

SL. NO.

Dt.-

16 AUG 2024

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 121/2023/EZ

SUMANTA GHOSH

.....APPLICANT(S)

VERSUS

STATE OF WEST BENGAL & ORS.

..... RESPONDENT(S)

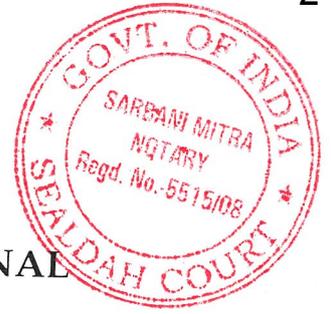
AFFIDAVIT FILED BY THE WEST BENGAL  
POLLUTION CONTROL BOARD.

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Filed by

DIPANJAN GHOSH  
ADVOCATE  
HIGH COURT AT CALCUTTA

SL. NO. 19<sup>2</sup> Dt.:- 16 AUG 2024

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POLLUTION CONTROL BOARD.

Most Respectfully Sheweth

I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 60 years, by faith-Hindu, Occupation- Service, residing at Narkelbagan, Gorosthan, Chinsurah, District - Hooghly, do hereby solemnly declare and say as follows:-

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01. That, I am the Officer on Special Duty (OSD), West Bengal Pollution Control Board (hereinafter will be referred to as the 'State Board') and I am well acquainted with the facts and circumstances of the case. I have been duly authorized by the Respondent No. 02, to affirm this Affidavit on its behalf and as such, I am competent to do so.
02. That, this affidavit is being affirmed in pursuant to the orders passed by this Hon'ble Tribunal dated 03.05.2024 and 09.07.2024.
03. That, in compliance to the order of the Hon'ble National Green Tribunal dated 03.05.2024, the said unit, namely M/s. Alam Enterprise, located at Mouza - Panchkulguri, P.O. & P.S. - Matigara, Dist. - Darjeeling, Pin - 734010, was called for hearing on 22.07.2024 at the Head office of the State Board with regard to the air pollution caused by the said unit.
04. That, Shri Mahafuj Alam, partner of the unit appeared in the said hearing and made his submissions.

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05. That, after the submissions of Shri Mahfuj Alam, the Assistant Director who was present on behalf of the Directorate of Mines and Minerals, Govt. of West Bengal said that the unit should submit relevant documents regarding procurement of raw materials from the authorized vendor/lessee as permitted by the Directorate of Mines and Minerals, Govt. of West Bengal.

06. That, during the course of hearing, the unit was directed to submit the following documents within 15 days from the date of hearing:

- (a) Certificate from the Irrigation Department, Govt. of West Bengal regarding determination of distance between the unit and the flood plain of Rakti River.
- (b) Proper documents like purchase orders etc. regarding procurement of raw materials from the authorized vendor/lessee as permitted by the Directorate of Mines and Minerals, Govt. of West Bengal.
- (c) Documents regarding determination of distance of the stone crushing unit from the protected boundary of Mahananda Wildlife Sanctuary (MWLS).

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(d) Permission from State Water Investigation Directorate (SWID), West Bengal for abstraction of ground water, copy of electricity bill of WBSEDCL etc.

(e) Action taken report towards compliance of Environmental Guidelines by the Central Pollution Control Board dated July, 2023.

After submission of the said documents by the unit, the State Board will send them for verification to the concerned Departments.

The State Board further directed that the said unit shall not resume the operation of stone crushing without prior permission of the State Board.

Copy of the direction of the State Board dated 05.08.2024 is annexed herewith and marked with letter "R".

07. It is therefore respectfully prayed that Hon'ble Tribunal may pass such order/orders as it deems fit and proper in the interest of justice.

DEPONENT

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## VERIFICATION



I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 60 years, by Religion - Hindu, by Occupation- Service, residing at Narkelbagan, Gorosthan, Chinsurah, District-Hooghly, do hereby solemnly declare and say as follows:-

1. That, I am the Officer on Special Duty (OSD), West Bengal Pollution Control Board and I am well acquainted with the facts and circumstances of the instant Original Application.
2. That, the statements made in paragraph 1 of this affidavit is true to my knowledge and belief.
3. That, the statements made in paragraphs 2 to of this affidavit are my information derived from the records available in the office of the State Board which I verily believe to be true and the rest are my respectful submission before this Hon'ble Tribunal.

*Dipankar Ghosh*

Identified and corrected by me  
Advocate  
WBPCB

*Subrata Ghosh*  
DEPONENT

Solemnly Affirmed &  
Declared Before Me  
On Identification By

*[Signature]*  
SARBANI MITRA  
NOTARY  
Regd. No.-5515/08

16 AUG 2024

07/08/24.

