

Sl. No. 58

Before The National Green Tribunal,
Eastern Zone Bench at Kolkata
Original Application No. 76 /2024/EZ
(Earlier O.A. No- 233/2024/PB)



News item titled “ avaidh khaman
par karyavai jaari 220 ton bajari ka
dher uthaya 90 trolley avaidh
patthar jabt kiya” appearing in
Patrika dated- 25.01.2024

..Applicant

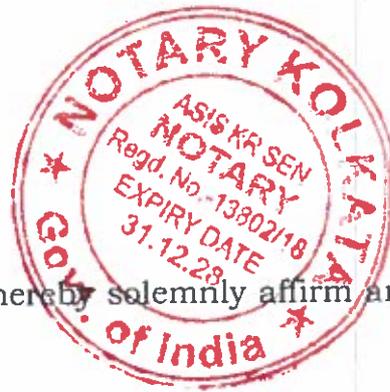
V/s

The Bihar State Pollution Control
Board and Ors--

Respondents

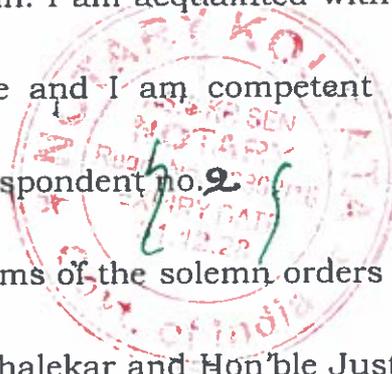
**Counter Affidavit on behalf of Respondent no. 02 The
District Magistrate, Kishanganj**

I, Saurav Gupta, son of Sri Suresh Prasad, aged about 31 years,
residing at Shivpur, Tikiya Toli, Devi Sthan, Sampatchak, Patna,
Bihar – 800 006, presently halting at 7C KSR Roy Road, 2nd Floor,



Room No. 6, Kolkata -0 700 001 do hereby solemnly affirm and say as follows:

1. I am presently posted as Mines Inspector, Kishanganj District, the respondent no. 2 herein. I am acquainted with the facts and circumstances of the case and I am competent to affirm this affidavit on behalf of the respondent no. 2.
2. I affirm this affidavit in terms of the solemn orders passed by the Hon'ble Justice B. Amit Sthalekar and Hon'ble Justice (Dr.) Arun Kumar Verma, National Green Tribunal, Eastern Zone Bench, Kolkata.
3. That a copy of the solemn orders of the Hon'ble Tribunal has been taken from the server and I have read and understood the contents and purport thereof. Nothing contained in this affidavit shall be construed as admission of any statement unless specifically admitted by me. I reserve our right to deal with legal position of the matter at the time of hearing.
4. That it is most humbly and respectfully stated and submitted that this respondent at the very outset tenders unqualified





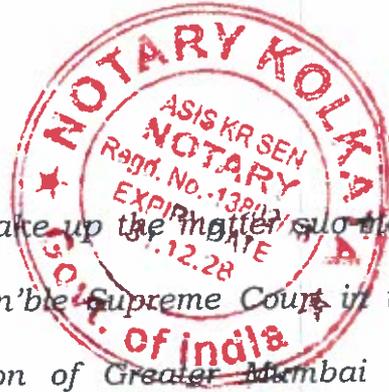
apology for causing inconvenience to the Hon'ble National Green Tribunal in administration of Justice.

5. That it is most humbly and respectfully stated and submitted that earlier this case has been started as Original Application No- 233/2024/PB by the Hon'ble Principal Bench of National Green Tribunal at New Delhi, in which after hearing the Hon'ble Tribunal was pleased to pass Order dated- 11.03.2024-

"This original application is registered suo motu on the basis of the news item titled "avaidh khaman par karyavai jaari 220 ton bajari ka dher uthaya, 90 trolley aaidh patthar jabt kiya" appearing in 'Patrika' dated 25.01.2024.

2. The news item reveals the alleged illegal mining and illegal gravel storage in Kishanganj range area of Bihar. The news item discloses that same action has been taken against the illegal mining in the Kishanganj range and Forest Department has seized 220 tonnes of gravel. Similarly, as per the news item in Kelwara range area, 90 trolleys filled with illegally mined stones have been seized and in Kavai also 1 trolley illegally transporting stones and boulders was seized.

3. The news item reflects substantial issue relating to compliance of environmental norms.



4. Power of the Tribunal to take up the matter *quo motu* has been recognized by the Hon'ble Supreme Court in the matter of "Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors." reported in 2021 SCC Online SC 897.

5. Hence, we implead the following as respondents in the matter: i. Bihar State Pollution Control Board through its Member Secretary. ii. District Magistrate, Kishanganj.

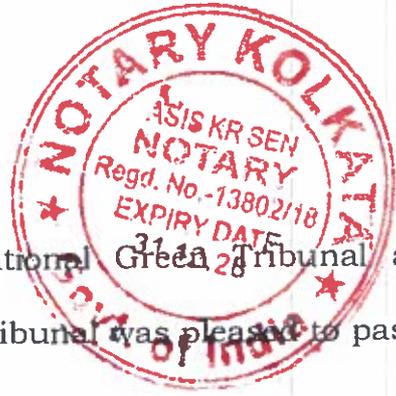
6. Let notice be issued to the above respondents for filing their response before the concerned Bench of the Tribunal.

