

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

O. A. NO.149 OF 2023

IN THE MATTER OF

Shri Biswajit Mukherjee & Ars.

.....Applicant(s)

VS.

Union of India & Ors

.....Respondent(s)

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Filed through:-

Date:- 17/05/24

Kolkata

Ashok Prasad

ASHOK PRASAD,

ADVOCATE



SE. NO. 99 DT. 17.05.2024

**BEFORE THE NATIONAL GREEN TRIBUNAL
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VS.

Union of India & OrsRespondent(s)

Counter affidavit filed on behalf of Respondent No.1 (Jt.Chief
Controller of Explosives)

I, Rabindra Jain Biruly, Dy. Controller of Explosive, Years by faith
—Hindu, by occupation – Service under Petroleum and Explosives
Safety Organization under the Ministry of Commerce and
Industry, Govt. of India do hereby solemnly affirm and state as
follows:-

I am serving as Dy. Controller of Explosives and posted in the
office of the Joint Chief Controller of Explosives, East Circle,
Kolkata, Petroleum & Explosives Safety Organization (PESO),
Ministry of Commerce and Industry, Government of India, and

I am aware of the facts in the instant case and as such I am
competent to make and affirm the instant affidavit.



17 MAY 2024

PRELIMINARY SUBMISSION

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The fireworks manufacturing units are mostly prone to fire and explosion owing to hazardous natures of chemicals that are being used for manufacturing of fireworks/crackers. Kindly find Fatal accidents are common in illegal manufacturing as these units make no pretense of complying with statutory requirements for operating with explosives materials. The report of tragic deaths in the recent exposition/accident are gruesome reminder of the danger lurking behind in such illegal cracker/fireworks manufacturing and storage units that do not comply with the statutory provisions laid down under the Explosives Rules, 2008. This amounts to flagrant violation of Rule 7 of Explosives Rules, 2008. The compliance of Hon'ble Supreme Court Judgment dated 23-10-2018 in I.A. No. 6 & 8 of 2016, I.A. Nos. 10, II.80, 176, 69202, 109668, 109720 and 122778 of 20, 17, I.A. Nos. 68888 and 68897 of 2018 in WP(C) to 728 of 2015 in regard to prohibition of use of compounds of Barium/Lithium/Arsenic/Antimony/Lead/Mercury. In addition, the use of strontium chromate in the manufacture of fireworks is prohibited.

PARA WISE REPLY

1. That the averments made under paragraphs 1 to 14 are relating to matter of record and, hence do not warrants reply from this answering respondent in the present original



Application. Hence, need no comments from this answering respondent No.1.

2. That the averments made under paragraphs 15 to 17 of the original application, it is submitted that only one fireworks Manufacturing License is valid in the west of Bengal issued by Petroleum, Explosive and Safety Organization (In short PESO).

A copy of the said license is annexed herewith and marked as Annexure-R-1.

3. That the averments made under paragraphs 18 to 39 are relating to matter of record and, hence do not warrants reply from this answering respondent in the present original Application. Hence, need no comments from this answering respondent No.1.
4. That the averments made under paragraph 40 of the original application, it is submitted that PESO through Chief Controller of Explosives, Nagpur issues fireworks manufacturing license in Form LE-1, (Form-20) as per norms mentioned under Explosives Rules, 2008 after getting NOC & NOC drawing duly endorsed by the District Magistrate/ Collector and endorsed after the inspection of premises. Subsequently the licensed premises are inspected on yearly basis as per orders of the CCE, Nagpur and letter issued for violations. At present West Bengal State has only one fireworks Manufacturing unit having valid PESO License. The District Magistrate is also issue renews



fireworks manufacturing licenses under Explosives Rules, 2008 in form LE-1 (Form-20) for manufacturer of Fireworks.

5. That the averments made under paragraphs 41 to 52 are relating to matter of record and, hence do not warrants reply from this answering respondent in the present original Application. Hence, need no comments from this answering respondent No.1.
6. This respondent seeks liberty to file this affidavit, reserving the right of filing additional affidavit on behalf of Petroleum & Explosives Safety Organization if need so arises. This affidavit is primarily aimed to answer the key issues pertaining to possession and use of explosives within ambit of Explosives Act, 1884 and rules framed there-under.



