched road has totally disappeared and a new road is now being built just little below the lost road. Huge quantity of solid wastes, including plastic is dumped on the river itself. Solid waste disposal system in Malbazar is very poor. Entire riverbed of Chal at Odlabari is being used for making of sand, lifting of boulders and sand from the river. On change of the river course, river has been reclaimed and used for other purposes, including making of causeway to facilitate lifting of sand/ boulders from river bed at Paschim Lataguri Samsan Ghat, at the bank of river Neora. Construction of resort/lodge is being made at the other side of Paschim Lataguri Samsan Ghat. Solid waste management is very poor at Banarhat. Plastic is dumped here and there. In Dhupguri, huge quantity of solid waste, including plastics is dumped in river Gulmai. Such dumping in the river and at its bank causes serious environmental hazards. Considerable part of such waste ultimately floats and pollutes big stretch of the water body.



At Dhanirampur, in Gram Panchayat area in Ethelbari on river Dimdima, illegal and illogical activities of lifting of sand/stone/boulders is going on.

Lifting of sand/boulders is being done at riverbed of Murti, in Garumara Forest area. Illegal/unscientific/ eco-enemy tourism is rampant in the entire North Bengal, the bank of river Murti at Garumara Forest area. Several resorts/lodges/hotels have been built for which pillared fencings have been made. Visits to Buxa Tiger Reserve is not being regulated as per Wild Life (Protection) Act, 1972. Inside the Buxa Tiger Reserve, on the

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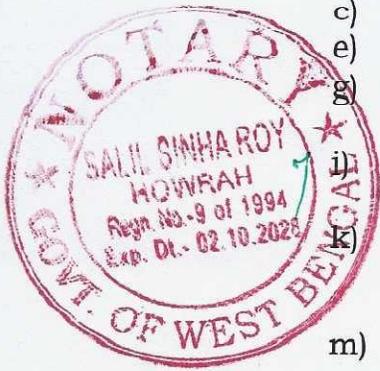
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riverbank of river Jayanti rampant lifting of boulders is going on by deploying huge number of lorries and man-power. In forest area, next to Tista Barrage, called Gazoldoba and next to Baikunthapur Forest Wildlife Area and in Tarbandha Range of Apalchand Forest, which is highly eco-sensitive, several sign boards have been placed at different locations. One of such boards placed by Department of Tourism, Govt. of West Bengal, is "Project Master/Broad Zoning", "Eco Tourism Project at Teesta in Doars, Jalpaiguri." Different project components stated in the signboard are as follows:-

- | | |
|------------------------------|-------------------------------|
| a) Lake Plaza | b) Amusement Park |
| c) Ayurvedic Spa Village | d) Youth Hostel (Yuva Kendra) |
| e) Lake Resort | f) Retirement Home |
| g) 4-Star Resort | h) Camping Area |
| i) Hospitality | j) Golf Course & Academy |
| k) Reception/Interpretation | l) Elephant Zone |
| m) Utilities | n) Buffer |
| o) Budget Eco-Resort (WBTDC) | p) Lake |
| q) 3-Star Resort | r) Road |
| s) Cultural Area | t) Bird Watching Area |
| u) Parking | v) Entry Gate Plaza & Boating |

3. In "Project Master Plan-Mega Tourism Park at Gajoldoba" following "Project Components" are stated:

- | | |
|---|---|
| a) High-End Lake Resort | b) 3-Star & 4-Star Resorts |
| c) Budget Hotels | d) Camping Area with Log Huts |
| e) Ayurvedic Spa Village | f) Old-Age Home |
| g) Hospitality Training Institute | h) Food Court/Picnic Park/Children's Park |
| i) Reception/Interpretation Centre | j) Parking Area |
| k) Cultural Zone: Amphitheatre /Craft Village | l) Botanical Garden/Herbarium/Park |
| m) Buffer Course+ bodies+Green Verge | n) Theme Garden |
| o) Bird Watching Area | p) Arterial Roads |
| q) Water Body | r) Utilities/Waterbody/Peripheral Buffer |



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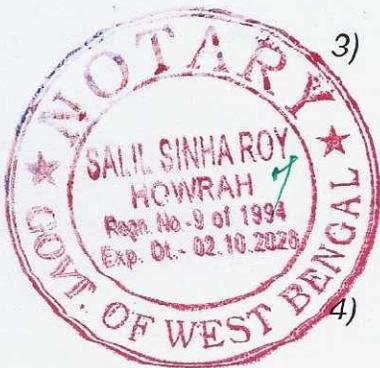
4. Another signboard fixed by the Department of Tourism, Govt. of West Bengal, is titled "Mega Tourism Park at Gajoldoba". The Project Components are same.

Procedural History – Stand of the authorities

5. The application was filed on 24.12.2015 and first came up for hearing on 11.01.2016. The Tribunal sought a status report from the Chief Secretary, West Bengal about the illegal mining, illegal stone crushers units, pollution of rivers mentioned therein, illegal coal mining and illegal establishments of tourists lodges, hotels etc. Relevant extract from the said order is as follows:-

"The status report to be filed by Respondent No.1 viz. the Chief Secretary, Govt. of West Bengal and Respondent Nos. 8 & 9 respectively in respect of the following issues as alleged by the applicant within five weeks:-

- 1) *Illegal lifting of sand, stone and boulder without consent from PCB and/or Environmental clearance from the river bed of Mahananda and Balasan at Siliguri, Tista river bed near Sevak Road, Chal river at Odlabari, Dimdima river at Ethelbari, Murti river in Garumara Forest area.*
- 2) *Illegal stone crusher units in Laiti river near Odlabari and in Kolabari Forest.*
- 3) *Pollution of Gulmai river at Dhupgiri, Umesh Khal at Banarhat, Neora river at Lataguri and Mal river due to dumping/burning of plastic and solid wastes and other misuses and river Mahananda at Siliguri due to establishment of cattle shed, piggeries and wastes generated & disposed of during and after chhatpuja and human settlement.*
- 4) *Illegal coal mining near Odlabari in Kalimpong by Chunavati Coal Company.*
- 5) *Illegal activities like establishment of Tourist lodge/Hotels/Guest Houses etc. in the core area of Buxa Tiger Reserve without having consent to establish and consent to operate from State Pollution Control Board."*



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6. The application was admitted and notice was issued to the respondents, including the Forest Department, Tourism Department, Irrigation Department, State PCB and the State of West Bengal who have filed their respective replies. In pursuance of orders passed from time to time, reply to the questions raised has also been filed. It is not necessary to refer to all the orders and the affidavits as at this stage scope of proceedings stand limited. We will accordingly refer to the material necessary for today's consideration.

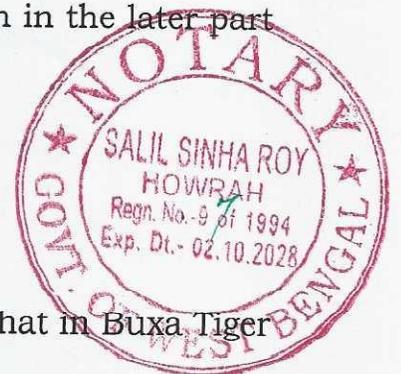
Order dated 27.7.2017

7. Vide order dated 27.07.2017, the Tribunal inter-alia directed that the tourist lodge operated by the West Bengal Tourism Development Corporation at Jayanti, which was in forest area and operated in violation of Forest (Conservation) Act, 1980 (FC Act), claimed to be a 'Camping Station' be demolished. The Tribunal also directed the Forest Department to inform whether there are any other hotels, restaurants, etc. being operated in the reserved forest area. Against the said order, R.A. No. 23/2017/EZ has been filed which will also be dealt with in the later part of this order.

Order dated 1.12.2021, noting surviving issues

8. Vide order dated 01.12.2021, the Tribunal noted that in Buxa Tiger Reserve there are 69 establishments under the private ownership and 20 under the State ownership. Some of the establishments are in Core area of the Tiger Reserve and some on the bank of river Jayanti.

9. The Tribunal also noted that only two issues survived for consideration – operation of stone crushers on Laity River and illegal



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construction in the Buxa Tiger Reserve. Operative part of the said order is reproduced below:-

“4. In this affidavit, it is stated that in the Buxa Tiger Reserve there are 69 establishments under private ownership and 20 under the Management of Government of West Bengal.

5. It is alleged that these establishments have been raised within the core area of Buxa Tiger Reserve. Reference has also been made to a news paper report published in Bengali newspaper of North Bengal, ‘Uttarbanga Sangbad’ dated 16.11.2021 showing construction on the banks of river Jayanti within Buxa Tiger Reserve. It is also alleged that adjacent to the Public Health Engineering Department Bungalow about six hotels/resorts have been constructed. This court vide its order dated 31.08.2017 had directed to close down to all illegal establishments which have been raised within the core area of the Buxa Tiger Reserve but it is alleged that instead of closing down the hotels/resorts and illegal constructions, more such constructions have been allowed to propagate. Photographs by way of evidence have been filed along with this affidavit.

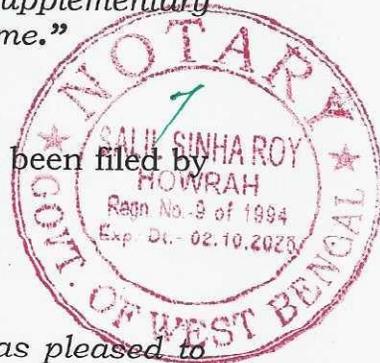
6. Ms. Madhumita Bhattacharjee, learned Counsel appearing for the State Respondents submits that she has been served the copy of the affidavit only on the 25.11.2021 and therefore wants to seek instructions with regard to the allegations made therein. We grant the State Respondents ten days time to file response to the affidavit of the applicant dated 25.11.2021.

7. **Mr. Subhas Datta, applicant in person states that in this Original Application only two issues now survive**

- (i) relating to stone crushers on Laity River;
- (ii) illegal construction in the Buxa Tiger Reserve.

8. Ms. Madhumita Bhattacharjee, learned Counsel also prays for and is granted four weeks time for replying to the supplementary affidavit dated 25.11.2021 within the same period of time.”

10. In pursuance of above, affidavit dated 24.01.2022 has been filed by the Forest Department, West Bengal, as follows:



“2. Vide order dated 01.12.2021, this Hon'ble Court was pleased to crystallize the two surviving issues in the present OA which are as follows:

- (i) **Relating to Stone crushers on Laity River;**

With reference to the above-mentioned allegation, it is stated that the said land does not fall under the jurisdiction of the Forest Department.

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(ii) Illegal construction in the Buxa Tiger Reserve.

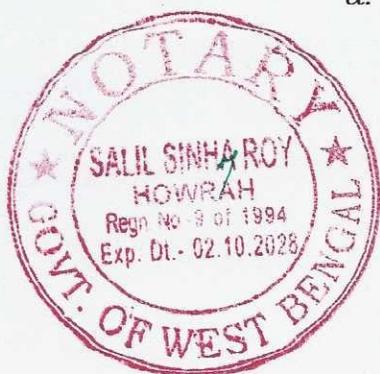
The allegations of the applicant were as follows:

- a. In the core areas of Buxa Tiger Reserve illegal Tourist Lodges/Hotels/Guest Houses/Home stay have been set-up both under private as well as Govt. (State) ownership.
- b. Chief Secretary, vide affidavit dated 25.10.2017 (pages 544 to 567) and State Forest Department, vide affidavit dated 28.08.2017 (pages 501 to 522) have admitted that in Buxa Tiger Reserve there are 69 of such establishments under private ownership and 20 (16+4) under the management of Govt. West Bengal.

With reference to the allegations made above by the Applicant in his statement, the Forest Department reported that status report was filed from time to time giving detailed documents as Respondent No. 3 answering the above-mentioned allegations on 10th May 2016, 28th August 2017, 12th October 2017, 09th February 2018, 24th April 2018, 26th June 2018, 12th April 2021 respectively, before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata.

That the commercial tourist lodges which are the subject matter of this litigation are being operated by private persons. The activities of these lodges are confined to areas which were once 'Forest Villages' but then those have been designated as 'Revenue Villages' vide Notification No. 2802-L.P. dated 17.10.2014 under Clause(7) of Section 3 of the Land Registration Act, 1876.

- a. **Measures have been taken to stop encroachment in Buxa Tiger Reserve. The 69 numbers of lodges and Home Stays which were operating from different areas under Buxa Tiger Reserve (East) & (West) Division by fixed Demand holders were issued notice in pursuance of the Order of this Hon'ble Tribunal, vide Deputy Field Director, Buxa Tiger Reserve (East) Division's Memo No. 2886/15-230 dated 25.09.2017 and Deputy Field Director, Buxa Tiger Reserve (West) Division's No. 2989/18-4 dated 25.09.2017. Both the notices were served to the incumbents concerned through the Superintendent of Police, Alipurduar District (Memo No. 2174/E/PA dated 09.10.2017 & Memo No. 2175/E/PA dated 09.10.2017). A copy of the said notice issued by the Deputy Field Director, Buxa Tiger Reserve (East) & (West) Division vide its Memo No. 2886/15-230 and Memo No. 2989/18-4 dated 25.09.2017 respectively along with letter issued by Superintendent of Police, Alipurduar District vide**



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Memo no. 2174/E/PA and Memo No.2175/E/PA dated 09.10.2017, respectively is annexed hereto collectively and marked as "ANNEXURE R/1"

- b. **It is further stated that 20 establishment under the Government of West Bengal namely Tourism, PWD and Irrigation Department at Jainti and the homestays in Buxa Tiger Reserve are closed as on date.** Copies of the photographs depicting the homestays closed are annexed hereto and marked as "ANNEXURE R/2."

As per report of the Forest Department:

- (i) Notices were issued to private owners of the Tourist Lodges, Hotels and Restaurants by the Deputy Field Director (East) Division's memo number 2989/18-4 dated 25.09.2017. These notices were served through the Superintendent of Police, Alipurduar.
- (ii) All the sixty nine (69) Tourist Lodges, Hotels, and Restaurants operated by the private owners are confined to enclave Revenue Villages which were earlier Forest Villages. There are thirty seven (37) such villages inside the Forest areas of Buxa Tiger Reserve and have been notified as Revenue Village vide Notification No. 2802-L.P. dated 17.10.2014. These Revenue Villages are no more under the administrative control of Forest Department.
- (iii) With reference to the newspaper report published in Bengali News Paper of North Bengal, Uttarbanga Sangbad dated 16.11.2021, Assistant Field Director was asked to do the field inspection. During the inspection, it was revealed that **there were three upcoming illegal constructions under the ownership of Sri Niki Thapa, Sri Kancha Mangar and Sri Umashankar Dubey.** Notices to said effect were earlier issued on 17.01.2021 by the Range Officer, Jayanti Range. A copy of the notice vide letter dated 17.01.2021 issued by the Range Officer, Jayanti Range is annexed hereto and marked as "ANNEXURE R/3".
- (iv) Subsequently, a notice has also been served on 16.11.2021 to Sri Niki Thapa, Sri Kancha Mangar and Umashankar Dubey, vide memo No. 425, 426 & 427/JNT-28, requiring them to prove the legality of the construction as above mentioned. A copy of the notice vide memo No. 425, 426 & 427/JNT-28 dated 16.11.2021 to Sri Niki Thapa, Sri Kancha Mangar and Umashankar Dubey is annexed hereto and marked as "ANNEXURE R/4".



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(v) Moreover, on 16.11.2021, a team of forest officials, including the Assistant Field Director, Buxa Tiger Reserve (East) Division, Range Officer, Jayanti Range and other forest staff along with police personnel tried to demolish the illegal structures but could not complete the same due resistance from local people. An F.I.R. was lodged in the Kalchini Police Station Alipurduar regarding the incident which occurred on 26.11.2021 vide Memo No. 454/Jainti-15. A copy of the F.I.R. lodged in the Kalchini Police Station, Alipurduar regarding the said incident is annexed hereto and marked ANNEXURE R/5".

c. Vide order dated 27.07.2017, Court had directed to demolish the Tourist Lodge being run in the name of Camping Station" but not implemented.

With reference to the above-mentioned allegation made by the Applicant, it is reported by the Tourism Department that it has issued memo to stop booking of "Camping Station" for tourists in Jayanti area and, at present, no tourist is allowed to use the said "Camping Station". The Tourism Department has filed a review petition being R.A.; No. 23/EZ/2017 before this Hon'ble Tribunal with a prayer to review the order of demolition of "Camping Station".

d. Vide order dated 25.04.2018 Court had directed to file Buxa Tiger Conservation Plan 2016-17 with copy to all the parties but not given to any of the parties so far

With reference to the above-mentioned allegation made by the Applicant, it is reported by the Forest Department that six copies Conservation Plan were submitted before the Hon'ble of Buxa Tiger Tribunal through Affidavit dated 26.06.2018.

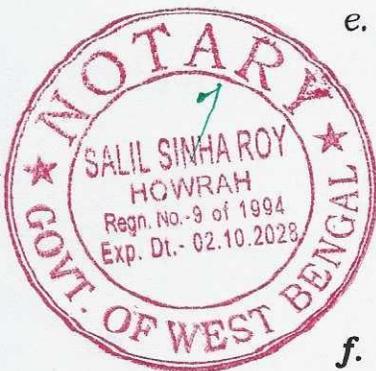
e. Stone/boulder lifting is continuing in full swing from Jayanti River within Buxa.

With reference to the above-mentioned allegation made by the Applicant, it is stated by the Forest Department that no illegal surface collection of boulders/stones is done from Jayanti River in Forest areas. There are no illegal mines in Buxa Tiger Reserve

f. At Present Hundreds of New Establishments Have Come-Up and in the Name of Tourism There Is Extreme Tourism In Buxa.

An exercise to demolish the illegal structures was under taken by a team headed by the Chief Conservator of Forests & Field Director, Buxa Tiger Reserve, Deputy Field Directors, Buxa Tiger Reserve (East) Division and Assistant Field Director, Buxa Tiger

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Reserve (East) Division along with forest and police personnel. **The illegal structures were demolished successfully on 08.12.2021.** Copies of the photographs showing the pre and post demolished structure is annexed hereto and marked as "ANNEXURE R/6" alongwith the copy of the Newspaper reporting on the demolition drive are annexed hereto and marked as "ANNEXURE R/7".

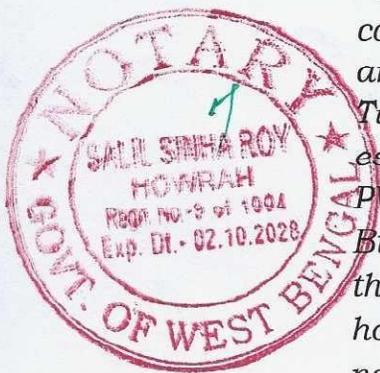
C. It is further submitted that the muck & debris from the demolition site is being removed to restore the area to its original form. **The Chief Conservator of Forests & Field Director, Buxa Tiger Reserve, has also issued strict instructions to monitor any kind of illegal constructions in the name of homestays or otherwise to the Deputy Field Director (East) & (West) Division & asked to seek the help of Police as and when required.** A copy the of direction issued by The Chief Conservator of Forests & Field Director, Buxa Tiger Reserve vide its letter dated 17.01.2022 is annexed hereto and marked as "ANNEXURE R/8".

