

Serial No. 11/24
As per Register of Notary



- 1 -

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

M. A . No. 41 of 2024/EZ

(ARISING OUT OF ORIGINAL APPLICATION NO. 173/2024/EZ)

In The Matter of:

An application Under Section 19(4)(k) read with Under Section 18 (1) of the National Green Tribunal Act, 2010 for modification of the Solemn Order dated 03.09.2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in connection with the Original Application No. 173/2024/EZ;

AND

In The Matter of:

Kolkata Municipal Corporation

... Applicant

Versus

Sushil Kumar Jain & Ors.

... Respondents



INDEX

SL	PARTICULARS	ANNEXURE	PAGE
1.	M.A.		1-12
2.	Copy of the Solemn Order dated 03.09.2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata is annexed herewith	'P-1'	13-17
3.	Copy of the authorization to the deponent to file the instant application and swear affidavit by the Municipal Commissioner of the Kolkata Municipal Corporation is annexed herewith	'P-2'	18

1

30 SEP 2024

30 SEP 2024



4.	Photocopy of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006 is annexed herewith	'P-3'	19-28
5.	Photocopy of the Notification Number 901, dated 1 st March, 2007 issued by the Forest Department, Government of West Bengal is annexed herewith	'P-4'	29.

Filed by

Sibojyoti Chakrabarti

SIBOJYOTI CHAKRABARTI

Advocate

The Kolkata Municipal Corporation

Email: 9007035534

(M): subho.advocate@gmail.com



30 SEP 2024

- 3 -

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

M. A. No. of 2024/EZ

(ARISING OUT OF ORIGINAL APPLICATION NO. 173/2024/EZ)



In The Matter of:

An application Under Section 19(4)(k) read with Under Section 18 (1) of the National Green Tribunal Act, 2010 for modification of the Solemn Order dated 03.09.2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in connection with the Original Application No. 173/2024/EZ;

AND

In The Matter of:

Kolkata Municipal Corporation through its Municipal Commissioner having office at 5, S. N. Banerjee Road, Kolkata: 700013.

Email: mc@kmcgov.in

... Applicant

Versus

1. Sushil Kumar Jain, Son of Late B. C. Jain, Residing at Ground Floor, Flat No.D2 & 106, Rajat Gardens, 21, Ballygunge Park Road, P.S. Karaya, Kolkata – 700019.

Email: skj.pavangroup@gmail.com



30 SEP 2024

- 4 -

.....Respondent No.

1/Applicant in O. A

2. The Principal Secretary, Government of West Bengal, Department of Environment "Prani Sampad Bhavan", 5th Floor, LB-2, Sector III, Kolkata – 700106.

Email: psecy.env-wb@gov.in

3. The Member Secretary, West Bengal Pollution Control Board, Paribesh Bhavan 10A, LA Block, Sector-3, Bidhan Nagar, Kolkata – 700106.

Email: ms.wbpcb-wb@bangla.gov.in

4. Senior Environmental Engineer & In-Charge, Kolkata Regional Office, West Bengal Pollution Control Board, "Mani Square", Block No.8IT, Western Side, 8th Floor, 164/1, Maniktala Main Road, Kolkata – 700054.

Email: ee12.wbpcb-wb@bangla.gov.in



5. District Magistrate, Collectorate Building,
South 24 Parganas, Alipore South 24
Parganas, Kolkata – 700027.

Email: dm-ali@nic.in

6. The Officer-in-Charge, Karaya Police
Station, 52, Karaya Road, Lower Range,
Beckbagan, Ballygunge, Kolkata – 700019.

Email: karayaps@kolkatapolice.gov.in

7. The Divisional Forest Officer, South 24
Parganas, New Administrative Building, 4th
Floor, 12, Biplabi Kanai Bhattacharjee
Sarani, South Block, Alipore, Kolkata –
700027.

Email: dfo24pgss.fd-wb@gov.in

8. Rajat Garden Residents' Association,
Served through the Secretary being Shri
Amit Bagri, Secretary, Flat – 103 & 505 and
President and Committee member Shri Alok
Tiberwal Flat – 301 & 406 having its
address at Rajat Gardens, 21 Ballygunge
Park Road, P.S. – Karaya, Kolkata –
700019.

Email: rajatgardens@gmail.com



- 6 -

... Respondents

To,

The Hon'ble Chairperson and His Companion Member of the said Hon'ble Tribunal.

The Humble petition on behalf of the
applicant as above named most respectfully

SHEWETH:

1. That the original application being number O. A. NO. 173/2024/EZ has been filed by the applicant and the same has been disposed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata vide Solemn Order dated 03.09.2024.

Copy of the Solemn Order dated 03.09.2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata is annexed herewith and marked with the letter 'P-1'.

2. That the deponent in the instant application has been authorized to file the instant application and swear affidavit by the Municipal Commissioner of the Kolkata Municipal Corporation.

