

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
FINANCE CENTRE, KOLKATA, WEST BENGAL
(ORIGINAL JURISDICTION)
(Application under Section 14, 15 and 18 of the National Green
Tribunal Act, 2010)
O.A. NO OF 2023/EZ

In the matter of:

M/S Ganesh Nandy

... Applicant

-Versus-

West Bengal Pollution Control Board
and others

... Respondents

PAPER BOOK

FOR INDEX PLEASE SEE INSIDE

Paushali Banerjee

Brief for:

Ms. Paushali Banerjee
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06 JAN 2023

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Original Application

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Advocate

NPS Business Centre (Ground Floor)

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Synopsis

The present applicant has been taken out impugning inter-alia the notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022 issued by the Additional District Magistrate and District Land & Land Reforms Officer, Paschim Bardhaman, whereby the applicant was directed to deposit the proportionate Environmental Compensation amount Rs. 33,33,224/- within seven days without ad-hearing to the word and spirit Order of the Hon'ble NGT, EZB on May 30, 2022 passed in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ).

EASTERN ZONE BENCH, KOLKATA
FINANCE CENTRE, KOLKATA, WEST BENGAL
(ORIGINAL JURISDICTION)

(Application under Section 14, 15 and 18 of the National Green
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List of Dates

Date	Events
2020	The original application being O.A. 80/2020/EZ (Debashish Das -Versus - West Bengal Pollution Control Board and others) was taken out complaining inter-alia the illegal sand mining activities carried out in nine (9) places mentioned in Table-A and Table-B of the original application i.e. OA 80/2020/EZ;
April 16, 2021	The Hon'ble Tribunal vide Order dated 16 th April, 2021 was pleased to constitute a committee to inspect the site in question and submit its report

	with regard to the quantity of sand illegally mined, the degradation caused to the environment and loss of revenue caused to state exchequer;
June 29, 2021	the Committee, accordingly, inspected the plots in question on 04.06.2021 and 05.06.2021 and filed it's report by way of an affidavit affirmed in OA 80/2020/EZ on June 29, 2021;
June 30, 2021	The Hon'ble National Green Tribunal, Eastern Zone Bench, vide Order dated 30-6-2021 (upon perusal of the said report of the committee) stayed all mining activities in the bank and bed of river Ajay, particularly Block Jamuria and Baraboni, Police Station Jamuria and Baraboni, District Paschim Bardhaman, West Bengal till further orders of the Tribunal and also directed the West Bengal Pollution Control Board and the committee to submit a detailed and scientific report including assessment of Environmental Compensation;
August 10, 2021 and November	Thereafter the Hon'ble Tribunal vide Order dated August 10, 2021 and November 18, 2021 again directed the committee to compute the

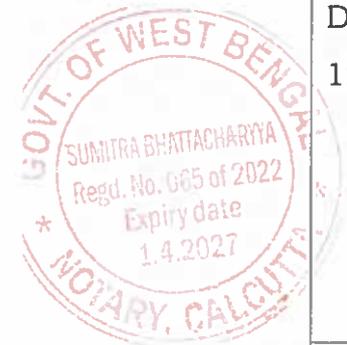


18, 2021	Environmental Compensation;
December 10, 2021	The ADM and DL & LRO, Paschim Bardhaman directed the applicant herein to deposit said Rs. 33,33,224/- as the proportionate Environmental Compensation, in the name of purported compliance of the Order of the Hon'ble NGT, EZB dated 30-6-2021 and 18-11-2021.
February 17, 2022 and April 19, 2022	The ADM and DL & LRO thereafter issued two reminder notices to that effect on 17-02-2022 and 19-04-2022;
2022	The applicant filed applications before the Hon'ble NGT, EZB being IA 133/2022/EZ and IA 134/2022/EZ in connection with oa 80/2022/EZ;
May 30, 2022	The Hon'ble NGT, EZB vide Order dated May 30, 2022 was pleased to dispose of the said application being OA 80/2020/EZ and also the above-captioned applications of applicant herein being IA 133/2022/EZ and I.A. 134/2022/EZ, inter alia, allowing the applicant to apply before the ADM and DL & LRO and by the said Order

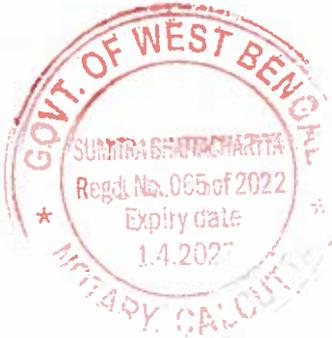


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	the ADM and DL and LRO was directed to dispose of the same after giving opportunity of hearing to the applicant.
September 6, 2022	That pursuant to the said Order passed by the Hon'ble NGT, EZB on May 30, 2022 in OA 80/2020/EZ a notice of hearing was issued by the ADM and DL & LRO in favour of the applicant on 6-9-2022 scheduling hearing on 9-9-2022;
November 22, 2022	The applicant herein participated in the said hearing and submitted his written version;
December 12, 2022	The West Bengal Pollution Control Board vide letter dated 12.12.2022 issued a letter to the District Magistrate and Collector to direct the concerned units to deposit the environmental compensation.
December 21, 2022	The ADM and DL & LRO without informing any decision regarding the outcome of the hearing conducted by him on 22-09-2022, mechanically issued a notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022, again directing the applicant to deposit the proportionate Environmental



	Compensation amount Rs. 33,33,224/- within seven days;
December 28, 2022	The applicant herein, gave a letter to the ADM and DL & LRO on 28-12-2022, praying inter alia recalling, rescind, set aside and / or quash the the said Notice of the ADM and DL & LRO vide notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022;
Till date	The same has not been considered



Before the National Green Tribunal, Eastern Zone Bench,
Kolkata
(Application under Section 14, 15 and 18 of the National
Green Tribunal Act, 2010)

(Original Jurisdiction)

O. A. /2023/EZ

In the matter of:

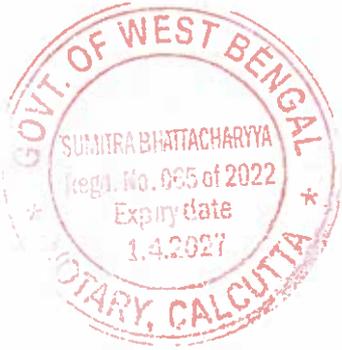
M/s Ganesh Nandy, represented by
it's sole proprietor Ganesh Nandy
having it's office at Village – Sitala,
Post Office – Asansol, District –
Paschim Bardhaman, Pin Code –
713325;

...Applicant

Versus

1. West Bengal Pollution
Control Board, service through the
Member Secretary, Paribesh
Bhavan, 10A, Block - LA, Sector-
III, Bidhan Nagar, Kolkata-700
106, West Bengal;

Email: [net.wbpcb-
wb@bangla.gov.in](mailto:net.wbpcb-
wb@bangla.gov.in)



2. The District Magistrate,
Paschim Bardhaman, Kanyapur,
Asansol, Paschim Bardhaman, Pin
– 713305, West Bengal;

Email: dm.psb-
wb@paschimbardhaman.gov.in

3. The Additional District
Magistrate –cum- District Land
and Land Reforms Officer,
Paschim Bardhaman, Kanyapur,
Asansol, Paschim Bardhaman, Pin
– 713305, West Bengal;

Email: dlropaschimbardhaman@
gmail.com;

...Respondents



I. The address of the applicant (along with the e – mail id) is given for the purpose of service of notice of the application.

II. All the addresses of the respondents (along with the e – mail id) are given for the purpose of service of notices of the application.

2020/5494/DL&LRO-PAB/22 dated 21/12/2022 issued by the Additional District Magistrate and District Land & Land Reforms Officer, Paschim Bardhaman, whereby the applicant was directed to deposit the proportionate Environmental Compensation amount Rs. 33,33,224/- within seven days without complying to the word and spirit Order of the Hon'ble NGT, EZB on May 30, 2022 passed in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ).

The humble petition of the applicant above-named most respectfully;

SHEWETH:-

1. The original application being O.A./80/2020/EZ (Debashish Das -Versus - West Bengal Pollution Control Board and others) was taken out complaining inter-alia the illegal sand mining activities carried out in nine (9) places mentioned in Table-A and Table-B of the original application which is subscribed hereunder:-

TABLE - A

(DETAILS OF TWO SAND PLOTS/SAND GHATS)

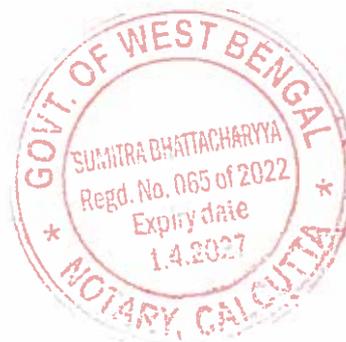
SANDGHAT/ MOUZA	BLOC K NAME	J L N	PLOT NO.	SAN D BLO	LATITUDE	LONGITUDE



		o.		CK		
DESHARMO HAN	JAMU RIA	14	583(P)	A,B, C, D.	23.4659 N 23.46346 N	87.06291E 87.06432E
PARULBERIY A	BARA BANI		2366(p)	B	23.5142N	86.585659E

TABLE - B
(ILLEGAL SAND LIFTING POINTS)

Sl. No.	Name of the place(from where the sand is being extracted illegally)	Block Name	Police Station	Latitude	Longitude
1.	CHINCHURBI LL	JAMURIA	JAMURIA	23.789N	87.099E
2.	BAHULI	JAMURIA	JAMURIA	23.804N	87.082E
3.	GOVINDPUR	JAMURIA	JAMURIA	23.809N	87.072E
4	LODA	JAMURIA	JAMURIA	23.802N	87.896E
5.	SHYAMAPUR	BARABAN I	BARABAN I	23.807N	87.031E
6.	BINDUDIH	BARABAN I	BARABAN I	23.826N	87.045E
7.	GORABAZAR	BARABAN I	BARABAN I	23.838N	87.028E



Your applicant craves the leave of Your Lordship to produce the copy of the said application, at the time of hearing, if necessary.

2. The said Original application i.e. OA 80/2020/EZ came up for hearing before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata on 16th April, 2021, when the Hon'ble Tribunal was pleased to constitute a committee comprising of the following persons:-

- i) Senior Scientist from the Central Pollution Control Board, Regional Office, Kolkata, West Bengal;
- ii) Senior Scientist from State Environmental Impact Assessment Authority, West Bengal;
- iii) District Magistrate, Paschim Bardhaman;

Hon'ble Tribunal, in the said Order was further pleased to direct the committee to inspect the site in question and submit its report with regard to the quantity of sand illegally mined, the degradation caused to the environment and loss of revenue caused to state exchequer.

The Photocopy of the Order passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata on April 16, 2021 in OA 80/2020/EZ is annexed herewith and marked as "**Annexure A**".



3. It is apparent from record that the Committee, accordingly, inspected the plots in question on 04.06.2021 and 05.06.2021 and filed it's report by way of an affidavit affirmed in OA 80/2020/EZ on June 29, 2021.

4. The following facts would be revealed from the said report filed by the committee in OA 80/2020/EZ:-

I. That under the heading "**Overall Observation**" of the said report it the committee observed conclusive evidence of sand mining activities by using heavy earth moving equipments and large trucks / dumpers in seven sand ghats out of nine mentioned in OA 80/2020/EZ;

II. That in the report the committee disclosed the name of the successful bidders of the sand ghats in question and the status therein, at the point of time, when the inspection was held.

III. In the report the name of the applicant herein was mentioned as the successful bidder in respect of Plot No. No.583 (P), in Mouza - Desher Mohan, J. L.No. 14, Police Station - Jamuria, District - Pashimbardhaman, West Bengal, measuring about 8.65 acres (herein after referred to as the "said plot").



- IV. In the report it was mentioned categorically that the possession in respect of the said plot shall be handed over to the applicant after issuance of Environmental Clearance.
- V. The committee recorded the following observations in regarding the sand ghats at Desher Mohan under Block – Jamuria:-

○ Under this area 4 (four) nos. of Sand Blocks had been identified.

○ As per records available in the District Land & Land Reforms Authority, there are individual successful Bidders for all 4 (four) Sand Blocks. Letter of Intent (LOI) was issued in favour of these blocks by District Land & land Reforms Authority. However, no lease has been issued and 'Environmental Clearance' has not been obtained by any one.

○ But it has been noticed that already mining activity has been started illegally on river bed of Ajay and temporary cause way have been constructed on riverbed upto main connecting road to facilitate movement of heavy vehicle.



The applicant craves the leave of Your Lordships to produce the said inspection report and rely and refer the same at the time of hearing.

The Photocopy of the list appended thereto (and the typed copy of the second page) of the list is annexed herewith marked as **Annexure - B.**

5. The Hon'ble National Green Tribunal, Eastern Zone Bench, in the Order dated June 30, 2021 passed in OA 80/2020/EZ recorded the overall observations made in the inspection report, filed by way of an affidavit by the respondent no. 1, affirmed on June 29, 2021 of in OA 80/2020/EZ. The Hon'ble NGT, EZB by the said Order dated June 30, 2021 was pleased to stay all mining activities in the bank and bed of river Ajay, particularly Block Jamuria and Baraboni, Police Station Jamuria and Baraboni, District Paschim Bardhaman, West Bengal till further Orders of the Tribunal. In the said Order, The Hon'ble Tribunal was pleased to direct further to the respondent no. 1, West Bengal Pollution Control Board and the committee to submit a detailed and scientific report including assessment of Environmental Compensation.

The Photocopy of the said Order dated June 30, 2021 is annexed herewith and marked as **Annexure "C"**.

6. Thereafter the Hon'ble Tribunal vide Order dated August 10, 2021 and November 18, 2021 again directed the



committee to compute the Environmental Compensation to the damage caused to the environment and the restitution of environment. In the said Order, it was directed further, to suggest the remedial measures for mitigating the environmental damages caused on account of illegal sand mining and submit a report within four weeks.

The Photocopy of the Order dated August 10, 2021 and November 18, 2021 is annexed herewith and marked as **Annexure "D"**.

7. That the applicant herein received a notice from the ADM and DL & LRO, Paschim Bardhaman on 10/12/2021, whereby 1,99,99,341/- was assessed as the environmental compensation for the illegal mining of the riverbed sand and by the said letter the surprisingly the ADM and DL & LRO directed the applicant herein to deposit Rs. 33,33,224/- as the proportionate Environmental Compensation, in the name of purported compliance of the Order of the Hon'ble NGT, EZB dated 30-6-2021 and 18-11-2021.

The photocopy of the said notice dated 10/12/2021 is annexed herewith marked as **Annexure - E**.

8. The ADM and DL & LRO thereafter issued two reminder notices to that effect on 17-02-2022 and 19-04-2022.

The photocopy of the said notices dated 17/2/2022 and 19-4-2022 is annexed herewith marked as **Annexure - F**.



9. The applicant after receiving the said notices the ADM and DL & LRO took out the following applications before the Hon'ble NGT, EZB:-

(I.A. 133/2022/EZ):

For the impleadment of the applicant in array of respondents in O.A. 80/2020/EZ;

(I.A. 134/2022/EZ):

Setting aside and / or quashing the notice issued against the applicant by the ADM and DL & LRO directing the applicant to deposit environmental compensation assessed against the applicant of Rs. 33,33,224/-.

10. The Hon'ble NGT, EZB vide Order dated May 30, 2022 was pleased to dispose of the said application being OA 80/2020/EZ and also the above-captioned applications of applicant herein being IA 133/2022/EZ and I.A. 134/2022/EZ, inter alia, allowing the applicant to apply before the ADM and DL & LRO and by the said Order the ADM and DL and LRO was directed to dispose of the same after giving opportunity of hearing to the applicant.

The photocopy of the said Judgment and Order of the Hon'ble NGT, EZB dated May 30, 2022 is annexed herewith marked with as **Annexure – G.**



11. That pursuant to the said Order passed by the Hon'ble NGT, EZB on May 30, 2022 in OA 80/2020/EZ a notice of hearing was issued by the ADM and DL & LRO in favour of the applicant on 6-9-2022.

The photocopy of the said notice of hearing dated 6-9-2022 (and the typed copy of the same) is annexed herewith marked as **Annexure - H**.

12. The applicant herein participated in the said hearing and submitted his written version on 22-9-2022, (since the respondent authorities did not pass any Order pursuant to the hearing, till that date, in which the petitioner participated and advanced his submission) pursuant to the direction given by the Hon'ble NGT, EZB vide Judgment and Order dated 30-5-2022 passed in OA 80/2020/EZ, along with all requisite documents which is inter alia is as follows:-

I. The applicant herein states that he participated in the e - auction dated 12/11/2018 for grant of mining lease in respect of sand block Jamuria / Deshermohan and became successful in respect of Plot No.583 (P), in Mouza - Desher Mohan, J. L.No. 14, Police Station - Jamuria, District -Pashimbardhaman (hereinafter referred to as the "said plot").

II. Accordingly, Letter of Intent (LOI, in short) in favour of the applicant, in respect to the said plot was



issued on 15/01/2019, upon payment of 1/3rd of the bid amount, amounting to Rs. 34,75,000/- on 02/01/2019.

III. Thereafter, the applicant engaged “YES ENVIRO SOLUTIONS”, a registered qualified person / accredited agency to fill up the 1-M Form and to prepare the Mining Plan and Pre feasibility Report.

IV. Accordingly, the mining plan was prepared by the said registered qualified person and the same was approved by the Chief Mining Officer, Government of West Bengal on 18-03-2019. The 1-M form was also duly prepared filled up.

V. The applicant, thereafter, applied for Environmental Clearance before the District level Environment Impact Assessment Authority, (DEIAA) Paschim Bardhaman as a project under category B-2, in view of EIA Notification, 2006 (as amended in 2016).

VI. The application of the applicant herein was withheld by the DEIAA, Bardhaman for a substantial period and therefore the applicant herein made representations on 20-3-2020 and again on 23-6-2020. From the said conduct of the applicant, it can be safely contended, that, the applicant herein had / has no



intention to carry out the sand mining activity illegally before issuance of EC and before execution of Mining Lease.

VII. That the ADM and DL & LRO vide letter bearing Memo No. 1031/MM/DLRO/PAB/2020 dated 02/07/2020 directed the petitioner to submit on line application afresh on PARIVESH Portal of MoEF & CC in the required format along with all the prescribed supporting documents for obtaining prior Environmental Clearance.

VIII. The applicant accordingly already submitted on line application afresh on PARIVESH Portal of MoEF & CC to obtain prior Environmental Clearance.

IX. The application of the applicant for granting Environmental Clearance is still pending before the SEIAA, West Bengal.

X. The applicant respectfully submits he is not competent to carry on any mining activity in the said plot, since only the LOI has been granted in favour of the applicant. The applicant being the law abiding citizen, neither carried out any mining activity, nor intended to do the same, in any point of time.



XI. That no iota of evidence was available to the district authority to the effect that that applicant herein was engaged in illegal mining activity.

XII. The imposition of environmental compensation upon the applicant herein is therefore arbitrary, malafide, capricious and nothing but a glaring example of colorable exercise of power. As such the notice issued against the applicant herein to that effect on 10/12/2021 is liable to be set aside.

The applicant craves the leave of Your Lordships to the produce the documents adduced with the written notes of argument at the time of hearing, if necessary.

The photocopy of the said written version as submitted by the applicant on 22-09-2022 is annexed herewith marked as **Annexure - "I"**.

13. Moreover, from the list of the miscreants engaged in illegal sand mining in the area in question, as furnished by the District Magistrate in it's affidavit filed before the Hon'ble NGT, EZB in OA 80/2020/EZ, it would be evident that the applicant herein was not found being engaged in any such illegal sand mining activity.



The photocopy of the list furnished by the District Magistrate in it's affidavit filed in OA 80/2020/EZ is annexed herewith marked as **Annexure - "J"**.

14. The West Bengal Pollution Control Board vide letter dated 12.12.2022 issued a letter to the District Magistrate and Collector to direct the concerned units to deposit the environmental compensation.

The photocopy of the said letter of the Pollution Control Board dated 12.12.2022 is annexed herewith marked as **Annexure - "K"**.

15. That there after the ADM and DL & LRO without informing any decision regarding the outcome of the hearing held on 22-09-2022, mechanically issued a notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022, again directing the applicant to deposit the proportionate Environmental Compensation amount Rs. 33,33,224/- within seven days.

The photocopy of the said Notice of the ADM and DL & LRO vide notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022 is annexed herewith marked as **Annexure - "L"**.

16. The applicant herein, in the backdrop, as stated herein above, gave a letter to the ADM and DL & LRO on 28-12-2022, praying inter alia recalling, rescind, set aside and / or quash



the said Notice of the ADM and DL & LRO vide notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022 and the same has not been heeded by the said respondent authority till date.

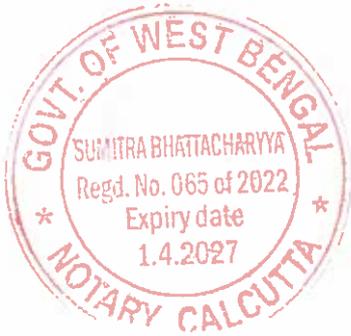
The photocopy of the letter of the applicant dated 28-12-2022 (and the typed copy of the same) is annexed herewith marked as **Annexure – “M”**.

17. The applicant herein being aggrieved by and / or dissatisfied with the said notice bearing memo no. MM/OA 80-2020/5494/DL&LRO-PAB/22 dated 21/12/2022 begs to prefer this application on the following amongst others;

Grounds

I. **Because**, the impugned notice 21/12/2022 has been issued by the respondent authorities particularly the respondent no. 3 herein without complying the word and spirit of the Order passed by the Hon'ble NGT, EZB on May 30, 2022 in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ).

II. **Because**, the respondent authority while issued the impugned notice dated 21/12/2022 acted illegally by directing the applicant to deposit the proportionate Environmental Compensation amounting to Rs. 33,33,224/- within seven days, even before concluding the hearing held by the



district authority on 22-09-2022, pursuant to the direction given by the Hon'ble NGT, EZB by it's Order dated May 30, 2022 passed in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ) and also without informing the applicant regarding the outcome of the said hearing.

III. **Because**, the respondent authority while issued the impugned notice dated 21/12/2022 acted with material irregularities by directing the applicant to deposit the proportionate Environmental Compensation amount Rs. 33,33,224/- within seven days, without adjudicating the issue raised by the applicant herein in the written version / application submitted by the applicant on 22-9-2022 pursuant to the direction given by the Hon'ble NGT, EZB by it's Order dated May 30, 2022 passed in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ).



IV. **Because**, the notice complained of dated 21/12/2022 was issued without considering the fact that there was no iota of proof to any authority, whosoever, that the applicant and / or his men, agents or employees are / were engaged in any illegal mining activity over the said plot or any plot in the area in question. The applicant cannot be held

responsible for paying environmental compensation for illegal mining activity, if any, done over a mining plot *ipso facto* on the ground that he is the highest bidder in the process of auction for granting mining lease and the holder of LOI in respect of the said plot.

V. **Because**, impugned notice dated 21/12/2022 was issued to the applicant herein without considering the fact that the applicant cannot be held responsible for illegal mining, if any, committed in the said plot in question, solely on the ground that the LOI in respect of a mining plot has been issued in his favor.

VI. **Because**, impugned notice dated 21/12/2022 has been issued without adjudicating the written version of the applicant herein, whereby the applicant categorically averred that the mere issuance of Letter of Intent in favor of the applicant neither confers any right nor gives any physical control over a mining plot. Therefore, the applicant cannot be saddled with an Order of environmental compensation even if the commission of any illegal sand mining is detected in the plot, in respect which the LOI has been issued in favor of the applicant, unless the applicant is found guilty of committing illegal mining.



VII. **Because**, the imposition of environmental compensation upon the applicant herein is therefore baseless, arbitrary, capricious and nothing but a glaring example of colorable exercise of power and the same is liable to be set aside.

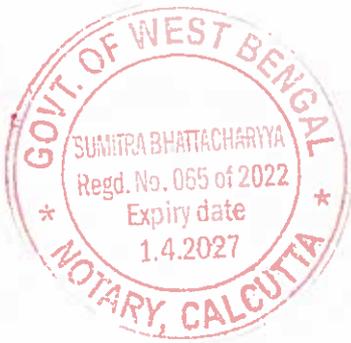
VIII. **Because** impugned notice dated 21/12/2022 was issued without considering that the materials on record even do not give birth of any preponderance of probability regarding the allegation that the applicant was engaged in any illegal sand mining in the area in question or at all.

