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

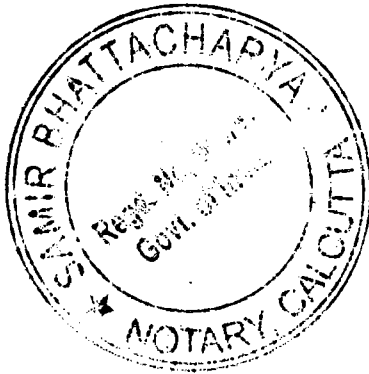
I. A. No. 60 of 2024/EZ

(Arising out of ORIGINAL APPLICATION NO. 38/2024/EZ)

Under Section 19(A) (a) read with Section 18 (1) of NGT Act, 2010.

In The Matter of:

An Application for addition of Prodhan Kheadaha-II, Gram Panchayét having office at Village- Dargatala, P.O- Kheadaha, P.S- Narendrapur, Block- Sonarpur, District: South (24) Parganas, Pin: 700150, as a party respondent in connection with the instant original application;



AND

In The Matter of:

Smt. Mita Naskar, D/o Late Bibhuti Naskar, being the Prodhan of Kheadaha-II, Gram Panchayét, having office at Kheadaha, Dargatala, P.O- Kheadaha, P.S- Narendrapur, District: South (24) Parganas, Kolkata: 700150.

..... Applicant.

-Versus-

1. Ranjit Kumar Sapui, S/o Late Bishnupada Sapui, residing at 15,

22 AUG 2024

X

Dharmatala Road, police station-
Kasba, Kolkata- 700 042.

E-mail: ghoshindradeep506@gmail.com

...Respondent No.1/ Applicant in O.A.

2. State of West Bengal, service
through Chief secretary, Government of
West Bengal being the Chairman, East
Kolkata Wetland, Management
Authority, Nabanna 325 Sarat
Chatterjee Road, Police Station-
Shibpur, Howrah- 711102.

E-mail: cs-westbengal@nic.in

3. The State of West Bengal service
through the Principal Secretary,
Department of Environment, Prani
Sampad Bhawan, LB-II, Block-LB, 5th
Floor, Sector-III, Salt Lake City,
Kolkata-700106.

E-mail: psecy.env-wb@gov.in

4. The Chief Technical Officer, East
Kolkata Wetland Management
Authority, Government of West Bengal,

X

Department of Environment, Prani
Sampad Bhawan, LB-II, Block-LB, 5th
Floor, Sector-III, Salt Lake City,
Kolkata-700106.

E-mail: ctoekwma@gmail.com

5. The Director of Fisheries,
Government of West Bengal, Meen
Bhawan, Salt Lake, Kolkata- 700 091.

E-mail: dsfisheries@gmail.com

6. The District Magistrate and
Collectorate, South 24 Parganas,
Treasury Building Alipore, Kolkata- 700
027.

E-mail: dm-ali@nic.in

7. The Superintendent of police,
South 24 Parganas, Alipore, Kolkata-
700 027.

E-mail: baruipurpolice@gmail.com

8. The Block Land and Land Reforms
Officer, Kasba, Additional T.M. Block
Kasba, Kolkata- 700 107.

X

E-mail: blro-kas@gmail.com

9. The Block Land and Land Reforms
Officer, Sonarpur, Baikunthapur,
Kolkata- 700150.

E-mail: blro-sonar@gmail.com

10. The Officer in Charge, Purva
Jadavpur Police Station, Kolkata-
700099.

E-mail:

ps.pjadavpur@kolkatapolice.gov.in

11. The Officer-in-Charge,
Narendrapur Police Station, Kolkata-
700103.

E-mail: narendraps@gmail.com

12. Motilal Mondal, S/o Lal Mohan
Mondal residing at 7/1, Netaji Nagar,
Green Park, Kolkata: 700099.

Email: Not Known.

X

13. Madhusudan Mondal, S/o
Lakshikanta Mondal residing at Garfa
Mondal Para, P.O- Haltu, P.S- Garfa,
Kolkata: 700078.

Email: Not known

14. West Bengal Pollution Control
Board represented through its Member
Secretary, having office at 10A, Block-
LA, Sector-III, Salt Lake City, Kolkata:
700106.

Email: : net.wbpcb-wb@bangla.gov.in

15. The Officer-in-Charge, Garfa Police
Station having office at Garfa Deaf and
Dumb School premises, Vivekananda
Sarani, Doctor Bagan, Kolkata: 700078.

Email: ps.garfa@kolkatapolice.gov.in

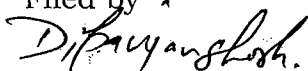
.....Respondents 2 to 15

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Filed by



Dipanjan Ghosh

Advocate

For The I.A Applicant

Email: dpnjnghsh0@gmail.com

(M): 9903080977.

