

D.L. No. 1/24

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 88/2024/EZ

In the mater of :

Binay Basfore

..... Applicant

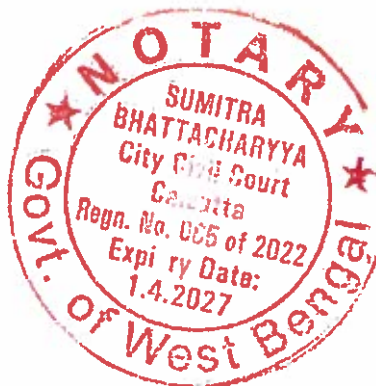
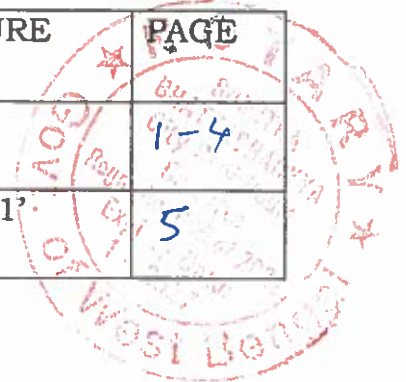
Versus

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. 13**

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05 DEC 2024



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I, Binay Basfore, the Applicant aged about 23 years by occupation – Social worker residing at Post and Village – Banipur, Howrah - 711304 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. 13 affirmed on 16.08.2024 I have gone through the contents and purports of the Affidavit (hereinafter for the sake of brevity referred to as the 'said Affidavit'), and I am making the present Affidavit in Rejoinder thereto.
2. I deny the contents and averments made in the Affidavit on behalf of the Respondent No. 13 those are contrary to and/or inconsistent with anything stated in the abovementioned Original Application and the present Affidavit in Rejoinder.
3. At the outset I say the following :
4. That the report of the Respondent no. 13 i.e. West Bengal Pollution Control Board is incomplete. The report does not contain the present area of the pond, quality of the water, and depth of the pond.



X

5. That presently the pond is in a horrible state, it is completely covered with water hyacinth and other plants. Due to rampant dumping of debris, soil and waste the pond has turned inhabitable and is unfit to support any life form, its size and depth has reduced to a great extent.

Some photographs of the pond showing the present situation of the pond are annexed herewith and marked as annexure 'A-1'.

6. That the West Bengal Inland Fisheries Act, 1984 also bars filling of any water area. Section 17A of the West Bengal Inland Fisheries Act, 1984 which reads as follows :

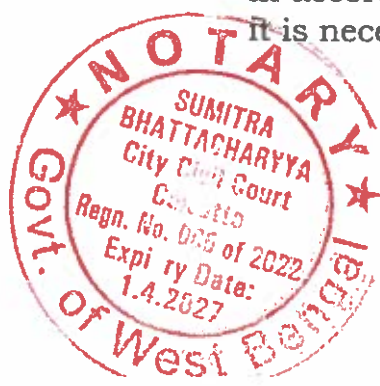
"17A. Bar to conversion of water area etc. for other use.—(1) No person shall —

(a) put any water area including embankment measuring 5 cottahs or 0.035 hectare or more, which is capable of being used as fishery, or any naturally or artificially depressed land holding measuring 5 cottahs or 0.035 hectare or more, which retains water for a minimum period of six months in a year, to such use, other than fishery, as may result in abolition of fishery, or

(b) fill up any water area including embankment or naturally or artificially depressed land holding as aforesaid, with a view to converting it into solid land for the purpose of construction of any building thereon or for any other purpose, or

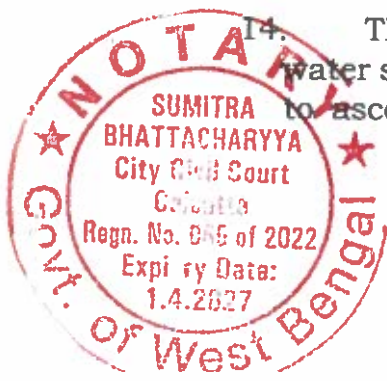
(c) divide any water area including embankment or naturally or artificially depressed land holding as aforesaid into parts so as to make any such part measure less than 5 cottahs or 0.035 hectare for any purpose other than pisciculture or transfer any part of any such water area including embankment or naturally or artificially depressed land holding as so divided to any other person"

7. That section 8 of the West Bengal Inland Fisheries Act, 1984 empowers the Competent Authority under the said Act to take over management and control of any tank if the Competent Authority is satisfied that a multi-ownership tank is not utilized in accordance with the prevailing norms of pisciculture and that it is necessary for any public purpose so to do.



