

S.L. No.....35/24.....

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, FINANCE CENTRE,
3RD FLOOR, NEW TOWN, KOLKATA

Original Application No. 133 of 2023/EZ

And

I.A . No. 30 of 2024 /EZ

In the matter of :

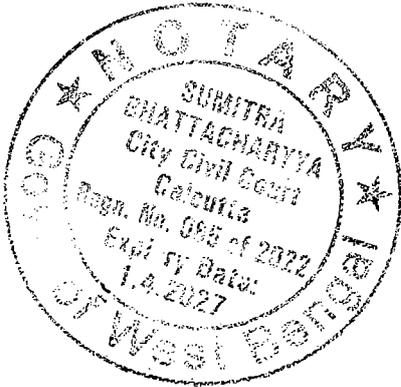
Serajul Islam & Anr.

..... Applicants

Versus

The State of West Bengal & Ors

..... Respondents



COMPOSITE REJOINDER AFFIDAVIT FILED ON BEHALF OF
APPLICANTS TO THE AFFIDAVIT OF COMPLIANCE FILED ON
BEHALF OF THE RESPONDENT NO. 5, THE DISTRICT
MAGISTRATE , BIRBHUM .

I, Serajul Islam , son of Nurul Islam, aged about 25 years, by **faith**
- Muslim , by occupation - Social worker, residing at Vill -
Natungram, Ward No.12, Nalhati M, P.O & P.S - Nalhati, Dist -
Birbhumi, West Bengal - 731243, do hereby solemnly affirm and
state as follows :-

1. I am the authorized representative in the instant proceeding
and the authorized representative of applicant No 2. I am well
acquainted and fully conversant with the fact and circumstances of

11 JUL 2024

the case. I am competent to make, affirm and swear the instant affidavit for myself and on his behalf.

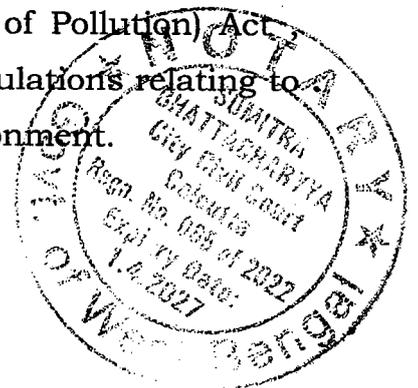
2. The answering deponent states that a copy of the Affidavit of Compliance dated 17.05.2024 filed on behalf of the Respondent no. 5, The District Magistrate, Birbhum was served upon the applicants.

3. The answering deponent has gone through the averments made in the affidavit filed on behalf of the Respondent no. 5 , The District Magistrate , Birbhum and have understood the contents therein and is swearing the present affidavit in reply thereof .

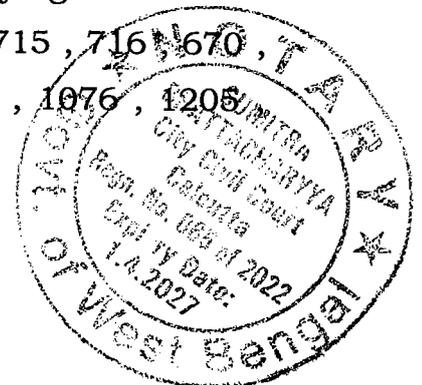
4. That the aforesaid Original Application has been filed with the following prayer :-

In view of the above fact of circumstances your applicants most humbly pray before this Hon'ble Tribunal to pass the following orders :-

- a) Declaration that the mining and stone quarrying activities carried out at Plot No. 707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum are illegal , unlawful and in violation of and / or against the provisions of Environment (protection) Act , 1986 , the Air (prevention and Control of Pollution) Act , 1981, the Water (Prevention and Control of Pollution) Act, 1974 and other laws , rules and regulations relating to protection and preservation of environment.

