

BEFORE THE NATIONAL GREEN TRIBUNAL
(EASTERN ZONE BENCH, KOLKATA)

O.A. No. 65 of 2024/EZB

ORIGINAL APPLICATION

under National Green Tribunal Act' 2010

In the matter of:

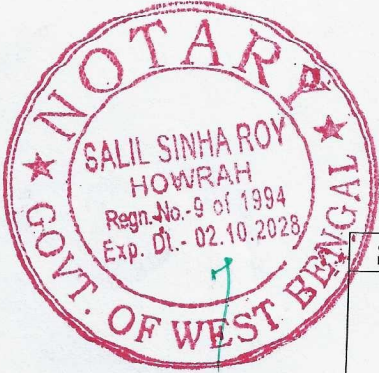
SUBHAS DATTA

.....Applicant

-Versus-

MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE

.....Respondents



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Applicant

Subhasdatta

SUBHAS DATTA

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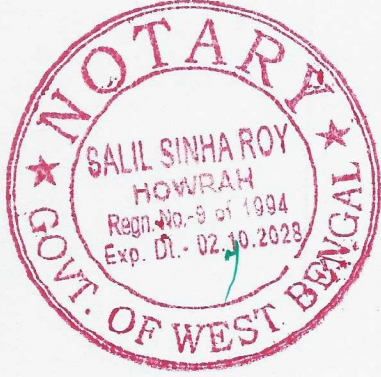
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**AFFIDAVIT IN REPLY TO THE AFFIDAVIT OF RESPONDENT NO 6 IN
THE MATTER OF BOTANICAL GARDEN, HOWRAH**

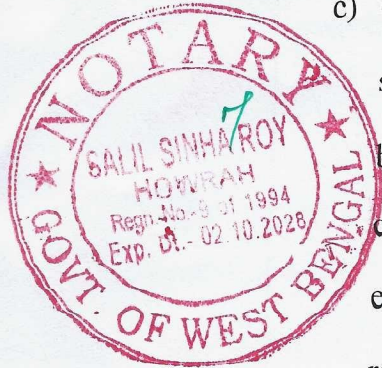
Most Respectfully Sheweth:

I, Subhas Datta, aged about 74 years, son of Late Baneswar Datta, by Religion – Hindu, occupation Chartered Accountant, residing at 25/1, Guitendal Lane, P.S+P.O+Dist. - Howrah, Pincode-711101, do hereby solemnly declare and say as follows:-

1. That the subject matter of the applicant relates to the environmental hazards being caused in the Botanical Garden, Howrah, in which the Respondent No 6 West Bengal Pollution Control Board (WBPCB) has filed Inspection Report of the committee designated by the Hon'ble Tribunal. This affidavit is in reply to the affidavit of the Respondent No. 6.
2. That as per the direction of the Hon'ble Tribunal vide order dated 20.03.2024, one committee had been constituted in which a Senior Scientist of State Pollution Control

Board would be the member of the committee. But it is found that one Assistant Environmental Engineer, possibly without any exposure to the particular discipline of botany and conservation of plant kingdom, had been designated by the Pollution Control Board.

3. That only on a particular day for few hours the committee members had visited the vast garden of 273 acres with about 1377 plant species, 14122 plants, 24 lakes, about 2 km stretch of canal, approx 12 km of bitumen roads etc, where several problems of different nature have been continuing for a long period. It appears from the report of the committee that they have only restricted to what the authorities had shown to them.
4. That the committee had been directed by the Hon'ble Court to report on the allegations made in the petition but they have either not considered and/or partially/inappropriately considered the following aspects:-
 - a) Reduction of total green cover of the garden which was shown in the OA with 26 satellite images of the garden of different years has not been considered at all.
 - b) Out of 24 lakes, only 2 or 3 have been vouched. Most of the lakes are/were not properly connected.
 - c) Out of about 2 kms of the canal only approx 300 to 400 mts have been seen by the committee. The rest portion is either fully or partially choked by garden wastes and garbages. Only the recently cleaned portion of the canal has been seen by them. They have not been guided to vouch the entire length. It is stated "on query, Garden Authority informed that regular cleaning of the canal is being carried out by them." Where substantial portion of the canal does not exist, how the same can be fully

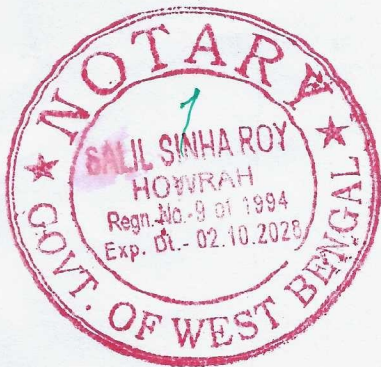


cleaned? The modus operandi of cleaning operation has not also been vouched/checked by the committee.

