

BEFORE THE NATIONAL GREEN TRIBUNAL,
(EASTERN ZONE BENCH, KOLKATA)

ORIGINAL APPLICATION NO. 149/2023/EZ

Ret... 12
Date... 09-01-2024

**BEFORE THE NOTARY PUBLIC
AT CHANDANNAGAR**

IN THE MATTER OF:

BISWAJIT MUKHERJEE.

.....Applicant.

Versus

UNION OF INDIA & ORS.

.....Respondents.

**AFFIDAVIT IN REPLY FILED ON BEHALF OF THE APPLICANT AGAINST
THE AFFIDAVIT FILED BY THE WEST BENGAL POLLUTION CONTROL
BOARD DATED 28.11.2023.**

I, Biswajit Mukherjee, son of Late Ajit Kumar Mukherjee, aged about 71 years, by occupation retired, by faith Hindu, residing at Burra Bazar, Chandannagore, District Hooghly - 712136, do hereby solemnly affirm and state as follows:

1. That I the applicant no. 1 in the instant matter pending before this Hon'ble Tribunal. I am well conversant with the facts and circumstances of the instant case. I am duly authorized by the other applicant to file this affidavit and as such I am competent to affirm this affidavit.

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2. That I have filed an original application under Section 14, 15, 16 and 17 of the National Green Tribunal Act, 2010, thereby praying for a direction upon the respondent authorities to forthwith close down the illegal and unauthorized fireworks manufacturing/selling/storage units which are being run within the State of West Bengal without obtaining proper licences from the appropriate authorities and also praying for a direction upon the respondent authorities to forthwith frame a proper guideline for running and operating the firecracker manufacturing unit in the State of West Bengal in due compliance of the order dated 20.03.2020 passed by this Hon'ble Tribunal in O.A. No. 101 of 2015 and also for other consequential reliefs. The applicant craves leave to refer a copy of the said original application at the time of hearing, if necessary.

3. That by an order dated 17.10.2023 this Hon'ble Tribunal was inter alia pleased to admit the original application for hearing. The State of West Bengal represented by the Chief Secretary and, State Pollution Control Board, represented by Chairman, were directed to place before the Hon'ble Tribunal the guidelines, if any, framed by the State respondents in compliance with the order dated 20.03.2020 passed in Original Application No. 101 of 2015 (Biswajit Mukherjee -Vs. Union of India and Others) as well as the order of the Delhi Bench of the Hon'ble National Green Tribunal dated 09.11.2020 and 01.12.2020 passed in Original Application No. 249 of 2020.

4. That pursuant to the above order, Dr. Debasish Chakraborty being the Senior Scientist of West Bengal Pollution Control Board (hereinafter referred to as the 'State Board') has affirmed an affidavit on 28.11.2023, a copy whereof has been served upon my Learned Advocate which has been accordingly forwarded to me. I have gone through the same and noted the contents and purports thereof.

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5. That in the said affidavit the concerned respondent has annexed an order passed by the State Board dated 26.10.2021 by which the State Board issued certain directions in terms of the orders of Hon'ble Supreme Court of India dated 23.10.2018 in W.P.(C) No. 728 of 2015 and directives of Hon'ble National Green Tribunal in O.A. No. 249 of 2020 dated 09.11.2020 and 01.12.2020. it is pertinent to mention here that such directions were mainly restricted to burning of fire crackers during festivals and other special occasions only.

6. That in the said affidavit the concerned respondent has further annexed a circular dated 20.10.2023 issued by State Board for compliance of the orders of the Hon'ble High Court, Calcutta dated 11.10.2022 and 18.10.2023 passed in connection with W.P.A. (P) No. 292 of 2021 and orders of the West Bengal Pollution Control Board dated 26.10.2021 and 17.10.2023 on Green Firecrackers. Copies of the aforesaid orders have also been annexed alongwith the said affidavit.

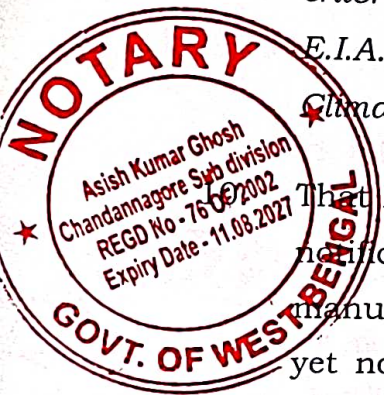
7. That in the said affidavit the concerned respondent has further annexed orders dated 01.11.2023 and 06.11.2023 issued by State Board in compliance with the orders of the Hon'ble Supreme Court of India dated 23.10.2018 passed in connection with W.P. (C) No. 728 of 2015 and directions of the Hon'ble Green Tribunal in O.A. No. 249 of 2020 dated 09.11.2020 and 01.12.2020 regarding ban on the sale, bursting of all kinds of Firecrackers except green firecrackers in the State of West Bengal.