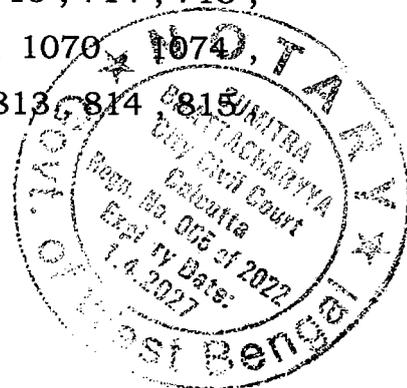


- b) Perpetual injunction restraining the respondent Nos. 13 to 17 and each one of them, their men, agents, associates and subordinates from carrying out and/ or undertaking any mining and stone quarrying activities at Plot No. 707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum.
- c) Appoint an independent experts committee consisting of fit and proper persons having knowledge and expertise in protection, preservation and conversation of environment to enquire into the illegal mining .
- d) Direct the respondent authorities to forthwith to remove all the illegal and unauthorised miners from in Plot No. 707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum.
- e) The independent experts' committee be directed to make a comprehensive study and assessment of the loss and damage caused due to the illegal and unauthorised mining and stone quarrying activities at Plot No.707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum.



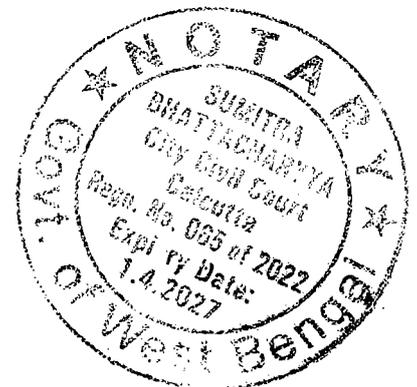
1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum and pass an order on the basis of the assessment made by such committee to be recovered from the illegal miners carrying on unauthorised mining and stone quarrying activities at the said site.

- f) Direct the independent experts' committee and/or the respondent West Bengal Pollution Control Board to investigate and lodge criminal complaints against the persons responsible for causing damage of the environment by conducting massive illegal and unauthorised mining and stone quarrying activities at Plot No.707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum and submit the status report of such criminal complaints and the action taken.
- g) Direct the independent experts committee and the respondent Pollution Control Board to identify the erring government officials and staffs who are actively and passively involved and/ or extended support to the illegal and unauthorised mining and stone quarrying activities at Plot No.707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum and submit the status report of such criminal complaints and the action taken.



1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum and allowed the damage to environment and take appropriate actions, including civil, criminal and disciplinary action against them.

- h) Direct the respondents to restore the environment to its Original form and shape and recover such costs and expenses from the persons responsible.
- i) Direct the independent experts committee or the appropriate respondent authority to undertake all necessary measures and / or steps to arrest and control the environmental pollution caused due to the illegal and unauthorized mining and stone quarrying activities.
- j) Direct the independent experts' committee or the appropriate respondent authority to implement and/ or enforce and/ or execute the provisions laid down under the provisions of Environment (Protection) Act , 1981 , the Air (Prevention and Control of Pollution) Act , 1981, the Water (Prevention and Control of Pollution) Act , 1974.
- k) Pass such other order/orders and/or direction/directions as this Hon'ble Tribunal deems fit and proper to protect, preserve and conserve the environment.



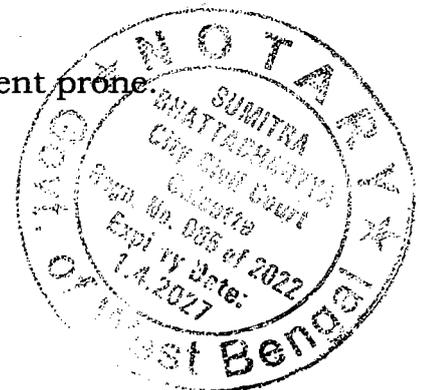
5. Instead of para-wise reply the Applicants humbly seeks to file a composite rejoinder affidavit and humbly craves leave to the Hon'ble Tribunal to file a detailed rejoinder affidavit as and when required.

6. It is humbly submitted that the Applicants filed an original application Under Section 18(1) read with Section 14,15 and 17 of the National Green Tribunal Act, 2010), being Original Application No. 133 of 2023/EZ against the respondents in order to restrain the operation of illegal mining and stone quarrying activities within the district of Birbhum without any Environment Clearance, Mining Policy and other statutory permissions.

