

S.L. No. 44/24

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
ORIGINAL APPLICATION NO.88/2024**

In The Matter of:
BINAY BASFORE

.....Applicant

Versus

The State of West Bengal & Ors.

.....Respondents

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Place: Kolkata

Dated: 26.09.2024



Drawn & Filed by

R. K. JAISWAL

R. K. JAISWAL,
ADVOCATE,

High Court, Calcutta

Chamber:

10, Old Post Office Street, Room
No.115, Top Floor, Kolkata-700001.

Mobile No.9123096388

Email Id: rabindrajaiswal9@gmail.com

27 SEP 2024

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AFFIDAVIT ON BEHALF OF THE APPLICANT

I, Binay Basfore, son of Rajesh Basfore, aged about 23 years, by faith Hindu, by occupation a social worker residing at PO and Village Banipur, District Howrah, Pin-711304, the petitioner herein do hereby solemnly affirm and submit as follow-

1. That as per the order dated 20.08.2024 in Original Application No. 88/2024/EZ, I have been directed to file this affidavit outlining my objections and contentions, supported with photographs, in response to the affidavit submitted by the District Magistrate, Howrah in the present case. This affidavit is filed in compliance with the solemn order dated 20.08.2024 issued by this Hon'ble Bench.
2. That I object to the photographs submitted by the District Magistrate, Howrah, through the affidavit. These photographs depict only one side of the pond, thereby presenting a partial view. By omitting other key angles,

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the District Magistrate has provided selective information that could potentially misrepresent the current condition of the water body. This selective portrayal may significantly alter the perception of the pond's status, as it does not offer a comprehensive view of the entire water body and its surrounding environment.

3. That the photograph provided by the District Magistrate, Howrah, represents only a portion of the images taken. Notably, the photograph fails to capture areas where silt and other materials have accumulated and have yet to be excavated.

The photograph of the water body and its surroundings are collectively annexed herewith and marked as annexure "R-1"

4. That in point 5 of the affidavit submitted by the District Magistrate, Howrah, reliance is placed on a report issued by the BL&LRO Sankrail dated 28.06.2024. The report asserts that "No construction work has been done in and around the water body," which is entirely inaccurate. We are hereby annexing photographs that directly contradict this assertion and provide clear evidence of construction activities around the water body. This discrepancy highlights a significant factual error in the report and undermines the credibility of the claims made by the District Magistrate.

The relevant photographs are collectively annexed herewith and marked as annexure "R-2"

5. That it is respectfully submitted that no substantial restoration work for restoration has been undertaken contrary to what has been claimed by the claimed by District Magistrate, Howrah in her affidavit; only weeds have been removed from the vicinity of the water body

The relevant photographs are collectively annexed herewith and marked as annexure "R-3"



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6. That an illegal boundary wall is present around the pond on all sides, which contravenes the instructions issued by the Government of West Bengal, Department of Environment, as per Memo No. EN/1959/1C-10/2007 dated 08.10.2007. The memorandum explicitly states:

“To protect the water-bodies from encroachments, erection of any boundary brick wall around a pond should not be undertaken. These boundary walls deny the free movements of the amphibians to and from water and land. The wall also prevents the surface runoff from coming into the pond. Without the surface runoff, a pond cannot survive. The boundary walls around a pond also cause water logging in the neighbouring areas of the pond.

Instead of boundary walls, fencing may be fitted. In any case, the fencing should be fixed in such a manner that surface runoff and side seepage of the water body are not obstructed from coming into the pond and amphibians and other aquatic animals can move freely to and from the water. The gaps between the fencing rods should be wide enough. Barbed wire fitted on poles will be a better option.”

The presence of this boundary wall thus violates the directives intended to protect and maintain the ecological balance of the water body.

A photocopy of the Memo No. EN/1959/1C-10/2007 dated 08.10.2007 is annexed herewith and marked as annexure “R-4”

7. That the statements made in the above paragraphs are true to my knowledge and belief of the record as procured and collected by the deponent and the rest are humble submissions before the Hon'ble Tribunal.



