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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 121/2023/EZ

In The Matter of:

Sumanta Ghosh

... Applicant

Versus

State of West Bengal &Ors.

... Respondents



AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 08, THE DISTRICT MAGISTRATE AND COLLECTOR, DARJEELING.

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	is annexed herewith		
3.	Photocopy of the letter dated 11.07.2024 written by the Additional District Magistrate (Environment) Darjeeling to the Member Secretary, West Bengal Pollution Control Board to issue an order cancelling the Consent to Operate of the crusher unit as it falls within 5km of the Mahananda Wildlife Sanctuary is annexed herewith	R-3	10



Filed by

Sibojyoti Chakrabarti

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

Email: subho.advocate@gmail.com

(M): 9007035534

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... Applicant
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AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 08, THE DISTRICT MAGISTRATE AND COLLECTOR, DARJEELING.

I, Sri Ram Kumar Tamang, S/o Pratiman Tamang, aged about 45 years, by occupation- service and presently posted as Additional District Magistrate, (LR) & District Land & Land Reforms Officer, (DL & LRO), Dareeling District having office at Kutchery Compound, Labong Cart Road, District- Darjeeling, Pin- 734101, do hereby solemnly affirm and submit as follows:-

1. That I am Additional District Magistrate, (LR) & District Land & Land Reforms Officer, (D. L & L. R. O), Dareeling District having office at Kutchery Compound, Labong Cart Road, District- Darjeeling, Pin- 734101, being impleaded as respondent number 08, above-named. I, on behalf of the respondent number 08, am competent to swear and affirm this affidavit for and on behalf of myself and the District Magistrate & Collector, Darjeeling.

Copy of Authorization in which the Additional District Magistrate, (LR) & District Land & Land Reforms Officer, (DL & LRO), Darjeeling has been duly authorized by the District Magistrate, Darjeeling to swear



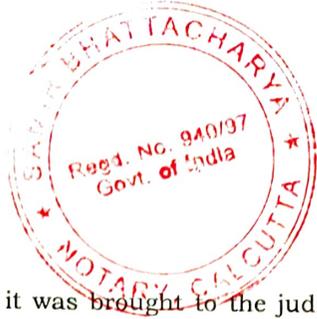
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this Affidavit on her behalf is annexed herewith and marked with the letter 'R-1'.

2. That this deponent has been impleaded as a respondent being respondent number 08, vide Solemn Order dated 06.12.2023, passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata.
3. That this affidavit-in-opposition is being filed in compliance and obedience to the Solemn Order dated 06.12.2023, passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata.
4. That the instant Original Application has been filed inter alia alleging that the Respondent No.5, Mahfuj Alam is involved in stone mining and stone crushing business in the Eco-Sensitive Zone of Mahananda Wildlife Sanctuary. It is also alleged that the Respondent No.5 is operating a Stone Crushing Unit in violation of the environmental laws.

The applicant has also alleged that he is a resident of Panchkhol Guri village in Jalpaiguri district of West Bengal which is one of the villages falling under the Eco-sensitive Zone of Mahananda Wildlife Sanctuary near Balason river and that the stone crushing unit is causing severe air pollution due to the dust which is rising in the course of its mining and operations of stone crusher including crushing, drilling, loading and hauling which are all primary sources of pollutants and the stone crusher unit uses machines.

5. That vide Solemn Order dated 20.09.2023 the Hon'ble Tribunal has been pleased to constitute a Committee comprising of the following Members to visit the site and submit its report with regard to the allegations made in the original application: -
 - (i) Senior Scientist / Environmental Engineer, West Bengal Pollution Control Board;
 - (ii) Senior Scientist, Central Pollution Control Board;
 - (iii) Representative of the District Magistrate, Jalpaiguri not below the rank of Additional District Magistrate (ADM); and
 - (iv) Senior Geologist, Directorate of Mines and Minerals, Government of West Bengal.



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6. That during the course of the proceeding it was brought to the judicial notice of the Hon'ble Tribunal that the Respondent No.5, Mahfuj Alam Partner of Alam Enterprise, falls within the jurisdiction of District Magistrate, Darjeeling, but the District Magistrate, Jalpaiguri, has wrongly been impleaded as Respondent No.7 in the present Original Application and he has also been made Member of the Committee constituted by the Hon'ble Tribunal.
7. That accordingly vide Solemn Order dated 06.12.2023 the Hon'ble Tribunal has been pleased to delete the respondent number 7 i.e the District Magistrate & Collector, Jalpaiguri from the array of respondents and implead District Magistrate & Collector as respondent number 8 in the original application and the Committee constituted earlier has been reconstituted.
8. That the Committee has visited the site namely M/s Alam Enterprise located at Mouza- Panchkulguri, J. L. No. 59, P.O & P.S- Matigara, district Darjeeling, Pin: 734101 on the 22.01.2024 and the following findings were observed by the committee:
 - (i) That during inspection the crusher mill was seen located at an approximate distance of 50 metre from the SH-12 (Siliguri-Mirik Road) and the unit had 2 (two) number of crushing plants and each plant had 7 (seven) numbers of primary crushers.
 - (ii) The unit has no secondary/tertiary crushers
 - (iii) Green belt coverage around the unit was not adequate.
 - (iv) As per information the final product sized stone aggregate/chips were supplied to road construction and building construction purposes.
 - (v) Manual water sprinkling system was available in the unloading area of raw material.
 - (vi) Wind breaking walls were not provided around the periphery of the crusher mill.
 - (vii) No metalled road were available within the premises and ramps.
 - (viii) During inspection no material transportation through vehicles had been carried out.