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

I. A. No. of 2024/EZ

(Arising out of ORIGINAL APPLICATION NO. 38/2024/EZ)

Under Section 19(4)(a) read with section 18(1) of NGT Act, 2010

In The Matter of:

An application for addition of Prodhan Kheadaha-II, Gram Panchayet having office at Village- Dargatala, P.O- Kheadaha, P.S- Narendrapur, Block- Sonarpur, District: South (24) Parganas, Pin: 700150, as a party respondent in connection with the instant original application;

AND

In The Matter of:

Smt. Mita Naskar, D/o Late Bibhuti Naskar, being the Prodhan of Kheadaha-II, Gram Panchayet, having office at Kheadaha, Dargatala, P.O- Kheadaha, P.S- Narendrapur, District: South (24) Parganas, Kolkata: 700150.

..... Applicant.

-Versus-

X

1. Ranjit Kumar Sapui, S/o Late Bishnupada Sapui, residing at 15, Dharmatala Road, police station-Kasba, Kolkata- 700 042.

E-mail: ghoshindradeep506@gmail.com

....Respondent No.1/ Applicant in O.A.

2. State of West Bengal, service through Chief secretary, Government of West Bengal being the Chairman, East Kolkata Wetland, Management Authority, Nabanna 325 Sarat Chatterjee Road, Police Station-Shibpur, Howrah- 711102.

E-mail: cs-westbengal@nic.in

3. The State of West Bengal service through the Principal Secretary, Department of Environment, Prani Sampad Bhawan, LB-II, Block-LB, 5th Floor, Sector-III, Salt Lake City, Kolkata-700106.

E-mail: psecy.env-wb@gov.in

X

4. The Chief Technical Officer, East Kolkata Wetland Management Authority, Government of West Bengal, Department of Environment, Prani Sampad Bhawan, LB-II, Block-LB, 5th Floor, Sector-III, Salt Lake City, Kolkata-700106.

E-mail: ctoekwma@gmail.com

5. The Director of Fisheries, Government of West Bengal, Meen Bhawan, Salt Lake, Kolkata- 700 091.

E-mail: dsfisheries@gmail.com

6. The District Magistrate and Collectorate, South 24 Parganas, Treasury Building Alipore, Kolkata- 700 027.

E-mail: dm-ali@nic.in

7. The Superintendent of police, South 24 Parganas, Alipore, Kolkata- 700 027.

E-mail: baruipurpolice@gmail.com

~~10~~

8. The Block Land and Land Reforms Officer, Kasba, Additional T.M. Block Kasba, Kolkata- 700 107.

E-mail: blro-kas@gmail.com

9. The Block Land and Land Reforms Officer, Sonarpur, Baikunthapur, Kolkata- 700150.

E-mail: blro-sonar@gmail.com

10. The Officer in Charge, Purva Jadavpur Police Station, Kolkata- 700099.

E-mail:

ps.pjadavpur@kolkatapolice.gov.in

11. The Officer-in-Charge, Narendrapur Police Station, Kolkata- 700103.

E-mail: narendraps@gmail.com

12. Motilal Mondal, S/o Lal Mohan Mondal residing at 7/1, Netaji Nagar, Green Park, Kolkata: 700099.

X

Email: Not Known.

13. Madhusudan Mondal, S/o
Lakshikanta Mondal residing at Garfa
Mondal Para, P.O- Haltu, P.S- Garfa,
Kolkata: 700078.

Email: Not known

14. West Bengal Pollution Control
Board represented through its Member
Secretary, having office at 10A, Block-
LA, Sector-III, Salt Lake City, Kolkata:
700106.

Email: : net.wbpcb-wb@bangla.gov.in

15. The Officer-in-Charge, Garfa Police
Station having office at Garfa Deaf and
Dumb School premises, Vivekananda
Sarani, Doctor Bagan, Kolkata: 700078.

Email: ps.garfa@kolkatapolice.gov.in

.....Respondents 2 to 15

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To,

The Hon'ble Chairperson and His Companion Member of the said Hon'ble Tribunal.

The Humble petition on behalf of the
applicant as above named most
respectfully

SHEWETH:

1. That the instant original application which is pending for adjudication before the Hon'ble Tribunal relates to impact of illegally drying up of water bodies and filling up of wetlands and also seeking intervention of the Hon'ble Tribunal as the Respondent Authorities neglected from taking any steps to restrain the arbitrary and illegal Acts of miscreants from pumping out water from wetland to raise construction on it and change the character of the said wetland.
2. The said wetlands falls within periphery of East Kolkata Wetlands which are included in the list of Ramsar Site as specified in schedule 'A' of the east Kolkata Wetlands construction and Management Act 2006.
3. That vide Solemn Order dated 10.07.2024 it has been interalia observed by the Hon'ble Tribunal that "the District Magistrate, South

✕

24 Parganas shall file action taken report to show what action has been taken on the findings of the inspection report for restoration of the land to its original character as a waterbody”.

After taking into consideration the Affidavit of the District Magistrate, South 24 Parganas dated 30.04.2024 which states that Hoglabon has grown extensively on the plots in question and in some places ‘Bill and the Khal have been completely filled with Hoglabon’ as per the affidavit of the District Magistrate, South 24 Parganas. The Hon’ble Tribunal has been pleased to further observe as to what action has been taken for removing the vegetation which is otherwise destructive of the pond.