Copy of the authorization to the deponent to file the instant application and swear affidavit by the Municipal Commissioner of the Kolkata Municipal Corporation is annexed herewith and marked with the letter 'P-2'



3. That in the Original Application No. 173/2024/EZ it has been stated that the Applicant is a flat owner in the ground floor flat being Flat No. D2 and 106, Rajat Gardens, 21, Ballygunge Park Road, P.S. – Karaya, Kolkata – 700019.

That it has been further stated It is stated that at the time of construction of the building at premises No.21, Ballygunge Park Road, Kolkata-700019 there were fully grown trees standing there and the same were protected during construction of the apartments and made part of the common area by the Promoter for beautification of the building which was constructed about 21 years ago i.e. 2002, but at that time there were large number of trees in the premises which was also shown in the brochure of the building at the time of selling the flats. It is, however, alleged that the Respondent No.7 has started removing/felling the trees or cutting its branches so that the trees may finally wilt or dry out and the open space is being converted into a concrete space by clearing vegetation.

4. That the original application has been disposed off with direction to the Municipal Commissioner of Kolkata Municipal Corporation to decide the Applicant's complaint dated 03.07.2024 at page 44 and 45 of the paper book, in accordance with law having regards to the provision under West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act 2006, within a period of one month i.e. by 15.10.2024.
5. That it is pertinent to mention at this juncture that as per the provisions of section 3 (2) of the West Bengal Trees (Protection and Conservation in Non



Forest Areas) Act, 2006 'Competent Authority' has been stated to be an authority to be appointed by the State Government by notification to perform duties and exercise the powers conferred upon the authority under this Act.

Photocopy of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006 is annexed herewith and marked with the letter 'P-3'.

6. That moreover as per the Notification Number 901, dated 1st March, 2007 issued by the Forest Department, Government of West Bengal the Competent Authority as per the provision of section 3 (2) of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006 has been defined as below:

SCHEDULE

Name of the Competent Authority (1)	Jurisdiction (2)
1. Forest Range Officer	Rural Areas under the jurisdiction of the Forest Range Officer;
2. Divisional Forest officer (Utilisation Division)	Kolkata Municipal Corporation Area;
3. Divisional Forest Officer	All other "Rural Areas" not covered by the jurisdiction of the Forest Range Officer and Municipalities/Corporations/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area



Photocopy of the Notification Number 901, dated 1st March, 2007 issued by the Forest Department, Government of West Bengal is annexed herewith and marked with the letter 'P-4'.

7. That as per the Notification Number 901, dated 1st March, 2007 issued by the Forest Department, Government of West Bengal the Competent Authority for the Kolkata Municipal Corporation area as stated in the serial 2 of the schedule is the 'Divisional Forest Officer', Utilisation Division.
8. That it is in the above circumstances it is humbly submitted in the above context that the direction given in paragraph 4 of the Solemn Order dated 03.09.2024 in O. A. No. 173/2024/EZ to the Municipal Commissioner of Kolkata Municipal Corporation to decide the Applicant's complaint dated 03.07.2024 at page 44 and 45 of the paper book, in accordance with law having regards to the provision under West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act 2006, within a period of one month i.e. by 15.10.2024 may kindly be modified to the extent that there may a direction to dispose off the applicant's complaint dated ~~22.07.2024~~ to the Divisional Forest Officer (Utilisation Division) as per the schedule to the notification number 901, dated 1st March, 2007.
9. That this application is made bonafide and unless this application is allowed by this Hon'ble Tribunal the applicant will suffer irreparable loss and injury.



10. That this application is made '*Intra Legem*', and as such is '*Intra Vires*' the Hon'ble Tribunal to adjudicate this application.

Under the above circumstances it is most humbly prayed before Your Lordships may kindly be pleased to allow this application and modify the Solemn Order dated 03.09.2024 in paragraph 4 of the said Solemn Order passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in Original Application No. 173/2024/EZ and direct the Divisional Forest Officer, Utilisation Division, West Bengal to dispose of the applicant's complaint dated ~~22.07.2024~~ and to pass such further Order/Orders as to this Hon'ble Tribunal may deem fit and proper for the ends of justice.

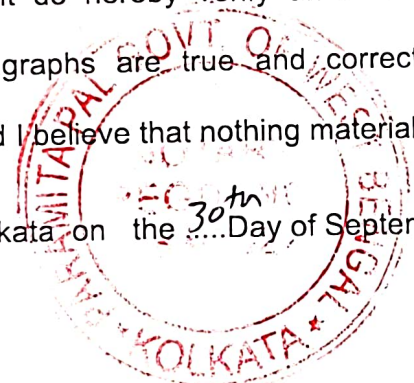
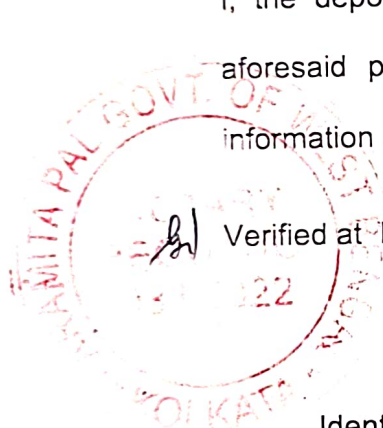
And For This Act of Kindness Your Applicant as in duty bound shall ever pray.