IX. **Because**, impugned notice dated 21/12/2022 has been issued in violation to the Order passed by the Hon'ble NGT, EZB on May 30, 2022 in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ) and as such the same is liable to be quashed at once;

X. **Because**, impugned notice dated 21/12/2022 is otherwise bad in law and the same is liable to set aside.

Limitation:

The cause of action of this application arose for the first time on 21-12-2022, when the respondent no. 3 issued a notice bearing memo no. memo no. MM/OA 80-



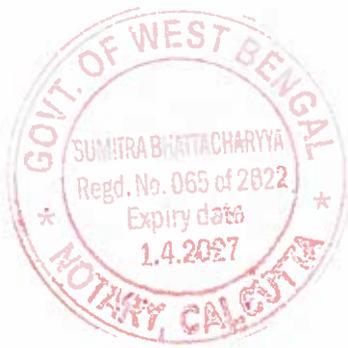
2020/5494/DL&LRO-PAB/22 dated 21/12/2022, directing the applicant to deposit the proportionate Environmental Compensation amount Rs. 33,33,224/- within seven days in utter violation to the word and spirit of the Order of the Hon'ble NGT, EZB on May 30, 2022 passed in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ). Therefore, this application has been taken out within the period of limitation.

18. The application is made bonafide and for ends of justice.

Relief:

In the premises, as aforesaid, your applicant humbly prays before Your Lordships as follows:-

(a) Pass necessary direction to the respondents more particularly the respondent no. 3 i.e. the ADM and DL & LRO, Paschim Bardhaman to recall, rescind, set aside and / or quash the notice issued against the applicant bearing memo no. MM/OA



80-2020/5494/DL&LRO-
PAB/22 dated 21/12/2022;



(b) Pass necessary direction to the respondents more particularly the respondent no. 2 and 3 to inform the applicant regarding the outcome of the hearing held on 22-9-2022 considering the written version submitted by the applicant on 22-9-2022 pursuant to the direction given Hon'ble NGT, EZB on May 30, 2022 in IA No. 133/2022/EZ & IA 134/2022/EZ (taken out in connection with OA 80/2020/EZ);

(c) Pass necessary direction to the respondents not to give any effect to and / or further effect to the notice issued by the



Interim Relief:-

respondent no. 3 bearing
MM/OA 80-
2020/5494/DL&LRO-
PAB/22 dated 21/12/2022;

(d) Pass such other
Order/ Orders, Direction /
Directions as Your Lordships
may deem fit and proper;

a) Meanwhile, pending
disposal of the original
application, direct the
respondent authorities to
stay the operation of the
impugned notice issued by
the respondent no. 3 bearing
MM/OA 80-
2020/5494/DL&LRO-
PAB/22 dated 21/12/2022;

b) An ad interim Order
may be passed in terms of
the above interim relief;

c) And/or pass such other or further order or orders as this Hon'ble Tribunal may deem fit and proper.

And for this act of kindness your applicant as in duty bound shall ever pray.

Ganesh Nandy

(Signature of Ganesh Nandy)

Rambhola Banerjee

Signature of the Advocate on Record

WB/142/2008



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
FINANCE CENTRE, KOLKATA, WEST BENGAL
(ORIGINAL JURISDICTION)

(Application under Section 14, 15 and 18 of the National Green Tribunal
Act, 2010)

O.A. NO OF 2023/EZ

In the matter of:
M/S Ganesh Nandy

... Applicant

-Versus-

West Bengal Pollution Control Board
and others

... Respondents



Verification

I, Ganesh Nandy, Son of Subodh Nandy aged about - 37 years, by faith - Hindu, by Occupation - Business, of Village - Sitala, Post Office - Asansol, District - Paschim Bardhaman, Pin Code - 713302, being the sole proprietor of the applicant being the sole proprietor of the applicant do hereby verify that the statements made in paragraphs No. 9, 10 and 12 are true to my knowledge and the statements made paragraphs Nos. 1 to 8, 11, 13, 14, 15 and 16 are true to my information as derived from the records of the case and the rest are my humble submission before this Hon'ble Tribunal and I have signed this verification on this 06th day of January, 2023 at my residence.

Ganesh Nandy

(Signature of the verifier)

Prepared in my office

Pawhali Banerjee
Advocate W.B/142/2023

Date: 06th January 2023

Place: Kolkata

S.L. No. 181/23
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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
FINANCE CENTRE, KOLKATA, WEST BENGAL
(ORIGINAL JURISDICTION)

(Application under Section 14, 15 and 18 of the National Green Tribunal
Act, 2010)

O.A. NO OF 2023/EZ

In the matter of:
M/S Ganesh Nandy ... Applicant
-Versus-
West Bengal Pollution Control Board
and others ... Respondents
Affidavit



I, Ganesh Nandy, Son of Subodh Nandy aged about - 37 years, by faith - Hindu, by Occupation - Business, of Village - Sitala, Post Office - Asansol, District - Paschim Bardhaman, Pin Code - 713302, do hereby solemnly declare and affirm as follows:-

1. That I am the sole proprietor of the applicant in this case and I am well acquainted with the facts and circumstances of the case. I am competent to swear this affidavit.
2. That the statements made in paragraphs No. 9, 10 and 12 are true to my knowledge and the statements made paragraphs Nos. 1 to 8, 11, 13, 14, 15 and 16 are true to my information as derived from the records of the case and the rest are my humble submission before this Hon'ble Tribunal

Prepared in my office Ganesh Nandy
Deponent is known to me,

Pambodh Banerjee
Advocate WB/142/2006

Identified by me;
Pambodh Banerjee
Advocate WB/142/2006

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

Sumitra Bhattacharyya
Notary

06 JAN 2023

Sumitra Bhattacharyya
Notary, Govt. of W.B.
Reed. No. 065 of 2022

Item No. 03

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No. 80/2020/EZ

Debashis Das

Applicant(s)

Versus

West Bengal Pollution Control
Board &Ors.

Respondent(s)

Date of hearing: 16.04.2021

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. Somnath Roy Chowdhury, Advocate

ORDER

1. Heard Mr. Somnath Roy Chowdhury, learned Counsel appearing for the Applicant.
2. The Applicant in this Original Application is seeking a direction to the Respondents to declare the operation of extracting or lifting of sand plots/sand ghats mentioned in Table A and Table B as illegal and unlawful and to fix the responsibility on persons carrying on such illegal mining activities in sand blocks as mentioned in the table A & B.



3. The allegation in the Application is that illegal sand mining is carried on in the river bed of river Ajay within the blocks, namely, Jamuria and Barbabniin the district of PaschimBardhaman, State of West Bengal.
4. In our opinion, matter requires consideration.
5. Issue notice to the respondents, returnable within two weeks. The Respondents shall file their response before the next date of listing.
6. It is informed by the learned Counsel for the Applicant that in another matter being O.A. No. 32/2020/EZ (AvikGoswami Vs. West Bengal Pollution Control Board &Ors.), identical questions raised arisen and this Tribunal has constituted a Committee to investigate the alleged similar activity in an area within 200-500 meters of the present site.
7. We, therefore, direct for constitution of a Committee comprising of following persons;
 - i) Senior Scientist from the Central Pollution Control Board, Regional Office, Kolkata, W.B.,
 - ii) Senior Scientist from the State Environmental Impact Assessment Authority, W.B.,
 - iii) District Magistrate, PaschimBardhaman.



8. This Committee shall inspect the site in question and submit its report with regard to quantity of sand illegally mined, the degradation caused to the environment and loss of revenue caused to the State exchequer.
9. The Committee shall also examine as to whether any mining lease or Environmental Clearance has been granted to the alleged illegal miners and if it is found that there is no mining lease granted or no Environmental Clearance has been granted to the illegal miners, the Committee shall proceed to take steps for criminal prosecution of the alleged offenders. The Committee may also assess the Environmental Compensation on account of illegal sand mining. The report of the Committee shall be submitted through an affidavit before the next date of listing.
10. **List on 11.06.2021.**

.....
B. AmitSthalekar, JM

.....
SaibalDasgupta, EM

April 16, 2021
Original Application No. 80/2020/EZ
AK



ANNEXURE

- B

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ANNEXURE F

TABLE - A

Sl. No.	Sand Ghat / Mouza	Block Name	IL No.	Plot No.	Sand Block	Latitude	Longitude
1	DESIARMOHAN	JAMURIA	14	587(P)	A,B,C,D	23.4659 N	87.06291
2	PARULBERIYA	BARABANI		2366(P)	B	23.46346 N 23.5142 N	87.06432 86.58565

TABLE - B

Sl. No.	Name of the place (from where the sand is being extracted illegally)	Block Name	Police Station	Latitude	Longitude
1	CHINCHURBILL	JAMURIA	JAMURIA	23.789 N	87.099 E
2	BAGULI	JAMURIA	JAMURIA	23.804 N	87.082 E
3	GOVINDPUR	JAMURIA	JAMURIA	23.809 N	87.072 E
4	LODA	JAMURIA	JAMURIA	23.802 N	87.896 E
5	SHYAMPUR	BARABANI	BARABANI	23.807 N	87.031 E
6	BINDUDIH	BARABANI	BARABANI	23.826 N	87.045 E
7	GORABAZAR	BARABANI	BARABANI	23.838 N	87.028 E

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ANNEXURE G														
S. No.	Name of Block	Name of House	S. No.	Plot No.	St. No. of the road/Mark	Total Area (square)	Latitude	Longitude	Plot No. (Survey)	Plot Name/Address	Full Address	Is bonded	Is secured	Present Status
1	Jamuna	Uday Mohan	10	584P1	A	0.40	23° 46' 10" N	87° 46' 30" E	58410000	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
2	Jamuna	Uday Mohan	11	584P1	B	0.40	23° 46' 10" N	87° 46' 30" E	58410001	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
3	Jamuna	Uday Mohan	12	584P1	C	0.40	23° 46' 10" N	87° 46' 30" E	58410002	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
4	Jamuna	Uday Mohan	13	584P1	D	0.40	23° 46' 10" N	87° 46' 30" E	58410003	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
5	Jamuna	Uday Mohan	14	584P1	E	0.40	23° 46' 10" N	87° 46' 30" E	58410004	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
6	Jamuna	Uday Mohan	15	584P1	F	0.40	23° 46' 10" N	87° 46' 30" E	58410005	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
7	Jamuna	Uday Mohan	16	584P1	G	0.40	23° 46' 10" N	87° 46' 30" E	58410006	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
8	Jamuna	Uday Mohan	17	584P1	H	0.40	23° 46' 10" N	87° 46' 30" E	58410007	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
9	Jamuna	Uday Mohan	18	584P1	I	0.40	23° 46' 10" N	87° 46' 30" E	58410008	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
10	Jamuna	Uday Mohan	19	584P1	J	0.40	23° 46' 10" N	87° 46' 30" E	58410009	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
11	Jamuna	Uday Mohan	20	584P1	K	0.40	23° 46' 10" N	87° 46' 30" E	58410010	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
12	Jamuna	Uday Mohan	21	584P1	L	0.40	23° 46' 10" N	87° 46' 30" E	58410011	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
13	Jamuna	Uday Mohan	22	584P1	M	0.40	23° 46' 10" N	87° 46' 30" E	58410012	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
14	Jamuna	Uday Mohan	23	584P1	N	0.40	23° 46' 10" N	87° 46' 30" E	58410013	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
15	Jamuna	Uday Mohan	24	584P1	O	0.40	23° 46' 10" N	87° 46' 30" E	58410014	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
16	Jamuna	Uday Mohan	25	584P1	P	0.40	23° 46' 10" N	87° 46' 30" E	58410015	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
17	Jamuna	Uday Mohan	26	584P1	Q	0.40	23° 46' 10" N	87° 46' 30" E	58410016	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
18	Jamuna	Uday Mohan	27	584P1	R	0.40	23° 46' 10" N	87° 46' 30" E	58410017	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
19	Jamuna	Uday Mohan	28	584P1	S	0.40	23° 46' 10" N	87° 46' 30" E	58410018	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
20	Jamuna	Uday Mohan	29	584P1	T	0.40	23° 46' 10" N	87° 46' 30" E	58410019	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.
21	Jamuna	Uday Mohan	30	584P1	U	0.40	23° 46' 10" N	87° 46' 30" E	58410020	51M ANEMANARAI	51M ANEMANARAI P.O. ANEMANARAI P.S. ANEMANARAI P.M. 711111	Yes	No	Presently with the bonded status other than bonded.



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Sl. NO.	Name of Block	Name of Mouza	J.L. No.	Plot(s) Nos.	Sl. No. of the land block	Total Area (Acers)	Latitude	Longitude	First Bid Amount	Final Successful Bidder	Full Address	LOI issued	EC issued	Present status
1.	Jamuria	Deshar Mohan	14	583(P)	A	9.44	23°46'57.9" N	87°06'29.1"E	2033000	KOILASH MAHATO	Bosuda, Post Office - Moukhira, District - Paschim Bardhaman, Pin - 731214	Yes	No	Possession Will be handed over after issuance of EC
2.	Jamuria	Deshar Mohan	14	583(P)	B	8.90	23°46'48.8" N	87°06'33.4"E	5544000	DEBNATH ENTERPRISE	Prop. Goutam Debnath, Bosuda, Post Office - Moukhira, District - Paschim Bardhaman, Pin - 731214	Yes	No	Possession Will be handed over after issuance of EC
3.	Jamuria	Deshar Mohan	14	583(P)	C	9.33	23°46'41.8" N	87°06'38.9"E	10410000	M/s GANESH NANDY	Sitala, Asansole, 713325	Yes	No	Possession Will be handed over after issuance of EC
4.	Jamuria	Deshar Mohan	14	583(P)	D	8.65	23°46'34.6" N	87°06'43.2"E	53070000	Laitu Dulta	Vill. Daspara Dubrajpur Ward No.16, District - Birbhum, Pin 731173	Yes	No	Possession Will be handed over after issuance of EC
5.	Barabani	Parulberia	1	2366 (P)	B	5.90	23°52'42.00" N	86°58'59.58"E	3540000	M/s National Traders	Prop. Parwaz Alam Sidique Naim Nagar GT Road, Binachity, Durgapur Pin-713203	Yes	No	Possession Will be handed over after issuance of EC
6.	Barabani	Chinchurbil	5	1283(P)	A	7.66	23°47'28.7" N	86°6'9.5"E	24901000	India Digital Entertainment Pvt. Ltd.	Mrs. Mina Roy (Director), J.K. Nagar Bazar, P.O. Bidhanbag, District - Paschim Bardhaman, Pin 713337	Yes	Yes	RUNNING



Item No. 04

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No. 80/2020/EZ

Debasish Das

Applicant(s)

Versus

West Bengal Pollution Control Board & Ors. Respondent(s)

Date of hearing: 30.06.2021

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. Somnath Roy Chowdhury, Advocate

For Respondent(s) : Mr. Prithwish Basu, Advocate for
Respondent No.1,
Mr. Dipanjan Ghosh, Advocate for
For Respondent No.2,
Mr. Bikas Kargupta, Advocate for
Respondent Nos. 4 & 5,

ORDER

1. Mr. Somnath Roy Chowdhury, learned Counsel is present for the Applicant.
2. Mr. Prithwish Basu, learned Counsel is present for Respondent No.1, West Bengal Pollution Control Board and Mr. Dipanjan Ghosh, learned Counsel is present for Respondent No.2, Central Pollution Control Board.
Mr. Bikas Kargupta, learned Counsel submits that he has received Vakalatnama on behalf of Respondent Nos. 4 & 5, District Magistrate, Paschim Bardhaman, and Additional District Magistrate-cum-District Land and



Land Reforms Officer, Paschim Bardhaman and will represent the said Respondents.

4. A very sketchy affidavit has been filed on behalf of the Respondent No.1, West Bengal Pollution Control Board, on 29.06.2021 sworn by a Senior Law Officer. We fail to understand as to how an affidavit has been sworn by a Law Officer and not by an Administrative Officer of senior rank who has visited the site and who is expected to file the said affidavit on the basis of his personal knowledge as well as documents on record.
5. In paragraph 5 of the said affidavit, the recommendations of the Committee have been reproduced. We have seen the observations and recommendations of the Committee which are at page nos. 83 to 85 of the paper book. The relevant observations and recommendations of the Committee's report are reproduced herein below:-

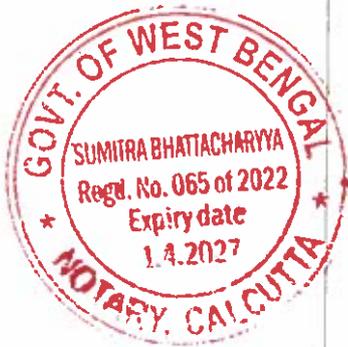
9.0	Overall observations:
	<p>1. <i>The Committee visited all the 9 sand ghats mentioned in the petition. Out of these 9 (Nine) ghats only at 2 (two) ghats (Parulberiya under Baraboni Block and Shyampur under Jamuria Block as observed at the time of inspection) it has been found that there are no conclusive evidence of sand mining being carried out.</i></p> <p>2. <i>As far s remaining 7 (seven) ghats are concerned, conclusive evidence of sand mining being carried out using heavy earth moving equipment and large trucks/dumpers was observed at all the remaining Ghats as reported above with photographs.</i></p>



3. The natural flow of water in the river has been obstructed by making pathway for heavy earth moving machines and transporting vehicles using boulders as well as solid waste from industries.
4. As far as regulatory compliance status is concerned, it has been found that the EC (Environment Clearance) has been granted for only one block (mouza-Chinchurbill, Jamuria) in the name of M/s India Digital Entertainment Pvt. Ltd. The date of possession is reported to be 16.05.2019 (copy of EC and LoI (letter of intent) are enclosed as AnnexureC).
5. At all the other blocks sand mining has been done without EC in gross violation of the Hon'ble Supreme Court order in case of Deepak Kumar Vs. State of Haryana and Hon'ble NGT order in OA 171/2013.
6. It has been reported by the District Administration that Letter of Intent (LoI) has been issued for 6 blocks (4 blocks at Deshermohan, 1 at Parulberia, 1 at Chinchurbill), the name of the final successful bidders is listed in Annexure G. The bid amount has been deposited by the success bidders too. However, the possession of the lease hold area has not been handed over by the Govt. Authority to 5 blocks excepting the block at Chinchurbill which has been obtained Environmental Clearance. So any mining on these blocks are illegal.
7. As far as the sand mining at block 1283(P), J.L. No. 05, Mouza-Chichurbill, P.S. Jamuria, District: Paschim Bardhman, West Bengal is concerned, it has obtained EC vide memo no. 1172/7/M(i)/EC/2018 dated 07/06/2018. However, it has not even submitted application for 'Consent to Establish' and 'Consent to Operate and mining is being carried out violating conditions of EC and order of the Hon'ble Courts. Some of them are tabulated below:-



Sl. No.	Conditions as laid down in EC	Present Status	Compliance Status
i.	Mining should begin only after pucca pillar demarcation the boundary of the leasehold area is erected at the cost of the lease holder after certification by mining Official and its geo coordinates are made available to the district level committee. (point no.16 of EC)	<ul style="list-style-type: none"> No such pucca pillar has been observed. No demarcation of the lease hold area has been done. 	Non compliance
ii.	To maintain safety and stability of river banks i.e. 3 meter or 10% of the width of the river whichever is more will be intact as as no mining zone. (point no.11 of EC)	<ul style="list-style-type: none"> Neither the river bank nor the lease hold area is demarcated so it cannot be assured how much sand to be left intact. <p>Taking into account the width of the river and specified non mining zone on the river bank the mining has been done in non-mining zone in violation of this conditions however the extent the violation can be done only after survey of the mining area clearly demarcating the leased hold area, mineable area, non mineable area, river bank, river bed water level etc. by the authorities concerned.</p>	Non compliance
iii.	The depth of mining in river bed shall not exceed one meter or water level which is less provided that where the joint inspection committee de certifies	In many places the mining depth appears to be much more than 3 m.	Non compliance



	about excessive deposit or over accumulation of mineral in certain reaches requiring channelization, it can go upto 3 meter on defined reaches of the river. (point no.4 of EC)		
iv.	Mining shall be done in a layer of 1 meter depth to avoid ponding effect and after forest layer is excavated, the process will be repeated for next layers. (point no. 9 of EC)	At most of the place the mining depth is more than 1 m. The excavation has been done without maintaining any layer in violation of the layer concept to prevent ponding effect.	Non compliance
v.	The EC holder shall keep a correct amount of quantity of mineral mined out, dispatch from the mines, mode of transport, registration number of vehicle and the mines plan. They should be produced before officers of Central Govt. and State for inspection. (point no.18 of EC)	No compliance report has been submitted as reported.	Non compliance
10.0 Recommendations			
<p><i>In view of the above observations and non-compliances observed, it is recommended that:</i></p> <p>10.1 The illegal sand mining activity should be immediately stopped.</p> <p>10.2 No sand mining to be allowed without proper approval from competent authority and in violation of 'Sustainable Sand Mining Management Guideline 2016' and 'Enforcement & Monitoring Guidelines for sand Mining 2020' as per rule.</p> <p>10.3 Mining being carried out violating the conditions of the Environmental Clearance should also be stopped.</p> <p>10.4 The pathway developed on riverbed should be removed and natural flow of river should be</p>			



	<p><i>restored.</i></p> <p>10.5 <i>It must be ensured by the concerned authorities that the compliance of the order of the Hon'ble Supreme Court (dated 27.02.2012 in Deepak Kumar case) and Hon'ble NGT order (dated 05.08.2013 in application no. 171/2013) are implemented to prevent illegal mining in true spirit and necessary action be taken against the wrong doers.</i></p> <p>10.6 <i>The concerned departments (i.e. District Mining Authority, District Land and Land Reforms Authority) should provide necessary information regarding the extent of illegal sand mining activity i.e. mining area, duration of mining, royalty collected & the name of the persons carrying out the activity. This information will be required for calculation of environmental compensation.</i></p> <p>10.7 <i>The loss of revenue due to illegal mining will also be recovered from the concerned offenders.</i></p>
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6. From a perusal of the Committee's report, we find that the recommendations made are general in nature and it is admitted that illegal mining is being carried out by several illegal miners. However, from the letter dated 28.12.2020 of the B.L. & L.R.O, Barabani, Paschim Bardhaman Annexure-A to the said affidavit, we find that illegal mining is also being carried out by one M/s National Traders and one Shibsankar Misra was also detected to have piled sand stock beside the Ajay river near Amulia Pump House. This report mentions that illegal sand transportation by tractors has been detected at Bindudih during various raid programmes and some



steps taken. It also mentions that there are newly built roads built unauthorisedly at Parulberia, Bindudih, Shyampur, Gourbazar at Bindudih by changing the agricultural nature of classification. These observations of the B.L. & L.R.O, Barbani, Paschim Bardhaman, do not find mention in the report of the Committee.

7. Annexure-G of the said report discloses that M/s National Traders is not in possession of 'Environmental Clearance' and yet he is carrying out the mining activity in the area in question. This means that M/s National Traders is involved in illegal sand mining.
8. In the report of the Committee as noted above, we find that none of the persons whose names have been mentioned in the chart of 'Annexure-G' at page no. 107 of the paper book, are in possession of any 'Environmental Clearance', 'Consent to Establish' and 'Consent to Operate' except M/s India Digital Entertainment Pvt. Ltd. which is in possession of Environmental Clearance, however, Consent to Establish and Consent to Operate has not been submitted which indicates that it is also carrying on the operation of sand mining illegally.
9. We, therefore, direct the Respondent No.1, West Bengal Pollution Control Board and the Committee to look into all the aspects mentioned in the preceding paragraphs



and submit a detailed and scientific report including assessment of Environmental Compensation.

10. We also direct the Respondent No.4, District Magistrate, Paschim Bardhaman, to file his personal affidavit within three weeks, providing all necessary information regarding the extent of illegal sand mining activity i.e., (1) mining area, (2) duration of mining, (3) quantity, (4) name of the persons carrying out the mining activity and (5) the loss of revenue due to illegal sand mining as this information is absolutely necessary for computation of Environmental Compensation and is also part of the recommendations of the Committee. A copy of the same may be provided to the West Bengal Pollution Control Board on behalf of the Committee for help in assessing the Environmental Compensation.
11. We further direct that the e-copy/soft copy of the affidavit shall be exchanged among various Counsel at least one week before the next date of listing.
12. Mr. Somnath Roy Chowdhury, learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures on Mr. Bikas Kargupta, learned Counsel within 24 hours.
13. Considering the report of the Committee, we direct that there shall be stay on all mining activities in the bank and bed of River Ajay, particularly block Jamuria and Barabani, Police Station Jamuria and Barabani, District-



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Paschim Bardhaman, West Bengal, till further orders of
the Tribunal.