Order dated 25.01.2022

11. Vide order dated 25.01.2022, the Tribunal considered the issue of 69 lodges in Buxa Tiger Reserve. The Tribunal noted that 37 villages inside the Tiger Reserve were notified as Revenue villages and were no longer under the control of the Forest Department. The Tribunal directed the State to explain how such conversion had taken place. Relevant part of the order is reproduced below:-

"3. In the affidavit, with regard to the issue relating to 'illegal constructions in the Buxa Tiger Reserve', it is stated that 69 lodges and home stays are operating from different areas under the Buxa Tiger Reserve (East) & (West) Division. It is further stated that the 20 establishments under the Govt. of West Bengal, namely, Tourism, PWD and Irrigation Department at Jayanti and the home stays in Buxa Tiger Reserve have been closed as on date. It is also stated that notices were also issued to private owners of tourist lodges, hotels and restaurants by the Deputy Field Director (East) vide memo no. 2989/18-4 dated 25.09.2017 served through the Superintendent of Police, Alipurduar. After service of the notices what has happened has not been stated. What has been done with regard to the demolition of structures in respect of structures for which notices were issued has also not been clarified. All that has been stated is that three illegal structures have been demolished on 08.12.2021. The demolition of these structures, we may note, have already been

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considered by this Tribunal in Original Application No. 110/2021/EZ: Tribunal on its Own Motion Re. Unrestricted Hotels and Resorts in Jayanti Vs. State of West Bengal, which has been decided by the Tribunal on 25.01.2022.

4. However, we find that with regard to 69 tourist lodges, hotels and restaurants operated by the private owners, it is stated that these tourist lodges, hotels and restaurants are confined to revenue villages which were earlier forest villages. There are 37 villages inside the forest areas of Buxa Tiger Reserve and have been notified as revenue villages vide Notification No. 2802-L.P. dated 17.10.2014 and it is also stated that these revenue villages are no more under the administrative control of Forest Department.

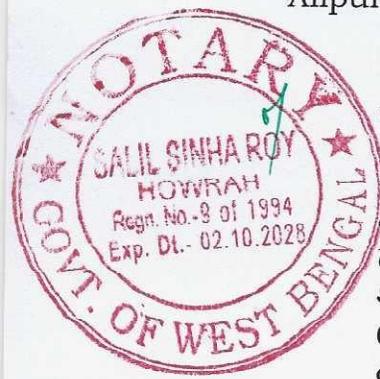
5. The averments made in the affidavit of the Govt. of West Bengal, by the Deputy Secretary, Department of Forest, are deficient in material facts in as much as **it does not disclose as to how forest villages situated within a Forest Reserve declared by the Central Government under the notification of the Ministry of Environment, Forest and Climate Change as a Tiger Reserve has been converted into a revenue village by a State Government notification dated 17.10.2014.** It is also not clarified as to whether prior to converting these villages into revenue villages, due permission/sanction has been taken from the Ministry of Environment Forest and Climate Change under the Forest (Conservation) Act, 1980 or whether the conversion of forest villages to revenue villages were effected as per guidelines of Ministry of Tribal Affairs under Forest Rights Act, 2006. If this affidavit was sworn by the Forest Department, Govt. of West Bengal, we would have expected the Forest Department to have been fair to disclose the correct facts before the Tribunal which has not been done.”

12. Affidavit dated 28.02.2022 filed by the office of District Magistrate, Alipurduar of West Bengal is as follows:-

“6. It is most respectfully submitted that although, Laity river does not fall within Buxa tiger reserve, yet as this issue has been raised before this Hon'ble tribunal therefore, the deponent conducted a field inquiry regarding the present status of stone crusher units operating on the riverbank of Laity river. In furtherance of that on 09.02.2022, the Sub Divisional Officer, Mal, Jalpaiguri forwarded his report stating that one field inquiry was conducted regarding present status of stone crusher unit operating on the riverbank of Laity River and during the inquiry it was revealed as follows

a) **The ARK Nirman (P) Ltd. Stone crusher unit is currently functional with license valid until 31.12.2023.**

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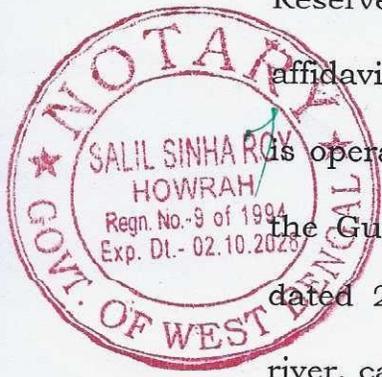


- b) *The ARK Nirman (P) Ltd. Stone crusher unit is operating in Mal Block, J.L No.- 22, Mouza Manabari, LR Plot No.-48, Area 1.87 Ac and 48/368 Area 1.43 acre, Khatian No.-239, recorded in the name of ARK Nirman Pvt. Ltd and Khatian No.-177 recorded in the name of Rajesh Chettri.*
- c) *It has also been stated that during field inquiry it was found that machinery, materials vehicles were 100 ft. away from the river bank of Laity River. The plot is adjacent to River bank.*
- d) *It is further stated that no Government land is found to be under possession/occupancy by the said unit."*

13. An affidavit has been filed by the State on 04.02.2022. The stand taken therein is that conversion of the Forest villages to Revenue villages is in terms of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which does not require approval of the FC Act, 1980.

Consideration, Finding and Directions

14. We have heard learned counsel for the parties and perused records. In view of order dated 01.12.2021, we are only dealing with the issue of stone crusher on Laity river and illegal constructions in the Buxa Tiger Reserve. With regard to the stone crushers, factual position as per affidavit filed on behalf of the District Magistrate is that the stone crusher is operating within 100 ft. from the river. Siting norms laid down under the Guidelines of Environmental Guidelines for Stone Crushing Units¹ dated 2009 issued by CPCB require distance of 200 meters from the river, canal and lake. Further, the stone crusher cannot remain operative without requisite consent to establish and consent to operate and EC. This also violates norms for protection of flood plain zone which has significant environmental functions and has to be protected. The extent



¹http://www.gpcenvis.nic.in/Manuals_Guidelines/Environmental_Guidelines_for_Stone_Crushing_Units.pdf

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of flood plain zones depends upon the applicable norms under different State laws. In its absence, in terms of order of this Tribunal dated 15.12.2020 in O.A. No. 22/2020, *Dilip Kumar Samantaray v. State of Odisha Board & Ors.*, the extent of flood plain zone has to be 100 meters from the edge of the river.

15. Relevant extract from the order is as follows:-

“1to7....xxx.....XXX.....xxx

8. There does not appear to be any central legislation to regulate the flood plains, **except a notification dated 07.10.2016 issued by the Ministry of Water Resources, River Development, and Ganga Rejuvenation, with respect to Ganga river, under the Environment (Protection) Act, 1986, prohibiting any construction in the active floodplain area of river Ganga or its tributaries.** The Union Water Resources Ministry circulated a model Bill on the subject in 1975 but the same did not fructify into law. There are some State Acts like Manipur Flood Zoning Act, 1978 and the Uttarakhand Flood Plain Zoning Act, 2012. In the State of Maharashtra, there are norms for demarcating regulatory and prohibitory zones in the floodplains of the rivers.² Various States have taken their own legislative/administrative measures to regulate and prohibit activities in the floodplains. There are guidelines by some other States also.³ There are also norms for no development zone, restricted zone in the floodplains of the rivers in Gujarat as referred to in order of this Tribunal dated 21.09.2020 in OA 50/2018(WZ), *Nav Yuva Sanghatan & Ors. vs. The Secretary, Narmada, Water Resources, Water Supply & Kalpsar Department & Ors.*

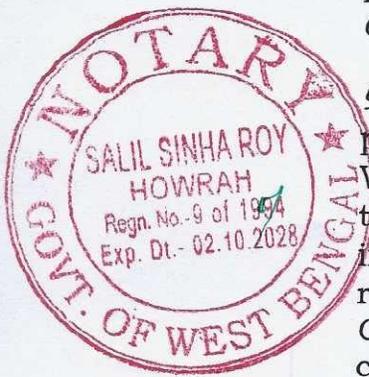
9. The Wetlands (Conservation and Management) Rules, 2017 prohibit any permanent constructions within 50 meters of the Wetlands, from the mean high flood level in the past 10 years from the commencement of the rules. There are also similar restrictions in certain Master Plans like the Revised Master Plan of Bangalore referred to in *Mantri Techzone Pvt. Ltd. vs. Forward Foundation & Ors.* (2019) SCC Online SC 322, restricting constructions in catchment area of the lakes. We are also not aware of the legislative and administrative measures in the State of Odisha on the subject

²Guidelines issued by the Irrigation Department of Maharashtra on 21.09.1989 as amended in the year 2018 and order of this Tribunal dated 11.07.2013 in OA 2/2013, *Sarang Yadwadkar v. Commissioner, Pune Municipal Corporation*, reported in 2013(1) All India NGT (Delhi) 299.

³ i. Also see order of the Allahabad High Court as reported in news article published on 04.01.2019 in The Times of India under the heading “No construction within 500 metre of high flood level: HC” authored by Shri Rajesh Kumar Pandey (https://m.timesofindia.com/city/allahabad/no-construction-within-500-metre-of-high-flood-level-hc/amp_articleshow/67379839.cms)

ii. News article published on 29.09.2016 in The Hindu under the heading “Building along the coast” authored by Shri G. Shyam Sundar (<https://www.thehindu.com/life-and-style/homes-and-gardens/Building-along-the-coast/article14644372.ece>).

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of regulating and prohibiting activities in the floodplain zones of the rivers in the State, but such an exercise appears to be necessary to give effect to the precautionary principle of environmental law, required to be enforced by this Tribunal under section 20 of the NGT Act, 2010.

10. While considering the issue of rejuvenation of identified polluted river stretches, (including Mahanadi, which is one of such polluted river stretches) the Tribunal directed that each State must constitute a River Rejuvenation Committee (RRC) to prepare appropriate action plan and execute the same. The action plan needs to include a plan for protection of floodplains.⁴

11. There are also articles in the media dealing with the subject. We may only refer to some as follows:

“

i. Article titled “why floodplains need to be protected” dated 12.10.2018⁵ stating as follows:

“Damage to floodplains harms the riverine ecosystem, lessens groundwater recharge capacity and poses threats of flash floods. Enforcement of floodplain zoning regulation is a must to avert floods.

The Kerala flood of 2018....

xxx

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xxx

The lack of regulation and enforcement of land use in the floodplains added to the severity of the damage.

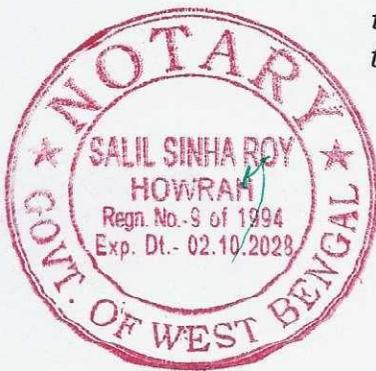
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Floodplains provide the space for rivers to spread their waters. When this space is missing due to encroachments, the river surges up and creates destruction.

“The lack of protection of river floodplains from damaging impacts like encroachment and diversion for ‘developmental projects’ is a tragedy that affects both the river as well as those who encroach it adversely. The river suffers as it is unable to occupy and transport flood waters downstream during high rainfall events (monsoon in particular). It is unable to recharge aquifers, wet the lands along its banks or provide life-sustaining conditions to plant and animal habitats along the river margins and banks.



⁴ See order dated 21.09.2020 in OA No. 673/2018, In Re: News item published in “The Hindu” authored by Shir Jacob Koshy, titled “More river stretches are now critically polluted: CPCB”.

⁵ Author: Amita Bhaduri : <https://www.indiawaterportal.org/articles/sad-state-floodplains#:~:text=Damage%20to%20floodplains%20harms%20the,poses%20threats%20of%20flash%20floods.&text=The%20lack%20of%20regulation%20and,the%20severity%20of%20the%20damage.>

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Damage to floodplains harms the riverine ecosystem, lessens groundwater recharge capacity and poses threats of flash floods. "People too suffer an immense loss of life and property, including loss of public infrastructure like bridges, roads, schools etc., during high floods,".

- ii. Article from Wikipedia under the heading "Floodplain"⁶, it is stated:

"xxx xxx xxx
Floodplains can support particularly rich ecosystems, both in quantity and diversity.

xxx xxx xxx

A floodplain can contain 100 or even 1,000 times as many species as a river. Wetting of the floodplain soil releases an immediate surge of nutrients: those left over from the last flood, and those that result from the rapid decomposition of organic matter that has accumulated since then. Microscopic organisms thrive and larger species enter a rapid breeding cycle. Opportunistic feeders (particularly birds) move in to take advantage. The production of nutrients peaks and falls away quickly; however, the surge of new growth endures for some time. This makes floodplains particularly valuable for agriculture."

12. The Hon'ble Supreme Court, vide judgment dated 30.07.2009 in *D.D.A. vs. Rajendra Singh*, 2009 (8) SCC 582, referred to the definition of floodplain in the dictionary as follows:

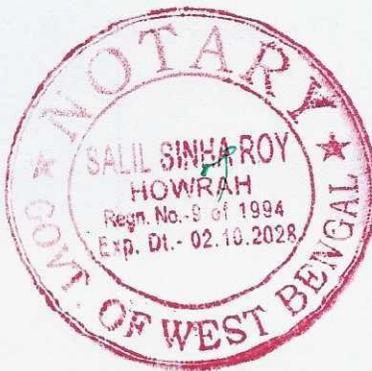
" xxx xxx xxx

24. **Though there is no statutory definition for "riverbed" and "floodplain" from the statute, the dictionary meaning of the same is as under:**

"Riverbed" has been defined as the area over which the river flows. In the Thames Conservators Case [1897] 2 QB 335 at 337 it was held that the word riverbed denotes that portion of the river which in the ordinary or regular course of nature is covered by the waters of the river.

The "bed of the river" was defined as the area covered by the river and is the space sub-adjacent to the river over which it flows between the banks. It is the space between the banks occupied by the river at its fullest flow.

The Black's Law Dictionary, 6th Edition (Pg 154) describes a river bed as the hollow channel of a water course; the depression between the banks worn by the regular and usual flow of water; The land which is covered by the water in its ordinary low stage; The area extending between the opposing banks measured from the foot of the bank from the top of the water at its ordinary



⁶ <https://en.wikipedia.org/wiki/Floodplain>

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stage. P. Ramanatha Aiyer's *Advanced Law Lexicon*, Volume 4, 2005 Edition (Pg. 4157-4158) has described the bed of a river as the space contained between the banks; river bank in turn has been defined in the same law lexicon as the boundaries of a river throughout its width when the water flows to its maximum quantity.

"Floodplain" - Land adjacent to rivers, which, because of its level topography, floods when river overflows. [Black's Law dictionary, 6th Edn., p.641].

It is also been defined as 'a low, flat area in either side of a river that can accommodate large amounts of water during a flood, lessening flood damage further downstream' [Fredd Michaels, 'Dictionary of Environment Studies']

13. The Tribunal while considering restoration measures for Yamuna and Ganga rivers dealt with the issue of floodplains. Vide judgement dated 13.01.2015 in OA No. 6/2012 and OA No. 300/2013, Manoj Misra vs. Union of India & Ors. reported in 2015 ALL (I) NGT REPORTER (1) (DELHI) 139 in the context of river Yamuna, it was observed:

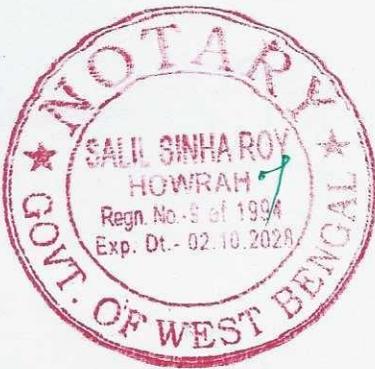
"81. Floodplain zoning has been accepted as an important nonstructural strategy for flood management. The basic concept of floodplain zoning is to regulate land use of floodplains to restrict damage caused due to floods. The floodplain zoning, therefore, aims at determination of locations so that flood damages are reduced to minimum. A very restrictive activity can be allowed in that area. **It is not only to protect the areas from damage resulting from floods and failure of water protective measures, but is also useful in reducing the damage caused due to drainage congestion, particularly in urban areas.** The Commission claims to have prepared a model bill relating to floodplain zoning. This model bill provides for different categories based of priorities in floodplain.

82. xxx xxx xxx

83. **The floodplain must be demarcated, kept free from any permanent developments and wherever it is possible, it should be restored to its original position.**

84. **Keeping in view the fact that various developments have taken on the floodplain of river Yamuna and to a larger extent they have adversely affected the river flow, its ecology and bio-diversity, we would direct that floodplain zoning should be taken with reference to the flood of once in 25 years, as against other suggested figure of more years. It is important to demarcate the floodplain on this basis immediately, to protect it from any encroachments or development activities, which has already discussed and requested by the High Powered**

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Committee, would adversely affect the ecology and environment.

85. Thus, it is necessary to call upon the authorities to demarcate the floodplain for the flood of once in 25 years and to prohibit any kind of development activity in the area in question. Furthermore, the Committee should consider restoration of the area and wherever necessary, even demolish the properties, which are likely to be dangerously exposed to the flood and are even affecting the ecology and bio-diversity and flow of the river.

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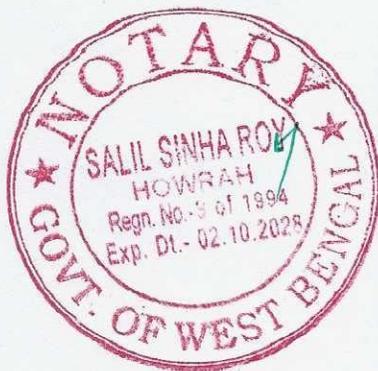
89. Subject to any law coming into force, we have already stated that flood of once in 25 years would be considered for defining and demarcating the flood plain. No development/construction activity, except that is stated herein, would be permitted in the Flood Plain of River Yamuna. No authority or person before us has even taken up the plea that why development/construction activity cannot be carried on in other parts of NCR, Delhi. As of now, sufficient land is available, may it is expensive, but that cannot be a ground for destroying the ecology, environment and biodiversity of River Yamuna of Delhi. The result of indiscriminate, unregulated and uncontrolled development activity are widely visible and felt by each and every one in Delhi. It would not only be unwise, but may prove fatal, if such approach is continued any further."