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- (ix) CCTV cameras were installed
 - (x) No display board was found
 - (xi) The proprietor of the unit had not provided dust room
 - (xii) No settling tank was available for recycling of the waste water generated during dust suppression and from the crusher
 - (xiii) The unit had not installed telescopic chutes at all the belt conveyor's final discharge points.
 - (xiv) The distance of the stone crushing unit from the protected boundary of Mahananda Wildlife Sanctuary on the basis of geo coordinates as measured is approximately 4.62 km and the unit falls in the ESZ as the ESZ boundary is 5km from the protected boundary of the Mahananda Wildlife Sanctuary.

9. That the inspection report had been filed before the Hon'ble Tribunal by the West Bengal Pollution Control Board as per direction of the Hon'ble Tribunal.

10. That accordingly vide letter dated 01.07.2024 the office of the District Magistrate, Darjeeling, District Environment and Biodiversity section had interaliadirected the unit of the respondent number 5, to stop operation of the crusher plant within compliance of certain conditions.

Photocopy of the letter dated 01.07.2024 written by the office of the District Magistrate, Darjeeling, District Environment and Biodiversity section to the unit of the respondent number 5 is annexed herewith and marked with the letter 'R-2'.

11. That subsequently the Additional District Magistrate (Environment) Darjeeling had vide letter dated 11.07.2024 interalia requested the Member Secretary, West Bengal Pollution Control Board to issue an order cancelling the Consent to Operate of the crusher unit (respondent number 5) as it falls within 5km of the Mahananda Wildlife Sanctuary.

Photocopy of the letter dated 11.07.2024 written by the Additional District Magistrate (Environment) Darjeeling the Member Secretary, West Bengal Pollution Control Board to issue an order cancelling the Consent



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to Operate of the crusher unit as it falls within 5km of the Mahananda Wildlife Sanctuary is annexed herewith and marked with the letter 'R-3'.

12. That it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice.

Identified by me
Sibojyoti Chakrabarti
Advocate 19.07.2024
State of West Bengal

Ram Kumar Samang
Deponent
DISTRICT LAND & LAND REFORMS OFFICER
DARJEELING

Solemnly Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CRPC



22-7
Notary
Samir Bhattacharya
Notary Govt. of India
Regd. No. - 940 / 97
CITY CIVIL COURT, CALCUTTA

VERIFICATION:

I, the deponent above- named, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

22 JUL 2024

4 Verified at Kolkata on the 19th Day of July, 2024.

Identified by me
Sibojyoti Chakrabarti
Advocate 19.07.2024
State of West Bengal

Ram Kumar Samang
Deponent
DISTRICT LAND & LAND REFORMS OFFICER
DARJEELING



8
Draapure - R - 1

Government of West Bengal
Office of the Collector : Darjeeling
Land Acquisition Department
e-Mail : ladepttdarjeeling@gmail.com

Memo No. 100 /Env-NGT/2024

Dated: 18/07/2024.

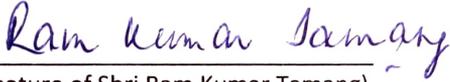
From : The Collector & District Magistrate,
Darjeeling.

To : Mr. Sibojyoti Chakraborty,
Ld. Advocate,
Hon'ble National Green Tribunal,
Eastern Zone Bench,
Kolkata.

Sub : **Authorization letter to file Affidavit regarding Hon'ble NGT No. OA 121/2023/EZ.**

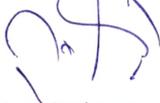
Sir,

I do hereby authorize Shri Ram Kumar Tamang, W.B.C.S. (Exe.), Additional District Magistrate & District Land & Land Reforms Officer, Darjeeling to file the Affidavit in connection with above mentioned subject before the Hon'ble National Green Tribunal on behalf of the Collector & District Magistrate, Darjeeling whose signature is attested here below :



(Signature of Shri Ram Kumar Tamang)

Attested



District Magistrate,
Darjeeling.

Yours faithfully,



District Magistrate,
Darjeeling.



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" Annexure - R-2 "

Government of West Bengal
Office of the District Magistrate, Darjeeling
District Environment & Biodiversity Section
e-mail:- oc.environmentdarj@gmail.com

Memo No. 96 /Env-Bio/Darj/2024

Dated: 01/07/2024.

To,
M/s Alam Enterprises,
Panchkalguri,
P.O. & P.S. Matigara,
Dist. Darjeeling – 734 010.

Sub : Action taken report regarding.

