

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

IN

Original Application No.94/2023/EZ

IN THE MATTER OF:

All India Anti-Corruption Organization

.....Applicant(s)

Versus

The State of West Bengal & Ors.

.....Respondent(s)

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(Handwritten Signature)

(Mrinal Kanti Biswas)

Regional Director & Scientist E,

CPCB, Kolkata

(Handwritten Signature)
Filed through Counsel

Dated: 03/01/24

Place: Kolkata



43 03/2024

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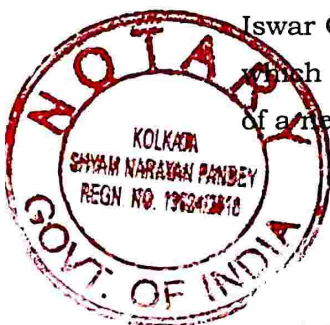
**REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 14 i.e
CENTRAL POLLUTION CONTROL BOARD**

I, Mrinal Kanti Biswas, S/o Shri Saroj Kumar Biswas, aged about 42 years, having office at the Regional Directorate, Central Pollution Control Board, Southend Conclave' Block 502, 5th & 6th Floor, 1582, Rajdanga, Main Road, Kolkata-700107 do hereby solemnly affirm and sincerely state as follows: -

1. That, I am presently working as Regional Director, Regional Directorate (East), Central Pollution Control Board (hereinafter referred to as CPCB), Kolkata and have been authorized to file the present affidavit. I am fully conversant with the facts of the case and hence competent and authorized to depose and swear the present reply affidavit as under:

PRELIMINARY FACTS:

2. The application is related to illegal mining/lifting silver sand from the bed of the river Ganga, in contravention of norms established by law and also the sand mining policy 2021 declared by the Government of the West Bengal in July 2021. It is alleged that illegal sand mining activities are being conducted within 500 metres of the Iswar Gupta Setu connecting the districts of Hooghly and Nadia, which is already declared as a weak bridge; and construction of a new bridge is underway in the vicinity. It is also mentioned in

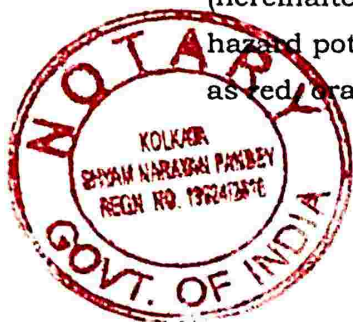


the application that this pattern of illegal sand mining is dangerously affecting the environment and is an upcoming threat to the entire Ganga basin of West Bengal.

3. That the applicant under this application sought direction from this Hon'ble Tribunal to restrain and initiate action against illegal operation of sand mining/lifting of silver sand from the riverbed of Ganga and violation of environmental norms regarding the same in Hooghly and Nadia districts, West Bengal.

BRIEF SUBMISSIONS

4. That the Clause 2 of the Environmental Impact Assessment Notification, 2006 (hereinafter referred to as EIA Notification, 2006) provides for the "Requirements of prior Environmental Clearance (hereinafter referred to as EC)". For the projects or activities which are falling under the category "A" of the Schedule of the EIA Notification, 2006, the project proponent shall obtain the EC from the Ministry of Environment, Forest and Climate Change (hereinafter referred to as 'MoEF & CC'); and for the projects which are falling under the 'B' category of the Schedule of the EIA Notification, 2006, the project proponent shall obtain EC from the State Environment Impact Assessment Authority (hereinafter referred to as 'SEIAA').
5. That it is further humbly submitted that as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the 'Water Act, 1974') and the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as the 'Air Act, 1981'), all new projects are required to obtain "Consent to Establish" (hereinafter referred to as 'CTE') from the concerned State Pollution Control Board (hereinafter referred to as SPCB), and all running units and the units starting operation after establishing as per the CTE issued by the SPCB are required to obtain "Consent to Operate" (hereinafter referred to as 'CTO'). Depending upon the pollution and hazard potential of industrial activities, the industries are categorized as red, orange, green, and exempted.



6. That at the outset it is humbly submitted that this answering Respondent No.14 has not inspected the area concerned and therefore not in a position to specifically comment on the averments made in the application.
7. Further, it is humbly submitted at the very outset that the Respondent No. 14 deny each averments and submission made in the Original Application, that are contrary to and inconsistent with the averments made and facts stated in the present Reply Affidavit.

