

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 01/2024/EZ



In the mater of :

Ankur Sharma

..... Applicant

Versus

The State of West Bengal & Ors.

..... Respondents

**AFFIDAVIT-IN-REJOINDER ON BEHALF OF THE APPLICANT TO
THE AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NO. 5.**

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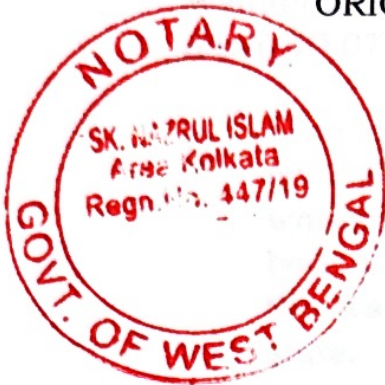
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18 SEP 2024

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I, Ankur Sharma, the Applicant aged about 27 years by occupation Advocate residing at 13/3, Dr. P.K. Banerjee Road, Howrah - 711101 do hereby solemnly affirm and state as under :

1. I am the Applicant in the abovementioned Original Application. I have received a copy of the Affidavit filed on behalf of the Respondent no. 05 dated 19.07.2024. I have gone through the contents and purports of the Affidavit (hereinafter for the sake of brevity referred to as the 'said Affidavit'), and I am making the present Affidavit in Rejoinder thereto.
2. I deny the contents and averments made in the Affidavit on behalf of the Respondent No. 05 that are contrary to and/or inconsistent with anything stated in the abovementioned Original Application and the present Affidavit in Rejoinder.
3. At the outset I say the following :
4. The East Kolkata Wetlands area measure about 30,888 acres approximately while the instant Original Application has been filed against encroachment of only 88.52 acres of wetlands located within East Kolkata Wetlands (hereinafter for the sake of brevity referred to as the 'EKW').

5. Your Applicant also came across proceedings pending before the Hon'ble High Court at Calcutta being W.P.A. 17901 of 2023 in connection with some other wetland forming part of East Kolkata Wetlands. The Hon'ble Justice Amrita Sinha vide solemn order dated 10.07.2024 was pleased to observe the following :

"The steps taken by the authority does not appear to be in sync with the Act and the connected Rules. The pace at which the authorities are proceeding to restore the water bodies is so slow that the Court is doubtful as to whether the water bodies would, at all, be restored to its original state.

The wetlands authority and the State respondents ought to act in tandem and ensure that the very object and purpose of the Act is achieved.

A further progress report by the Wetlands Authority be placed before this Court on 31st July, 2024.

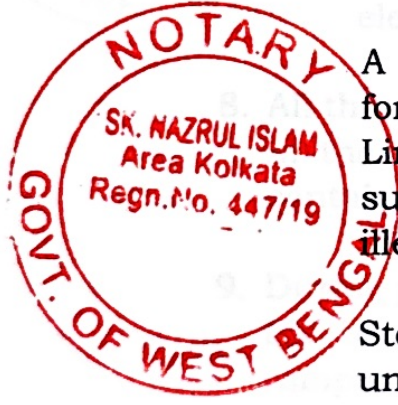
Learned advocate representing the Wetlands authority is directed to hand over all documents in connection with the case to the learned advocate representing the CESC Limited and the petitioner.

A complete list of the unauthorised constructions be forwarded to the learned advocate representing the CESC Limited and WBSEDCL for enquiring as to how electric supply could be effected in the structures constructed illegally over the waterbody.

Steps for disconnection of the electric supply to unauthorised construction are liable to be taken by the CESC Limited.

Let a notice be served upon the West Bengal State Electricity Distribution Company Limited communicating the orders passed by this Court from time to time"

A photocopy of the said solemn order is annexed herewith and marked by the letter and figure 'A-1'.