d) In the matter that the garden is/was being converted to park the committee has not vouched the ground reality and have simply reported the information given by the authority. The big list (from 22 to 42 pages), as given by the authority, has been enclosed to the report as ANNEXURE – 4, showing the trees planted by the authority, which is a regular event, in any botanical garden.

e) I) In the matter of use of Mahagony tree logs used for Cafeteria, the committee has simply reported “three numbers of Kiosks made out of waste logs having tables and stools made out of fallen dead logs were observed near the Cafeteria.” There is no mention whether Mahagony timber was used or not. It was clearly visible during visit by the applicant on 10.02.2024 that Mahagony logs were being used, which had been photographed and enclosed vide page 54 to 57 of the OA. The committee did not bother to refer the copy of the OA and the allegations made therein. In this context it is pertinent to mention that one Complaint Case (Miscellaneous Petition 136/22) case has been filed before the Chief Judicial Magistrate, Howrah in the matter of cutting down a ~~live~~ rare species of Mahagony tree . The applicant prefers to place all the related documents of such court case and FIR in the matter at the time of hearing of the case. SD/

II) It has been informed by the garden management to the committee that necessary permission for using dead and fallen

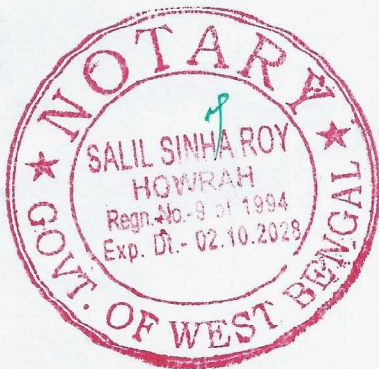


logs has been obtained from competent authority. There is no competent authority to grant permission for using the mehagony wood internally. This is a botanical garden where fallen and dead trees are not uncommon. There had been several allegations of misusing the woods in the past. Under such circumstances for internal use of wood/timber of the garden there should be Standard Operational Procedure (SOP) but the same has not been referred to by the committee.

III) The letter, as given in ANNEXURE – 13, page 68, is a simple request letter for approval to use timbers of fallen dead trees, but there is/was no mention about Mahagony tree. The other related details like nature, age, location, quantity etc of the timber have not been stated in the letter. Such type of request letter should have all relevant details.

IV) Amphan cyclone took place in 20/21st May 2020, the garden authority had approached (as stated in affidavit dated 28.06.2024 page 9) West Bengal Forest Development Corporation Ltd.(WBFDC) through letter dated 25.09.2020 and 24.08.2023 for disposal of fallen logs due to amphan. WBFDC has made and/or making lots of trees in phases, the phase 'II' lot preparation is still under process. The process of taking out some logs while preparation of lot is under process, without any reference to WBFDC does not appear to be appropriate.

V) The said informal letter of request (vide page 68) has been made by the garden authority to the Director of Botanical Survey

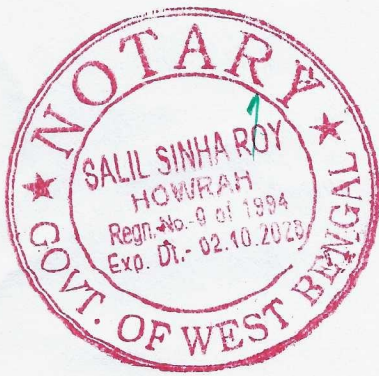


of India (BSI) . The office of the Botanical Garden is in Howrah, and the office of the Director of BSI is at Salt Lake Sector I. There is no evidence of any dispatch no. and docket number in the letter. How the letter was dispatched/sent is a big question. It is evident from the letter that the Director has remarked on the letter of request itself on the same date (29.01.2024) as “approved.” The information to the applicant is that this approval letter is a after thought. There is/was no appropriate reason to be so informal and casual about this important aspect of using costly mehagony logs internally.

Moreover the letter of the garden authority, dated 29.01.2024 states that as per the decision of the 24th JCM meeting the letter of request was made for approval to use dead trees. The available documents show that 24th JCM meeting was held on 13.06.2023 and the letter of request based on such meeting has been drawn only on 29.01.2024 i.e, after several months but the informal approval was given instantly on the same day of request letter.

VI) Other than the round tables, there have been various wooden structures made from Mehagony tree/wood, the photographs of which have been enclosed to the petition. The committee preferred to be silent on this aspect.

- f) Vide para “h”, it has been stated “no hot mix plant was observed during the field visit.” Hot mix plant had been and/or was being used, earlier which was reported in the newspaper with photographs and there was no

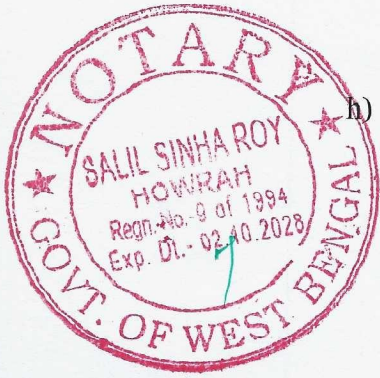


rejoinder to such news by the garden authority.. How one can expect the use of hot mix plant during the visit of the committee members? This statement is a misnomer.