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8. That it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to consider the prayers in Original Application No. 88/2024/EZ and pass the orders necessary order / orders as is deemed fit for the ends of justice

Prepared in my office
Adwocate

Binay Basfore

Deponent
(Binay Basfore)



Identified by me

Adwocate

Solely Affirmed and
Declared before me U/S 139
CPC, (C) ~~CPD~~

Sumitra Bhattacharyya
Notary

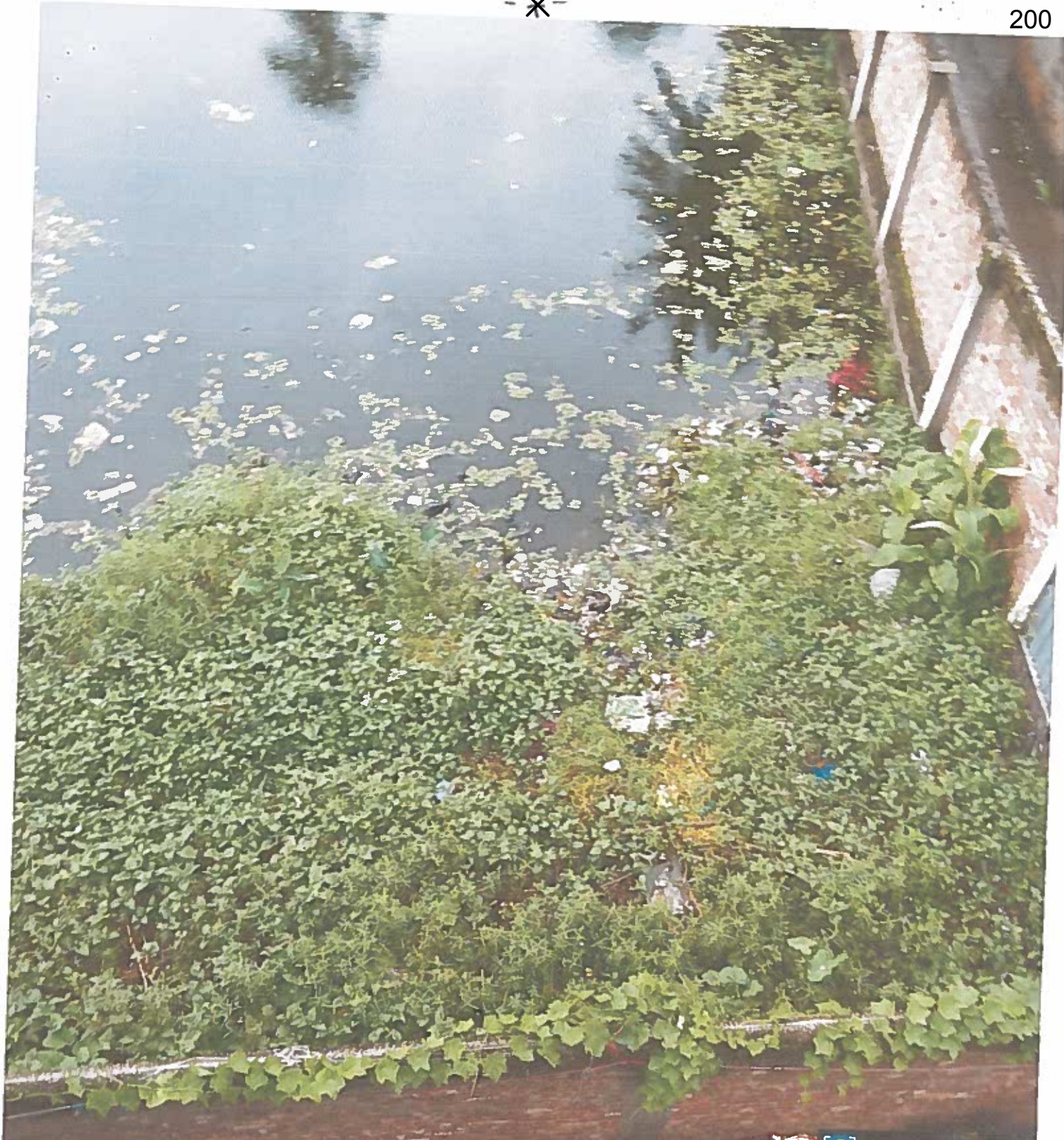
Sumitra Bhattacharyya
Notary Public, W.B.
B-10, West Bengal, 700022
City Court, Kolkata