VERIFICATION:

I, the deponent do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the 30th Day of September, 2024.



Identified by me

Sibajyoti Chakrabarti

Advocate 30.09.2024
K.M.C

Pragna Khanna Dhal

Ex. Dng. (C/B)
Bldg. Br. III
KAL
Deponent

30 SEP 2024



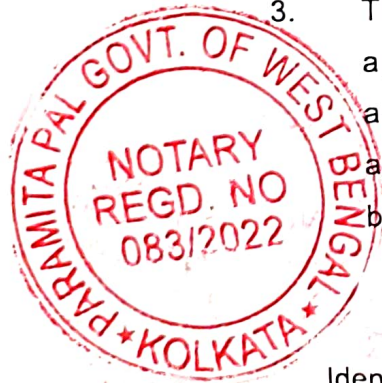
-12-



AFFIDAVIT

I, Sri Brojo Kishore Dhar, S/o Late Deb Charan Dhar, aged about 59 years, by faith-Hindu, by occupation- service and presently posted as Executive Engineer (Civil)/Building, Borough-VII, Building department, the Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Kolkata: 700013, do hereby solemnly affirm and state as follows :-

1. That I am presently posted as Executive Engineer (Civil)/Building, Borough-VII, Building department, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Kolkata: 700013 being the applicant in the instant Interlocutory Application and well conversant with the fact and circumstance of the case and I am competent to sign and swear this affidavit.
2. That I have been duly authorized by the Municipal Commissioner to swear this affidavit on behalf of the Kolkata Municipal Corporation.
3. That I have read and Understood the contents of the accompanying application and say that the facts stated above are true and correct as per the records as available in the Kolkata Municipal Corporation and legal advice received by me are the best of my knowledge and belief.



Identified by me

Srijyoti Chakrabarti
Advocate
for K.M.C.

30.09.2024 12

Brojo Kishore Dhar

Ex. Engg. (C/E)
Bldg. Br. VII
K.M.C.
Deponent

Solemnly affirmed and declared
before me on Identification

Paramita Pal
PARAMITA PAL
City Civil Court
Kolkata
Reg. No. 083/2022

30 SEP 2024

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.173/2024/EZ

In the matter of:

Sushil Kumar Jain

Son of Late B. C. Jain,
Residing at Ground Floor,
Flat No.D2 & 106,
Rajat Gardens,
21, Ballygunge Park Road, P.S. Karaya,
Kolkata - 700019

.... Applicant(s)

Versus

- 1. The Principal Secretary,**
Government of West Bengal,
Department of Environment
"Prani Sampad Bhavan",
5th Floor, LB-2,
Sector III,
Kolkata - 700098
- 2. The Member Secretary,**
West Bengal Pollution Control Board,
Paribesh Bhavan
10A, LA Block, Sector-3, Bidhan Nagar,
Kolkata - 700106
- 3. Senior Environmental Engineer & In-Charge,**
Kolkata Regional Office,
West Bengal Pollution Control Board,
"Mani Square", Block No.8IT, Western Side,
8th Floor, 164/1, Maniktala Main Road,
Kolkata - 700054
- 4. District Magistrate,**
Collectorate Building,
South 24 Parganas,
Alipore South 24 Parganas,
Kolkata - 700027
- 5. The Officer-in-Charge,**
Karaya Police Station,
52, Karaya Road,
Lower Range, Beckbagan,
Ballygunge,
Kolkata - 700019
- 6. Divisional Forest Officer,**
South 24 Parganas, New Administrative Bldg,

- 14 -

4th Floor, 12, Biplabi Kanai Bhattacharjee Sarani,
South Block, Alipore,
Kolkata - 700027

- 7. Rajat Garden Residents' Association,**
Served through the Secretary being Shri Amit Bagri, Secretary,
Flat - 103 & 505 and
President and Committee member Shri Alok Tiberwal
Flat - 301 & 406 having its address at
Rajat Gardens, 21 Ballygunge Park Road,
P.S. - Karaya,
Kolkata - 700019

.... Respondent(s)

Date of hearing: 03.09.2024

CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s) : Ms. Amrita Pandey, Adv. (in Virtual Mode)

ORDER

1. Heard Ms. Amrita Pandey, learned Counsel appearing (in Virtual Mode) for the Applicant.
2. The Applicant is stated to be a flat owner in a ground floor flat being Flat No. D2 and 106, Rajat Gardens, 21, Ballygunge Park Road, P.S. - Karaya, Kolkata - 700019. It is stated that at the time of construction of the building at premises No.21, Ballygunge Park Road, Kolkata-700019 there were fully grown trees standing there and the same were protected during construction of the apartments and made part of the common area by the Promoter for beautification of the building which was constructed about 21 years ago i.e. 2002. It is stated at that time there were large number of trees in the premises which was also shown in the brochure of the building at the time of selling the flats. It is, however, alleged that the Respondent No.7 has started removing/felling the trees or cutting its branches so that the trees may finally wilt or dry out and the open space is being converted into a concrete space by clearing vegetation. It is stated that the

-16-

as 62 (sixty two) trees have been cut. Compounding has also been sought on the ground of the petitioner is a first time offender and that he is willing to replant double the number of trees in the said plot or anywhere else that the Forest Department may direct.