7. On 4.10.2023 the Applicants moved the Original Application before the National Green Tribunal Eastern Zone Bench , Kolkata . The Hon' ble Tribunal was pleased to give direction to constitute a committee and file an Inspection report.

8. The Applicants state that on 15. 02. 2024 the West Bengal Pollution Control Board submitted the Committee Report on Affidavit with the observation that there has been gross violation of rules and procedures. Three important observations of the committee are as follows :

- a) Rampant illegal stone - quarrying is being carried out at the site specifically on the alleged Plot Nos. 707 , 712 , 713, 714 and 715 amongst certain others , in Mouza - Madna, PS.- Nalhati , Birbhum district.
- b) The quarry lay outs are unscientific & accident prone.



- c) The unit operations (drilling , blasting , excavation , loading , transportation, crushing and size - separation) are carried out compromising safety aspects.

The committee recommends the following :

- a) Pending further investigations the Hon'ble NGT may consider imposing immediate ban on all quarrying and related activities at the sites.

The voids created may be fenced off immediately to avoid danger to animals and children ; there are localities nearby.

9. The Applicants state that the instant matter appeared before the Hon'ble National Green Tribunal Eastern Zone Bench , Kolkata on 16. 02.2024 where by the Hon' ble Tribunal gave direction to the Respondent no. 2 , Additional Chief Secretary , Department of Environment , Govt. of West Bengal and the respondents no. 5, District Magistrate, Birbhum , to take immediate steps to prevent illegal mining.

10. The Applicants state that in spite of the precise direction given by the Hon'ble Tribunal to the Respondent no. 2 , the Additional Chief Secretary , Department of Environment , Govt. of West Bengal and the Respondent no. 5 , the District Magistrate, Birbhum , to take immediate steps to prevent illegal mining , the said Respondents failed to comply with the order / decision and the illegal mining is continuing at a relentless pace.



11. Under such circumstances in the month of April,2024 the Applicants filed an Interlocutory Application under Section 26 & 28 of the National Green Tribunal Act , 2010 against the Respondent nos. 2 & 5 for failing to comply with the order/decision of the Tribunal having thus committed an offence under section 26 & 28 of the National Green Tribunal Act,2010, the proposed legislation and should be punished accordingly.

12. The Applicants received an Affidavit of Compliance dated 17.05.2024 filed by the Respondent no. 5 , the District Magistrate, Birbhum in terms of the Solemn order dated 16.02.2024 passed by the Hon'ble Tribunal inter alia stating that he have taken every and all steps to prevent illegal mining in the alleged quarry.

13. It was stated in the said Affidavit of Compliance that a committee was constituted by the Respondent no. 5 by an order being no. M&M/1736/DL&LRO(B)/24 dated 19th April , 2024 to take such necessary measures to ensure complete prevention of illegal mining in the alleged site within a week .The said Committee was for the directed to conduct visits to the alleged site so that mining there at is not resumed .

14. The said Committee filed a report dated 15th May , 2024 before the Respondent no. 5 stating that it was found that the quarry in issue spreads over Plot Nos. 707, 712, 713, 714, 715 & 688 in Mouza - Madna , JL No. 11 under P.S Nalhati covering an area of 6.76 acres and excavation stone over Plot Nos. 707, 712, 713 and 714 took place long time ago, but there is evidence of recent extraction over Plot No. 688 and partly on Plot No. 715.

