

Sl no. 02/2024

1
Before the National Green Tribunal
Eastern Zone Bench Kolkata
IA No. of 2024/EZ
Original Application No. 11 of 2024/EZ

In the matter of :-

In Re: Pollution Level is increasing in the
City due to dumping of garbage in Dardha
River of Jehanabad, Bihar

...Applicant(s)

Versus

Principal Secretary, Department of
Environment, Government of Bihar & Ors

... Respondent(s)



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15 AUG 2024

Filed by
Surenindra Kumar
Advocate

15/8/24

Before the National Green Tribunal
 Eastern Zone Bench Kolkata
 IA No. of 2024/EZ
 Original Application No. 11 of 2024/EZ

In the matter of :-

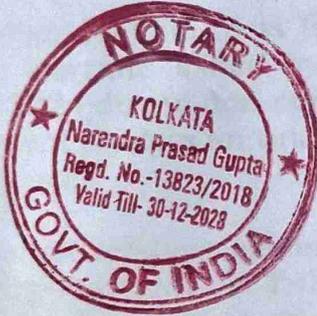
In Re: Pollution Level is increasing in the
 City due to dumping of garbage in Dardha
 River of Jehanabad, Bihar

...Applicant(s)

Versus

Principal Secretary, Department of
 Environment, Government of Bihar & Ors

... Respondent(s)



List of Dates

Sl. No.	Date	Event/Description
1.	23rd July 2024	NGT directed Respondent No. 5 to file an affidavit within two weeks or appear before the Tribunal.
2.	13th August 2024	Scheduled hearing date by the NGT; Bailable warrant issued against Respondent No. 5.
3.	14th August 2024	Disciplinary action taken against the concerned officers, including suspension of salary (Letter No.-186).
4.	15th August 2024	Personal affidavit filed by Respondent No. 5 before the NGT in compliance with the order.

15 AUG 2024

Before the National Green Tribunal
Eastern Zone Bench Kolkata
IA No. of 2024/EZ
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City due to dumping of garbage in Dardha
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...Applicant(s)

Versus

Principal Secretary, Department of
Environment, Government of Bihar & Ors

... Respondent(s)

Synopsis

The Respondent no. 5 is filing the present application seeking to recall the bailable warrant issued by this Hon'ble Tribunal vide its Order dated 13th August 2024 due to non-compliance with a previous order. The respondent no. 5/deponent tenders an unconditional apology for any inconvenience caused to the Tribunal.

The required affidavit has been filed on 15th August 2024, and the deponent is now compliant with the Tribunal's order. The non-compliance occurred due to the failure of concerned officers to inform the deponent. Disciplinary action has been taken against these erring officers.

The application requests the urgent recall of the bailable warrant and an interim stay on its operation pending final disposal of the present application.

The deponent respectfully requests this Hon'ble Tribunal to recall the warrant, emphasizing that the non-compliance was unintentional and has been rectified and the deponent tenders its unconditional apology.



Before the National Green Tribunal
 Eastern Zone Bench Kolkata
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In the matter of :-

In Re: Pollution Level is increasing in the
 City due to dumping of garbage in Dardha
 River of Jehanabad, Bihar

...Applicant(s)

Versus

Principal Secretary, Department of
 Environment, Government of Bihar & Ors

... Respondent(s)

Memo of Parties

1. In Re: Pollution Level is increasing in the City due to dumping of garbage
 in Dardha River of Jehanabad, Bihar

...Applicant

Versus

1. Principal Secretary, Department of Environment, Government of Bihar,
 Patna, Bihar;
2. District Magistrate, Jahanabad, Jehanabad Bihar;
3. Bihar State Pollution Control Board, Patna Bihar;
4. Nagar Parishad, Jahanabad, Patna Gaya Dobhi Road, Jehanabad , Bihar
 - 804417;
5. Urban Development and Housing Department, Government of Bihar, 1st
 Floor, Vikas Bhawan, Bailey Road, Patna- Bihar PATNA 800 015;

... Respondent(s)



Before the National Green Tribunal,
Eastern Zone Bench Kolkata.

