

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH,
AT KOLKATA

O.A. No. 20/2022/EZ

IN THE MATTER OF:

SUPROVA PRASAD

... APPELLANT(S)

VERSUS

MINISTRY OF ENVIRONMENT FOREST
& CLIMATE CHANGE & OPS.

...RESPONDENTS(S)

INDEX

<u>Sl. No</u>	<u>Particulars</u>	<u>Page(s)</u>
1.	Counter Affidavit/Reply for and on behalf of the Respondent No. 13	1 to 5
2.	Annexure R-1	6
3.	Annexure R-2	7
4.	Annexure R-3	8
5.	Annexure R-4	9 to 11

Through:

Ashok Prasad
(Ashok Prasad)
Advocate,
Counsel for U.O.I.

Place : KOLKATA
Dated : 11/12/22



SL. NO. 28 DT 11.12.2024

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH,
AT KOLKATA

O.A. No. 20/2022/EZ

IN THE MATTER OF:

SUPROVA PRASAD ... APPELLANT(S)

VERSUS

MINISTRY OF ENVIRONMENT FOREST
& CLIMATE CHANGE & ORS. ...RESPONDENTS(S)

COUNTER AFFIDAVIT / REPLY FOR AND ON BEHALF OF THE
RESPONDENT NO. 13 FOR THE COMPLIANCE OF THE HON'BLE COURT

MOST RESPECTFULLY SHOWETH:

I, Maj Rajit Koushal Son of Shri RAVINDER NATH KADAM aged about 33
Years, employed / appointed as presently posted as a
Officer, Legal Cell HQ Bengal Sub Area ,246, A.J.C. Bose Road,
Alipore, Kolkata - 700027, do hereby solemnly affirm and declare
as under:-

1. That I am well conversant with the facts and circumstances of
the case, and as such, I am duly authorized and competent to
swear this affidavit on behalf of R-13, hereinafter referred to as
Answering Respondent in the above matter.



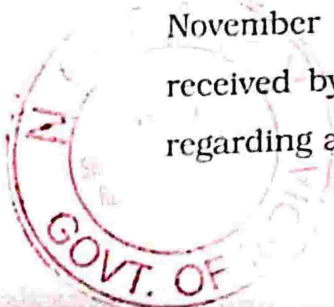
2. That I have read and understood the original application and have been advised to traverse by way of this Counter Affidavit as reply thereto.

3. That have and except those which are matter of record and those which are specifically admitted hereto the contents of the OA that have not been specifically admitted hereunder or are a matter of record be deemed denied.

4. That the deponent craves liberty to raise additional submission or file supplementary affidavits in case need arises during the course of arguments.

5. That the original application is inter-alia related to pollution at various ghats in the river Hooghly as well as river Hooghly due to outfall form the drains and other sources.

6. That the answering respondent state that Hon'ble Tribunal vide its order dated 17th November 2022, impleaded the respondent as Respondent No 13, on the submission made by Kolkata Municipal Corporation that letters were issued to authorities requesting for apprising the Kolkata Municipal Authorities about availability of land along banks of river Hoogly between Garden Reach and Cossipore. In this context, it is stated that letter dated 11th November 2022 by the Kolkata Municipal Corporation was received by the answering respondent in respect of information regarding availability of land under your control along the bank of



4

River Hooghly for making Bio-Diversity Park and River Front developments.

A copy of the said letter annexed herewith and marked as Annexure R-1.

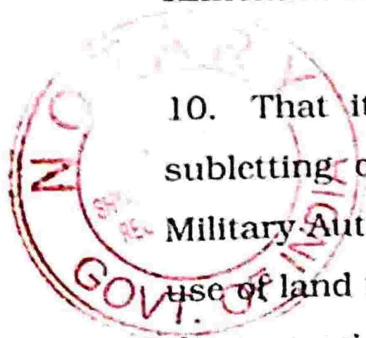
7. That in reply to the said letter of KMC the answering respondent vide its letter dated 05th December 2022 had duly requested to discuss the issue alongwith proposed requirements for ascertaining subject land availability area duly annotated on the sketch.