It appears that the owners had intended to construct a seven star hotel at the said premises.

While the entreaties made by the petitioner appear to be attractive, one cannot lose sight of the fact that each tree, totaling 62 (sixty two) in numbers has left a permanent wound on the environment. Irreparable damage has been caused to society by the conduct of the petitioner.

Given the heinous crime committed this Court the impugned order dated 5th January, 2019 does not otherwise call for interference.

However, considering the fact that punishing the writ petitioner with limited amount of imprisonment under the 2006 Act would not bring back the trees, compensating the State/Forest Department/Society would be just and fair penalty, penance and retribution. The compensation shall be used to develop the environment in general and maintenance of better vigil against illegal tree felling. This Court is, therefore, inclined to permit compounding of the aforesaid offences mentioned in the aforesaid charge-sheet only upon payment of Rs.40 (Forty) crores to the respondent no.2 within a period of 15 days from date. The petitioner and/or the owner of the property M/s. Emaar India Limited would additionally have to plant and ensure growth of about 100 trees on the said premises at No.11 Russel Street, Kolkata - 700071.

It is made clear that the payment of the said amount would not ipso facto entitle the petitioner to develop the property. The same would be subject to permission of all the authorities under all applicable Statutes and Rules.

With the aforesaid direction, the writ petition is disposed of.”

4. We, accordingly **dispose of** this Original Application with the direction to the Municipal Commissioner of Kolkata Municipal Corporation to decide the Applicant's complaint dated 03.07.2024 at page 44 and 45 of the paper book, in accordance with law having regards to the provision under West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act 2006, within a period of **one**

-17-

month i.e. by 15.10.2024. Needless to say, the Municipal Commissioner will hear the Respondent No.7, Rajat Garden Residents' Association as well as the Applicant before any order is passed.

5. Ms. Amrita Pandey, learned Counsel for the Applicant shall communicate this order to the Municipal Commissioner, Kolkata Municipal Corporation within one week.
6. In the meantime, no trees, standing on the property in question, shall be cut without the permission of the Municipal Commissioner, Kolkata Municipal Corporation.
7. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

September 3, 2024,
Original Application No.173/2024/EZ
SKB

" Annexure - P - 2 "

+8-

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
M. A. No. of 2024/EZ

In

ORIGINAL APPLICATION NO. 173/2024/EZ

(Sushil Kumar Jain Versus State of West Bengal & Ors.)

Dated: 30.09.2024

AUTHORIZATION TO SWEAR AFFIDAVIT & FILE M.A. APPLICATION

I, Sri Dhaval Jain, being the Municipal Commissioner, Kolkata Municipal Corporation having office at 5, S. N. Banerjee Road, Kolkata: 700013, do hereby authorize Sri Brojo Kishore Dhar, Executive Engineer (Civil)/Building department, Borough- VII, Building department, Kolkata Municipal Corporation to swear and affirm the affidavit & File M. A Application on behalf of the Kolkata Municipal Corporation in connection with the above matter pending before the Hon'ble National Green Tribunal, Eastern Zone Bench At Kolkata.

Yours faithfully.

[Signature]
Municipal Commissioner
Kolkata Municipal Corporation
[Signature]
Municipal Commissioner
Kolkata Municipal Corporation

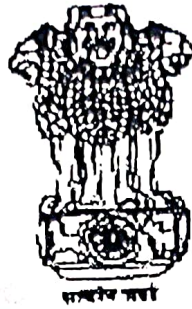
Brojo Kishore Dhar

The signature of Sri Brojo Kishore Dhar,
Executive Engineer (Civil)/Building department,
Is attested by me as below

[Signature]
Municipal Commissioner
Kolkata Municipal Corporation
[Signature]
Municipal Commissioner
Kolkata Municipal Corporation

-19-

The
Kolkata Gazette



Extraordinary
Published by Authority

CAITRA 22]

WEDNESDAY, APRIL 12, 2006

[SAKA 1928

PART III.—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 452-L.—12th April, 2006.—The following Act of the West Bengal Legislature, having been assented to by the Governor is hereby published for general information:—

West Bengal Act X of 2006

THE WEST BENGAL TREES (PROTECTION AND CONSERVATION
IN NON-FOREST AREAS) ACT, 2006.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the Kolkata Gazette, Extraordinary, of the 12th April, 2006.]

An Act to encourage and promote plantation of trees, and to protect and conserve trees, particularly those looked upon as sacred groves, or identified as belonging to an endangered species or given the status of heritage, bearing in mind that trees have great environmental value and are a renewable resource.

WHEREAS it is expedient, in the public interest, to prevent the felling of trees in Non-Forest Areas and to encourage and promote plantation of trees, and to protect and conserve trees, particularly those looked upon as sacred groves, or identified as belonging to an endangered species or given the status of heritage, bearing in mind that trees have great environmental value and are a renewable resource ;

- 20 -

*The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.*

(Sections 1-3.)