8. That in this regard it is pertinent to mention here that O.A. No. 101 of 2015 was disposed by this Hon'ble Tribunal thereby directing the State Government to ensure that appropriate guidelines are framed regarding establishment of designated clusters for setting up firecracker units in different districts.

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9. That the answering respondent produced an order dated 01.11.2023 passed by the State Board where the State Board has declared that for establishing and operating of manufacturing units of green fire crackers, "Consent to Establish" and "Consent to Operate" respectively from the W.B.P.C.B. are not required. However, in the self-same order it was mentioned that "However, in case of any formation of cluster of such green fire crackers manufacturing units, State Government will select site for setting up of such manufacturing units following the siting criteria related to fire and explosive hazardous and it will be guided by E.I.A. Notification 2006 issued by Ministry of Environment, Forests and Climate Change under Environment (Protection) Act, 1986."



That I submit that from the above notification it is clear that the said notification was passed regarding licensing of green fire cracker manufacturing unit only and it is evident that the government has not yet notified about selection of sites for setting up of manufacturing units, which was the main direction passed by this Hon'ble Tribunal while disposing of O.A. No. 101 of 2015.

11. That I further submit that in my present O.A. Application, at page 312 (Annexure "A-26"), a minutes of the meeting held in the Conference room of the Chief Secretary, Government of West Bengal on 05.08.2023 has been annexed. From a bare perusal of such minutes it is evident that the Government of West Bengal is yet to finalize the list of selected sites of the clusters for fire cracker manufacturing units. It also appears that the State Board has proposed to National Environmental Engineering Research Institute (NEERI) to set up a testing lab at Haldia for testing the fire cracker sample made in West Bengal so as to find out whether any particular fire cracker falls within the category of green or not.

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12. That in the said meeting, the concerned District Magistrate of various districts submitted a statistic that there are about 5556 Nos. of units which includes manufacturing, sale and storage of fire crackers running in the State of West Bengal. However, it has not been mentioned anywhere -

a) As to whether these units are running and/or operating after obtaining valid licenses from the concerned authorities or not?

b) As to whether these units are manufacturing and/or selling and/or storing only green fire crackers or not?

c) As to whether any steps have been taken either by the State Government or by the State Board against these units if they are running without proper licenses?

d) As to whether any steps have been taken either by the State Government or by the State Board against these units if they are not manufacturing only green fire crackers?

e) As to whether the State Board of the State Government has the proper set up and/or mechanism to identify whether a particular fire cracker belongs to green category or not, specially when it is evident that the State Government has only proposed to NEERI to set up a testing lab, which has not yet established?

f) As to whether the State Board and/or State Government has published a proper notification thereby determining the proper definition of a fire cracker, which will be qualified as green fire cracker, for different sets and/or types of fire crackers?

13. That I further submit that the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata, was pleased to pass an order on

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16.10.2015, wherein WBPCB and Director General of Police and other Police Authorities were directed to take all steps to close down all illegal fire cracker manufacturing units. However, it is observed from the Affidavit filed by the WBPCB that in all these years WBPCB has not issued any closer order against the illegal fire crackers manufacturing units and therefore series of explosion have occurred since 2016 and onwards. That petitioner submitted a detailed report to the Government Authorities on 16/05/2023 mentioning there to regarding absolute failure of the Government Machineries to stop the functioning of the illegal fireworks manufacturing units but Government Machineries fails to take any action in this matter.

14. That in view of the above, I submit that the State Government as well as the State Board may be directed to file further affidavits thereby placing on record the aforesaid facts as described above for proper adjudication of the instant case.
15. That the statements made in paragraph 1 to 12 are true to my knowledge and the rest are my respectful submissions before this Hon'ble Tribunal.

Prepared in my Office

Bijwojit Mukherjee
Deponent

Bilash Shaw

Advocate

**Solemnly Affirmed &
Declared Before Me**

A. K. Ghosh
NOTARY
Chandernagore



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