A copy of the said letter annexed herewith and marked as Annexure R-2.

9. That after the said letter dated 05th December 2022, being issued the KMC had neither met nor approached the Respondent No 13 for carrying out discussion on the subject issue. In connection with the same, fresh letter was again issued.

A copy of the said letter annexed herewith and marked as Annexure R-3

10. That it is pertinent to mention that power of transfer / subletting of land is with Ministry of Defence and the Local Military Authority only has limited powers to grant permission for use of land for a maximum period of three days. In view of above, the answering respondent produces policy on subject.



A copy of the said policy annexed herewith and marked as Annexure R-4

11. That the averments made in paragraphs 1 to 10 are true to my knowledge and rests are my humble submissions before the Hon'ble Tribunal and In the light of aforesaid facts and circumstances, Hon'ble Tribunal may Pass such other order as may be deemed fit and proper in the interest of justice.

VERIFICATION:

Verified at Kolkata, on this the 9th day of ^{December,} ~~November~~, 2024 that the contents of the above Affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed there from.



Identified by me

Ashok Kumar

Advocate

Solemnly Affirm & Declared
Before Me on Identification
of Ld. Advocate

Shyam Narayan Pandey
SHYAM NARAYAN PANDEY
NOTARY, GOVT. OF INDIA
REGN. NO. 13824/2018

11.12.2024

Rajit Kumar

से० कर्नल/मेजर/कप्तान
Lt Col/Maj/Capt DEPONENT
प्रभारी अधिकारी कानून सेल (उच्च न्यायालय)
OIC Legal Cell (HC)
मुख्यालय बंगाल सब एरिया
HQ Bengal Sub Area

11 DEC 2024

11 DEC 2024



THE KOLKATA MUNICIPAL CORPORATION
5 S. N. BANERJEE ROAD, KOLKATA-700013
(Parks & Squares Dept.)

To
THE COLONEL,
Colonel Land,
Head Quarter Bengal Sub Area,
246, A.J.C. Bose Road,
Alipore,
Kolkata 700027.

OSDA E.O. (P&S)/287/2022-23
Dt. - 11/11/2022.

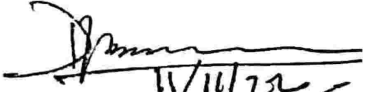
Sub:- Gentle Reminder for providing information regarding availability of land under your control along the bank of River Hooghly for making Bio-Diversity Park and River Front Development in compliance to the direction of Hon'ble National Green Tribunal (NGT) dt.30.09.2022

Sir,

Enclosed please find herewith photocopy of our previous letter sent to you vide Ref. No. **OSD & EX. DG(P&S/270/ 2022-23 dt.18.10.2022** in connection with the above mentioned subject matter which speaks for itself. As we are yet to receive any reply from your end, a "GENTLE REMINDER" is being sent to you with a copy of the order of Hon'ble NGT dt.30.08.2022 to make you understand regarding gravity of the matter and request you to send us your reply at the earliest to enable us to place the report before Hon'ble NGT on the next hearing date scheduled on 17/11/2022.

Thanking you.

Yours sincerely


O.S.D. (P&S)
OSD & E.O (DESIGN HEAD)
PARKS & SQUARE DEPT.
K.M.C

Encl:- As above.