14. Vide judgement dated 13.07.2017 in OA No. 200/2014, M.C. Mehta vs. Union of India & Ors. reported in 2017 NGTR (3) PB 1 in the context of river Ganga, it was observed:

"xxx

xxx

xxx



142. Being an integral part of the river, floodplain of the river requires protection. Floodplains play significant role in maintaining the bio-diversity and aquatic life of the river. It's significance cannot be overlooked, in terms of environment and ecology. There are numerous dimensions involved while identifying the floodplains. It is required to categorize it into different zones, namely, No Development Zone, Regulated Zone and a Free Zone for development. The principle of Sustainable Development itself justifies the classification of floodplains into such zones for protecting the river. This Tribunal in the case of Manoj Misra (supra) had the occasion to deal with the concept of floodplain, its zoning and management."

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During the course of proceedings before the Tribunal, the stakeholders also deliberated in favour of demarcation of floodplain of river Ganga, for ensuring protection and maintenance of the health of the river. **The above stated precedent of the Tribunal also has its definite reference in the Notification dated 7th October, 2016 issued by the MoWR. In sub-clause (ix) of clause 4(v) of the Notification which relates to Principles to be followed for rejuvenation, protection and management of river Ganga, states that the bank of river Ganga and its floodplains shall be a construction free zone to reduce sources of pollution, pressure on floodplains and to maintain its natural groundwater recharging properties.** This clearly demonstrates that fixation of the floodplain and its demarcation is one of the principal projects for cleaning and rejuvenation of river Ganga, amongst all the stakeholders. As already stated, the project at priority is to clean river Ganga and not to diversify financial resources to the subsidiary function of cleaning innumerable drains in the city. There are innumerable factors consequential to pollution of floodplains of the river. Indiscriminate and unplanned constructions or developments, carrying on of unauthorized and impermissible activities, dumping of municipal solid waste, bio-medical waste and E-waste in and around the floodplains, are some of the main contributors of pollution in river Ganga.

xxx

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182. ... The constitutional duty upon the citizens is to protect and improve the nature, environment including forests, rivers, wildlife and to have compassion for living creatures. No industry much less the State or its instrumentality can be permitted to indulge in pollution of natural resources particularly the river for economic benefits. **It is a settled principle of law that the Polluter Pays Principle and Precautionary Principle have to be read into the Principle of Sustainable Development.** Normally, they are applied collectively. Restrictions imposed are inbuilt fact of sustainable developments and that itself serves the cause of Intergenerational Equity. **To protect and improve the environment has a direct nexus to the quality of human life, thus, all environmental principles must come to the aid of the Courts and Tribunals for furthering the cause of Sustainable Development. In the case of 'Vellore Citizens Welfare Forum vs. Union of India' 1996 5 SCC 647 held with approval:**

"The concept of development to say that the traditional concept that development and ecology are opposed to each other is no longer acceptable. Sustainable Development is the answer i.e., development that meets the needs of the present without compromising the ability of the future generations to meet their own needs. It is intended to improve the quality of human life, while living within the carrying capacity of the supporting



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ecosystems. The 'Precautionary' Principle and 'Polluter Pays' Principles were, therefore, said to be the essential features of the Principle of Sustainable Development."

xxx
182.1

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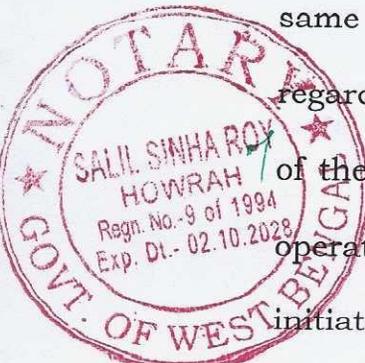
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7. Till the demarcation of the floodplains and identification of permissible and non-permissible activities by the State Government of this judgement, we direct that 100 meters from the edge of the river would be treated as no development/construction zone in Segment-B of Phase-I (Haridwar to Unnao, Kanpur)."

15. In view of averments made by the applicant that the river beds is proposed to be affected by setting up of the Medical College or other permanent constructions in the floodplain of the river, there is need to prevent irreversible damage to the riverine ecology by enforcing the applicable rules, if any. If there are no rules, appropriate norms need to be laid down considering such norms in other similar situations in consultation with the experts."

16. In the present case, the stone crusher activity being within 100 feet of the edge of the river, cannot be allowed. The State PCB and District Magistrate may accordingly take further action, following due process of law, within two months from today.

17. We also find that while protection of forest rights under the 2006 Act may not require following of procedure under the FC Act, 1980, the same cannot be held to permit commercial activity in such area. With regard to hotels, restaurants/camping stations in the forest area, stand of the State itself is that the same are not permissible. Establishments operated by the State have been closed while proceedings have been initiated against the establishments operated by private persons. Such establishment may accordingly be closed within two months, following due process, which will be the responsibility of the State PCB, Field Director, Buxa Tiger Reserve and District Magistrate.



The application is accordingly disposed of.

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A copy of this order be forwarded to the Chief Secretary, West Bengal, State PCB, Field Director, Buxa Tiger Reserve and District Magistrates, Jalpaiguri and Alipur Dwar by email for compliance.

R.A. No. 23/2017/EZ

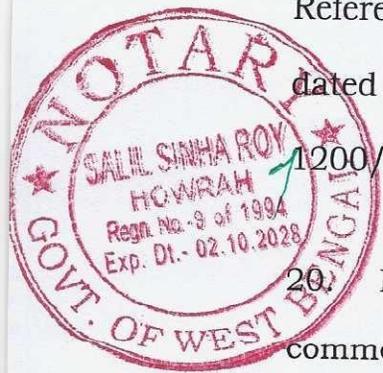
18. The Department of Tourism, West Bengal has sought review of order dated 27.07.2017 referred to above, requiring the establishment operated by it to be demolished. According to the Tourism Department, it is a camping station on the outskirts of Jayanti village. There is no permanent structure. It was given to the Tourism Department by the Forest Department. In the camping station, villagers are getting opportunity of employment. The camping station was set up prior to 05.12.1997, before declaration of the area as National Park.

19. Reply has been filed to the review application by the applicant in O.A., disputing the averments that it is a temporary structure. Reference has been made to the official website of the Tourism Department giving the list of 31 tourist centers which include the present structure. Reference has also been made to the advertisement in Times of India dated 01.05.2016 to let out non-AC room in the said structure at Rs. 1200/- per day and non-AC triple bedroom at Rs. 1500/- per day.

20. In view of the above, it is clear that establishment is being used for commercial purposes which is not permissible in the Core area of Tiger Reserve as per provisions of Wildlife (Protection) Act, 1972.

21. We also find order of the State of West Bengal dated 15.04.2008 filed by the applicant prohibiting any hotels/restaurant/resort within 1

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Km. of reserved forest without consent to establish and consent to operate which have not been granted in the present case.

22. In view of the above, the establishment in question cannot be run for commercial purposes. However, instead directing demolition, we direct that the same be handed over to the Forest Department and used as Interpretation-cum-Training Center for nature conservation and management. If the establishment is not transferred to the Forest Department within two months, the same will be demolished which will be the responsibility of the District Magistrate, Alipurduar.

The review application is disposed of accordingly.

All pending M.A.s will also stand disposed of.

Adarsh Kumar Goel, CP

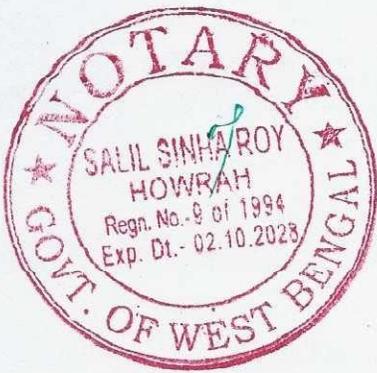
Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Arun Kumar Tyagi, JM

Saibal Dasgupta, EM

Dr. Afroz Ahmad, EM



May 30, 2022

O.A. No. 136/2015/EZ & R.A. No.23/2017/EZ

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Photograph taken on 11.05.2024 showing stone crushing site on the river bed/bank of Teesta near to rail-crossing towards Sevok Bridge Siliguri/Darjeeling



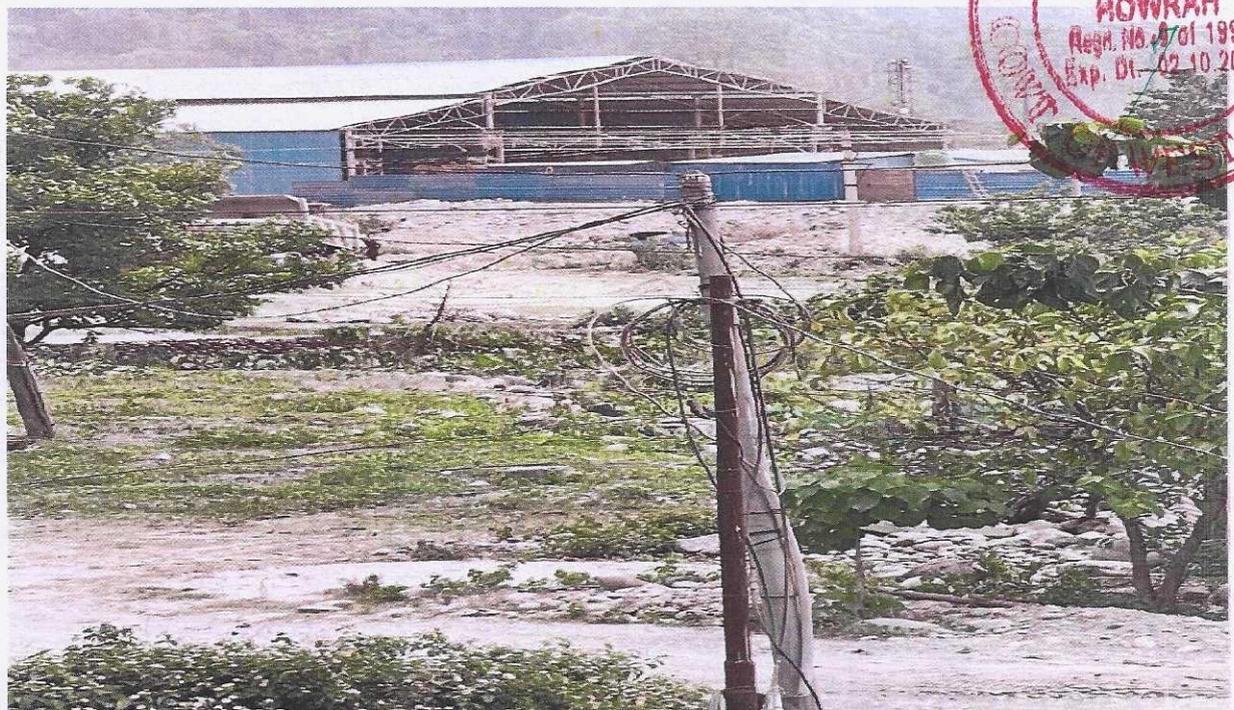
21 MAY 2024



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HOWRAH
Regn. No. - 9 of 1994
Exp. Dt. - 02.10.2028
GOVT OF WEST BENGAL

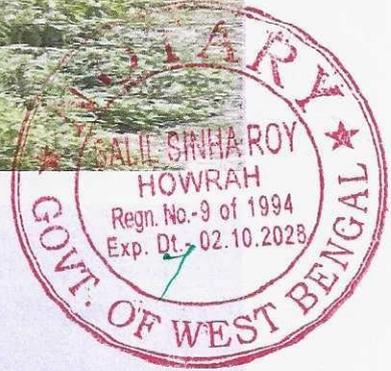
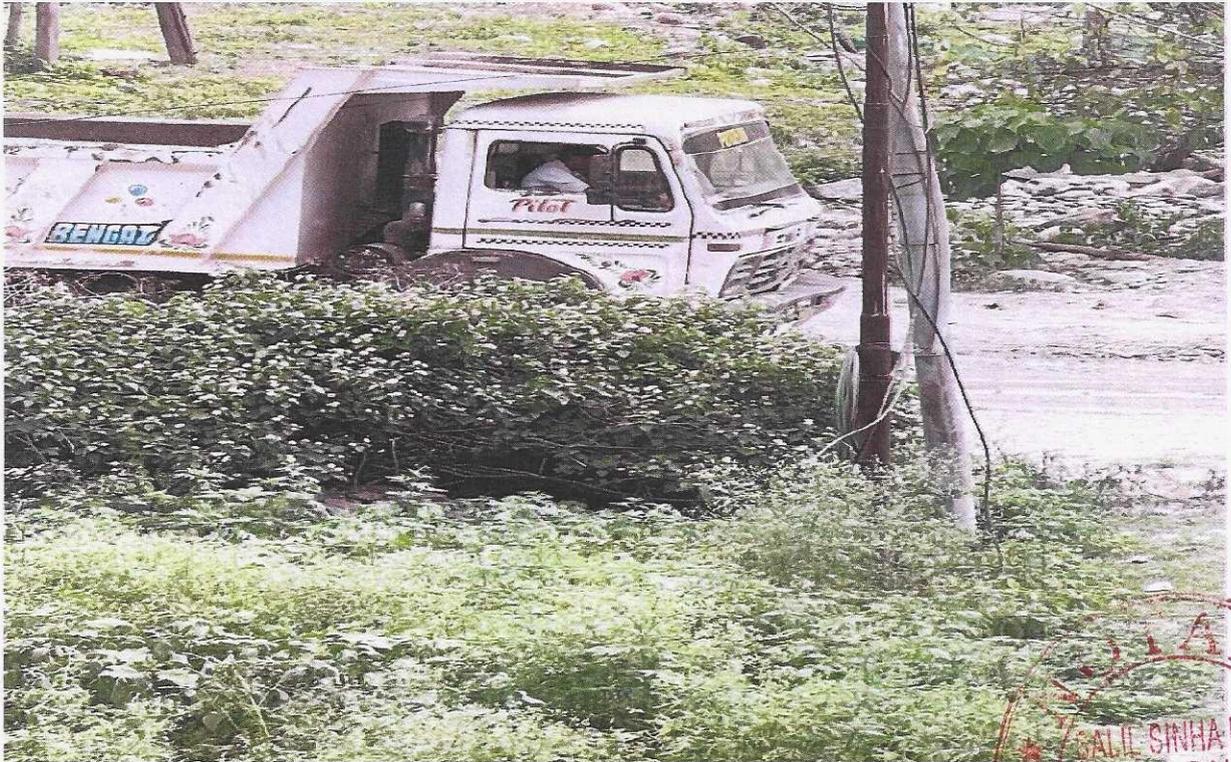
Photographs taken on 07.05.2024 showing stone crushing site on the river bed/bank of Teesta near to rail-crossing towards Sevak Bridge Siliguri/Darjeeling

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Photographs taken on 07.05.2024 showing stone crushing site on the river bed/bank of Teesta near to rail-crossing towards Sevok Bridge Siliguri/Darjeeling

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Photographs taken on 07.05.2024 showing stone crushing site on the river bed/bank of Teesta near to rail-crossing towards Sevok Bridge Siliguri/Darjeeling

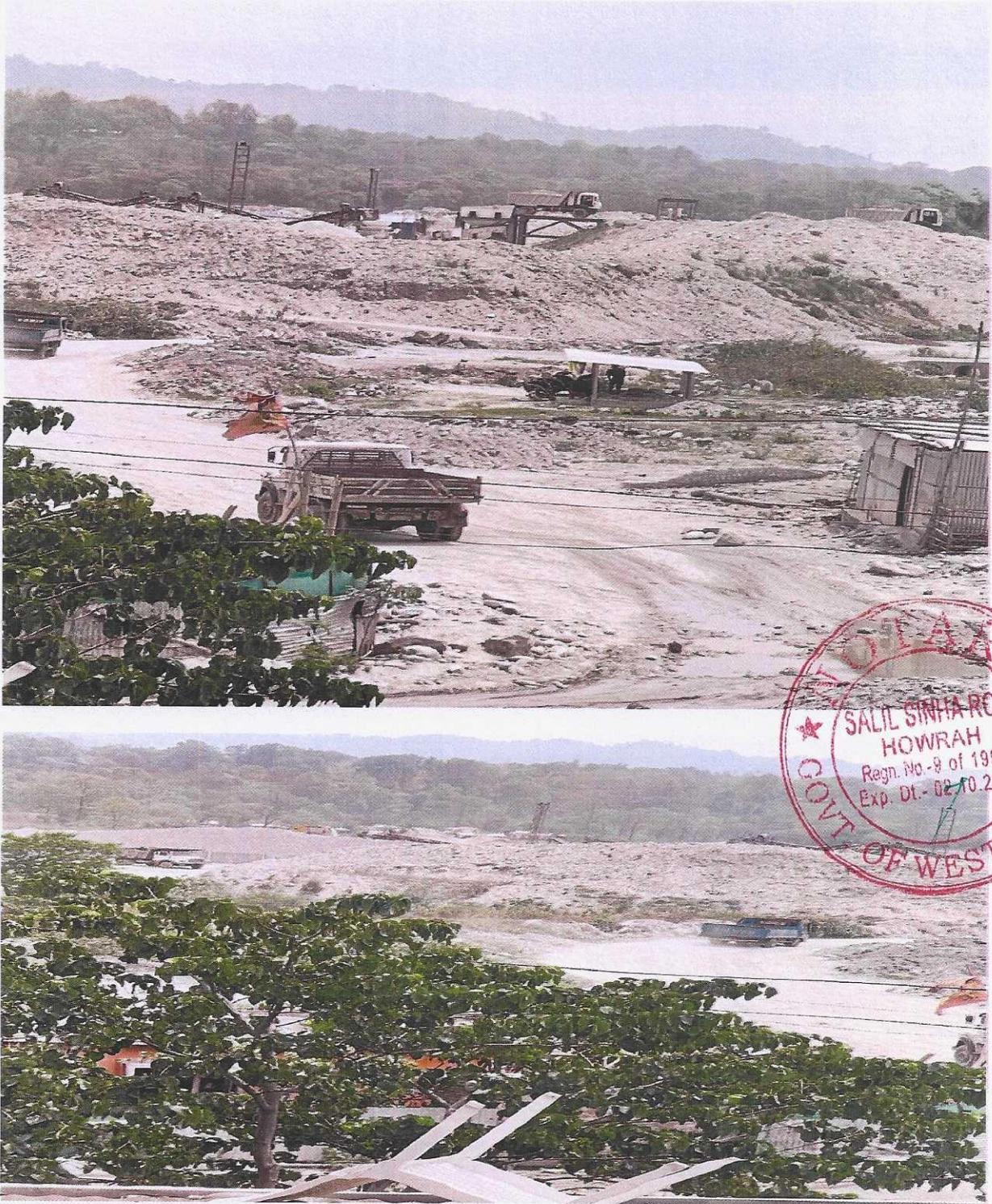
21 MAY 2024

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Photographs taken on 07.05.2024 showing the stone crushing site on the river bed/bank of Teesta near rail-crossing towards Sevok Bridge Siliguri/Darjeeling

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Photograph taken on 07.05.2024 showing the stone crushing site on the river bed/bank of Teesta near rail-crossing towards Sevok Bridge Siliguri/Darjeeling

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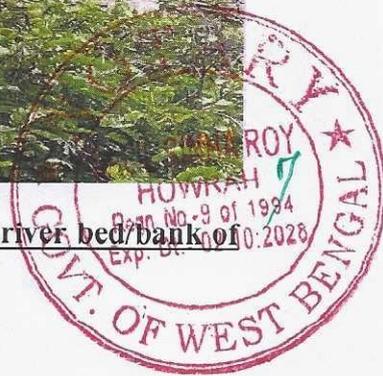
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★ SAILI SINHA ROY ★
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Regn. No. 401/1994
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OF WEST BENGAL

Photographs taken on 07.05.2024 showing the stone crushing site on the river bed/bank of Teesta near rail-crossing towards Sevok Bridge Siliguri/Darjeeling

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Photograph taken on 07.05.2024 showing the stone crushing site on the river bed/bank of Teesta near rail-crossing towards Sevok Bridge Siliguri/Darjeeling



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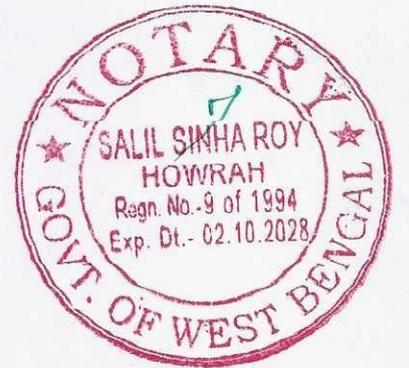
**Environmental Guidelines
for
Stone Crushing Units**



Central Pollution Control Board

**Ministry of Environment, Forest and Climate Change
Parivesh Bhawan, East Arjun Nagar
Delhi-110032**

(July, 2023)



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1.0 Introduction

Stone crushing sector is an important industrial sector engaged in producing crushed stone of various sizes (40 mm.20 mm.10 mm. crushed sand, stone dust etc) depending upon the requirement which acts as raw material for various construction activities.