4. That the District Magistrate & Collector, South (24) Parganas vide letter dated 16.08.2024 had under sections 25 & 27 of the West Bengal Gram Panchayet Act, 1973 requested the instant applicant being the Prodhan, of Kheadaha-II, Gram Panchayet, to remove hoglabon/water hyacinths (aquatic vegetations) which is otherwise destructive in nature to the pond. The letter also stated that an action taken report be submitted to the office of the District Magistrate & Collector, South (24) Parganas, Alipore, enclosing copy of the Order dated 10.07.2024 passed by the Hon’ble National Green Tribunal, Eastern Zone Bench, Kolkata.

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Photocopies of the letter dated 16.08.2024 written by the District Magistrate & Collector, South (24) Parganas to the Prodhan, of Kheadaha-II, Gram Panchayet along with copy of the Order dated 10.07.2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata are collectively annexed herewith and marked with the letter 'P-1'.

5. That it is a fact that in the process of restoration of the water body the Kheadaha-II, Gram Panchayet has a vital role in as much as the local municipal body it is required to take immediate measures for restoration of the water body and also for disposal of the filled up materials in the water body.

Moreover the applicant also desires to file separate affidavit bringing on record and kind knowledge of the Hon'ble Tribunal certain aspects which are very essential for adjudication of the instant original application, but the same cannot be brought on record without the applicant being added as a party respondent in the instant original application.

6. That as per section 25 and section 27 of the The West Bengal Panchayet Act, 1973, it has been stated that the Gram Panchayet are required to look after the public streets, waterways and prevent

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growth of water hyacinth in water body within its jurisdiction. As per the aforesaid provisions it is the duty of the Panchayet to clean the waterbody in question and restore the same to its original position.

A copy of the West Bengal Panchayet Act, 1973 is annexed herewith and marked with the letter 'P-2'.

7. That after taking into consideration the above submissions the role of the gram panchayet as per statutory rules the Panchayet is a respondent whose role is quite vital in the instant case and also for bringing on record certain aspects which is otherwise not possible without being added as a party.
8. That it is most humbly submitted before this Hon'ble Tribunal that the Kheadaha-II, Gram Panchayet represented through its Prodhan may be added as a party respondent for smooth adjudication of the instant original application.
9. That this application is made bonafide and unless this application is allowed by this Hon'ble Tribunal the applicant will suffer irreparable loss and injury.

Under the above circumstances it
is most humbly prayed before

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Your Lordships may kindly be pleased to allow this application and permit the Kheadaha-II, Gram Panchayet represented through its Prodhan to be added as a party respondent in connection with the instant original application and to pass such further Order/Orders as to this Hon'ble Tribunal may deem fit and proper for the ends of justice.

And For This Act of Kindness Your Applicant as in duty bound shall ever pray.

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VERIFICATION:

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

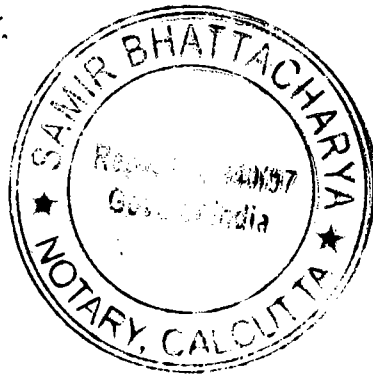
Verified at Kolkata on the ^{22nd} Day of August, 2024.

Identified by me

Dipankar Lohi

Advocate

F/1154/2007.



Narayan

Deponent

Pradhan
Kheadaha-II Gram Panchayet
Dargatala, Kheadaha
P.S.- Narendrapur, 24-Parganas (S)

~~XXXX~~



AFFIDAVIT

I, Smt. Mita Naskar, D/o Late Bibhuti Naskar, aged about 38 years, by faith Hindu, by occupation - prodhan of Kheadaha-II, Gram Panchayet, having office at Kheadaha, Dargatala, P.O- Kheadaha, P.S- Narendrapur, District: South (24) Parganas, Kolkata: 700150, do hereby solemnly affirm and state as follows :-

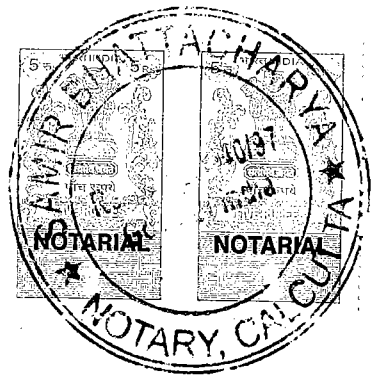
1. That I am the applicant in the Original Application and well conversant with the fact and circumstance of the case and I am competent to sign and swear this affidavit
2. That I have read and Understood the contents of the accompanying application and say that the facts stated above are true and correct as per my personal knowledge and legal advice received by me are the best of my knowledge and belief.