001927/KMC
R-15

Tele: 033-22133351,22438701, (Extn - 6126)

(7)

Headquarters Bengal Sub Area
246 AJC Bose Road
Alipore, Kolkata-27

(7)

1927/KMC/Q3

05 December 2022

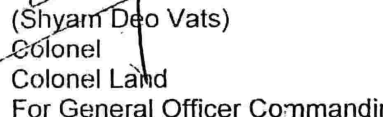
(7)

OSD & E.O (Design Head)
Parks & Square Dept
Kolkata Municipal Corporation
5 S.N Banerjee Road, Kolkata - 700013

Annexure - R-2

**AVAILABILITY OF LAND FOR MAKING BIO-DIVERSITY PARK & RIVER
FRONT DEVELOPMENT**

1. Refer to your letter No OSDA E.O (PAS)/287/2022-23 dated 11 November 2022.
2. You are requested to discuss the issue with the undersigned alongwith proposed requirements for ascertaining subject land availability areas duly annotated on a sketch.
3. For your information and necessary action please.


(Shyam Deo Vats)
Colonel
Colonel Land
For General Officer Commanding



Tele: 2222-6126

8

Annexure - R-3
Headquarters
Bengal Sub Area
246 AJC Bose Road
Alipore, Kolkata-27

001927/KMC/Q3

26 Nov 2024

Director General
Parks & Squares Department
Kolkata Municipal Corporation
5 S.N Banerjee Road, Kolkata-700013

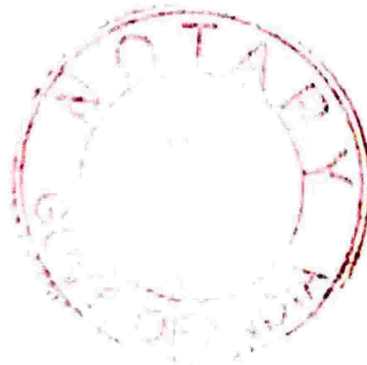
**AVAILABILITY OF LAND FOR MAKING BIO-DIVERSITY
PARK & RIVER FRONT DEVELOPMENT**

1. Ref this HQ letter No 001927/KMC/Q3 dated 05 December 2022.
2. You are requested to intimate present position of the case.
3. For your information and necessary action please.

(Tarun Tyagi)
Colonel
Colonel Land
for Officiating General Officer Commanding

Internal

Legal Cell (HC) - For info pl.



No-11013/5/79/D(Land)
Government of India
Ministry of Defence

NEW DELHI, the 31st June 2002

To,

The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff
New Delhi

Sub: Use of Defence land for public meetings organised by Political Parties, for Religious/Social functions and other purposes.

Sir,

I am directed to refer to Ministry of Defence letter No. (35)/79/D(Org) dated 13.11.1979, containing instructions regarding use of Defence land for public meetings organised by political parties. As per this letter there should be no occasion to seek permission for utilising the Defence land for such purposes, if other suitable grounds for holding public meetings are available or if the land is situated inside Defence establishments or is being utilised for Defence purposes such as training purposes. The letter, however, also states that there may be cases when open land belonging to Defence departments may be the only ground available to accommodate large gatherings and in such cases the local Defence authorities may agree to the utilisation of such lands for holding political meetings subject to certain conditions.

This issue has further been examined in the Ministry and in clarification of the instructions contained in Ministry of Defence letter dated 13.11.1979. It has been decided that the requests for use of Defence land for public meetings organised by the political parties, for religious/social functions and other purposes may be dealt within the following manner :-

- (a) As a rule, the Defence land classified as A-1 on purposes, even temporarily, except in very exceptional circumstances. In the ~~exceptional circumstances~~ if any A-1 Defence land or land analogous to A-1 is to be allotted the ~~approval of the Ministry of Defence~~ should be obtained.



The requests seeking Ministry's approval should be forwarded along with recommendation of the Competent Army Authority.

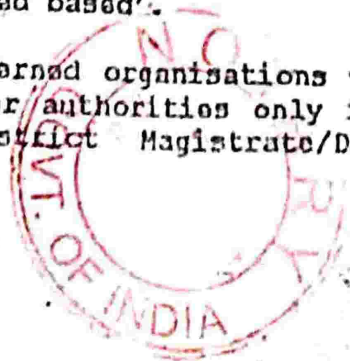
(b) Where in the opinion of the District Magistrate/Deputy Commissioner, no suitable grounds is available in the station or exceptional circumstances so warrant, for holding public meetings organised by political parties and religious/social functions, the defence land classified as A-2 or B-1 may be allotted on license basis by the DEO or the Cantonment Board, as the case may be, in consultation with Local Military Authorities, where so required in accordance with and subject to the provisions of Rule SP/47 of the Cantonment Land Administration Rules, 1937.

