

S.L. No. 28/25

- 1 -

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

I. A. No. of 2025/EZ

IN

M. A. No. 22/2023/EZ

IN

(Arising out of ORIGINAL APPLICATION NO. 06/2016/EZ)

In The Matter of:

An application Under Section 19(4)(a) read with Under Section 18 (1) of the National Green Tribunal Act, 2010 for addition of Prem Hotel, through its Proprietor namely Pintu Chowdhury residing at 2 No. Government Colony, North Baksara, Howrah, Pin: 711110 as a party respondent in connection with the instant M.A. Application;

AND

In The Matter of:

Prem Hotel, through its Proprietor namely Pintu Chowdhury residing at 2 No. Government Colony, North Baksara, Howrah, Pin: 711110.

..... Applicant

-Versus-

Subhas Dutta & Ors.

.... Respondents



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KOLKATA

Filed by

Rajdeep Pramanik
Rajdeep Pramanik

Advocate

C/o Atarup Banerjee

Advocate

Bar Association, Room No.-1,

High Court, Calcutta

For The Applicant

Email: rajdeeppramanik5@gmail.com

(M): 7044771667

13 FEB 2022



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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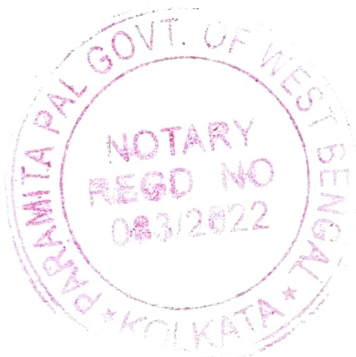
E-mail : rajdeppramanik5@gmail.com

..... Applicant

-Versus-

1. Subhas Datta, S/o Late Baneswar Datta, of 25/1, Guitendal Lane, P.O & P.S & District: Howrah, Pin: 711101, West Bengal.

Email: subhasdatta@rediffmail.com



13 FEB 2025

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.... Respondent No. 1/Applicant in M. A

2. State of West Bengal, (Notice through the Chief Secretary), Nabanna, 325, Sarat Chatterjee Road, Shibpur, Howrah, Pin: 711102.

Email: cs-westbengal@nic.in

3. Department of Urban Development and Municipal Affairs, (Notice through the Principal Secretary), Government of West Bengal, Nagarayan, DF-8, Sector-I, Salt Lake City, Kolkata: 700064.

Email: secy.ma-wb@gov.in

4. The General Manager, South Eastern Railway, having office at 1, Garden Reach Road, Kolkata: 700043.

Email: gm@ser.railnet.gov.in

5. The District Magistrate, Howrah, 123, Rishi Bankim Chandra Road, Howrah, Pin: 711101.

Email: dis-how-wb@nic.in

6. The Commissioner,

Howrah Municipal Corporation, having office at 4, Mahatma Gandhi Road, Howrah, Pin: 711101.

Email: commissioner.howrah@gmail.com



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7. West Bengal Pollution Control Board,
(Notice through the Member
Secretary), Paribesh Bhawan, 10A,
Block-LA, Sector-III, Salt Lake City,
Kolkata: 700106.

Email: ms.wbpcb-wb@bangla.gov.in

.....Respondents

To,

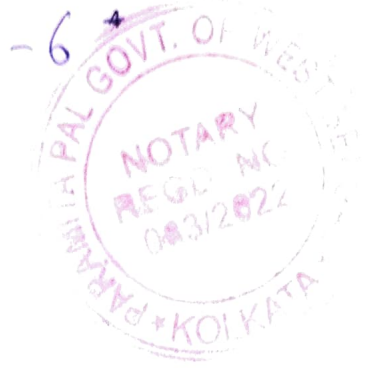
The Hon'ble Chairperson and His Companion Member of the said Hon'ble Tribunal.

The Humble petition on behalf of the
applicant as above named most
respectfully

SHEWETH:

1. That the instant Miscellaneous application has been filed by the respondent number 1/Applicant in O. A. No. 06/2016/EZ and the same is pending for adjudication before this Hon'ble Tribunal.
2. That the present applicant is a hotel owner situated at the site in question i.e the Santragachi Jheel with respect to which the instant proceedings have been filed The present applicant is having the following permissions/license for running the said business:

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- (i) Trade License
 - (ii) Food License
 - (iii) Professional Tax



Photocopies of the Aadhar Card and the statutory Permissions/Licenses as above above referred to are collectively annexed herewith and marked with the letter "P-1".

