

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA



In the matter of :

O.A. No. 64 of 2023 (EZ)

- And -

In the matter of :

Raghunath Maity

... Applicant

- Versus -

The West Bengal Pollution Control  
Board & Ors.

... Respondents.

Affidavit-in-Reply on behalf of the applicant against Counter Affidavit  
filed by the Respondent No.6.

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1.	Affidavit-in-Reply.		1 - 7

Filed by

Mr. Partha Sarkar  
Advocate  
C/o- Mr. Sandip Ghosh  
Advocate  
High Court, Calcutta,  
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1st. Floor, Kolkata- 700001.  
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F/554/431/2017

27 SEP 2023

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I, Raghunath Maity, Son of Late Bibhuti Bhusan Maity, aged about 57  
years, by faith – Hindu, by occupation-Service, residing at Village and  
Post Office – Meghadangar, Police Station – Panskura, District – Purba  
Medinipur, Pin – 721152, do hereby solemnly affirm and say as follows  
:

1. That I am the applicant of the instant case as such I am  
well conversant with the facts and circumstances of the above  
case.

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2. That on August 22, 2023 the copy of counter affidavit of the respondent No. 6 hereinafter referred to as said Affidavit was served upon my Learned Advocate-on-Record.

3. That the said affidavit was read over to me by my Learned Advocate and I understood the contents and purports thereof and I advised to deal with the matter which on record and other statements and allegations are denied by me.

4. With regard to the statement made in paragraph No. 1 of the said affidavit I have no comment as the same is matter on record.

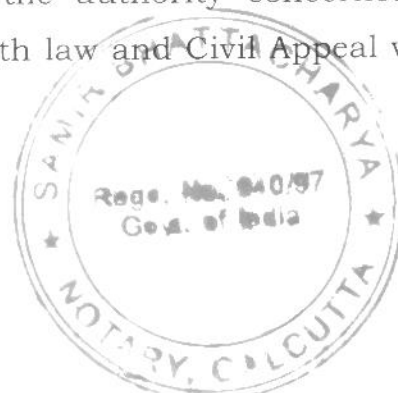
5. With regard to the statement made in paragraph No. 2(a) of the said affidavit I have no dispute and the prayer to leave for making further statement of fact and I further say that the instant original application is verily maintainable in the eye of law and after passing of closure order dated 10.05.2019 passed by the Chief Engineer of Pollution Control Board on the basis of the order dated 02.04.2019 passed in O.A. No. 137 of 2017 (EZ) of the Hon'ble National Green Tribunal, the respondent No. 6 by violating the order, is running the Husking Mill as well as wheat grinding Machine by Diesel Engine and the Pollution Control Board lodged F.I.R. against the Respondent No.6 to the I/C Panskura Police Station and I further say that there is cause of action in the matter when the respondent has not paid the compensation money imposed by the Pollution Control Board and the application as made by me is not time barred and the instant case is true and the statement made in the said original application are true as such the application should be allowed by the Hon'ble National Green Tribunal.

6. With regard to the Statement made in paragraph No.2(b) of the said affidavit denied by me. I say that the application is not defective

for non-joinder of parties and I further say that the dead person namely Late Dipak Kumar Das is not made party but his legal heirs namely Mithu Rani Das (wife) and Suvankar Das (Son) are made party respondent No. 6 in the original application as the dispute between the parties is Civil right and the suit always survive upon the legal heirs of the original party after his death, as such the statement made in paragraph 2(b) of the affidavit by the respondent No. 6 is false and the respondent made this statement to mislead the Hon'ble Tribunal.

7. With regard to the statement made in paragraph No. 2(c) of the said affidavit is untrue and frivolous and baseless and the allegation against me by saying cheater who is amounts to defamation when I am working as a Post Master of Meghadangar Post Office and I have good name in the locality and I am not misuse the judicial power by making the instant application before the Hon'ble Green Tribunal. I am further praying for leave before the Learned Tribunal to approach the appropriate forum against issuing such record word against me.

8. With regard to the statement made in paragraph No. 2(d) of the said affidavit I have no comment as the same is the matter on record and I have no dispute. I further say that by challenging the order of the Hon'ble National Green Tribunal, Eastern Zone the proprietor of M/s. Biswanath Bani Mill proprietor Dipak Kumar Das during his lifetime filed a Special Leave Petition before the Hon'ble Supreme Court of India being Special Leave Petition Nos. 4760 and 4761 of 2021 and on 24.09.2021 Hon'ble Supreme Court of India passed an order that the substitution petition was allowed and the legal heirs of Late Dipak Kumar Das was withdrawn the two appeals from the Hon'ble Supreme Court and the Hon'ble Court directed the authority concerned to consider the application in accordance with law and Civil Appeal were dismissed.



