

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

O.A No. 92/2023/EZ

Dr. Ganesh Das & Ors.

....Applicants

Versus

M/s Arya Erectors Pvt. Ltd. & Ors.

....Respondents

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Sl. No. 11,302
Date 21/6/24

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BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

O.A No. 92/2023/EZ

IN THE MATTER OF:

Dr. Ganesh Das & Ors.

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....Respondents

REJOINDER ON BEHALF OF THE APPLICANTS TO THE COUNTER
AFFIDAVIT OF RESPONDENT No. 7 POLLUTION CONTROL BOARD,
ASSAM (PCBA)

I, Dr. Ganesh Das, son of Sri. Dijendra Chandra Das, aged around 52 years, resident of Flat No. 5A, Madhabdevpur, Rehabari, Guwahati 781008, Kamrup(M) district, Assam, do hereby solemnly affirm and state as under:

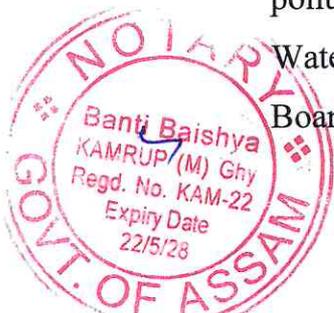
1. That I am the applicant No. 1 in the above mentioned application, hence I am fully conversant with the facts and circumstances of the case and I am competent and duly authorized to swear this affidavit.
2. That save and except what has been specifically admitted in this affidavit and what appears from the records, the deponent categorically denies the rest of the statements and submissions made in the Counter Affidavit.
3. That as regard the averments made in Para 1 and 2, the same requires no comment from the deponent. However the deponent do not admit anything which is contrary or inconsistent to the records.



4. That as regard the averments made in paragraph 3, 4 and 5, the deponent begs to state that the 'Inspection Report dated 14.09.2023' carried out at the unit of M/s Arya Erectors Pvt. Ltd. (Arya Smart Living) highlight the following violations:

- (i) The Consent to Operate (CTO) was valid till 31.03.2023 and thereafter failed to renew the CTO, i.e., from 01.04.2023 till date. Be it stated that the said CTO which was valid till 31.03.2023 could not have been granted without a valid Environmental Clearance.
- (ii) The unit has failed to obtain permission from Central Ground Water Board (CGWA) for extraction of ground water.
- (iii) The Sewage Treatment Plant (STP) was found non-operational during the inspection.
- (iv) The inspection found potential issues related to the proper gradient, flow capacity of rainwater, and the adjustment of carrying capacity with the final load bearing drainage system.
- (v) The stormwater drain exhibited a greyish to blackish colour, indicating potential neglect in maintenance by the housing entity, possibly due to blocked drains.

The deponent begs to state that Section 33A of the Water Act, 1974, empowers state boards to issue directions to any person, officer or authority, including orders to close, prohibit or regulate any industry, operation or process and to stop or regulate the supply of water, electricity or any other service. State Boards can also apply to courts for injunctions to prevent water pollution under section 33 of the Water Act, 1974. Under section 41 of the Water Act, 1974, the penalty for failure to comply with a direction from the Board under section 33A is punishable by fines and imprisonment.



But in the instance case even after finding the aforesaid violations and violations of the E.C conditions by the project proponent, including non-submission of compliance reports and environmental statement (Form V) as per section 14 of the Environment (Protection) Act, 1986, the respondent No. 7 PCB Assam has not taken any action against the project proponent for reasons best known to them, thereby failing in its statutory as well as constitutional mandate under *Article 48-A* of the Constitution of India. Therefore it is under such circumstances that the applicants hereby approached this Hon'ble Court under *Article 51-A(g)* of the Constitution of India to protect and improve the natural environment.

5. That as regard the averments made in paragraph 5 of the Counter Affidavit, the same requires no comment from the deponent. However the deponent do not admit anything which is contrary or inconsistent to the records.
6. That the statements made in this affidavit and in paragraphs – 1 to 6 – are true to the best of my knowledge and belief and those made in paragraph – – being matter of records are true to my information derived there from, which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this 21st day of June, 2024 at Guwahati.

[Handwritten signature]

DEPONENT



NOTARY PUBLIC : OATH COMMISSIONER
Solemnly affirmed before me this day, I
Certify that I read over and Explained
the contents to the declarant and that
the declarant seemed perfectly to
understand them.

VERIFICATION:

I, the deponent above-named, do hereby verify that the contents of the above rejoinder affidavit is true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at Guwahati, Assam on this ⁵¹ 21 day of June, 2024.

Identified by
Ankute Jyoti Sakona
Advocate
Enrl. No. 629/2023

[Handwritten Signature]
DEPONENT



21/6/24
Banti Baishya
NOTARY, GOVT. OF ASSAM
KAMRUP (Metro) Guwahati
Regd. No.: KAM-22

NOTARY PUBLIC: OATH COMMISSIONER
Solemnly affirmed before me this day, I
Certify that I read over and Explained
the contents to the declarant and that
the declarant seemed perfectly to
understand them.