AND WHEREAS it is considered expedient to make provisions for protection and improvement of environment as envisaged under article 48A of the Constitution of India ;

It is hereby enacted in the fifty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows :—

Short title, extent and commencement

1. (1) This Act may be called the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006.

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

Application.

2. This Act shall apply to trees in Non-Forest Areas viz. the Areas other than forest and the Areas declared as community reserve under the Wild Life (Protection) Act, 1972.

53 of 1972.

Explanation.—for the purpose of this section, the word 'forest' has the same meaning as is assigned in the West Bengal Private Forests Act, 1948.

West Ben. Act
XIV of 1948.

Definitions.

3. In this Act, unless the context otherwise requires,—

(1) "appellate authority" means an appellate authority appointed under sub-section (1) of section 7 ;

(2) "competent authority" means an authority appointed by the State Government, by notification, to perform the duties and exercise the powers conferred upon a competent authority under this Act ;

(3) "felling of tree" means cutting, girdling, pollarding, uprooting or damaging a tree in any manner but shall not include lopping off of a limb of tree for such purposes as may be prescribed ;

(4) "notification" means a notification published in the *Official Gazette* ;

(5) "person" shall include any company or association or body of individuals, whether incorporated or not ;

(6) "*raiyat*" shall have the same meaning as in the West Bengal Land Reforms Act, 1955 ;

West Ben. Act
X of 1956.

(7) "Schedule" means a Schedule to this Act ;

(8) "State Government" means the State Government of West Bengal ;

(9) "tree" has the same meaning as in the Indian Forest Act, 1927, and includes any woody plant whose branches spring from an area supported upon a trunk or body and whose trunk or body is not less than ten centimetres in diameter at breast height from the ground level ;

16 of 1927.

-21-

*The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.*

(Sections 4-6.)

Explanation.—For the purpose of this clause 'breast height' means the standard height for measuring girth, diameter and basal area of standing trees which is taken as 4 feet 6 inches (1.37 metre) above ground level and on slopes breast height is taken on the up-hill side.

(10) "prescribed" means prescribed by rules made under this Act ;

(11) Other expressions used in this Act, but not defined, shall have the same meanings as defined in the Indian Forest Act, 1927.

4. Except as provided in this Act or the rules made thereunder, no person shall—

(a) fell any tree in the Non-Forest Areas ; and

(b) cut, remove or otherwise dispose of any tree other than a tree which has felled without the aid of human agency.

5. (1) A competent authority may, on receipt of an application from a person to fell a tree or otherwise dispose of any tree, for such purposes as may be prescribed, and on being satisfied with regard to the legality of documents towards the proof of ownership or lease of the land on which such tree stands and after making an inquiry, in such manner as may be prescribed, grant permission, in writing, to fell tree :

Provided that no such permission shall be granted, if it is found on inquiry that the nature or character of the land may change or the mode of use of the land may alter, unless the person concerned produces the conversion certificate obtained from the collector concerned under the provisions of section 4C of the West Bengal Land Reforms Act, 1955 :

West Ben. Act
X of 1956.

Provided further that in the Sadar sub-division, Kalimpong sub-division and Kurseong sub-division of the district of Darjeeling, no such permission shall be required, if a *raiyat* obtains permission under provisions of section 4A of the West Bengal Land Reforms Act, 1955, read with rule 474 of the West Bengal Land and Land Reforms Manual, 1991 :

Provided also that the competent authority shall, within three days from the date of receipt of application, give permission of felling of trees, if it constitute such immediate danger, as may be prescribed to any person or property.

(2) Notwithstanding anything contained in sub-section (1), no permission shall be required if felling of trees is undertaken for not more than three trees at a time in rural areas :

Provided that felling of trees shall not be undertaken in a particular plot of land more than once in a year.

Explanation I.—For the purposes of this section, "rural area" shall include all areas under *Gram Panchayat* and exclude the areas under Municipality, Notified Area Authority or Municipal Corporation.

Explanation II.—For the purposes of this section 'Municipality' and 'Notified Area Authority' shall have the same meaning as defined in the West Bengal Municipal Act, 1993.

West Ben. Act
XXII of 1993.

6. (1) Every application under section 5 shall be in writing giving particulars of the tree, the details of the plot of land on which the tree is located and the reasons for felling the tree and shall be accompanied with such fee, as may be prescribed.

Restriction on
felling of trees.

Permission to
fell trees.

Procedure for
obtaining
permission to fell
trees

-22-

*The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.*

(Sections 7-9.)

(2) The competent authority shall, on receipt of an application in respect of any tree, issue an acknowledgement to the applicant, and after making inquiry, shall dispose of the application, within forty-five days of the receipt of such application, either giving permission to fell such tree or rejecting the application giving reasons therefor.

(3) Every permission to fell tree shall, granted under this Act, be in such form and subject to such conditions, including taking of security for undertaking plantation for trees, as may be prescribed :

Provided that in the case of tea garden such permission shall be subject to the condition that the sale proceeds be utilized strictly for the purpose of welfare of the labourers of tea garden on the basis of a specific scheme framed under the provisions of the Plantations Labour Act, 1951.