Mita Naskar

Pradhan
DEPONENT Kheadaha-II Gram Panchayet
Dargatala, Kheadaha
P.S.- Narendrapur, 24-Parganas (S)

Prepared in my office,
Dipankar Ghosh
Advocate
F/1159/2007

Identified by me
Dipankar Ghosh
Advocate



Solemnly Affirmed and
Declared before me U/S 139
CPC/U/S297 (C) ERPC

22.8.24
Notary

12 2 AUG 2024

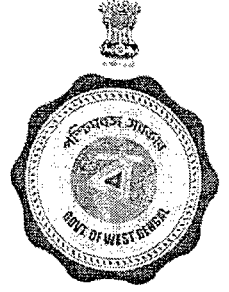
Samir Bhattacharya
Notary Govt. of India
Regd. No. 940/97
City Civil Court, Calcutta

Annexure - P-1

~~XX~~

OFFICE OF THE
DISTRICT MAGISTRATE & COLLECTOR
SOUTH 24 PARGANAS

Office: 12, Biplabi Kanai Bhattacharya Sarani, Alipore, Kolkata – 700027
Phone: 033-2449 9944 / 2479 1694, Fax: 033-2448 7871
Email: dm.s24pgs@gmail.com, dm-ali@nic.in



Memo No. 33/2657/NGT/2024

Date: 16.08.2024

To,
The Pradhan,
Kheyadaha –II Grampanchayat,
Vill. – Dargatala,
P.O.- Kheyadaha,
P.S. – Narendrapur,
Kolkata – 700 150.
South 24 Parganas.

Sub : Compliance of the Solemn Order dated 10.07.2024 of the Hon'ble National Green Tribunal, EZ i.c.w, OA 38/2024/EZ.

With reference to the above stated case, the Hon'ble National Green Tribunal, EZ vide its order dated 10.07.2024 has directed the District Magistrate, South 24 Parganas to submit action taken report for the removal of Hoglabon / water hyacinths (aquatic vegetations) which has grown extensively at the plots i.e, RS & LR Plot Nos. 18, 35, 36, 39, 40, 41, 42, 44, 45 & 80 of Mouza – Mukundapur, JL No. – 4 under Sonarpur Block which falls under EKWMA area.

Therefore, U/S. 25 & 27 of the West Bengal Gram Panchayat Act, 1973 you are requested for removal of the Hoglabon / water hyacinths (aquatic vegetations) which is otherwise destructive of the pond.

An action taken report may be submitted to this end at the earliest.

This may be treated as Extremely "Urgent".

Encl : Solemn Order dated 10.07.2024

Memo No. 33/2657/1(3)/NGT/2024

Copy forwarded to :-

1. The Additional Executive Officer & Additional District Magistrate (ZP), South 24 Parganas for information.
2. The Sub-Divisional Officer, Baruipur, South 24 Parganas for information.
3. The Block Development Officer & Executive Officer, Panchayat Samiti, Sonarpur Block is directed to monitor the entire removal process.

Amillesh
District Magistrate
South 24 Parganas.

Date: 16.08.2024

Amillesh
District Magistrate
South 24 Parganas.



Item No.05

Court No.1

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

Original Application No.38/2024/EZ

Ranjit Kumar Sapui	Versus	Applicant(s)
State of West Bengal & Ors.		Respondent(s)

Date of hearing: 10.07.2024

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

For Applicant(s) : Mr. Ayan Banerjee, Adv. a/w
Mr. Indradeep Ghosh, Adv. (in Virtual Mode)

For Respondent(s): Mr. Sibojyoti Chakraborty, Adv. for R-1 to 10 & 14,
Mr. Jayanta Samanta, Adv. a/w
Mr. Malakar Dutta, Adv. for R-11 (in Virtual Mode),
Mr. Ghanshyam Pandey, Adv. for R-13

ORDER

1. Mr. Ayan Banerjee, learned Counsel assisted by Mr. Indradeep Ghosh, learned Counsel is present (in Virtual Mode) on behalf of the Applicant.
2. Mr. Ghanshyam Pandey, learned Counsel files Vakalatnama on behalf of the Respondent No.13, West Bengal State Pollution Control Board; the same is taken on record; When the case is next listed, the name of Mr. Ghanshyam Pandey shall be printed in the cause list as Counsel for Respondent No.13.
3. Affidavit of service on Respondent No.12 has been filed by the Respondent No.14, Officer in Charge, Garfa Police Station; the same is taken on record.
4. Mr. Ayan Banerjee informs that the Respondent No.12 has expired on 17.08.2020. He prays for and is granted four weeks time for filing substitution application of Respondent No.12.