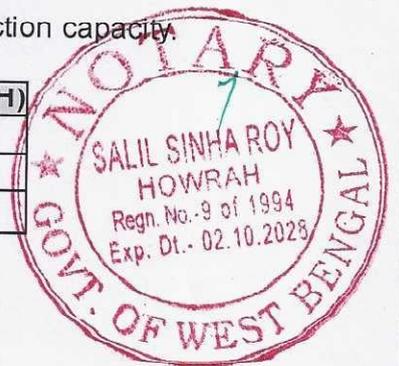
Stone crushing operation releases a substantial amount of fugitive dust, which not only pollute the environment, but also pose a health hazards to the workers and the surrounding population. The growth in infrastructure is leading to increase in demand of raw materials, thereby resulting in the need to set up new stone crushing units or increase production from existing units. This poses a challenge to maintain the ambient air quality, which is possible if environmental guidelines predetermined by the industry concerned are followed.

Inventory and information about stone crushing units gathered from 27 SPCBs/PCCs (Arunachal Pradesh, Andaman & Nicobar island, Assam, Bihar, Chandigarh, Chhattisgarh, Daman, Dadra & Nagar Haveli, Goa, Gujarat, Haryana, Himanchal Pradesh, Jharkhand, J&K, Karnataka, Kerala, Madhya Pradesh Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, Tripura, Uttarakhand), and the data received indicates that there are about 16,931 stone crushing units with capacity ranges between 0.1 TPH to 1,400 TPH.

2.0 Classification of Stone Crushing Units

Based on the information received from SPCBs/PCCs, stone crushers may be classified into small, medium and large-scale in terms of production capacity.

S.No.	Category	Production capacity (TPH)
1.	Small Scale	Up to 25
2.	Medium Scale	26 to 100
3.	Large Scale	100 above



3.0 Stone Crushing Process

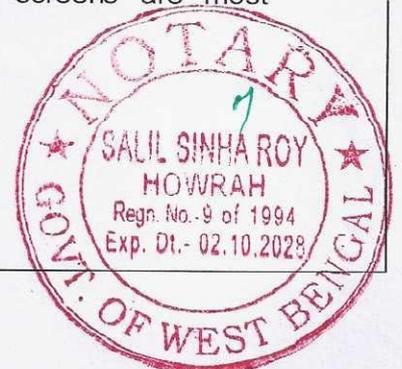
The stone crushing process can be broadly divided in following stages:

3.1 Transportation of raw material: Stones extracted from various sources are transported to stone-crushing units by means of trucks, trailers or automatic dumpers.

3.2 Primary crushing: Mined stones are fed directly into the primary crusher through stone feeders. The primary crusher breaks large stones and boulders into 100-140 mm size stones. Crushed stones are sent to secondary crusher for further reduction into smaller sizes. Various types of crushers are used in stone crushing industry. Jaw crushers are widely used as primary crushers.

3.3 Secondary crushing: After primary crushing, crushed stones are fed to secondary crushers through conveyor belts. In this stage, stones are further crushed to a size of 40-60 mm to 10 mm or even smaller. Stone crushing units use different types of crushers for secondary crushing. Granulator or cone crusher is usually used for secondary crushing.

3.4 Screening: From secondary crusher, crushed stones are transferred for screening through a conveyor belt. Screening is the process for segregating products of various sizes. Different mesh size screens are aligned one below the other and each screen is connected to a separate conveyor belt for discharging different size products. Mass that remains on the screen is called 'oversize' and material that passes through screen is called 'under size'. Oversize is returned to secondary crushers for further crushing and then again to screen. Under size is discharged through a 'telescopic chute' and screened products of various sizes are conveyed to stockpiles by belt conveyors. Different types of screens are used such as; grizzly-type screen, vibrating screen and rotary screen. Vibrating screens are most commonly used.



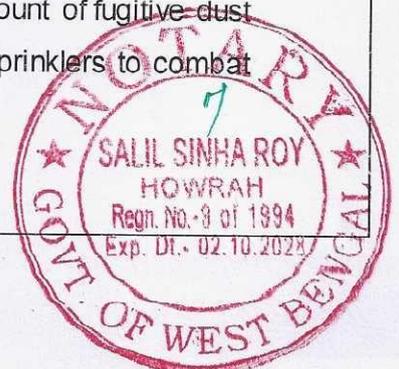
3.5 Tertiary crushing: Tertiary crushing is carried out in units that produce stone dust as their primary product. Dust is usually a by-product of stone crushing process. Units that produce dust, install a separate machine, usually roller crushers. Stones of size 10-20 mm are sent to roller crushers for grinding into fine dust.

3.6 Product storage and loading: After crushing and screening, final product is transferred to a conveyor belt which distributes the product into different stockpiles, depending on size of the product. The product/fines are either stored as stockpiles or directly loaded into trucks & dumpers and transported.

4.0 Environmental issues associated with Stone Crushing Units

The major environmental issue due to operation of a stone crushing unit is fugitive dust emissions which is contributed by the following processes:

- **Primary crushing:** Primary crushers breaks large boulders into smaller sizes. Crushing process as well as unloading of stones generate a substantial amount of fugitive dust. Mechanism for water sprinkling is provided to reduce fugitive dust. Some primary crushing areas are partially or completely covered with a shed as a measure to further prevent the fugitive dust emissions to surroundings, however at some places partial coverings provided which do not appear to be sufficient to such emissions.
- **Secondary crushing:** Compared to primary crushing, fugitive dust emitted at secondary crushing is relatively higher. Generally, insufficient covered shed provided in the process results in fugitive emissions.
- **Screening:** Screening process is also a source of fugitive dust emissions. As the material is conveyed to screen from secondary crusher, screen vibrates and thus, separates the material of different sizes resulting into huge amount of fugitive dust emissions. Generally, units provide covered shed and water sprinklers to combat



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dust emissions however, improper design and operation of sprinklers and improper covering is an issue.

- **Tertiary crushing:** Fugitive emissions are generated during grinding of stones into fine dust.
- **Conveyor Belt:** Conveyor belts are primary means of transferring raw materials and products from one end to the other. Movement of products on the conveyor belts is a potential source of fugitive dust emissions. To reduce dust emissions, water sprinkling arrangement is provided on each belt. Some units cover conveyor belts either with sheets or thick cloth to reduce dust emissions.
- **Product release and storage:** Fugitive emissions generated during transfer of material through telescopic chutes is lower than that generating during direct disposal of product on stockpile. Material, such as stone dust, stored in open areas is are also a potential source of fugitive dust emissions.
- Although no process waste water is generated from stone crushing units, however, water is used for sprinkling, conveyed to settling tanks of appropriate size which is recycled and reused in process.

5.0 Environmental Guidelines for Stone Crushing Units

The stone crushing units should adopt following environmental guidelines to prevent/suppress fugitive dust emissions from their operation:

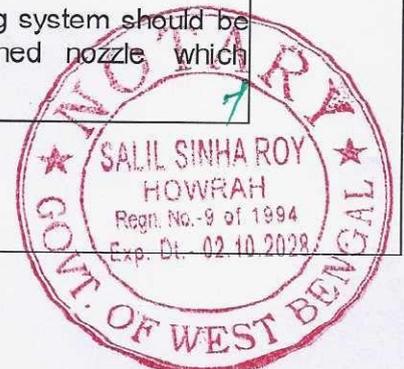
Source of emission	Measures to be Taken
Unloading of raw material for storage	Water sprinkling with adequately designed nozzle which produce tiny droplets of water should be provided during raw materials unloading .
Unloading of raw material into hopper	<ul style="list-style-type: none"> • Three sides and top should be covered and one side may be kept open for vehicular movement. • Water sprinklers should be provided on approach roads.

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Primary Crushing/ Jaw Crusher	<ul style="list-style-type: none"> • Crusher should be completely enclosed by G/MS sheets on top and at least three sides completely from the ground level. One side should have provision of movable sheet/door for movement/maintenance. • Primary crushers/jaw crushers should be covered with tarpaulin/cotton cloth/suitable materials to contain fugitive dust emissions (Figure-1) • Water sprinkler system with adequately designed nozzle which produce tiny droplets of water should be provided at primary crusher/jaw crusher so that fugitive emissions are contained and amount of water sprayed should be optimized.
Secondary Crushing	<ul style="list-style-type: none"> • Crusher should be completely enclosed by G/MS sheets on top and at least three sides completely from the ground level. One side should have provision of movable sheet/door for movement/maintenance. • Dry extraction cum bag filter followed by cyclone to be provided for control of emissions.
Screening	<ul style="list-style-type: none"> • Crusher should be completely enclosed by G/MS sheets on top and at least three sides completely from the ground level. One side should have provision of movable sheet/door for movement/maintenance. Door to be kept closed during operation. • Flexible covers where conveyors pass through the screen house should be installed at entries and exits of conveyors to screen house. • Dust extraction system connected with bag filter to be provided. • Provision of water mist sprinkling systems with adequately designed nozzle which produce tiny droplets of water should be made at inlet/outlet of screens.
Tertiary Crushing	<ul style="list-style-type: none"> • Crusher should be completely enclosed by G/MS sheets on top and at least three sides completely from the ground level. One side should have provision of movable sheet/door for movement/maintenance. Dust extraction system connected with bag filter to be provided. • Provision of water mist sprinkling system should be made with adequately designed nozzle which produce tiny droplets of water.

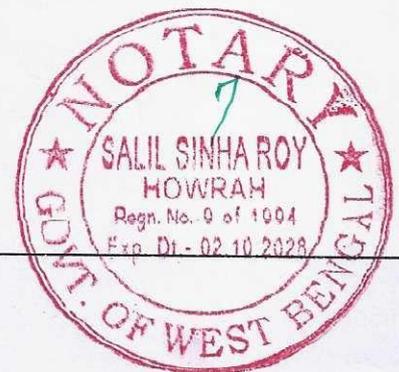
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Conveyor Belts	Conveyor belts should be properly covered from node to node with a thick sheet of suitable material along with water sprinkling system with adequately designed nozzle which produce tiny droplets of water.
Discharge points	Flexible Telescopic chute from top of discharge point to the ground level should be provided (Figure-2 & Figure-2(a)).
Product storage	<ul style="list-style-type: none"> • Properly designed telescopic chute of adequate length of suitable material should be provided at ends of conveyor so that dust generated from this section is contained at source. • All open stockpiles for aggregates of size above 5 mm should be kept sufficiently wet by water spraying. • Stockpiles of aggregates of 5 mm size or less should be covered to ensure that same is not carried away (or whipped out) by wind.

5.1 General Measures

- i. Wind breaking wall: G/MS/brick wall should be provided along the periphery of crusher. Height of the wall should be 3-ft more than the highest node of the crusher.
- ii. Roads: Metaled/concrete roads should be provided within the premises. Ramps and the entire ground area inside the premises should also be metaled.
- iii. Housekeeping: To curb the air pollution in the crusher premises, arrangement of rotating water sprinkling system/fogger/Anti-smog gun should be provided. Water sprinklers should have adequately designed nozzle which produce tiny droplets of water, as such system is more effective in dust control with significant reduction in consumption of water. Fine dust accumulated and bag filters in the crushing area should be cleaned at regular intervals and the collected dust should be stored in sacks for further sale or disposal.
- iv. Plantation: 2-3 rows of tall trees should be planted around the periphery of crusher.
- v. Housing should be open for movement of mechanical drivers, conveyor belts, etc. should be sealed properly with flexible rubber flaps.

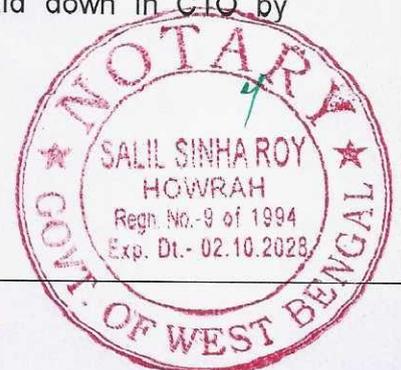


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- vi. Name of the unit, contact details of the owner and address of the unit, plant capacity and date of issue of CTE/CTO from SPCBs/PCCs should be displayed on the display board at the entrance.
- vii. Transportation: Vehicles carrying any kind of material should be completely covered.
- viii. Regular wetting of roads should be done to suppress dust within the premises to control dust emission re-suspension.
- ix. Water consumption and handling: Unit should provide settling tanks of appropriate size and recycle & reuse of the water in process. Crusher should provide a water storage tank with adequate capacity. In case of use of groundwater, stone crushing unit should obtain permission to extract groundwater from the Central Ground Water Authority (CGWA)/Ground Water Department (GWD) of the State/UT. Unit should maintain proper log book of consumption of fresh water. Depending on availability, efforts may be made to use STP treated water instead groundwater to control emissions from process activities.

6.0 Regulatory/Monitoring Mechanism for Stone Crushing Unit

- i. Stone crushing unit should obtain Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned SPCBs/PCCs.
- ii. Unit while applying for CTO/renewal of consent, should upload the duly filled checklist attached at **Annexure-1** along with digitally tagged photographs and videos of the crushing unit to ensure compliance of the conditions mentioned in the guidelines. SPCBs/PCCs should digitally verify the said conditions before issuance of CTE/CTO/renewal of consent.
- iii. CCTV/PTZ cameras should be installed at the entrance and all corners of the premises of the unit covering entire area with minimum of 30 days data storage.
- iii. Stone crushing unit shall comply with emission norms prescribed under the Environment (Protection) Rules, 1986 and conditions laid down in CTO by concerned SPCB/PCC.



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- v. Online/manual ambient air monitoring systems to be installed in crusher zone as per CPCB/SPCB guidelines – in upwind and downwind directions.
- vi. Stone crushing unit should develop green belt as per the plan approved by concerned Department of the State/UT.
- vii. Local authorities should associate with stone crusher associations for the construction of metalled road in the entire crusher zone.
- viii. A District Level Committee should be constituted under chairmanship of District Magistrate/Deputy Commissioner so that surprise inspections for surveillance of stone crushing units located under their jurisdiction can be carried out on regular basis.
- ix. Health survey of workers should be carried out by the stone crusher on half-yearly basis.
- x. New Crushers should be allowed to operate only in dedicated crusher zones as per the siting policies of SPCBs/PCCs.
- xi. Stone crusher unit should be operated only during day time (i.e. 6.00 AM to 10.00 PM) to avoid inconvenience to the nearby residents due to ambient noise.