14. **List on 10.08.2021.**

.....
B. Amit Sthalekar, JM

.....
Saibal Dasgupta, EM

June 30, 2021
Original Application No. 80/2020/EZ
AK



ANNEXURE - D 41 53

Item No. 06

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No. 80/2020/EZ
(I.A. No. 55/2021/EZ)

Debasish Das

Versus

Applicant(s)

West Bengal Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 10.08.2021

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. Somnath Roy Chowdhury, Advocate

For Respondent(s): Mr. Prithwish Basu, Advocate for R-1,
Mr. Dipanjan Ghosh, Advocate for R-2,
Mr. Bikas Kargupta, Advocate for R-4&5,
Ms. Debanjana Ray Chowdhury, Advocate
For Applicant in (I.A. No. 55/2021/EZ)

ORDER

1. Mr. Somnath Roy Chowdhury, learned Counsel is present for the Applicant.
2. Mr. Prithwish Basu, learned Counsel is present for Respondent No.1, West Bengal Pollution Control Board, Mr. Dipanjan Ghosh, learned Counsel is present for Respondent No.2, Central Pollution Control Board, Mr. Bikas Kargupta, learned Counsel is present for Respondent Nos. 4&5, State Respondents, Govt. of West Bengal, and Ms. Debanjana Ray Chowdhury, learned Counsel is present for the Applicant in I.A. No. 55/2021/EZ.
3. Affidavit of service is on record. No one is present for Respondent No.3, State Environment Impact Assessment Authority (SEIAA), West Bengal.
4. The Tribunal vide its order dated 30.06.2021 had directed the Respondent No.4, District Magistrate, Paschim Bardhaman, to file his personal affidavit providing information with regard to the extent of illegal sand mining giving details of: (1) mining area, (2) duration of mining, (3)



- quantity, (4) name of the persons carrying out the mining activity, and (5) the loss of revenue due to illegal sand mining.
5. An affidavit has been filed on behalf of the Respondent No.4, District Magistrate, Paschim Bardhaman, Govt. of West Bengal, on 06.08.2021 which is taken on record.
 6. Since the copy of the affidavit dated 06.08.2021 has been forwarded to Respondent No.1, West Bengal Pollution Control Board (Member of the Committee), we, therefore, direct the Committee to compute the Environmental Compensation to the damage caused to the environment and the restitution of the environment. The Committee shall also suggest remedial measures for mitigating the environmental damage caused on the account of illegal sand mining and submit its report within four weeks.
 7. Mr. Bikas Kargupta, learned Counsel submits that in paragraph 2 of the affidavit (at page 237 of the paper book) there is a categorical averment made that in the present case none of the mining activities are being carried on based on the DSR since no DSR has been prepared in the District of Paschim Bardhaman.
 8. We also direct the Respondent No.3, State Environment Impact Assessment Authority (SEIAA), West Bengal, to file an affidavit within the same period of time explaining as to how the Environmental Clearance was granted to M/s India Digital Entertainment Pvt. Ltd. (Applicant in I.A. No. 55/2021/EZ) when the DSR itself is not in existence for the District of Paschim Bardhaman which is in violation of the Sustainable Sand Mining Guidelines, 2016.
 9. Let the affidavit be filed within four weeks after serving e-copy/soft copy of the same upon the learned Counsel for the Applicant as well as the learned Counsel for the other Respondents.
 10. **List on 17.09.2021.**



I.A. No. 55/2021/EZ:-

1. This I.A. has been filed in the Original Application No. 80/2020/EZ by M/s India Digital Entertainment Pvt. Ltd. with the prayer to be impleaded as a Respondent in the present Original Application.
2. The contention of the Applicant in this I.A. is that he is not an illegal miner; that he has an Environmental Clearance, and that Consent to Operate or Consent to Establish is not required as there is no manufacturing activity in the sand mining blocks.
3. Mr. Somnath Roy Chowdhury, learned Counsel for the Applicant (in the Original Application), on the other hand, disputed the contention and submitted that Environmental Clearance is mandatory followed by Consent to Establish and Consent to Operate for attracting the EIA Notification 2006.
4. We, therefore, direct Mr. Somnath Roy Chowdhury, learned Counsel for the Applicant (in the Original Application) and Mr. Prithwish Basu, learned Counsel for the Respondent No.1, West Bengal Pollution Control Board, to file their objections, if any, to the I.A. No.55/2021/EZ by the next date of listing.
5. The I.A. No. 55/2021/EZ will be considered on the next date of listing i.e., on 17.09.2021.

.....
B. Amit Sthalekar, JM

.....
Saibal Dasgupta, EM

August 10, 2021
Original Application No. 80/2020/EZ
(I.A. No. 55/2021/EZ)
AK



Annexure - D (could).

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Item No. 06

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No. 80/2020/EZ
(I.A. No. 55/2021/EZ)

Debasish Das

Applicant(s)

Versus

West Bengal Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 18.11.2021

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. Somnath Roy Chowdhury, Advocate

For Respondent(s) : Mr. Prithwish Basu, Advocate for R-1 & 3,
Mr. Dipanjan Ghosh, Advocate for R-2,
Mr. Sibojyoti Chakraborty, Advocate for R-4&5,
Ms. Debanjana Ray Chowdhury, Advocate
For Applicant in (I.A. No. 55/2021/EZ)

ORDER

1. Mr. Somnath Roy Chowdhury, learned Counsel is present for the Applicant.
2. Mr. Prithwish Basu, learned Counsel is present for Respondent Nos.1 & 3, West Bengal Pollution Control Board, State Environment Impact Assessment Authority (SEIAA), West Bengal, Mr. Dipanjan Ghosh, learned Counsel is present for Respondent No.2, Central Pollution Control Board, Mr. Sibojyoti Chakraborty, learned Counsel is present for Respondent Nos. 4 & 5, State Respondents, Govt. of West Bengal, and Ms. Debanjana Ray Chowdhury, learned Counsel is present for the Applicant in I.A. No. 55/2021/EZ.
3. This Tribunal in its previous order dated 10.08.2021 had directed the Respondent No.4, District Magistrate, Paschim Bardhaman, to file his personal affidavit with regard to the illegal sand mining giving details of mining area, duration of mining, quantity, name of the persons carrying out the mining activity and the loss of the revenue due to illegal sand mining.
4. We find that there is an affidavit of Respondent No.4, District Magistrate, Paschim Bardhaman dated 06.08.2021 on record in which he has stated that all efforts were made to identify the unknown miscreants and action



was taken as per the West Bengal Minerals (Prevention of illegal mining, transportation and storage) Rules, 2002. A synopsis of the detailed status report is prepared in a tabular form corresponding to the original records and has been filed from page nos. 264 to 269 of the paper book, showing the penalties raised from them.

5. In the affidavit dated 17.11.2021 which has been filed on behalf of the Respondent No.3, State Level Environment Impact Assessment Authority (SEIAA) West Bengal, the Environmental Compensation for some of the mining blocks, other than Shyampur under Baraboni Block, has been computed but the affidavit does not disclose whether the amount of Environmental Compensation has been recovered from the illegal miners or not. It has also not been indicated as to why Environmental Compensation for Shyampur under Baraboni Block has not been computed even though in the report at page no. 82, the Committee had mentioned that in Shyampur under Baraboni Block ample conclusive evidence of illegal sand mining on the river bed being carried out was observed.
6. We, therefore, direct the Respondent No.3, SEIAA West Bengal, to file a fresh affidavit within three weeks stating clearly as to why Environmental Compensation for Shyampur under Baraboni Block has not been computed.
7. We further direct the Respondent No.4, District Magistrate, Paschim Bardhaman, to file his personal affidavit within three weeks stating what action has been taken for recovery of the Environmental Compensation from the illegal miners.
8. **List on 10.01.2022.**

I.A. No. 55/2021/EZ:

1. This I.A. has been filed by the M/s India Digital Entertainment Pvt. Ltd. with the prayer to be impleaded as Respondent in the Original Application. The contention of the Applicant in this I.A. is that he is not an illegal miner.
2. The learned Counsel for the Original Applicant as well as Mr. Prithwish Basu, learned Counsel for Respondent Nos.1&3, have no objection if the



impleadment application is allowed and M/s India Digital Entertainment Pvt. Ltd. is arrayed in the array of Respondents.

3. The I.A. No. 55/2021/EZ is accordingly allowed.
4. We direct the Applicant to implead the M/s India Digital Entertainment Pvt. Ltd. in the Original Application No. 80/2020/EZ in the array of Respondents as Respondent No.6 within 48 hours.
5. Ms. Debanjana Ray Chowdhury, learned Counsel for Respondent No.6 may file reply to the Original Application before the next date of listing.
6. Mr. Somnath Roy Chowdhury, learned Counsel shall provide e-copy/soft copy as well as hard copy of the Original Application along with all its annexures to Ms. Debanjana Ray Chowdhury, learned Counsel for the newly added Respondent No.6 within 48 hours.

.....
B. Amit Sthalekar, JM

.....
Saibal Dasgupta, EM

November 18, 2021
Original Application No. 80/2020/EZ
(I.A. No. 55/2021/EZ)
AK



ANNEXURE - E

47

অতিরিক্ত জেলা শাসক এবং জেলা ভূমি

ও
ভূমি সংস্কার আধিকারকের করণ
পশ্চিম বর্ধমান
বিবেকানন্দ সরণি, রামকৃষ্ণ মিশন, কন্যাপুর
আসানসোল, পিন - ৭১৩৩০৫
ইমেল - dlropaschimbardhaman@gmail.com



Office of the Additional District Magistrate
And

District Land & Land Reforms Officer
Paschim Bardhaman
Vivekananda Sarani, Ramkrishna Mission, Kanyapur
Asansol, PIN - 713305
Email - dlropaschimbardhaman@gmail.com

Memo No. MM/OA80-2020/ 2606 / DL&LRO-PAB/21

Date: 10.12.2021

To
M/s Ganesh Nandi
Sitla, Asansol, PIN-713302

Sub. : Recovery of Environmental Compensation for illegal extraction of riverbed sand
Ref. : Order dated 30.06.2021 and 18.11.2021 passed by the Hon'ble NGT in OA No.80/2020/EZ in
the matter of Debasis Das -Vs- WBPCB & Ors.

Whereas it has been observed by the Hon'ble National Green Tribunal (Eastern Zone) in the above referred OA in its judgment dated 30.06.2021 that illegal mining of riverbed sand was carried out by M/s National Traders and Shib Shankar Mishra from the riverbed of Ajay under the jurisdiction of Barabani block,

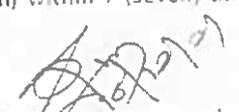
And whereas it has also been observed by the Hon'ble NGT that "Annexure-G of the said report discloses that M/s National Traders is not in possession of 'Environmental Clearance' and yet he is carrying out the mining activity in the area in question. This means that M/s National Traders is involved in illegal sand mining",

And whereas upon perusing said Annexure-G it appears that he is also a part of that list having no Environmental Clearance,

And whereas State Level Environment Impact Assessment Authority (SEIAA) has computed the Environmental Compensation due to such illegal mining of riverbed sand which comes to Rs. 1,99,99,341/- (Rupees one crore ninety nine lakh ninety nine thousand three hundred forty one only),

And whereas Hon'ble NGT has also pleased to pass an order to recover the said amount of Environmental Compensation from the illegal miners;

He is, therefore, directed to deposit a sum of Rs. 33,33,224/- (Rupees thirty three lakh thirty three thousand two hundred twenty four only) directly to the bank account of Paschim Bardhaman District Mineral Foundation (A/C No. 36986275966, IFSC : SBIN0000011, State Bank of India, Asansol Main Branch) within 7 (seven) days, failing which action will be taken as per law.


Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman

Memo No. MM/OA80-2020/ 2606 / 11 DL&LRO-PAB/21

Date: 10.12.2021

Copy forwarded to the District Magistrate, Paschim Bardhaman for favour of his kind appraisal


Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman



ANNEXURE - F 48

অতিরিক্ত জেলা শাসক এবং জেলা ভূমি

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ভূমি সংস্কার আধিকারকের করণ

পশ্চিম বর্ধমান

বিবেকানন্দ সরণি, রামকৃষ্ণ মিশন, কন্যাপুর

আসানসোল, পিন - ৭১৩৩০৫

ইমেল - dlropaschimbardhaman@gmail.com



Office of the Additional District Magistrate

And

District Land & Land Reforms Officer

Paschim Bardhaman

Vivekananda Sarani, Ramkrishna Mission, Kanyapur

Asansol, PIN - 713305

Email - dlropaschimbardhaman@gmail.com

Memo No. MM/OA80-2020/ 566 / DL&LRO-PAB/21

Date : 17/02/2022

To

M/s Ganesh Nandi

Sitla, Asansol, PIN-713302



REMINDER-I

Sub. : Recovery of Environmental Compensation for illegal extraction of riverbed sand

Ref. : (i) Order dated 30.06.2021 and 18.11.2021 passed by the Hon'ble NGT in OA No.80/2020/EZ in the matter of Debasis Das -Vs- WBPCB & Ors.

(ii) This office earlier communication vide Memo No. MM/OA80-2020/2606/ DL&LRO-PAB/21 dtd. 10.12.2021

Whereas it has been observed by the Hon'ble National Green Tribunal (Eastern Zone) in the above referred OA in its judgment dated 30.06.2021 that illegal mining of riverbed sand was carried out by M/s National Traders and Shib Shankar Mishra from the riverbed of Ajay under the jurisdiction of Barabani block;

And whereas it has also been observed by the Hon'ble NGT that "Annexure-G of the said report discloses that M/s National Traders is not in possession of 'Environmental Clearance' and yet he is carrying out the mining activity in the area in question. This means that M/s National Traders is involved in illegal sand mining.";

And whereas upon perusing said Annexure-G it appears that he is also a part of that list having no Environmental Clearance;

And whereas State Level Environment Impact Assessment Authority (SEIAA) has computed the Environmental Compensation due to such illegal mining of riverbed sand which comes to Rs. 1,99,99,341/- (Rupees one crore ninety nine lakh ninety nine thousand three hundred forty one only);

And whereas Hon'ble NGT has also pleased to pass an order to recover the said amount of Environmental Compensation from the illegal miners;

Accordingly, vide Memo under Ref. (ii), he was directed to deposit the proportionate Environmental Compensation amounting Rs. 33,33,224/-;

But till date he has not deposited the said amount.

He is, therefore, once again directed to deposit a sum of Rs. 33,33,224/- (Rupees thirty three lakh thirty three thousand two hundred twenty four only) directly to the bank account of Paschim Bardhaman District Mineral Foundation (A/C No. 36986275966, IFSC : SBIN0000011, State Bank of India, Asansol Main Branch) within 7 (seven) days, failing which action will be taken as per law.



Additional District Magistrate and
District Land & Land Reforms Officer,

Paschim Bardhaman
ADDITIONAL DISTRICT MAGISTRATE

&
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN

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Memo No. MM/OA80-2020/ 566 /1/ DL&LRO-PAB/21

Date: 17/02/2022

Copy forwarded to the District Magistrate, Paschim Bardhaman for favour of his kind appraisal.



Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman
ADDITIONAL DISTRICT MAGISTRATE
&
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN



অতিরিক্ত জেলা শাসক এবং জেলা ভূমি

ও

ভূমি সংস্কার আধিকারকের করণ

পশ্চিম বর্ধমান

বিবেকানন্দ সরণি, রামকৃষ্ণ মিশন, কন্যাপুর

আসানসোল, পিন - ৭১৩৩০৫

ইমেল - dlropaschimbarbhaman@gmail.com



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Office of the Additional District Magistrate

And

District Land & Land Reforms Officer

Paschim Bardhaman

Vivekananda Sarani, Ramkrishna Mission, Kanya

Asansol, PIN - 713305

Email - dlropaschimbarbhaman@gmail.com

Memo No. MM/OA80-2020/ 1058 / DL&LRO-PAB/21

Date : 19/04/22

To

M/s Ganesh Nandi

Sitla, Asansol, PIN-713302



REMINDER-II

Sub. : Recovery of Environmental Compensation for illegal extraction of riverbed sand

Ref. : (i) Order dated 30.06.2021 and 18.11.2021 passed by the Hon'ble NGT in OA No.80/2020/EZ in the matter of Debasis Das -Vs- WBPCB & Ors.

(ii) This office earlier communication vide Memo No. MM/OA80-2020/2606/ DL&LRO-PAB/21 dtd. 10.12.2021

(iii) This office earlier communication vide Memo No. MM/OA80-2020/566/ DL&LRO-PAB/21 dtd. 17.02.2022

Whereas it has been observed by the Hon'ble National Green Tribunal (Eastern Zone) in the above referred OA in its judgment dated 30.06.2021 that illegal mining of riverbed sand was carried out by M/s National Traders and Shib Shankar Mishra from the riverbed of Ajay under the jurisdiction of Barabani block;

And whereas it has also been observed by the Hon'ble NGT that "Annexure-G of the said report discloses that M/s National Traders is not in possession of 'Environmental Clearance' and yet he is carrying out the mining activity in the area in question. This means that M/s National Traders is involved in illegal sand mining.";

And whereas upon perusing said Annexure-G it appears that he is also a part of that list having no Environmental Clearance;

And whereas State Level Environment Impact Assessment Authority (SEIAA) has computed the Environmental Compensation due to such illegal mining of riverbed sand which comes to Rs. 1,99,99,341/- (Rupees one crore ninety nine lakh ninety nine thousand three hundred forty one only);

And whereas Hon'ble NGT has also pleased to pass an order to recover the said amount of Environmental Compensation from the illegal miners;

Accordingly, vide Memo under Ref. (ii) and (iii), he was directed to deposit the proportionate Environmental Compensation amounting Rs. 33,33,224/-;

But till date he has not deposited the said amount.

He is, therefore, once again directed to deposit a sum of Rs. 33,33,224/- (Rupees thirty three lakh thirty three thousand two hundred twenty four only) directly to the bank account of Paschim Bardhaman District Mineral Foundation (A/C No. 36986275966, IFSC : SBIN0000011, State Bank of India, Asansol Main Branch) within 7 (seven) days, failing which proceedings will be initiated under the provisions of the Bengal Public Demands Recovery Act'1913, without any further reference..



Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman

ADDITIONAL DISTRICT MAGISTRATE
&
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN

Memo No. MM/OA80-2020/ 1058 /1/ DL&LRO-PAB/21

Date: 19.04.22

Copy forwarded to the District Magistrate, Paschim Bardhaman for favour of his kind appraisal.

Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman

ADDITIONAL DISTRICT MAGISTRATE
&
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA

.....
ORIGINAL APPLICATION No. 80/2020/EZ

(I.A. No. 06/2022/EZ, I.A. No. 07/2022/EZ, I.A. No.
24/2022/EZ, I.A. No. 25/2022/EZ, I.A. No. 133/2022/EZ,
I.A. No. 134/2022/EZ, I.A. No. 135/2022/EZ, I.A. No.
136/2022/EZ, I.A. No. 137/2022/EZ, I.A. No.
138/2022/EZ, I.A. No. 157/2022/EZ & I.A.
No.158/2022/EZ)

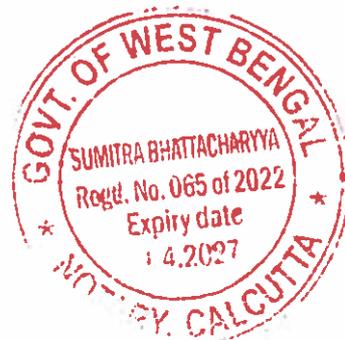
IN THE MATTER OF:

Debasish Das,
S/o Late Tarini Das,
R/o Vivekananda Sarani, Rail Vihar Colony,
Asansol, District-Paschim Bardhaman,
Pin - 713325,

....Applicant(s)

Versus

1. West Bengal Pollution Control Board,
Through Member Secretary,
Paribesh Bhavan, 10A, Block-LA, Sector-III,
Bidhan Nagar, Kolkata,
Pin - 700106,
2. The Central Pollution Control Board,
Through Member Secretary,
Paribesh Bhawan, CBD-CUM-Office Complex,
East Arjunnagar, New Delhi,
Pin - 110032,
3. The State Environment Impact Assessment Authority, W.B.
Through Member Secretary,
Pranisampad Bhaban, 5th Floor, LB-2,
Sector-III, Salt Lake, Kolkata,
Pin - 700106,



4. The District Magistrate, Paschim Bardhaman,
Kanyapur, Asansol, Paschim Bardhaman,
Pin - 713305,
5. The Additional District Magistrate cum District Land and
Land Reforms Officer, Paschim Bardhaman,
Kanyapur, Asansol, Paschim Bardhaman,
Pin - 713305,
6. M/s India Digital Entertainment Pvt. Ltd.,
....Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Somnath Roy Chowdhury, Advocate

COUNSEL FOR RESPONDENTS :

Mr. Prithwish Basu, Advocate for R-1,
Mr. Dipanjan Ghosh, Advocate for R-2,
Ms. Susmita Chatterjee, Adv. for R-3,
Mr. N.C. Bihani, Advocate a/w Mr. Sibojyoti Chakraborty, Advocate
for R-4&5,
Ms. Debanjana Ray Chowdhury, Advocate for R-6,
Ms. Paushali Banerjee, Advocate in I.As.

WITH

ORIGINAL APPLICATION No. 32/2020/EZ

(I.A. No.145/2022/EZ & I.A. No.146/2022/EZ)

IN THE MATTER OF:

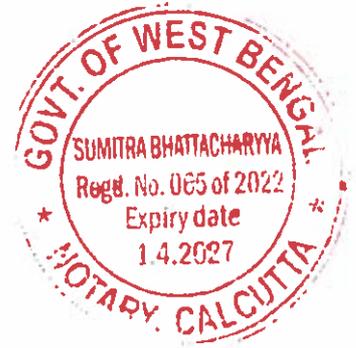
Avik Goswami,
S/o Sanatan Goswami,
R/o Dubey Para Narsingh Badh, Burnpur,
Asansol, District-Paschim Bardhaman,
Pin - 713325,

....Applicant(s)

Versus



1. **West Bengal Pollution Control Board,
Through Member Secretary,
Paribesh Bhavan, 10A, Block-LA, Sector-III,
Bidhan Nagar, Kolkata,
Pin - 700106,**
2. **The Central Pollution Control Board,
Through Member Secretary,
Paribesh Bhawan, CBD-CUM-Office Complex,
East Arjun Nagar, New Delhi,
Pin - 110032,**
3. **The State Environment Impact Assessment Authority, W.B.
Through Member Secretary,
Pranisampad Bhaban, 5th Floor, LB-2,
Sector-III, Salt Lake, Kolkata,
Pin - 700106,**
4. **The District Magistrate, Paschim Bardhaman,
Kanyapur, Asansol, Paschim Bardhaman,
Pin - 713305,**
5. **The Additional District Magistrate cum District Land and
Land Reforms Officer, Paschim Bardhaman,
Kanyapur, Asansol, Paschim Bardhaman,
Pin - 713305,**
6. **Parvez Alam,
Partner, M/s National Traders,
Old Court, Naim Nagar, G.T. Road, Durgapur,
District-Paschim Bardhaman,
Pin - 713303,**
7. **Laltu Dutta,
Partner, M/s National Traders,
Old Court, Naim Nagar, G.T. Road, Durgapur,
District-Paschim Bardhaman,
Pin - 713303,**



...Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Somnath Roy Chowdhury, Advocate a/w Ms. Arpita Chowdhury, Advocate

COUNSEL FOR RESPONDENTS :

Mr. Dipanjan Ghosh, Advocate for R-1,
Mr. Ashok Prasad, Advocate for R-2,
Ms. Susmita Chatterjee, Adv. for R-3,
Mr. N.C. Bihani, Advocate a/w Mr. Sibojyoti Chakraborty, Advocate for R-4 & 5,
Mr. Rajarshi Basu, Advocate for R-6 & 7,

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)
HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

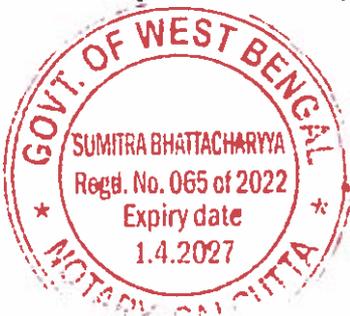
Reserved On:- 19th May, 2022
Pronounce On:- 30th May, 2022

- | | |
|---|-----|
| 1. Whether the Judgment is allowed to be published on the net? | Yes |
| 2. Whether the Judgment is allowed to be published in the NGT Reporter? | Yes |

JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

Heard the learned Counsel for the parties and perused the documents on record.

2. These two Original Applications raise common questions of law and fact and, therefore, being taken up together.
3. The Original Application No. 80/2020/EZ has been filed by the Applicant, seeking a direction to the Respondents to declare the operation of extracting or lifting of sand plots/sand ghats



mentioned in Table A and Table B as illegal and unlawful and to fix the responsibility on persons carrying on such illegal mining activities in sand blocks as mentioned in the Table A & B. The allegation of the Applicant is that illegal sand mining is being carried on in the river bed of river 'Ajay' within the Blocks, namely, Jamuria and Barbani in the District of Paschim Bardhaman, State of West Bengal.