5. Time as prayed is granted.
6. Mr. Jayanta Samanta, learned Counsel for Respondent No.11 appearing (in Virtual Mode) prays for and is granted three weeks time for filing counter affidavit.
7. The Counsel for the parties shall exchange copy/s of their affidavits among themselves at least one week before the next date fixed.
8. The Inspection Report filed with the affidavit of the West Bengal Pollution Control Board clearly states that municipal solid waste (garbage) has been dumped on the land in question. In the Inspection Report it is also mentioned that the plots in question falls within the land of East Kolkata Wetlands which is a Ramsar site. The Inspection Report also mentions that a long portion of the land was also found demarcated by barbed wire and some small plots were also divided by barbed wire.
9. The District Magistrate, South 24 Parganas shall file action taken report to show what action has been taken on the findings of the inspection report for restoration of the land to its original character as a waterbody.
10. Affidavit of the District Magistrate, South 24 Parganas dated 30.04.2024 states that Hoglabon has grown extensively on the plots in question and in some places 'Bill and the Khal have been completely filled with Hoglabon' as per the affidavit of the District Magistrate, South 24 Parganas. Question is what action has been taken for removing the vegetation which is otherwise destructive of the pond.
11. Mr. Sibojyoti Chakraborty, learned Counsel appearing for the District Magistrate, South 24 Parganas prays for and is granted three weeks time for filing Action Taken Report in this matter.

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12. **List on 29.08.2024.**

.....
B. Amit Sthalekar, JM

July 10, 2024,
Original Application No.38/2024/EZ
SKB

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

~~X~~ Annexe P-2

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THE WEST BENGAL PANCHAYAT ACT, 1973

[W.B. Act XLI of 1973]

[17th January, 1974]

¹[An Act to reorganize, strengthen and expand the activities of Panchayats in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith.]

WHEREAS it is necessary and expedient to reorganize, strengthen and expand the activities of *Panchayats* in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith;]

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

NOTES

Preamble projects the *Panchayat* as an important institution in rural areas of West Bengal.—Other provisions, wherever necessary would draw inspiration from the Preamble. In the case of *Eunas Ali Molla v State of West Bengal* 1977 WBLR (Cal) 275, it has been observed that sec.12 (regarding requisition meeting for removal of *Pradhan* or *Upa-Pradhan*) does not have independent mooring and that cannot be examined in isolation. The spirit of the Preamble would be guiding star of other provisions of the Act.

PART I

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the West Bengal *Panchayat* Act, 1973.

(2) It extends to the whole of West Bengal, except the areas to which the provisions of—

- (a) the Cantonments Act, 1924 (2 of 1924),
- (b) the Howrah Municipal Corporation Act, 1980 (West Bengal Act 58 of 1980),
- (c) the Kolkata Municipal Corporation Act, 1980 (West Bengal Act 59 of 1980),

1. Subs. by the West Bengal *Panchayat* (Third Amendment) Act, 2006 (W.B. Act XXXVII of 2006).

- (d) the Siliguri Municipal Corporation Act, 1990 (West Bengal Act 30 of 1990),
- (e) the Asansol Municipal Corporation Act, 1990 (West Bengal Act 31 of 1990),
- (f) the Chandernagore Municipal Corporation Act, 1990 (West Bengal Act 32 of 1990),
- (g) the West Bengal Municipal Act, 1993 (West Bengal Act 22 of 1993),
- (h) the Durgapur Municipal Corporation Act, 1994 (West Bengal Act 53 of 1994), or

any parts or modifications thereof apply or may hereafter be applied.

(3) This section shall come into force at once; the remaining sections shall come into force on such date or dates and in such area or areas as the State Government may, by notification, appoint and different dates may be appointed for different sections and for different areas.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (1) “auditor” means an auditor appointed under section 186 and includes any officer authorised by him to perform all or any of the functions of an auditor under Chapter XVIII;
- ¹[(1A) “Backward Classes” has the same meaning as in clause (a) of section 2 of the West Bengal Commission for Backward Classes Act, 1993 (West Ben. Act I of 1993);]
- (2) “Block” means an area referred to in section 93;
- (3) “Block Development Officer” means an officer appointed as such by the State Government and includes the Joint Block Development Officer-in-charge of the Block;
- (4) “case” means a criminal proceeding in respect of an offence triable by a *Nyaya Panchayat*;
- (4a) “Collector” means an officer appointed as such by the State Government;
- ²[(4aa) “Commissioner of *Panchayats* and Rural Development” means an officer appointed as such by the State Government and includes a Joint Director of *Panchayats* and Rural Development, Deputy Director of *Panchayats* and Rural Development and Assistant Director of *Panchayats* and Rural Development, Government of West Bengal;]
- (4b) “Council” means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988 (West Bengal Act 13 of 1988);