Deponent

Rabindra Jain Biruly
Dy. Controller of Explosives,
East Circle, Kolkata.

रबिन्द्र जैन बिरुली
RABINDRA JAIN BIRULY
उप विस्फोटक नियंत्रक
DY. CONTROLLER OF EXPLOSIVES
पूर्वी अंचल, कोलकाता
EC, Kolkata



VERIFICATION

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Verified at Kolkata, on this day 17th ^{day} of May, 2024 that the contents of the above Affidavit are true and correct as per official records available with the deponent and to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed there from.


Deponent

Rabindra Jain Biruly
Dy. Controller of Explosives,
East Circle, Kolkata.

Identified by me


Advocate

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



**SHYAM NARAYAN PANDEY
NOTARY, GOVT. OF INDIA
REGN. NO. 13824/2018**

17.05.2024



17 MAY 2024



भारत सरकार | Government of India
 वाणिज्य और उद्योग मंत्रालय | Ministry of Commerce & Industry
 पेट्रोलियम तथा विस्फोटक सुरक्षा संगठन (पेसो) | Petroleum & Explosives Safety Organisation (PESO)
 पूर्व नाम- विस्फोटक विभाग | Formerly- Department of Explosives
 8-एस्प्लेनेड पूर्व | East circle, 8, Esplanade East,
 पहली मंजिल कोलकाता (प.ब.) | 1st floor, Kolkata 700069
 फोन (Phone):- 22486600 | फैक्स (Fax):- 22439322
 ई-मेल Email: jteceekolkata@explosives.gov.in

संख्या (No.): E/EC/WB/20/28(E38464)

सेवा में | To,

दिनांक (Date): 05/02/2019

M/s.Champion Fireworks Industries,
 Village-Chickrand, P.O.-Janai, Town/Village - Janai
 District-HOOGHLY, State-West Bengal, Pincode - 712304

विषय : Survey No(s).1598,1599 & 1618, ग्राम Chickrand, Janai, जिला HOOGHLY, राज्य West Bengal में आतिशबाजी के
 विनिर्माण हेतु विस्फोटक नियम, 2008 के अंतर्गत LE-1 में जारी अनुज्ञप्ति सं E/EC/WB/20/28(E38464) के नवीनीकरण संदर्भ में

Subject: Manufacturing of Fire Works at Survey No(s):1598,1599 & 1618, Chickrand, Janai, Dist.
 HOOGHLY, West Bengal -Licence No.: E/EC/WB/20/28(E38464) granted in Form LE-1 of
 Explosives Rules, 2008 - Renewal regarding

महोदय | Sir,

आपका उपर्युक्त विषय पर पत्र संख्या 11744 दिनांक 16/01/2019 का संदर्भ ग्रहण करी विस्फोटक नियम, 2008 के अंतर्गत प्रारूप LE-1 में जारी अनुज्ञप्ति दिनांक 31/3/2024 तक नवीनीकृत कर इस पत्र के साथ भेजी जा रही है।

Reference to your letter No.: 11744 dated: 16/01/2019, the subject licence duly renewed upto 31/3/2024 and issued in Form LE-1 of Explosives Rules, 2008 is forwarded herewith.

अनुज्ञप्ति के आगामी नवीकरण हेतु कृपया निम्नलिखित दस्तावेज दिनांक 31/03/ 2024 से पहले इस कार्यालय को भेजे जाएं।

For further renewal of licence, please submit the following documents so as to reach this office on or before 31/3/2024.

- प्रारूप आई-1 में विधिवत पूर्ण एवं हस्ताक्षरित आवेदन
Application in Form RE-1 duly filled in and signed.
- एक से पांच वर्ष के अनुज्ञप्ति शुल्क का बैंक ड्राफ्ट बैंक ड्राफ्ट किसी भी राष्ट्रीयकृत बैंक के नाम आहरित, संयुक्त मुख्य विस्फोटक नियंत्रक, कोलकाता के पक्ष में कोलकाता में देय हों।
Licence fees for one to five years in the form of demand draft drawn on any Nationalized Bank in favour of Jt. Chief Controller of Explosives, Kolkata payable at Kolkata.
- अनुमोदित प्लान के साथ मूल अनुज्ञप्ति
Original licence with approved plan.