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That I further say that the Hon'ble Supreme Court has not dealt with appeals and the SLP was dismissed as such even if I accept the argument and/or submission of the respondent No. 6 with the doctrine of merger then the order of the Hon'ble Tribunal still in force as the Hon'ble Supreme Court of India disposed of the Special Leave Petition of the private respondent, as such dismissal of the Special Leave petition with the observation and/or order upon the competent authority to consider it in accordance with law does not create any right upon the local police authority as well as upon the private respondents herein for diesel the unit by the police authority and subsequently operations the unit by the private respondents to diesel every, more so the Hon'ble Supreme Court while disposing of my application was pleased to grant liberty to the applicant to initiate appropriate action in accordance with the law. The private respondent has also failed to deposit me the compensation amount passed by me Pollution Control Board while deciding the matter in terms of me order of this Hon'ble Tribunal. As such there is ample scope to enter fair the present original application as the said unit is till running without having the essential requirement for running the said unit i.e. consent to establish and consent to operate from the competent authority.

I further say that the GM-DIC, Purba Medinipur vide Memo No.708/DIC/RTI/22-23 dated 10.01.2023 informed me in the form of reply of the application of the Right to Information Act, inter alia not to status of 'Consent to Operate' of M/s. Biswanath Bani Mill, Pro-Subhankar Das of Village & P.O. Meghadangar, P.S. Panskura, District - Purba Medinipur, Pin - 721152 is Rejected. The copy of the said Memo dated 10.01.2023 is already annexed to the original application being Annexure "A-40" at page 194.



9. With regard to the statement made in paragraph No. 2(e) of the said affidavit denied by me and reiterated that the prayer of paragraph No.7 of the application and prayer is not contrary to the Hon'ble Supreme Court's order.

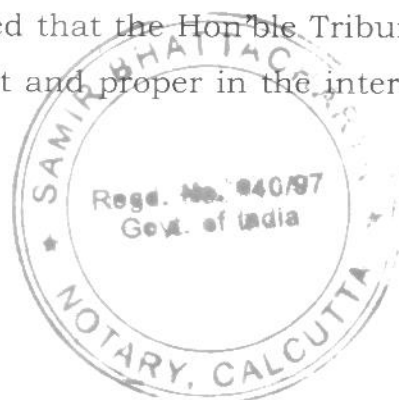
10. With regard to the statement made in paragraph No. 2(f) of the said affidavit is denied by me and I say that Paragraph No. 8 of the application is my prayer and the prayer is genuine and the same is maintainable in the eye of law and I pray before the Hon'ble Tribunal to allow the application and the Respondent No. 6 have nothing to submit anything before the Hon'ble Tribunal and he is estopped to say thing when he has not deposited the cost as imposed by the Pollution Control Board and running the unit by violating this Hon'ble Tribunal's order and before hearing consent to operation a consent to established of the unit.

11. With regard to the statement made in paragraph No. 3 of the said affidavit are denied by me and reiterated the statement made in paragraph No. 9 of the said application.

12. With regard to the statement made in paragraph No. 4 of the said affidavit is denied by me and the grounds are genuine and the same is made according to law.

13. With regard to the statement made in paragraph No. 5 of the counter affidavit of the respondent No. 6 is denied by me and the application is made bonafide and for the ends of justice.

14. That 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.



16. That the statements made in paragraph Nos. 1 to 13 are true to my knowledge and the rest are my respectful submissions before this Hon'ble Tribunal.

*Rashumata Maity*

DEPONENT

Identified by me

*Samir Sarka*

Advocate

Solemnly Affirms and  
Declares before me U/S 1...  
CPC (11/2007) CRP

Notary

*Samir Bhattacharya*  
Notary Govt. of India  
Regd. No.-940/97  
City Civil Court, Calcutta

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**VERIFICATION**

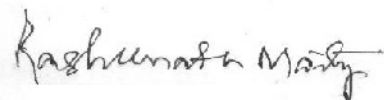
I, Raghunath Maity, Son of Late Bibhuti Bhusan Maity, aged about 57 years, by faith – Hindu, by occupation-Service, residing at Village and Post Office – Meghadangar, Police Station – Panskura, District – Purba Medinipur, Pin – 721152, do hereby declare that I am the applicant in the instant case and as I am well acquainted with the facts and circumstances of the case, I do verify that the statements made in the forgoing paragraph Nos. 1 to 13 are true to my knowledge and rest is my humble submission before this Hon'ble Tribunal and I sign this verification at my Learned Advocate's on this the 15<sup>th</sup> July, 2022.

Prepared in my office



Advocate

P/551/431/2017



Deponent



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