X

8. That in the present case the Respondent no. 13 ought to have intimated the Competent Authority under the West Bengal Inland Fisheries Act, 1984 to take over management and control of the said pond since the pond has turned unfit to support fisheries.
9. Now I shall deal with Affidavit in seriatim :
10. As regards paragraph no. 1 I say that the same does not require any specific reply apart from the fact that there is huge shortage of manpower in West Bengal Pollution Control Board due to which it had to get its Affidavit affirmed by a superannuated officer.
11. As regards paragraph no. 2 and 3 of the said Affidavit I say that the same does not require any specific reply.
12. As regards paragraph no. 4 of the said Affidavit I deny and dispute all statements, contentions, denials and averments made therein save and except what are matter of records. On contrary, I say that the deponent of the said affidavit admitted the fact that the north eastern side of the property is completely filled up with soil, water hyacinth and tall grass and it appeared during the inspection that no filling activity was does in recent past. Such statement matches with the contention of the Applicant in paragraph no. 6 of the Original Application that on and from 01.01.2024 the private respondent along with others started filling up the pond. The inspection of the West Bengal Pollution Control Board was carried on 02.07.2024 i.e. after long seven months from the filling/encroachment activity. Hence, they found that the filling activity was not done in recent past due to extreme delay in inspection. By the time West Bengal Pollution Control Board conducted the inspection the pond got covered with tall grass in a long span of seven months due to dumping of soil, debris and waste into it.
13. The West Bengal Pollution Control Board also failed and/or neglected to ascertain the exact area of the pond during its inspection vis-à-vis matching the present size with the size as present in the land records to ascertain the extent of encroachment of the pond.
14. The West Bengal Pollution Control Board did not collected water samples from the pond nor measured the depth of the pond to ascertain extent of damage caused to it and the quality of



X

water, and its capability to support fisheries/aquatic life. The West Bengal Pollution Control Board, however, admitted that the pond is surrounded by brick-built wall which is a blatant violation of the statutory circular issued by the Department of Environment, Government of West Bengal as annexed in the Applicant's Affidavit dated 27.09.2024 as annexure 'R-4' (page no. 205).

15. As regards paragraph no. 5 of the said Affidavit I say that the same does not require any specific reply.
16. That it is most respectfully prayed that this Hon'ble Tribunal may be pleased to pass necessary order/orders for protection of the pond as deem fit and proper for the ends of justice.

Binay Basfore

Deponent

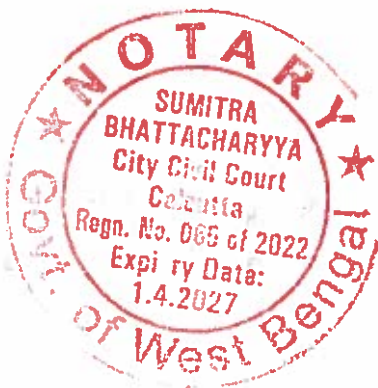
(Binay Basfore)

*Identified by me
Rohini Basfore
ADMT*

Solemnly Affirmed and
Declared before me U/S 139
CPC, (C)

Sumitra Bhattacharyya
Notary

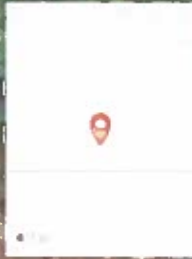
Sumitra Bhattacharyya
Notary, Govt. of W.B.
Regd. No. 065 of 2022
City Civil Court, Calcutta



05 DEC 2024



GPS Map Camera



Banupur, West Bengal, India

Rajgunge Dayanand Saraswati High School
 Banupur Gram Panchayat Road, Sankrail,
 Banupur, 711327, West Bengal, India
 Lat 22.564450, Long 88.231619
 10/28/2024 04:14 PM GMT+05:30



GPS Map Camera



Banupur, West Bengal, India

Rajgunge Dayanand Saraswati High School
 Banupur Gram Panchayat Road, Sankrail,
 Banupur, 711327, West Bengal, India
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GPS Map Camera

Banupur, West Bengal, India

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 Banupur, 711327, West Bengal, India
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