I.A. No. of 2024

Original Application No. 11 of 2024/EZ

In Re: Pollution Level is increasing in
the City due to dumping of garbage in
Dardha River of Jehanabad, Bihar

...Applicant

Versus

1. Principal Secretary, Department of
Environment, Government of
Bihar, Patna, Bihar;
2. District Magistrate, Jehanabad,
Jehanabad Bihar;
3. Bihar State Pollution Control
Board, Patna Bihar;
4. Nagar Parishad, Jehanabad, Patna
Gaya Dobhi Road, Jehanabad ,
Bihar - 804417;
5. Urban Development and Housing
Department, Government of Bihar,
1st Floor, Vikas Bhawan, Bailey
Road, Patna- Bihar 800 015;

... Respondent(s)

And



15 AUG 2024

In the matter of:-

Recalling and/or modification in part of the Order dated 13th August, 2024 passed in OA No. 11 of 2024/EZ;

And

In the matter of:

Urban Development and Housing Department, Government of Bihar, 1st Floor, Vikas Bhawan, Bailey Road, Patna - 800 015, Bihar;

...Applicant/Respondent no. 5



The humble petition on behalf of Applicant/ Respondent No. 5 herein

MOST RESPECTFULLY SHEWETH:-

1. That the Original Application was taken suo moto by this Hon'ble Court.
2. That the address of the respondents are given above for the service of notice of this application.
3. The applicant is filing the present application in OA No. 11/2024/EZ for recalling and/or modification of the order dated 13th August, 2024 in part to the extent "in exercise of powers under Section 19(4) of the National Green Tribunal Act 2010 read with Section 32 of CPC, direct bailable warrant to be issued to the Principal Secretary, Urban Development and Housing Department, Government of Bihar to secure his presence on the next date fixed.

A copy of this order shall be communicated to the Director General of Police, Patna, Bihar, for necessary compliance."

Copy of the order dated 13th August, 2024 is annexed hereto and marked with letter A.

A. BRIEF FACTS OF THE CASE:-

1. That the present Interlocutory Application is being filed by the Principal Secretary, Urban Development and Housing Department, Government of Bihar (Respondent No.-5) with a prayer for taking up the present application for consideration to recalling of the bailable warrant issued against Respondent No.-5 vide the Order dated 13th August, 2024 by this Hon'ble Tribunal.
2. That the deponent has got highest regards for the orders passed by the Hon'ble NGT and has never violated any order deliberately or intentionally or willfully.
3. That the deponent tenders unconditional and unqualified apology for any inconvenience caused to this Hon'ble NGT in the process of ensuring compliance of the order and inconvenience if any caused may be regretted.
4. That this Hon'ble Tribunal by the previous order dated 23rd July, 2024 passed in this case has directed Respondent No. 5 to file affidavit within two weeks failing which he will appear before the Tribunal (in virtual mode) with his explanation.
5. That it is pertinent to state here that the aforesaid order dated 23rd July, 2024 was neither presented to the deponent nor informed about this order by the concerned officers of the department.
6. That the Hon'ble NGT had scheduled the hearing for this case on 13th August, 2024, but the officers concerned also failed to inform the deponent about this date. Even when the notice for the hearing along with the link was sent on 13th August, 2024 they did not provide any information to the deponent regarding hearing, nor did they take any



action in this regard. This is an extremely serious issue and indicates their negligence, arbitrariness and inactivity.

7. That for the aforementioned extremely serious negligence, arbitrariness and dereliction of duty in connection with order passed and hearing by the Hon'ble Tribunal, necessary action has been taken against the officers concerned and they are directed to submit a detailed explanation within three (03) days as to why disciplinary action should not be taken for this negligence, dereliction of duty, and indiscipline, in this regard and their salary has also suspended with immediate effect vide letter. No.-186 dated 14th August, 2024.



Photo copy of letter No.- 186 dated 14.08.2024 is annexed herewith as Annexure-A to this counter affidavit.

8. That the non-filing of the affidavit has been due to inadvertence and there is no deliberate non-compliance of the order. The order of this Hon'ble Tribunal has been duly complied and in compliance of the order the necessary personal affidavit has been filed by the deponent before this Hon'ble NGT on 15th August, 2024 and the deponent is also present before this Hon'ble Tribunal.
9. That the deponent once again tender unconditional and unqualified apology for inconvenience if any caused to this Tribunal in delivering the justice.
10. That keeping in view of the aforementioned condition the deponent most humbly prays to take up this matter for consideration and your Honour may graciously be pleased to recall the order of bailable warrant against Respondent No. 5.
11. The balance of convenience is in favour of the applicant and the applicant, for the ends of justice, shall suffer if the relief prayed for is

not granted and in particular the operation of the notification is not stayed, forthwith.

