

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 118/2024/EZ

ENVIRONMENT WARRIOR

.....APPLICANT(S)

VERSUS

WEST BENGAL POLLUTION CONTROL BOARD &
ORS.

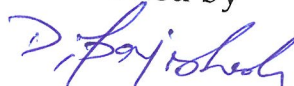
.....RESPONDENT(S)

REPORT ON AFFIDAVIT FILED BY THE WEST
BENGAL POLLUTION CONTROL BOARD.

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Filed by



DIPANJAN GHOSH
ADVOCATE



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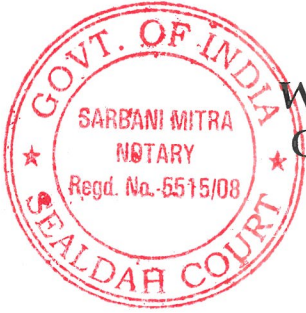
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Most Respectfully Sheweth

I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 60
years, by faith-Hindu, Occupation- Service, residing at
Narkelbagan, Gorosthan, Chinsurah, District - Hooghly, do
hereby solemnly declare and say as follows:-

23 AUG 2024

01. That, I am the Officer on Special Duty (OSD), West Bengal Pollution Control Board (hereinafter will be referred to as the 'State Board') and I am well acquainted with the facts and circumstances of the case. I have been duly authorized by the Respondent No. 01, to affirm this Affidavit on its behalf and as such, I am competent to do so.



02. That, this affidavit is being affirmed in pursuant to the order passed by this Hon'ble Tribunal dated 11.07.2024.

03. That, the State Board on the basis of the complaint of the Applicant caused an inspection on 11/08/2023 of the unit, i.e. M/s. Sunil Foam (P) Ltd., located at Mouza- Mollarber, P.O. & P.S.- Dankuni, Dist.- Hooghly, Pin- 712310.

The unit was called for hearing on 10.10.2023 and it is learnt that the unit had applied for Consent to Establish on 07.07.2021 and as per the said application, the unit intended to manufacture foams.

However, Consent to Establish was not granted to the unit due to non-submission of relevant documents.

23 AUG 2024

04. That, the State Board vide Memo dated 30.11.2023, issued a closure order with disconnection of electricity to the said unit.

Copy of the closure order with disconnection of electricity of the State Board is annexed herewith and marked with letter "R1".



05. That, a case being no. WPA(P) 87 of 2024 (Ankur Sharma vs State of West Bengal & Ors.) was filed before the Hon'ble High Court at Calcutta. The Hon'ble High Court at Calcutta disposed of the matter vide order dated 14.03.2024 stating "as long as the order of closure remains in force, the Pollution Control Board shall ensure that the same is not violated in any manner and no third party interest is created in respect of the said industry. In the event, the industry approaches the Pollution Control Board or the appellate authority under the aforementioned statutory provisions, then the writ petitioner shall be issued notice and the writ petitioner shall be heard by the Pollution Control Board before any order is passed on such a prayer made for revocation of the order of closure. If, ultimately, the order of closure attains finality, the authorities shall take appropriate steps on merits and in accordance with law with regard to the reclamation of the property in question."

23 AUG 2024

Copy of the order of the Hon'ble High Court at Calcutta dated 14.03.2024 is annexed herewith and marked with letter "R2".



06. That, it is learnt from the order of the Hon'ble High Court at Calcutta that WBSEDCL has disconnected the electricity connection in terms of the directions issued by the State Board.

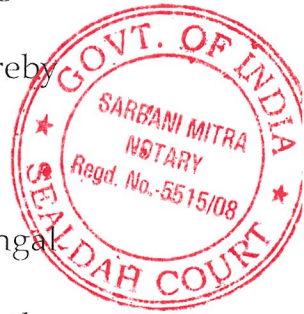
07. It is therefore respectfully prayed that Hon'ble Tribunal may pass such order/orders as it deems fit and proper in the interest of justice.

Sarbani Mitra
DEPONENT

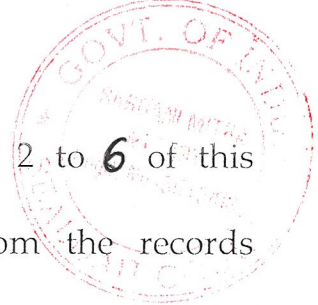
Sudip Kumar
D. Farukh
Advocate
WBP LB

23 AUG 2024

I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 60 years, by Religion - Hindu, by Occupation- Service, residing at Narkelbagan, Gorosthan, Chinsurah, District-Hooghly, do hereby solemnly declare and say as follows:-



1. That, I am the Officer on Special Duty (OSD), West Bengal Pollution Control Board and I am well acquainted with the facts and circumstances of the instant Original Application.
2. That, the statements made in paragraph 1 of this affidavit is true to my knowledge and belief.
3. That, the statements made in paragraphs 2 to 6 of this affidavit are my information derived from the records available in the office of the State Board which I verily believe to be true and the rest are my respectful submission before this Hon'ble Tribunal.