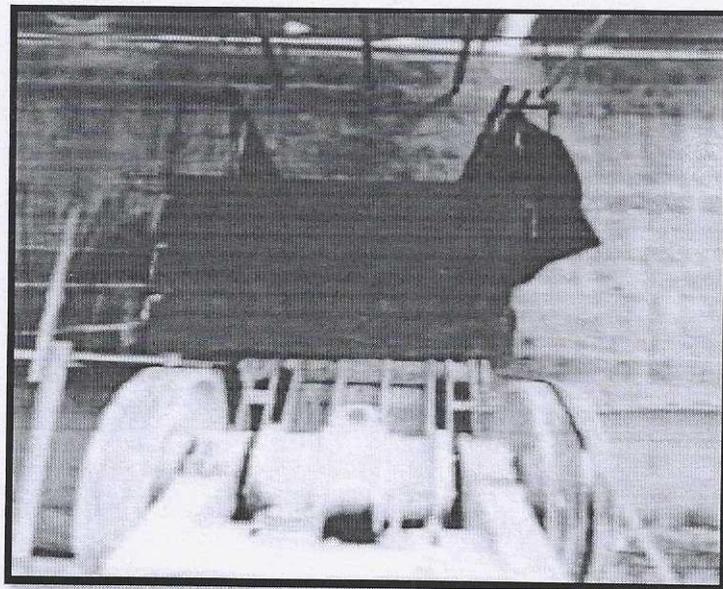
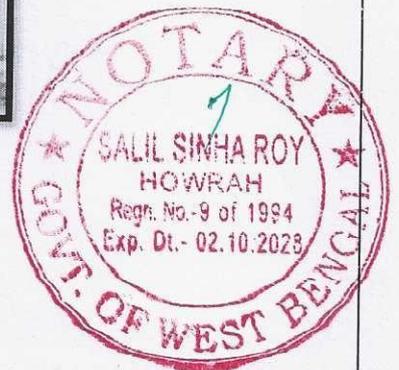


Figure-1: Covering of Primary/Jaw crusher



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Figure-2: Chute from top of discharge point

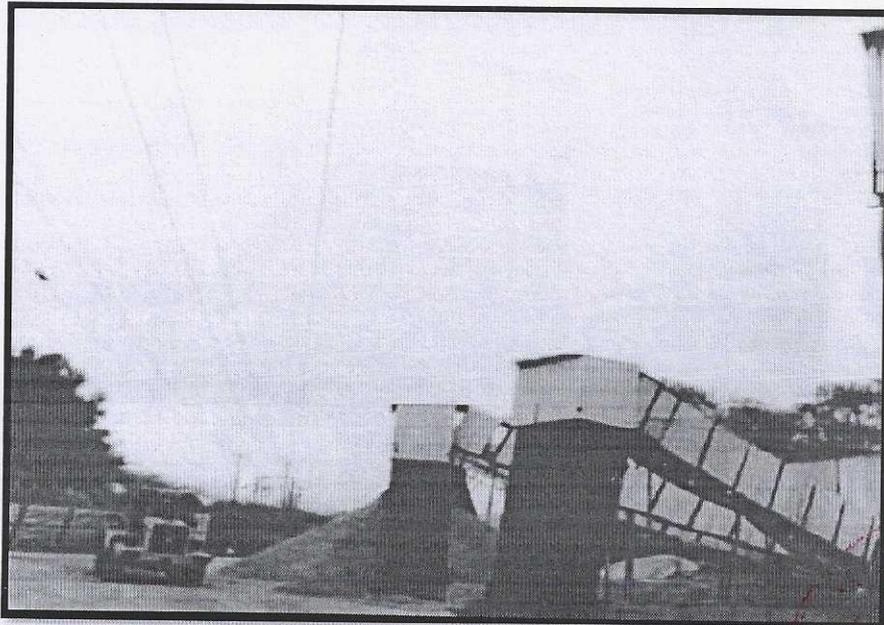
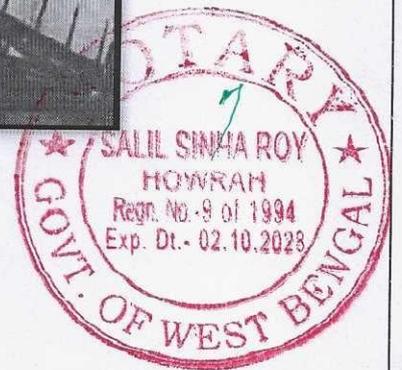


Figure-2(a): Chute from top of discharge point



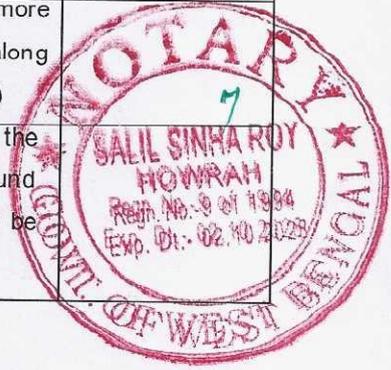
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Annexure-1

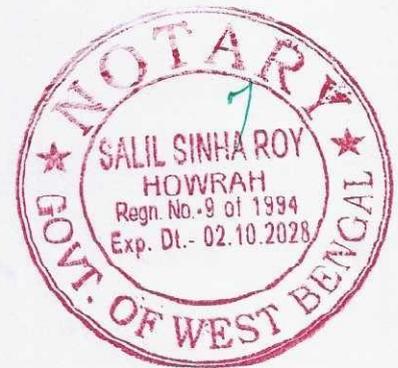
Format/Checklist for SPCBs/PCCs before issuance of CTE & CTO

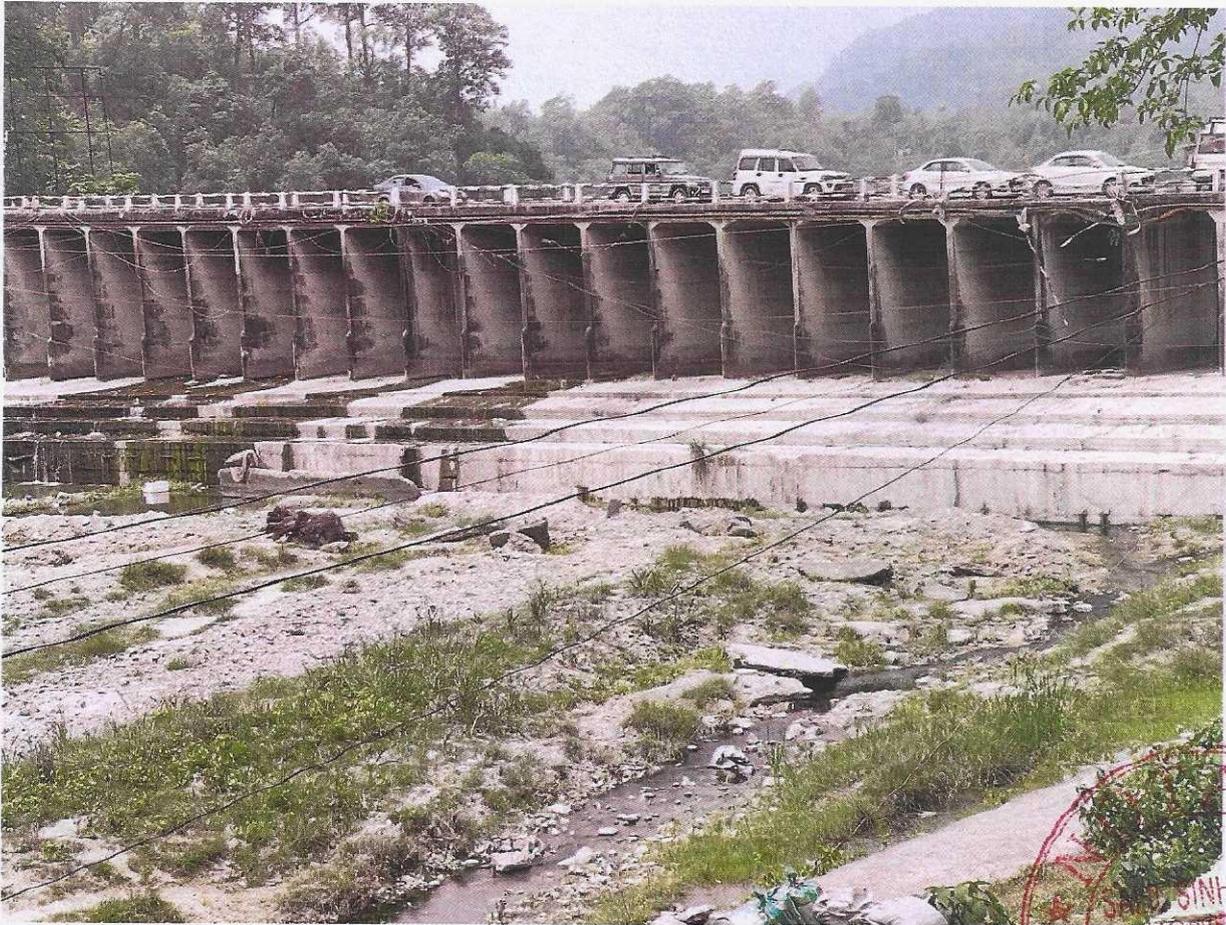
S. No.	Fugitive Emission Source Locations	Checklist for compliance of conditions of Environmental guidelines	Yes/No
1.	Unloading area of raw material, primary crusher, Screener, conveyors belts and transfer points	Water sprinklers installed with adequate designed nozzles (Upload photo/videos).	
2.	Primary crushers, Secondary crushers, Screeners and tertiary crushers	Enclosures by GI/MS sheets on top and at least three sides completely from the ground level (Upload photo/videos).	
3.	Secondary, Tertiary crushers and Screener	Dry extraction cum bag filter followed by cyclone. (Upload photo).	
4.	Covering of Conveyor belts from node to node with a thick sheet of suitable material	Covering of Conveyor belts (Upload photo).	
4	At discharge points	Flexible Telescopic chute from top of discharge point to the ground level (Upload photo).	
5	GI/MS/brick wind breaking wall of 3-ft more than the highest node of the crusher along the periphery of crusher	Wind breaking wall (Upload photo)	
General			
6.	Wind breaking wall	GI/MS/brick wind breaking wall of 3-ft more than the highest node of the crusher along the periphery of crusher (Upload photo)	
7.	Roads	Metalled/concrete roads within the premises. Ramps and the entire ground area inside the premises should also be metalled	



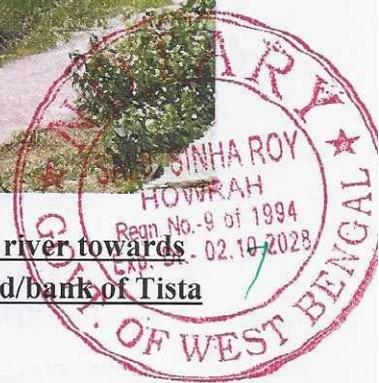
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8.	Suppression of dust within the premises	Arrangement of rotating water sprinkling system/fogger/Anti-smog gun in the premises to suppress dust within the premises to control dust emission re suspension
9.	Green belt	Plantation of 2-3 rows of tall trees around the periphery of crusher
9.	Display board	Display board at the entrance, having name of unit, contact details of owner and address of unit, plant capacity and date of issue of CTE/CTO from SPCB/PCC
10	Covering of vehicles	Covering of vehicles carrying any kind of material .
11	CCTV/PTZ camera	CCTV/PTZ cameras installed at the entrance and all corners of the premises of the unit covering entire area with minimum of 30 days data storage
12	Photos/videos	Upload photographs/videos ensuring compliance of all conditions as mentioned in the guidelines while applying CTE/CTO/ Renewal





Photograph taken on 07.05.2024 showing viaduct to allow the flow of Nandi river towards Tista river on NH 17 now blocked by the stone crushing unit on the river bed/bank of Tista near to rail-crossing towards Sevok Bridge Siliguri/Darjeeling



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उपाबंध-V

की गई कार्रवाई सम्बन्धी रिपोर्ट का प्रपत्र.-

1. बैठकों की संख्या और तारीख ।
2. बैठकों का कार्यवृत्त : (कृपया मुख्य उल्लेखनीय बिंदुओं का वर्णन करें । बैठक के कार्यवृत्त को एक पृथक उपाबंध में प्रस्तुत करें) ।
3. पर्यटन महायोजना सहित आंचलिक महायोजना की तैयारी की स्थिति ।
4. भू-अभिलेखों की स्पष्ट चुटियों के सुधार के लिए निबटाए गए मामलों का सार (पारिस्थितिकी संवेदी जोन चार)। विवरण उपाबंध के रूप में संलग्न करें।
5. पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन आने वाली क्रियाकलापों की संवीक्षा किए गए मामलों का सार । (विवरण एक पृथक उपाबंध के रूप में संलग्न करें) ।
6. पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन न आने वाली क्रियाकलापों की संवीक्षा किए गए मामलों का सार । (विवरण एक पृथक उपाबंध के रूप में संलग्न करें) ।
7. पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 19 के अधीन दर्ज की गई शिकायतों का सार ।
8. कोई अन्य महत्वपूर्ण मामला ।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
NOTIFICATION

New Delhi, the 22nd September, 2020

S.O. 3237(E).—WHEREAS, a draft notification was published in the Gazette of India, Extraordinary, vide notification of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O. 4442(E), dated the 10th December, 2019, inviting objections and suggestions from all persons likely to be affected thereby within the period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

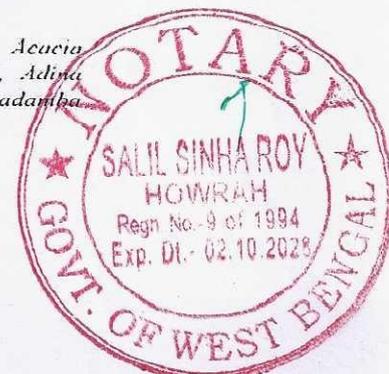
AND WHEREAS, copies of the Gazette containing the said draft notification were made available to the public on the 11th December, 2019;

AND WHEREAS, no objections and suggestions were received from persons and stakeholders in response to the draft notification;

AND WHEREAS, Mahananda Wildlife Sanctuary is situated in Darjeeling and Jalpaiguri districts of West Bengal which are characterised by forest and riverine ecosystem adjoin with tea gardens and villages with diverse ethnicities. The Sanctuary has an area of 161.17 square kilometres harbouring species of gaurs (*Bos gaurus*) and also acting as a corridor for sustaining population of wild elephants in North Bengal in between Teesta and Mechi River;

AND WHEREAS, Mahananda Wildlife Sanctuary is characterised by elephant migration route and variety of migratory elephant takes shelters and royal Bengal tiger was also reported from the Sanctuary during monsoons and winter seasons. The area is also famous for gaur, chital (spotted deer), barking deer, boar, pangolin, sambar, Rhesus monkey, Himalayan black bear, many species of lesser cat like fishing cat and jungle cat, Himalayan black bear, leopard including clouded leopard, and many other smaller animals like rare mountain goat (Serow), etc.;

AND WHEREAS, the important flora of the Mahananda Wildlife Sanctuary are *Acacia auriculiformis* (akashmoni), *Albizia falcataria* (sirish), *Aerocarpus fraxinifolius* (mandane), *Adina cordifolia* (haldu), *Alianthus exelsa* (mahaneem), *Azadiracta indica* (neem), *Anthocephalus cadamba*



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(kadam), *Artocarpus chaplasha* (chaplasha/Ban kathal), *Amoora rehituka* (lahasune), *Bischofia javanica* (kainjal/urium), *Bombax ceiba* (simul), *Betula cylindrostachya* (birch/aule saur), *Careya arborea* (kumbhi), *Delbergia latifolia* (setisal / satsayer), *Erythrina arboreascens* (phaledo), *Elaeocarpus sphaericus* (rudrakha), *Sesbania grandiflora* (bak phul), *Shorea robusta* (sal, sakhua), *Swietenia febrifuga* (cloroti), *Tetradium fraxinifolium* (khanakpa), *Toona ciliata* (tumi/tum), *Tulane hodgsoni* (bhalu kath), *Ulmus lancifolia* (pipli - aule), *Vabernun erubescens* (asharay), *Walsura tabulata* (falamay), *Xylia dolabriformis* (lohakat), *Zizyphus mauritiana* (kul), etc.;

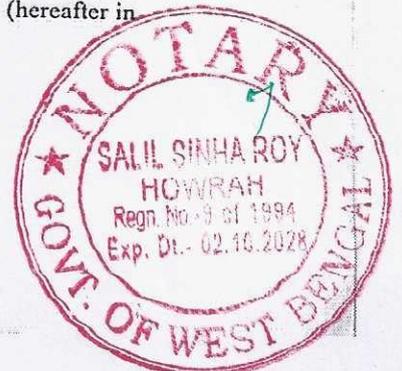
AND WHEREAS, the major fauna of the Mahananda Wildlife Sanctuary includes mammals such as Sikkim large-clawed shrew (*Soriculus nigrescens* Gray), Hodgson's brown-toothed shrew (*Episoriculus caudatus* Horsfield), Indian long-tailed shrew (*Soriculus leucops* Horsfield), Himalayan water shrew (*Chimmarogale platycephala himalayica* Grey), fulvour fruit bat (*Rousettus leschenaultii*), demares flying fox (*Pteropus giganteus*), Dobson's tube nosed bat (*Murina cyclotis*, Dobson), Himalayan hairy-winged bat (*Harioocephalus harpia lasyurus*, Hodgson), Assamese macaque (*Macaca assamensis pelops*, Hodgson), Rhesus monkey (*Macaca mulata*), small Indian civet (*Viverricula indica*), toddy cat (*Paradosurus hermaphrodites*), barking deer (*Muntiacus muntjak*, Boddaert), tiger (*Panthera tigris*), leopard (*Panthera pardus*), gaur (*Ribos frontatis gaurus*), Himalayan black bear (*Selenarctos thibetanus*), common otter (*Lutra lutra*), Elephant (*Elephas indicus*), spotted deer (*Axis axis*, Erleben), sambar (*Rusa unicolor*), serow (*Copricornis sumatraensis* Hodgson), pig (*Sus scrofa*, Linnaeus), pangolin (*Manis pentadactyla*, Linnaeus), Indian or black naped hare (*Lepus nigricollis ruficaudatus*, Geoffroy), lesser giant flying squirrel (*Petaurista elegans*, Gray), etc.;

AND WHEREAS, the bird species recorded from the Sanctuary are black-arrested baza (*Avideda leuphotes syama*), western coashawk (*Accipiter hadius scheedowl*), besta sparrow hawk (*Accipiter virgatus affinis*), Himalayan hawk-eagle (*Spisetus nipalensis nipalensis*), block or king vulture (*Torgos calvus*), Himalayan falconet (*Microhierax caerulescens*), Himalayan kestrel (*Falco tinnunculus interstinctus*), blossom-headed parakeet (*Psittacula cyanocephala bengalensis*), Hodgson's hawk-cuckoo (*Cuculus fagax niscolor*), Himalayan cuckoo (*Cuculus saturatus saturates*), tawny fish owl (*Bubo flavipe*), collard pigmy owl (*Glaucidium brodiei brodiei*), Himalayan brred owl (*Glaucidium cuculoides*), Himalayan brown wood owl (*Strix newarensis*), Himalayan jungle nightjar (*Caprimulgus indicus*), broad-villed roller (*Ebrustomus orientalis cyanicollis*), white-breasted kingfisher (*Halcyon smyrnensis*), blue naped pitta (*Pitta nipalensis*), green breasted pitta (*Pitta sordica cuculata*), rufous short-toed (*Calandrella cinerea dukhunesis*), Sikkim long-tailed minivet (*Pericrocotus etholoous latetus*), scarlet minivet (*Pericrocotus flammeus*), brown backed pied flycatcher shrike (*Hemipus picatus capitalis*), black crested yellow bulbul (*Pycnotus melanicterus flaviventris*), brown dipper (*Cinclus pallasii tenuirostris*), rusty bellied shortwing (*Brachypteryx hyperythrea*), Nepal shortwing (*Brechypteryx leucophrys nipalensis*), purple thrush (*Cochoa purporea*), green thrush (*Cochoa viridis*), Assam red-fronted babbler (*Stachyridopsis rufifrons ambigua*), red-headed babbler (*Stachyris ruficeps*), rufous bellied nillava (*Niltava sundara*), pale blue flycatcher (*Niltava unicolor*), blue throated flycatcher (*Niltava rubeculoides*), etc.;

AND WHEREAS, the Mahananda Wildlife Sanctuary is also a home for a large number of colourful feathered species including endangered species like fairy-bluebird and Himalayan pied hornbill. For effective conservation and protection of the floral and faunal biodiversity of Mahananda Wildlife Sanctuary, the extent of different anthropogenic pressures has to be regulated as the immediate area adjoining this fragile ecosystem is much ecologically sensitive having great impact on this protected area;

