

S.L. No. 35/24

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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH KOLKATA

IN

OA. No. 61/2024/EZ

IN THE MATTER OF:

Hitesh Sharma

...APPLICANTS

VERSUS

Sabyasachi Mullick Chowdhury & Ors.

...RESPONDENTS

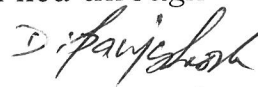
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Mrinal Kanti Biswas

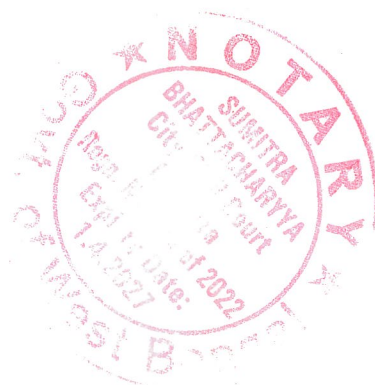
Regional Director & Scientist 'E',
CPCB, Kolkata

Filed through


Counsel

Dated: 20.12.2024

Place: Kolkata



20 DEC 2024

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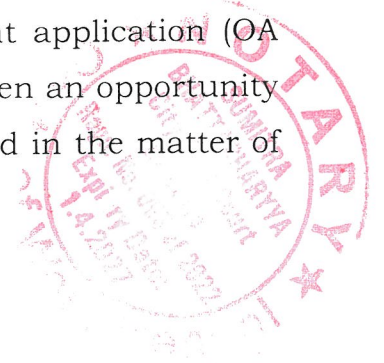
...RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO. 25 i.e., CENTRAL POLLUTION
CONTROL BOARD (CPCB)**

1. That, Hon'ble NGT vide order dated 05.07.2024 has sought the reply of respondents, including Central Pollution Control Board (hereinafter referred as 'CPCB') in the instant matter. Thereby, the reply is made in succeeding paragraphs.
2. That at the outset, the answering respondents deny all claims, contentions, allegations and averments against answering respondent CPCB in the above OA contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial or on the ground of non-traverse, save and except any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and control of pollution) Act, 1974. It functions under The Water (Prevention and control of Pollution) Act, 1974, The Air (Prevention and control of Pollution) Act, 1981 and The Environment (Protection) Act, 1986.

PRELIMINARY SUBMISSIONS: -

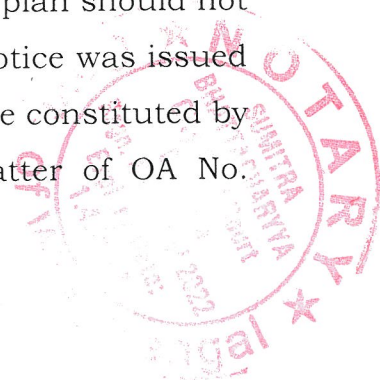
4. That, the original application challenges the report submitted by the eight-member committee constituted by the Hon'ble NGT Eastern Zone Bench in the matter of OA 25/2016/EZ vide its order dated 03.1.2022 and the matter, was disposed of. The applicant in this present application (OA 61/2024/EZ) has alleged that the applicant was not given an opportunity to be heard before eight-member committee constituted in the matter of OA 25/2016/EZ.



5. It is humbly submitted that Hon'ble NGT, Eastern Zone vide its order dated 03.01.2022 in O.A. 25 of 2016/EZ had constituted an eight-member Joint Committee wherein CFCB was one of the members.
6. In compliance to the order, Joint Committee report was submitted before Hon'ble NGT on 01.11.2022 by State Wetland Authority, Govt. of West Bengal. The final committee decisions mentioned in the report are as under:
 - I. Plot No. CZ-9B, CZ-14A, CZ-14B, CZ-15A, CZ- 20A, CZ-21A and CZ-26A/B/C have been created after 2013 by filling up of waterbody i.e., Ukhil Bheri. Hence, they need to be demolished.
 - II. Kolkata Municipality Corporation (herein after referred as 'KMC') shall take steps to immediately restore the water body at plot nos. CZ- 9B, CZ- 14A, CZ- 14B, CZ- 15A, CZ- 20A, CZ- 21A and CZ- 26A/B/C in compliance with the Order of the Hon'ble NGT dated 03.01.2022.
 - III. After restoration of the water body, the KMC shall take management control of the same in accordance with the West Bengal Inland Fisheries Act, 1984.
 - IV. The KMC will demarcate Ukil Bheri boundary with concrete pillars and do the geo-tagging with the help of ADM & LRO, Dist South 24 Parganas.
 - V. The KMC shall submit a compliance report after restoration of the above-mentioned plots before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata within a period of 6 months.

