

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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Filed by:

Vikram Rajkhowa

Vikram Rajkhowa
Advocate for the Applicants
503, Amazing Grace Aptt.,
Dighalipukhuri (E), Guwahati 781001
E: vikram.rajkhowa@gmail.com
M: (+91) 9954348258



Sl. No. 11,304
Date 21/6/24

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

O.A No. 92/2023/EZ

IN THE MATTER OF:

Dr. Ganesh Das & Ors.Applicants

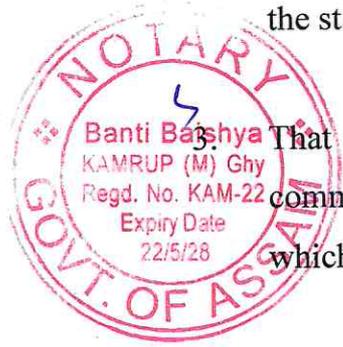
Versus

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

REJOINDER ON BEHALF OF THE APPLICANTS TO THE COUNTER
AFFIDAVIT OF RESPONDENT No. 2 STATE ENVIRONMENTAL
IMPACT ASSESSMENT AUTHORITY (SEIAA), ASSAM.

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:

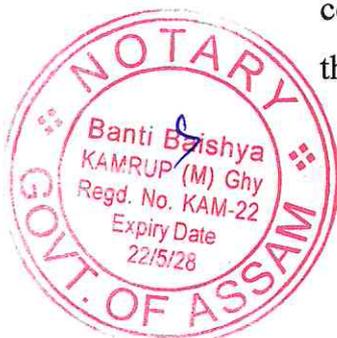
1. That I am the applicant No. 1 in the above mentioned application, hence I am fully conversant with the facts and circumstances of the case and I am competent and duly authorized to swear this affidavit.
2. That save and except what has been specifically admitted in this affidavit and what appears 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 Para 3, the deponent begs to state that the Hon'ble Apex Court in a cetane of cases has held that - "*if averments are not controverted by the respondents, it should be presumed to be admitted.*"
5. That as regard the averments made in Para 4 and 5, 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 as regard the averments made in paragraph 6 to 13 the deponent do not admit anything which is contrary or inconsistent to the records. However the deponent begs to state that respondent No. 2 SEIAA Assam, being the regulatory authority, having granted EC dated 21.01.2014 to the project proponent, choose to turn a blind eye and did not take any action against the project proponent for the following violations, among others:

- (i) **Non-submission of Six-Monthly Compliance Reports:** A compliance report under the EIA Notification, 2006, provides the status of compliance with conditions stipulated in the environmental clearance letter and is to be submitted every six months from the grant of environment clearance to a project till its completion. The hard copy of the compliance report is to be submitted with the regulatory authorities and the soft copy is to be uploaded in the environmental clearance portal of MOEF&CC. It is mandatory to submit the compliance report online, which is a public document, so as to bring more transparency in the compliance and monitoring regime. The project proponent by evading submitting the said six-monthly compliance reports have evaded the scrutiny of the public as well as the authorities.



- (ii) **Non-submission of Environmental Statement:** The project proponent did not submit the annual Environmental Statement in Form-V with SEIAA and State Pollution Control Board, including with MOEF&CC Regional Office as mandated under the Environment (Protection) Rules, 1986, as amended thereafter.
- (iii) **Non-renewal of Environmental Clearance:** The project proponent received E.C on 21.01.2014 with a validity for a period of 5 years, i.e., till around 21.01.2019, which got automatically extended to 7 years, i.e., up to 21.01.2021 due to O.M dated 12.04.2016 of MOEF&CC. Thereafter, the project proponent was required to extend their Environmental Clearance as it's an ongoing project. However SEIAA, Assam, as the regulatory authority being aware of the said non-renewal of EC remained a mute spectator.
- (iv) **Invalid Consent to Operate (CTO):** According to PCB Assam, the CTO was valid till 31.03.2023, which mean it was granted a year earlier, i.e., on 01.04.2022, and thereafter the same was not renewed. However, the E.C of the project proponent got over on 21.01.2021, and therefore PCB, Assam, could not have granted the CTO without a valid EC. But SEIAA and PCB Assam, did not take any action.
- (v) **Non-action on the 'Inspection Report dated 14.09.2023'** which highlighted following violations among others:
- (i) The unit has failed to obtain permission from Central Ground Water Board (CGWA) for extraction of ground water.
- (ii) The Sewage Treatment Plant (STP) was found non-operational during the inspection.

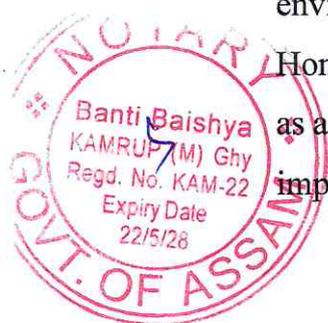


- (iii) The inspection found potential issues related to the proper gradient, flow capacity of rainwater, and the adjustment of carrying capacity with the final load bearing drainage system.
- (iv) The stormwater drain exhibited a greyish to blackish colour, indicating potential neglect in maintenance by the housing entity, possibly due to blocked drains.

Be it stated that the Hon'ble Apex court in M.C Mehta vs. Union of India & Ors., had stated as follows:

"If this Court finds that the authorities had not taken action required of them by law and that their inaction is jeopardising the right to life of the citizens of the country or any section thereof, it is the duty of this Court to intervene".

In the instant case, even though there was specific directions of this Hon'ble Court to SEIAA, Assam, to look into the grievances of the applicants but the concerned authority failed to take any action and address the same, even after numerous violations of the project proponent having come to light. Even otherwise also, it is the duty of the regulatory authorities as mandated under *Article 48-A* of the Constitution of India, as well as the statutory mandate under the various provisions of the Environment (Protection) Act, 1986; Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981, and the Rules framed thereunder, among other laws. Therefore, due to the non-action of the concerned authorities, more particularly, SEIAA Assam, PCB Assam and MOEF&CC, hampering the applicants right to a clean and healthy environment, the applicants have no other alternative but to approach this Hon'ble Court seeking adequate relief. It is also the duty of the applicants as a citizen under *Article 51-A(g)* of the Constitution of India to protect and improve the natural environment.



7. 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

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 21st day of June, 2024.

[Handwritten signature]

DEPONENT

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



[Handwritten signature]
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.