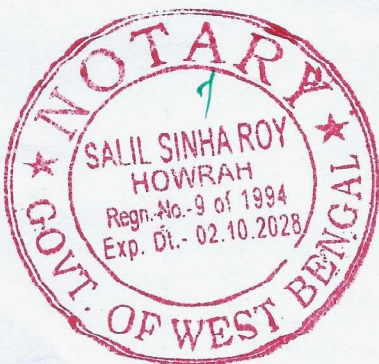
g) About the disposal of fallen logs the garden authority is very casual and carefree. The first letter was sent to West Bengal Forest Development Corporation Ltd. (WBFDC) on 25.09.2020 and the second letter had followed only on 24.08.2023. Till August 2024 the second phase of lot preparation by WBFDC is reportedly under process. Thus the timbers are allowed to rot with decayed sale value.

h) Vide para 1 it has been stated that “no use of JCB and chain saw was observed during visit.” How one can expect the use of such polluting machines during the presence of the observers? The “In and Out” register of such equipments at both the entry points of the garden has not been vouched.

5. That the visit of the team was held on 16.04.2024 and the report of 55 pages, as per page from 13 to 68 of the affidavit with various annexures/photos/letters had been signed on 18.04.2024. Such voluminous report cannot be prepared and agreed upon by all the members in such a short period. Who has prepared such report and who had uploaded the same in the computer/laptop and wherefrom the final print out of the same was made can be questioned.
6. That vide para (i) it is stated “As reported use of petrol/diesel vehicles by visitors is not permitted within the garden.” It is further stated in page 14 of the affidavit (the main report) that for about 50 numbers of vehicles parking area is being developed near the Learn Lake. The committee has not expressed any opinion/view whether and



- how 50 numbers of vehicles can be parked well inside the garden reducing the Green Cover in the area. Environmental aspects has been totally ignored by the committee.
7. That there is about 12 kms of bitumen road, which is/was not repaired and maintained earlier in environment friendly manner. Only after the environmental aspects were highlighted in the media and after the petition was filed before National Green Tribunal, the authority rose to the occasion and requested the Chief Engineer, C..C.U vide letter dated 18.03.02024 (Annexure 5, page 43) to undertake repair of the roads in eco-friendly materials. The committee is under oblivion about this aspect.
 8. That the committee has missed another relevant aspect that more than 200 street lights have been recently installed inside the garden underlying cables by digging the soil and damaging the roots. The garden closes in the evening. Under such circumstances, the adversarial effects of such installation on the fauna and growing plants should have been appropriately considered by the committee.
 9. That the committee has not set out any conclusion and recommendations on the overall environmental position of this historical man-made plant kingdom of the world.
 10. It is therefore respectfully prayed that the Hon'ble Tribunal may pass such order/orders as it deems fit and proper in the interest of justice.



Subhas Datta
Subhas Datta

04 SEP 2024

VERIFICATION

I, Sri Subhas Datta, son of Late Banerwar Datta, aged about 74 years, by occupation Chartered Accountant, by religion Hinduism, residing at 25/1, Guitendal Lane, Post Office, Police Station and District - Howrah, Pin code - 711101, do hereby declare and state that the contents of the paragraph nos. ⁷ 2, 6 & 7 are true to the best of knowledge and the contents of the paragraph nos. ⁷ 3, 4 & 8 are my information derived from the relevant records which I verily believe to be true and the rests are my respectful submissions before the Hon'ble Tribunal.

Subhas Datta
DEPONENTS

Prepared by me in my office

Subhas Datta
(Subhas Datta)

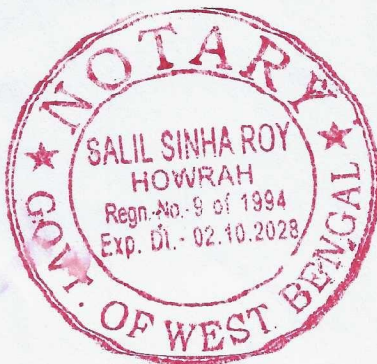
Applicant-in-person

Date : 04.09.2024

Place: Howrah.

IDENTIFICATION BY ME &
SIGNED/LTL TAKEN IN MY PRESENCE
Jibanjit Chakraborty
Advocate

JIBANJIT CHAKRABORTY
Advocate
Howrah Judges Court
WB/1448/2000



SOLEMNLY AFFIRMED & DECLARED
BEFORE ME ON IDENTIFICATION

4.9.24
SALIL SINHA ROY
NOTARY HOWRAH

04 SEP 2024