• कृपया इस संबंध में विस्फोटक नियम, 2008 के नियम 112 का भी संदर्भ ग्रहण करें।
In this connection, please also refer to Rule 112 of Explosives Rules, 2008. इस अनुज्ञप्ति की शर्तों के अनुसार विस्फोटक का रिकार्ड (खाता) बनाए रखने की सलाह दी जाती है।
You are advised to maintain accounts of explosives as per conditions of licence.

भवदीय | Your's faithfully

(डा.आर.के.राठोर | Dr. R. K. Rathore)

उप मुख्य विस्फोटक नियंत्रक | Deputy Chief Controller of Explosives
 कृते संयुक्त मुख्य विस्फोटक नियंत्रक | For Joint Chief Controller of Explosives
 पूर्वचल, कोलकाता (प.ब.) | East Circle office, Kolkata

प्रतिरिपि प्रेषित | Copy Forwarded to:

1. जिला मजिस्ट्रेट (District Magistrate), HOOGHLY (West Bengal)- सूचना के लिए (for information.)

कृते संयुक्त मुख्य विस्फोटक नियंत्रक | For Joint Chief Controller of Explosives
 पूर्वचल, कोलकाता (प.ब.) | East Circle office, Kolkata

(अधिक जानकारी जैसे आवेदन की स्थिति, शुल्क आदि के लिए हमारी वेबसाइट <http://peso.gov.in> देखें।)
 (For more information regarding status, fees and other details please visit our website <http://peso.gov.in>)

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अनुज्ञप्ति प्ररूप एल. ई.-1 | LICENCE FORM LE-1

(विस्फोटक नियम, 2008 की अनुसूची 4 के भाग I के अनुच्छेद 1(क) में (ख) देखिए)
(See article 1(a) to (g) of Part I of Schedule IV of Explosives Rules, 2008)
(ग) एक समय में 500 किलोग्राम से अधिक आतिशबाजी या धारुद या दोनों के विनिर्माण के लिए अनुज्ञप्ति

Licence to manufacture : (e) fireworks and/or gunpowder exceeding 500 kilogrammes at any one time.

अनुज्ञप्ति सं. (Licence No.) : E/EC/WB/20/28(E38464)

वार्षिक फीस रकम (Annual Fee Rs): 2500/-

1. Licence is hereby granted to

M/s.Champion Fireworks Industries (अधिष्ठाता / Occupier : Paresh chandra Roy), Village-Chickrand, P.O.-
Janai, Town/Village - Janai, District-HOOGHLY, State-West Bengal, Pincode - 712304

Licencee/Occupier
Photo with Sign

को अनुज्ञप्ति अनुदान की जाती है।

2. अनुज्ञप्तिधारी की प्राकृति | Status of licensee : Partnership Firm

3. अनुज्ञप्ति निम्नलिखित प्रयोजनों के लिए विधिमाम्य है। Manufacture of -

Licence is valid only for the following purpose: Fire Works - के विनिर्माण के लिए

4. अनुज्ञप्ति विस्फोटकों के निम्नलिखित किस्मों, प्रकार और मात्रा के लिए विधिमाम्य है।

Licence is valid for the following kinds and quantity of explosives: -- (क) (a)

क्र. सं.	नाम और विवरण Name and Description	वर्ग और प्रभाग Class & Division	उप-प्रभाग Sub-division	मात्रा किसी एक समय में Quantity at any one time
1.	Fire Works	7, 2	1&2	20 Kg.

5. निम्नलिखित रेखाचित्र (रेखाचित्रों) से अनुज्ञप्त परिसर की पुष्टि होती है।

The licensed premises shall conform to the following drawing(s):

रेखाचित्र क्र. (Drawing No.) E/EC/WB/20/28(E38464)
दिनांक (Dated) 28/04/2004

6. अनुज्ञप्ति परिसर निम्नलिखित पते पर स्थित है। The licensed premises are situated at following address:

Survey No(s). 1598,1599 & 1618 . ग्राम (Town/Village) : Chickrand, Janai

जिला (District)

HOOGHLY

राज्य (State)

West Bengal

पुलिस थाना (Police Station) : Chanditola

पिनकोड (Pincode)

दूरभाष (Phone)

ई. मेल (E-Mail)

फैक्स (Fax)

7. अनुज्ञप्ति परिसर में निम्नलिखित सुविधाएं अंतर्भूत हैं।

One mixing Shed, two manufacturing shed, one finishing/filling shed, one
drying platform, one Storage and selling shed and two ingredient store.