69 of 1951

Appeal.

7. (1) Subject to the provisions of sub-section (2), an appeal shall lie from every order of the competent authority under this Act to the appellate authority, to be appointed by the State Government.

(2) Every such appeal shall be preferred within thirty days from the date of communication of the order :

Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing it in time.

(3) On receipt of any such appeal, the appellate authority shall, after giving the appellant reasonable opportunity of being heard and after making such inquiry as it deems proper, dispose of the appeal for reasons to be recorded in writing.

(4) The proceedings before the appellate authority shall be completed within a period of one month from the date of preferring appeal under sub-section (2).

Obligation to plant trees.

8. Every person, who fells any tree, shall undertake plantation of such number of trees as may be prescribed, in place of every tree felled, in the same plot of land and tend such plantation for trees in accordance with the directions of the competent authority :

Provided that the competent authority may, for such reasons, as may be prescribed, to be recorded in writing, permit a lesser number of plantation for trees to be undertaken in a different plot or plots, or exempt any person from the obligation of such plantation :

Provided further that any person, unable to undertake plantations of trees, may deposit such amount of money, as may be prescribed considering the importance of trees, to the competent authority, facilitating the designated agency of the State Government to undertake plantation of trees for the trees felled.

Note.— 'designated agency of the State Government' for the purpose of this section means a designated agency of the State Government, as may be specified by the State Government, by order.

9. (1) Every person or development agency or the benevolent activist or the entrepreneur or the promoter (hereinafter in this section called 'developer') shall, as the case may be, intending to carry out development in the form of erection of highrise multi-unit building or otherwise construction for the purposes of residential or commercial or industrial or

Compulsory plantation for trees in certain cases.

-23-

*The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.*

(Section 9.)

institutional uses, as the case may be, on any plot or plots of land, undertake plantation for trees, in the prescribed manner and to the prescribed extent having regard to the total area of such plot or plots of land, in the same plot or plots of land as subject to such development.

Explanation I.—For the purposes of this sub-section, 'development agency' includes any of the Government Department or any other body created under any statute for the purpose of carrying out development works.

Explanation II.—For the purposes of this sub-section, 'promoter' means a person who constructs or crects or causes to be constructed or erected a building or otherwise construction on a plot or plots of land for the purpose of transfer of such building by sale or gift or otherwise to any other person or to a company, co-operative society or association of persons and includes his assignee.

(2) The development, under sub-section (1), shall subject to sub-section (5), be carried out after obtaining the certificate of clearance, on an application in the prescribed form and the prescribed manner accompanied by such fee, as may be prescribed, from the competent authority :

Provided that the plantation shall be implemented within such period as may be specified in the certificate of clearance, before the development project is initiated .

(3) The application, under sub-section (2), shall be accompanied by such plan (in quadruplicate) (hereinafter called the "plantation plan") drawn on the prescribed scale as showing the proposed plantation in the prescribed manner and to the prescribed extent as well as the location of the proposed plantation within the area of the proposed building or otherwise construction on the same plot or plots of land .

(4) The competent authority may, after being satisfied on proper scrutiny of the plantation plan and completing the field inquiry, if necessary, that the proposed plantation of trees as shown in the plantation plan is in accordance with the provisions of this Act and the rules made thereunder, approve the plantation plan (in quadruplicate) under his signature with proper stamp and seal and shall issue the certificate of clearance in the prescribed Form :

Provided that the competent authority shall, before issuing the certificate of clearance under this sub-section, obtain the concurrence of the West Bengal Pollution Control Board.

(5) The authority, sanctioning the building or otherwise construction plan under the relevant Act, shall, before approving such plan, require the developer to produce before him both the certificate of clearance as issued and the plantation plan as approved under this Act and verify whether the proposed plantation as shown in the plantation plan is properly incorporated in the building or otherwise construction plan as submitted before him for approval . After being satisfied on verification, the sanctioning authority shall certify under his signature with stamp and seal on each copy of the building or otherwise construction plan as approved by him under the relevant Act, stating that this plan is compatible with the plantation plan so far as the proposed plantation is concerned .

(6) No building or otherwise construction plan, even if sanctioned under the relevant Act, shall be treated as valid if the same is not found compatible with the said plantation plan .

- 24 -

*The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.*

(Sections 10-15.)

Implementation of directions.

10. Every person who is to undertake plantation for trees under section 8, shall start preparatory work for plantation within sixty days from the date of permission or the date of receipt of direction, as the case may be, and shall undertake plantation for trees, in accordance with directions .

Penalty for felling of trees.

11. (1) Whoever fells or causes to be felled any tree or cuts, uproots or otherwise disposes of any fallen tree, in contravention of the provisions of section 4, or contravenes any condition of any permission granted under this Act, shall be punished with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both and until the plantation of requisite number of trees are undertaken, shall be fined for each day of default of fifty rupees .

(2) If any person, or development agency or the benevolent activists, or the entrepreneur of the promoter, as the case may be, fails to implement the plantation plan as approved under sub-section (4) of section 9, shall be punished with imprisonment which may extend to two years or with fine which may extend to ten thousand rupees or with both .

