

Sl. No. 38/24

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
OA NO.94/2023/EZ**

**IN THE MATTER OF**

**ALL INDIA ANTI CORRUPTION ORGANIZATION**

**.....APPLICANT**

**VERSUS**

**THE STATE OF WEST BENGAL AND ORS**

**.....RESPONDENTS**

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Filed by

*Narendra Prasad Gupta*  
Advocate

**12 JUL 2024**

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
OA NO.94/2023/EZ**



**IN THE MATTER OF  
ALL INDIA ANTI CORRUPTION ORGANIZATION**

**.....APPLICANT**

**VERSUS**

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**.....RESPONDENTS**

**REJOINDER AFFIDAVIT ON BEHALF OF THE  
PETITIONER/APPLICANT**

I, Subrata Mallick, Additional Director, Crime, All India Anti-Corruption Organization, S/o-Late D.C. Mallick, Religion-Hindu, Quarter No. RIII/81, Bidhannagar Housing Colony, Durgapur, PS-New Township, P.O.-ABL Township, Dist.-Paschim Bardhaman, Pin-713206, the applicant herein, do hereby solemnly affirm and state on oath as under: -

1. That I am the Additional Director, Crime of Petitioner/Applicant Organization and as such I am well conversant with the facts and circumstances of the case and in that capacity, I am duly competent to swear to the present affidavit.
2. That after carefully going through the Counter Affidavit & Reports filed by Respondents 4, 5, 7, 10, 14 I am submitting the present Rejoinder Affidavit for kind consideration of this Hon'ble Tribunal.
3. That the issue involved in the present Application is quite significant: ensuring effective administration of environmental justice and preserving the Rule of Law: Whether the Interim Orders and Judgments of this Hon'ble

Tribunal has been complied with? Whether the steps taken by the Respondents 4, 5, 7, 10, 14 are adequate? What steps need to be taken for effective implementation of the Judgments of this Hon'ble Tribunal passed in important cases touching protection of environment and right to environment of the people, are effectively implemented? This Rejoinder Affidavit has been divided into three parts for the sake of clarity:

A. STEPS TAKEN BY THE RESPONDENTS 4, 5, 7, 10, 14, WHETHER ADEQUATE;

B. DIRECTIONS REQUIRED FOR EFFECTIVE IMPLEMENTATION OF THE JUDGMENTS OF THIS HONOURABLE TRIBUNAL AND;

C. HOW EFFECTIVE IMPLEMENTATION OF THE JUDGMENTS OF THIS HON'BLE TRIBUNAL CAN BE ENSURED.

4. That another issue is involved in the present Application. Whether Respondent 4, 5, 7, 10, 14 have duly performed their statutory duties as ordained by the Environmental Laws of the country?

5. That another issue is involved in the present Application. Whether Respondent 10 have really abided by the NOC issued to them, for excavation of silt, by Respondent 4?

6. That Paragraphs 1 to 9 of the Affidavit of Respondent 4 speaks volumes of gross violation of their statutory duties and massive violation of environmental laws by Respondent 10.

7. That excavation of silt by Respondent 10 is not exempted from prior Environmental Clearance as it do not fall in the category mentioned by Appendix IX of the Notification issued by Ministry of Environment, Forest and Climate Change dated 28.03.2020 under Memo No. S.O. 1224(E).

8. That the permission given by Respondent 4 to Respondent 10 to excavate silt is ultra vires the law as Respondent 10 has not applied for prior Environmental Clearance.



9. That moreover, Respondent 10 has totally violated the NOC issued to them by Respondent 4 by resorting to sand mining.

10. That Respondent 4, as per the Gazette Notification issued by Ministry of Law and Justice, Government of India, dated 18.02.2021, is the authorized agency to plan and removal of silt/sand and they cannot give permission to any private player like Respondent 10, to excavate silt, unless and until the private player like Respondent 10 submit Environmental Clearance.

11. That Respondent 4 should have revoked the permission given to Respondent 10 to excavate silt as the latter instead of excavating silt has resorted to illegal sand mining.