- (5) "District Magistrate" includes an Additional District Magistrate, a Deputy Commissioner, an Additional Deputy Commissioner and any other Magistrate appointed by the State Government to discharge all or any of the functions of a District Magistrate under this Act;
- ³[(6) * * * * *]
- (7) "District *Panchayat* Officer" means a District *Panchayat* and Rural Development Officer appointed as such by the State Government;
- (8) "District Planning Committee" means the District Planning Committee established by the State Government for a district;
- ²[(8a) "Divisional Commissioner" means an officer appointed as such by the State Government;]
- ⁴[(8b) "Executive Assistant" of a *Gram Panchayat* means an Executive Assistant appointed as such in a *Gram Panchayat* under sub-section (2) of section 35;]
- ³[(9) * * * * *]
- (9a) "general election" means an election of members held simultaneously for constitution of *Gram Panchayats*, *Panchayat Samitis*, *Mahakuma Parishad*, or *Zilla Parishads* or any two or more of *Gram Panchayats*, *Panchayat Samitis*, *Mahakuma Parishad*, or *Zilla Parishads* in such area as the State Government may by notification specify;
- (10) "*Gram*" means an area referred to in section 3;
- (11) "*Gram Panchayat*" means a *Gram Panchayat* constituted under section 4;
- (11a) "*Gram Sabha*" means a body consisting of persons registered in the electoral rolls pertaining to a *Gram* declared as such under sub-section (1) of section 3;
- (11b) "*Gram Sansad*" means a body consisting of persons registered at any time in the electoral rolls pertaining to a constituency of a *Gram Panchayat* delimited for the purpose of last preceding general election to the *Gram Panchayat*;
- (11c) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988 (West Bengal Act 13 of 1988);
- (12) "*Karmadhyaksha*" means the *Karmadhyaksha* of a *Sthayee Samiti* of a *Panchayat Samiti* elected under section 125 or of a *Sthayee Samiti* of a *Zilla Parishad* elected under section 172, as the case may be;

- ⁴[(12a) "Leader" in a *Panchayat* relating to a recognized political party means a Leader selected as such within the concept and meaning of sub-section (3) of section 213A;]
- ⁵[(12b)] "*Mahakuma Parishad*" means the *Mahakuma Parishad* for the sub-division of Siliguri in the district of Darjeeling constituted under section 185B;
- (13) "*mouza*" means an area defined, surveyed and recorded as such in the revenue record of a district and referred to in clause (g) of Article 243 of the Constitution of India as the lowest unit of area for the purpose of public notification for specifying a village;
- (13a) "Municipality" means an institution of self-government constituted under Article 243Q of the Constitution of India;
- (14) "notification" means a notification published in the Official Gazette;
- (15) "*Nyaya Panchayat*" means a *Nyaya Panchayat* constituted under section 51;
- (15a) "office bearer" means the *Pradhan, Upa-Pradhan, Sabhapati, Sahakari-Sabhapati, Sabhadhipati* or *Sahakari-Sabhadhipati* or any two or more of them together;
- (15b) "*Panchayat*" means an institution of self-government constituted under Article 243B of the Constitution of India, and includes *Gram Panchayat, Panchayat Samiti, Mahakuma Parishad* or *Zilla Parishad*;
- ⁶[(15c) "*Panchayats Development Officer*" means an officer appointed as such by the State Government;]
- (16) "*Panchayat Samiti*" means a *Panchayat Samiti* constituted under section 94;
- (16a) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (17) "*Pradhan*" means a *Pradhan* of a *Gram Panchayat* elected under section 9;
- (18) "prescribed" means prescribed by rules made under this Act;
- (19) "prescribed authority" means an authority appointed by the State Government, by notification, ⁷[for any one or more purposes] of this Act;
- (20) "public street" means any street, road, lane, *gully*, alley, passage, pathway, bridge, square or court, whether a thoroughfare or not, over which the public have a right of way, and includes side drains or gutters and the land up to the boundary of any abutting property, not-

- withstanding the projection over such land or any verandah or other superstructure;
- (20a) "recognised political party" means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;
- (21) "*Sabhapati*" means a *Sabhapati* of a *Panchayat Samiti*, elected under section 98;
- (22) "*Sabhadhipati*" means a *Sabhadhipati* of a *Zilla Parishad* elected under section 143, and includes the *Sabhadhipati* of *Mahakuma Parishad*;
- (23) "*Sahakari-Sabhapati*" means a *Sahakari-Sabhapati* of a *Panchayat Samiti*, elected under section 98;
- (24) "*Sahakari-Sabhadhipati*" means a *Sahakari-Sabhadhipati* of a *Zilla Parishad*, elected under section 143, and includes the *Sahakari-Sabhadhipati* of the *Mahakuma Parishad*;
- (25) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes, in relation to the State of West Bengal under Article 341 of the Constitution of India;
- (26) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of West Bengal under Article 342 of the Constitution of India;
- ⁴[(26a) "Secretary" of a *Gram Panchayat* means a Secretary appointed as such in a *Gram Panchayat* under sub-section (2) of section 35;]
- ⁵[(26aa) "State Election Commissioner" means the State Election Commissioner referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994 (West Ben. Act 8 of 1994);]
- (26b) "State Government" means the State Government in the Department of *Panchayats* and Rural Development;
- (27) "State Planning Board" means the West Bengal State Planning Board established by the State Government;
- (27a) "Sub-divisional Officer" means an officer appointed as such by the State Government, and includes an Additional Sub-divisional Officer having jurisdiction;
- (28) "suit" means a civil suit triable by a *Nyaya Panchayat*;
- (29) "*Upa-Pradhan*" means an *Upa-Pradhan* of a *Gram Panchayat*, elected under section 9;
- (30) "year" means the year beginning on the first day of April;

(31) "*Zilla Parishad*" means a *Zilla Parishad* of a district constituted under section 140.

