



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN BENCH, KOLKATA, WEST BENGAL  
FINANCE CENTRE, 3<sup>RD</sup> FLOOR, NEW TOWN**

**MEMORANDUM OF APPLICATION**

(Under Section 18(1) read with Sections 14, 15 and 17 of the National  
Green Tribunal Act, 2010)

IN

ORIGINAL APPLICATION No. 88 OF 2024

IN THE MATTER OF:

BINAY BASFORE

.... APPLICANT

-VERSUS-

THE STATE OF WEST BENGAL & OTHERS

.... RESPONDENTS

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Date: 17.10.2024

Place: Kolkata

**DRAWN BY:**

Rashmi Singhee

Advocates

Address and email phone

**FILED BY: Ravi Ranjan Kumar, Advocate**



**17 OCT 2024**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL EASTERN  
BENCH, KOLKATA, WEST BENGAL  
FINANCE CENTRE, 3<sup>RD</sup> FLOOR, NEW TOWN

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.... RESPONDENTS

COMPREHENSIVE RESPONSE OF MD MOINUDDIN ANSARI TO THE  
AFFIDAVIT OF 1. O. C, SAKRAIL, (RESPONDENT NO.7), 2. D. M.  
HOWRAH (RESPONDENT NO.5) AND 3. WEST BENGAL POLLUTION  
CONTROL BOARD

**MOST RESPECTFULLY SHEWETH:-**

That this Hon'ble Tribunal is presently seized of the abovementioned  
O.A. No.88 /2024, filed by the Applicant alleging illegal filling of Pond  
admeasuring 20 decimal situated in L. R. Dag No. 305, L. R. Khatian No.  
1128, J. L. No. 32, Police Station – Sankrail of Mouza Banipur, District

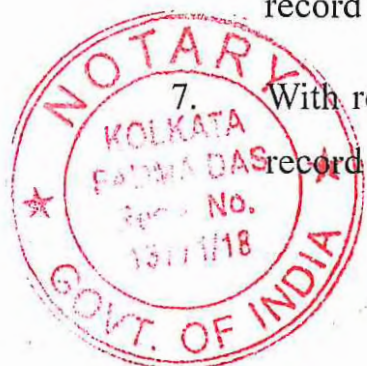


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Howrah which is recorded as a Pond in the record of rights of the land in question.

2. With reference to the contents of Paragraphs 1 to 5, save what are matters of record allegations to the contrary are denied.
3. With reference to the contents of Paragraph 6, save what are matters of record allegations to the contrary are denied. It is denied that the Respondent No.12 along with Respondent No. 10 has filled up the Pond illegally for the purpose of making multistorey building thereon. In fact, there has been no illegal filling and the Respondent is himself making all efforts to keep the Pond being a part of his private land neat and clean.
4. With reference to the contents of Paragraph 7, it is a matter of record that the Respondent No.12 is the owner of Pukur Par measuring about 10 decimal situated at L. R. Das No. 305/477, L. R. Khatian No. 1128, J. L. No. 32, Police Station-Sankrail of Mouza Banipur, District which is recorded as Pukur Par in the record of rights. It is denied that the Respondent No.12 has made construction of brick-built boundary wall on said Pukur Par illegal or otherwise or as alleged or at all.
5. With reference to the contents of Paragraph 8, save what are matters of record allegations to the contrary are denied.
6. With reference to the contents of Paragraph 9, save what are matters of record allegations to the contrary are denied.

7. With reference to the contents of Paragraph 10, save what are matters of record allegations to the contrary are denied.



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8. With reference to the contents of Paragraph 11, it is denied that filling of the Pond and construction of a boundary wall around Plot No. 306, 305 through L. R. Dag No. 477 was illegal. It is denied that the Respondent No.12 prayed for permission to clean up the Pond or repair the Pukur Par.
9. With reference to the contents of Paragraph 12, it is denied that the applicant or local residents enquired with the local office if legal sanction had been obtained to fill up such Pond or that their sources reveal that no previous sanction was obtained.
10. With reference to the contents of Paragraph 13, it is stated that the letters dated 28<sup>th</sup> February, 2024 and 18<sup>th</sup> March, 2024 were baseless complaints trying to blow the issue out of proportion. It is denied that if action was not taken immediately at that point the Pond would be affected to a point of no return or it could have the potential of causing irreparable ordeleterious consequences to the environment. It is denied that such act has the potential to disrupt ecological balance in the locality.
11. With reference to the contents of Paragraph 14, it is denied that the applicant is a social worker or is astonished that the disruption of ecological balance in the locality.
12. With reference to the contents of Paragraph 15, save what are matters of record allegations to the contrary are denied and the allegations which are repetitive of paragraphs hereinbefore answered shall not be dealt with to avoid repetition. The rest of the paragraphs are dealt as follows:-