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'R' 7



**LIFE**  
Lifestyle for  
Environment

**WEST BENGAL POLLUTION CONTROL BOARD**  
(Department of Environment, Government of West Bengal)  
Paribesh Bhawan, 10A, Block - LA, Sector III, Bidhannagar  
Kolkata - 700 106, Ph. No.: 2202-3097/3096  
Website: [www.wbpcb.gov.in](http://www.wbpcb.gov.in), Email: [net.wbpcb-wb@bangla.gov.in](mailto:net.wbpcb-wb@bangla.gov.in)

Memo No.

-3L/WPB-H(III)/2023

Date: /08/2024

### DIRECTION

**WHEREAS**, as per Hon'ble National Green Tribunal (NGT) order dated 06.12.2023 in connection with O.A. No. 121/2023/EZ, an inspection was carried out on 22.01.2024 by a Committee constituted by the Hon'ble NGT, of a stone crushing and a stone mining unit namely **M/s. Alam Enterprise** (hereinafter referred to as the unit) at **Panchakalguri, P.O. & P.S.-Matigara, Dist.-Darjeeling, Pin-734010** as the unit is operating in the Eco-Sensitive Zone (ESZ) of Mahananda Wildlife Sanctuary near Balason river and causing air pollution.

**AND WHEREAS**, during inspection it was observed that the crusher mill is located within an approx. distance of 50 metre from the SH-12 (Siliguri-Mirik). The crusher was found operational during inspection. The unit has 2 nos. stone crushers plant. Each plant has 07 nos. primary crushers. Total no. of primary crushers is 14 nos. Green belt coverage around the unit was not adequate. The raw materials (river bed material like Boulders, stones, etc.) are procured from other vendors as per the requirements and market demand. As informed, the final product (sized stone aggregate/chips) is supplied to road construction and building construction purposes.

**AND WHEREAS**, the unit is located in Mouza-Panchakalguri which falls in the Eco-Sensitive Zone of Mahananda Wildlife Sanctuary as per the final ESZ Notification of Mahananda Wildlife Sanctuary issued by the Ministry of Environment, Forest & Climate Change (MoEF&CC), Govt. of India dated 22.09.2020. The distance of the stone crushing site from the protected boundary of Mahananda Wildlife Sanctuary (MWLS) on the basis of geo-coordinates (measured during this inspection) is approx. 4.62 Km as measured through google map. As per the ESZ Notification of Mahananda Wildlife Sanctuary issued by MoEF&CC dated 22.09.2020, the ESZ boundary is 5km from the protected boundary of the Mahananda Wildlife Sanctuary. Therefore, the unit falls in the ESZ of the MWLS.

It was also observed the following during joint inspection:-

- Wind breaking walls were not provided around the periphery of crusher mill.
- At present huge quantity of stone dust was laying on the stone crusher area and the unit had not made arrangement for dedicated stone dust storage room.
- No metalled roads were available within the premises
- There was no permanent water sprinkling arrangement within the entire unit premises at all the strategic points.
- Unit had not installed Telescopic chutes at all the belt conveyor's final discharge points.
- The unit has not developed green belt at least 33% of available open area (As per condition of Consent to Operate).
- Dust deposition was observed on roads within the unit as well as on leaves of tree within & outside the unit premises. There is the possibility of dust pollution for carry over of stone dust through air due to such non-compliance as mentioned above.
- No settling tank was available for recycling of the wastewater generated during dust suppression and from the crusher. Waterlogging within the premises was observed.
- The unit has not complied with the Environmental Guidelines issued by the Central Pollution Control Board dated July, 2023.



**AND WHEREAS**, on the basis of the observation during joint inspection dated 22.01.2024, a letter was issued to the unit by the Officer-in-Charge, Environment, Darjeeling, Office of the District Magistrate, Darjeeling vide Memo No. 96/Env-Bio/Darj/2024 dated 01.07.2024 directing the unit to stop the operation of stone crushing unit.

**AND WHEREAS**, the unit was again inspected by the **West Bengal Pollution Control Board** (hereinafter referred to as the State Board) official on 15.07.2024 in compliance of the order of Hon'ble NGT dated 09.07.2024. Geo-coordinates are measured at unit's boundary wall towards Rakti River (nearest river) and unit side adjacent back of Rakti River. From geo-coordinates, it is reflected that the unit is located at a distance of about 295.86m from bank of Rakti River towards unit side, In between the unit and river, there are dwellings of villagers and then flood plain of the river. Also geo-coordinates measured at installation point of primary crusher of the unit and it is observed that the unit had installed its primary crusher at a distance of about 4.64m from protected boundary of the Mahananda Wild Life Sanctuary i.e. the unit is located within ESZ of the Mahananda Wild Life Sanctuary. Near one side boundary wall of the unit towards the river side, three tier plantation was being developed recently within its premises. Above 10 feet concrete wall of the unit towards the villager's side, unit has recently installed GI sheet boundary of about 10 feet height.

**AND WHEREAS**, the Consent to operate was granted by the Sub-Divisional Officer, Siliguri, Darjeeling, West Bengal which is valid upto 13.10.2025.