4. In Original Application No. 32/2022/EZ the Applicant also raised the question of illegal sand mining activity on the river bed and river bank of River 'Ajay' at Parulbedia and Rosna Mouza Ghat, Village-Rosna and Parulbedia, District-Paschim Bardhaman, West Bengal, being carried on by the Respondent Nos. 6 & 7, Private Respondents. In brief, it has been alleged in paragraph 6 of the Original Application as follows:-

"6. The applicant thereafter came to know as under:-

- *The said wrongdoers i.e. the respondent nos. 6 and 7 do not have any Mining Lease for extracting minable reserve from the said area;*
- *The respondent nos. 6 and 7 are continuing the mining activity since last couple of years even without having any Environmental Clearance from the competent authority upon compliance of the necessary formalities prescribed under EIA Notification, 2006 (as amended up to date);*
- *The respondent nos. 6 and 7 are carrying out their mining activity without adopting the necessary*



measures for safeguarding the environment of the river and also to protect the uninterrupted flow of the stream of the river;

- The said wrongdoers i.e. the respondent nos. 6 and 7 are excavating sand and exploiting them commercially by selling the said sand by using illegal challans;
- The said respondent no. 6 and 7 are extracting sand beyond the permissible depth of the river bed, as prescribed under the relevant policies relating to sand mining activities;
- The said wrongdoers i.e. the said respondent no. 6 and 7 has not paid any royalty for extracting the said minor mineral i.e. sand from the aforesaid place of river Ajay;
- The said wrongdoers, i.e. the said respondent no. 6 and 7 are carrying their illegal activity of extracting sand from the river bed and river bank of river Ajay by using machineries, like, Excavator and Pokelane.
- The said wrongdoers are carrying out their activity of extracting sand without obtaining any necessary consent under Section 21 of the Air (Prevention and control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974, from the competent authority."



5. At the time of admission, this Tribunal had constituted a Committee in Original Application No. 80/2020/EZ comprising of the following Members:-

- i. *Senior Scientist from the Central Pollution Control Board, Regional Office, Kolkata, W.B.,*
- ii. *Senior Scientist from the State Environmental Impact Assessment Authority, W.B., and*
- iii. *District Magistrate, Paschim Bardhaman.*

6. The Committee was tasked to inspect the site in question and submit its report with regard to the quantity of sand illegally mined, the degradation caused to the environment and loss of revenue caused to the State exchequer. The Committee was also required to examine as to whether any Mining Lease or Environmental Clearance had been granted to the alleged illegal miners and if it is found that there is no mining lease granted or no Environmental Clearance has been granted to the illegal miners, the Committee shall proceed to take steps for criminal prosecution of the alleged offenders. The Committee was further directed to assess the Environmental Compensation on account of illegal sand mining.

7. Accordingly, the Committee has submitted its report (in Original Application No. 80/2020/EZ) which has been filed along with the affidavit of the Respondent No. 1, West Bengal Pollution Control Board dated 29.06.2021. The Overall Observations and Recommendations of the Committee read as under:-



9.0	Overall observations:
	1. <i>The Committee visited all the 9 sand ghats mentioned in the petition. Out of these 9 (Nine) ghats only at 2 (two) ghats (Parulberiya under Baraboni Block and Shyampur under</i>

Jamuraia Block as observed at the time of inspection) it has been found that there are no conclusive evidence of sand mining being carried out.

2. As far as remaining 7 (seven) ghats are concerned, conclusive evidence of sand mining being carried out using heavy earth moving equipment and large trucks/dumpers was observed at all the remaining Ghats as reported above with photographs.
3. The natural flow of water in the river has been obstructed by making pathway for heavy earth moving machines and transporting vehicles using boulders as well as solid waste from industries.
4. As far as regulatory compliance status is concerned, it has been found that the EC (Environment Clearance) has been granted for only one block (mouza-Chinchurbill, Jamuria) in the name of M/s India Digital Entertainment Pvt. Ltd. The date of possession is reported to be 16.05.2019 (copy of EC and LoI (letter of intent) are enclosed as Annexure C).
5. At all the other blocks sand mining has been done without EC in gross violation of the Hon'ble Supreme Court order in case of Deepak Kumar Vs. State of Haryana and Hon'ble NGT order in OA 171/2013.
6. It has been reported by the District Administration that Letter of Intent (LoI) has been issued for 6 blocks (4 blocks at Deshermohan, 1 at Parulberia, 1 at Chinchurbill), the name of the final successful bidders is listed in Annexure G. The bid amount has been deposited by the success bidders too. However, the possession



of the lease hold area has not been handed over by the Govt. Authority to 5 blocks excepting the block at Chinchurbill which has been obtained Environmental Clearance. So any mining on these blocks are illegal.

7. As far as the sand mining at block 1283(P), J.L. No. 05, Mouza-Chichurbill, P.S. Jamuria, District: Paschim Bardhman, West Bengal is concerned, it has obtained EC vide memo no. 1172/7/M(i)/EC/2018 dated 07/06/2018. However, it has not even submitted application for 'Consent to Establish' and 'Consent to Operate and mining is being carried out violating conditions of EC and order of the Hon'ble Courts. Some of them are tabulated below:-

Sl. No.	Conditions as laid down in EC	Present Status	Compliance Status
i.	Mining should begin only after pucca pillar demarcation the boundary of the leasehold area is erected at the cost of the lease holder after certification by mining Official and its geo coordinates are made available to the district level committee. (point no.16 of EC)	<ul style="list-style-type: none"> • No such pucca pillar has been observed. • No demarcation of the lease hold area has been done. 	Non compliance
ii.	To maintain safety and stability of river banks i.e. 3 meter or 10% of	<ul style="list-style-type: none"> • Neither the river bank nor the lease hold area 	Non compliance



	<p>the width of the river whichever is more will be intact as as no mining zone. (point no.11 of EC)</p>	<p>is demarcated so it cannot be assured how much sand to be left intact. Taking into account the width of the river and specified non mining zone on the river bank the mining has been done in non-mining zone in violation of this conditions however the extent the violation can be done only after survey of the mining area clearly demarcating the leased hold area, mineable area, non mineable area, river bank, river bed water level etc. by the authorities concerned.</p>	
iii.	<p>The depth of mining in river bed shall not exceed one meter or water</p>	<p>In many places the mining depth appears to</p>	<p>Non compliance</p>



	level which is less provided that where the joint inspection committee de certifies about excessive deposit or over accumulation of mineral in certain reaches requiring channelization, it can go upto 3 meter on defined reaches of the river . (point no.4 of EC)	be much more than 3 m.	
iv.	Mining shall be done in a layer of 1 meter depth to avoid ponding effect and after forest layer is excavated, the process will be repeated for next layers. (point no. 9 of EC)	At most of the place the mining depth is more than 1 m. The excavation has been done without maintaining any layer in violation of the layer concept to prevent ponding effect.	Non compliance
v.	The EC holder shall keep a correct amount of quantity of mineral mined out, dispatch from the mines, mode of transport, registration number of	No compliance report has been submitted as reported.	Non compliance



	<p>vehicle and the mines plan. They should be produced before officers of Central Govt. and State for inspection. (point no.18 of EC)</p>		
10.0	Recommendations		
	<p><i>In view of the above observations and non-compliances observed, it is recommended that:</i></p> <p>10.1 <i>The illegal sand mining activity should be immediately stopped.</i></p> <p>10.2 <i>No sand mining to be allowed without proper approval from competent authority and in violation of 'Sustainable Sand Mining Management Guideline 2016' and 'Enforcement & Monitoring Guidelines for sand Mining 2020' as per rule.</i></p> <p>10.3 <i>Mining being carried out violating the conditions of the Environmental Clearance should also be stopped.</i></p> <p>10.4 <i>The pathway developed on riverbed should be removed and natural flow of river should be restored.</i></p> <p>10.5 <i>It must be ensured by the concerned authorities that the compliance of the order of the Hon'ble Supreme Court (dated 27.02.2012 in Deepak Kumar case) and Hon'ble NGT order (dated 05.08.2013 in application no. 171/2013) are implemented to prevent illegal mining in true spirit and necessary action be taken against the wrong doers.</i></p> <p>10.6 <i>The concerned departments (i.e. District Mining Authority, District Land and Land</i></p>		



	<p><i>Reforms Authority) should provide necessary information regarding the extent of illegal sand mining activity i.e. mining area, duration of mining, royalty collected & the name of the persons carrying out the activity. This information will be required for calculation of environmental compensation.</i></p> <p>10.7 <i>The loss of revenue due to illegal mining will also be recovered from the concerned offenders.</i></p>
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8. From a perusal of the Committee's report, the Tribunal found that the recommendations made were general in nature. However, it was admitted that illegal mining is being carried out by several illegal miners. From the letter dated 28.12.2020 of the B.L. & L.R.O, Barabani, Paschim Bardhaman Annexure-A to the affidavit, it was found that the illegal mining is also being carried out by one M/s National Traders and one Shibasankar Misra was also detected to have piled sand stock beside the river Ajay near Amulia Pump House. This report further mentions that illegal sand transportation by tractors has been detected at Bindudih during various raids. It also mentions that there are newly built roads, built unauthorisedly at Parulberia, Bindudih, Shyampur, Gourbazar at Bindudih by changing the agricultural nature of classification. These observations of the B.L. & L.R.O, Barabani, Paschim Bardhaman, do not find mention in the report of the Committee. Annexure-G of the said Report discloses that M/s National Traders is not in possession of Environmental Clearance and yet he is carrying out the mining



activity in the area in question. This means that M/s National Traders was also involved in illegal sand mining. The report further mentions that none of the persons whose names have been mentioned in the chart of 'Annexure-G' are in possession of any Environmental Clearance, Consent to Establish or Consent to Operate except M/s India Digital Entertainment Pvt. Ltd., which is in possession of Environmental Clearance, however, Consent to Establish and Consent to Operate has not been submitted which indicates that it was also carrying on the operation of sand mining illegally.

9. The Tribunal, therefore, directed the West Bengal Pollution Control Board and the Committee to look into these aspects and submit a further detailed and scientific report including assessment of Environmental Compensation. The District Magistrate, Paschim Bardhaman, was also directed to file his personal affidavit providing necessary information regarding the extent of illegal sand mining activity with reference to:-

- (i) Mining area,
- (ii) Duration of mining,
- (iii) Quantity of mined material,
- (iv) Name of the persons carrying out the mining activity, and
- (v) Loss of revenue due to illegal sand mining.

This was required for computation of Environmental Compensation by the West Bengal Pollution Control Board.



10. In the Original Application No. 32/2020/EZ also the West Bengal Pollution Control Board has filed the Committee Report on 08.09.2020 and it is stated that during the inspection the sand block and the land adjoining the river were found submerged under water due to heavy monsoon rainfall and river Ajay was in the full spate. Road leading to the mining block was also found submerged and no mining activity was observed during the inspection and excavation machinery as mentioned in the complaint have also not seen. It is, however, stated that a stockpile of sand was observed in an area adjoining the river bank in close proximity of the identified proposed mining block indicating that sand mining activity was being undertaken previously. The Respondent Nos. 6 & 7 had claimed that the sand was purchased from outside for maintenance of the road adjoining the river. No demarcation was noticed as the entire area on the riverbed was submerged. It is further reported that the application submitted by the Respondents after being successful in the E-auction for grant of Environmental Clearance is still pending, as a consequence of an order dated 13.09.2018 in the case of Satendra Pandey Vs. Union of India & Others by which District Level Environment Impact Assessment Authority (DEIAA) was declared to be incompetent to deal with such matters. No mining lease had been executed for want of Environmental Clearance. Based on the above observations, the remarks of the Committee were as follows:-

"Remarks:



- *As per order dated 03/07/2020 issued by the District Magistrate, Paschim Bardhaman all types of riverbed sand mining activity had been suspended on & from 06th July 2020 until further Order (Annexure -I).*
- *As per record available, a Letter of Intent (LoI) with reference to e-auction was issued to the Respondent M/s. National Traders after been declared as successful bidder by the District Magistrate, Paschim Bardhaman on 15/01/2019 in plot No. 2366(P) in Mouza Parulbedia, J.L. No. 01, P.S. Baraboni over an area of 5.90 acres (2.39 hectares) (Annexure-II).*
- *Most of the land adjoining the river were found submerged due to recent heavy downpour. No sign of mining activity was observed during inspection.*
- *A stock pile of sand was observed in an area adjacent to the riverbank which the respondents claimed to have purchased from outside for maintenance of road adjoin the river.*
- *As observed from the topography of the area some parts of the land possibly been eroded and assumed to be lying under water.*
- *Photographs taken during inspection have been annexed alongwith (Annexure-III)."*

11. Thereafter, in the proceedings held on 02.12.2020 in Original Application No. 32/2020/EZ, the Counsel for the Applicant alleged that the Respondent Nos. 6 & 7 were continuing with illegal mining and, therefore, the Tribunal by its order dated 02.12.2020 directed



the Committee to verify these aspects and if the allegations are found to be correct, appropriate action be initiated against the Respondent Nos. 6 & 7 in accordance with law for such violations. In the meantime, it was also directed that there shall be no illegal sand mining in the area.

12. In the meantime, the Committee was revised and the District Magistrate, Paschim Bardhaman, along with Central Pollution Control Board were added to the Committee. The Committee submitted its report on 16.01.2021. The Observations and Remarks of the Committee Report read as under:-

<p>Observation</p>	<p><i>The present Committee visited the site. Surprise inspection was conducted. The committee walked down along the kutchra pathway from the Runakura Bridge entrance (lat23.858703, Long-86.985655) upto the entrance of diversion pathway constructed on the river bed (Lat-23.856527, Long86.987981). During inspection it was observed:</i></p> <ul style="list-style-type: none"> <i>• Although during inspection mining activity was not being carried out, but ample conclusive evidence of illegal sand mining in the river bed being carried out was observed. The inspection team had observed smoke emanating from the working excavator from the Runakura Bridge. But it appears that the perpetrator mining the sand</i>
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had observed the movement of inspection team and had left the site leaving behind the heavy earth moving equipment.

- One excavator was found on the river bank. It appeared to be used for excavating the sand from the river bed. The modus operandi of illegal sand mining appears to be excavation of sand by excavators and then loading onto trucks for transportation.
- Fresh remarks of excavator and wheel marks of big trucks were observed on the approach road on the river bank and also on the river bed in the site. Marks of excavator shovel could also be found on the river bed. Even the marks appeared to be fresh and moist which conclusively proves that illegal sand mining is being carried out.
- Pathway is being made on the river bed itself for movement of the earth moving equipment and trucks. Slag dumped on the river bed was observed which is being used for the propose.
- Slag is being dumped on the pathway to create an approach road for trucks and heavy earth moving equipment. The driver of one such truck was



	<p>questioned to which he replied that he had transported the slag for creation of the approach road.</p> <ul style="list-style-type: none"> • The geographical coordinate at the end of diversion pathway developed on the river bed is as follows: Lat23.857992, Long86.986653 This pathway is constructed in addition to the main pathway on river bed. • Local villagers were met. They informed that the sand mining activity was being carried out on a daily basis using heavy earth moving equipment and large trucks/dumpers.
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Remarks:-

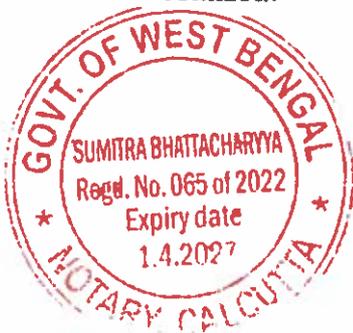
1. Surprise inspection was conducted.
2. Conclusive evidence of illegal sand mining being carried out using heavy earth moving equipment and large trucks/dumpers was observed.
3. The illegal sand mining activity should be immediately stopped. The pathway developed on river bed should be removed and natural flow of river should be restored.
4. It should be ensured that no sand mining is allowed without proper approval from competent authority as per the rules.
5. Information regarding the extent of illegal sand mining activity i.e. mining area, duration of mining, royalty collected, and the project proponents carrying out the activity should be provided the district authority and same will be required for calculation of environmental compensation.
6. Photographs taken during inspection are enclosed as annexure.



13. It is clear from the Committee's Report that illegal mining was going on, however, the Report of the Committee is silent as to what action has been taken against the illegal sand miners and whether any FIR has been lodged or whether any monetary value of the same has been calculated.

14. The West Bengal Pollution Control Board in its affidavit dated 15.01.2021 filed in Original Application No. 32/2020/EZ, has filed an Enquiry and Action Taken Report dated 14.01.2021 (page no. 100 of the paper book), wherein it is stated that amongst the raids and seizures, important are seizure of 36 loaded trucks on 22.09.2020 and realizing fine amount of Rs. 14,80,000/- (Rupees Fourteen Lakhs Eighty Thousand only) by Land and Land Reforms Department. Also a total of 4 cases have been started, 4 vehicles with loaded sand have been seized, 4 accused have been arrested and charge-sheeted.

15. Further, the Tribunal in its order dated 30.11.2021 has referred to the letter dated 23.09.2021 which has been addressed by the Block Land and Land Reforms Officer, Barabani, Paschim Bardhaman, addressed to the Sub-Inspector & I.O., Barabani P.S. (page no.116 of the paper book), wherein it has been mentioned that no Lease Deed or Environmental Clearance was executed in favour of the National Traders though unauthorized stacking of sand by the company was detected in Roshna and as per order of the ADM & DL & LRO, Paschim Bardhaman, huge penalty has been realized.



16. The Tribunal has further referred to the another letter dated 22.11.2021 (page no. 113, Annexure R-5 of the paper book), which further shows that an FIR has already been lodged against M/s National Traders by the Block Land and Land Reforms Officer, Barabani on 17.09.2021. It is also mentioned that subsequently names of Parvez Alam Siddiqui and Laltu Dutta, Respondent Nos. 6 & 7 of the Original Application, have also been included in the Criminal Case as partners of M/s National Traders. This letter further mentions that the ADM & DL & LRO has been requested to initiate an enquiry and send an estimate of the amount required for restoration of the river whereupon the Block Development Officer, Barabani, has sent an estimate of Rs. 4,96,199/- (Rupees Four Lakhs Ninety Six Thousand One Hundred Ninety Nine only) being the cost of restoration of natural flow of river.

17. Further, as the controversy involved in the Original Application No. 32/2020/EZ is identical to that of Original Application No. 80/2020/EZ both the cases were connected together vide order of the Tribunal dated 30.11.2021.

18. Mr. Somnath Roy Chowdhury, learned Counsel in both the Original Applications has referred to Table-A in para 5 of the Original Application No. 80/2020/EZ which reads as under:-

SAND GHAT/MOUZA	BLOCK NAME	JL NO	PLOT NO	SAND BLOCK	LATITUDE	LONGITUDE
DESHARMOHAN	JAMURIA	14	583(P)	A, B, C,	23.4659 N	87.06291E
				D		87.06432E



PARULBERIYA	BARBANI		2366(P)	B	23.5142N	86.585659E
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19. The learned Counsel next referred to Table-B in para 7 of the Original Application No. 80/2020/EZ which also reads as under:-

Sl. No.	Name of the place (from where the sand is being extracted illegally)	Block Name	Police Station	Latitude	Longitude
1.	CHINCHURBILL	JAMURIA	JAMURIA	23.789N	87.099E
2.	BAHULI	JAMURIA	JAMURIA	23.804N	87.082E
3.	GOVINDPUR	JAMURIA	JAMURIA	23.809N	87.072E
4.	LODA	JAMURIA	JAMURIA	23.802N	87.896E
5.	SHYAMPUR	BARABANI	BARABANI	23.807N	87.031E
6.	BINDUDIH	BARABANI	BARABANI	23.826N	87.045E
7.	GORABAZAR	BARABANI	BARABANI	23.838N	87.028E

20. The learned Counsel next referred to the Inspection Report of the Committee (page no. 77 of the paper book), wherein for Deshremohan under Jamuria Block, it is mentioned that in this area there are 4 sand blocks which have been identified but no lease has been issued and no Environmental Clearance has been obtained for any one of them. It is also mentioned that already mining activity has been started illegally on river bed of Ajay and temporary cause ways have been constructed on the riverbed upto the main connecting road to facilitate movement of heavy vehicles.

21. So far as Parulberiya under Barabani Block is concerned, it is mentioned in the Inspection Report that no lease has been issued



and no Environmental Clearance has been obtained. During inspection the area was found to be submerged under water.

22. So far as the sand sites in Table-B are concerned, the Report mentions that with regard to Chinchurbill under Jamuria Block, there is one successful bidder for the block who has obtained Environmental Clearance but Consent to Establish and Consent to Operate has not been obtained. No demarcation of lease hold area as well as river bank has been done by the unit but during inspection it has been noticed that mining activity has been started illegally on the river bed of Ajay river and causeway has been constructed.

23. Similarly, for Shyampur under Barboni Block, the Report mentions that no record was available about this sand block. Ample conclusive evidence of illegal sand mining on the river bed being carried out was observed. Causeway was constructed upto the main connecting road from the river bed for movement of heavy vehicles.

24. So far as Govindpur under Jamuria Block is concerned, the Report mentions that during inspection it was observed that no mining and/or any other related activity has been started on the river bed of River Ajay.

25. As regards Loda under Jamuria Block it was observed that there was no record available about this sand block but it has been noticed that already mining activity has been started illegally on the riverbed of Ajay river and the causeway is constructed upto the



main connecting road from the river bed for movement of heavy vehicles.

26. For the area of Baguli under Jamuria Block, it was noted that there was no record available about this Block but it has been noticed that already mining activity has been started illegally on the river bed of river Ajay and the causeway is constructed upto the main connecting road from riverbed for movement of heavy vehicles.

27. So far as Bindudih and Gourbazar under Barabani Block is concerned, it was noted that no record was available about this sand Block. Ample conclusive evidence of illegal sand mining on the river bed being carried out was observed at both the places. Causeway is constructed upto the main connecting road from riverbed for movement of heavy vehicles. Sand has been mined out dangerously near the Pumphouse.

28. The learned Counsel then referred to the affidavit dated 17.11.2021 filed by the SEIAA, West Bengal, Respondent No.3, regarding Environmental Compensation filed as Annexure-A & Annexure-B to the affidavit, (page no. 366-367 of the paper book), showing calculation of Environmental Compensation for Jamuria Block and Barabani Block for illegally mined sand. Annexure-A & B are extracted herein below:-



Annexure A

Calculation of the Environmental compensation:

The environmental compensation has been calculated in compliance to the order of the Hon'ble NGT dated 25.02.2022 in the matter OA no. 360/2015(Annexure I) where the Hon'ble Tribunal has approved Approach 2 of the report submitted by CFCB (page 15 of the order).

It is also submitted that the information regarding mineable area, duration of mining, quantity of illegally extracted sand have been provided by the District Administration enclosed as Annexure II). The market value of sand is based on the scheduled rates of PWD (Annexure III).