(a) With reference to the Ground I of the Affidavit-in-Opposition, it is denied that the applicant is a social worker or the applicant is



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astonished to think the future of the residents of the locality or it may disrupt the ecological balance in the locality;

- (b) With reference to the Ground II of the Affidavit-in-Opposition, it is denied that Respondent No.12 only for the purpose of earning money is putting the life or environment of the residents in the area at stake or that it is not permissible or acceptable as alleged or at all.
- (c) With reference to the Ground III of the Affidavit-in-Opposition, it is denied that the Pond is a recorded water body or that no filling work or construction is permitted without prior permission of competent authorities as alleged or at all.
- (d) With reference to the Ground IV of the Affidavit-in-Opposition, it is denied that the state authorities are vested with the constitutional or statutory to maintain water bodies or matters connected therewith or incidental thereto to environmental or ecological stability.
- (e) With reference to the Ground V of the Affidavit-in-Opposition, it is denied that if the state authorities fail to address the illegality involved in the filling up or converting the water body then it would be mockery of the whole process of law as alleged or at all.
- (f) With reference to the Ground VI of the Affidavit-in-Opposition, it is denied that the action of the Respondents is bad in law or on facts or is liable to set right as alleged or at all.
- (g) With reference to the Ground VII of the Affidavit-in-Opposition, it is denied that the prayers of the applicant are required to be address in positive for the betterment of the environment at large as alleged or otherwise or at all.



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13. With reference to the unnumbered paragraphs on Limitation, it is denied that the Respondent No.12 illegal started filling up the Pond measuring about 20 decimal situated in L. R. No. 305, L. R. Khatian No. 1128, J. L. No.32, Police Station-Sankrail of Mouza Banipur, District Howrah, being capable for fishery for the purpose of making multistorey building thereon or it is hazardous to the health of the people of the locality as well as to the ecological of the area or such act will disrupt the peaceful environment of the locality or that it is continuous cause of action or that the application is filed within the valid period of limitation as prescribed in the National Green Tribunal Act, 2010 as alleged or at all. The order of the Hon'ble High Court of Calcutta dated 23.08.2022 records that there was no illegal filling up and that the Respondent no. 12 will extend all cooperation in cleaning up the area, since he is a responsible and law abiding citizen of the area. Copy of the order of the High Court of Calcutta dated 23.08.2022 is annexed hereto and marked "R/1".
14. With reference to the unnumbered paragraph on Interim relief, save what are matters of record all allegations to the contrary are denied. It is denied that the Reliefs (a) and (b) are imperative to be passed.
15. The Prayers as sought for are without merit and malafide. They are also not for in the interest of justice.



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**Response to the Affidavit dated 15<sup>th</sup> July, 2024 of the Respondent No.7 being the O. C., Sankrail.**

16. With reference to the contents of Paragraphs 1 and 2 of the Affidavit, save what are matters of record all allegations to the contrary are denied.
17. With reference to the contents of Paragraph 3(i) of the Affidavit, save what are matters of record all allegations to the contrary are denied. It is denied that during the enquiry, the concerned Officer found that scheduled Pond as mentioned in the petition being filled up illegally.
18. With reference to the contents of Paragraph 3(ii) of the Affidavit, save what are matters of record all allegations to the contrary are denied.
19. With reference to the contents of Paragraph 3 (iii) of the Affidavit, save what are matters of record all allegations to the contrary are denied.
20. With reference to the contents of Paragraph 3(iv) of the Affidavit, save what are matters of record all allegations to the contrary are denied. It is stated that this report clearly stated that the Pond was partly filled up. However, this filling up was not illegal and the Pond is the part of a private land owned by the Respondent No.12.
21. With reference to the contents of Paragraph 3(v) of, save what are matters of record all allegations to the contrary are denied.
22. With reference to the contents of Paragraph 4 of the Affidavit, save what are matters of record all allegations to the contrary are denied.



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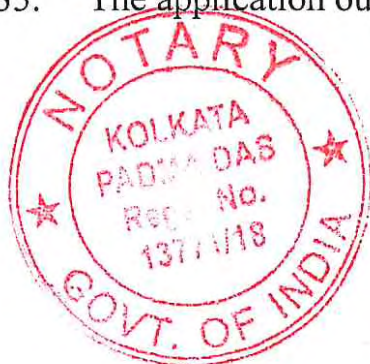
**Response to the Affidavit dated 2nd July, 2024 of the Respondent No.5 by D. M., Howrah.**