12. That urgent intervention of this Hon'ble Tribunal is needed and humbly prayed for the grounds mentioned below.

B. GROUNDS:

- a. FOR THAT this Hon'ble Tribunal by the previous order dated 23rd July, 2024 passed in this case has directed Respondent No. 5 to file affidavit within two weeks failing which he will appear before the Tribunal (in virtual mode) with his explanation.
- b. FOR THAT the aforesaid order dated 23rd July, 2024 was neither presented to the deponent nor informed about this order by the concerned officers of the department.
- c. FOR THAT the Hon'ble NGT had scheduled the hearing for this case on 13th August, 2024, but the officers concerned also failed to inform the deponent about this date. Even when the notice for the hearing along with the link was sent on 13th August, 2024 they did not provide any information to the deponent regarding hearing, nor did they take any action in this regard. This is an extremely serious issue and indicates their negligence, arbitrariness and inactivity.
- d. FOR THAT for the aforementioned extremely serious negligence, arbitrariness and dereliction of duty in connection with order passed and hearing by the Hon'ble Tribunal, necessary action has been taken against the officers concerned and they are directed to submit a detailed explanation within three (03) days as to why disciplinary action should not be taken for this negligence, dereliction of duty, and indiscipline, in this regard and their salary has also suspended with immediate effect vide letter. No.-186 dated 14th August, 2024.
- e. FOR THAT the Applicant has filed its counter affidavit giving all details of the compliance and status of the work done by the department.



C. LIMITATION:

That there has been no delay in preferring this application and the present application is not barred by the Laws of Limitation. Thus, this application is well within the limitation period.

D. PRAYER:

In the circumstances aforesaid, the applicant prays that Your Lordships would be graciously pleased to pass the following order: -

- i. Allow this interlocutory application;
- ii. Recall and/or modify the Order dated 13th August, 2024 passed in the present Original Application being OA No. 11 of 2024/EZ in part in respect of Bailable warrant being issued against the Principal Secretary, Urban Development and Housing Department, Government of Bihar being the Respondent no. 5 to the extent "in exercise of powers under Section 19(4) of the National Green Tribunal Act 2010 read with Section 32 of CPC, direct bailable warrant to be issued to the Principal Secretary, Urban Development and Housing Department, Government of Bihar to secure his presence on the next date fixed. A copy of this order shall be communicated to the Director General of Police, Patna, Bihar, for necessary compliance.";
- iii. Pass such other order/ orders as your Lordships may deem fit and proper.

And for this act of kindness, the Petitioner as in duty bound shall ever pray.



Sl. No. 02/24

AFFIDAVIT

I, Anand Kishor, son of Late Kapil Deo Narain, aged about 53 years, by occupation - Service, resident of- House No.-B3/56, Bailey Road Patna-800023, and working for gain at Vikash Bhavan, Baily Road, Patna - 800 015 and presently halting at Advocate Chamber being at Hastings Chamber, 7C, Kiran Shankar Roy Road, 2nd Floor, Room No. 6, Kolkata - 700 001 do hereby solemnly affirm and state as follows:-

1. That I am presently posted as Principal Secretary Urban Development and Housing Department, Government of Bihar.
2. I have gone through the contents of this Interlocutory Application and which are fully understood.
3. That I am conversant with the facts and circumstances of this case.
4. That the averments made in paragraph nos. 1, A, B and C are true to my personal knowledge and information derived from record and the rest thereof are by way of respectful submissions before this Hon'ble Tribunal.

Anand Kishor

Deponent

Identified by me

Surenchakumar

Advocate WB/535/A/1998



NARENDRA PRASAD GUPTA
NOTARY
GOVERNMENT OF INDIA
REGN. NO. -13823/2018
&
ADVOCATE, HIGH COURT CALCUTTA
8, Old Post Office Street (Ground Floor)
Opp. F-Gate (High Court)
Mob.-8910576874
9883135090

L.T.I.(s)/Signatures(s) of the Executant/s attested by me on Identification.

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

15 AUG 2024

VERIFICATION

I, the deponent herein above, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and belief, that no part of it is false and nothing material has been concealed therefrom.

Verified at Kolkata on this 15th day of August, 2024

Anand Kishor
Deponent

Identified by

Surendra Kumar
Advocate



15 AUG 2024

Annexure A.