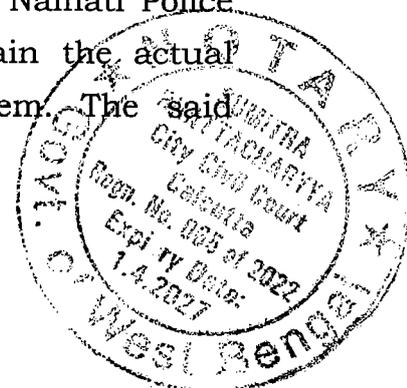


15. The applicants state that though the Respondent no. 5 have admitted to excavation of stone at the alleged site in Paragraph no. 7, it is completely false and strictly denied and disputed that the said excavation of stone over Plot Nos. 707, 712, 713 and 714 took place long time ago. The applicants reinforce that the respondent no. 12 to 16 along with their men, agents, associates and subordinates were carrying out illegal mining and stone quarrying activities at Plot Nos. 707 , 708 , 712 , 713 , 714 , 715 , 716 , 670 , 677 in Khatian No. 88 , 1070 , 1074 , 1076 , 1205 , 1316 , 322 , 346 , 807 , 813 , 814 , 815 , 1206 , 1214 , 12346 , J.L. No. 11 , Mouza - Madna , P.S.- Nalhati , within District - Birbhum till preventive measures were taken to stop further excavation of stone in the alleged site and it was intimated that any excavation of stone in the alleged is illegal and it attracts Penal Prosecution; a large sign board to that effect was installed in the alleged site ; iron barricades were installed in the approach road to alleged quarry with a view to prevent future possibility of excavation of stone in the alleged quarry.

Printout of the Photographs of the Recent illegal mining and stone quarrying activities along with the GPS location and dates are annexed herewith and marked as Annexure "A".

16. It is also stated in Paragraph no. 9 of the Affidavit of compliance that despite of frequent and surprise visits to the said site by the committee as well as making enquiry with local people , the person(s) , who were engaged in such illegal excavation of stone in the quarry in issue , could not yet be ascertained .

17. The Applicants state that it is stated in Paragraph no. 10 that a written complaint dated 7.05.2024 was lodged by the Block Land and Land Reforms Officer, Nalhati1 with the Nalhati Police station for making appropriate enquiry to ascertain the actual offenders and to take lawful action against them. The said



complaint was registered being FIR No. 239 dated 8.05.2024 with the Nalhati Police station the Sub-Divisional Officer , Rampurhat had also made a correspondence dated 15.05.2024 with the Sub - Divisional Police Officer , Rampurhat asking him to initiate appropriate enquiry to ascertain the actual offenders and to take lawful action against them .

18. The Applicants state that with regards to the same they have made innumerable complaints to the concerned Police Authorities as well as filed several applications under section 144 Cr.P.C very clearly stating the names of the respondent nos. 12 to 16 as the persons responsible for such aforesaid illegal mining and stone quarrying activities. However in spite of the consistent written complaints against the private Respondents for reasons best known to the concerned Police Authorities they have not paid attention nor taken any appropriate measures against the respondent nos. 12 to 16 and a FIR was registered being FIR No. 239 dated 8.05.2024 with details of the alleged noted as ' UNKNOWN MISCREANTS'

19. Under such circumstances the applicants most humbly submits and prays before the Hon'ble Tribunal that the concerned Police Authorities may be directed to make appropriate enquiry and register a FIR against the respondent nos. 12 to 16 in accordance with law without any further delay.

20. The Applicants state that in spite of the Hon'ble Tribunal's order dated 16.02.2024 and the Notice on the Sign board inter alia stating that any extraction of stone from the quarry is illegal and persons found engaged in such illegal extraction will be prosecuted

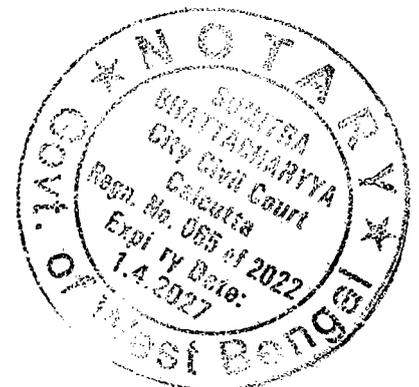


as per law, on 2.06.2024 at around 5:00 a.m one John Hansda son of late Charles Hansda and his son Suresh Hansda both residing at Kathal Tola More , P.O & P.S - Nalhati , District - Birbhum , and their associates started entering the said Plots with Trucks Loaded with Waste Materials and Debris which they started dumping in the said Plots using several STONE CRUSHERS without any Permits or Licence . The atmosphere is covered with dust and air pollution. The entire Plots are been covered with mountainous piles of the said Waste Materials and debris.

Copy of the Photographs of the said illegal dumping of Waste Materials and debris along with GPS Location and dates are annexed herewith and marked Collectively as Annexure - B

21. The Applicants state that it is an act of deliberate defiance by the said John & Suresh Hansda against the order of the Hon'ble Tribunal. It is further an act of vindictiveness in order to harass the applicant no. 2 and cause them huge financial loss for lodging complaints against them before the concerned police authorities and in the courts of law .