23. With the reference to the contents of Paragraphs 1 to 4 of the Affidavit save what are matters of record all allegations to the contrary are denied.
24. With the reference to the contents of Paragraph 5 of the Affidavit, it is denied that the report of the BL&LRO reveals that the northern side of the Pond at LR Plot No. 305 or other surrounding Plots have been filled up with soil as stated in the report dated 28<sup>th</sup> June, 2024. However, it is submitted that the same is not illegal or causing any inconvenience to the neighbour or residents of the same locality. An excerpt of the relevant portion of the report is annexed hereto and marked "R/2".
25. With the reference to the contents of Paragraphs 1 to 4 of the A, it is denied that F. I. R. bearing No. 267 of 24 had been filed at Sankrail Police Station against the rights for violation of the instructions given as per the statute on 7<sup>th</sup> April, 2024.
26. With respect to the contents of Paragraphs 8 and 9 of the Affidavit, save what are matters of record all allegations to the contrary are denied.
27. With the reference to the contents of Paragraph 10 of the Affidavit, it is denied that orders as prayed for are required to be passed for the ends of justice.
28. The application ought to be dismissed in limine with costs.



**Response to the Compliance Report dated 13<sup>th</sup> August, 2024 of the Respondent No. 5 being the District Magistrate, Howrah.**

29. With the reference to the contents of Paragraphs 1, 2, 3 and 4 of the Affidavit, save what are matters of record all allegations to the contrary are denied.
30. With the reference to the contents of Paragraph 5 of the Affidavit save what are matters of record all allegations to the contrary are denied. The pond in question has been fully restored to its original boundaries and position.
31. With the reference to the contents of Paragraph 6 of the Affidavit, save what are matters of record all allegations to the contrary are denied.
32. With the reference to the contents of Paragraph 7 of the Affidavit, save what are matters of record all allegations to the contrary are denied. It is to be noted that the restoration work on the pond in question has been conducted in full compliance with the order of the Hon'ble Tribunal.
33. With respect to the contents of Paragraph 8 of the Affidavit, save what are matters of record all allegations to the contrary are denied.
34. With the refence to the contents of Paragraph 9 of the Affidavit, it is denied that orders as prayed for are required to be passed for the ends of justice.
35. The application ought to be dismissed in limine with costs.



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**Response to the Report on Affidavit dated 16<sup>th</sup> August, 2024 of the Respondent No.13 being the West Bengal Pollution Control Board.**

36. With the reference to the contents of Paragraphs 1, 2, and 3 of the Affidavit, save what are matters of record all allegations to the contrary are denied.
37. With the reference to the contents of Paragraph 4 of the Affidavit save what are matters of record all allegations to the contrary are denied. It is noted that following the inspection conducted on July 2, 2024, the Inspecting Official of the State Board observed that no filling activities have occurred in the recent past. This indicates that the pond maintains its original classification, and Respondent No. 12 has not engaged in any filling operations to alter the classification of the pond or the property in question. Furthermore, it is emphasized that the boundary wall has been erected solely to prevent unlawful entry and the indiscriminate dumping of domestic waste. Additionally, it is essential to emphasize that Respondent No. 12 is committed to the protection of the pond and has no intention of demolishing it.
38. The application ought to be dismissed in limine with costs.

Identified by me

*Ravikiran Kumar*

Advocate

A/321/355/2018

Deponent

*Mol. Moineddin Ansari*

(Respondent no.12)



SOLEMNLY AFFIRMED AND DECLARED  
BEFORE ME ON IDENTIFICATION

*[Signature]*

PADMA DAS  
NOTARY

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VERIFICATION

I, Md. Moinuddin Ansari, son of Md. Harique, residing at Banipur Kaathsidhi, Sankrail, Howrah, 711304, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there form.

Verified at 17<sup>th</sup> October, 2024.

Identified by me

Deponent

*Ravikanya Kumar*

*Md. Moinuddin Ansari*

Advocate

(Respondent no.12)

F/321/355/2018



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"R-1"

27 23.08.2022

gd/ssd

WPA(P)/13/2022  
BINAY BASFORE  
VS

THE STATE OF WEST BENGAL AND ORS.

Mr. Tanmoy Chattopadhyay  
..for the Petitioner.Mr. Jahar Lal De,  
Mr. Shamim ul Bari  
..for the State.Mr. Saket Sharma,  
Mr. Ravi Ranjan Kumar  
..for the Respondent No.11.

In this public interest petition the petitioner has alleged that the water body situated in L.R. Dag No.305, J.L. No.32, Police Station-Sankrail of Mouza Banipur is being illegally filled up by the private respondents with the help of Prodhan by raising MGNREGA.