3. That it has been observed by Hon'ble National Green Tribunal, Special Bench, vide Solemn Order dated 04.07.2022 that in paragraph 9 interalia the Hon'ble Bench have observed that the stand of the state Authorities is that they have prepared a rehabilitation housing scheme known as 'Banglar Bari' for resettlement of the encroachers but since the encroachment is on Railway Land, the Railway must provide the land.

Photocopy of the Solemn Order dated 04.07.2022 passed by the Hon'ble National Green Tribunal, Special Bench, is annexed herewith and marked with the letter 'P-1'.

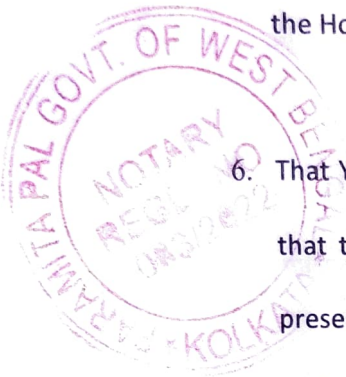
4. That the present applicant is running a small business completely for his survival and bread earning on which his entire family is dependent.

5. That the present applicant states and submits that he did not get any opportunity to place his submissions before the Hon'ble Tribunal in the original application being O. A. No. 06/2016/EZ and hence is appearing before the Hon'ble Tribunal to place his submissions for kind consideration of the Hon'ble Tribunal.

6. That Your Applicant in this Interlocutory Application also states and submits that there are certain submissions which are required to be made by the present applicant and which are to be placed on record by way of affidavit for such presence of the applicant is very much necessary for proper and effective adjudication of the Miscellaneous application being M. A. No. 22/2023/EZ.

7. That the allegations as stated in the miscellaneous application are required to be dealt by this applicant as well being affected parties and the same will be possible only when the applicant is added as a party respondent in the instant M. A. Application and hence this applicant humbly prays that he may be added as a party respondent in this miscellaneous application and may be given an opportunity to make his submissions before the Hon'ble Tribunal.

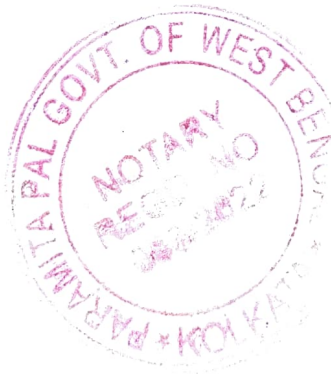
8. That unless the applicant is added as a party respondent in the present proceedings i.e in this miscellaneous application and if any Order/Orders are



passed by the Hon'ble Tribunal without hearing the present applicant he will be highly prejudiced.

9. That it is most humbly submitted before this Hon'ble Tribunal that the applicant namely Prem Hotel, through its Proprietor namely Pintu Chowdhury residing at 2 No. Government Colony, North Baksara, Howrah, Pin: 711110 may be added as a party respondent for smooth adjudication of the instant miscellaneous application.

10. That this application is made bonafide and unless this application is allowed by this Hon'ble Tribunal the applicant will suffer irreparable loss and injury.



Under the above circumstances it is most humbly prayed before Your Lordships may kindly be pleased to allow this application and permit the applicant namely Prem Hotel, through its Proprietor namely Pintu Chowdhury residing at 2 No. Government Colony, North Baksara, Howrah, Pin:

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711110 to be added as a party respondent in connection with the instant miscellaneous application and to pass such further Order/Orders as to this Hon'ble Tribunal may deem fit and proper for the ends of justice.

And For This Act of Kindness Your Applicant as in duty bound shall ever pray.

Pinku Choudhary



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VERIFICATION:

I, Pintu Chowdhury, S/o Ramasish Chowdhury, residing at 2 No. Government Colony, North Baksara, Howrah, Pin: 711110, the deponent within named, 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 from.

Verified at Kolkata on the 13TH February, 2025.

Identified by me

Rajdeep Pramanik

Advocate 13.2.25

Pintu Chowdhury

Deponent

13 FEB 2025





AFFIDAVIT

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I, Pintu Chowdhury, S/o Ramasish Chowdhury, aged about 38 years, by faith-Hindu, by occupation- business and residing at 2 No. Government Colony, North Baksara, Howrah, Pin: 711110, do hereby solemnly affirm and state as follows :-

1. That I am the applicant in the instant Interlocutory Application and well conversant with the fact and circumstance of the case and I am competent to sign and swear this affidavit.
2. That I have read and Understood the contents of the accompanying application and say that the facts stated above are true and correct as per my personal knowledge and legal advice received by me are the best of my knowledge and belief.