22. The Applicant No. 2 received a Notice dated 20.06.2024 vide Memo No. 280(2)/JM to appear for hearing at the Chamber of the Sub-Divisional Officer , Rampurhat , Birbhum on 26.06.2024 at 11:30 a.m in the matter of illegally dumping the waste Materials and debris which had been mined earlier illegally pertaining to the Plot Nos. 707 , 708 , 712 , 713 , 714 , 716 , 670 & 677 at Mouza - Madna , J.L. No. 11, P.S.- Nalhati , within District - Birbhum by the O.Ps.



Copy of the said Notice dated 20.06.2024 is attached herewith and marked as Annexure - C.

23. The Applicants attended the said Hearing with their authorized representative , Ms. Nasreen Islam and submitted Photographs of the said dumping in the presence of the Sub-Divisional Officer and the members of the BL &LRO department and the opposite party , John Hansda .

It is a fact that during the said hearing in the presence of the Sub - Divisional Officer , members of the BL &LRO department , our authorized representative and us the said John Hansda admitted that he owns and uses STONE CRUSHERS illegally without any Permits or Licence.

24. The Applicants state that in spite of the above mentioned proceedings initiated by the concerned authorities , the said John & Suresh Hansda and their associates threatened the applicants with dire consequences of life and property stating that he will be continue to dump waste Materials and Debris in the said Plots and no courts of law can stop him . John Hansda defiantly stated that we go to the Supreme court with our complaints against them but the Hon'ble Supreme Court wont to be able to do anything to him . The said John &Suresh Hansda and their associates are continuing to illegally dump waste materials and debris into the said Plots using Stone Crushers without Permits and further restraining the applicant no. 1 from taking Photographs of the said illegal dumping as evidence of the same using manpower against applicants .



25. That the averments which are not specifically denied are here by denied.

26. That, the applicant humbly craves leave to file any further affidavit as may be required in the facts and circumstances of the case.

27. That, the fact stated above are true to the best of my knowledge and belief.

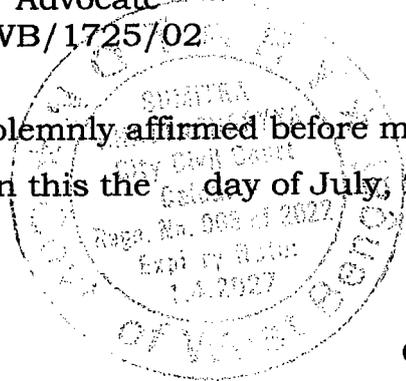
Prepared in my office

Nooneen Islam
Advocate
WB/1725/02

Serratul Islam
The Deponent is known to me

Clerk to Mr.
Advocate

Solemnly affirmed before me
On this the day of July, 2024

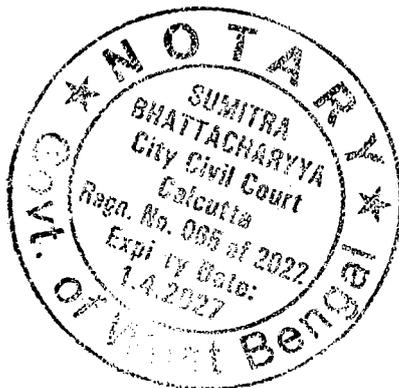


Commissioner

Solemnly Affirmed and
Declared before me U/S 139
CPC, (C) CRPC

Sumitra Bhattacharyya
Notary

Sumitra Bhattacharyya
Notary, Govt. of W.B.
Regd. No. 065 of 2022
City Civil Court. Calcutta