A. Calculation of Environmental compensation for Jamuria Block

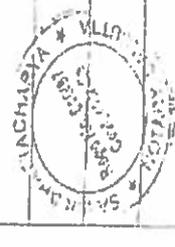
Chals	Area Plot No.	Mining area (in Acres)	Duration of mining	Illegal extracted quantity (in cubic feet)	Market value of sand per cubic feet	Market value of illegally mined material (₹)	Risk Factor (RF)	Damage rate (%)	Total ecological damage (₹=0.75)	Present Value of Ecological Damage @ 7% discounted rate over 05 years					Present value (₹)	Compensation as per Present value (₹=0)
										1 st yr	2 nd yr	3 rd yr	4 th yr	5 th yr		
Dachinraha I	581/1	0.95	1.5	150000	₹5.11	₹766500	0.50	0.25	191625	182747.6	169733.1	156414.4	143212.1	130214.8	117541.1	105011.1
Dachinraha II	-	37.24	1.5	372400	₹5.11	₹1902964	0.50	0.25	475741.0	452747.6	419733.1	386714.4	353712.1	320714.8	287711.1	
Barua	-	51.97	1.5	519700	₹5.11	₹2655667	0.50	0.25	663916.2	632747.6	589733.1	546714.4	503712.1	460714.8	417711.1	
Andhra	-	65.60	1.5	656000	₹5.11	₹3352160	0.50	0.25	838040.0	797747.6	746733.1	695714.4	644712.1	593714.8	542711.1	



Annexure B

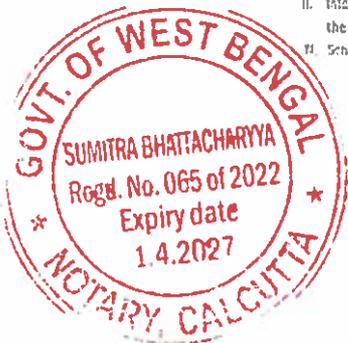
B. Calculation of Environmental compensation for Barabani Block

Chals	Area Plot No.	Mining area (in Acres)	Duration of mining	Illegal extracted quantity (in cubic feet)	Market value of sand per cubic feet	Market value of illegally mined material (₹)	Risk Factor (RF)	Damage rate (%)	Total ecological damage (₹=0.75)	Present Value of Ecological Damage @ 7% discounted rate over 05 years					Present value (₹)	Compensation as per Present value (₹=0)
										1 st yr	2 nd yr	3 rd yr	4 th yr	5 th yr		
Barabani I	1220/1	5.27	1.5	527000	₹5.11	₹2703970	0.50	0.25	675517.5	632747.6	589733.1	546714.4	503712.1	460714.8	417711.1	
Barabani II	1220/2	5.41	1.5	541000	₹5.11	₹2765510	0.50	0.25	695677.2	652747.6	609733.1	566714.4	523712.1	480714.8	437711.1	



List of enclosure:

- Page 16 of the Order of the NGT in the matter OA no. 360/2015
- Information provided by district Administration regarding mineable area, duration of mining, quantity of mined out sand have been provided by the District Administration enclosed as Annexure II
- Scheduled rate PWD rate (sand rate)



29. Mr. N. C. Bihani, learned Counsel appearing for State Respondents, Govt. of West Bengal, has referred to the affidavit filed by the SEIAA, West Bengal, Respondent No.3, dated 19.04.2022 wherein in para 5 it has been stated that since no information was provided by the District Authority regarding extent of sand mining in Shyampur, it is not possible for the Committee Members to assess the amount of Environmental Compensation even though a letter was sent by the SEIAA, West Bengal, to the District Magistrate, Paschim Bardhaman, on 24.11.2021 seeking clarification followed by a reminder dated 24.12.2021. Refuting these allegations Mr. Bihani has referred to the affidavit of the District Magistrate dated 02.05.2022, particularly para 6 thereof wherein it is stated that the District Magistrate, Paschim Bardhaman, has already replied to the SEIAA, West Bengal, on 24.12.2021 with regard to the Shyampur Block, copy of the letter has been filed as Annexure-R5 (page no. 1283 of the paper book), wherein it has been clarified that M/s RSP Green Development and Laboratories Pvt. Ltd., a firm accredited EIA Consultant, has been appointed to cause survey to find out the damage caused to the environment due to alleged illegal extraction of sand. The report submitted by M/s RSP Green Development and Laboratories PVT. Ltd. has been filed as Annexure-R10 (page nos. 1290 to 1300 of the paper book) and details of all illegal mining have been dealt with by M/s RSP Green Development and Laboratories Pvt. Ltd. at page no. 1296 of the paper book, stating therein that approximately



1500+2000 cubic feet of sand has been illegally extracted per day over a stipulated period of time from an illegally sand extraction area covering 1.36 acres/3.35 hectares. This report also mentions that FIRs have been lodged against several persons.

30. One supplementary affidavit dated 07.05.2022 has been filed on behalf of Bikalpa Traders Pvt. Ltd. in the I.A. No. 25/2022/EZ, stating therein that it has submitted an application seeking consent before the West Bengal Pollution Control Board on 13.09.201 which is still pending and it has pleaded before the State Board on 26.10.2021, 18.11.2021 and 14.12.2021 to dispose of the application of consent but till date same has not been disposed of by the Board. In our opinion, mere filing of an application will not justify any party to commence extraction of sand and such operations of extraction of sand without a valid consent from the State Board would be deemed to be illegal and liable for consequences thereof. However, in case such an application has been filed and is still pending before the State Board, the West Bengal Pollution Control Board is directed to examine the matter and decide the Application of Bikalpa Traders Pvt. Ltd. expeditiously in accordance with law.

31. So far as the computation of Environmental Compensation is concerned, proceedings of the meeting of the Members of the Committee constituted by the Tribunal have been filed as Annexure R-3 to the supplementary affidavit of the Respondent No.4, District Magistrate, Paschim Bardhaman, dated 18.05.2022, wherein it is



stated that the calculation sheet of such computation will be submitted to SEIAA as per the calculations provided by the technical members. The technical members of the Committee, namely, Scientist-D, Regional Director, CPCB, Kolkata and Assistant Environmental Engineer, West Bengal Pollution Control Board and representative of SEIAA, who are the persons having technical expertise to calculate Environmental Compensation and they will have the responsibility to compute Environmental Compensation of the Shyampur Block and submit it to the Committee for its perusal.

32. We, therefore, direct the above Technical Members to compute the Environmental Compensation for the Shyampur Block and submit it to the SEIAA, West Bengal, who, in turn, will examine the computation of Environmental Compensation for Shyampur Block and thereafter take action in accordance with law.

33. **I.A. No. 06/2022/EZ & I.A. No. 07/2022/EZ:-**

1. This I.A. No. 06/2022/EZ has been filed in the Original Application No. 80/2020/EZ by one Sudheswar Kumar, with a prayer to be impleaded in the array of Respondents.
2. This I.A. 07/2022/EZ has also been filed in the Original Application No. 80/2020/EZ by Sudheswar Kumar, with a prayer to modify the directions given in para 13 of the order dated 30.06.2021 passed in Original Application No. 80/2020/EZ and suspend the operation of the directions of the District Magistrate and Collector, Paschim Bardhaman,



34. I.A. No. 24/2022/EZ & I.A. No. 25/2022/EZ:-

1. This I.A. No. 24/2022/EZ has been filed in the Original Application No. 80/2020/EZ by one Bikalpa Traders Pvt. Ltd, with a prayer to be impleaded in the array of Respondents.
2. This I.A. 25/2022/EZ has also been filed in the Original Application No. 80/2020/EZ by Bikalpa Traders Pvt. Ltd, with a prayer to modify the directions given in para 13 of the order dated 30.06.2021 passed in Original Application No. 80/2020/EZ and stay the operation of the directions of the District Magistrate and Collector, Paschim Bardhaman, dated 02.07.2021 and permit the applicant herein to continue his sand mining activity at Sand Block Birkulti with respect to sand Block ID: Jamuria/Birkulti/2065/C Plot No. 2065 measuring an area of 7.38 acres.
3. We find that this Tribunal by its order dated 30.06.2021 had directed that there shall be a stay on all mining activities in the bank and bed of river 'Ajay' particularly Jamuria and Barbani Blocks, District Paschim Bardhaman till further orders of the Tribunal.
4. In our opinion, since several cases of illegal extraction of sand has been confirmed by the Committee in its report which has also been reproduced herein above, we only provide that the Applicant in the I.A. may apply to the District Magistrate, Paschim Bardhaman, with all his documents including Lease Deed, Environmental Compensation, Consent to Establish and Consent to Operate and other necessary documents as may be

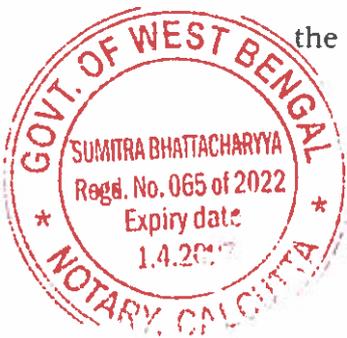


required by the District Magistrate, Paschim Bardhaman and if such documents are filed with the District Magistrate, Paschim Bardhaman within 15 days, the District Magistrate shall examine those documents in the light of the Report of the Committee and after giving an opportunity of hearing to the Applicant in the I.A., M/s Bikalpa Traders Pvt. Ltd., shall pass appropriate orders on his application in accordance with law.

5. With the aforesaid directions, the I.A. No. 24/2022/EZ and I.A. No. 25/2022/EZ are accordingly disposed of.

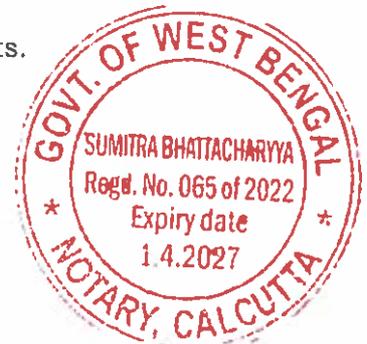
35. **I.A. No. 133/2022/EZ & I.A. No. 134/2022/EZ:-**

1. This I.A. No. 133/2022/EZ has been filed in the Original Application No. 80/2020/EZ by one M/s Ganesh Nandy, with a prayer to be impleaded in the array of Respondents.
2. This I.A. 134/2022/EZ has also been filed in the Original Application No. 80/2020/EZ by M/s Ganesh Nandy, with a prayer to stay the operation of the directions of the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, being Memo No. MM/OA80-2020/566/DL&LRO-PAB/21 dated 17.02.2021 wherein out of the total Environmental Compensation amounting to Rs. 1,99,99,341/-, the Applicant herein is required to deposit a sum of Rs. 33,33,224/- towards Environmental Compensation.
3. We find that this Tribunal by its order dated 30.06.2021 had directed that there shall be a stay on all mining activities in the bank and bed of river 'Ajay' particularly Jamuria and



Barbani Blocks, District Paschim Bardhaman till further orders of the Tribunal.

4. In our opinion, since several cases of illegal extraction of sand has been confirmed by the Committee in its report which has also been reproduced herein above, we only provide that the Applicant in the I.A. may apply to the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, with all his documents including Lease Deed, Environmental Compensation, Consent to Establish and Consent to Operate and other necessary documents as may be required by the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, and if such documents are filed with the District Magistrate, Paschim Bardhaman within 15 days, the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, shall examine those documents in the light of the Report of the Committee and after giving an opportunity of hearing to the Applicant in the I.A., M/s Ganesh Nandy, shall pass appropriate orders on his application in accordance with law.
5. With the aforesaid directions, the I.A. No. 133/2022/EZ and I.A. No. 134/2022/EZ are accordingly disposed of.
36. **I.A. No. 135/2022/EZ and I.A. No. 136/2022/EZ:-**
1. This I.A. No. 135/2022/EZ has been filed in the Original Application No. 80/2020/EZ by one Koilash Mahato, with a prayer to be impleaded in the array of Respondents.



2. This I.A. 136/2022/EZ has also been filed in the Original Application No. 80/2020/EZ by Koilash Mahato, with a prayer to stay the operation of the directions of the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, being Memo No. MM/OA80-2020/2604/DL&LRO-PAB/21 dated 10.12.2021 wherein out of the total Environmental Compensation amounting to Rs. 1,99,99,341/-, the Applicant herein is required to deposit a sum of Rs. 33,33,224/- towards Environmental Compensation.
3. We find that this Tribunal by its order dated 30.06.2021 had directed that there shall be a stay on all mining activities in the bank and bed of river 'Ajay' particularly Jamuria and Barbani Blocks, District Paschim Bardhaman till further orders of the Tribunal.
4. In our opinion, since several cases of illegal extraction of sand has been confirmed by the Committee in its report which has also been reproduced herein above, we only provide that the Applicant in the I.A. may apply to the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, with all his documents including Lease Deed, Environmental Compensation, Consent to Establish and Consent to Operate and other necessary documents as may be required by the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman and if such documents are filed with the Additional District



Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, within 15 days, the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, shall examine those documents in the light of the Report of the Committee and after giving an opportunity of hearing to the Applicant in the I.A., Koilash Mahato, shall pass appropriate orders on his application in accordance with law.

5. With the aforesaid directions, the I.A. No. 135/2022/EZ and I.A. No. 136/2022/EZ are accordingly disposed of.

37. **I.A. No. 137/2022/EZ and I.A. No. 138/2022/EZ:-**

1. This I.A. No. 137/2022/EZ has been filed in the Original Application No. 80/2020/EZ by one M/s Debnath Enterprise, with a prayer to be impleaded in the array of Respondents.
2. This I.A. 138/2022/EZ has also been filed in the Original Application No. 80/2020/EZ by M/s Debnath Enterprise, with a prayer to stay the operation of the directions of the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, being Memo No. MM/OA80-2020/2605/DL&LRO-PAB/21 dated 10.12.2021 wherein out of the total Environmental Compensation amounting to Rs. 1,99,99,341/-, the Applicant herein is required to deposit a sum of Rs. 33,33,224/- towards Environmental Compensation.
3. We find that this Tribunal by its order dated 30.06.2021 had directed that there shall be a stay on all mining activities in



the bank and bed of river 'Ajay' particularly Jamuria and Barabani Blocks, District Paschim Brdhaman till further orders of the Tribunal.

4. In our opinion, since several cases of illegal extraction of sand has been confirmed by the Committee in its report which has also been reproduced herein above, we only provide that the Applicant in the I.A. may apply to the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, with all his documents including Lease Deed, Environmental Compensation, Consent to Establish and Consent to Operate and other necessary documents as may be required by the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman and if such documents are filed with the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, within 15 days, the Additional District Magistrate and District Land and Land Reforms Officer, Paschim Bardhaman, shall examine those documents in the light of the Report of the Committee and after giving an opportunity of hearing to the Applicant in the I.A., M/s Debnath Enterprise, shall pass appropriate orders on his application in accordance with law.
5. With the aforesaid directions, the I.A. No. 135/2022/EZ and I.A. No. 136/2022/EZ are accordingly disposed of.
38. **I.A. No. 157/2022/EZ and I.A. No. 158/2022/EZ:-**



1. This I.A. No. 157/2022/EZ has been filed in the Original Application No. 80/2020/EZ by one M/s Chandra Enterprise, with a prayer to be impleaded in the array of Respondents.
2. This I.A. 158/2022/EZ has also been filed in the Original Application No. 80/2020/EZ by M/s Chandra Enterprise, with a prayer to modify the directions given in para 13 of the order dated 30.06.2021 passed in Original Application No. 80/2020/EZ and suspend the operation of the directions District of the Magistrate and Collector, Paschim Bardhaman, being Memo No. 123/1(6)/2021/VII-5/C dated 07.07.2021 and permit the applicant herein to continue his sand mining activity in respect of an area of 8.27 acres (3.35 hectares) in Plot No. 2780(P), Sand Block Jamuria/Semalya/2780(P)/E of Mouza-Semalya, Police Station-Pandaveswar, District Paschim Bardhaman.
3. We find that this Tribunal by its order dated 30.06.2021 had directed that there shall be a stay on all mining activities in the bank and bed of river 'Ajay' particularly Jamuria and Barbani Blocks, District Paschim Bardhaman till further orders of the Tribunal.
4. In our opinion, since several cases of illegal extraction of sand has been confirmed by the Committee in its report which has also been reproduced herein above, we only provide that the Applicant in the I.A. may apply to the District Magistrate, Paschim Bardhaman, with all his documents including Lease Deed, Environmental Compensation, Consent to Establish and



Consent to Operate and other necessary documents as may be required by the District Magistrate, Paschim Bardhaman and if such documents are filed with the District Magistrate, Paschim Bardhaman within 15 days, the District Magistrate shall examine those documents in the light of the Report of the Committee and after giving an opportunity of hearing to the Applicant in the I.A., M/s Chandra Enterprise, shall pass appropriate orders on his application in accordance with law.

5. With the aforesaid directions, the I.A. No. 157/2022/EZ and I.A. No. 158/2022/EZ are accordingly disposed of.

39. So far as Original Application No. 32/2020/EZ is concerned, we may advert to the Inspection Report of an inspection carried out on 25.11.2020 which has already been reproduced herein above. The Committee has found conclusive evidence of illegal sand mining being carried out by using heavy earth moving equipments and large trucks/dumpers. The report of the Committee being silent with regard to action taken against the illegal sand miners, therefore, the West Bengal Pollution Control Board was required to file a fresh action taken report. In response the said Respondent has referred to the Deputy Commissioner of Police, WZ. Asansol-Durgapur, Enquiry and Action Taken Report dated 14.01.2021 (copy of which has been filed at page no. 100-101 of the paper book), mentioning therein that amongst the raids and seizures, important seizure of 36 loaded trucks on 22.09.2020 and realizing fine of Rs. 14,80,000/- by Land and Reforms Department. Also a



total of 4 cases have been started, 4 vehicles with loaded sand have been seized, 4 accused have been arrested and charge-sheeted.

40. The West Bengal Pollution Control Board has also referred to the letter dated 22.11.2021 (page no. 113-114 of the paper book) filed along with the Board's affidavit dated 26.11.2021, which further discloses that FIR has been lodged against M/s National Traders by the Block Land and Land Reforms Officer, Barbani, on 17.09.2021 and that the names of Respondent Nos. 6 & 7 of the Original Application have also been included in the Criminal Case as partners of M/s National Traders. This letter also mentions that the Block Development Officer, Barbani has been requested to initiate an enquiry and submit an estimate of the amount required for restoration of the river whereupon the Block Development Officer, Barbani has sent an estimate of Rs. 4,96,199/- (Four Lakhs Ninety Six Thousands One Hundred Ninety Nine only) being the cost of restoration of the natural flow of water. The relevant extract of the letter of the District Magistrate and Collector, Paschim Bardhaman dated 22.11.2021 is reproduced herein under:-

- i) *"B.L. & L.R.O. Barabani was requested to lodge F.I.R. against the offenders. Accordingly, an F.I.R. has been lodged against M/s National Traders by the Block Land and Land Reforms Officer, Barabani on 17.09.2021. Subsequently names of Pervez Alam Siddiqui and Ialtu Dutta, respondent no. 6 and 7 of the instant O.A., have been included in that case as partners of M/s National Traders by the B.L.&L.R.O. Barabani vide his memo no. 803/BL&LRO/Barabani dt. 23.09.2021 and 914/BL&LRO/Barabani dt. 08.10.2021.*



- ii) Block Development Officer, Barabani was requested vide memo no. O.A. 32/1750/A.D.M & D.L. & L.R.O.-PAB/2021 dated 16/09/2021 to cause an enquiry and send an estimate duly vetted by the appropriate authority of the amount being required for restoration of the river. Block Development Officer, Barabani, sent an estimate of Rs. 4,96,199/- (Rupees Four Lakh Ninety Six Thousand Only Hundred Ninety Nine), duly vetted by the Assistant Engineer Samagra Shiksha Mission, being the cost of restoration of natural flow of river. Accordingly, B.D.O. Barabani has been instructed vide memo no. O.A.32/MM/2320/A.D.M. & D.L. & L.R.O.-PAB/2021 dated 18/11/21 to take necessary measures for restoration of natural flow of river.
- iii) Regarding assessment of environmental compensation, as this office has no enough expertise and competency, the Senior Environment Engineer and In-charge of Asansol Regional Office, WBPCB was requested vide memo no. O.A.32/1749/A.D.M. & D.L. & L.R.O.- PAB/2021 dated-16/09/21, to made necessary arrangement for assessment of environmental compensation and communicate to this end. No reply has been received till date."

41. **I.A. No. 145/2022/EZ:-**

1. This I.A. has been filed in the Original Application No. 32/2020/EZ by the Respondent No.6, Parvez Alam Siddiqui, praying for recall of the order dated 07.04.2022 passed in Original Application No. 32/2020/EZ and adjourning the final hearing of the Original Application on the ground that the Applicant has filed WPA No. 20788/2021 before the Hon'ble Calcutta High Court, challenging the validity and legality of the assumption of jurisdiction by the National Green Tribunal.



2. In the said WPA No. 20788 of 2021 before the Hon'ble Calcutta High Court, the following grounds have been taken:-

- (i) *"That the National Green Tribunal has not been vested with powers under the laws to entertain petition in the nature of Public Interest Litigation.*
- (ii) *That the National Green Tribunal has not been vested with powers under the Laws specified in Schedule-I of the National Green Tribunal Act, 2010 to adjudicate matters relating to mines and Minerals (Development & Regulation) Rules, 1957.*
- (iii) *That there is a clear violation of the principle of Natural Justice."*

3. The prayer in the I.A. is for recall of the order of the Tribunal dated 07.04.2022 passed in Original Application No. 32/2020/EZ and adjourn the final hearing of the Original Application till adjudication of FMA/338/2022 by the Hon'ble Calcutta High Court.

4. In para 6 of the I.A. it is stated that being aggrieved by and/or dissatisfied with the solemn order dated 03.01.2022 passed in WPA/20788/2021, an appeal being FMA/338/2022 has been preferred before the Hon'ble High Court, Calcutta and the same is still pending for adjudication before the Hon'ble Division Bench having appropriate determination.

42. A similar **I.A. No. 146/2022/EZ** has been filed by the Respondent No.7, Mr. Laltu Dutta, disclosing the same facts regarding filing of the Writ Petition in the Hon'ble Calcutta High Court on the same prayer that the Tribunal may recall its order dated 07.04.2022 and adjourn the final hearing of the Original

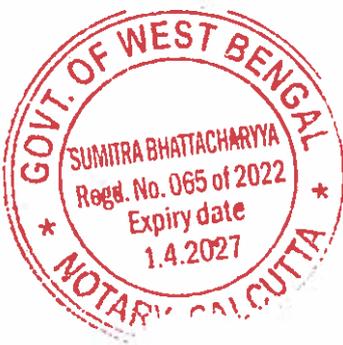


Application No. 32/2022/EZ till final adjudication of FMA/324/2022 by the Hon'ble Calcutta High Court.

43. The West Bengal Pollution Control Board in its affidavit dated 26.11.2021 filed in Original Application No. 32/2020/EZ has filed the copy of the order passed by the Hon'ble Single Judge of the Calcutta High Court in WPA No. 20690 of 2021. The issue before the Hon'ble Calcutta High Court in the said Writ Petition was with regard to mining activity which is involved in the present case and it was argued that in terms of the Ministry of Environment, Forests and Climate Change Notification dated 14.09.2006, particularly Schedule-I thereof under Clause 1(1)(1a), Environmental Clearance is not necessary as the Petitioner's LOI is only in respect of 5 hectares of land. The submission made by the learned Counsel for the West Bengal Pollution Control Board before the Hon'ble Single Judge have also been noted. The relevant extract of the order dated 06.01.2022 passed in WPA No. 20690 of 2021 is extracted herein below:-

"It appears from the records of the case in O.A. 32 of 2020 before the NGT that the matter was heard over a long period of time. The WBPCB has conducted an inspection on 9th June, 2020 of all sand mining leases in the area in question i.e., on the banks of the river Ajay River at Dubrajpur in Birbhum District. The petitioner was personally present in course of such inspection. The writ petitioner has admittedly and illegally mined in the area that was subject matter before the NGT.

Applying the Second Proviso of Order 9, Rule 13 of the Code of Civil Procedure 1908, this Court is of the view



that the writ petitioner cannot take the plea of having been condemned unheard when he was at all material times aware of the said proceeding occurring before the NGT and the subject matter thereof.

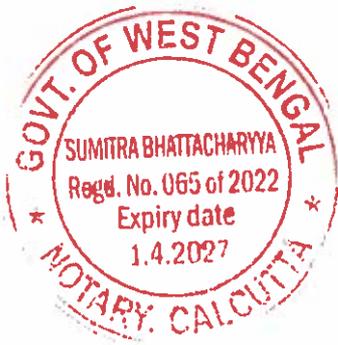
The decision in the case of Sarup Singh (*supra*) and Harshad C. Modi (*supra*) have no manner of application in the facts of the case.

The reference to O.A. 80 of 2020/EZ in the order dated December 10, 2021 is therefore a typographical error. Similar and extract orders have also been passed by the NGT in OA 32/2020/EZ which has been suppressed by the petitioner. Various orders passed in OA 32 have been placed before and scrutinized by, this Court. The writ petitioner ought to have been dismissed on the said ground alone.

On the question of the requirement of EC, it appears from the decision of the Hon'ble Supreme Court in the case of **Deepak Kumar (Supra)**, particularly paragraphs 29 thereof that even sand mining leases below 5 hectares are required to obtain environmental clearance. Admittedly, the writ petitioner never had any environmental clearance. The decision in **Deepak Kumar (Supra)**, delivered in the year 2016 is subsequent to the notification of the MoEF of the year 2006 referred to by the writ petitioner.

The challenge to locus of the private respondent/applicant is not sustainable. The Tribunal has recorded in the order dated 9th June, 2020 that a substantial question relating to environment has been raised requiring intervention. The requirement of Section 14(1) of the NGT Act, 2010 is therefore fulfilled. Therefore, it cannot be argued that proceeding in the Tribunal was a PIL or could not have been entertained. The decision in the cases of A.R. Antulay (*supra*) and Balwant Singh (*supra*) have no manner of application in the instant case.

Given the fact that a sand mining is being continued by the petitioner, albeit after issuance of a Letter of Intent



but without any sand mining lease having been executed with the State, is itself a very serious crime.