**AND WHEREAS**, in compliance of the order of Hon'ble NGT dated 03.05.2024, the unit was called for a hearing on 22.07.2024 at the Head office of the State Board. Shri Mahafuj Alam, Partner of the unit appeared in the hearing and submitted the following:-

- The unit was established in 2006, The unit has valid land conversion certificate and valid Consent to Operate which is valid upto 13.10.2025.
- Presently operation of the stone crushing unit has been fully stopped in compliance of the Direction issued by the office of the District Magistrate, Darjeeling dated 01.07.2024.
- They claimed that the stone crushing unit is not situated within the ESZ boundary, it is situated beyond 5 Km. from the protected boundary of the Mahananda Wildlife Sanctuary. But he did not submit any authenticated documents in support of his statement.
- He confirmed that they have no permission/lease of Directorate of Mines & Minerals, Govt. of West Bengal for carrying out mining activity. They are procuring raw materials like boulders, stones etc. from the authorized lessee as permitted by the Directorate of Mines & Minerals, Govt. of West Bengal. But in this regard, he did not submit any documents during the course of hearing.
- They have installed borewells for abstraction of ground water for which they have no permission of SWID, West Bengal.

**AND WHEREAS**, Smt. Sarmishtha Ghosh, Assistant Director on behalf of the Directorate of Mines & Minerals, Govt. of West Bengal was present and said that the unit should submit relevant documents regarding procurement of raw materials from the authorized vendor/lessee as permitted by the Directorate of Mines & Minerals, Govt. of West Bengal.

**AND WHEREAS**, during the course of hearing, the unit was directed to submit the following documents within 15(fifteen) days from the date of hearing:-

1. Certificate from the Irrigation Department, Govt. of West Bengal regarding determination of distance between the unit and the flood plain of Rakti River.
2. Proper documents like purchase orders etc. regarding procurement of raw materials from the authorized vendor/lessee as permitted by the Directorate of Mines & Minerals, Govt. of West Bengal.



3. Documents regarding determination of distance of the stone crushing unit from the protected boundary of MWLS.
4. Permission from SWID, West Bengal for abstraction of ground water, copy of electricity bill of WBSEDCL etc.
5. Action taken report towards compliance of Environmental Guidelines by the Central Pollution Control Board dated July, 2023.

**AND WHEREAS**, after submitting the above mentioned documents by the unit, the State Board will send the same to the concerned department for verification.

**NOW THEREFORE**, considering the above, **M/s. Alam Enterprise** located at Panchakalguri, P.O. & P.S.-Matigara, Dist.-Darjeeling, Pin-734010 is hereby directed not to resume the operation of stone crushing unit without prior permission of the State Board.

The Asst. Environmental Engineer & In-charge, Siliguri Regional Office of the State Board is requested to oversee the compliance of Board's direction.

This direction is issued in exercise of the powers conferred under the provision of Section 33A of Water (Prevention & Control of Pollution) Act, 1974, Section 31A of Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and Rules made there under after being approved by the Competent Authority.

By Order,

Sd/-

**Officer-on-Special Duty  
(Operation & Execution)  
West Bengal Pollution Control Board**

Memo No. 9023 (8) -3L/WPB-H(III)/2023

Date: 05/08/2024

Copy forwarded for information and necessary action to:-

1. M/s. Alam Enterprise, Panchakalguri, P.O. & P.S.-Matigara, Dist.-Darjeeling, Pin-734010
2. The District Magistrate, Darjeeling, Kutchery Building, Lebong Cart Road, Darjeeling, Pin-734101
3. The Addl. District Magistrate (Env.) Darjeeling, Office of the District Magistrate, Darjeeling, Kutchery Building, Lebong Cart Road, Darjeeling, Pin-734101
4. The Regional Director, Regional Directorate, Kolkata, Kasba New Market, Sector-E, East Kolkata Township, Kolkata-700107
5. The Director, Directorate of Mines and Minerals, 4, Abanindranath Tagore Sarani, 2nd Floor, Kolkata - 700 016
6. The Chief Engineer, Planning & EIM Cell, WBPCB
7. The Senior Law Officer, WBPCB
8. Smt. Paushali Mukherjee (Pahari), Sr. Law Officer, WBPCB
9. The Asst. Environmental Engineer & In-charge, Siliguri Regional Office, WBPCB
- 10 T.A. to the Member Secretary, WBPCB
- 11 P.A. to the Chairman, WBPCB
- 12 Technical Cell, WBPCB for updating the website
- 13 Environment Officer- Communication, WBPCB – for circulation through float file
- 14 Guard file of O & E Cell



*Sd/-*  
**Officer-on-Special Duty  
(Operation & Execution)  
West Bengal Pollution Control Board**

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AFFIDAVIT FILED BY THE WEST BENGAL  
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DIPANJAN GHOSH  
ADVOCATE  
HIGH COURT AT CALCUTTA