11 JUL 2024

Annexure A

-14c



Harioka, West Bengal, India

8QGc+QFQ, Lakhnamara, Harioka, Madna, West Bengal 731243, India

Lat 24.326634° Long 87.772256°

16/03/24 12:52 PM GMT +05:30

Note : Captured by GPS Map Camera

52

3.78 km / 16%

1012 hpa

36.0° C
283° W
35.0 μT

Google





Nalhati, West Bengal, India

8QGf+CJ, Lakhnamara, Nalhati, Madna, West Bengal 731238, India

Lat 24.32855° Long 87.773439°

09/03/24 12:40 PM GMT +05:30

Note : Captured by GPS Map Camera

23



31.32° C

77° E

15.7 km/

11%

1013 hpa

10.0 μT



Annexure - B

NOTARY PUBLIC
SUMITRA GHATAK BETA
City Civil Court
Calcutta
Reg. No. 085 of 2022
Expiry Date:
1.4.2027
OF West Bengal

Nalhati, West Bengal, India
80GF+CJ, Lakhnamara, Nalhati, Madna, West Bengal 731238, India

Lat 24.327788°

Long 87.774181°

20106/24 11:37 AM GMT +05:30



Madna, West Bengal, India
Unnamed Road, Madna, West Bengal 731238, India
Lat 24.329447°
Long 87.772982°
24/06/24 09:27 AM GMT +05:30

S.D.C. District



GOVERNMENT OF WEST BENGAL
OFFICE OF THE SUB-DIVISIONAL OFFICER

RAMPURHAT * BIRBHUM
E-mail ID: - sdmrph@gmail.com
(J.M SECTION)

NOTICE

Dated: 20/06/2024

Memo No:- 280 (2)/JM
To.

Petitioners

Mamla Majhi,
S/O Giden Majhi,
Vill. Balarampur (Singara),
IS. Murarai, Dist. Birbhum.

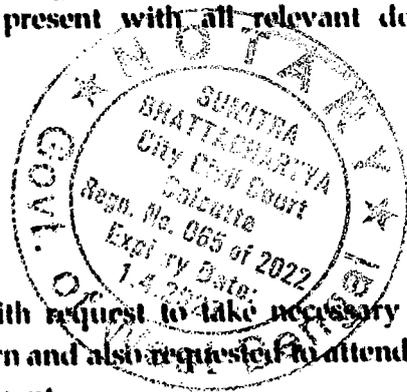
Respondents

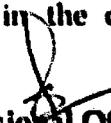
John Hasda
S/O Charles Hasda
at Village- Kathaltala More, Nalhati,
PO. & PS. Rampurhat, Dist Birbhum.

Sub:- Call for hearing in the matter of illegally dumping the stone chips and debris which he and his associates had mined earlier illegally pertaining the plot no. 707, 708, 712, 713, 714, 715, 716, 670 & 677, at Mouza- Madna, J.L no. 11 under the Nalhati P.S, Birbhum by the O.Ps.

In reference to the above subject matter, the date has been fixed for hearing on 26/06/2024 at 11:30 am at the chamber of the undersigned.

You are directed to remain present with all relevant documents in the chamber of the undersigned for hearing




Sub-Divisional Officer
Rampurhat, Birbhum

Dated 20/06/2024

Memo no. 280(2)/1/JM

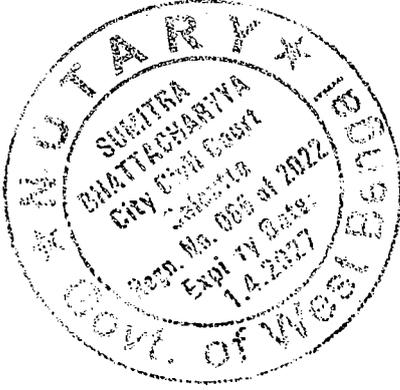
Copy forwarded to:

The BL&LRO, Nalhati-I Block with request to take necessary steps for servicing of the above notices and to submit service return and also requested to attend the said hearing along with field enquiry report and relevant document.


Sub-Divisional Officer
Rampurhat, Birbhum



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, FINANCE CENTRE,
3RD FLOOR , NEW TOWN , KOLKATA



Original Application No. 133 of
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The State of West Bengal & Ors

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COMPOSITE REJOINDER
AFFIDAVIT FILED ON BEHALF OF
APPLICANTS TO THE AFFIDAVIT OF
COMPLIANCE FILED ON BEHALF
OF THE RESPONDENT NO. 5 , THE
DISTRICT MAGISTRATE ,
BIRBHUM .

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Mobile No.87775 75987.
Id :nasreenislam27@gmail.com