Item No.08

Court No.1

- 13 -

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.11/2024/EZ

In Re: Pollution level is increasing
in the city due to dumping of garbage
in Dardha river of Jehanabad Bihar

Applicant(s)

Versus

Principal Secretary, Department of
Environment, Govt. of Bihar

Respondent(s)

Date of hearing: 13.08.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

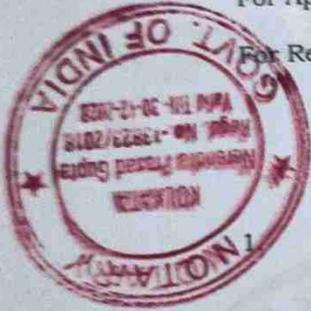
For Applicant(s) : *Suo Motu*

For Respondent(s): Mr. Surendra Kumar, Adv. for R-1,3 & 5,
Ms. Amrita Pandey, Adv. for R-2 (in Virtual Mode),
Mr. Ghanshyam Pandey, Adv. for R-4 (in Virtual Mode)

ORDER

This Tribunal in its order dated 10.05.2024 had observed that the Principal Secretary, Urban Development and Housing Department, Government of Bihar has not filed its personal affidavit.

2. Thereafter, vide order dated 23.07.2024 the Principal Secretary, Urban Development and Housing Department, was directed to file his affidavit within two weeks, failing which he will appear before the Tribunal in Virtual Mode with his explanation.
3. Today, neither the affidavit has been filed nor the Principal Secretary, Urban Development and Housing Department, Government of Bihar, is present in Virtual Mode before this Tribunal.



4. We, therefore, in exercise of powers under Section 19(4) of the National Green Tribunal Act 2010 read with Section 32 of CPC, direct bailable warrant to be issued to the Principal Secretary, Urban Development and Housing Department, Government of Bihar to secure his presence on the next date fixed.
5. A copy of this order shall be communicated to the Director General of Police, Patna, Bihar, for necessary compliance.
6. **List on 03.09.2024.**

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

August 13, 2024,
Original Application No.11/2024/EZ
SKB



बिहार सरकार
नगर विकास एवं आवास विभाग

प्रेषक,

प्रधान सचिव,
नगर विकास एवं आवास विभाग।

- 15 -

सेवा में,

श्री सुनील कुमार यादव, IAS
अपर सचिव,
नगर विकास एवं आवास विभाग।

श्री उमाकांत पांडेय, BAS
अपर निदेशक,
नगर विकास एवं आवास विभाग।

पटना, दिनांक- 14/8/2024

माननीय NGT (Eastern Zone, Kolkata) द्वारा पारित आदेश एवं सुनवाई के संबंध में गंभीर लापरवाही, स्वेच्छाचारिता तथा अकर्मण्यता बरतने के संबंध में।



उपर्युक्त विषयक संबंध में कहना है कि एन०जी०टी० वाद संख्या OA No.-11/2024 में विद्वान अधिवक्ता द्वारा दिनांक 23.07.2024 को माननीय एन०जी०टी० द्वारा आदेश पारित किया गया था, जिसमें प्रधान सचिव, नगर विकास एवं आवास विभाग को दो सप्ताह के अंदर प्रतिशपथ पत्र (Affidavit) File करने का निदेश दिया गया था। इसी आदेश की कंडिका-5 में यह भी लिखा गया था कि "We, therefore, direct the Principal Secretary, Urban Development and Housing Department to file his affidavit within two weeks failing which he will appear before the Tribunal (in Virtual Mode) with his explanation."

2. किन्तु यह अत्यंत खेद का विषय है कि माननीय NGT द्वारा दिनांक 23.07.2024 को पारित इस आदेश को आपके द्वारा न तो कभी प्रधान सचिव के समक्ष कभी उपस्थापित किया गया और न ही इस आदेश के बारे में आपके द्वारा प्रधान सचिव को कभी बताया गया, जो अत्यंत गंभीर मामला है तथा आपकी लापरवाही, स्वेच्छाचारिता एवं अनुशासनहीनता का द्योतक है।