Previous sanction of the State Government necessary.

12. No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the State Government or such officer or authority as may be authorised by the State Government by order in writing in this behalf.

Offence by firm, company, institution etc.

13. If the person committing an offence under this Act is a firm, a company, an institution or an association or body of individuals, the firm, the company, the institution or the association or the body of individuals as well as every person in charge of, and responsible to the firm, the company, the institution or the association or the body of individuals for the conduct of its business at the time of the commission of such offence shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this section shall render such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Forfeiture of timber etc.

14. (1) Where any person has been convicted of committing an offence of felling a tree, the timber of tree, and implements used for felling such tree, may be ordered by the Court to be forfeited to the State Government :

Provided that if the timber is found to have been disposed of, the Court may order an additional penalty of not exceeding five thousand rupees .

(2) Unless the Court otherwise directs, any timber or implements forfeited under sub-section (1), shall be disposed of by the competent authority in such manner as may be prescribed.

(3) Such forfeiture may be in addition to any other punishment specified in this Act for such offence.

Power of seizure.

15. (1) When there is reason to believe that any tree has been felled, cut or removed in contravention of the provisions of this Act, the wood of such trees, together with the boat, vehicle, carrier or cattle, if any, used for felling, cutting or removing of such tree, may be seized by any Forest Officer not below the rank of a Forest Ranger or any Police Officer not

— 23 —
*The West Bengal Trees (Protection and Conservation
 in Non-Forest Areas) Act, 2006.*

(Sections 16-20.)

below the rank of a Sub-Inspector or any other officer empowered in this behalf by the State Government.

(2) Every seizure made under sub-section (1) shall be reported to the Magistrate having jurisdiction to try the offence on account of which such seizure has been made and the wood of such trees, together with boat, vehicle, carrier or cattle shall, subject to the order of such Magistrate, be disposed of in such manner as may be prescribed.

Compounding of
offence.

16. (1) Any offence, which has been committed and is punishable under this Act, may either before or after institution of the prosecution, be compounded by such officer, and for such amount not exceeding ten thousand rupees, as the State Government may by notification in the *Official Gazette*, specify:

Provided that such net present value of timber, as may be prescribed by rules considering the importance of timber, may also be recovered from the offender.

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of such offence and the property seized under this Act shall be released.

(3) The compounding of an offence under sub-section (1) shall be allowed only in respect of the first offence committed by any person and no such compounding shall be made for any subsequent offence committed by the same person.

Power to prevent
commission of
offence.

17. (1) It shall be the duty of every Forest Officer, Gram Panchayat Secretary, Gram Panchayat Karma Sahayak, Krishi Prajukti Sahayak, Gram Sevak, Revenue Inspector, officer dealing with environmental protection or Police personnel to make efforts to prevent any contravention of section 4 and section 9 and to report to his superior officer, in such manner as may be prescribed, of such contravention or preparation to commit such contravention.

(2) The superior officer so informed shall inform the competent authority of such commission or probable commission of offence.

(3) The competent authority shall take all reasonable measures in his power to prevent such contravention which he has reason to believe that it is likely to be committed.

Officers to be
public servant.

18. The Officers, exercising any powers, or discharging any duties or functions, under this Act shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Execution of
order for
payment.

19. The amount of composition of an offence, the payment of which has been directed to be made by any person under this Act shall, without prejudice to any other mode of recovery under any law for the time being in force, be recoverable from him as an arrear of land revenue.

Bar on
proceedings.

20. -No suit, prosecution or other legal proceedings shall lie against the State Government or against any Officer or against any designated agency of the State Government empowered to exercise power or to perform duties or to discharge functions under this Act, for anything which is in good faith done or intended to be done under this Act.

*The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.*

(Sections 21-26.)

exemption.

21. (1) Subject to such conditions, if any, as may be imposed, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any area or any species of tree or a specified number of trees of any species from all or any of the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), permission of competent authority shall be obtained for felling of trees specified in the Schedule.

provision of this Act to be in addition to other Law.

22. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

power of State Government for reservation of trees.

23. (1) The State Government may, in the interest of public, declare by notification, that any class or classes of tree shall not be felled for such period as is specified in that notification.

(2) The management of such trees shall be regulated in such manner as may be prescribed.

power to make rules.

24. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

(a) the Form in which and the authority to whom an application for felling trees shall be made ;

(b) the Form in which the permission, if any, shall be granted to the applicant ;

(c) any other matter necessary for proper implementation and enforcement of this Act.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

Overriding effect.

25. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to amend Schedule.

26. (1) The State Government may, by notification, amend the Schedule.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.

- 27 -
The West Bengal Trees (Protection and Conservation
in Non-Forest Areas) Act, 2006.

(Schedule.)

SCHEDULE.

Permission mandatory for felling
(See section 21.)