6. The above stated solemn order canvases how the WBSEDCL provided electric connection to illegally constructed properties within EKW area.
7. On the other hand Affidavit of the District Magistrate, South 24 Parganas containing the report of the Committee constituted by this Hon'ble Tribunal reveals the following :
 - i. That the plots in question are all part of East Kolkata Wetlands area and fall within the ambit of EKW Act ;
 - ii. That the plots are classified as "bil" (water body/wetland) in the R.S. land records ;
 - iii. That there has been rampant encroachment of the wetlands in question ;
 - iv. That there are about 679 nos. of construction upon the wetlands in question ;
 - v. That bituminized roads were found in most of the area which were maintained by local panchayet ;
 - vi. That electricity poles have been raised upon wetlands and electricity have been supplied to the constructions.
8. All the allegations made by the Applicant have been corroborated in the Affidavit of the District Magistrate, South 24 Parganas containing the report of the Committee.
9. During pendency of the instant Original Application, the wetlands are being rampantly sold in parts, construction activities are rampantly going on.
10. Now I shall deal with Affidavit in seriatim :
 - i) As regard paragraph no. 1 & 2 of the said Affidavit I say that the same does not require any specific reply
 - ii) As regard paragraph no. 3 of the said Affidavit I say that the Deponent of the said Affidavit used the word "land" instead of "wetlands" either cunningly or due to inadvertence.

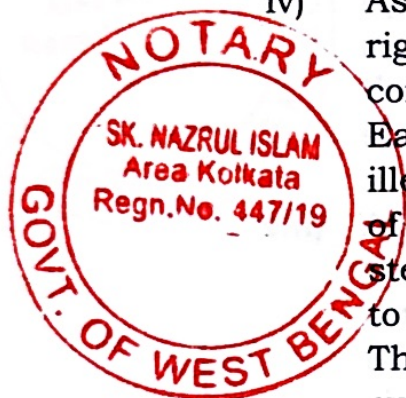


iii) As regards paragraph no. 4 of the said Affidavit the Applicant wonders why East Kolkata Wetlands Management Authority (hereinafter for the sake of brevity called and referred to as the 'EKWMA") was formed and has been functioning whether for the benefit of the Wetlands or commercial benefit of the property owners. It is admitted by the Deponent of the Affidavit that they have allowed sale/transfer of wetlands forming part of East Kolkata Wetlands (hereinafter for the sake of brevity called and referred to as the 'EKW") thereby also ratifying that wetlands though being recorded as "Bil" (Water body) can be sold as "Bastu Land (residential solid land)". But the Deponent of the said Affidavit neglected to state the fact that no wetland can be filled and that no construction can be raised upon them, and that bar has been imposed upon Land Reforms Department against change of character. It is very unfortunate how EKWMA is functioning.

iv) As regards paragraph no. 5 of the said Affidavit I say that right under the nose tip of EKWMA 679 nos. of constructions have been raised only at a small portion of East Kolkata Wetlands though there are thousands of such illegal constructions throughout EKW area. The Deponent of the said Affidavit adopted mysterious silence on kind of steps allegedly taken by them though they have the power to take any step including issuing direction for demolition. That is 679 constructions are standing upon such wetlands even after such acclaimed steps . Mere passing the buck to the District Magistrate is a stealthy exercise.

v) As regards paragraph no. 6 of the said Affidavit I say that the action taken report of Sonarpur Police Station if submitted at all ever as mentioned in the annexure R/3 is not supplied. So, the Deponent had washed his hands.

vi) As regards paragraph no. 7 and 8 of the said Affidavit I say that out of some 679 the EKWMA was able to chose some 11 nos. of violators i.e. 1.6% only, and programmed for hearing wherein the Applicant being the complainant was ousted and barred from making any submission, may be due to the fact that the EKWMA selectively chosen some 11



violators for the hearing excluding the larger groups of land sharks. In fact, no hearing could be held on 02.11.2023. Hence, EKWMA passed the buck vide their letter dated 22.12.2023 though with all the powers placed upon them requiring to accede to their "request" within 30 days time and to send compliance report.

