

In the National Green Tribunal
Eastern Zone Bench
Kolkata

Sumanta Chandra
Bandyopadhyay

O.A. No. 102/2024/EZ

In the matter of

1. Ramchandrapur Kalyan Samity, a registered Society under the West Bengal Societies Registration Act, having Registration No. S/6183, represented by the Secretary of the said Society having registered Office at Ramchandrapur, Sodepur, North 24 Parganas, Pin - 700110
2. Ramchandrapur Bhagar Ucchhed Committee, represented by its Convener, having office at Ramchandrapur, Sodepur, North 24 Parganas, Pin - 700110
3. Sumanta Chandra Bandyopadhyay alies Shyamal Banerjee, son of Paresh Chandra Bandyopadhyay, residing at Ramchandrapur, Panihati, North 24 Parganas, Sodepur, West Bengal, Pin - 700110

.... Petitioners



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Versus

1. The State of West Bengal, service through the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, having Office at "Nagarayan" DF- 8, Sector - I, Salt Lake City, Kolkata - 700064, West Bengal, Email: secy.ma-wb@gov.in
2. The District Magistrate, North 24 Parganas, having Office at Banamalipur, Barasat, Kolkata - 700124, West Bengal, Email: dm-bar-wb@nic.in
3. The Sub Divisional Officer, Barrackpore Sub Division, having Office at Administrative Building, S.N. Banerjee Road, Barrackpore Cantonment, Pin - 700120, North 24 Parganas, Email: sdobarrackpore@gmail.com
4. Panihati Municipality, represented by its Board of Councillors, having Office at Barrackpore Trank Road, Panihati, Pin - 700114, North 24 Parganas, Email: panihatimunicipality@yahoo.co.in



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Charan
Biswas

5. The Chairman, Panihati Municipality, having Office at Barrackpore Trank Road, Panihati, Pin – 700114, North 24 Parganas, Email:
panihatimunicipality@yahoo.co.in
6. The Executive Officer, Panihati Municipality, having Office at Barrackpore Trank Road, Panihati, Pin – 700114, North 24 Parganas, Email:
panihatimunicipality@yahoo.co.in
7. The Sanitary Inspector, Panihati Municipality, having Office at Barrackpore Trank Road, Panihati, Pin – 700114, North 24 Parganas, Email:
panihatimunicipality@yahoo.co.in
8. The Councilor, Municipal Ward No. 23, Panihati Municipality, having Office at Barrackpore Trank Road, Panihati, Pin – 700114, North 24 Parganas, Email:
panihatimunicipality@yahoo.co.in



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9. The State Urban Development Agency "SUDHA", West Bengal, represented by its Director, having Office at Ilgus Bhavan, HC Block, Sector – III, Salt Lake City, Kolkata, West Bengal, Pin – 700106,
Email: wbsudadir@gmail.com
10. The Commissioner of Police, Barrackpore Police Commissionerate, having Office at Barrackpore Trank Road, Barrackpore, North 24 Parganas, Kolkata – 700116,
Email: dm-bar-wb@nic.in
11. The Officer In Charge, Khardah Police Station, Barrackpore Trank Road, Khardah, North 24 Parganas, Pin – 700110,
Email: pskhardah@gmail.com
12. The West Bengal Pollution Control Board, represented by its Member Secretary having Office at Paribesh Bhavan, 10A, Block LA, Sector – III, Bidhannagar, Kolkata 700106, West Bengal,
Email: net.wbpcb-wb@bangla.gov.in



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Bandyopadhyay

13. The Department of Environment, Govt. of West Bengal through the Addl. Chief Secretary, Pranisampad Bhavan, 5th Floor, LB-2, Sector – III, Salt Lake, Kolkata – 700098, Email: psecy.env-wb@gov.in
14. The Central Pollution Control Board, represented by its Member Secretary, having Office at 1582, Rajdanga Main Road, 502, Southend Conclave, Kolkata – 700107, West Bengal, Email: ccb.cpcb@nic.in

..... Respondents



Exception to the Report on Affidavit filed by the Respondent No. 02, submitted on behalf of the Petitioner above named

I Sumanta Chandra Bandyopadhyay alies Shyamal Banerjee, aged about 77 years, son of Paresh Chandra Bandyopadhyay, by Nationality – Indian, by faith - Hindu, by occupation – Retired Government Employee, residing at Ramchandrapur, Panihati, North 24 Parganas, Sodepur, West Bengal, Pin - 700110 do hereby solemnly affirm, declare and say as follows –

1. That I am the Petitioner No. (3) to the instant Petition and as such well conversant with the facts and circumstances out of which this petition arises. I am authorized and/or empowered to affirm this Affidavit for myself, on behalf of the Other Petitioners on their behalf and for them and I am sui juris to affirm this affidavit

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Saranjit
Chakraborty
Bandhu

1. That a copy of the Report on Affidavit affirmed on 6th August, 2024 along with all annexures, by the said Respondent No. 2 has been served upon me on 6th August, 2024 at this Hon'ble Tribunal on-line (electronically) during hearing of the said matter.

