

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

I.A. No. 48/2024/EZ

IN

ORIGINAL APPLICATION NO. 49/2024/EZ

In the mater of :

Ankur Sharma

..... Applicant

Versus

The State of West Bengal & Ors.

..... Respondents

**AFFIDAVIT-IN-REJOINDER ON BEHALF OF THE APPLICANT TO
THE AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NO. 10.
AND I.A. NO. 48 OF 2024/EZ FILED BY THE RESPONDENT NO. 10.**

SL.	PARTICULARS	ANNEXURE	PAGE
1.	Rejoinder		1-13



Ankur Sharma

Ankur Sharma
(Applicant in person)
Mob: 9433883322
Email: Adv.ankursharma
9@gmail.com

30 NOV 2024

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

I.A. No. 48/2024/EZ

IN

ORIGINAL APPLICATION NO. 49/2024/EZ

In the mater of :

Ankur Sharma

..... Applicant

Versus

The State of West Bengal & Ors.

..... Respondents

12-1148/2024

SI No **AFFIDAVIT-IN-REJOINDER ON BEHALF OF THE APPLICANT TO
THE AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NO. 10.
AND I.A. NO. 48 OF 2024/EZ FILED BY THE RESPONDENT NO. 10.**

I, Ankur Sharma, the Applicant aged about 27 years by occupation - Advocate residing at 13/3, Dr. P.K. Banerjee Road, Howrah - 711101 do hereby solemnly affirm and state as under :

1. I am the Applicant in the abovementioned Original Application. I have received a copy of the Affidavit filed on behalf of the Respondent no. 10 dated 28.06.2024. I have gone through the contents and purports of the Affidavit (hereinafter for the sake of brevity referred to as the 'said Affidavit') and a copy of the I.A. filed on behalf of the Respondent no. 10 dated 19.07.2024, and I am making the present composite Affidavit in Rejoinder thereto.



30 NOV 2024

2. I deny the contents and averments made in the Affidavit and I.A. on behalf of the Respondent No. 10 that are contrary to and/or inconsistent with anything stated in the abovementioned Original Application and the present Affidavit in Rejoinder.
3. I deny the contents and averments made in the Affidavit and I.A. on behalf of the Respondent No. 10 that are contrary to and/or inconsistent with anything stated in the abovementioned Original Application and the present Affidavit in Rejoinder.
4. At the outset I say the following :
5. That the Committee constituted by the Hon'ble Tribunal visited the site in question on 25.06.2024 and found serious violations of environmental norms. The Affidavit of the West Bengal Pollution Control Board containing the report of the Committee constituted by this Hon'ble Tribunal, inter alia, reveals the following :
 - i. That storm water drains in the KLC were found carrying untreated effluents, presence of greyish, turbid effluent in the storm water drains indicating unauthorized / direct discharge of tannery effluents into storm water drains bypassing the CETP and eventually to the Basanti canal ;
 - ii. That the treated effluents from the CETP is not complying with the prescribed standards for TSS and TDS. On the day of inspection only module no. 5 (out of total 8 modules) of 5 MLD capacity was in operation,



30 NOV 2024

CETP was not treating the entire effluent that was being received.

- iii. Not all the effluents generated by the tanneries was reaching CETP with some being discharged directly through storm water drains, as seen from the coloured turbid appearance as well as the analysis results.
- iv. Leather pieces were seen in the CETP inlet causing clogging of screens. The CETP is designed to receive only pretreated tannery effluent and domestic effluent. Presence of leather pieces in the influent suggests that storm water run off carrying leather pieces is either being pumped to the CETP or are getting mixed with pretreated or domestic effluent enroute transportation to the CETP.
- v. There are 10 Effluent Pumping Station (EPS) units designed to channel effluent from tanneries to the CETP. However, the CETP was not receiving the designed load (20 MLD for four modules) which may be attributed to poor networking, clogging or leakage of pipe lines, and/or unauthorised direct illegal discharge in EPS or by individual units bypassing EPS.
- vi. Effluent discharge through storm water canal indicates that tannery units might be using more water than permitted or processing more hides than their consented capacity. This suggests, there is a need for metering water consumption to prevent



30 NOV 2024

excess groundwater extraction and wastewater generation.