(c) License fee at the minimum of Rs 100/- per day, irrespective of the area, should be charged by the DEO from the licensee in case the land/ground is not to be put to any commercial use whatsoever. If, however, the land is to be put to commercial use like fairs and exhibitions etc the rent twice the normal STR rent or equivalent in respect of land outside Cantonment areas shall be realised by the DEO or the Cantt Board, as the case may be.

(d) The land shall be restored to its original condition by the licensee at his cost before its vacation. The minimum security deposit of Rs 10,000/- shall be obtained by the DEO if the land is not to be put to any commercial use by the licensee. In case the land is to be put to commercial use, the security deposit of Rs 25,000/- shall be obtained by the DEO from the licensee. This will be adjusted towards the damages caused to the Govt assets, if any, or to meet the cost of restoring the land to its original condition, if not done by the licensee, and the balance amount refunded.

(e) In case two or more political parties or religious/social organisations need the same land for the same period, no discrimination in allotment between recognised political parties or religious/social organisations should be made and, if the land can be allotted, it should be allotted on 'first come first served based'.

(f) The applications of the concerned organisations would be considered by the DEO or higher authorities only if it is so recommended by the District Magistrate/Deputy Commissioner of the area.



The license shall be allotted only for the minimal period of time, normally not exceeding 3 days, except in case of the exceptionally prescribed period for festivals like Dussehra or Ganesh.

The license terms should be so stipulated that no permanent structures of any description are erected on the land licensee at his cost before vacation.

3. The instructions contained in Ministry of Defence letter dated 13.11.1979 stand modified as above.

4. This issues with the approval of Ministry of Defence (Finance Division) vide their U.O. No 1311/F/W-1/2002 dated 19.06.2002.

Yours faithfully,

Sd/-x-x-x-x-x-x.
(LALIT CHAUHAN)

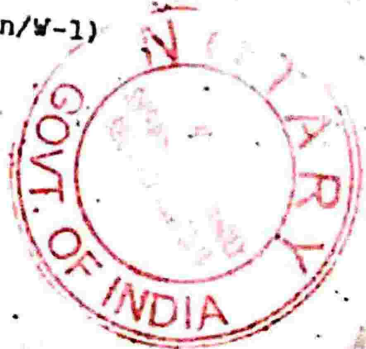
UNDER SECRETARY TO THE GOVT OF INDIA.

Copy to :-

- 1. DGDE- 6 copies.
- 2. The Principal Director/ Directors, DE Southern, Western, Northern, Central and Eastern Commands.
- 3. CGDA, New Delhi
- 4. DGADS, New Delhi
- 5. Sr. DDADS, Southern, Western, Northern, Central and Eastern Commands.
- 6. GRA, Southern, Western, Northern, Central and Eastern Commands.

Ministry of Defence (Finance Division/W-1)

- OMG Branch/Q3L (Policy) - 6 copies
- D (Air-II)
- D (Navy-III)
- D (Q&C).



Typed Copy

No 11013/6/99/D (Lands)
Government of India
Ministry of Defence

New Delhi, the 11th June 2002

To,

The Chief of the Army Staff
The Chief of the ~~Naval~~ Staff
The Chief of the ~~Air~~ Staff
New Delhi

Sub : Use of Defence land for Public Meetings organized by Political Parties, for Religious/Social functions and other purpose.