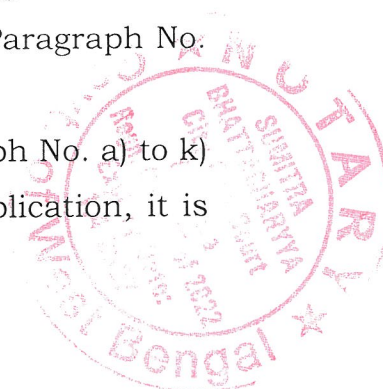
PARA-WISE REPLY: -

7. That, no comments are offered over the averments made by the applicant in Paragraph No. 1 to 3 & 4A of the Original application being introductory in nature.
8. That, no comments are offered over the averments made in Paragraph No. 4.B to 4.D and 4.I (I- VII) to 4.L. of the Original application being matters of record.
9. That, the averments made in Paragraph No. 4.E to 4.H, refer about the show cause notice issued on 16.04.2022 by KMC under section 397 of the Kolkata Municipal Act, 1980 querying why the applicant's building plan should not be revoked. It is humbly submitted that the show cause notice was issued based on the findings of the eight- member Joint Committee constituted by Hon'ble NGT as per order dated 03.01.2022 in the matter of OA No.



25/2016/EZ. It is further submitted that subsequent to the Show Cause Notice, an Order dated 19.12.2022 was issued by Spl Municipal Commissioner, KMC with direction 'to proceed the matter under section 397 of the KMC Act, 1980 in respect of the two plots being no.s A/P- CZ 14 A/B, Canal South Road and CZ 15A/B, Canal South Road respectively'.

10. That, the averment made in Paragraph No. 4.M to 4.P of the Original application refer to the allegation that though applicant of OA No.25/2016/EZ was well aware of the ownership of present applicant of the alleged plot, still the applicant in instant OA was never made a party in the said matter. It has been brought out by the applicant that he only became aware of the matter through the KMC show cause notice. These averments do not pertain to the Answering Respondent and hence, no comments are offered over the same.
11. That, no comments are offered over the averments made in Paragraph No. 4. Q of the Original application being ambiguous and incomplete facts are provided therein.
12. That, the averments made in Paragraph No. 4.R of the Original application refers to the claim of the applicant that as per the report submitted by Additional District Magistrate and District Land and Land Reforms Officer (South) 24 Parganas before the Hon'ble Tribunal on 4th January 2017, Dag No 267 was classified as 'Pukurpar' (in Bengali refers to the area or land adjacent to a pond or waterbody), thus there is no occasion for filling a water body. In this matter it is humbly submitted that the 8 Member Committee, constituted by Hon'ble NGT in the matter of O.A. 25 of 2016/EZ, have submitted its report. The committee, under its findings provided in the report, has stated that 'The alleged Dag No. 268 at Mouza-Minokpoktan, JL no.1 under P.S. Pragati Maidan, Ward no. 57 of Kolkata Municipal Corporation (KMC) is nowhere mentioned in the deeds of Metropolitan Cooperative Housing Society available with this office, however the report and map of ADM&DL&LRO at Point No. 9 confirms "at present, most of the land in the eastern side of R.S. plot No. 268 and almost all of R.S. Plot 267 is occupied by member of Metropolitan Co-operative Housing Society".' The aforesaid Joint Committee report has been submitted before Hon'ble NGT on 01.11.2022 by State Wetland Authority, Govt. of West Bengal.
13. That, no comments are offered over the averments made in Paragraph No. 4.S to 4.Y of the Original application being matters of record.
14. That, with regards to the statements as contained in Paragraph No. a) to k) under the heading "Grounds" of the said of the Original application, it is



humbly submitted that the submissions made in the preceding paragraphs may kindly be considered and are not repeated herein for the sake of brevity.

15. That, that in light of the above submission, it is respectfully submitted that this Answering respondent i.e. CPCB, shall abide by any order(s) or direction(s) passed by this Hon'ble tribunal in the instant OA.



Mrinal Kanti Biswas

Regional Director & Scientist E,
CPCB, Kolkata



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VERSUS

Sabyasachi Mullick Chowdhury & Ors.

...RESPONDENTS

AFFIDAVIT

I Mrinal Kanti Biswas, Son of Saroj Kumar Biswas, aged 43 years, having office at the Regional Directorate (Kolkata), Central Pollution Control Board (CPCB), Southend Conclave, Block No.502, 5th & 6th floor, 1582, Rajdanga Main Road, Kolkata- 700107, do hereby solemnly affirm, declare on oath and state as under: -

1. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.
2. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.

IDENTIFIED BY ME

Dipankar Ghosh
ADVOCATE
C.P.C.B

[Signature]
DEPONENT

VERIFICATION

Verified at Kolkata on this day of _____ 2024 that the contents of the above reply are correct and true on the basis of the record of the cases as mentioned in the day to day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.

Signed and verified on this 20 day of Dec, 2024 at Kolkata.

IDENTIFIED BY ME

Dipankar Ghosh
ADVOCATE
C.P.C.B

**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

[Signature]
DEPONENT



20 DEC 2024