- vii. The leather processing activities at KLC are highly water-intensive, with groundwater being the primary source. As per the initial planning the overhead tanks were built with pumping facilities to supply ground water centrally to the individual units. In spite of that most individual units withdraw groundwater through own borewells claiming that the centralised water supply is inadequate. Therefore, the implementation of consent conditions limiting the water consumption up to 30m³/tonne of raw hide processed is not monitorable without having in line flow meters at each point of extraction.
- viii. As per documents from SWID, permissions have been given to 27 individual units and 27 borewells to M/S M.L. Dalmiya & Co Ltd. to extract ground water.
- ix. The CETP is equipped with an OCEMS device for modules 5, 6, 7, and 8 connected to the Central Pollution Control Board (CPCB) server. However, the last data received was on 27th June 2022. Since then, it appeared offline. Last direction was issued by WBPCB during the hearing conducted on 22/06/2023 wherein it was decided that KMDA will ensure online flow monitoring and transmission of inlet and outlet OCEMS data of the new modules of the CETP to WBPCB.



30 NOV 2024

- x. The absence of flow meters at the CETP inlet further complicates the monitoring of incoming flow, and the existing system might get upset due to the variation of incoming load.
- xi. There was no mechanism to measure the flow at the inlet or the outlet despite decision was made during the hearing conducted by WBPCB on 22nd June 2023. The Kolkata Metropolitan Development Authority (KMDA) has still not implemented online flow monitoring and transmission devices at the CEIP inlet and outlet.
- xii. Waterlogged areas were observed near some tannery clusters within the complex, leading to generation of foul smells and potential environmental harm, indicating spillage and/or pipeline leakage of untreated effluent.
- xiii. It was observed that some of the areas are without boundary wall posing threat to security.
- xiv. The Joint Committee randomly inspected the M/s Pious Leather tannery to understand the Primary Effluent Treatment Plant (PETP) system installed in the individual tannery.
- xv. It was found that in the PETP the concentration of Chromium (Cr) higher at outlet than inlet which may



30 NOV 2024

be due to mixing of Cr bearing effluent and other effluent generated in intermittent batch process. The proper segregation of effluent and continuous operation of PETP may resolve this problem.

xvi. Green belt developed within the project site was extremely poor. All the ECs mandate the development of green belt in the project site. However, except for plantation in the main approach road trees were hardly visible in the project site.

6. All the allegations made by the Applicant have been corroborated in the Affidavit of the West Bengal Pollution Control Board dated 28.10.2024 containing the report of the Committee.

7. Now I shall deal with Affidavit in seriatim :

8. As regard paragraph nos. 1 and 2 I say that the statements made therein are matters of record and does not require any specific reply.

9. As regard paragraph no. 3 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the Respondent no. 10 is very much a necessary in the present proceedings and I deny and dispute that the name of Respondent no. 10 should either be deleted or struck out reason being Respondent no. 10 is the principal lease holder of present area of KLC for a term of 99 years subject to renewal. They are liable to be punished for any breach



30 NOV 2024

of law being caused by KLC which is leased out to them by the government. The photographs annexed with the Original Application and the report of the Committee filed on Affidavit dated 28.10.2024 by West Bengal Pollution Control proves that gross pollution is being caused by Kolkata Leather Complex

10. As regard paragraph no. 4 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the Deponent has agreed that the cause of action in the present Application is arising out of pollution by tanneries located within their property i.e. KLC. Irrespective of any MOU, settlement of land, lease document in paragraph no. 4(b) of the said Affidavit the Deponent of the said Affidavit has admitted that it is the sole lease holder of the land of "Calcutta Leather Complex" for a term of 99 years subject to renewal. Hence, the Deponent being the lease holder of the entire property is under obligation to safeguard the environment from pollution by the said complex. Mere signing any tripartite agreement and any undertaking from the parties thereto does not and cannot ensure protection of environment. Whereas, report of the Committee is comprehensive one which I rely upon.
11. As regard paragraph nos. 5 and 6 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say repeat the statements made in paragraph no. 11 hereinabove. I also say that once violation is proved it is upto the Hon'ble Tribunal to fix the responsibility.



30 NOV 2024

12. As regard paragraph no. 7 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that awarding any work order to whomsoever does not and cannot dilute the truth revealed in the report of the Committee. I also say that the manner and quality of ETS was constructed by the Respondent no. 10 itself has been denied and disputed by Respondent no. 11 in their Affidavit dated 23.08.2024.
13. As regard paragraph no. 8 of the said Affidavit I say that the same does not require any specific reply.
14. As regard paragraph no. 9 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the complaints against Kolkata Leather Complex in the Original Application are all endorsed by the report of the Committee constituted by this Hon'ble Tribunal as has been annexed to the Affidavit affirmed on 28.10.2024 on behalf of West Bengal Pollution Control Board. I am inclined to rely upon the said Affidavit.
15. As regard paragraph no. 10 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the Deponent of the said Affidavit passed the buck upon the Respondent no. 11.
16. As regard paragraph no. 11 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that Respondent no. 10 is not aware of any toxic metals and chemical laden effluent



30 NOV 2024

being drained into Basanti canal. Only this much unawareness does not and cannot allow them to be expunged.