You are aware that as per Hon'ble NGT Order vide OA No. 121/2023/E-7 dated 06/12/2023 against Stone Mining and Crusher Mill operation in Eco-Sensitive Zone (ESZ) of Mahananda Wild Life Sanctuary near Balason river, a joint inspection was done on 22/01/2024 where some anomalies were found and you were directed to stop all such activities against the environmental norms. You are directed to take action on time as per the following points :

1. Your area of operation falls under Eco-Sensitive Zone (ESZ) of Mahananda Wild Life Sanctuary near Balason river.
2. Wind breaking walls are not provided around the periphery of crusher mill.
3. At present huge quantity of stone dust was laying on the stone crusher area and unit had not made arrangement for dedicated stone dust storage room.
4. No metalled roads were available within the premises.
5. There was no permanent water sprinkling arrangement within the unit premises at all the strategic points.
6. Unit had not installed Telescopic chutes at all the belt conveyor's final discharge points.
7. Green belt should be developed in 33% of available open area (As per condition of Consent to Operate).
8. There is the possibility of dust pollution for carryover of stone dust through air due to non-compliance mentioned in Remarks 1 to 7. Dust deposition was observed on roads within the unit as well as on leaves of tree within and outside the unit premises.
9. The distance of the stone crushing unit from the protected boundary of Mahananda Wild Life Sanctuary (MWLS) on the basis of geo-coordinated (measured during this inspection) is approx 4.62 Km. as measured through Google map. Therefore, the unit falls in the ESZ of the Mahananda Wild Life Sanctuary as the ESZ boundary is 5 Km. from the protected boundary of the Mahananda Wild Life Sanctuary.

You are further directed to stop the operation of crusher plant within compliance of above points.

This should be treated as extremely urgent.


Officer-in-Charge,
Environment,
Darjeeling.

Memo No. 96/1(3) /Env-Bio/Darj/2024

Dated: 01/07/2024.

Copy forwarded for information to :

1. The Additional District Magistrate & District Land and Land Reforms Officer, Darjeeling.
2. Dr. Prasun Mandal, Assistant Environment Engineer & In-Charge, Siliguri Regional Office, West Bengal Pollution Control Board, Paribesh Bhavan, Paribahan Nagar, Matigara, Dist. Darjeeling – 734 010. You are requested to send the compliance report on the above mentioned points.
3. The C.A. to District Magistrate, Darjeeling.


Officer-in-Charge,
Environment,
Darjeeling.



Government of West Bengal
Office of the District Magistrate, Darjeeling
District Environment & Biodiversity Section
e-mail:- oc.environmentdarj@gmail.com

Memo No. 97 Env-Bio/Darj/2024

Dated: 11/07/2024.

To,
The Member Secretary,
West Bengal Pollution Control Board,
Paribesh Bhawan, 10A, Block LA,
Sector III, Bidhan Nagar,
Kolkata - 70 010

Sub : Hon'ble NGT O.A. No. 121/2023/E7 - regarding.

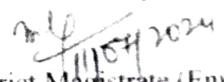
Sir,

In apropos of above mentioned subject, this is to inform you that Alam Enterprises having Consent to Operate (COP) from Sub-Divisional Officer, Siliguri vide No. 07/Gen/2020 dated 14/10/2020 for the period from 14/10/2020 to 13/10/2025, started stone crushing unit within 5 Km. of Eco-Sensitive Zone of Mahanada Wild Life Sanctuary near Balason river in Panchkalguri under Matigara Mouza of Matigara Block, Darjeeling.

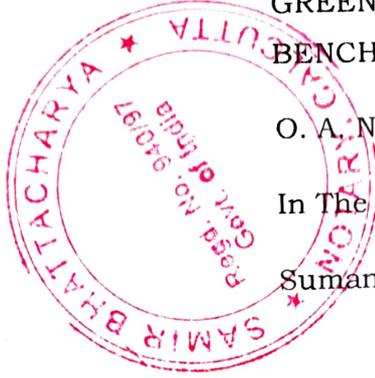
In this case, Hon'ble NGT had directed to conduct joint inspection comprising of District Magistrate Darjeeling and West Bengal Pollution Control Board being the committee members. On 22.01.2024 joint inspection was conducted and team found that the Stone Crushing Unit of Alam Enterprises is found to be located within 4.62 Km. of the M.W.L.S. within ESZ. As Hon'ble NGT directed to take action on the observation of joint inspection, a letter was issued vide Memo. No.96/Env-Bio-Darj/2024 dated 01.07.2024 from this office to stop the operation of crushing unit.

Now, as the Crusher Unit falls within 5 Km. of M.W.L.S. i.e. which Eco-Sensitive Zone I am directed to request you to issue an order cancelling Consent to Operation (COP) the said crusher unit immediately.

Yours faithfully,


Addl. District Magistrate (Env.),
Darjeeling.

BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL EASTERN ZONE
BENCH, KOLKATA



O. A. NO. 121/2023/EZ

In The Matter of:

Sumanta Ghosh

... APPLICANT

Versus

The State of West Bengal &Ors.

... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE
RESPONDENT NUMBER 08, DISTRICT
MAGISTRATE& COLLECTOR,
DARJEELING.

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

Email: subho.advocate@gmail.com

(M): 9007035534.