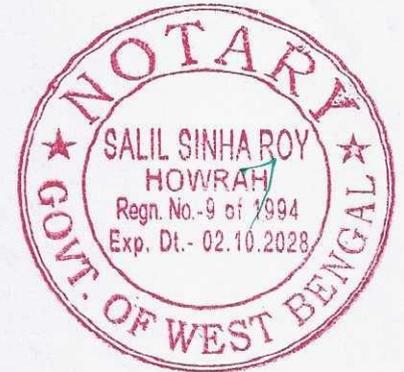
AND WHEREAS, it is necessary to conserve and protect the area, the extent and boundaries of Mahananda Wildlife Sanctuary which are specified in paragraph 1 as Eco-sensitive Zone from ecological, environmental and biodiversity point of view and to prohibit industries or class of industries and their operations and processes in the said Eco-sensitive Zone;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) and clauses (v) and (xiv) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act 1986 (29 of 1986) (hereafter in this notification referred to as the Environment Act), read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby notifies an area to an extent of 5 kilometres uniform around the boundary of Mahananda Wildlife Sanctuary, in Darjeeling and Jalpaiguri districts in the State of West Bengal as the Mahananda Wildlife Sanctuary Eco-sensitive Zone (hereafter in this notification referred to as the Eco-sensitive Zone) details of which are as under, namely: -



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1. **Extent and boundaries of Eco-sensitive Zone.** – (1) The Eco-sensitive Zone shall be to an extent of 5 kilometres uniform around the boundary of Mahananda Wildlife Sanctuary and the area of the Eco-sensitive Zone is 405.28 square kilometres.
 - (2) The boundary description of Mahananda Wildlife Sanctuary and its Eco-sensitive Zone is appended in Annexure-I.
 - (3) The maps of the Mahananda Wildlife Sanctuary demarcating Eco-sensitive Zone along with boundary details and latitudes and longitudes are appended as Annexure-IIA, Annexure-IIB, Annexure-IIC and Annexure-IID.
 - (4) List of geo-coordinates of the boundary of Mahananda Wildlife Sanctuary and Eco-sensitive Zone are given in Table A and Table B of Annexure III.
 - (5) The list of villages falling in the proposed Eco-sensitive Zone along with their geo co-ordinates at prominent points is appended as Annexure-IV.
2. **Zonal Master Plan for Eco-sensitive Zone.**– (1) The State Government shall, for the purposes of the Eco-sensitive Zone prepare a Zonal Master Plan within a period of two years from the date of publication of this notification in the Official Gazette, in consultation with local people and adhering to the stipulations given in this notification for approval of the competent authority in the State.
 - (2) The Zonal Master Plan for the Eco-sensitive Zone shall be prepared by the State Government in such manner as is specified in this notification and also in consonance with the relevant Central and State laws and the guidelines issued by the Central Government, if any.
 - (3) The Zonal Master Plan shall be prepared in consultation with the following Departments of the State Government, for integrating the ecological and environmental considerations into the said plan:-
 - (i) Environment and Wildlife Management;
 - (ii) Agriculture;
 - (iii) Revenue;
 - (iv) Urban Housing Development;
 - (v) Tourism;
 - (vi) Rural Development;
 - (vii) Irrigation and Flood Control;
 - (viii) Municipal;
 - (ix) Panchayati Raj;
 - (x) Public Works Department;
 - (xi) West Bengal Police;
 - (xii) Rural Management and Development; and
 - (xiii) Disaster Management.
 - (4) The Zonal Master Plan shall not impose any restriction on the approved existing land use, infrastructure and activities, unless so specified in this notification and the Zonal Master Plan shall factor in improvement of all infrastructure and activities to be more efficient and eco-friendly.
 - (5) The Zonal Master Plan shall provide for restoration of denuded areas, conservation of existing water bodies, management of catchment areas, watershed management, groundwater management, soil and moisture conservation, needs of local community and such other aspects of the ecology and environment that need attention.
 - (6) The Zonal Master Plan shall demarcate all the existing worshipping places, villages and urban settlements, types and kinds of forests, agricultural areas, fertile lands, green area, such as, parks



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and like places, horticultural areas, orchards, lakes and other water bodies with supporting maps giving details of existing and proposed land use features.

- (7) The Zonal Master Plan shall regulate development in Eco-sensitive Zone and adhere to prohibited and regulated activities listed in the Table in paragraph 4 and also ensure and promote eco-friendly development for security of local communities' livelihood.
- (8) The Zonal Master Plan shall be co-terminus with the Regional Development Plan.
- (9) The Zonal Master Plan so approved shall be the reference document for the Monitoring Committee for carrying out its functions of monitoring in accordance with the provisions of this notification.
3. Measures to be taken by the State Government.- The State Government shall take the following measures for giving effect to the provisions of this notification, namely:-

- (1) Land use.- (a) Forests, horticulture areas, agricultural areas, parks and open spaces earmarked for recreational purposes in the Eco-sensitive Zone shall not be used or converted into areas for commercial or residential or industrial activities:

Provided that the conversion of agricultural and other lands, for the purposes other than that specified at part (a) above, within the Eco-sensitive Zone may be permitted on the recommendation of the Monitoring Committee, and with the prior approval of the competent authority under Regional Town Planning Act and other rules and regulations of Central Government or State Government as applicable and *vide* provisions of this notification, to meet the residential needs of the local residents and for activities such as:-

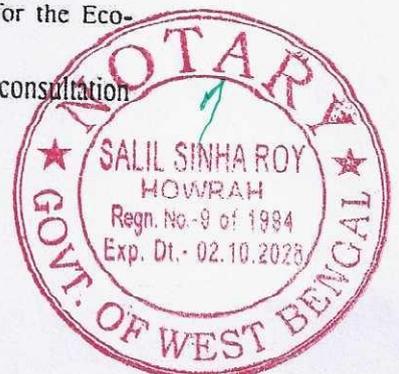
- (i) widening and strengthening of existing roads and construction of new roads;
- (ii) construction and renovation of infrastructure and civic amenities;
- (iii) small scale industries not causing pollution;
- (iv) cottage industries including village industries; convenience stores and local amenities supporting eco-tourism including home stay; and
- (v) promoted activities given in paragraph 4:

Provided further that no use of tribal land shall be permitted for commercial and industrial development activities without the prior approval of the competent authority under Regional Town Planning Act and other rules and regulations of the State Government and without compliance of the provisions of article 244 of the Constitution or the law for the time being in force, including the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007):

Provided also that any error appearing in the land records within the Eco-sensitive Zone shall be corrected by the State Government, after obtaining the views of Monitoring Committee, once in each case and the correction of said error shall be intimated to the Central Government in the Ministry of Environment, Forest and Climate Change:

Provided also that the correction of error shall not include change of land use in any case except as provided under this sub-paragraph.

- (b) Efforts shall be made to reforest the unused or unproductive agricultural areas with afforestation and habitat restoration activities.
- (2) Natural water bodies.-The catchment areas of all natural springs shall be identified and plans for their conservation and rejuvenation shall be incorporated in the Zonal Master Plan and the guidelines shall be drawn up by the State Government in such a manner as to prohibit development activities at or near these areas which are detrimental to such areas.
- (3) Tourism or eco-tourism.- (a) All new eco-tourism activities or expansion of existing tourism activities within the Eco-sensitive Zone shall be as per the Tourism Master Plan for the Eco-sensitive Zone.
- (b) The Tourism Master Plan shall be prepared by the State Department of Tourism in consultation with the State Departments of Environment and Forests.

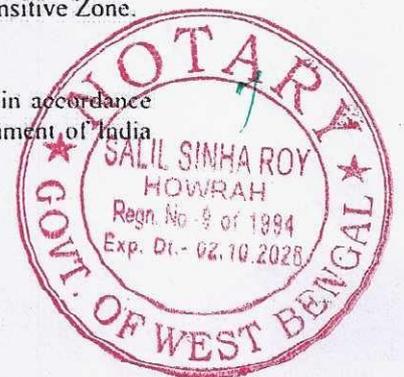


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- (c) The Tourism Master Plan shall form a component of the Zonal Master Plan.
- (d) The Tourism Master Plan shall be drawn based on the study of carrying capacity of the Eco-sensitive Zone.
- (e) The activities of eco-tourism shall be regulated as under, namely:-
 - (i) new construction of hotels and resorts shall not be allowed within one kilometre from the boundary of the protected area or upto the extent of the Eco-sensitive Zone, whichever is nearer;

Provided that beyond the distance of one kilometre from the boundary of the protected area till the extent of the Eco-sensitive Zone, the establishment of new hotels and resorts shall be allowed only in pre-defined and designated areas for eco-tourism facilities as per Tourism Master Plan;

- (ii) all new tourism activities or expansion of existing tourism activities within the Eco-sensitive Zone shall be in accordance with the guidelines issued by the Central Government in the Ministry of Environment, Forest and Climate Change and the eco-tourism guidelines issued by the National Tiger Conservation Authority (as amended from time to time) with emphasis on eco-tourism, eco-education and eco-development;
 - (iii) until the Zonal Master Plan is approved, development for tourism and expansion of existing tourism activities shall be permitted by the concerned regulatory authorities based on the actual site specific scrutiny and recommendation of the Monitoring Committee and no new hotel, resort or commercial establishment construction shall be permitted within Eco-sensitive Zone area.
- (4) **Natural heritage.**- All sites of valuable natural heritage in the Eco-sensitive Zone, such as the gene pool reserve areas, rock formations, waterfalls, springs, gorges, groves, caves, points, walks, rides, cliffs, etc. shall be identified and a heritage conservation plan shall be drawn up for their preservation and conservation as a part of the Zonal Master Plan.
 - (5) **Man-made heritage sites.**- Buildings, structures, artefacts, areas and precincts of historical, architectural, aesthetic, and cultural significance shall be identified in the Eco-sensitive Zone and heritage conservation plan for their conservation shall be prepared as part of the Zonal Master Plan.
 - (6) **Noise pollution.** - Prevention and control of noise pollution in the Eco-sensitive Zone shall be carried out in accordance with the provisions of the Noise Pollution (Regulation and Control) Rules, 2000 under the Environment Act.
 - (7) **Air pollution.**- Prevention and control of air pollution in the Eco-sensitive Zone shall be carried out in accordance with the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the rules made thereunder.
 - (8) **Discharge of effluents.**- Discharge of treated effluent in Eco-sensitive Zone shall be in accordance with the provisions of the General Standards for Discharge of Environmental Pollutants covered under the Environment Act and the rules made thereunder or standards stipulated by the State Government, whichever is more stringent.
 - (9) **Solid wastes.**- Disposal and Management of solid wastes shall be as under:-
 - (a) the solid waste disposal and management in the Eco-sensitive Zone shall be carried out in accordance with the Solid Waste Management Rules, 2016, published by the Government of India in the Ministry of Environment, Forest and Climate Change *vide* notification number S.O. 1357 (E), dated the 8th April, 2016; the inorganic material may be disposed in an environmental acceptable manner at site identified outside the Eco-sensitive Zone;
 - (b) safe and Environmentally Sound Management of Solid wastes in conformity with the existing rules and regulations using identified technologies may be allowed within Eco-sensitive Zone.
 - (10) **Bio-Medical Waste.**- Bio-Medical Waste Management shall be as under:-
 - (a) the Bio-Medical Waste disposal in the Eco-sensitive Zone shall be carried out in accordance with the Bio-Medical Waste Management Rules, 2016 published by the Government of India



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in the Ministry of Environment, Forest and Climate Change *vide* notification number G.S.R. 343 (E), dated the 28th March, 2016.

(b) safe and Environmentally Sound Management of Bio-Medical Wastes in conformity with the existing rules and regulations using identified technologies may be allowed within the Eco-sensitive Zone.

(11) **Plastic waste management.**- The plastic waste management in the Eco-sensitive Zone shall be carried out as per the provisions of the Plastic Waste Management Rules, 2016, published by the Government of India in the Ministry of Environment, Forest and Climate Change *vide* notification number G.S.R. 340(E), dated the 18th March, 2016, as amended from time to time.

(12) **Construction and demolition waste management.**- The construction and demolition waste management in the Eco-sensitive Zone shall be carried out as per the provisions of the Construction and Demolition Waste Management Rules, 2016 published by the Government of India in the Ministry of Environment, Forest and Climate Change *vide* notification number G.S.R. 317(E), dated the 29th March, 2016, as amended from time to time.

(13) **E-waste.**- The e - waste management in the Eco-sensitive Zone shall be carried out as per the provisions of the E-Waste Management Rules, 2016, published by the Government of India in the Ministry of Environment, Forest and Climate Change, as amended from time to time.

(14) **Vehicular traffic.**- The vehicular movement of traffic shall be regulated in a habitat friendly manner and specific provisions in this regard shall be incorporated in the Zonal Master Plan and till such time as the Zonal Master plan is prepared and approved by the competent authority in the State Government, the Monitoring Committee shall monitor compliance of vehicular movement under the relevant Acts and the rules and regulations made thereunder.

(15) **Vehicular pollution.**- Prevention and control of vehicular pollution shall be in compliance with applicable laws and efforts shall be made for use of cleaner fuels.

(16) **Industrial units.**- (a) On or after the publication of this notification in the Official Gazette, no new polluting industries shall be permitted to be set up within the Eco-sensitive Zone.

(ii) Only non-polluting industries shall be allowed within Eco-sensitive Zone as per the classification of Industries in the guidelines issued by the Central Pollution Control Board in February, 2016, unless so specified in this notification, and in addition, the non-polluting cottage industries shall be promoted.

(17) **Protection of hill slopes.**- The protection of hill slopes shall be as under:-

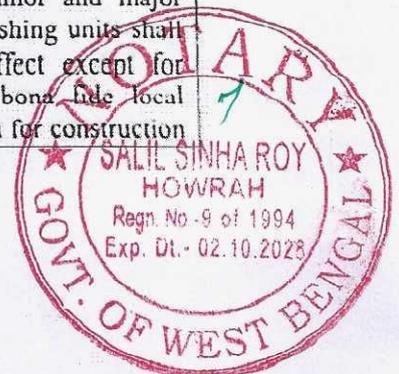
(a) the Zonal Master Plan shall indicate areas on hill slopes where no construction shall be permitted;

(b) construction on existing steep hill slopes or slopes with a high degree of erosion shall not be permitted.

4. **List of activities prohibited or to be regulated within Eco-sensitive Zone.**- All activities in the Eco-sensitive Zone shall be governed by the provisions of the Environment Act and the rules made there under including the Coastal Regulation Zone, 2011 and the Environmental Impact Assessment Notification, 2006 and other applicable laws including the Forest (Conservation) Act, 1980 (69 of 1980), the Indian Forest Act, 1927 (16 of 1927), the Wildlife (Protection) Act 1972 (53 of 1972), and amendments made thereto and be regulated in the manner specified in the Table below, namely:-

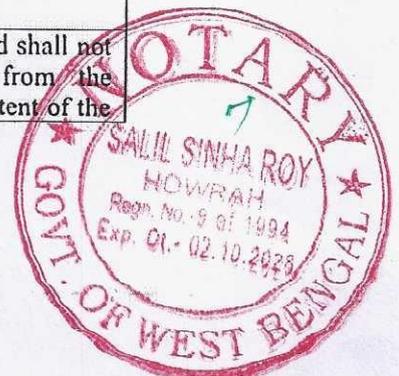
TABLE

S. No. (1)	Activity (2)	Description (3)
1.	Commercial mining, stone quarrying and crushing units.	(a) All new and existing mining (minor and major minerals), stone quarrying and crushing units shall be prohibited with immediate effect except for meeting the domestic needs of bona fide local residents including digging of earth for construction



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		or repair of houses within Eco Sensitive Zone; (b) The mining operations shall be carried out in accordance with the order of the Hon'ble Supreme Court dated the 4 th August, 2006 in the matter of T.N. Godavarman Thirumulpad Vs. UOI in W.P.(C) No.202 of 1995 and dated the 21 st April, 2014 in the matter of Goa Foundation Vs. UOI in W.P.(C) No.435 of 2012.
2.	Setting of industries causing pollution (Water, Air, Soil, Noise, etc.).	New industries and expansion of existing polluting industries in the Eco-sensitive Zone shall not be permitted: Provided that non-polluting industries shall be allowed within Eco-sensitive Zone as per classification of Industries in the guidelines issued by the Central Pollution Control Board in February, 2016, so otherwise specified in this notification and in addition the non-polluting cottage industries shall be promoted.
3.	Establishment of major hydro-electric project.	Prohibited.
4.	Use or production or processing of any hazardous substances.	Prohibited.
5.	Discharge of untreated effluents in natural water bodies or land area.	Prohibited.
6.	Setting up of new saw mills.	New or expansion of existing saw mills shall not be permitted within the Eco-sensitive Zone.
7.	Setting up of brick kilns.	Prohibited.
8.	Use of polythene bags.	Prohibited.
9.	Undertaking activities related to tourism like over-flying the sanctuary area by hot-air balloons, etc.	Prohibited.
10.	Introduction of exotic species.	Prohibited.
11.	Commercial use of firewood.	Prohibited.
B. Regulated Activities		
12.	Commercial establishment of hotels and resorts.	No new commercial hotels and resorts shall be permitted within one kilometer of the boundary of the protected area or upto the extent of Eco-sensitive Zone, whichever is nearer, except for small temporary structures for eco-tourism activities. Provided that, beyond one kilometer from the boundary of the protected area or upto the extent of Eco-sensitive Zone, whichever is nearer, all new tourist activities or expansion of existing activities shall be in conformity with the Tourism Master Plan and guidelines as applicable.
13.	Construction activities.	(a) New commercial construction of any kind shall not be permitted within one kilometer from the boundary of the protected area or upto extent of the



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		<p>Eco-sensitive Zone, whichever is nearer:</p> <p>Provided that, local people shall be permitted to undertake construction in their land for their use including the activities mentioned in sub-paragraph (1) of paragraph 3 as per building bye-laws to meet the residential needs of the local residents:</p> <p>Provided further that the construction activity related to small scale industries not causing pollution shall be regulated and kept at the minimum, with the prior permission from the competent authority as per applicable rules and regulations, if any.</p> <p>(b) Beyond one kilometer it shall be regulated as per the Zonal Master Plan.</p>
14.	Small scale non polluting industries.	Non polluting industries as per classification of industries issued by the Central Pollution Control Board in February, 2016 and non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous materials from the Eco-sensitive Zone shall be permitted by the competent authority.
15.	Felling of trees.	<p>(a) There shall be no felling of trees in the forest or Government or revenue or private lands without prior permission of the competent authority in the State Government.</p> <p>(b) The felling of trees shall be regulated in accordance with the provisions of the concerned Central or State Act and the rules made thereunder.</p>
16.	Collection of Forest produce or Non-Timber Forest produce.	Regulated as per the applicable laws.
17.	Erection of electrical and communication towers and laying of cables and other infrastructures.	Regulated under applicable laws (underground cabling may be promoted).
18.	Infrastructure including civic amenities.	Taking measures of mitigation as per the applicable laws, rules and regulations available guidelines.
19.	Widening and strengthening of existing roads and construction of new roads.	Taking measures of mitigation as per the applicable laws, rules, regulations, and available guidelines.
20.	Protection of hill slopes and river banks.	Regulated as per the applicable laws.
21.	Movement of vehicular traffic at night.	Regulated for commercial purpose under applicable laws.
22.	Ongoing agriculture and horticulture practices by local communities along with dairies, dairy farming, aquaculture and fisheries.	Permitted as per the applicable laws for use of locals.
23.	Establishment of large-scale commercial livestock and poultry farms by firms, corporate and	Regulated (except otherwise provided) as per the applicable laws except for meeting local needs.