17. As regard paragraph no. 12 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that deponent of the said Affidavit has again passed the buck upon the Respondent no. 11.
18. As regard paragraph no. 13 and 14 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the complaints against Kolkata Leather Complex in the Original Application are all endorsed by the report of the Committee constituted by this Hon'ble Tribunal as has been annexed to the Affidavit affirmed on 28.10.2024 on behalf of West Bengal Pollution Control Board. I am inclined to rely upon the said Affidavit. It is categorically denied that Respondent No. 10 can be left scot-free with regard to devastation of environment in CLC which for all practical purposes is their property leased out to them by the government. Notwithstanding content of any Tripartite Agreement and so on devastation of environment can be ignored. Mere signing any agreement is no indication that environment is protected.
19. As regard paragraph no. 15 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that I am again inclined to rely upon the Committee report filed by the West Bengal Pollution Control Board which says that during inspection on 25.06.2024 only one module of 5 MLD capacity was working,



30 NOV 2024

7 modules of 5 MLD each were not operational during the inspection. It is also reported by the committee that the CETP is not sending data to the CPCB from 27.06.2022 onwards. If Resp no. 10 is no way concerned in protecting environment they cannot also deny that CETP does not function, and say that upgradation of a number of CETP is being carried out. A lessee is always considered as principal occupier/s of any property, and any paper of agreement whatsoever does not and cannot allow them to be absolved from inherent responsibility of an occupier of property. As a party, Respondent no. 10 must also be vigil that every term and condition thereof is not flouted by other party.

20. As regard paragraph no. 16 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that there is deficit tree plantation/cover within KLC which is also corroborated with the report of the Committee. Description of action once taken in the year 2009, if at all or ever, hardly has bearing on today's condition of the environment.

21. As regard paragraph no. 17 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that it is an admitted proposition that all legal things are not justified so irregularities in construction of drainage systems at KLC is not an legal issue. Even the tanneries association complained of construction of drainage system constructed by the Respondent no. 10 is not upto quality, rather violating the DPR vis-à-vis specification thereof.



30 NOV 2024

22. As regard paragraph no. 18 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the Deponent of the said Affidavit passed the buck upon the Respondent no. 10.
23. As regard paragraph no. 19 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I say that the grounds incorporated in the Original Application corroborates with the report of the Committee constituted by this Hon'ble Tribunal as has been annexed to the Affidavit affirmed on 28.10.2024 on behalf of West Bengal Pollution Control Board which are fit to be considered by this Hon'ble Tribunal.
24. As regard paragraph no. 20 of the said Affidavit I deny and dispute all contents, contentions, averments statements and allegations made therein. On contrary, I repeat my statement made in paragraph no. 11 hereinabove. I say that the prayer of the Respondent no. 10 is liable to be rejected.
25. As regard paragraph no. 21 of the said Affidavit I say that the same does not require any specific reply.
26. As regards I.A. no. 48 of 2024/EZ in O.A. no. 49 of 2024/EZ I say that the Application for deletion of Respondent no. 10 from the array of parties is liable to be rejected more because the Respondent no. 10 is the lease holder of the property of KLC, it has developed KLC including various pollution abatement infrastructures, there are serious allegations of violating the DPR of KLC including usage of brick work ETS instead of HDPE pipes.



30 NOV 2024

The Application is by and large similar and repetition to the Affidavit dated 28.06.2024 of the Respondent no. 10 which has been elaborately dealt with hereinabove.

In view of what is stated herein above, I humbly pray before this Hon'ble Tribunal to pass necessary orders.

Solemnly affirmed at Howrah

Ankur Sharma

On this 30th day of November, 2024

Applicant

Identified by
Ayushi Kakasua
F/498/371/2024

VERIFICATION

I, Ankur Sharma, the abovenamed Applicant do hereby verify that the contents of the above Affidavit in Rejoinder are true and correct to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Howrah on this day of 30th day of November, 2024.

Ankur Sharma

Applicant



SOLEMNLY AFFIRMED & DECLARED
BEFORE ME ON IDENTIFICATION

[Signature]
SHYAMAL KR. MITRA
NOTARY HOWRAH

30 NOV 2024