Sri Subrata Ghosh

DEPONENT

Identified and corrected by me
 Advocate *Ghanshyam Pandey Adv*
 WBPCB *Dipayan Ghosh*

ATTESTED by me

S. Mitra

S. MITRA
 NOTARY

Regd. No.-5515/08

23 AUG 2024



LIFE
Lifestyle for
Environment

WEST BENGAL POLLUTION CONTROL BOARD
(Department of Environment, Government of West Bengal)
Paribesh Bhawan, 10A, Block - LA, Sector III, Bidhannagar
Kolkata - 700 106, Ph.: 2335-9088/8861/7428, Fax : 2335-2813
Website: www.wbpcb.gov.in, Email: net.wbpcb-wb@bangla.gov.in

Memo No. -IM-11/2009(Pt.-VII)

Date: /11/2023

CLOSURE ORDER WITH DISCONNECTION OF ELECTRICITY

WHEREAS, M/s. Sunil Foam (P) Ltd. (hereinafter referred to as the unit) located at Mouja-Mollarber, P.O. & P.S.- Dankuni, Dist.- Hooghly, Pin-712310 was inspected by the West Bengal Pollution Control Board (hereinafter referred to as the State Board) official on 11/08/2023 following a complaint lodged by Shri Ankur Sharma, 13/3, Dr. P.K. Banerjee Road, Howrah - 711101 for filling up of water bodies at Mouza-Mollarbar, Dankuni, Hooghly. During inspection the unit was found under lock and key and could not be entered inside the premises of the unit. Nobody including any security personnel was available during inspection. Water bodies were observed at a distance of about 300m from the unit. Plenty of garbage was found to be dumped on the banks of the water body.

AND WHEREAS, the unit has applied for Consent to Establish on 07/07/2021 and as per the said CTE application, the unit intends to manufacture foams. The CTE application has not been granted due to non-submission of relevant documents.

AND WHEREAS, it is to be mentioned that construction activity in Mouza-Mollarber is under consideration of a Committee constituted as per the Direction of the Hon'ble NGT dated 09/05/2022 (O.A. No. 03/LHC/2016/BE). The unit has been constructed without taking any permission from the concerned authority.

AND WHEREAS, the unit was called for a hearing on 10.10.2023 at the Head office of the Board for violation of environmental norms. The Director of the unit appeared in the hearing and submitted that they have applied for land conversion certificate to the district authority and after receiving the same they would obtain necessary permission from the State Board.

AND WHEREAS, Shri Ankur Sharma, complainant was also requested to remain present during the hearing. Accordingly, he was present in the hearing and alleged that water bodies at Mouza-Mollarber have been filled up by the unit which is a part of Dankuni Wetlands.

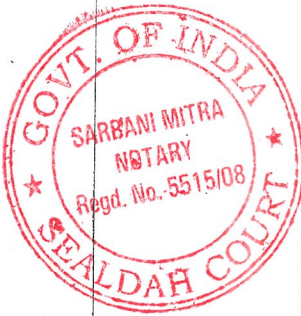
NOW THEREFORE, considering the above, M/s. Sunil Foam (P) Ltd. located at Mouja-Mollarber, P.O. & P.S.- Dankuni, Dist.- Hooghly, Pin-712310 is hereby closed by the State Board with immediate effect.

The electricity connection of the unit is ordered to be disconnected forthwith.

The Director (HR), WBSIDCL is requested to take necessary steps for disconnection of electricity of the above mentioned unit immediately.

The closure order will take immediate effect and the Officer-in-Charge, Dankuni Police Station is directed to execute the closure order against the aforementioned unit and submit the compliance report to the State Board within seven (07) days from the receipt of this order.

This direction has been issued to the Officer-in-Charge, Dankuni Police Station and the Director (HR), WBSIDCL in conformity with the order of the Hon'ble High Court, Calcutta dated 21/08/1998 and 28/04/1999 respectively.



The Environmental Engineer & In-charge, Hooghly Regional Office, WBPCB is requested to take necessary steps for proper execution of the closure order against the unit and also visit the unit involving the local police station and the Nodal Police Officer.

This direction is issued in exercise of the powers conferred under the provision of Section 33A of Water (Prevention & Control of Pollution) Act, 1974, Section 31A of Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and Rules made thereunder after being approved by the Competent Authority.