27 SEP 2024



Howrah, West Bengal, India
H67J+QVG, Banipur, Sankrail, Howrah, West Bengal 711313, India
Lat 22.56444°
Long 88.231832°
19/08/24 01:23 PM GMT +05:30





Google

Howrah, West Bengal, India
H67J+QVG, Banipur, Sankrail, Howrah, West Bengal 711313, India
Lat 22.56444°
Long 88.231832°
19/08/24 01:24 PM GMT +05:30



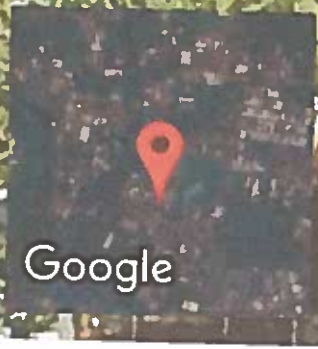


Howrah, West Bengal, India
H68J+4WR, Ramchandrapur, Sankrail,
Howrah, West Bengal 711313, India
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30/01/22 02:57 PM

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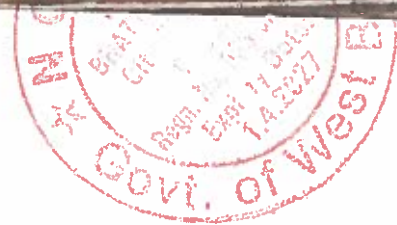
NOTARY PUBLIC
Govt. of West Bengal
Regd. No. 144/2017
Encl. 144/2017



Google

Howrah, West Bengal, India
 H67J+MHX, Banipur, Sankrail, Howrah, West Bengal 711313, India
 Lat 22.564357°
 Long 88.231613°
 07/08/24 01:22 PM GMT +05:30

GPS Map Camera



8-A. INSTRUCTION ON FOREST AND ENVIRONMENT

**Government of West Bengal
Department of Environment
'G' Block (2nd floor)
Writers' Buildings, Kolkata-700001.**

No. EN/1959/1C-10/2007.

Dated: October 08, 2007

STATUTORY CIRCULAR

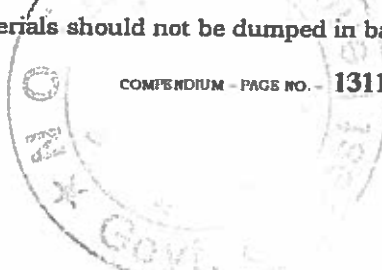
In view of a High Court case and in pursuance of the submissions and queries from the different organization, the Department of Environment constituted a Committee for 'determination of the nature of embankment of water bodies' in the State of West Bengal on 21st June, 2007, involving the representatives of the Kolkata Metropolitan Development Authority, Kolkata Municipal Corporation, Institute of Environment Studies & Wetland Management, West Bengal Bio-diversity Board, West Bengal Pollution Control Board, Department of Environment and different experts and social activities and the said Committee submitted a report before the Department of Environment on 3rd September, 2007.

2. After careful consideration of the recommendations of the Committee and taking into consideration of the records kept and maintained by the Department of Environment and in exercise of the powers conferred under Section 24 of the Water (Prevention & Control of Pollution) Act, 1974, all Municipalities, Zilla Parishads, Public Works Department, Corporations, Irrigation Department, KMDA, East Kolkata Wetlands Management Authority, any industrial unit or any individual, being owner of a pond, should maintain the following guidelines for 'determination of the embankments of water bodies'. These are the following guidelines.