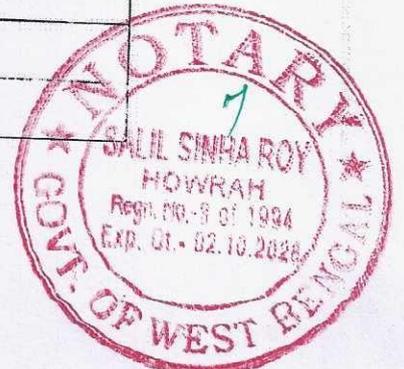


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	companies.	
24.	Discharge of treated waste water or effluents in natural water bodies or land area.	The discharge of treated waste water or effluents shall be avoided to enter into the water bodies and efforts shall be made for recycle and reuse of treated waste water. Otherwise the discharge of treated waste water or effluent shall be regulated as per the applicable laws.
25.	Commercial extraction of surface and ground water.	Regulated as per the applicable laws.
26.	Solid Waste Management.	Regulated as per the applicable laws.
27.	Eco-tourism.	Regulated as per the applicable laws.
28.	Commercial sign boards and hoardings.	Regulated as per the applicable laws.
29.	Eco tourism facilities like home stays, ropeways, kiosks, funiculars, etc.	Regulated as per the applicable laws.
C. Promoted Activities		
30.	Rain water harvesting.	Shall be actively promoted.
31.	Organic farming.	Shall be actively promoted.
32.	Adoption of green technology for all activities.	Shall be actively promoted.
33.	Cottage industries including village artisans, etc.	Shall be actively promoted.
34.	Use of renewable energy and fuels.	Bio-gas, solar light etc. shall be actively promoted.
35.	Agro-Forestry.	Shall be actively promoted.
36.	Plantation of Horticulture and Herbals.	Shall be actively promoted.
37.	Use of eco-friendly transport.	Shall be actively promoted.
38.	Skill Development.	Shall be actively promoted.
39.	Restoration of degraded land or forests or habitat.	Shall be actively promoted.
40.	Environmental awareness.	Shall be actively promoted.
41.	Vegetative fencing.	Shall be actively promoted.

5. **Monitoring Committee for Monitoring the Eco-sensitive Zone Notification.**- For effective monitoring of the provisions of this notification under sub-section (3) of section 3 of the Environment (Protection) Act, 1986, the Central Government hereby constitutes a Monitoring Committee, comprising of the following, namely:-

S. No.	Constituent of the Monitoring Committee	Designation
(i)	Chief Secretary, Government of West Bengal	Chairman, ex officio;
(ii)	Chief Wildlife Warden, Government of West Bengal	Member;
(iii)	Principal Chief Conservator of Forests (Head of Forest Force).	Member;



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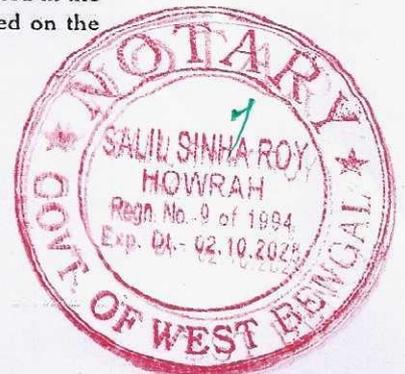
	Government of West Bengal	
(iv)	Representative of State Pollution Control Board	Member;
(v)	A representative of Non-governmental Organisation working in the field of wildlife conservation to be nominated by the State Government	Member;
(vi)	An expert in Biodiversity nominated by the State Government	Member;
(vii)	One expert in Ecology from reputed institution or university of the State	Member;
(viii)	Representative of Rural Management Department, Government of West Bengal	Member;
(ix)	Representative of Agriculture Department, Government of West Bengal	Member;
(x)	Representative of Urban Development and Housing Department, government of West Bengal	Member;
(xi)	Concerned District Collector	Member;
(xii)	Divisional Forest Officer (In-charge of protected area)	Member;
(xiii)	Additional Chief Conservator of Forest, Wildlife	Member-Secretary.

6. Terms of reference. – (1) The Monitoring Committee shall monitor the compliance of the provisions of this notification.

(2) The tenure of the Monitoring Committee shall be for three years or till the re-constitution of the new Monitoring Committee by the State Government and subsequently the Monitoring Committee shall be constituted by the State Government.

(3) The activities that are covered in the Schedule to the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14th September, 2006, and are falling in the Eco-sensitive Zone, except for the prohibited activities as specified in the Table under paragraph 4 thereof, shall be scrutinised by the Monitoring Committee based on the actual site-specific conditions and referred to the Central Government in the Ministry of Environment, Forest and Climate Change for prior environmental clearances under the provisions of the said notification.

(4) The activities that are not covered in the Schedule to the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533 (E), dated the 14th September, 2006 and are falling in the Eco-sensitive Zone, except for the prohibited activities as specified in the Table under paragraph 4 thereof, shall be scrutinised by the Monitoring Committee based on the actual site-specific conditions and referred to the concerned regulatory authorities.



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- (5) The Member-Secretary of the Monitoring Committee or the concerned Deputy Commissioner(s) shall be competent to file complaints under section 19 of the Environment Act, against any person who contravenes the provisions of this notification.
- (6) The Monitoring Committee may invite representatives or experts from concerned Departments, representatives from industry associations or concerned stakeholders to assist in its deliberations depending on the requirements on issue to issue basis.
- (7) The Monitoring Committee shall submit the annual action taken report of its activities as on the 31st March of every year by the 30th June of that year to the Chief Wildlife Warden in the State as per proforma appended at Annexure V.
- (8) The Central Government in the Ministry of Environment, Forest and Climate Change may give such directions, as it deems fit, to the Monitoring Committee for effective discharge of its functions.
7. Additional Measures.- The Central Government and State Government may specify additional measures, if any, for giving effect to provisions of this notification.
8. Supreme Court, etc. orders.- The provisions of this notification shall be subject to the orders, if any passed or to be passed by the Hon'ble Supreme Court of India or High Court or the National Green Tribunal.

[F. No. 25/36/16-ESZ-RE]

DR SATISH C. GARKOTI, Scientist 'G'

ANNEXURE- I

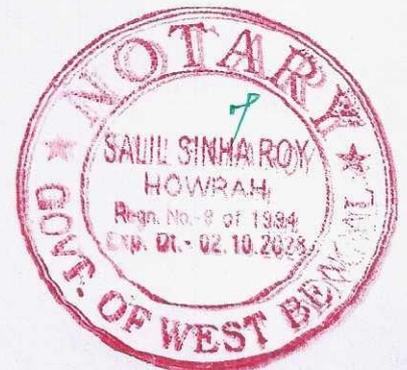
BOUNDARY DESCRIPTION OF ECO-SENSITIVE ZONE AROUND MAHANANDA WILDLIFE
SANCTUARY WEST BENGAL

In the northern side, there is common boundary between Ruyem and Setikhola, Ruyem and Sittong, Upper Ghoramara and Sittong, Latpancher and Mana forest blocks.

The eastern boundary of Sevoke Range of Kurseong division, along the Tista River from the junction of Kalijhora and Tista, southwards extending upto the southern corner of Laltong block.

The demarcated southern boundary of Sukna and Funding blocks up to its junction with Mahanadi block, then following the western & southern boundaries of Mahanadi block; then along the western and southern boundary of Laltong Block along 7th Mile Fire line / Road.

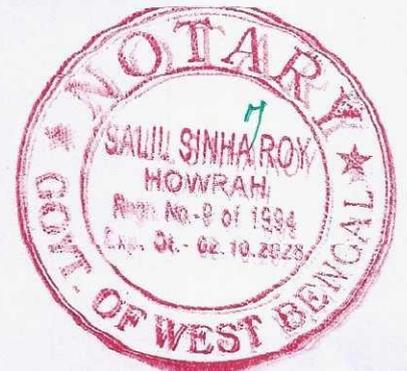
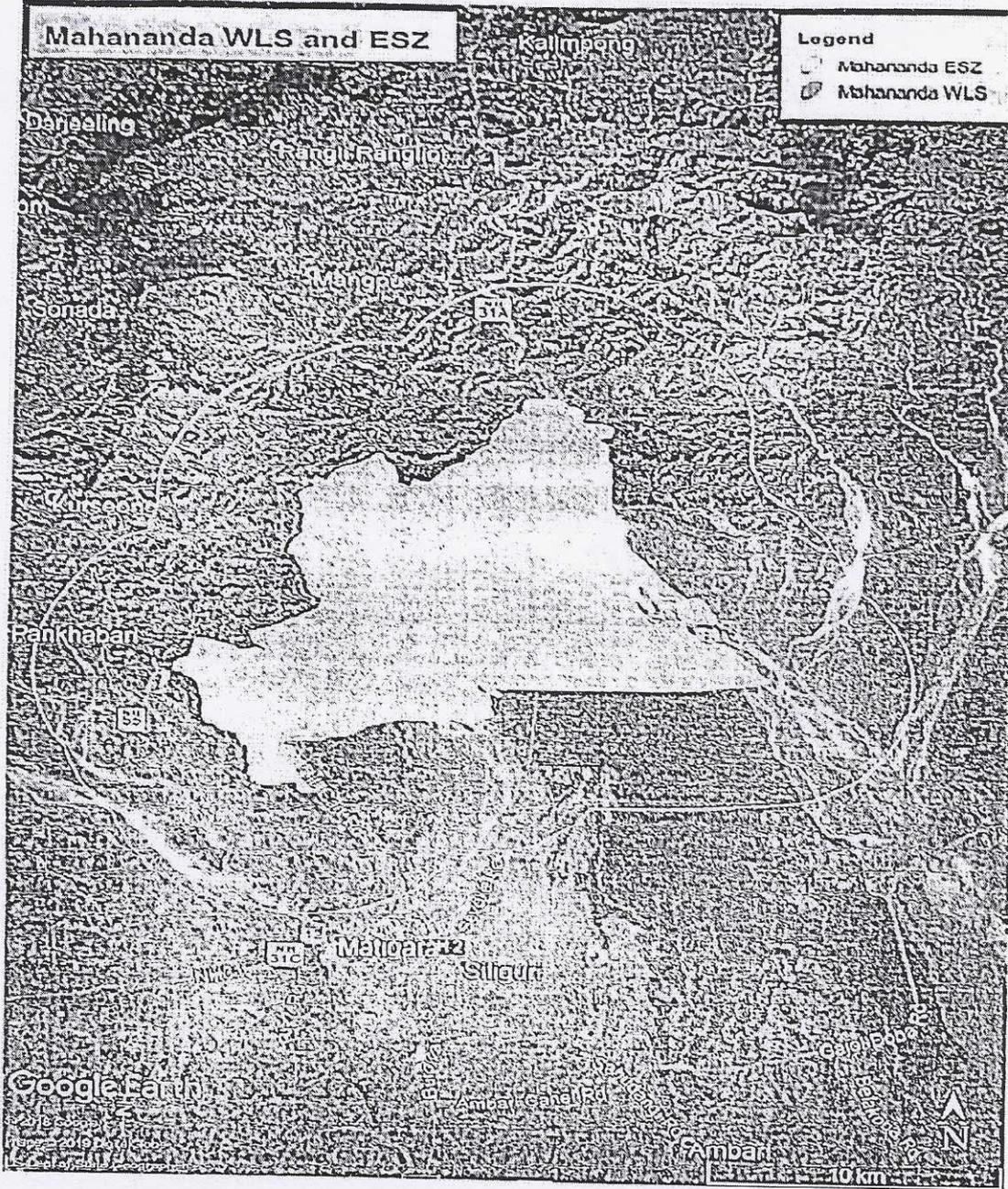
The western boundary of Latpancher and Bandarjhora forest block along the Mana jhora upto its junction with the Mahanadi river, then along the Mahanadi river in a south easterly direction upto its junction with the northern boundary of Punding forest block and then along the demarcated northern boundary of Sukna forest block upto its junction with Hill Cart Road and then along the Hill Cart Road upto its junction with southern boundary of Sukna block.



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ANNEXURE- IIA

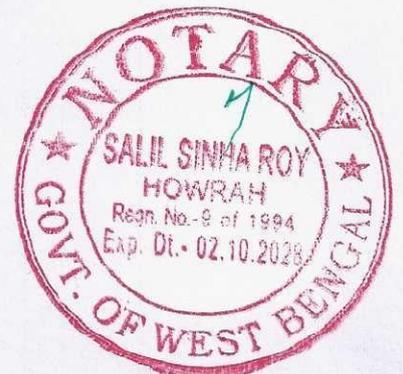
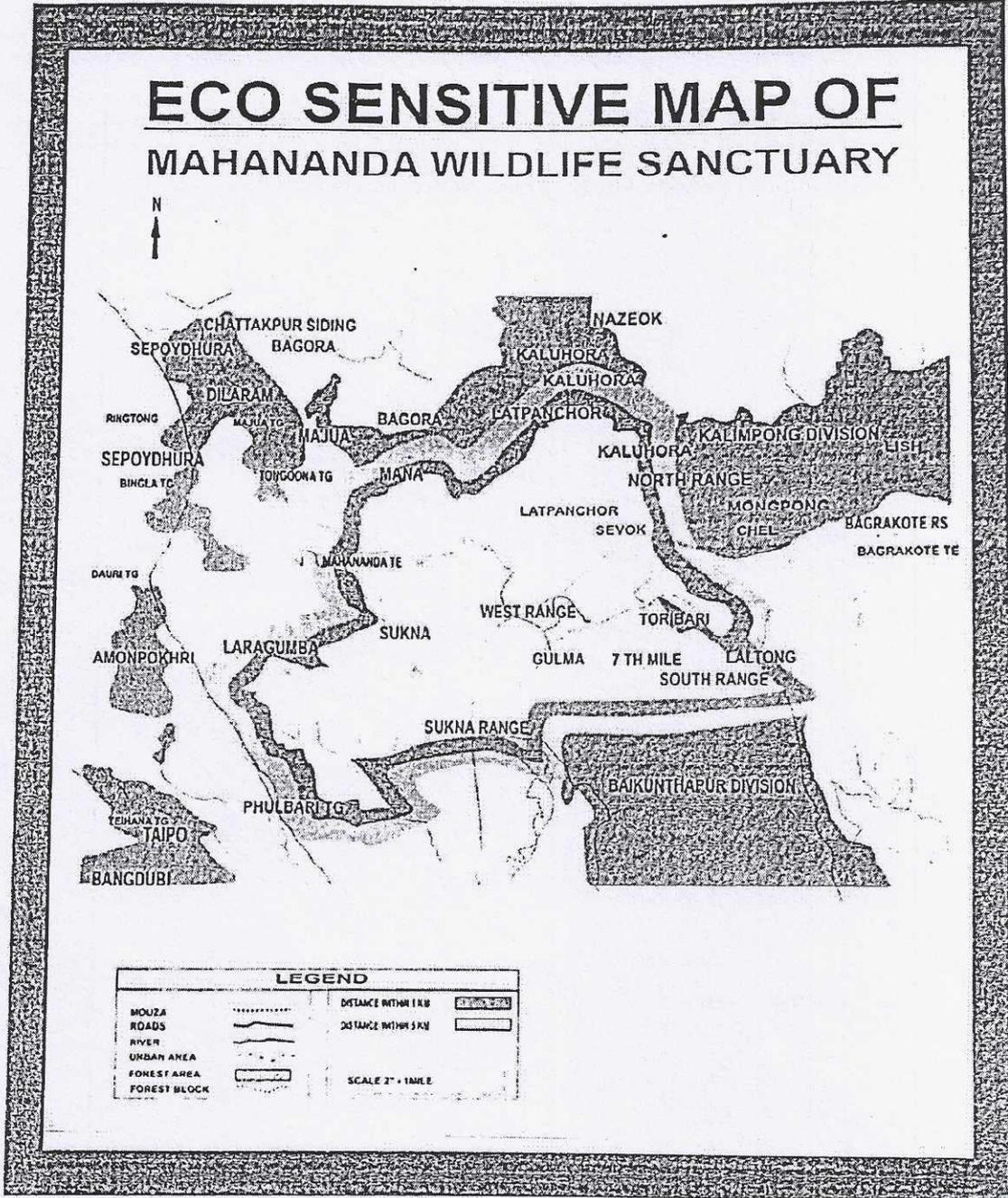
GOOGLE MAP OF ECO-SENSITIVE ZONE OF MAHANANDA WILDLIFE SANCTUARY ALONG WITH LATITUDE AND LONGITUDE OF PROMINENT LOCATIONS



