

Sumanta
Chandra
Bandyopadhyay

In the National Green Tribunal
Eastern Zone Bench
Kolkata

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 Ucched 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

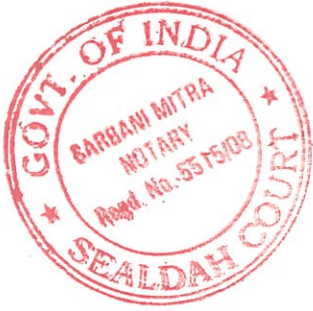
1. The State of West Bengal, service through the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, having Office at "Nagarayan" DF- 8, Sector – I, Salt Lake City, Kolkata – 700064, West Bengal, Email: secy.ma-wb@gov.in
2. The District Magistrate, North 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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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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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



Affidavit in Reply of the Petitioners to the Counter Affidavit submitted by the Respondent No. 04, Panihati Municipality (hereinafter called and referred to as the answering Respondents)

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

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Barham Mitra

Affidavit for myself, on behalf of the Other Petitioners on their behalf and for them and I am sui juris to affirm this affidavit

1. That a copy of the Counter Affidavit affirmed on 6th August, 2024 along with all annexures, by the said answering Respondents have 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 Counter Affidavit.

3. With reference to Paragraph Nos. 1 and 2 of the said Counter Affidavit, 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 answering Respondents put their reliance.

4. With reference to Paragraph No. 3 in the said Counter Affidavit, the petitioner herein denies and disputes all contrary statements except those that are matters of record and demanding strict proof of the records upon which the said answering Respondents put their reliance.

I say that the question of latches on the Part of the Municipality is admitted but whether such latches were and/or are intentional or not is a matter of facts, and by examining the facts since 75 years past, the role of the said Municipality regarding the said trenching ground and related problems and sufferings of the inhabitants and residents of the

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densely populated locality is manifestly proves that the concerned Municipality is primarily responsible for the same along with the State Machinery.

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.

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 say that, if such acts on the part of the Municipal Authority as it be termed as "latches", the same is not unintentional but malafide and arbitrary.

I further submit that on the basis of a complaint lodged by the local inhabitants on 1st September, 2001 to the Authority of the

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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 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



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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.

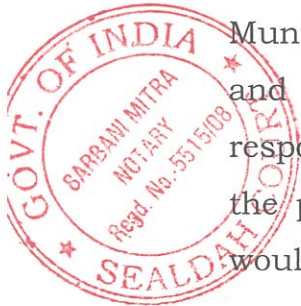
I submit that on 25th July, 2003 in Writ Petition being W.P.No, 15274(W) of 2001 His Lordship the Hon'ble Justice Barin Ghosh was pleased to pass an order (Annexure P/8 to the Original Application) inter alia observing that the main grievance of the Petitioners in the writ petition have been sorted out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

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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.

5. With reference to Paragraph No. 4 and 5 in the said Affidavit in opposition, 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 answering Respondents put their reliance.

I say that Annexure – C to the counter Affidavit filed by the answering respondent 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 trunky basis has been issued

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stating total time of completion is 450 days but unfortunately silent about on and from the counting of such date begins.

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

6. With reference to Paragraph Nos. 6 and 7 in the said counter Affidavit, 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 answering Respondents put their reliance.

I say that due to continuous peaceful agitation by the local people under the banner of the Petitioner No. (1) herein the Municipal Authority temporarily abandon the process of dumping of garbage temporarily but it has not been stated anywhere that the Municipal Authority abandon such dumping process permanently in the said trenching ground, rather they are claiming that such dumping work is being continued for last 100 years.

I say that the Municipal Authority stated that an intervention of UD and MA Department with KMDA was made for an arrangement of transporting the daily municipal waste to Dhapa Dumping ground from 9th February, 2024 as a result no fresh waste is dumping in the said trenching ground though they have stated that copy of the work order has been enclosed but unfortunately no such work order is enclosed with this Counter Affidavit.

7. With reference to Paragraph No. 8 in the said Counter Affidavit, the petitioner herein deny and dispute all contrary statements except

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those that are matters of record and demanding strict proof of the records upon which the said answering Respondents put their reliance.

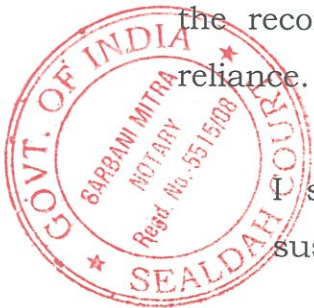
I say that the Hon'ble High Court in the said Writ Petition being W.P. No. 15274(W) of 2001 was pleased to pass an order recording that the learned Advocate of the KMDA submitted that appropriate fund for implementation of the project is received and it will be executed in 30 months. During the period of execution of the scheme, the Municipality may be allowed to use such ground as waste dumping ground and the Municipality shall take all possible step to clean the same on day to day basis for the greater interest of the public at large under the Municipal Area. But unfortunately, the 30 months period has been elapsed since long and the Municipality sat tight over the issue and the problem not even redressed in spite of said observation of the Hon'ble High Court.

6. With reference to Paragraph Nos. 9 and 10 in the said Counter Affidavit, 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 answering Respondents put their reliance.

I say that the grounds set forth in seriatim are sound and sustainable in the eyes of law.

I say that the Petitioner has no other effective remedy for redressal of his grievance and the reliefs as prayed for if granted will be full and complete.

I say that the instant application is bonafide and made for ends of justice.



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I say that there is a good case for get the relief as prayed for.

I say that the instant Application is well maintainable in the eyes of law and not liable to be dismissed.

I submit and pray I beg to reserve my right to affirm any other affidavit in addition and/or supplement to the instant Affidavit in future in the self-same issue, if the Hon'ble Tribunal so desires.

7. That the statement made in Paragraph Nos. 1 to 6 are true to my knowledge and rests are my humble submission before this Hon'ble Tribunal.

Prepared in my office

Shobhantamu Bhattacharya
Advocate

Suman 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

hm
SARBANI MITRA
NOTARY
Regd. No. 5515/08

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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

Affidavit in Reply to the Counter
Affidavit filed by the Panihati
Municipality

Advocates-on-Record
Sri Shobhantanu Bhattacharyya,
Sri Sagarmay Ghosh
Sri Uttam Baidya
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sagarmayadv@gmail.com