Sir,

I am directed to refer to Ministry of Defence letter No 10 (35)/79/D (org) dated 13 11 1979, containing instructions regarding use of Defence land for Public Meetings organized by Political Parties. As per this letter there should be no such purposes, if other suitable grounds for holding Public meeting are available or if the land is situated inside Defence establishments or is being utilized for Defence purpose such as for training purposes. The letter, however, also state that there may be cases when open land belonging to Defence departments may be the only ground available to accommodate large gatherings and, in such cases, the local Defence authorities may agree to the utilization of such lands for holding political meetings subject to certain conditions.

2. This issue has further been examined in the Ministry and in amplification of the instructions contained in Military or Defence letter dated 13.11.1979. It has been decided that the requests for use of Defence land for public meeting organized by the political parties, for religious / social functions and other purposes may be dealt within the following matter:-

(a) As the rule, the Defence land classified as A -1, or categories to A-1 shall not allotted for any of the above purposes, even temporarily, except in very exceptional circumstances. In the exceptional circumstances if any A-1 Defence land or land analogous to A-1 is to be allotted the prior approval of Ministry of Defence should be obtained. For requests seeking Ministry's approval should be forwarded along with recommendation of the competent Army authority.

(b) Where in the opinion of the District Magistrate/ Deputy Commissioner, no suitable grounds is available in the station or exceptional circumstances so warrant, for holding public meetings organised by political parties and religious/social functions, the defence land classified as A-2 or B-1 may be allotted on license basis by the DEO or the Cantonment Board, as the case may be, in consultation with Local Military Authorities, where so required in accordance with and subject to the provisions of Rule SP/47 of the Cantonment Land Administration Rules, 1937.

(c) License fee at the minimum of Rs 100/- per day, irrespective of the area, should be charged by the DEO from the licensee in case the land/ground is not to be put to any commercial use whatsoever. If, however, the land is to be put to commercial use like fairs and exhibitions etc the rent twice the normal STR rent or equivalent in respect of land outside Cantonment areas shall be realised by the DEO or the Cantt Board, as the case may be.

(d) The land shall be restored to its original condition by the licensee at his cost before its vacation. The minimum security deposit of Rs 10,000/- shall be obtained by the DEO if the land is not to be put to any commercial use by the licensee. In case the land is to be put to commercial use, the security deposit of Rs 25,000/- shall be obtained by the DEO from the licensee. This will be adjusted towards the damages caused to the Govt assets, if any, or to meet the cost of restoring the land to its original condition, if not done by the licensee, and the balance amount refunded.

(e) In case two or more political parties or religious/ social organisations need the same land for the same period, no discrimination in allotment between recognised political parties or religious/ social organisations should be made and, if the land can be allotted, it should be allotted on 'first come first served based'.

(f) The applications of the concerned organisations would be considered by the DEO or higher authorities only if it is so recommended by the District Magistrate/Deputy Commissioner of the area.

(g) The land shall be allotted only for the minimal emergency period normally not exceeding three days, except in case of the traditionally prescribed period for festivals like Ramlila or Kumbh.

(h) The license forms should be so stipulated that no permanent structures of any description are erected on the Land Licensee at his cost before vacation.

3. The instructions contained in Ministry of Defence letter dated 13.11.1979 stand modified as above.

4. This issues with the approval of Ministry of Defence (Finance Division) vide their U.O. No 1311/FW-1/2002 dated 19.06 2002.

Yours faithfully,

Sd/-x-x-x-x-x-
(Lalit Chauhan)

UNDER SECRETARY TO THE GOVT OF INDIA.

Copy to:-

1. DGDE -6 copies
2. The Principal Director / Directors., DE Southern, Western, Northern, Central and Eastern Commands.
3. CGDA, New Delhi
4. DGADS, New Delhi
5. Sr. DDADS, Southern, Western, Northern, Central and Eastern Commands.
6. ARMY, Southern, Western, Northern, Central and Eastern Commands.
7. Ministry of Defence (Finance Division/W-1).
8. QMG Branch /Q3L (Policy)-6 copies.
9. D (Air-II)
10. D (Navy-III)
11. D (Q&C)