8. अनुज्ञप्ति समय - समय पर यथासंशोधित विस्फोटक अधिनियम, 1884 और उनके अधीन विरचित विस्फोटक नियम, 2004 के उपबंधों, शर्तों और अतिरिक्त शर्तों और निम्नलिखित उपायों के अधीन रहते हुए अनुदान की जाती है।

The licence is granted subject to the provision of Explosives Act 1884 as amended from time to time and the Explosives Rules, 2008 framed there under and the conditions, additional conditions and the following Annexures.

1. उपर्युक्त क्रम सं. 5 में यथा कथित रेखाचित्र (स्थान, सन्निर्माण संबंधी और अन्य विवरण दर्शित करते हुए)।

Drawings (showing site, constructional and other details) as stated in serial No. 5 above.

2. अनुज्ञप्ति प्राधिकारी द्वारा हस्ताक्षरित इस अनुज्ञप्ति की शर्तों और अतिरिक्त शर्तों।

Conditions and Additional Conditions of this licence signed by the licensing authority.

3. परिशिष्ट | Annexure

9. यह अनुज्ञप्ति तारीख 31 मार्च 2006 तक विधिमाम्य रहेगी। This licence shall remain valid till 31st day of March 2006.

यह अनुज्ञप्ति, अधिनियम या उसके अधीन विरचित नियमों या अनुसूची V के भाग 4 के प्रति निर्दिष्ट सेट Set II के अधीन तथा उपबर्णित इस अनुज्ञप्ति की शर्तों का अधिक्रमण करने या यदि अनुज्ञप्त परिसर योजना या उससे संलग्न उपबंध में दर्शित विवरण के अनुरूप नहीं पाए जाने पर मिलजिबत या प्रतिसंदेह की जा सकती है, जहां वह लागू हो।

This licence is liable to be suspended or revoked for any violation of the Act or Rules framed there under or the conditions of this licence as set forth under set Set II, wherever applicable, referred to in Part 4 of Schedule V or if the licensed premises are not found conforming to the description shown in the plans and Annexure attached hereto.

तारीख | The Date - 28/04/2004

Sd/-
संयुक्त मुख्य विस्फोटक नियंत्रक | Joint Chief Controller of Explosives
East Circle office, Kolkata

नवीनीकरण के पुरांकन के लिए स्थान
Space for Endorsement of Renewal

नवीकरण की तारीख Date of Renewal	समाप्ति की तारीख Date of Expiry	अनुज्ञापन प्राधिकारी के हस्ताक्षर और स्टांप Signature of licensing authority and stamp
05/02/2019	31/03/2024	संयुक्त मुख्य विस्फोटक नियंत्रक, पुर्वांचल, कोलकाता Jt. Chief Controller of Explosives, East Circle, Kolkata

कानूनी चेतावनी : विस्फोटकों को गलत ढंग से चलाने या उनका दुरुपयोग विधि के अधीन गंभीर दंडित अपराध होगा।

Statutory Warning : Mishandling and misuse of explosives shall constitute serious criminal offence under the law.

A

List of Licences Granted in LE 1 -> Form20, Explosives Rules, 2008, in State West Bengal,
As on dated 17-May-2024

Sr. No.	Old licence No.	New Licence No. (DocKey)	Name and Address (Correspondance)	Situation Of Premises (Premises Address)	Capacity	Date of Grant Of Licence	Validity Of Licence	Current Status
1	Ben-1491/Ex/A	E/EC/WB/20/28 (E38464)	M/s.Champion Fireworks Industries Village-Chickrand, P.O -Janai, Janai HOOGHLY, West Bengal - 712304	Survey No(s) - 1598,1599 & 1618. Chickrand, Janai HOOGHLY, West Bengal -	Fire Works - 20 Kg.	28-04-2004	31-03-2024	Valid