1. Ins. by the W.B. *Panchayat* (Second Amendment) Act, 2010 (W.B. Act XXXV of 2010).
2. Ins. by W.B. Act II of 2006, w.e.f. 4.1.2006.
3. Omitted by W.B. Act II of 2006, w.e.f. 4.1.2006.
4. Ins. by the W.B. *Panchayat* (Amendment) Act, 2010 (W.B. Act VIII of 2010), w.e.f. 1.7.2010.
5. Re-numbered by *ibid*, w.e.f. 1.7.2010.
6. Ins. by W.B. Act II of 2006, w.e.f. 4.1.2006.
7. Subs. by the W.B. *Panchayat* (Amendment) Act, 2010 (W.B. Act VIII of 2010), w.e.f. 1.7.2010.

Synopsis

1. Additional District Magistrate, whether an appellate authority under the Act
2. *Gram*, what is meant by the word
3. *Gram Panchayat*, a local authority within the meaning of Art. 12 of the Constitution of India
4. *Gram Sabha* comprising of the *Gram* constituted by two or more *mouzas*; how far administrative decision can be subjected to judicial scrutiny
5. *Panchayat* consists only rural areas

1. Additional District Magistrate, whether an appellate authority under the Act.—Section 2(5) contains the inclusive definition of the term 'District Magistrate' to include an Additional District Magistrate, Deputy Commissioner, Additional Deputy Commissioner and any other Magistrate appointed by the State Government to discharge the function of the District Magistrate.

Thus, when there is a reference of the 'District Magistrate' to be the Appellate Authority of any matter, those functionaries as mentioned in sec. 2(5) would also be deemed to be the Appellate Authority on their being the 'District Magistrate' — *Sk. Kansar Ali v State of West Bengal* (1997) 2 Cal LT (HC) 308.

2. *Gram*, what is meant by the word.—This sub-section does not give any precise definition of the word *gram*, the English equivalent of which is village. The concept or definition of the word 'village' also came up for consideration in the case of *State of U.P. v Pradhan Sangh Kshettra Samiti* 1995 Supp (2) SCC 305: AIR 1995 SC 1512, a case under the U.P. *Panchayat Raj* Act, 1947.

It has been observed by the apex court in such U.P. Act case that the expression ordinarily connotes a territorial area where the men live and their main occupation is agriculture.

However, sec. 3 of the Act elaborates as to what is to be meant by *gram*.

3. *Gram Panchayat*, a local authority within the meaning of Art. 12 of the Constitution of India.—High Court is competent to entertain writ petition under Art. 226 of the Constitution of India in respect of service disputes of the *Panchayat* employees — *State of Gujarat v Raman Lal Keshav Lal Soni* (1983) 2 SCC 33: 1983 SCC (L&S) 231: AIR 1984 SC 1611: (1983) 1 LLJ 284. This case originated from the Gujarat *Panchayat* Act, 1961. In that case some ex-employees of Municipalities were allotted for *Panchayat* service.

4. *Gram Sabha* comprising of the *Gram* constituted by two or more *mouzas*; how far administrative decision can be subjected to judicial scrutiny.—For better *Panchayat* service whether or not by

Panchayat concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid, has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a Magistrate, to a fine which may extend to two hundred and fifty rupees.

25. Power of *Gram Panchayat* over public streets, waterways and other matters.—(1) A *Gram Panchayat* shall have control over all public streets and waterways within its jurisdiction other than canals as defined in section 3 of the Bengal Irrigation Act, 1876 (Bengal Act III of 1876), not being private property and not being under the control of the Central or State Government or any local authority and may do all things necessary for the maintenance and repair thereof, and may,—

- (a) construct new bridges and culverts;
- (b) divert or close any such public street, bridge or culvert;
- (c) widen, open, enlarge or otherwise improve any such public street, bridge or culvert and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;
- (d) deepen or otherwise improve such waterways;
- (e) with the sanction of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, and where there is a canal as defined in the Bengal Irrigation Act, 1876, with the sanction also of such officer as the State Government may prescribe, undertake irrigation projects;
- (f) trim hedges and branches of trees projecting on public streets; and
- (g) set apart by public notice any public sources of water supply for drinking or culinary purposes and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

(2) A *Gram Panchayat* may, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any public street or drain or other property under the

control and management of the said *Gram Panchayat*, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time to be specified in the notice.

(3) If the obstruction of encroachment is not removed or damage is not repaired within the time so specified the *Gram Panchayat* may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as a public demand.

(4) For the purpose of removal of obstruction or encroachment under sub-section (3), the *Gram Panchayat* may apply to the Sub-divisional Magistrate and the Sub-divisional Magistrate shall, on such application, provide such help as may be necessary for the removal of such obstruction or encroachment.

NOTES

Discrimination by the *Panchayat* in the matter of user of public street, bridge or culvert, if illegal.—*Panchayat* is a statutory body. The statute has conferred it so many rights and obligations. But no right has been conferred so as to make discrimination. It may close down a road for all users while it is being repaired. Or it may even divert the road on genuine grounds for more convenient use by all. But it can never direct that a particular person or group of persons would not use that road. That would amount to worst type of discrimination—*Purnendu Sekhar v State of West Bengal* 1997 WBLR (Cal) 150.