Having considered the gamut of facts, in the instant case, this Court, under Article 226 of the Constitution, is not inclined to interfere with the imposition of penalty passed in OA 32/2020/EZ. This court does not find any serious infirmity in the procedure adopted by the NGT. It is clear before this Court based on the documents handed over by the parties that the petitioner had at all material times notice of the said proceedings. the writ petitioner did not even have a lease executed in his favour by the State. He is a rank trespasser and is guilty of stealing the Natural Resources of the State. The petitioner is just a common criminal convicted by a competent forum.

The writ petition is, therefore, dismissed.

Mr. Rajarshi Basu, who is led by Mr. Sandip Kumar Bhattacharyya, learned counsel for the petitioner submits that after the order dictated that his client is desirous of appearing before the NGT and to seek leniency.

The Additional District Magistrate and District Land & Land Reforms Officer, Paschim Bardhaman shall, therefore, not take any coercive measures against the petitioner only until January 10, 2022.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

44. In para 6 of the I.A. No. 146/2022/EZ, it is stated that being aggrieved by and/or dissatisfied with the solemn order dated 06.01.2022 passed in WPA/20690/2021, an appeal being FMA 324/2022 has been preferred before the Hon'ble High Court, Calcutta and the same is still pending for adjudication before the Hon'ble Division Bench having appropriate determination.



45. We may address the three issues raised in both the I.A. No. 145/2022/EZ and I.A. No. 146/2022/EZ hereinafter:-

46. **Issue No.(A):- That the National Green Tribunal has not been vested with powers under the laws to entertain petition in the nature of Public Interest Litigation:-**

This issue is no longer, *res-integra*, having been settled by the Hon'ble Supreme Court in (2021) SCC Online SC 897 being Civil Appeal No. 12122-12123 of 2018 (Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Others). Para 35 to 40 of the judgment read as under:-

“35. The NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no-one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns. Such a society centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for the NGT, when faced with exigencies requiring immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice.

36. It would be procedural hairsplitting to argue (as it has been) that the NGT could act upon a letter being written to it, but learning about an environmental exigency through any other means cannot trigger the NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated.

37. When the Registry of the NGT does indeed receive a communication or letter, including matters published in



media, it may cause to initiate suo motu action by inviting attention of NGT to such matters in the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist the NGT in the course of hearing and to substantiate the factual matters. It must also be said that the exercise of suo motu jurisdiction does not mean eschewing with the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders.

38. One could admit to the argument of danger of suo motu jurisdiction, if the NGT was acting outside its domain. But when it is legitimately working within the contours of its statutory mandate and with procedural safeguards clarified above in play, the nature of the trigger itself viz. a letter or a 'suo motu' initiation, cannot be the basis to curtail the role and responsibility of the specialized forum.

39. Institutions which are often addressing urgent concerns gain little from procedural nitpicking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation.

Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. We must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective.

40. Let us now hark back to the dialogues of the two protagonists, in *Waiting for Godot*, the play written by Samuel Beckett with which, we started this judgment. At the end of the deliberations, we find ourselves saying that the National Green Tribunal must act, if the exigencies so demand, without indefinitely waiting for the metaphorical Godot to knock on its portal. The preceding discussion



advises us to answer the pointed question in the affirmative. It is accordingly declared that the NGT is vested with suo motu power in discharge of its functions under the NGT Act."

47. Issue No.(B):- That the National Green Tribunal has not been vested with powers under the laws specified in Schedule-I of the National Green Tribunal Act, 2010 to adjudicate matters relating to Mines and Minerals (Development and Regulations) Act, 1957:-

'Environment' has been defined in Section 2(a) of the Environment (Protection) Act, 1986 which reads as under:-

"2. Definitions

In this Act, unless the context otherwise requires, -

(a) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;"

'Environment' has also been defined in Section 2 (1)(c) of the National Green Tribunal Act, 2010 which reads as under:-

"2. Definitions

(1) In this Act, unless the context otherwise requires,-

(c) "environment" includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property."



However, with the passage of time the Hon'ble Supreme Court through its judgments has expanded the scope of the meaning of environment to include subsoil, **spectrum band, frequency bands** of mobile towers etc.

48. We may advert to the provisions of Section 14 of the National Green Tribunal Act, 2010 which reads as under:-

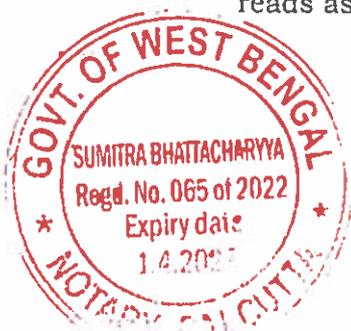
"14. Tribunal to settle disputes.-(1) The shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settled such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose;

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

49. Sub-section (1) of the Act, 2010 clearly provides that the Tribunal shall have jurisdiction over the civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved and such question arises out of the implementation of the enactments specified in Schedule-I to the Act, 2010. Schedule-I of the Act, 2010 reads as under:-



SCHEDULE-I

- (1) *The Water (Prevention and Control of Pollution) Act, 1974;*
- (2) *The Water (Prevention and Control of Pollution) Cess Act, 1977;*
- (3) *The Forest (Conservation) Act, 1980;*
- (4) *The Air (Prevention and Control of Pollution) Act, 1981;*
- (5) *The Environment (Protection) Act, 1986;*
- (6) *The Public Liability Insurance Act, 1991;*
- (7) *The Biological Diversity Act, 2002.*

50. The enactments enshrined in Schedule-I deal specifically with cases of pollution caused to water, air, forest, land etc. The jurisdiction of the Tribunal under the Act, 2010 is of a limited nature and extends only to regulate the environmental norms as prescribed in the above enactments of Schedule-I. Environmental pollution whether caused to air, water, forest, land or relating to degradation of environment by way of destruction of landscape or otherwise, falls within the domain and jurisdiction of the Tribunal. It is immaterial whether the degradation of environment is caused by mining of major or minor minerals, as the case may be, or felling of trees or by whatever means, if the environmental degradation or pollution is noticed whether it be of air, including noise pollution or water pollution, the jurisdiction of the Tribunal to interfere to remedy such environmental degradation or pollution would extend. The Tribunal cannot concern itself with the enforcement of rights or violations of the provisions of the Mines and Minerals (Development and Regulations) Act, 1957. How the licence for mining should be granted; for what period it should be granted or how it should be regulated does not fall



within the domain and jurisdiction of the Tribunal but if pollution is caused to the environment due to excessive mining resulting in environmental degradation and destruction of land or soil including sub-soil or air or water bodies, the jurisdiction of the Tribunal would be attracted.

51. The Tribunal has from time to time interfered in matters relating to illegal mining which has also come to the notice of the Hon'ble Supreme Court and the Hon'ble Supreme Court had issued directions for implementation of the directions given by the Tribunal in respect of imposition of penalty/determining the scale of compensation for illegal mining and for strict implementation of the Sustainable Sand Mining Guidelines, 2016 and the Enforcement and Monitoring Guidelines for Sand Mining, 2020.

52. Reference may be made to the judgment of the Hon'ble Supreme Court passed in SLP (Civil) No. 10587 of 2016 (Bajri Lease Holders Welfare Society through its President Vs. The State of Rajasthan & Others) with SLP (Civil) No. 10670 of 2019. Paragraphs 13 to 20 of the judgment read as under:-

"13. In spite of the order passed by this Court on 16.11.2017 that no river sand shall be permitted unless a scientific replenishment study is completed and EC is granted, 194 mining leases of Khatedari lands have been granted in the State of Rajasthan, with most of these lands being in close proximity of the river banks of the State. 114 Khatedari leases are within a distance of 100 metres or less from the river bank and only 23 Khatedari



leases have been granted beyond a distance of 5 km from the river bank. The CEC has stated in its report that the agricultural lands do not have deposits of quality sand suitable for construction, being a mixture of sand, silt and clay. The Khatedars have been exploiting the locational proximity to the river banks by excavating sand from the river bed, instead of restricting the mining to their leasehold areas, completely in violation of the mining plan. The quantity of sand is in excess of the permissible limit which is transported by being shown as having been mined in the Khatedari lands. The CEC has commented upon the involvement of sand mafia in the trade of sand illegally mined by the Khatedars as well as the involvement of authorities in the State of Rajasthan. Therefore, the CEC has recommended the cancellation of all Khatedari leases located within 5 km from the river banks as well as those leases where violation of lease conditions including misuse of e-ravannas are detected. The CEC further recommended that no fresh Khatedari leases shall be granted, except for Palaeo deposits, without the approval of this Court.

14. Section 23C of the MMDR Act empowers the State Governments to make rules for preventing illegal mining, transportation and storage of minerals. This Court in **Deepak Kumar** (supra) directed the State Governments / Union Territories to formulate rules in accordance with the Model Guidelines. Pursuant to the directions issued by this Court and the National Green Tribunal ("NGT"), the Sustainable Sand Mining Management Guidelines, 2016 were issued ("**2016 Sand Mining Guidelines**"). The responsibility for implementation of the said Guidelines was placed on the State Governments which had to create a mechanism to measure the mined-out mineral and its transportation and also to ensure that the amount of mineral mined does not exceed the quantity permitted in the EC. The 2016 Sand Mining Guidelines recommended use of Transport Permits with bar codes,



for generation of reports showing the daily lifting of sand and user performance reports. Transport Permits with bar codes would also enable vehicles carrying sand to be tracked from source to destination. Dissatisfied with the ineffective monitoring mechanism, failure of the Mines Surveillance System as well as lack of an effective institutional monitoring mechanism not only at the stage of the grant of EC but at subsequent stages with respect to illegal sand mining, the NGT, in an order dated 05.04.2019 in **National Green Tribunal Bar Association v. Virender Singh** in OA No. 360 of 2015 and connected matters, directed the MoEFCC and the State Governments to review extant monitoring mechanisms and consider revision of the 2016 Sand Mining Guidelines. Consequently, the MoEFCC issued the 2020 Sand Mining Guidelines.

15. The damage caused to the environment due to rampant unscientific illegal mining needs no reiteration. Unabated illegal mining has resulted in the emergence of sand mafia who have been conducting illegal mining in the manner of organized criminal activities and have been involved in brutal attacks against members of local communities, enforcement officials, reporters and social activists for objecting to unlawful sand excavation. The statistics provided by the State Government highlights the magnitude of the problem as about 2411 FIRs have been registered in relation to illegal mining in the State of Rajasthan, between 16.11.2017 and 30.01.2020. When this Court has restrained 82 mining lease / quarry holders from carrying on mining of sand and bajri unless a scientific replenishment study is completed and EC is issued by the MoEFCC, the State of Rajasthan ought not to have issued mining leases in favour of the Khatedars. It is clear from the report of the CEC that the majority of the Khatedari leases are within 100 metres from the river bed. The 2020 Sand Mining Guidelines prescribe that mining plan for mining leases on Khatedari lands shall



only be approved if there is a possibility of replenishment of the mineral or when there is no possibility of river bed mining within 5 km of the patta land /Khatedari land. Agreeing with the CEC's conclusions on the issue of mining leases in Khatedari lands facilitating legalisation of transportation and sale of illegally extracted sand, we approve the recommendation of the CEC that all Khatedari leases which are located within 5 km from the river bed and those leases where lease conditions have been violated have to be terminated forthwith and that Khatedari leases shall be granted only with the permission of this Court.

16. The CEC has recommended imposition of exemplary penalty of Rs.10 lakh per vehicle and Rs.5 lakh per cubic metre of sand seized, which would be in addition to what has already been ordered/collected by the State agencies as compensation. Compensation/penalty to be paid by those indulging in illegal sand mining cannot be restricted to the value of illegally-mined minerals. The cost of restoration of environment as well as the cost of ecological services should be part of the compensation. The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

17. The scale of compensation by those who are involved in illegal mining has been dealt with by the NGT in **National Green Tribunal Bar Association v. Virender Singh** (supra). In its order dated 26.02.2021, the NGT considered and approved the Report submitted by the Central Pollution Control Board dated 30.01.2020, in



pursuance of its earlier orders, on scale of compensation to be recovered for violation of norms for mining on "Polluter Pays" principle. Additionally, para 9.2 of the 2020 Sand Mining Guidelines provides as follows:

"The environmental damages incurred or resulting due to illegal mining shall be assessed by a committee constituted by District Administration having expertise from relevant fields, and also having independent representation of locals and State Pollution Control Board. Guidelines for assessment of ecological damages prescribed by the State Government or Concerned Pollution Control Boards or any other authority shall be applicable and compensation as fixed shall be paid by the project proponent, in light of Hon'ble National Green Tribunal orders."

18. Section 21(5) of the MMDR Act empowers the State Government to recover the price of the illegally-mined mineral, in addition to recovery of rent, royalty or tax. The penalty recommended by the CEC for illegal sand mining is in addition to the penalty that can be imposed by the State Government in terms of Section 21(5) of the Act. However, the basis for imposition of exemplary penalty of Rs. 10 lakh per vehicle and Rs. 5 lakh per cubic metre of sand has not been stated by the CEC in its report. The CEC is directed to follow the directions given by the NGT in respect of imposition of penalty/determining scale of compensation for illegal mining and the provisions of the 2020 Sand Mining Guidelines and determine the penalty / compensation afresh and submit a report to this Court within a period of eight weeks from today.

19. The recommendations made by the CEC, except recommendation 'J', are approved for implementation forthwith. IA No. 29984 of 2021 and IA No. 54981 of 2021 are disposed of.



20. SLP (C) No. 10587 of 2019 and SLP (C) No. 10670 of 2019 are directed to be listed after eight weeks."

53. In (2012) 4 SCC 629; Deepak Kumar Vs. Union of India, the Hon'ble Supreme Court has issued extensive directions regarding regulation of mining of minor minerals. Paragraphs 22 to 29 of the judgment reads as under:-

"20. The report clearly indicates that operation of mines of minor minerals needs to be subjected to strict regulatory parameters as that of mines of major minerals. It was also felt necessary to have a re-look to the definition of "minor" minerals per se. The necessity of the preparation of "comprehensive mines plan" for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged and the same be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines.

21. Further, it was also recommended that States, Union Territories would see that mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of mined out areas. Mining Plan should take note of the level of production, level of mechanisation, type of machinery used in the mining of minor minerals, quantity of diesel consumption, number of trees uprooted, export and import of mining minerals, environmental impact, restoration of flora and host of other matters referred to in 2010 rules. A proper framework has also to be evolved on cluster of mining of minor mineral for which there must be a Regional Environmental Management Plan. Another important decision taken was that while granting of mining leases by the respective State Governments, location of any eco-fragile zone(s) within the



impact zone of the proposed mining area, the linked Rules/Notifications governing such zones and the judicial pronouncements, if any, need to be duly noted.

22. The Minister for (E & F) wrote DO letter dated 1st June, 2010 to all the Chief Ministers of the States to examine the report and to issue necessary instructions for incorporating the recommendations made in the report in the Mineral Concession Rules for mining of minor minerals under Section 15 of Mines and Mineral (Development and Regulation) Act, 1957. Following are the key recommendations re-iterated in the letter:

- (1) Minimum size of the mine lease should be 5 ha.
- (2) Minimum period of mine lease should be 5 years.
- (3) A cluster approach to mines should be taken in case of smaller mine leases operating currently.
- (4) Mine plans should be made mandatory for minor minerals as well.
- (5) A separate corpus should be created for reclamation and rehabilitation of mined out areas.
- (6) Hydrogeological reports should be prepared for mining proposed below ground water table.
- (7) For riverbed mining, leases should be granted stretchwise, depth may be restricted to 3m/water level, whichever is less, and safety zones should be worked out.
- (8) The present classification of minerals into major and minor categories should be re-examined by the Ministry of Mines in consultation with the States."

23. The Ministry of Mines, Govt. of India sent a communication No.296/7/2000/MRC dated 16.05.2011 called "Environmental Aspects of Quarrying and of Minor Minerals - Evolving of Model Guidelines" along with a draft



model guidelines calling for inputs before 30. 06. 2011. Draft rules called Minor Minerals Conservation and Development Rules, 2010 were also put on the website. Further, it may be noted Section 15(1-A)(i) of the Act specifies:-

"15. (1-A)(i) the manner in which rehabilitation of flora and other vegetation, such as trees, shrubs and the like destroyed by reasons of any quarrying or mining operations shall be made in the same area or in any other area once selected by the State Government, (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the persons holding the quarrying or mining lease."

24. We are of the view that all State Governments / Union Territories have to give due weight to the above mentioned recommendations of the MoEF which are made in consultation with all the State Governments and Union Territories. Model Rules of 2010 issued by the Ministry of Mines are very vital from the environmental, ecological and bio-diversity point of view and therefore the State Governments have to frame proper rules in accordance with the recommendations, under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957.

25. Quarrying of river sand, it is true, is an important economic activity in the country with river sand forming a crucial raw material for the infrastructural development and for the construction industry but excessive in-stream sand and gravel mining causes the degradation of rivers. Instream mining lowers the stream bottom of rivers which may lead to bank erosion. Depletion of sand in the streambed and along coastal areas causes the deepening of rivers which may result in destruction of aquatic and riparian habitats as well. Extraction of alluvial material as already mentioned from within or near a streambed has a direct impact on the stream's physical habitat characteristics.



26. We are of the considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long term rational and sustainable use of natural resource base and also the bio-assessment protocol. Sand mining, it may be noted, may have an adverse effect on bio-diversity as loss of habitat caused by sand mining will effect various species, flora and fauna and it may also destabilize the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48A, Article 51A(g) read with Article 21 of the Constitution.

27. The State of Haryana and various other States have not so far implemented the above recommendations of the MoEF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short term permits by way of auction of minor mineral boulders, gravel, sand etc., in the river beds and elsewhere of less than 5 hectares. We, therefore, direct to all the States, Union Territories, MoEF and the Ministry of Mines to give effect to the recommendations made by MoEF in its report of March 2010 and the model guidelines framed by the Ministry of Mines, within a period of six months from today and submit their compliance reports.

28. Central Government also should take steps to bring into force the Minor Minerals Conservation and Development Rules 2010 at the earliest. State Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the



Ministry of Mines, Govt. of India. Communicate the copy of this order to the MoEF, Secretary, Ministry of Mines, New Delhi, Ministry of Water Resources, Central Government Water Authority, the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the Departments concerned.

29. We, in the meanwhile, order that leases of minor mineral including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from the MoEF. Ordered accordingly.”

54. Following the judgment of the Hon'ble Supreme Court in Deepak Kumar (Supra), the Tribunal has also issued similar directions in Original Application No. 186 of 2016 (Satendra Pandey Vs. Ministry of Environment, Forests and Climate Change & Others). Para 22 of the judgment reads as under:-

“22. For all these reasons, we direct that the procedure laid down in the impugned Notification be brought in consonance and in accord with the directions passed in the case of Deepak Kumar (supra) by (i) providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling under Category B-2 at par with Category B-1 by SEAC/ SIEAA as well as for cluster situation wherever it is not provided; (ii) Form-1M be made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for Public Consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA; (iii) if a cluster or an individual lease size exceeds 5 ha the EIA/EMP be made applicable in the process of grant of prior environmental clearance; (iv) EIA and/or EMP be prepared for the entire cluster in terms of recommendation 5 (supra) of the Guidelines for the purpose of recommendations 6, 7 and 8 thereof; (v) revise



the procedure to also incorporate procedure with respect to annual rate of replenishment and timeframe for replenishment after mining closure in an area; (vi) the MoEF&CC to prepare guidelines for calculation of the cost of restitution of damage caused to mined-out areas along with the Net Present Value of Ecological Services forgone because of illegal or unscientific mining.”

The judgment of the Deepak Kumar (Supra) and the judgment of the Tribunal have already been referred to in para 14 of the judgment of the Hon'ble Supreme Court in the case of Bajri Lease Lol Holders Welfare Society (Supra).

55. For reasons aforesaid, we are of the view that the provisions of Mines and Minerals (Development and Regulations) Act, 1957 neither trench upon nor inhibit nor fetter the powers of the Tribunal to examine questions relating to environmental destruction or damage or degradation resulting from excessive mining and also ensuring strict implementation of the judgment of the Hon'ble Supreme Court in Deepak Kumar (Supra).

56. **Issue No.(C):- That there is a clear violation of the principle of Natural Justice:-**

In our opinion, as would be clear from the Inspection Report environmental violations by Respondent Nos. 6 & 7, have been established. We may point out, that so far as criminal proceedings having been initiated against the Respondent Nos. 6 & 7 are concerned, the question of

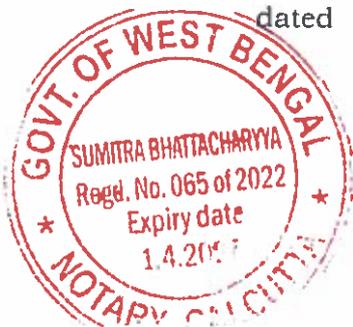


violation of principles of Natural Justice do not arise since the said Respondents will have adequate opportunity to defend themselves during the criminal trial, the charge-sheet have already been filed.

57. So far as computation and imposition of Environmental Compensation is concerned, it is always open for the Respondent Nos. 6 & 7 along with the aggrieved miners to approach the concerned District Magistrate, who shall consider their individual grievances and thereafter proceed further for recovery of Environmental Compensation, if any, only after hearing the parties including the Respondent Nos. 6 & 7. While computing Environmental Compensation, the Competent Authority shall bear in mind the observations made in para 15, 16, 17 & 18 of the judgment of the Hon'ble Supreme Court in Bijri Lease Holders Welfare Society (Supra).

58. Mr. Rajarshi Basu, learned Counsel further submitted that the Tribunal should not proceed with the hearing of Original Application No. 32/2020/EZ since the two appeals of the Respondent Nos. 6 & 7 stated to have arisen from the judgment of the learned Single Judge dated 06.01.2022 against the dismissal of the two Writ Petitions of the said Respondents, are pending before the Hon'ble Calcutta High Court.

59. Learned Counsel for the Respondents have placed before us an order of the Division Bench of the Hon'ble Calcutta High Court dated 05.05.2022 to show that the appeals are pending



before the Hon'ble Division Bench. We may, however, note that so far neither Mr. Rajarshi Basu, the Counsel for the Respondent Nos. 6 & 7, nor the Counsel for the other Respondents or even the Counsel for the Applicant have pointed out to us that any interim order has been passed by the Hon'ble Division Bench in the pending appeals, restraining the Tribunal from proceeding with the hearing of the matter. No interim order has been referred to or placed before us either by Mr. Rajarshi Basu or by the learned Counsel for the Applicant.

60. Further, since the Environmental Compensation for Shyampur under Barabani Block was not computed earlier, the District Magistrate, Paschim Bardhaman as well as the Member Secretary, SEIAA, vide affidavits both dated 19.05.2022, have calculated the Environmental Compensation for Shyampur under Barabani Block which reads as under:-

Annexure I

Calculation of the Environmental compensation: The environmental compensation has been calculated in compliance in the order of the Hon'ble Division Bench dated 26.05.2022, with relation to O.A. No. 162/2019/Annexure I, where the method adopted has been Approach 2 of the report submitted by FWC (Page 10 of the order).

It is also submitted that the information regarding acreage area, location of mining, quantity of baryte extracted and have been provided by the District Administration on 19.05.2022 in Annexure II. The market value of land is based on the following rates of FWC (Annexure III).

A. Calculation of Environmental compensation for Shyampur under Barabani Block in connection with case No. O.A. No. 162/2019/2022

Sl. No.	Block	Area (Ha)	Depth (m)	Legal status	Market value of land per acre	Market value of supply of baryte per ton	RWA factor (%)	Other factor (%)	Total weightage factor (%)	Present value of baryte production @ 1% Acre/ha/annum over 25 years					Present value (PV)	Compensation amount (INR)
										1 st yr	2 nd yr	3 rd yr	4 th yr	5 th yr		
1	Barabani	122	3.63	111.75/acre	111.75/acre	111.75/acre	0.50	100	75.9375	1 st yr	2 nd yr	3 rd yr	4 th yr	5 th yr	30,24,113	2,53,73,333

1. Page 11 of the Order of the NGT in the case O.A. No. 162/2019/2022.
 2. Information provided to District Administration regarding area, location of mining, quality of baryte etc. It has been provided by the District Administration on 19.05.2022 in Annexure II.
 3. To be used for calculation of compensation.


 (Member Secretary)
 West Bengal State Environmental Pollution Control Board, WB
 Kolkata-700 071
 Date: 19.05.2022
 (Member Secretary)



61. For reasons aforesaid, the Original Application No. 80/2020/EZ and the Original Application No. 32/2020/EZ are accordingly disposed of with the following directions:-

- (i) The District Magistrate, Paschim Bardhaman, is directed to ensure that no further cases of illegal mining takes place in his District and strict vigil be maintained.
- (ii) The District Magistrate, Paschim Bardhaman, is further directed to ensure installation of CCTV cameras at strategic areas, GPS enabled trucks used for transportation of sand from legal sand mining so that tracking and monitoring of the same can be achieved.
- (iii) The West Bengal Pollution Control Board shall also keep a strict vigil on illegal sand mining in the area.
- (iv) The Environmental Compensation as assessed for the Barabani, Jamuria and Shyampur Blocks of Paschim Bardhaman District may be recovered by the West Bengal Pollution Control Board within a period of one month.