- i) Maintaining the natural slope, by driving sharp aged bamboos preferably diagonally or straight, into the ground along the edges of ponds. The bamboos should be driven in such a manner that the natural slope is maintained.
- ii) Iron nets should be fixed with the bamboos. The purpose of the netting is to protect die brick chips and soil from slipping to the water. The netting should be made inside the water bodies a couple of feet away from the edges.
- iii) The gaps thus created between the edges of the pond and the netting should be filled with brick chips, and earth.
- iv) The newly formed earthen slope of the embankments should then be seeded with soil binders like grass and other wetland vegetation and plantation of tress. These vegetation will hold the natural embankment and will last for 10 to 15 years.
- v) To protect the water-bodies from encroachments, erection of any boundary brick wall around a pond should not be undertaken. These boundary walls deny the free movements of the amphibians to and from water and land. The wall also prevents the surface run off to come to the pond. Without the surface run off a pond cannot survive. The boundary walls around a pond also cause water logging in the neighbouring areas of the pond.

Instead of boundary walls, fencing may be fitted. In any case the fencing should be fixed in such a manner that surface runoff and side seepage of water body should not be obstructed from coming into the pond and amphibians and other aquatic animals of the water body can move freely to and from the water. The gapping between the fencing rods should be wide enough. Barb wires fitted in poles will be a better option.

- vi) In extremely isolated cases, i.e. on a road side where heavy traffic plies and thus where natural method cannot be undertaken, a trench should be dug some 6-10 feet or more behind the pond and a brick wall be erected. This wall always should be below the ground level, and should not be raised above the surface.
- vii) Illumination of heavy lights need to be avoided and pedestal lights or duly covered tube lights may be installed, which will illuminate the foot-paths and the brandings and not the trees.
- viii) Waste materials should not be dumped in bank of the water bodies in any manner.



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Note : Where Sal or eucalyptus piling is undertaken it should be kept into consideration that no cut-drum sheets or tin plates are fitted with the bullahs as these tin-sheets separate the land and water. This separation of land and water is very unhygienic for the water body and the surrounding areas according to scientists.

3. Public Works Department, Irrigation, Commissioner of the Municipal Corporation, Executive Officers of the Municipalities, Secretary of the Zilla Parishad, Chief Executive Officer of K.M.D.A., President of different Chamber of Commerce and Industries, are requested to circulate the aforesaid statutory guidelines through their offices for wide compliance so that the aforementioned guidelines may be adhered to by all concerned.

4. In case of violation of the aforementioned guidelines in respect of 'determination of the nature of embankment of the water bodies' Department of Environment, West Bengal, Pollution Control Board and other statutory authorities will take necessary actions in accordance with law against the violators.

By order

M.L. Meena
Secretary to the Govt. of West Bengal
Department of Environment

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**Government of West Bengal
Land and Land Reforms Department
Writers' Buildings, Kolkata-700001.**

No. 7184(19)SLUB/2/08.

Dated: 23.09 2009

From : The Assistant Secretary to the
Government of West Bengal

To : The A.D.M. & D.L. & L.R.O.,
.....
.....

Sub : Guidelines to be followed at the time of issuance of 'Consent to Establish' and 'Consent to operate' to the sponge iron units in West Bengal.

The undersigned in directed to send herewith a copy of Notification bearing no.EN/1084/T-IV-1/002/2008 dt. 21.05.08 issued by the Deptt. of Environment, Govt. of W. Bengal for necessary information and guidance.

Sd/-Illegible
Assistant Secretary
to the Govt. of West Bengal

No. 7184(19)/1(4)SLUB.

Dated: 23.09 2009

Copy along with the copies of Notification bearing No.EN/1084/T-IV-1/002/2008 dt. 21.05.08 forwarded to :-

1. The O.S.D. to M.I.C., L & L.R. Deptt.
2. P.S. to C.G., L & L.R. Deptt.
3. P.S. to L.R.C. L & L.R. Deptt.
4. The Special Officers, GE(M), Branch, Pl. show it to all H.As & Dealing Asstts. of his Branch.

Sd/-Illegible
Assistant Secretary
to the Govt. of West Bengal
Land & Land Reforms Deptt.



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27 SEP 2024

R.K. JAISWAL
Advocate
High Court, Calcutta
Chamber 10, Old Post Office Street
Room No.115 Top Floor,
Kolkata – 700001.
Mobile No. 9123096388
E-mail Id:rabindrajaiswal@gmail.com