1. *Acacia catechu* (Khair)
2. *Bombax ceiba* (Simul)
3. *Dalbergia sissoo* (Shishu)
4. *Diospyros melanoxylon* (Kend/Kendu/Tendu)
5. *Gmelina arborea* (Gamar)
6. *Madhuka indica* (Mahua)
7. *Michelia champaka* (Champ)
8. *Shorea robusta* (Sal)
9. *Swietenia mahogany* (Mahogany)
10. *Tectona grandis* (Teak/Segun)
11. *Mangrove trees.*

By order of the Governor,
SHYAMAL KANTI CHAKRABORTY,
Secy. to the Govt. of West Bengal,
Law and Judicial Departments.

The



सत्यमेव जयते

Kolkata

Gazette

Extraordinary
Published by Authority

JYAISTHA 4]

THURSDAY, MAY 25, 2006

[SAKA 1928

PART III—Acts of the West Bengal Legislature
GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

CORRIGENDUM

Kolkata, the 25th May, 2006.

In the following Acts, namely,—

- (1) in the West Bengal Law Clerks (Amendment) Act, 2006 (West Ben. Act VIII of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 6th April, 2006, under this Department Notification No. 432-L, dated the 6th April, 2006, at page 7,
- (2) in the West Bengal Public Works Contractors (Regulation and Control) Act, 2006 (West Ben. Act IX of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 6th April, 2006, under this Department Notification No. 433-L, dated the 6th April, 2006, at page 518,
- (3) in the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 (West Ben. Act X of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 12th April, 2006, under this Department Notification No. 452-L, dated the 12th April, 2006, at page 441,
- (4) in the Kolkata Land-revenue (Amendment) Act, 2006 (West Ben. Act XI of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 20th April, 2006, under this Department Notification No. 480-L, dated the 20th April, 2006, at page 9,
- (5) in the West Bengal Premises Tenancy (Amendment) Act, 2006 (West Ben. Act XII of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 20th April, 2006, under this Department Notification No. 481-L, dated the 20th April, 2006, at page 11,
- (6) in the Rabindra Mukta Vidyalaya (Amendment) Act, 2006 (West Ben. Act XIII of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 10th May, 2006, under this Department Notification No. 535-L, dated the 10th May, 2006, at page 15, and
- (7) in the West Bengal Council of Higher Secondary Education (Amendment) Act, 2006 (West Ben. Act XIV of 2006), published in the *Kolkata Gazette, Extraordinary*, Part III, dated the 17th May, 2006, under this Department Notification No. 558-L, dated the 17th May, 2006, at page 538,

after the end rule, for the portion

“By order of the Governor,
SHIYAMAL KANTI CHAKRABORTY,
Secy. to the Govt. of West Bengal,
Law & Judicial Departments.”

read the following portion :—

“By order of the Governor,
S. K. CHAKRABARTI,
Secy. to the Govt. of West Bengal,
Law Department.”

By order of the Governor,

S. K. CHAKRABARTI,
Secy. to the Govt. of West Bengal,
Law Department.

Handwritten - P-4

The



Kolkata Gazette

सत्यमेव जयते

Extraordinary
Published by Authority

PHALGUNA 10]

THURSDAY, MARCH 1, 2007

[SAKA 1928

PART I—Order and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
FOREST DEPARTMENT

Writers' Buildings, Kolkata-700 001

NOTIFICATION

No. 901-For dt. the 1st March, 2007. In exercise of the power conferred by clause (2) of section 3 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 (West Ben. Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to appoint the competent authority under column (1), to perform the duties and exercise the powers conferred under the said Act within the jurisdiction as described under column (2), of the Schedule given below:—

SCHEDULE

Name of the competent authority (1)	Jurisdiction (2)
(1) Forest Range Officer	Rural areas under the jurisdiction of the Forest Range Officer ;
(2) Divisional Forest Officer (Utilisation Division)	Kolkata Municipal Corporation area ;
(3) Divisional Forest Officer	All other "Rural Areas", not covered by the jurisdiction of the Forest Range Officer, and Municipalities/Corporations/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area.

By Order of the Governor,

Sd/-

(S. Nag)

Joint Secretary to the Govt. of West Bengal

SERVICE OF MA. In O. A. No. 173/204/EZ Inbox x**Sibojyoti Chakrabarti** <subho.advocate@gmail.com>

11:19 AM (0 minutes ago)



to psecy.env-wb, ms.wbpcb-wb, skj.pavangroup, ee12.wbpcb-wb, dm-ali, karayaps, dfo24pgss.f-d-wb, bcc: rajatgardens@gmail.com

Dear Sir/Madam,

Kindly find enclosed soft of the M. A

Application in connection with the above captioned matter which will be filed before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata for your kind perusal and information.

Enclosed as above.

Thanks & Regards,

Sibojyoti Chakrabarti
Advocate
For KMC

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

M.A. No. of 2024/EZ

(Arising out of ORIGINAL
APPLICATION NO. 173/2024/EZ)

In The Matter of:

Kolkata Minicipal Corporation
... Applicant

Versus
Sushil Kumar Jain & Ors.

... Respondents

**INTERLOCUTORY APPLICATION
ON BEHALF OF THE APPLICANT**

Filed by

SIBOJYOTI CHAKRABARTI

Advocate

For The Kolkata Municipal
Corporation

Email: subho.advocate@gmail.com

(M): 9007035534



30 SEP 2024