62. The I.A. No. 145/2022/EZ and I.A. No. 146/2022/EZ are also disposed of accordingly.

63. There shall be no order as to costs.

.....
B. AMIT STHALEKAR, JM

.....
SAIBAL DASGUPTA, EM



114

~~123~~

Kolkata,

May 30th, 2022,

Original Application No. 80/2020/EZ

(I.A. No. 06/2022/EZ, I.A. No. 07/2022/EZ, I.A. No. 24/2022/EZ,

I.A. No. 25/2022/EZ, I.A. No. 133/2022/EZ, I.A. No. 134/2022/EZ,

I.A. No. 135/2022/EZ, I.A. No. 136/2022/EZ, I.A. No. 137/2022/EZ,

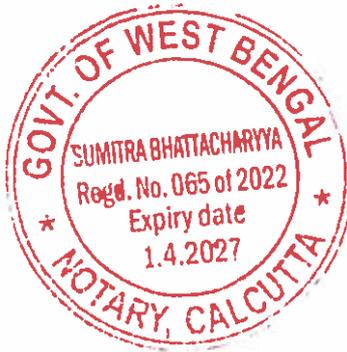
I.A. No. 138/2022/EZ, I.A. No. 157/2022/EZ & I.A.No.158/2022/EZ)

With

Original Application No. 32/2020/EZ

(I.A. No.145/2022/EZ & I.A. No.146/2022/EZ)

AK





কৃত্রিম মন্ত্রণালয়
অতিরিক্ত সচিব
স্বরাষ্ট্র মন্ত্রণালয়, কলকাতা
কলকাতা-৭০০০৩২
ফোন - ২৩৩৩৩৩৩৩
ইমেইল - dlrpsb@paschimbarhman@gmail.com

Memo No. AM/DCASO 2020/ 349/VI/TULRNO-PAR/21

Date: 06/09/2022

- | | |
|--|---|
| 1. Debendra Bhattacharya
(Prop. Gouram Debbarthi)
Bansalia, PO Bhadrak, Dist Paschim Bardhaman, PIN 713314 | 4. Late Debia
Vill. Daspara, Hrirajpur, Ward No. 18, Dist. Hrisham PIN 711123 |
| 2. M/s Kalyan Singh
Sils. Asansol, PIN 713302 | 5. M/s National Traders
(Prop. Parwez Alam Siddiqui)
Main Road, GT Road, Benachity, Durgapal 713203 |
| 3. Naveen Mishra,
Bansalia, PO Bhadrak, Dist Paschim Bardhaman, PIN 713314 | 6. Shri Shankar Mishra
S/o M.C. Mishra
Kalyanpur Housing, Asansol PIN 713302 |

Sub: Hearing on 09.09.2022 at 3:30 PM in compliance with solemn order dated 30.05.2022 passed by the Hon'ble NGT in OA No. 80/2020 (EZ)

In compliance with the solemn order dated 30.05.2022 passed by the Hon'ble NGT in OA No. 80/2020 (EZ) in the matter of Debendra Bhattacharya - Vs - WBPCB & Ors., a hearing will be held on 09.09.2022 at 3:30 PM in the office chamber of the office of the Officer.

All concerned parties are requested to remain present on the scheduled date and time.

[Signature]
Additional District Magistrate and
District Land & Land Reforms Officer
Paschim Bardhaman
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN

Memo No. AM/DCASO 2020/ 349/VI/TULRNO-PAR/21

Date: 06/09/2022

Copy for reference to
1. District Magistrate, Paschim Bardhaman for review of his kind approval
2. To Environmental Engineer, WBPCB, Asansol Regional Office for information with a request to designate competent representative to attend on-site during hearing.



[Signature]
Additional District Magistrate and
District Land & Land Reforms Officer,
ASANSOL
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN

Typed copy

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Office of the Additional District Magistrate
And
District Land & Land Reforms Officer
Paschim Bardhaman
Vivekananda Sarani, Ramkrishna Mission,
Kanyapour, Asansol, PIN-713305
Email : dlropaschimbardhaman@gmail.com

Memo No. MM/OA80-2020/3498/DL&LRO-PAB/21

Date : 06.09.2022

To

1. Debnath Enterprise
(Prop. Goutam Debnath)
Basudha, PO Moukhira,
Dist. Paschim Bardhaman
PIN-731214.
2. M/S Ganesh Nandi
Sitla, Asansol, PIN-713302.
3. Koilash Mahato
Basudha, PO Moukhira,
Dist. Paschim Bardhaman
PIN-731214.
4. Laltu Dutta
Vill. Dalpara, Debrajpur,
Ward No.16,
Dist. Birbhum
PIN-731123.
5. M/s. National Traders
(Prop. Parvez Alam Siddique)
Naim Nagar, G.T. Road, Benachity,
Durgapur-711203
6. Shib Shankar Mishra
S/o. M.C. Mishra
Kalyanpur Housing,
Asansol, PIN-713302.

Sub : Hearing on 09.09.2022 at 3.30 PM in compliance with solemn order dated 30.5.2022 passed by the Hon'ble NGT in OA No. 80/2020 (EZ)

In compliance with the solemn order dated 30.5.2022 passed by the Hon'ble NGT in OA No. 80/2020 (EZ) in the matter of Debasish Das Vs. WBPCB & Ors., a hearing will be held on 09.9.2022 at 3.30 PM in the office Chamber of the undersigned.

All concerned are requested to remain present on the schedule date and time.

Sd/-
Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman

Memo No. MM/OA80-2020/3498/DL&LRO-PAB/21

Date : 06.09.2022

Copy forwarded to :

1. The District Magistrate, Paschim Bardhaman for favour of his kind appraisal.
2. The Sr. Environmental Engineer, WBPCB, Asansol Regional Office for information with a request to designate competent representative to remain present during hearing.

Sd/-
Additional District Magistrate and
District Land & Land Reforms Officer,
Paschim Bardhaman

Date: 22/09/2022

To

The Additional District Magistrate and District Land and Land Reforms
Officer; Paschim Bardhaman

Vivekananda Sarani, Ramkrishna Mission, Kanyapur, Asansol,
Pin - 713305
Paschim Bardhaman;

Sir,

Please find enclosed herewith my written version of submission along with requisite documents and other evidences pursuant to the notice of hearing issued by the Additional District Magistrate and District Land and Land Reforms Officer; Paschim Bardhaman vide Memo No. MM/OA80-2020/3498/DL&LRO - PAB/ 21 dated 6-9-2022, in compliance to Order passed by the Hon'ble NGT, EZB on 30.05.2022 in OA 80 of 2022 (EZ).

Respectfully

M/S GANESH NANDY
Ganesh Nandy
Proprietor

Ganesh Nandy, represented by it's sole proprietor M/s Ganesh Nandy,
Village - Sitala, Post Office - Asansol,
District - Paschim Bardhaman,
Pin Code - 713302.



Received
but Contents are not verified
22/09/22
Receiving Clerk
DL&LRO, Paschim Bardhaman

Before the Additional District Magistrate and District Land and Land Reforms Officer in terms of the Order passed by the Hon'ble NGT, EZB on 30.05.2022 in OA 80 of 2022 (EZ)

NAME OF THE APPLICANT:

Ganesh Nandy,
Represented by it's sole proprietor M/s Ganesh Nandy,
Village – Sitala, Post Office – Asansol,
District – Paschim Bardhaman,
Pin Code – 713302;



(Written notes of submission)

1. The application being O.A/80/2020/EZ (Debashish Das –versus WBPCB and others) was taken out complaining inter-alia the illegal sand mining activities carried out in nine (9) places mentioned in Table-A and Table-B of the original application which is subscribed hereunder:-

TABLE - A

(DETAILS OF TWO SAND PLOTS/SAND GHATS)

SANDGHAT/ MOUZA	BLOC K NAME	JL N o.	PLOT NO.	SAN D BLO CK	LATITUDE	LONGITUDE
DESHARMOH AN	JAMU RIA	14	583(P)	A,B,	23.4659 N	87.06291E
				C, D	23.46346 N	87.06432E
PARULBERIYA	BARAB ANI		2366(p)	B	23.5142N	86.585659E

TABLE - B

(ILLEGAL SAND LIFTING POINTS)

Sl.	Name of the	Block	Police	Latitude	Longitude
-----	-------------	-------	--------	----------	-----------

No.	place(from where the sand is being extracted illegally)	Name	Station		
1.	CHINCHURBIL L	JAMURIA	JAMURIA	23.789N	87.099E
2.	BAHULI	JAMURIA	JAMURIA	23.804N	87.082E
3.	GOVINDPUR	JAMURIA	JAMURIA	23.809N	87.072E
4	LODA	JAMURIA	JAMURIA	23.802N	87.896E
5.	SHYAMAPUR	BARABANI	BARABANI	23.807N	87.031E
6.	BINDUDIH	BARABANI	BARABANI	23.826N	87.045E
7.	GORABAZAR	BARABANI	BARABANI	23.838N	87.028E

2. The said application being O.A. 80/2020/EZ came up for hearing before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata on 16th April, 2021 when the Hon'ble Tribunal was pleased to constitute a committee comprising of the following persons:-

- i) Senior Scientist from the Central Pollution Control Board, Regional Office, Kolkata, West Bengal;
- ii) Senior Scientist from State Environmental Impact Assessment Authority, West Bengal;
- iii) District Magistrate, Paschim Bardhaman;

Hon'ble Tribunal, in the said order was further pleased to direct the committee to inspect the site in question and submit its report with regard to the quantity of sand illegally mined, the degradation caused to the environment and loss of revenue caused to state exchequer.



The Photocopy of the Order passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata on April 16, 2021 is annexed herewith and marked as **Annexure "A"**.

3. It is apparent from record that the Committee, accordingly, inspected the plots in question on 04.06.2021 and 05.06.2021 and filed it's report by way of an affidavit affirmed on June 29, 2021.

4. From page no. 83 of the report (under the heading "**Overall Observation**") it would appear that the committee found conclusive evidence of carrying out sand mining activities using heavy earth moving equipments and large trucks / dumpers in seven sand ghats out of nine mentioned in the Original Application.

5. As appearing in Page no. 77 of the paper book, the committee recorded the following observations in regarding the sand ghats at Desher Mohan under Block - Jamuria:-

- Under this area 4 (four) nos. of Sand Blocks had been identified.
- As per records available in the District Land & Land Reforms Authority, there are individual successful Bidders for all 4 (four) Sand Blocks. Letter of Intent (LOI) was issued in favour of these blocks by District Land & land Reforms Authority. However, no lease has been issued and 'Environmental Clearance' has not been obtained by any one.
- But it has been noticed that already mining activity has been started illegally on river bed of Ajay and temporary cause way have been constructed on riverbed upto main connecting road to facilitate movement of heavy vehicle.



The relevant part of the said Joint Committee report is annexed herewith marked as **Annexure - B**

6. That from the list provided by the DM, Paschim Bardhaman in OA 80/2020/EZ, affirmed on December 31, 2021 it has been clearly mentioned further that the possession in respect of the said plot shall be handed over to the applicant after issuance of Environmental Clearance.

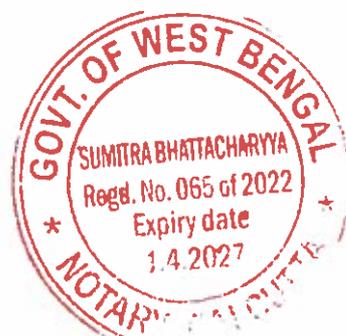
The Photocopy of the said list is annexed herewith marked as **Annexure - C**

7. The Hon'ble National Green Tribunal, Eastern Zone Bench, upon perusal of the said report was pleased to pass an Order on June 30, 2021 staying all mining activities in the bank and bed of river Ajay, particularly Block Jamuria and Baraboni, Police Station Jamuria and Baraboni, District Paschim Bardhaman, West Bengal till further orders of the Tribunal. In the said Order, The Hon'ble Tribunal was pleased to direct further to the respondent no. 1, West Bengal Pollution Control Board and the committee to submit a detailed and scientific report including assessment of Environmental Compensation.

The Photocopy of the said order dated June 30, 2021 is annexed herewith and marked as **Annexure "D"**.

8. Thereafter the Hon'ble Tribunal vide Order dated August 10, 2021 once again directed the committee to compute the Environmental Compensation to the damage caused to the environment and the restitution of environment. In the said Order, it was directed further, to suggest the remedial measures for mitigating the environmental damages caused on account of illegal sand mining and submit a report within four weeks.

The Photocopy of the said order dated August 10, 2021 is annexed herewith and marked as **Annexure "E"**.



9. The ADM and DL & LRO vide notice bearing no. MM/OA80-2020/2606/DL&LRO -PAB/21 dated 10/12/2021 has assessed 1,99,99,341/- as the environmental compensation for the illegal mining of the riverbed sand and directed the applicant herein to deposit Rs. 33,33,224/- as the proportionate Environmental Compensation. A reminder letter was issued by your good office on 17/02/2022 vide Memo No. MM/080-2020/566/DL & LRO-PAB/21.

The photocopy of the said notice dated 17-02-2022 is annexed herewith marked as **Annexure - F**.

10. The applicant after receiving the said reminder notice bearing no. MM/080-2020/566/DL & LRO-PAB/21 dated 17-02-2022 as issued by the ADM and DL & LRO took out the following applications before the Hon'ble NGT, EZB:-

(I.A. 133/2022/EZ):

For the impalement of the applicant in array of respondents in O.A. 80/2020/EZ;

(I.A. 134/2022/EZ):

Setting aside and / or quashing of the reminder notice issued against the applicant bearing no. MM/080-2020/566/DL & LRO-PAB/21 dated 17-02-2022 issued by the issued by ADM and DL & LRO.

11. The Hon'ble NGT, EZB vide Order dated May 30, 2022 was pleased to dispose of the said application being OA 80/2020/EZ and also the applications filed by the applicant herein being IA 133/2022/EZ and I.A. 134/2022/EZ, inter alia, allowing the applicant to apply before the ADM and DL & LRO and the ADM and DL and LRO was directed to dispose of the same after giving opportunity of hearing to the applicant.

12. Now, the applicant states as follows:-



I. The applicant herein states that he participated in the e - auction dated 12/11/2018 for grant of mining lease in respect of sand block Jamuria / Deshermohan and became successful in respect of Plot No.583 (P), in Mouza - Desher Mohan, J. L. No. 14, Police Station - Jamuria, District -Pashim Bardhaman (hereinafter referred to as the "said plot").

II. Accordingly, Letter of Intent (LOI, in short) in favour of the applicant, in respect to the said plot was issued on 15/01/2019, upon payment of 1/3rd of the bid amount, amounting to Rs. 34,75,000/- on 02/01/2019.

The photocopy of the said LOI is annexed herewith marked as **"Annexure - G/1"**.

III. Thereafter, the applicant engaged "YES ENVIRO SOLUTIONS", a registered qualified person / accredited agency to fill up the 1-M Form and to prepare the Mining Plan and Pre feasibility Report.

IV. Accordingly, the mining plan was prepared by the said registered qualified person and the same was approved by the Chief Mining Officer, Government of West Bengal on 18-03-2019. The 1-M form was also duly prepared filled up.

The Photocopy of document showing approval of the Mining Plan (approved), is annexed herewith marked as **"Annexure - G/2"**.

V. The applicant, thereafter, applied for Environmental Clearance before the District level Environment Impact Assessment Authority, (DEIAA) Paschim Bardhaman as a project under category B-2, in view of EIA Notification, 2006 (as amended in 2016).



VI. The application of the applicant herein was withheld by the DEIAA, Bardhaman for a substantial period and therefore the applicant herein made representations on 20-3-2020 and again on 23-6-2020. From the said conduct of the applicant, it can be safely contended, that, the applicant herein had / has no intention to carry out the sand mining activity illegally before issuance of EC and before execution of Mining Lease.

The Photocopy of the representations of the applicant dated 20-3-2020 and 23-6-2020 are annexed herewith collectively marked as **"Annexure - G/3"**.

VII. That the ADM and DL & LRO vide letter bearing Memo No. 1031/MM/DLRO/PAB/2020 dated 02/07/2020 directed the petitioner to submit on line application afresh on PARIVESH Portal of MoEF & CC in the required format along with all the prescribed supporting documents for obtaining prior Environmental Clearance.

The Photocopy of the letter of the ADM and DL & LRO bearing Memo No. 1031/MM/DLRO/PAB/2020 dated 02/07/2020 is annexed and marked as **Annexure "G/4"**.

VIII. The applicant accordingly submitted on line application afresh on PARIVESH Portal of MoEF & CC to obtain prior Environmental Clearance.

The Photocopy of the acknowledgement of the on line application submitted by the applicant on PARIVESH Portal of MoEF & CC for obtaining EC is annexed and marked as **Annexure "G/5"**.

IX. The application of the applicant for granting Environmental Clearance is still pending before the SEIAA, West Bengal.



X. The applicant respectfully submits he is not competent to carry on any mining activity in the said plot, since only the LOI has been granted in favour of the applicant. The applicant being the law abiding citizen, neither carried out any mining activity, nor intended to do the same, before the execution of LTML.

13. **Now**, the applicant states and submits that the Lease in respect of the said plot has not been executed in favour of the applicant since the Environmental Clearance in respect of the said plot has not been granted to the applicant.

14. The applicant since had / has no physical control over the said plot in question is completely unaware of the fact as to whether or not any illegal mining was / has been committed over the said plot.

15. That neither the applicant nor any of his men, agents or employees ever found or even alleged for carrying out illegal mining activity. Therefore, no part of the environmental compensation computed made in respect of the alleged illegal mining in area is question is not recoverable from the applicant herein.

16. The report of the committee constituted by the Hon'ble NGT, EZB never recorded any finding to the effect that the applicant was ever engaged in sand mining activity. That from inter departmental correspondence between BL & LRO, Barabani and Officer in Charge Barabani Police Station dated 28.12.2020 as annexed with the said report (Page no. 87 of the said report) and from the inter departmental correspondence between ADM and DL & LRO and BL & LRO, Barabani dated 25.03.2021 as annexed with the said report (Page no. 88 of the report) the name of M/s National Traders and Shibsankar Mishra were detected to have piled sand stock in unauthorized manner.

The Photocopy of the said inter departmental correspondences 28.12.2020 and 25.03.2021 are annexed herewith marked as **Annexure - H**



17. The Barabani Police station Case No. 155/21 dated 17/9/2021 was lodged only against partners of National traders and one other under section 379 IPC / 21 (4) MMDR Act, 1957 read with Section 50 of the WBMM Concession Rules, 2016 and rule 3 & 4 of the West Bengal Minerals (Prevention of illegal Mining Transportation and Storage) Rules, 2002 on the basis of the complaint of DL & LRO, Paschim Bardhaman on the said issue.

The photocopy of the said First Information Report is annexed herewith marked as **Annexure - I**

18. That from another inter departmental correspondence between the Inspection in charge and BL & LRO, Barabani dated 8.10.2021 it is appearing that Parvez Alam Siddiqui and Laltu Dutta are named as miscreants for illegal sand mining.

The photocopy of the said letter dated 8.10.2021 is annexed herewith marked as **Annexure - J**

19. That there was no iota of proof to any authority, whosoever, that the applicant and / or his men, agents or employees are / were engaged in any illegal mining activity over the said plot. The applicant cannot be held responsible for paying environmental compensation for illegal mining activity done over any mining plot in the area in question *ipso facto* on the ground that he is the highest bidder in the process of auction for granting mining lease and the holder of LOI in respect of the said plot.

20. The applicant cannot be held responsible for illegal mining, if any, committed in the said plot in question, solely on the ground that the LOI in respect of a mining plot has been issued in his favor.

21. The Letter of Intent neither confers any right nor gives any physical control over a mining plot.



22. The imposition of environmental compensation upon the applicant herein is therefore baseless, arbitrary, capricious and nothing but a glaring example of colorable exercise of power and the same is liable to be set aside.

23. Since the application of the applicant herein for EC is still pending before the SEIAA, West Bengal, as such the applicant could not file the application earlier in terms of the Order of the Hon'ble NGT, EZB passed in I.A. 133/2022/EZ and I.A. 134/2022/EZ (taken out in connection with the OA 80/2020/EZ). The applicant waited for last 4-5 months for disposal of his application for EC, so that the application can be made in terms of Order of the Hon'ble NGT, EZB passed in I.A. 135/2022/EZ and I.A. 136/2022/EZ (taken out in connection with the OA 80/2020/EZ). But the same has not yet been disposed of.

24. The materials on record even do not give birth of any preponderance of probability regarding the allegation that the applicant was engaged in any illegal sand mining in the area in question.

In the premises, it is humbly prayed that Your good office is requested to recall, rescind, set aside and / or quash the notice issued against the applicant bearing memo no. MM/OA80-2020/2606/DL&LRO -PAB/21 dated 10/12/2021 as well as the REMINDER - 1 notice Memo No. MM/080-2020/566/DL & LRO-PAB/21 dated 17-02-2022 and / or pass such other order or orders as your good office may deem fit and proper;

M/S GANESH MANDY

✓ Ganesh Mandy

(Signature of the applicant)



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Annexure R-4/3 (colly)



Government of West Bengal
Office of the Block Land & Land Reforms Officer
Barabani, Dist :- Paschim Bardhaman

Item No. 583 / BL.&LRO/ Barabani

Date: 03.08.2021

The Additional District Magistrate and
District Land and Land Reforms Officer,
Paschim Bardhaman

SUB: Forwarding herewith the action taken report of Raid programme

Reference above, forwarding herewith the action taken report on three points as desired by the district authority.

This is for your kind information and perusal.

B.L. & L.R.O., BARABANI
Paschim Bardhaman

Block Land & Land reforms Officer
Barabani Paschim bardhaman

Item No. /BL.&LRO/Barabani/21

Dated: 03.08.2021

Copy forwarded to:

The Sub-Divisional Magistrate, Asansol sadar for his kind information

SWARNENDU HALDAR
NOTARY PUBLIC
GOVT. OF W.B.

B.L. & L.R.O., BARABANI
Paschim Bardhaman

Block Land & Land reforms Officer
Barabani Paschim bardhaman



03 AUG 2021



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Annexure R-4/3(Colly)

Government of West Bengal
Office of the Block Land & Land Reforms Officer
Barabani, Dist:- Paschim Bardhaman

Memo No. 583/BL&LRO/Barabani

Date: 03.08.2021

To
The Additional District Magistrate and
District Land and Land Reforms Officer,
Paschim Bardhaman

Sub: Forwarding herewith the action taken report of
Raid Programme.

Sir,

Reference above, forwarding herewith the action taken report
on the three points as desired by the district authority.

This is for your kind information and perusal.