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ANNEXURE- IIB

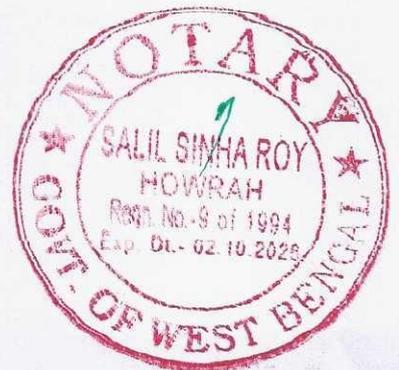
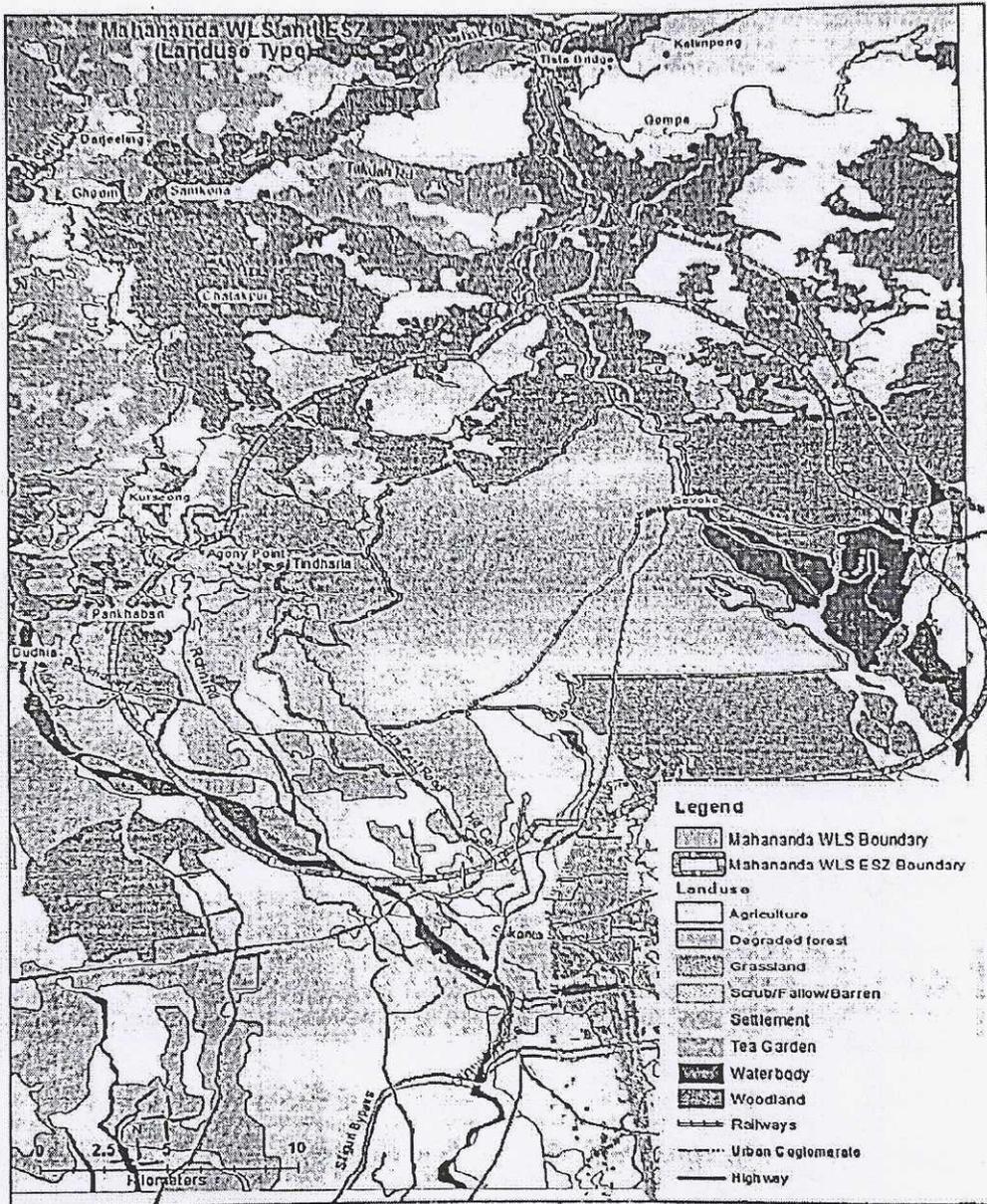
MAP SHOWING ECO-SENSITIVE ZONE OF MAHANANDA WILDLIFE SANCTUARY IN WEST BENGAL



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ANNEXURE- IIC

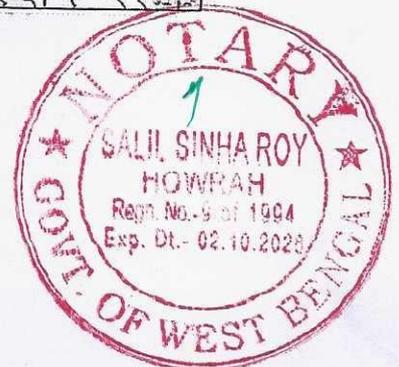
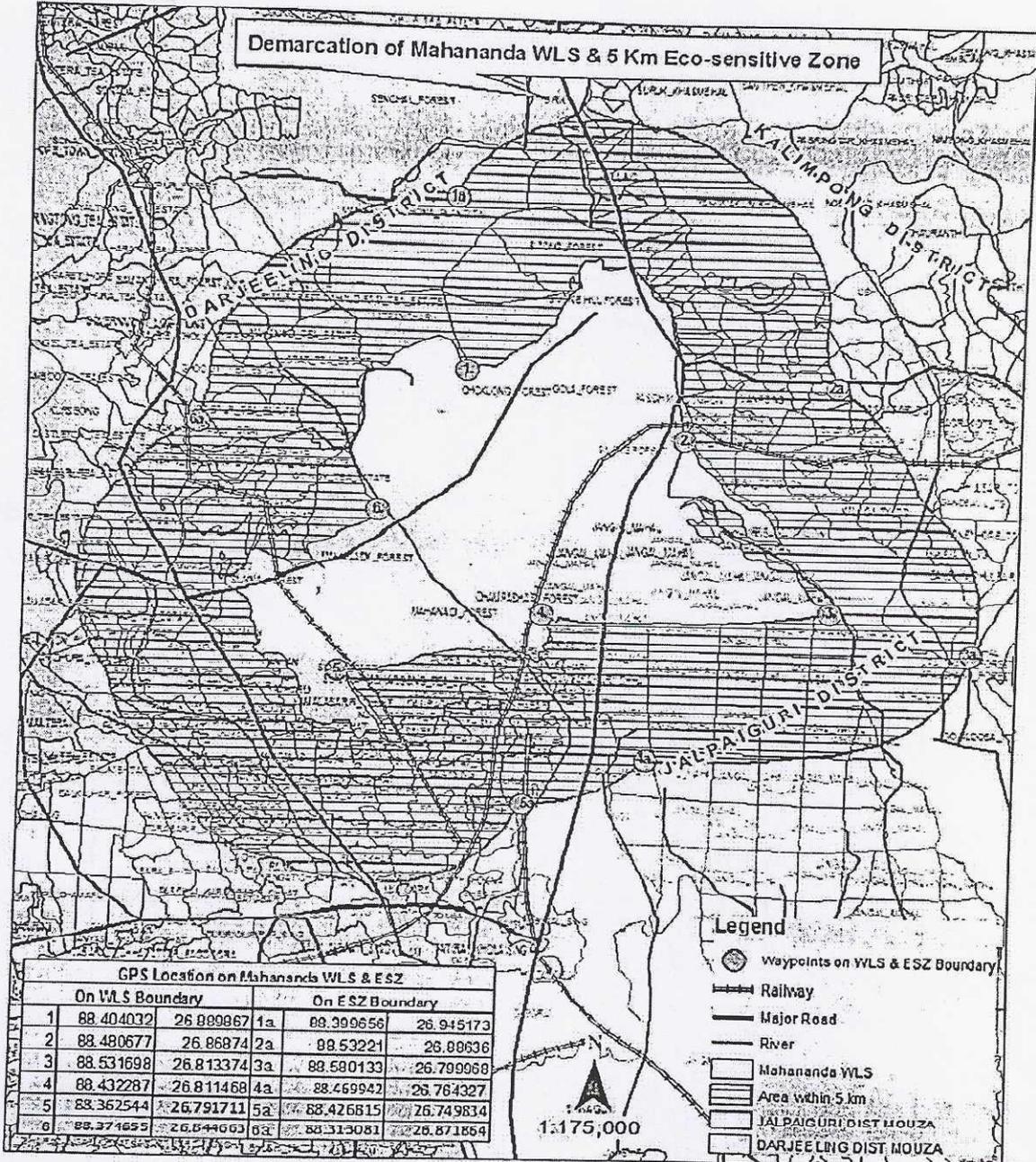
MAP SHOWING LANDUSE PATTERN OF ECO-SENSITIVE ZONE OF MAHANANDA WILDLIFE SANCTUARY



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ANNEXURE- IID

MAP OF ECO-SENSITIVE ZONE OF MAHANANDA WILDLIFE SANCTUARY ALONG WITH LATITUDE AND LONGITUDE OF PROMINENT LOCATIONS ON SURVEY OF INDIA (SOI) TOPOSHEET



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ANNEXURE-III

TABLE A: GEO- COORDINATES OF PROMINENT LOCATIONS OF MAHANANDA WILDLIFE SANCTUARY

Sl. No.	Longitude (E)	Latitude (N)
1	88°40403	26°88987
2	88°48068	26°86874
3	88°5317	26°81337
4	88°43229	26°81147
5	88°36254	26°79171
6	88°37466	26°84466

TABLE B: GEO-COORDINATES OF PROMINENT LOCATIONS OF ECO-SENSITIVE ZONE

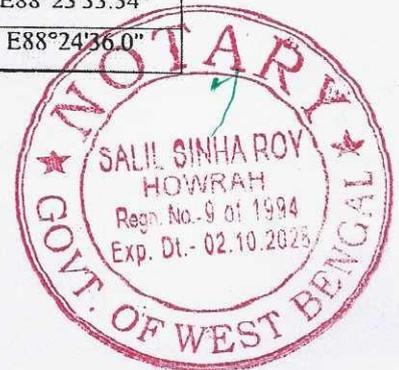
Sl. No.	Longitude (E)	Latitude (N)
1a.	88°39966	26°945173
2a.	88°53221	26°88636
3a.	88°58013	26°799968
4a.	88°46994	26°764327
5a.	88°42682	26°749834
6a.	88°31308	26°871864

ANNEXURE-IV

LIST OF VILLAGES COMING UNDER ECO-SENSITIVE ZONE OF MAHANANDA WILDLIFE SANCTUARY ALONG WITH GEO-COORDINATES

Sl. No.	Name of the Village	Land classification	Latitude	Longitude
1	Chakur	Revenue Village	N 26°46'26.42"	E88°28'19.06"
2	Prakash Nagar	Revenue Village	N26°46'6.52"	E88°26'52.48"
3	Sarugara	Revenue Village	N26°45'58.92"	E88°26'47.56"
4	Kalabari	Revenue Village	N26°46'24.0"	E88°25'19.0"
5	Mahismari	Revenue Village	N26°45'28.6"	E88°25'04.5"
6	Malahar	Revenue Village	N 26°44'26.8"	E88°24'57.3"
7	Champasari Chhat	Revenue Village	N26°44'26.8"	E88°24'57.3"
8	Nunu Bairagi	Revenue Village	N26°45'02.22"	E88°23'00.4"
9	Nunu Bairagir Chhat	Revenue Village	N26°45'27.99"	E88°23'48.98"
10	Uttar Palash	Revenue Village	N26°46'32.0"	E88°25'49.9"
11	Damra Gayer Chhat	Revenue Village	N26°45'44.29"	E88°23'33.54"
12	Jadubhitar Chhat	Revenue Village	N26°47'09.3"	E88°24'36.0"

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Photographs taken on 11.05.2024 showing the signboard of Mahananda Wildlife Sanctuary and the beat office on Sevok Road(NH10) adjacent to Sevok Rail crossing

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Subhas Datta
Chartered Accountant
Environmental Activist

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Annexure P/7

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

To
The Chief Secretary,
Govt. of West Bengal
325, Sarat Chatterjee Road,
Howrah – 711102.

15.05.2024

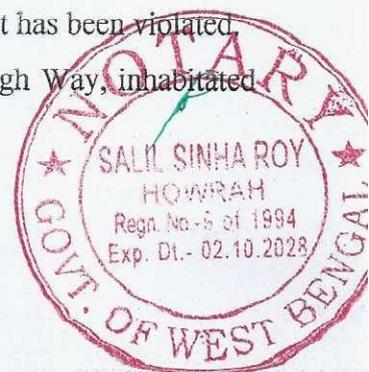
Re:- Operation of Stone Crusher unit near
Sevok Rail crossing on the Tista river and in the Eco-
Sensitive Zone of Mahananda Wild Life Sanctuary,
by violating all the environmental norms

Sir,

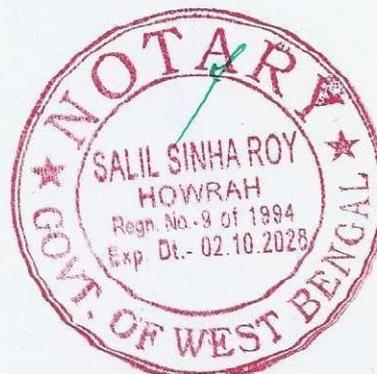
I like to bring to your kind attention the fact that one very big Stone Crusher Plant is in operation near Sevok Rail crossing on NH10, partly on the Tista River bed and primarily in the Eco-Sensitive Zone of Mahananda Wild Life Sanctuary of West Bengal. The illegalities/irregularities are briefed as follows:-

1. That according to the Environmental Guidelines for Stone Crushing Units, dated 2009, issued by CPCB, recorded by the National Green Tribunal, Special Bench in OA No. 136/2015/EZ on 30.05.2022, the unit requires distance of 200 meters from the river. But the concerned unit has been set up almost on the river. The photographs taken clearly show that huge quantity of materials have been dumped on the river of Tista itself.
2. That the Eco-Sensitive Map of Mahananda Wild Life Sanctuary, as per Annexure 11B of the Gazette Notification of India: Extraordinary, dated 22nd September 2020, it is evident that Sevok Road is within the said Map. The Stone Crushing unit in question is situated between Sevok Road and Tista River. It is evident that the distance criteria for permitting the stone quarrying has not been followed by the said unit. According to the criteria minimum distance of 200 meters from both sides of the river bridge and railway land is to be maintained. It, therefore, appears that the violations by the said unit is manifold as follows:-
 - a) The minimum distance from the river has not been maintained.
 - b) The distance norms between the bridge and the unit has been violated.
 - c) Moreover distance from railway line, National High Way, inhabited area have not been maintained.

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3. That there are other various types of violations of Environmental Guidelines for the stone crusher unit, which goes as follows:-
- a) No water sprinkling system exists there for which a vast area of human habitations are severally polluted during the operations of the crusher. The local inhabitants have complained in this regard.
 - b) G1/MS/brick wall should be provided along the periphery of the crusher, which has not been done.
 - c) Plantations of 2-3 rows of tall trees have not been carried out.
 - d) At the entrance there is no name-plate of the unit with details like:-
 - I) Address of the unit.
 - II) Name and address of the owner.
 - III) Plant capacity.
 - IV) Date of issue of CTE/CTO.
 - e) The vehicles transporting and carrying the materials are not covered.
 - f) There appears to be no metallic/concrete roads within the premises of the crushing unit.
 - g) The G1/MS/brick wind breaking wall with appropriate height has not been constructed.
 - h) There is no CCTV camera at the entrance of the unit.
4. That in this context it is pertinent to mention that said crusher has practically blocked the normal flow of Nandi river, which is connecting with the Tista river. Nobody has got any authority to block the natural flow of any tributary river to the main river, i.e, Tista.
5. That Stone Crushing units are highly polluting in nature and are considered to ^{be} Red Category industry. It is a matter of surprise that how such polluting unit and violator has been allowed to operate there without any sorts of checks and controls. The unit is operating in the Eco-Sensitive Zone of Mahananda Wild Life Sanctuary and is working substantially on the reclaimed land of the river of Tista.
- In view of the above position, I like to request you to look into the matter and take immediate steps to ensure all compliances of all environmental norms and before such compliances no operation should be allowed.



Thanking You,
Yours Faithfully,

Subhas Datta
(Subhas Datta)

21 MAY 2024

C.c. To

1. **The Principal Secretary,**
Department of Environment,
Govt. of West Bengal,
5th Floor, Pranisampad Bhawan,
Block LB-II, Slat Lake, Sec-III,
Bidhannagar, Kolkata - 700 106
2. **Secretary**
Irrigation and Waterways Department,
Govt. of West Bengal,
Jalasampad Bhawan,
1st Floor, DF Block, Sector - I,
Bidhannagar, Clcutta - 700091.
3. **Secretary,**
Ministry of Environment, Forest and Climate Change,
Govt. of India,
Indira Paryavaran Bhawan,
Jorbagh Road,
New Delhi - 110003.
4. **The Member Secretary,**
West Bengal Pollution Control Board
Paribesh Bhawan, 10A Block L.A, Sec-III,
Salt Lake, Bidhannagar, Kolkata - 700106

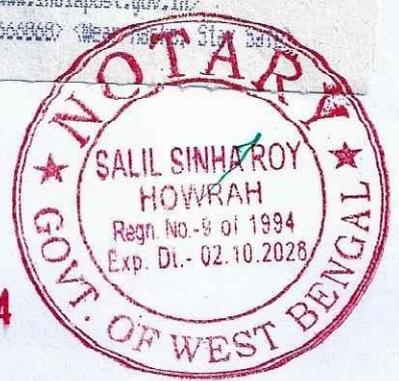
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 SP HOWRAH HO <711101>
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 PIN:711102, Sibpur SO
 From:SUKHAS DATI,25/1 GUITENDAL L
 Wt:15gms
 Amt:17.70(Cash)Tax:2.70
 <Track on www.indiapost.gov.in>
 <Dial 18002666868> <Wear Masks, Stay Safe>

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 Counter No:2,15/05/2024,11:48
 To:THE MEMBER SE,10A BLOCK L A SE
 PIN:700106, Bidhan Nagar IB Market SO
 From:SUKHAS DATI,25/1 GUITENDAL L
 Wt:15gms
 Amt:41.30(Cash)Tax:6.30
 <Track on www.indiapost.gov.in>
 <Dial 18002666868> <Wear Masks, Stay Safe>

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 SP HOWRAH HO <711101>
 Counter No:2,15/05/2024,11:48
 To:THE PRINCIPAL,PRANISAMPAD BHAW
 PIN:700106, Bidhan Nagar IB Market SO
 From:SUKHAS DATI,25/1 GUITENDAL L
 Wt:15gms
 Amt:41.30(Cash)Tax:6.30
 <Track on www.indiapost.gov.in>
 <Dial 18002666868> <Wear Masks, Stay Safe>

EW004663835IN IVR:6987004663835
 SP HOWRAH HO <711101>
 Counter No:2,15/05/2024,11:48
 To:THE SECRETARY,IRRIGATION & WAT
 PIN:700091, Sech Bhawan SO
 From:SUKHAS DATI,25/1 GUITENDAL L
 Wt:15gms
 Amt:41.30(Cash)Tax:6.30
 <Track on www.indiapost.gov.in>
 <Dial 18002666868> <Wear Masks, Stay Safe>

EW004663827IN IVR:6987004663827
 SP HOWRAH HO <711101>
 Counter No:2,15/05/2024,11:48
 To:THE SECRETARY,MINISTRY OF ENVI
 PIN:110023, Sarojini Nagar HO
 From:SUKHAS DATI,25/1 GUITENDAL L
 Wt:15gms
 Amt:41.30(Cash)Tax:6.30
 <Track on www.indiapost.gov.in>
 <Dial 18002666868> <Wear Masks, Stay Safe>



21 MAY 2024