7. Since the matter relates to the Eastern Zonal Bench, Kolkata, therefore, OA is transferred to the Eastern Zonal Bench for appropriate further action. Let the original record of the OA be transferred to the Eastern Zonal Bench, Kolkata.

8. List before Eastern Zonal Bench at Kolkata on 10.05.2024."

6. That it is most humbly and respectfully stated and submitted that in the light of abovementioned Order dated- 11.03.2024 passed in Original Application No- 233/2024/PB by the Hon'ble Principal Bench of National Green Tribunal at New Delhi, the case has been transferred to the of National Green Tribunal, Eastern Zonal Bench, Kolkata.

7. That it is most humbly and respectfully stated and submitted that this case has been again started as Original Application No- 76/2024/EZ by



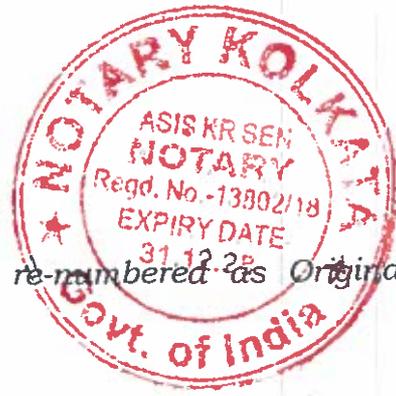
the Hon'ble Eastern Zonal Bench of National Green Tribunal at Kolkata, in which after hearing the Hon'ble Tribunal was pleased to pass Order dated- 10.05.2024-

"The Original Application No.233/2024/PB was registered suo motu by the Principal Bench of National Green Tribunal on the basis of a News Item titled "avaidh khaman par karyavai jaari 220 ton bajari ka dher uthaya 90 trolley aaidh patthar jabt kiya" published in 'Patrika' on 25.01.2024.

2. The news item reveals the alleged illegal mining and illegal gravel storage in Kishanganj range area of Bihar. The news item discloses that some action has been taken against the illegal mining in the Kishanganj range and Forest Department has seized 220 tonnes of gravel. Similarly, as per the news item in Kelwara range area, 90 trolleys filled with illegally mined stones have been seized and in Kawai also 1 trolley illegally transporting stones and boulders was seized.

3. The followings were impleaded as the Respondents: i) Bihar State Pollution Control Board through its Member Secretary as Respondent No.1, and ii) District Magistrate, Kishanganj as Respondent No.2

4. Thereafter, the matter was transferred to the Eastern Zone Bench of National Green Tribunal, Kolkata vide order



dated 11.03.2024 and has been re-numbered as Original Application No. 76/2024/EZ.

5. We direct the office to implead the Divisional Forest Officer (D.F.O.), Kishanganj, in the array of Respondents, as Respondent No.3.

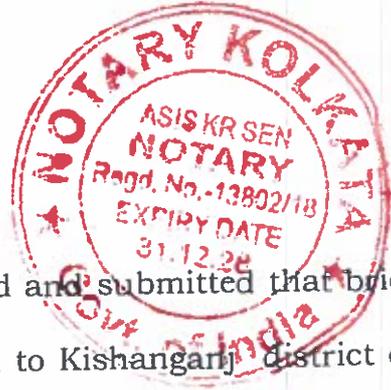
6. Issue notice to the Respondents, returnable within four weeks.

7. Ms. Amrita Pandey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.1, Bihar State Pollution Control Board.

8. Mr. Surendra Kumar, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent Nos.2 and 3, District Magistrate, Kishanganj and D.F.O., Kishanganj respectively.

9. Ms. Amrita Pandey and Mr. Surendra Kumar, learned Counsel, pray for and are granted four weeks time for filing their counter affidavits.

10. The Registry is directed to serve e-copy/soft copy of the Original Application No.233/2024/PB as well as news item along with all its annexures upon Ms. Amrita Pandey and Mr. Surendra Kumar, within 48 hours. 11. List on 23.07.2024.”



8. That it is most humbly and respectfully stated and submitted that brief history of this case is this case is not related to Kishanganj district of Bihar State, rather it appears from the attached news paper cutting that this case is related to Kishanganj and Kelwara of Baran district of Rajsthan State.

9. That it is most humbly and respectfully stated and submitted that as the matter in issue is not related with this respondent, hence this respondent prays to the Hon'ble National Green Tribunal to kindly exonerate from this proceeding for the ends of justice for which this respondent shall ever pray.

10. The statements contained in paragraph nos. 1 to 8 are true to my knowledge and belief, and nothing herein shall be construed as an admission of any statement unless specifically admitted and are information derived from record and the rest thereof are my humble submissions before this Hon'ble Court.

Identified by me and

Prepared in my Office

Suvandee Kumar
Advocate
WB/

Before me

WB 535-A/1998

Saurav Gupta
(*Saurav Gupta*)
Deponent

Solemnly affirmed and declared
before me on Identification

ASIS KR SEN
ASIS KUMAR SEN
City Civil Court
Kolkata
Reg No -13802/18

2 JUL 2024