B.L. & L.R.O., BARABANI
Paschim Bardhaman

Block Land & Land Reforms Officer
Barabani Paschim Bardhaman

Memo No. /BL&LRO/Barabani/21

Dated: 03.08.2021

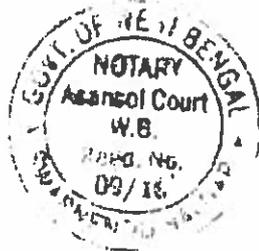
Copy forwarded to:
The Sub-Divisional Magistrate,
Asansol Sadar for his kind information

B.L. & L.R.O., BARABANI
Paschim Bardhaman



REPORT REGARDING PENALTY RAISED FROM ILLEGAL STOCK AT BARABANI
During Raid programme at block Level

DATE	ILLEGAL STOCK BY WHOM	PLACE AND MOUZA	TOTAL STOCK OF ILLEGAL SAND DETECTED	TOTAL AMOUNT REALISED	REMARKS
08.09.2020	Shib Shankar Mishra S/O M.C. Mishra, Address- Kalyanpur Housing, Asansol	Mouza- Rasunpur, village Amulia	52400 cft	Rs. 117900 (Vide DCR 1086750/13 Dated 18.09.2020)	As per order of Additional District Magistrate & DL&LRO, Paschim Bardhaman vide his Office Memo 1567/MM/DLRO- PAB/20 Dated 15.09.2020
11.03.2020	Parvez Alam Siddiqui of M/S National Traders (Letter of Intent from district Authority but without any EC or Lease Deed)	Mouza- Roshna	96000 cft	Rs. 217440 (Vide DCR 1086447/11 Dated 13.03.2020)	As per order of Additional District Magistrate & DL&LRO, Paschim Bardhaman vide his Office Memo 719/MM/DLRO- PAB/20 Dated 13.03.2020
28.06.2019	Parvez Alam Siddiqui of M/S National Traders	Mouza- Roshna	247800 cft	Rs. 561267 (Vide DCR 1060897/17 Dated 28.06.2019)	As per order of Additional District Magistrate & DL&LRO, Paschim Bardhaman vide forwarded by SDL&LRO, Asansol in a notesheet



[Signature]
Additional District Officer
Paschim Bardhaman

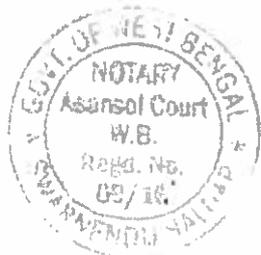
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REPORT REGARDING PENALTY RAISED FROM ILLEGAL STOCK AT BARABANI
During Raid programme at block Level

DATE	ILLEGAL STOCK BY WHOM	PLACE AND MOUZA	TOTAL STOCK OF ILLEGAL SAND DETECTED	TOTAL AMOUNT REALISED	REMARKS
09.09.2020	Shib Shankar Mishra S/O M.C. Mishra,Address- Kalyanpur Housing,Asansol	Mouza- Rasunpur, village Amulia	52400 cft	Rs. 117900(Vide DCR 1086750/13 Dated 18.09.2020)	As per order of Additional District Magistrate & DL&LRO,Paschim Bardhaman vide his Office Memo 1567/MM/DLRO- PAB/20 Dated 15.09.2020
11.03.2020	Parvez Alam Siddiqui of M/S National Traders(Letter of Intent from district Authority but without any EC or Lease Deed)	Mouza- Roshna	96000 cft	Rs. 217440(Vide DCR 1086447/11 Dated 13.03.2020)	As per order of Additional District Magistrate & DL&LRO,Paschim Bardhaman vide his Office Memo 719/MM/DLRO- PAB/20 Dated 13.03.2020
28.06.2019	Parvez Alam Siddiqui of M/S National Traders	Mouza- Roshna	247800 cft	Rs. 561267(Vide DCR 1060897/17 Dated 28.06.2019)	As per order of Additional District Magistrate & DL&LRO,Paschim Bardhaman vide forwarded by SDL&LRO,Asansol in a notesheet



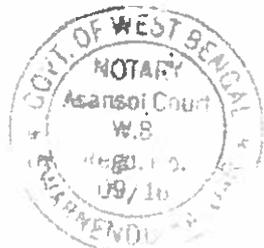
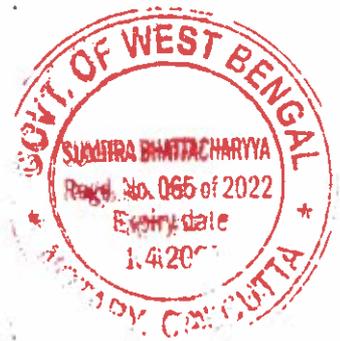
[Signature]
Additional District Magistrate
Paschim Bardhaman

REPORT REGARDING PENALTY REALISED DURING RAID FROM ILLEGAL TRANSPORTATION OF SAND.

Barabani block Level

(From December 2019 to till date 01.08.2021)

DATE	VEHICLE NUMBER	PENALTY REALISED	TYPE OF VEHICLE	DCR NO.	REMARKS
10.12.2019	chasis No. C-1000 1500 A/SDF-1	25000	Tractor	1086442/25 dated 10.12.2019	Transporting sand without any challan/transit pass
17.12.2019	WB-37D4158	25000	Tractor	1086443/03 Dated 17.12.2019	without any challan
21.12.2019	WB57C-7039	12000	Tractor	1086443/5 dated 21.12.2019	overload OF SAND
06.01.2020	Mhindra 265D1	25000	Tractor	1086443/14 DATED 06.01.2020	without any challan
07.01.2020	WB53B 2618	25000	Tractor	1086443/15 Dated 07.01.2020	without any challan
08.01.2020	WB37TC 0395	25000	Tractor	1086443/15 Dated 08.01.2020	without any challan
23.01.2020	MAHINDRA B 275 01	25000	Tractor	1086443/20 DATED 23.01.2020	without any challan
08.02.2020	WB37D 6524	12000	Tractor	1086446/04 DATED 08.02.2020	overload OF SAND
18.02.2020	JH 21B 4570	25000	Tractor	1086446/14 DATED 18.02.2020	without any challan
30.06.2020	WB 47 1677	12000	Tractor	1086448/14 DATED 30.06.2020	overload OF SAND
20.07.2020	WB 13B 6167	35000	Truck	1086448/21 DATED 20.07.2020	overload OF SAND
06.08.2020	WB 37D 2489	12000	Tractor	1086449/03 DATED 06.08.2020	overload OF SAND
10.09.2020	WB 39TCA7	25000	Tractor	1086450/09 DATED 10.09.2020	without any challan



[Signature]
Sudhira Bhattacharyya
Notary Public
Chandernagore

10.09.2020	chasis No. RDT7417	25000	Tractor	1086450/10 DATED 10.09.2020	without any challan
24.09.2020	WB 37D 8614	25000	Tractor	1086450/18 DATED 24.09.2020	without any challan
25.09.2020	HR 55L 3077	40000	TRUCK	1086450/19 DATED 25.09.2020	without any challan(Amount realised as per the order of the A.D.M. &D.L.&L.R.O.,Pa schim Bardhaman)
25.09.2020	JH 12D 0276	40000	TRUCK	1086450/20 DATED 25.09.2020	DO
25.09.2020	BR 51G 7837	40000	TRUCK	1086450/21 DATED 25.09.2020	DO
25.09.2020	BR 10GG 1191	40000	TRUCK	1086450/22 DATED 25.09.2020	DO
25.09.2020	BR11GA9368	40000	TRUCK	1086450/23 DATED 25.09.2020	DO
25.09.2020	JH 12B 9706	40000	TRUCK	1086450/24 DATED 25.09.2020	DO
25.09.2020	BR 10281227	40000	TRUCK	1086450/25 DATED 25.09.2020	DO
25.09.2020	BR10GR 1271	40000	TRUCK	A-078528 DATED 25.09.2020	DO
25.09.2020	BR10GA 4417	40000	TRUCK	A-078529 DATED 25.09.2020	DO
25.09.2020	BR10GA4163	40000	TRUCK	A-078530 DATED 25.09.2020	DO
25.09.2020	BR 10GB 0196	40000	TRUCK	A-078531 DATED 25.09.2020	DO
25.09.2020	BR10 GB 0076	40000	TRUCK	A-078532 DATED 25.09.2020	DO
25.09.2020	WB 53A 8753	80000	DUMPER	A-078533 DATED 25.09.2020	DO



(Handwritten signature)
 Notary Public, Paschim Bardhaman.

25.09.2020	BR31G 8614	40000	TRUCK	A-078534 DATED 25.09.2020	DO
25.09.2020	BR51G389	40000	TRUCK	A-078535 DATED 25.09.2020	DO
25.09.2020	BR10GB 0295	40000	TRUCK	A-078536 DATED 25.09.2020	DO
25.09.2020	BR10GB 1202	40000	TRUCK	A-078537 DATED 25.09.2020	DO
25.09.2020	BR10 GB 8909	40000	TRUCK	A-078538 DATED 25.09.2020	DO
25.09.2020	BR10GA 8665	40000	TRUCK	A-078539 DATED 25.09.2020	DO
25.09.2020	BR 10GB 5696	40000	TRUCK	A-078540 DATED 25.09.2020	DO
25.09.2020	BR 10GA 9962	40000	TRUCK	A-078541 DATED 25.09.2020	DO
25.09.2020	BR 10DB 8617	40000	TRUCK	A-078542 DATED 25.09.2020	DO
25.09.2020	BR 10GB 8617	40000	TRUCK	A-078543 DATED 25.09.2020	DO
25.09.2020	BR 51G 6809	40000	TRUCK	A-078544 DATED 25.09.2020	DO
25.09.2020	BR 10GB 9150	40000	TRUCK	A-078545 DATED 25.09.2020	DO
25.09.2020	BR 10GA 9480	40000	TRUCK	A-078546 DATED 25.09.2020	DO
25.09.2020	BR 10GB 6899	40000	TRUCK	A-078547 DATED 25.09.2020	DO
25.09.2020	BR 10GB 5582	40000	TRUCK	A-078548 DATED 25.09.2020	DO
25.09.2020	BR 10GA 6023	40000	TRUCK	A-078549 DATED 25.09.2020	DO



Dr. Loni
Bani Paschim Bardhaman

25.09.2020	BR HGC 3932	40000	TRUCK	A-078550 DATED 25.09.2020	DO
25.09.2020	BR 10GB 0696	40000	TRUCK	A-078551 DATED 25.09.2020	DO
25.09.2020	BR 10GB 3614	40000	TRUCK	A-078552 DATED 25.09.2020	DO
25.09.2020	BR 11GC 6264	40000	TRUCK	A-078553 DATED 25.09.2020	DO
25.09.2020	BR 11GC 5968	40000	TRUCK	A-078554 DATED 25.09.2020	DO
28.09.2020	WB 396 7368	40000	TRUCK	A-078555 DATED 28.09.2020	DO
28.09.2020	NL 01 AD 4844	40000	TRUCK	A-078555 DATED 28.09.2020	DO
07.10.2020	WB 39B 3977	100000	DUMPER	A-078560 DATED 07.10.2020	Without any challan
28.11.2020	wb39A 7374	25000	tractor	A-078591 DATED 28.11.2020	Without any challan
01.02.2021	WB 57 C 0777	20000	tractor	A-078629 DATED 01.02.2021	overload OF SAND
12.03.2021	WB37D 9021	25000	tractor	A-079163 DATED 12.03.2021	WITHOUT ANY CHALLAN
01.07.2021	Swaraj Mirda	25000	tractor	A-079214 DATED 01.07.2021	WITHOUT ANY CHALLAN
01.07.2021	WB 37B 8519	25000	tractor	A-079215 DATED 01.07.2021	WITHOUT ANY CHALLAN
01.07.2021	WB 37D 9150	20000	TRUCK	A- 079216 DATED 01.07.2021	overload OF SAND
01.07.2021	WB 37D 5714	20000	TRUCK	A- 079217 DATED 01.07.2021	overload OF SAND
01.07.2021	WB 37 D 4063	20000	TRUCK	A- 079218 DATED 01.07.2021	overload OF SAND



(Signature)
Notary Office
Kolkata

193 134

09.07.2021	WB 37B 8447	25000	TRACTOR	A- 079222 DATED 09.07.2021	WITHOUT ANY CHALLAN
21.07.2021	WB 37 D 5307	25000	TRACTOR	A- 079232 DATED 21.07.2021	WITHOUT ANY CHALLAN
31.07.2021	WB 37D 5272	25000	TRACTOR	A- 079235 DATED 31.07.2021	WITHOUT ANY CHALLAN

Total penalty realised=Rs. 2168000


... .. Officer
...



REPORT REGARDING FIR LODGED DURING VARIOUS RAID PROGRAMME AT BLOCK LEVEL

DATE	FIR LODGED AGAINST	POLICE STATION	VIDE MEMO NO.	Remarks
06.06.2021	Driver and owner of the vehicle (Tractor) Number WB37D2504	BARABANI P.S.	413/BL&LRO/Barabani/2021 dated 06.06.2021	
07.01.2021	Sk. Amanat s/o Sk. Sahaban of Rampur village P.O. Kelejora (Tractor WB41G7920)	BARABANI P.S.	16/BL&LRO/B arabani/2021 dated 07.01.2021	The tractor of the said culprit was intercepted and handed over to barabani P.S. for custody on 14.12.2019 but the P.S. refused to take F.I.R. and vide an order of Ld. C.J.M. Paschim bardhaman, the tractor was release by P.S. Against it BL&LRO, Barabani filed Criminal. Revision Case 04/2020 and vide the order in this case by Ld. District session Judge, Paschim Bardhaman, the earlier order of Ld. CJM was set aside and finding the positive order, BL&LRO Barabani again lodged F.I.R. against SK. Amanat in the Police Station on 07.01.2021
10.02.2021	Driver and owner of the vehicle (Tractor) Number WB37B8279	BARABANI P.S.	136/BL&LRO/Barabani /2021 dated 10.02.2021	
28.12.2020	Driver and owner of the vehicle (Dumper) Number WB37d5753	BARABANI P.S.	1072/BL&LRO /Barabani /2020 dated 28.12.2020	

SWARNENDU CHAKRAVARTY
NOTARY PUBLIC
GOVT. OF W.B.



(Handwritten signature)

28.12.2020	Complaint against miscreants for illegally changing classification of agri land to roads leading to Ajoy river at Bindudih, Parulberia and Shyamapur and request to Barabani P.S. to install permanent traffic barriers on these roads to prevent illegal sand transportation from Ajoy river	BARABANI P.S.	1076/BL&LRO /Barabani/2020 dated 28.12.2020	reminder issued also in another letter
09.09.2020	Complaint against miscreants(as revealed Shibsankar misra s/o M.C. Misra of kalyanpur Housing, Asansoi mentioned in letters issued to O.C. Barabani) for illegally stocked unauthorised sand	BARABANI P.	760/BL&LRO/ Barabani dated 09.09.2020	
10.07.2019	Miscreants for illegal theft of sand transported by vehicle having no number plate	BARABANI P.	617/BLLRO/Barabani/2019 dated 10.07.2019	



R. No. 9215/2
19/12/22
Dr. Rajesh Kumar, IPS
Member Secretary



M.No. 2578(2)/ADM/C dt.d. 17/12/22
Forwarded to the
ANNEXURE - 'K'
West Bengal Pollution Control Board
(Department of Environment, Government
of West Bengal)
Paribesh Bhawan, Bldg. 10A, Block LA
Sector III, Salt Lake, Kolkata 700 106

#96 137
Dy. Director
S/C MM.
Tel: 2335-8213
Fax: 2335 2813/6730
Email: ms.wbpcb-wb@bangla.gov.in
Website: www.wbpcb.gov.in
City code: 33
Country code: 91

Memo No. 2103 -374/WPB/O&E/2019

Date: 12 /12/2022

To
The District Magistrate & Collector
Paschim Bardhaman
Vivekananda Sarani, Ramkrishna Mission, Kanyapur
Asansol. Dist.- Paschim Bardhaman, Pin-713 305

9909
15/12/22

ADM/LR
Addl. District Magistrate (LR)
Paschim Bardhaman

Sub: Realization of Environmental Compensation in compliance with Order of the Hon'ble National Green Tribunal in connection with O.A. No. 80/2020/EZ in the matter of Debashis Das-vs-WBPCB & Ors.

Ref: Your letter vide Memo No. OA-80/MM/5126/ASDM & DL&LRO-PAB/21 dated 24.11.2022

In reference to the above mentioned subject, the units may be directed to deposit the Environmental Compensation either in the form of Demand Draft in favour of West Bengal Pollution Control Board payable at Kolkata or may be sent through RTGS, Union Bank of India, NUJS Campus Branch, A/c. No. 510131000002460, IFSC Code - UBIN0906638. If any other information is required in this matter, it is requested to contact Shri Arup Dey, Environmental Engineer & In-charge, Durgapur regional office of the State Board and Nodal Officer, Mobile No. 94324 91943.

ajeh
12/12/22

Member Secretary
West Bengal Pollution Control Board

C/c M. M.
19-12-22



ANNEXURE

-L'

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অতিরিক্ত জেলা শাসক এবং জেলা ভূমি

ও

ভূমি সংস্কার আধিকারকের করণ

পশ্চিম বর্ধমান

বিবেকানন্দ সরণি, রামকৃষ্ণ মিশন, কন্যাপুর

আসানসোল, পিন - ৭১৩৩০৫

ইমেল - dlropaschimbardhaman@gmail.com



Office of the Additional District Magistrate

And

District Land & Land Reforms Officer

Paschim Bardhaman

Vivekananda Sarani, Ramkrishna Mission, Kanyapur

Asansol, PIN - 713305

Email - dlropaschimbardhaman@gmail.com

Memo No. MM/OA80-2020/ 5194 / DL&LRO-PAB/22

Date : 21-12-22

To

M/s Ganesh Nandi

Sitla, Asansol, PIN-713302



Sub. : Recovery of Environmental Compensation for illegal extraction of riverbed sand

Ref. : (i) Order dated 30.06.2021 and 18.11.2021 passed by the Hon'ble NGT in OA

No.80/2020/EZ in the matter of Debasis Das -Vs- WBPCB & Ors.

(ii) This office Memo No. MM/OA80-2020/1058/DL&LRO-PAB/21 Date- 19.04.22

(iii) Memo. No. 2103-374/WPB/O&E/2019 dated 12.12.2022 of Member Secretary WBPCB

With reference to the above subject matter and with continuation of this office earlier memo under Ref.(ii), he was directed to deposit the proportionate Environmental Compensation amounting Rs. 33,33,224/- either in the form of Demand Draft in favour of West Bengal Pollution Control Board payable at Kolkata or may be sent through RTGS. Union Bank of India, NUJS Campus Branch. A/C No. 510131000002460, IFSC Code- UBIN0906638) within 7 (seven) days and communicate this end about the successful payment, failing which action will be taken as per law.

[Signature]
Additional District Magistrate and
District Land & Land Reforms Officer.
Paschim Bardhaman
ADDITIONAL DISTRICT MAGISTRATE
&
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN

Date : 21-12-22

Memo No. MM/OA80-2020/ 5194 /1/ DL&LRO-PAB/22

Copy forwarded to the District Magistrate, Paschim Bardhaman for favour of his kind appraisal.

[Signature]
Additional District Magistrate and
District Land & Land Reforms Officer.
Paschim Bardhaman

ADDITIONAL DISTRICT MAGISTRATE
&
DISTRICT LAND & LAND REFORMS OFFICER
PASCHIM BARDHAMAN



Date: 28/12/2022

From
Ganesh Nanadi

To
The ADM and DL & LRO
Paschim Bardhaman

In Re: Memo No. MM/OA80-2020/5494/DL&LRO-PAB/22 dated 21-12-22;

Sir,

In response to the above-captioned notice vide Memo No. MM/OA80-2020/5494/DL&LRO-PAB/22 dated 21-12-22, as issued by your good office, the undersigned state as follows:-

1. Your good office while issuing the said notice has failed to consider that that the undersigned has already submitted his written version / application on 26-09-2022 pursuant to the leave granted by the Hon'ble Tribunal vide it's Order dated 30-5-2022, passed in IA 133/2022/EZ and IA 134/2022/EZ, taken out by the undersigned in connection with OA 80/2020/EZ (Debasish Das -Versus- WBPCB and others).

2. But, your good office before directing the undersigned to deposit the Environmental Compensation of Rs. 33,33,324/- vide your above-captioned notice dated 21-12-2022, has failed to comply the direction issued by the Hon'ble NGT, EZB vide Order dated 30-5-2022, by not communicating any decision (till date) to the undersigned, regarding the outcome of the hearing held by your good office on 27/09/2022, (pursuant to your notice of hearing dated 23/09/2022, issued in terms of the Order of the Hon'ble NGT, EZB dated 30-5-2022).

Received
but Contents are not verified
B C
30/12/22
Receiving Clerk,
DL & LRO, Paschim Bardhaman



139A

(Typed Copy)

Date: 28/12/2022

From
Ganesh Nanadi

To
The ADM and DL & LRO
Purba Bardhaman

In Re: Memo No. MM/OA80-2020/5494/DL&LRO-PAB/22 dated 21-12-22;

Sir,

In response to the above-captioned notice vide Memo No. MM/OA80-2020/5494/DL&LRO-PAB/22 dated 21-12-22, as issued by your good office, the undersigned state as follows:-

1. Your good office while issuing the said notice has failed to consider that that the undersigned has already submitted his written version / application on 26-09-2022 pursuant to the leave granted by the Hon'ble Tribunal vide it's Order dated 30-5-2022, passed in IA 133/2022/EZ and IA 134/2022/EZ, taken out by the undersigned in connection with OA 80/2020/EZ (Debasish Das -Versus- WBPCB and others).
2. But, your good office before directing the undersigned to deposit the Environmental Compensation of Rs. 33,33,324/- vide your above-captioned notice dated 21-12-2022, has failed to comply the direction issued by the Hon'ble NGT, EZB vide Order dated 30-5-2022, by not communicating any decision (till date) to the undersigned, regarding the outcome of the hearing held by your good office on 27/09/2022,



3. Therefore it is ex facie clear that the above captioned notice dated 21-12-22 has been issued by your good office without complying the word and spirit of the direction issued by the Hon'ble NGT, EZB on 30-5-2022

4. In the backdrop as aforesaid the undersigned requests your good office as follows:-

- (i) To recall, rescind, set aside and / or quash your notice vide Memo No. MM/OA80-2020/5494/DI&LRO-PAB/22 dated 21-12-22 at once.
- (ii) To act strictly in terms of the Order passed by the Hon'ble NGT, EZB on 30-5-2022, in IA 133/2022/EZ and IA 134/2022/EZ, taken out by the undersigned in connection with OA 80/2020/EZ and take decision of the hearing conducted by your good office on 27/09/2022 upon considering his written version / application submitted by the undersigned on 26/09/2022;

Your early action will be highly solicited,

Yours sincerely

Ganesh Nandy
(Ganesh Nandy)

narzo solutions/technology
PUNE INDIA



(pursuant to your notice of hearing dated 23/09/2022, issued in terms of the Order of the Hon'ble NGT, EZB dated 30-5-2022).

3. Therefore it is ex facie clear that the above captioned notice dated 21-12-22 has been issued by your good office without complying the word and spirit of the direction issued by the Hon'ble NGT, EZB on 30-5-2022.

4. In the backdrop as aforesaid the undersigned requests your good office as follows:-

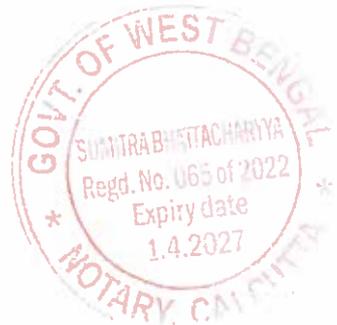
- (i) To recall, rescind, set aside and / or quash your notice vide Memo No. MM/OA80-2020/5494/DL&LRO-PAB/22 dated 21-12-22 at once.
- (ii) To act strictly in terms of the Order passed by the Hon'ble NGT, EZB on 30-5-2022, in IA 133/2022/EZ and IA 134/2022/EZ, taken out by the undersigned in connection with OA 80/2020/EZ and take decision of the hearing conducted by your good office on 27/09/2022 upon considering his written version / application submitted by the undersigned on 26/09/2022;

Your early action will be highly solicited,

Yours sincerely

Sd/-

(Ganesh Nandy)



M/S GANESH NAND
Ganesh Nandy
Proprieto

VAKALATNAMA

IN THE NATIONAL GREEN TRIBUNAL/EASTERN ZONE

District: Paschim Medinipur

Constitutional Writ Civil Criminal Revisional
Appellate Jurisdiction

O.A. No. of 2023/E2

M/S Ganesh Nandy

Appellant
Petitioners

- Versus -

West Bengal Pollution Control
Board and/or

Respondent
Opposite Party

Vakalatnama on behalf of..... Applicant

Knows all men by these presents that by Vakalatnama I/We appoint the Advocates Pleaders noted below or any one of them my/our lawful Advocate or Advocates for filing the memorandum or appeal or petition of entering appearance in the above matter for appearing conducting and arguing the same for depositing or withdrawing any money in connection therewith for moving the Court in any matter connected therewith, for preparing the paper book in the case and for putting in papers, petitions etc. On my/our behalf for filling, taking back any documents for withdrawing suits or appeals or petitions with permission to institute fresh suit etc. For signing and filling petitions of compromise in connections with the said matter and for taking copies of paper from the Record and I/We further say that any act. Done by my/our said Advocate or Advocates or by any one of them after accepting this Vakalatnama, shall be considered as my/our own true and lawful act.

And I/We further hereby agree and undertake to pay the said Advocates his or their fees as settled and all others sums that may be necessary to carry out the requisition of the Court and otherwise to enable the said Advocates to conduct the case properly. Failing which the said Advocate after notice to me/us will be at liberty to withdraw from further conducting the case.

IN WITNESS WHERE OF I/WE sign and execute this Vakalatnama, on this the 02th day of January 2023

NAME OF THE ADVOCATE

Panshali Bomerjee
Advocate
High Court, Calcutta
San Association Room no. 11
(M) 943325 3274
mail id: panshali5@yahoo.com

Handwritten signature
Paula Kay
Advocate

Handwritten text, possibly a date or reference number: 2/18

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Handwritten text, possibly a name or address: Paula Kay

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