12. That Respondent 4 should have revoked the NOC given to Respondent 10 to excavate silt as the latter instead of excavating silt has violated the terms and conditions of NOC.

13. That Respondent 10 have failed to do so thereby allowing Respondent 10 to damage Hooghly River.

14. That Respondent 10 in the name of excavating silt is actually lifting silver sand.

15. That Respondent 10 by illegally plying boats and running electric pumps and by using pipes illegally lifting sand from the Hooghly River and by using this illegally mined sand they are constructing roads and filling up of lands.

16. That Respondent 10 is using this illegally mined sand to fill roads.

17. That Respondent 10 has failed to answer in their affidavit how much environmentally friendly is their activity of illegal sand mining for the purpose of road construction and land and road filling.

18. That Respondent 10 have failed to provide a soil report with regard to this.

19. That the land filling and road filling and road construction by using this illegally mined sand proves that Respondent 10 is illegally mining sand from river.



20. That in the tender given by WBHDCL to Respondent 10 it is clearly mentioned that how much sand and ash is required for construction of highways.
21. That in the tender given by WBHDCL to Respondent 10 it is clearly mentioned that illegally mined sand should not be used for construction of roads.
22. That in the tender given by WBHDCL to Respondent 10 it is clearly mentioned that silts should not be stocked for construction of roads.
23. That in the tender given by WBHDCL to Respondent 10 it is clearly mentioned that legally mined sands and ash should be used for construction of roads.
24. That in the tender given by WBHDCL to Respondent 10 it is clearly mentioned that silts should not be used for road filling.
25. That in the tender given by WBHDCL to Respondent 10 it is clearly mentioned that legally mined sand and ash should be used for road filling.
26. That because of Respondent 10's illegal mining of sand by plying boats big holes are emerging in the river.
27. That because of Respondent 10's illegal mining of sand by plying boats river flow and river current is getting disturbed.
28. That because of Respondent 10's illegal mining of sand by plying boats whirlpool is created in the river.
29. That because of Respondent 10's illegal mining of sand by plying boats river current is becoming abnormal in rainy season and river beds are getting damaged.
30. That because of Respondent 10's illegal mining of sand by plying boats river whirlpools are created whose current increases in size thereby sink houses and people living in river beds and also affect navigation.
31. That because of Respondent 10's illegal mining of sand by plying boats river is getting polluted.



32. That Paras 1 to 25 of the Counter Affidavit of Respondent 5 clearly proves that they have shut their eyes and failed to proceed against Respondent 10 under the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021.

33. That Paras 1 to 25 of the Counter Affidavit of Respondent 5 clearly proves that they have shut their eyes and failed to proceed against Respondent 10 under The West Bengal Sand Mining Policy, 2021.

34. That the Report submitted by Respondent 7 before this Honourable Tribunal clearly proves that they have intentionally missed the point.

35. That the Report submitted by Respondent 7 before this Honourable Tribunal clearly proves that they have intentionally evaded their statutory duties as ordained to them by the environmental laws of the country.

35. That the Report submitted by Respondent 7 before this Honourable Tribunal clearly proves that they have failed to take any concrete legal action against the illegal mining of sand and damaging of river Hooghly by Respondent 10.

36. That Paras 1 to 18 of the Reply Affidavit submitted by Respondent 14 before this Honourable Tribunal clearly proves that they have failed to proceed against Respondent 10 under the Environment (Protection) Act, 1986 and The Water (Prevention and Control of Pollution) Act, 1974.

37. That Respondent 14 should have directed the Government of West Bengal, under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974 to close the operations of Respondent 10.

38. That Respondent 14 should have directed the Government of West Bengal, under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974 to bring to justice Respondent 10 for violating Section 47 of the said act.

39. That Respondent 14 should have directed the West Bengal Pollution Control Board, under Section 5 of the Environment Protection Act, 1986 to



file, register an FIR against Respondent 10 and bring to justice Respondent 10 for violating Section 16 of the said act.

40. That after the filing of the afore mentioned Original Application by the Petitioner Respondent 10 has become legally bound to purchase legally mined sand for their road construction projects fearing legal action.