Pintu Chowdhury

DEPONENT

Prepared in my office

Identified by me
Rajdeep Pramanik

Advocate

13.2.25

Signature of Advocate
Signature of Identification

Identified by me

Rajdeep Pramanik

Advocate

13.2.25

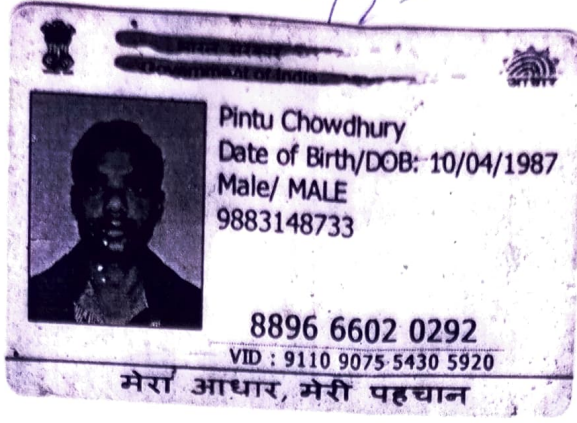
Rajdeep Pramanik
PARAMITA PAL
City Civil Court
Kolkata
Reg No. 083/2022

13 FEB 2025



"Annexure - P-1"

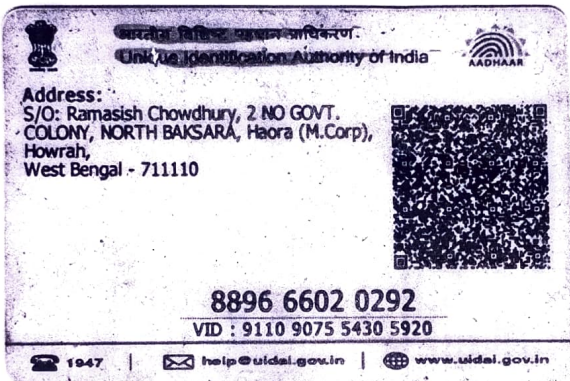
-12-



Pintu Chowdhury
Date of Birth/DOB: 10/04/1987
Male/ MALE
9883148733

8896 6602 0292
VID : 9110 9075 5430 5920

मेरा आधार, मेरी पहचान



भारतीय पहचान पहचान अधिकरण
Unique Identification Authority of India

Address:
S/O: Ramasish Chowdhury, 2 NO GOVT.
COLONY, NORTH BAKSARA, Haora (M.Corp),
Howrah,
West Bengal - 711110

8896 6602 0292
VID : 9110 9075 5430 5920

1947 | help@uidai.gov.in | www.uidai.gov.in

Pintu Chowdhury



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Registration Certificate
Government of West Bengal
Department of Health and Family Welfare
Food Safety and Standards Authority of India
Registration Certificate under FSS Act, 2006

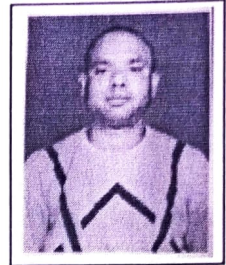


GOVERNMENT OF WEST BENGAL
DEPARTMENT OF HEALTH & FAMILY WELFARE

पंजीकरण संख्या / Registration Number: 22823096000934



- | | |
|--|---|
| 1. Name and permanent address of Food Business Operator (FBO) / खाद्य व्यापार ऑपरेटर का नाम और स्थायी पता: | M/S - PREM CATERER ; PRO:- PINTU CHOWDHURY
GOVT. COLONY UTTAR BUXRAH , WARD NO-45 , BALI -HOWRAH MUNICIPAL CORPORATION, Howrah, West Bengal-711110 |
| 2. Address of location where food business is to be conducted / premises / स्थान का पता जहाँ खाद्य व्यापार / परिसर है: | GOVT. COLONY UTTAR BUXRAH, WARD NO-45, BALI -HOWRAH MUNICIPAL CORPORATION, Howrah, West Bengal - 711110 |
| 3. Kind of Business / कारोबार का प्रकार: | Retailer |
| 4. Photo Identity Card / फोटो पहचान पत्र(विवरण) : | N/A |



This Registration certificate is issued under and is subject to the provisions of FSS Act, 2006 all of which must be complied with by the petty food business. / यह पंजीकरण खाद्य संरक्षा और मानक अधिनियम, 2006 के अधीन अनुदत्त की गई और वह अधिनियम के उपबंधों के अध्यादीन है जिनका अनुज्ञप्तिधारी द्वारा अवश्य पालन किया जाना चाहिए.