26. Power of *Gram Panchayat* in respect of polluted water supply.—(1) A *Gram Panchayat* may, by written notice require the owner of, or the person having control over, a private water-course, spring, tank, well, or other place, the water of which is used for drinking or culinary purpose, after taking into consideration his financial position, to take all or any of the following steps within a reasonable period to be specified in such notice, namely—

- (a) to keep and maintain the same in good repair;
- (b) to clean the same, from time to time of silt, refuse or decaying vegetation;
- (c) to protect it from pollution; and
- (d) to prevent its use, if it has become so polluted as to be prejudicial to public health:

Provided that a person upon whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the

appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a Magistrate, to a fine which may extend to two hundred and fifty rupees.

27. Power of *Gram Panchayat* to prevent growth of water-hyacinth or other weed which may pollute water.—(1) Notwithstanding anything contained in the Bengal Water Hyacinth Act, 1936 (Ben. Act XIII of 1936) a *Gram Panchayat* may, by written notice, require the owner or occupier of any land or premises, containing a tank or pond or similar deposit of water after taking into consideration his financial position, not to allow water-hyacinth or any other weed which may pollute water to grow thereon and to eradicate the same therefrom within such reasonable period as may be specified in the notice:

Provided that a person on whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the owner or occupier upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time

specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a Magistrate, to a fine which may extend to two hundred and fifty rupees.

28. Emergent power on outbreak of epidemic.—In the event of an outbreak of cholera or any other water-borne infectious disease in any locality situated within the local limits of the jurisdiction of a *Gram Panchayat*, the *Pradhan*, the *Upa-Pradhan* or any other person authorised by the *Pradhan* may, during the continuance of the outbreak, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purpose of drinking and may further take such steps as he deems fit to prevent the drawing of water therefrom.

29. Power of recovery of cost for work carried out by *Gram Panchayat* on failure of any person.—If any work required to be done by an order contained in a notice served under sections 24, 26 or 27 is not executed within the period specified in the notice or where an appeal is made to the prescribed authority, within an equal period from the date of the decision on the appeal, the *Gram Panchayat* may, in the absence of satisfactory grounds for non-compliance cause such work to be carried out and the cost of carrying out such work shall be recoverable as an arrear of public demand from the person on whom the notice was served.

30. Joint Committees.—(1) Subject to such rules as may be prescribed, two or more *Gram Panchayats* may combine, by a written instrument duly subscribed by them, to appoint a Joint Committee consisting of such representatives as may be chosen by the respective *Gram Panchayats* for the purpose of transacting any business or carrying out any work in which they are jointly interested and may—

- (a) delegate to such Committee the power, with such conditions as the *Gram Panchayats* may think fit to impose, to frame any scheme binding on each of the constituent *Gram Panchayats* as to the construction and maintenance of any joint work and the power which may be exercised by any such *Panchayat* in relation to such scheme; and
- (b) frame or modify rules regarding the constitution of such committees and the term of office of the members thereof and the method of conducting business.

(2) If any difference of opinion arises between the constituent *Gram Panchayats* under this section, it shall be referred to such officer as the State Government may prescribe, and the decision

*Annexure - P3*

Dipanjan Ghosh <dpnjnghsh0@gmail.com>

I.A application in connection with O.A 38 of 2024/EZ Ranjit kumar Sapui -vs- The State of West Bengal & Ors

1 message

Dipanjan Ghosh <dpnjnghsh0@gmail.com>

Wed, Aug 28, 2024 at 3:04 PM

To: Sibojyoti Chakrabarti <subho.advocate@gmail.com>, akdadhich.legal@gmail.com, ghoshindradeep506@gmail.com, ghanshyamlegal@gmail.com

Enclosed please find herewith the copy of I.A application which is filed by Kheadaha Gram Panchayet.

Dipanjan Ghosh
Advocate
High Court, Calcutta

**Smt Mita Naskar.pdf**

1794K

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

I. A. No. of 2024/EZ

(Arising out of ORIGINAL
APPLICATION NO. 38/2024/EZ)

In The Matter of:

Smt. Mita Naskar

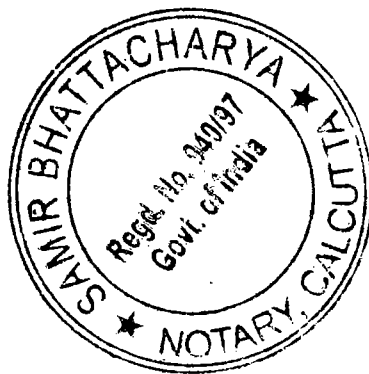
... Applicant

Versus

Ranjit Kumar Sapui & Ors.

... Respondents

INTERLOCUTORY APPLICATION
ON BEHALF OF THE APPLICANT



Dipanjan Ghosh

Advocate

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