2. In order to avoid prolixity, I have been advised to traverse only those statements and/or allegations which are material for the purpose of disposal of the instant matter. Save and except those statements what are matters of record and those are specifically admitted herein below, I deny and dispute all other contrary statements as contained in the said Report on Affidavit.

3. With reference to Paragraph No. 1 of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 03 puts his reliance.

4. With reference to Paragraph No. 2 and 3 of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

5. With reference to Paragraph No. 4 (i), 4(ii), 4(iii), 4(iv), 4(v) and 4(vi) of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

I say that the site in question is a trenching ground, not alleged trenching ground. It is admitted by the Municipal Authority several times in past also in the Hon'ble High Court at Calcutta.

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Surbani
Chandra
Bandyopadhyay

I say that due to continuous and peaceful agitation by the local inhabitants under the banner of Petitioner No. 01, the Municipal Authority compelled to abandon the dumping activities in the said trenching ground as a temporary measure and temporary arrangement has been made for dumping such Municipal solid waste at Dhapa Kolkata but no such permanent arrangement has yet been made.

I say that the Municipal Authority parked those vehicles full of garbage in fronts of buildings of the local people while they resorted to said peaceful agitation and kept those vehicles idle for some days.

6. With reference to Paragraph No. 5 (i), 5(ii), 5(iii) and 5(iv) of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

I say that those statements are the extracts of the version of the Panihati Municipality which they have been using in different forums in past also.

7. With reference to Paragraph No. 6 (i), 6(ii), and 6(iii) of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

I say that the statements made herein above are all the version of the Municipality and the carrying out the garbage to the Dhapa dumping Ground is purely temporary measure and it is learnt that the Hon'ble Tribunal also intervene into the matter regarding dumping of garbage at Dhapa dumping ground is also subject matter of adjudication in another matter pending before the Tribunal therefore, it may not be possible to use said Dhapa Dumping ground as permanent solution of the problem in hand.

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Sarmita
Chandran
Saraswati

8. With reference to Paragraph No. 7 of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

I say that no such Notice inviting tender (NIT) has ever been floated by the Authority, the Municipal Authority in their Counter Affidavit submits an abridged notice inviting request for proposal, again the Municipal Authority is silent about the development of such notice inviting request of proposal after 16th July, 2024 upto 14:55 p.m. at the time of affirmation of their Counter Affidavit on 6th August, 2024 before this Hon'ble Tribunal.

9. With reference to Paragraph No. 8 of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

I submit that on 29th August, 1981 the Sub Divisional Officer, Barrackpore convene a meeting (Annexure - P/3 to the Original Application) and it was unanimously resolved that the Panihati Municipality should start immediately the work connected with the development of newly acquired land at Mohishpota.

I further submit that in the said meeting it was unanimously resolved that such development of work of newly acquired land should commence from 2nd week of November, 1981 and it is expected that the development of new site of trenching ground at Mohishpota will be completed by the end of June, 1982.

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Chandran
Bandyopadhyay

I also submit that the Municipal Authority will abandon the present trenching ground at Rabmchandrapur, Sodepur from 1st Week of July, 1982.

I submit that since then the Municipal Authority continuously, indecently without following any statutory provisions using the said site in utter unhygienic manner violating the right of lakhs of inhabitants of the said locality to live in a decent and hygienic environment.

I further submit that on the basis of a complaint lodged by the local inhabitants on 1st September, 2001 to the Authority of the Pollution Control Board, the Assistant Engineer conducted an enquiry and/or inspection on 7th November, 2001 and submitted a detailed report (Annexure - P/5 to the Original Application) and in the said report it was categorically made clear that an agreement made in black and white in the year 1975 (even earlier to the year 1981) between the SDO, MLA and the Administrator of Panihati Municipality with the villagers of Ramchandrapur wherein it has agreed and signed that the trenching ground of night soil and dumping station of carcasses must be withdrawn /removed from Ramchandrapur. To honor the said agreement the concerned Authority had purchased a land at Mohishpota and other allied works for the said purposes were started but removal of "Bhagar" was not made till now.

I submit that in the said report the concerned Officials observed that due to Himalayan negligence and lacuna on the part of the Municipal Authority the shifting /removal of said Bhagar was not yet done.

I submit that in the said report, the concerned Authority also note that trenching dumping ground has become fulfilled and during rainy

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Mitra
Bandyopadhyay

season, the condition become more worst and horrible due to spreading of the nuisance substances mixed with rain water.