Place / स्थान: Howrah
Issued On / दिनांक: 26-09-2023 (New Registration)
Valid Upto: / वैधता: 25-09-2026 (For details, refer Annexure)

Registering Authority

Date : 26-09-2023 12:53:41
User Id : 106375

License Issued On : 26-09-2023 12:53:41

Annexures:

1. Product Annexure
2. Validity Annexure
3. Registration Id Card

Note:

1. Application for renewal of Registration Certificate can be filed as early as 180 days prior to expiry date of Registration Certificate. You can file application for renewal or modification of Registration Certificate by login into FSSAI's Food Safety Compliance System(<https://foscoc.fssai.gov.in>) with your user id and password or call us at 1800112100 for any clarification.
2. This Registration Certificate is only to commence or carry on food businesses and not for any other purpose.
- 3 This is computer generated Registration Certificate and doesn't require any signature or stamp by

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4. This Registration Certificate is allowed to conduct food businesses activities having annual turnover upto Rs. 12 Lacs only.



Registration Certificate
Government of West Bengal
Department of Health and Family Welfare
Food Safety and Standards Authority of India
Registration Certificate under FSS Act, 2006



GOVERNMENT OF WEST BENGAL
DEPARTMENT OF HEALTH & FAMILY WELFARE

पंजीकरण संख्या / Registration Number: **22823096000934**
Detail(s) of Food Item

[Note: Only standardised food products are allowed to be manufactured as per the list available on FoSCoS.]

Other than Manufacturer Unit	
SJ. No	Name of the food category
1	16 - Prepared Foods
2	15 - Ready-to-eat savouries
3	14 - Beverages, excluding dairy products
4	05 - Confectionery

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Validation And Renewal Annexure



Registration Certificate
Government of West Bengal
Department of Health and Family Welfare
Food Safety and Standards Authority of India
Registration Certificate under FSS Act, 2006



GOVERNMENT OF WEST BENGAL
DEPARTMENT OF HEALTH & FAMILY WELFARE

पंजीकरण संख्या / Registration Number: 22823096000934

Validity From	Validity Upto	Issued On	Fee Paid	Type
26-09-2023	25-09-2026	26-09-2023	300 INR	New

Suspension History

S.No	History	Date
	N/A	

Current Status of Registration: Registration Certificate issued

Note:

1. Application for renewal of Registration Certificate can be filed as early as 180 days prior to expiry date of Registration Certificate. You can file application for renewal or modification of Registration Certificate by login into FSSAI's Food Safety Compliance System(<https://foscoc.fssai.gov.in>) with your user id and password or call us at 1800112100 for any clarification.

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Registration ID Card

Registration ID Card

ssai

Registration ID: 22823096000934

Valid Upto: 25-09-2026

Name: M/S - PREM CATERER ;
PRO:- PINTU
CHOWDHURY

Address: GOVT. COLONY UTTAR
BUXRAH, WARD NO-45,
BALI -HOWRAH
MUNICIPAL
CORPORATION, Howrah,
West Bengal - 711110

KOB: Retailer

Govt ID Card: N/A



Issuing Authority: Howrah

Issued On: 26-09-2023

[Disclaimer: This Registration ID card is issued only for the provisions laid down under Food Safety and Standards Act, 2006 and hence, shall not be used for any other purpose.]



78
Govt. of West Bengal
Directorate of Commercial Tax
GRIPS eChallan



192023240295605141

GRN Details

GRN: 192023240295605141 Payment Mode: Online Payment
GRN Date: 25/11/2023 12:04:10 Bank/Gateway: AXIS Bank
BRN: 328138369 BRN Date: 25/11/2023 12:05:18
GRIPS Payment ID: 251120232029560513 Payment Init. Date: 25/11/2023 12:04:10
Payment Status: Successful Payment Ref. No: 192073479606
[Re Number]

Depositor Details

Depositor's Name: PINTU CHOWDHURY
Address:
Mobile: 9073071252
EMail: tapasbhuniab@gmail.com
Depositor Status: Enrolled
Trade Name: M/S - PREM CATERER
Period From (dd/mm/yyyy): 01/04/2023
Period To (dd/mm/yyyy): 31/03/2024
Payment Ref ID: 192073479606
Dept Ref ID/DRN: 0012023002149941

Payment Details

Sl. No.	Payment Ref No	Head of A/C Description	Head of A/C	Amount (₹)
1	192073479606	Profession Tax-Taxes	0028-00-107-001-03	300
			Total	300

IN WORDS: THREE HUNDRED ONLY.