41. That the Paras 1 to 10 of the Affidavit submitted by Respondent 10 before this Honourable Tribunal is full of lies and an attempt to hide their violations of the environmental laws of the country and contravention of the NOC and orders of WBHDCL and Respondents 4 and 5.

42. That the following submissions, along with the following prayer, may be kindly considered by this Honourable Tribunal for effective implementation of the environmental laws and landmark judgments of Honourable Tribunal by Respondents 4, 5, 7, 10 and 14, WBHDCL, West Bengal Pollution Control Board and all concerned agencies:

A. Respondent 4 be kindly directed to revoke the NOC and permission given to Respondent 10 for excavation of silt.

B. Respondent 4 be kindly directed to submit compliance report in this regard.

C. Respondent 14 be kindly directed to proceed under Section 5 of the Environmental Protection Act, 1986 and directs WBPCB to file, register an FIR against Respondent 10 and bring to justice Respondent 10 for violating Section 16 of the said act.

D. Respondent 14 be kindly directed to proceed under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974 and directs the State of West Bengal to close the operations of Respondent 10.

E. Respondent 14 be kindly directed to revoke EC, FC and Pollution Clearance Certificates issued to Respondent 10.

F. Respondent 14 be kindly directed to submit compliance report with regard to the same.

G. WBHDCL be kindly directed to revoke the tender issued to Respondent 10 with immediate effect.

H. WBHDCL be kindly directed to submit compliance report with regard to the same.

I. Respondent 7 be kindly directed to proceed under IPC and CRPC and MMDR Act, 1957 and file and register FIR against Respondent 10 and bring them to justice for violating Sections 378, 379 IPC, 1860 and Section 23 of the MMDR Act, 1960.

J. Respondent 7 be kindly directed to submit compliance report on the same.

K. Respondent 5 be kindly directed to proceed under the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021 and the West Bengal Sand Mining Policy, 2021 against Respondent 10 and bring them to justice, seize and recover illegally mined sand and black money generated from the illegal sand mining.

L. Respondent 5 be kindly directed to submit a compliance report.

M. In addition to the above, accountability may be fixed on Respondents 4, 5, 7, 10, 14 , WBPCB, WBHDCL and other agencies and authorities concerned and further direct contempt proceedings for deliberate violation.

43. That this Honourable Tribunal may kindly consider passing such other directions in addition to the above suggestions, as it deems fit.

ALL INDIA ANTI CORRUPTION ORGANIZATION

*Subrata Mallick*

Add. Director Crime  
DEPONENT

**VERIFICATION**

I, Subrata Mallick, S/o-Late D.C. Mallick, Religion-Hindu, Quarter No. RIII/81, Bidhannagar Housing Colony, Durgapur, PS-New Township, P.O.-ABL Township, Dist.-Paschim Bardhaman, Pin-713206, the applicant herein on behalf of All India Anti-Corruption Organization, do hereby verify that the contents of the above paragraphs are true to the best of my Knowledge and grounds are based on legal advice and that I have not suppressed any material fact.

ALL INDIA ANTI CORRUPTION ORGANIZATION

*Subrata Mallick*

Add. Director Crime  
DEPONENT

Identified by me

*Sahab Bawri*  
Advocate

**NARENDRA PRASAD GUPTA**  
**NOTARY**  
GOVERNMENT OF INDIA  
REGN. NO.-13823/2018  
&  
ADVOCATE, HIGH COURT CALCUTTA  
8, Old Post Office Street (Ground Floor)  
Opp. F-Gate (High Court)  
Mob.-8910576674  
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L.T.I.(s)/Signatures(s) of the  
Executant/s attested by me on Identification

*[Signature]*  
**NARENDRA PRASAD GUPTA, NOTARY**  
Advocate, HIGH COURT, KOLKATA  
No.-13823/2018, Govt. of India

**12 JUL 2024**

33-8 Sahab Bawri BEFORE THE NATIONAL GREEN TRIBUNAL on 10.07.2024



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**APPLICATION**

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