On the direction of this Court, the respondent nos.4 and 8 have filed the report in the form of affidavit disclosing the following:

"3. That pursuant to the order dated 18.01.2022 passed by the Hon'ble Court, a field enquiry has been done on 02.02.2022 and thereafter, it is revealed from such report that:-

- a) The suit land is situated in Mouza Banipur, J.L. No.32, Plot No.305(LR), total recorded area being 0.20 acres with the classification 'Pukur'.
- b) The L.R. Record-of-Right of the suit plot is in favour of Moinuddin Ansari, S/o Md. Harik in LR khatian No. 1128.
- c) That from the field enquiry report it comes out that presently the Pukur is physically more than the recorded area.
- d) That during the enquiry a bamboo fencing between 9268 sq ft/21.27 decimal (approx)



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and 1038 sq ft (approx) of "pukur"/pond. On both the side of the fencing the pukur is currently filled with water hyacinth.

- e) That on the north-eastern side 330 sq. ft. (approx) area is filled with piled up rubbish as found during the physical verification.
- f) That the adjacent plot no.305/477 (L.R.) corresponding R.S. plot no. being 308 is recorded as "Pukur Parh" and L.R. Plot No. 306 corresponding R.S. Plot No. being 309 is recorded as "Bastu" in favour of Moinuddin Ansari and the plots are found physically as pukur parh & vacant land used for communication to the adjacent Panchayat Road.
- g) That the western & northern side of the plots recorded in the khatian of Moinuddin Ansari has been surrounded by 6 ft.(approx) height boundary wall by the recorded owner Moinuddin Ansari.
- h) That no pond filling work was going on during the physical verification."

Learned counsel for the petitioner referring to para 3(e) has submitted that 330 sq. ft. area of embankment has been illegally filled up and referring to para 3(g) he has submitted that now the wall is surrounded on all four sides and that the wall is on the pond itself.

Learned counsel for the petitioner has also referred to Section 17A(1)(a) of the West Bengal Inland Fisheries Act and has submitted that the embankments surrounding the water body is also required to be protected.

This aspect has been disputed by learned counsel for the private respondent by submitting that the water



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body belongs to the private respondent and the private respondent is protecting the water body.

The factual controversy which is raised in the public interest petition needs to be decided after ascertaining the position existing on the spot as also considering the report after the spot inspection.

Learned counsel for the State has informed that the respondent no.8 i.e. B.L. & L.R.O., Howrah is the competent authority to look into this issue.

Hence, we dispose of the present petition directing the respondent no.8 to give an opportunity of hearing to all the concerned parties and also to verify the existing position on the spot with due intimation to the concerned parties and take appropriate decision in accordance with law to ensure that the water body and the embankment are protected and no illegal filling up takes place in violation of any of the provisions of the Act or the Rules.

Let this exercise be completed by the respondent no.8 within a period of three months from the date of receipt of this order.

The petition is accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)



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R<sub>2</sub>

Office of the Block Land & Land Reforms Officer  
Sankrail, Howrah  
E-mail: bllrosank@gmail.com

Memo No. 595/Sank/2024

Dated. 28/06/2024

To  
The Additional District Magistrate  
And  
District Land & Land Reforms Officer  
Howrah



Sub: Report regarding alleged filling of water body on LR plot no. 305/477 of mouza-Banipur, P.S.-Sankrail, Howrah

Ref: your office memo no 2162/LR dated 09/05/2024

Sir,

As per your instruction concerned R.I. had been sent to the spot for field verification and submitted his report on 29/05/2024. As per R.I. report

1. Area of LR plot no 305; classification 'pukur' is 20 Decimal and LR plot no 305/477, classification 'pukur par' is 10 Decimal.
2. The northern side of the pond at LR plot no 305 and other surrounding plots which are characterized as pond has been partly filled up with soil.
3. No construction work has been done in and around the water-body.
4. Field enquiry had been done several times and notices had been served to the raiyat u/s 4C (5) of WBLR act, 1955 on 22/01/2024 with direction to restore the plot in its original position but he failed to comply. Finally, served notice u/s 4D of WBLR act, 1955 on 21/03/2024. In spite of providing several opportunities to the said raiyat, he failed to comply. Subsequently, an F.I.R. had been filed by the Sankrail P.S. against the raiyat on 07/04/2024 vide PS case no.



*[Signature]*  
28/06/24  
Block Land and Land Reforms Officer  
Sankrail, Howrah

Block Land and Land Reforms Officer  
Sankrail, Howrah

1. Copy of Field verification report of R.I.
2. Copy of Notice of u/s 4C(5) and 4D of WBLR act, 1955
3. Copy of F.I.R.

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.... RESPONDENTS

AFFIDAVIT ON BEHALF OF THE  
RESPONDENT NO. 12, MD. MOINUDDIN  
ANSARI

**RAVI RANJAN KUMAR, ADVOCATE  
FOR RESPONDENT NO. 12**

17 OCT 2024