PARA-WISE REPLY

8. That the averments made under Paras 1 to 5.1 are related to brief introduction about the parties and jurisdiction of Hon'ble Tribunal in the present Original Application. Hence, need no comments from this answering Respondent No.14.
9. That in reply to averments made under Paras 5.2 to 5.3 are related to the alleged illegal lifting of silver sand from the bed of the river Ganga and the ecological importance of the impugned site. It is humbly submitted that unscientific mining, if happening, may cause hazardous impact on ecological equilibrium of riverine regime. This disturbance may also cause changes in channel configuration and flow-paths. Mining should be as per the approved mining plan and the environment clearance as per notifications of the MoEF & CC.
10. That in reply to the averments made under Para 5.4 to 5.16 it is humbly submitted that the main objectives of the "Sustainable Sand Mining Management Guidelines - 2016" are as follows:
 - a. *To ensure that sand and gravel mining is done in environmentally sustainable and socially responsible manner.*
 - b. *To ensure availability of adequate quantity of aggregate in sustainable manner.*
 - c. *To improve the effectiveness of monitoring of mining and transportation of mined out material.*
 - d. *Ensure conservation of the river equilibrium and its natural environment by protection and restoration of the ecological system.*
 - e. *Avoid aggradation at the downstream reach especially those with hydraulic structures such as jetties, water intakes etc.*



- f. *Ensure that the rivers are protected from bank and bed erosion beyond its stable profile.*
- g. *No obstruction to the river flow, water transport and restoring the riparian rights and instream habitats.*
- h. *Avoid pollution of river water leading to water quality deterioration.*
- i. *To prevent depletion of ground water reserves due to excessive draining out of ground water.*
- j. *To prevent ground water pollution by prohibiting sand mining on fissures where it works as filter prior to ground water recharge.*
- k. *To maintain the river equilibrium with the application of sediment transport principles in determining the locations, period and quantity to be extracted.*
- l. *Streamlining and simplifying the process for grant of environmental clearance (EC) for sustainable mining.*

13. That the averments made under Para 5.17 to 5.19 are related to bidding and granting of permission for excavation of silt from river and hence need no comments from this answering Respondent,

14. That the averments made under Para 5.20 to 5.29 related to the alleged illegal lifting of silver sand within 500 meters of "Iswar Gupta Setu". In this regard it is humbly submitted that mining should be done as per the "Sustainable Sand Mining Management Guidelines - 2016" and the "Enforcement & Monitoring Guidelines for Sand Mining, 2020" and following the conditions of environmental clearance issued for the mining project, and for any violation with respect to the same, if occurred, appropriate action may be taken by the concerned authorities and Environmental Compensation may be levied.

15. That the averments made under Para 5.30 to 5.33 are related to directions passed by Hon'ble Tribunal, the same are matter of record and hence need no comments from this answering Respondent.

16. That with regard to the averment made in Para 6 to 6.5, it is humbly submitted that as per "Sustainable Sand Mining Management Guidelines - 2016", depending upon the location, thickness of sand, deposition, agricultural land/Riverbed, the method of mining may be manual, semi-mechanized or mechanized;



however, manual method of mining shall be preferred over any other method.

17. That with regard to the averments made in the Grounds 7 (I) to (V) of the present Application, it is humbly submitted that the same have been replied in the Paras above and need no further comments from this answering Respondent.

18. In view of the above facts indicated in earlier paras, it is respectfully prayed that this Respondent shall abide by any order or direction, passed by the Hon'ble Tribunal.

DEPONENT

VERIFICATION

I, Mrinal Kanti Biswas, the above-named deponent do hereby verify that, the contents of the above affidavit are true and correct to my knowledge based on official records, no part of it is false and nothing material has been concealed there from.

Signed and verified on this 03 Day of January, 2024 at Kolkata.

DEPONENT

Identified by me
Attorney at Law
Advocate

Solemnly Affirm & Declared
Before Me on Identification
of Ld. Advocate

SHYAM NARAYAN PANDEY
NOTARY, GOVT. OF INDIA
REGN. NO. 13624/2018

03.01.2024

03 JAN 2024