By Order,

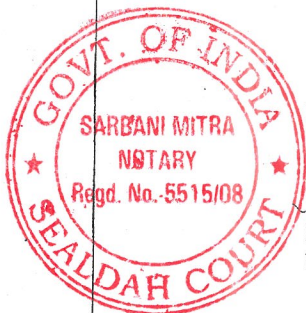
Sd/-
Chief Engineer
Operation & Execution Cell
West Bengal Pollution Control Board

Memo No. 1614 (12) -IM-11/2009(Pt.-VII)

Date: 30/11/2023

Copy forwarded for information and necessary action to:

1. M/S. Sunil Foam (P) Ltd., Mouja-Moharber, P.O. & P.S.- Dankuni, Dist.- Hooghly, Pin-712310
2. P.S. to the Principal Secretary, Dept. of Environment, Govt. of W.B., Prani Sampad Bhavan, 5th Floor, LB-2, Sector-III, Bidhannagar, Kolkata-700106
3. The Director (HR), WBSEDCL, Bidyut Bhawan, Bidhannagar, Kolkata - 700 091
4. The Commissioner of Police, Chandannagar Police Commissionerate, Netaji Subhash Chandra Road, Ghatalpara, Chinsurah R S, Chinsurah, Dist.- Hooghly Pin-712101
5. The Chief Engineer, Planning & EIM Cell, WBPCB
6. The Senior Law Officer, WBPCB
7. The Environmental Engineer & In-charge, Hooghly Regional Office, WBPCB
8. T.A. to the Member Secretary, WBPCB
9. P.A. to the Chairman, WBPCB
10. The Officer-in-Charge, Dankuni Police Station, Dankuni Township, P.O.- Dankuni Coal Complex, Dankuni, Dist.-Hooghly, Pin-712310
11. Sri Ankur Sharma, 13/3, Dr. P.K. Banerjee Road, Howrah- 711101
12. Technical Cell, WBPCB for updating the website
13. Environment Officer- Communication, WBPCB - for circulation through float file
14. Guard file of O & E Cell



Sarbani Mitra
Chief Engineer
Operation & Execution Cell
West Bengal Pollution Control Board

04 14.03.2024
AN Ct. No. 01
RP

WPA(P) 87 of 2024

Ankur Sharma
Vs.
State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Badrul Karim
Ms. Kiron Sk.
Ms. Indrani Roy
Ms. Suparna Dutta

... for the petitioner

Mr. Samrat Sen, Id. AAAG
Mr. Manali Ali

... for the State

Mr. Supriyo Chattopadhyay
Ms. Debosri Chatterjee

... for the WBSEDCL

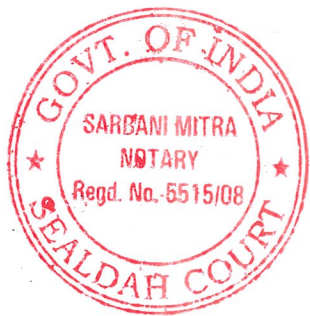
Mr. Soumya Mukherjee

... for the WBPCB

Wanish Chatterjee
MS
OSD (O&E)
Incharge Hooghly NO
For Ksd inform H.
Ag SLO
21/03/2024

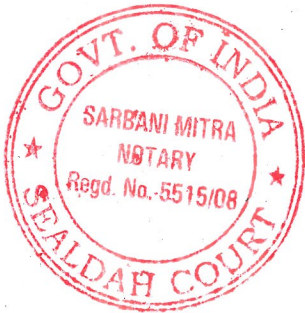
1. By this writ petition styled as a Public Interest Litigation, the writ petitioner seeks for implementation of the order of closure passed by the West Bengal Pollution Control Board dated 30.11.2023. Learned counsel appearing for the West Bengal Pollution Control Board submitted that pursuant to the complaint lodged by the petitioner on 24.07.2023 notice was issued to the offending party viz. the 11th respondent as well as the writ petitioner, parties were heard and the Pollution Control Board passed an order of closure on 30.11.2023.

2. Learned counsel appearing for the Electricity Board submitted that in terms of the directions issued by the Pollution Control Board the electricity connection has been disconnected. Thus, as on date, the 11th respondent



V.O. NO: 123
dt-21/03/2024

cannot operate the unit as the order of closure continues to remain in force. However, the Court is conscious of the fact that under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, the offending party has remedy against the order of closure. Therefore, such a remedy cannot be foreclosed by this Court at this juncture. However, as long as the order of closure remains in force, the Pollution Control Board shall ensure that the same is not violated in any manner and no third party interest is created in respect of the said industry. In the event, the industry approaches the Pollution Control Board or the appellate authority under the aforementioned statutory provisions, then the writ petitioner shall be issued notice and the writ petitioner shall be heard by the Pollution Control Board before any order is passed on such a prayer made for revocation of the order of closure. If, ultimately, the order of closure attains finality, the authorities shall take appropriate steps on merits and in accordance with law with regard to the reclamation of the property in question.



3. In the result, the writ petition stands **disposed** of.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)

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GHANSHYAM PANDEY
ADVOCATE