- vii) As regard paragraph no. 9 of the said Affidavit I say that EKWMA in contradiction of statement narrated in their own paragraph 7 now stated having heard 10 out of 11 violators on 02.11.2023 and passed Reasoned Orders dated 22.12.2023 directing to restore respective subject wetland to its original character within 30 days. So, on 22.12.2023 EKWMA in one hand requested District Magistrate to demolish and on the other hand directed the violators to restore originality of the respective wetland. This is simply funny, and canvasses way of their functioning. the authority of the EKW has been challenged by the violators naturally. EKWMA needs to deal with illegal construction upon wetlands with iron hands even with the acclaimed 10 nos. of violators. Instead of waiting for numerous months the EKWMA ought to have acted swiftly and demolished the structures.
- viii) As regards paragraph no. 10 of the Affidavit I say that though the Respondent no. 14 demolished illegal construction he raised over the wetland the EKWMA did not take any steps to restore the wetland in its original nature, size and character. Mere demolition of structure over wetlands can not and shall not provide any remedy. Wetlands ought to be restored in their original, size nature and character.
- ix) As regards paragraph no. 11 of the said Affidavit I say that once again compliance report as stated in the annexure R-5 has not been annexed herein. It appears from the non-disclosure of the compliance report that the structures raised upon the wetlands have not been demolished till date.
- x) As regards paragraph no. 12 of the said Affidavit I say that the same does not require any specific reply



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- xi) As regards paragraph no. 13 of the said Affidavit I say that once again annexures are missing. The reply dated 18.07.2024 has not been annexed with the Affidavit to escape disclosure of their own reasons in killing time in the process of exercising own power derived from the law. Still, they say that the process "shall" be initiated.

In view of what is stated herein above, I humbly pray before this Hon'ble Tribunal to pass necessary orders.

Solemnly affirmed at Kolkata

On this 18th day of September, 2024

Ankur Sharma
Applicant



Solemnly Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CRPC

[Signature]
Notary

SK. Nazrul Islam
Notary, Govt. of W.B.
Regn. No. 447/19
City Civil Court, Calcutta

Identified by
Ayushi Kakarain
F/498/371/2021

18 SEP 2024

VERIFICATION

I, Ankur Sharma, the abovenamed Applicant do hereby verify that the contents of the above Affidavit in Rejoinder are true and correct to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Kolkata on this day of 18th day of September, 2024.

Ankur Sharma
Applicant

10.07.2024
Item No.14
AGM

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

CAN No.1 of 2024
and
CAN No.2 of 2024
in
WPA No.17901 of 2023

Dr. Syamal Kumar Lahiri
-vs-
The State of West Bengal & Ors.

Mr. Neil Basu.
Mr. Dibayan Banerjee
Mr. Sankha Biswas.
Mr. Abhrajit Roy Chowdhury.
Mr. Nayan Biswas.
...for the petitioner

Mr. Aritra Basu
Mr. Shoham Sanyal ...for the applicants

Mr. Nilotpal Chatterjee ...for the respondent no.3

Mr. Somnath Ganguli
Ms. Priyamvada Singh ...for the State/Wetlands

Mr. Tapash Kumar Mondal ...for Zilla Parishad

Mr. Debanjan Mukherji ...for CESC

Report signed by the Chief Technical Officer, East Kolkata Wetlands Management Authority on 5th July, 2024 is taken on record.

It has been submitted by the learned advocates representing the Wetlands Authority and the State respondents that steps have been taken to return the wetlands to its original state.

The steps taken by the authority does not appear to be in sync with the Act and the connected Rules. The



pace at which the authorities are proceeding to restore the water bodies is so slow that the Court is doubtful as to whether the water bodies would, at all, be restored to its original state.

The wetlands authority and the State respondents ought to act in tandem and ensure that the very object and purpose of the Act is achieved.

A further progress report by the Wetlands Authority be placed before this Court on 31st July, 2024.

Learned advocate representing the Wetlands authority is directed to hand over all documents in connection with the case to the learned advocate representing the CESC Limited and the petitioner.

A complete list of the unauthorised constructions be forwarded to the learned advocate representing the CESC Limited and WBSEDCL for enquiring as to how electric supply could be effected in the structures constructed illegally over the waterbody.

Steps for disconnection of the electric supply to unauthorised construction are liable to be taken by the CESC Limited.

Let a notice be served upon the West Bengal State Electricity Distribution Company Limited communicating the orders passed by this Court from time to time.



[Amrita Sinha, J]