3. इतना ही नहीं माननीय NGT द्वारा इस वाद की सुनवाई की तिथि 13.08.2024 को निर्धारित की गई थी किन्तु आपके द्वारा इस तिथि के बारे में भी अधोहस्ताक्षरी को अवगत नहीं कराया गया। यहाँ तक कि जब दिनांक 13.08.2024 को माननीय NGT की सुनवाई हेतु लिंक सहित सुनवाई की सूचना भेजी गई तो भी आपके द्वारा प्रधान सचिव को सुनवाई के संबंध में भी कोई सूचना नहीं दी गई और इस संबंध में कोई कार्रवाई नहीं की गई, जो अत्यंत ही गंभीर मामला है और इससे आपकी लापरवाही, स्वेच्छाचारिता एवं अकर्मण्यता परिलक्षित होती है।

4. अतः निदेश दिया जाता है कि उपरोक्त अत्यंत गंभीर लापरवाही, स्वेच्छाचारिता एवं कर्तव्यहीनता के आलोक में तीन (03) दिनों के अंदर अपना स्पष्टीकरण समर्पित करना सुनिश्चित करें कि क्यों नहीं इस लापरवाही, कर्तव्यहीनता एवं अनुशासनहीनता के लिए आपके विरुद्ध अनुशासनात्मक कार्रवाई की जाए। उक्त आलोक में आपका वेतन तत्काल प्रभाव से स्थगित किया जाता है।

विश्वासभाजन,

प्रधान सचिव,

नगर विकास एवं आवास विभाग।

पटना, दिनांक- 14/8/2024

ज्ञापांक- 186/५० ५० को०

प्रतिलिपि:-प्रभारी वरीय पदाधिकारी (स्थापना) को सूचनार्थ एवं आवश्यक कार्रवाई हेतु

प्रेषित।

प्रधान सचिव,

नगर विकास एवं आवास विभाग।



Translated Typed Copy

Letter No.- 188/50 S.No.V. and A.V.

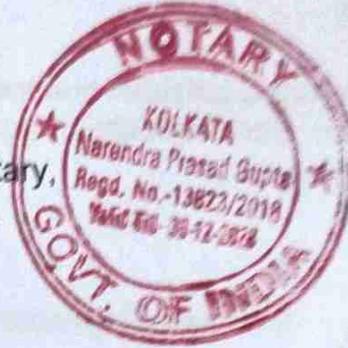
Vihar Government Urban Development and Housing Department

Sender,

Principal Secretary,
Urban Development and Housing Department.

To,
Shri Sunil Kumar Yadav, IAS Additional Secretary,
Urban Development and Housing Department.

Shri Umakant Pandey,
BAS Additional Director,
Urban Development and Housing Department.



Patna, Date- 14/8/2024

Regarding serious negligence, arbitrariness and inaction in connection with the order passed and hearing by the Honorable NGT (Eastern Zone, Kolkata).

Sir,

In relation to the above subject, it is said that in NGT case number OA No.-11/2024, an order was passed by the learned advocate on 23.07.2024 by the Honorable NGT, in which the Principal Secretary, Urban Development and Housing Department has to file a counter affidavit within two weeks. Instructions were given to file the letter (Affidavit). It was also written in paragraph 5 of the same order that "We, therefore, direct the Principal Secretary, Urban Development and Housing Department to file his affidavit within two weeks failing which he will appear before the Tribunal (in Virtual Mode) with his explanation.

2. But it is a matter of utmost regret that this order passed by the Honorable NGT on 23.07.2024 was neither presented by you before the Principal Secretary nor did you ever tell the Principal Secretary about this order. Gaya, which is a very serious matter and is indicative of your carelessness, arbitrariness and indiscipline.

3. Not only this, the date of hearing of this case was fixed by the Honorable NGT on 13.08.2024 but you did not even inform the undersigned about this date. Even when the hearing notice was sent along with the link for the hearing to the Honorable NGT on 13.08.2024, no information regarding the hearing was given by you to the Principal Secretary and no action was taken in this regard, which is extremely disappointing. This is a serious matter and reflects your carelessness, arbitrariness and inaction.

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4. Therefore, it is directed that in the light of the above mentioned extremely serious negligence, arbitrariness and dereliction of duty, ensure to submit your explanation within three (03) days as to why disciplinary action should not be taken against you for this negligence, dereliction of duty and indiscipline. In the above light, your salary is postponed with immediate effect.

Faithfully,
Sd/-
Principal Secretary

Memorandum No. 186/5050 Urban Development and Housing Department. Patna, dated 14/8/2024 Copy to Senior Officer in Charge (Establishment) for information and necessary action.

Sent.

Sd/-

Principal Secretary, Urban Development and Housing Department.