I submit that in the said report it has been noted that disposal of Municipal solid waste following present practice may cause contamination of ground water, surface water and detoriet ambient air quality which leads to epidemic.

I submit that the said Officer recommended that considering the gravity of the prevailing situation which dumping of caresses and night soil and solid waste in such a densely populated area should be outright discouraged and direction towards shifting/ removal of the said bhagar from the heart of ward No. 23 of Panihati Municipality at Ramchandrapur may be issued with immediate effect.

I submit that on 25th July, 2003 in Writ Petition being W.P.No, 15274(W) of 2001 His Lordship the Hon'ble Justice Barin Ghosh was pleased to pass an order (Annexure P/8 to the Original Application) inter alia observing that the main grievance of the Petitioners in the writ petition have been sorted out for the KMDA has prepare a scheme for processing and removing the waste.

I further submit that the learned Counsel for the KMDA also submitted that his client has received appropriate fund for implementing the project from the State Government. He has further submitted that his client will implement the project for which about 2 ½ years' time is needed. He has further submitted that immediately after completion of project, the same will be handed over to the Panihati Municipality and the project will be run by the Panihati Municipality and apart from giving trial run, KMDA will not shoulder the responsibilities of running the project after it is installed. To implement

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the project, according to the present estimate about Rs. 2.33 Crores would be required. At the time of implementing project, cost may go up.

I submit that the leaned counsel appearing for the Panihati Municipality submits that its financial condition may not help the project after it is implemented. If that happens, public fund to the tune of more than Rs. 2 crores will be wasted.

I submit that His Lordship further observed that before the project is implemented, the Municipality must in consultation with the State Government decide the appropriate steps that it must take for running the project, should also appropriately help the Municipality in manning and running the same. Until such time, however the project is implemented and the same starts functioning, the Municipality has to take measures to check of waste.

I submit that the Municipality has not able to do anything in relation to night soil, and His Lordship observed that this matter should also be looked at by the Panihati Municipality. the Chairman of the Panihati Municipality is thus requested to look into such grievances and eradicate the same as far as practical either personally or by appointing an appropriate committee for that purpose and His Lordship was pleased to dispose of the Writ Petition.

I submit that therefore, it can be concluded that the Municipality has deliberately wasted precious time to resolve the issue and neglected the matter and left the inhabitants of the locality to live their lives in unhealthy and unhygienic environment in violation of Constitutional dictum in unhuman manner.

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Bandyopadhyay

I say that Annexure – C to the counter Affidavit filed by the Municipality in this Hon'ble Tribunal in connection to the Original Application being OA No. 102 of 2024 (EZ) is a copy of Abridged Notice inviting request for proposal and not at all a tender or notice inviting tender. Moreover, such notice on trunked basis has been issued stating total time of completion is 450 days but unfortunately silent about on and from the counting of such date begins.

I say that the Municipal Authority stated that the time frame for completion of transfer of the existing legacy waste has been schedule as 450 days but unfortunately did not mention the starting date of said 450 days anywhere in their said Counter Affidavit, therefore, such claim of the Municipality is not based upon any cogent reasoning and or valid document rather the same is vague.

I submit that therefore, this is nothing but an eye-wash only to mislead the Hon'ble Tribunal.

10. With reference to Paragraph Nos. 9 to 12 of the said report, the petitioner herein deny and dispute all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said Respondent No. 02 puts his reliance.

11. I submit that the said Report on Affidavit filed by the Respondent No. 02 herein is therefore, absolutely frivolous and concocted and the same has no place of consideration in any manner and the said report cannot be given any effect to and grant the relief as prayed for by the Applicants in the instant Original Application.

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13. That the statement made in Paragraph Nos. 1 to 11 are true to my knowledge and rests are my humble submission before this Hon'ble Court.

Prepared in my office

Sheshantam Bhatnagar
Advocate

Sumanth Chandra Bandyopadhyay

Deponent is known to me

Clerk to Mr.

Advocate

Solemnly affirmed before me

This the *11th* day of September, 2024

Identified by Me
(Adv)



Solemnly Affirmed &
Declared Before Me
On Identification By

(Signature)
SARBANI MITRA
NOTARY
Regd. No. 5515/09

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In the National Green Tribunal
Eastern Zone Bench
Kolkata

O.A. No. 102/2024/EZ

In the matter of
Ramchandrapur Kalyan Samity
and Others

.... Petitioners
Versus

The State of West Bengal and
Others

.... Respondents

Exception to the Report on Affidavit
filed on behalf of the Respondent
No. 03

Advocates-on-Record
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Sri Sagarmay Ghosh
Sri Uttam Baidya
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