HOWRAH MUNICIPAL CORPORATION

License Department

Certificate Of Enlistment for the year 2023-2024

LA- 478987

C/E No

M/S PREM CATERER

Name of the Proprietor/Partner/ Director(s) / Karta/ Manager

PINTU CHOWDHURY

Street Name UTTAR BUXRAH

Nature of Trade Caterer (Cat-1)

Sub-Category

Book No	Receipt No	Ward	Holding No	Issue Dt	License No	Current Dt
0	0	45	GOVT COLONY	19/06/2023	HMC/W45/148938/23	19/06/2024

FEES & CHARGES UNDER THE FOLLOWING SECTIONS OF THE HMC ACT 1980

Sl No	Section	Details	No of Year	Amounts(RS)	Total(RS)
1	U/S 102	Fees for Certificate of Enlistment	1	500.00	500.00
2	U/S 87A	Fees for Specific Services	1	1000.00	1000.00
	U/S 190	Fees for keeping/storing in warehouse, godown, transport, factories, workshop		0.00	0.00
4	U/S 24PFA	Fees for selling edible oil, foods, ghee etc (Food License)		0.00	0.00
5	U/S 192AB	Fees for eating house, restaurant, hotel, bakery, water/ice factory		0.00	0.00
6	U/S 193	Fees for theatre, cinema, circus, resort, ceremonial house		0.00	0.00
7	U/S 194C	Power of commissioner to stop use of premises otherwise in conformity of license		0.00	0.00
8	U/S 196	Fees for Keeping open any private market		0.00	0.00
9	U/S 197AB	Fees for sale of meat, butcher shop, fish etc		0.00	0.00
10	U/S 200-201	Fees for License for sale of fish, poultry, flesh		0.00	0.00
11	U/S 206	Fees for keeping open any shop for retail sale of drug		0.00	0.00
12	U/S 110	Fees for tax on owner, possessor of such carriage & animals		0.00	0.00
13	U/S 108/109	Fees for tax on carriage & animals		0.00	0.00
14	U/S 191	Fees for establishing factory, workshop with power (Horse Power)		0.00	0.00
15		Conservancy Fees	1	730.00	730.00
		Total Arrear License Fees For 4 Year(s)			9420.00
		Total Penalty			0.00
		Processing Fees			50.00
		Adjustment Amount			0.00
		Net Amount payable			13,000.00

Rupees (In word) Twelve Thousands Two Hundred Rupees

PAY HMC DUES IN TIME TO AVOID EMBARRASMENT

By order Commissioner H.M.C.

Last date of renewal without fine

Valid Upto

Revenue Stamp

30-06-2024

31-03-2024

This document is auto generated through computer system as per data submitted by applicant himself/herself, respective department/agencies/institutions may verify documents/credentials from CE holders if so deem fit. This receipt is to be treated as Payment Receipt cum Certificate of Enlistment and valid upto 31-03-2024.

Concerned Authorities/Agencies/Institutions can verify the validity of the receipt cum CE from HMC Web portal.

If any unfair/illegal means had been adopted by or any knavery/wrong doing had been resorted to by the applicant, for obtaining C.E. the C.E holder shall be solely liable/responsible for that, and would be liable for prosecution and punishment under the IPC 1860 and/or any other law for the time being in force.

- N.B. 1) This certificate is granted without any prejudice to the right of the Howrah Municipal Corporation to proceed for any penalties already incurred or for arrear dues & does not cover liabilities under any other section of the same Act.
- 2) Certificate of such enlistment or renewal thereof shall not absolve the holder from any liability to take out any licence under this act or any other law for the time being in force.
- 3) The licensee is liable to submit a copy of the N.O.C. from W.B.P.C.B. & Fire Dept., Govt. of West Bengal within three months from the date of issue of this licence, failing which this licence shall be treated as cancelled and the respective trader shall be deemed to have carried out business without proper authority.

Annexure - P-2

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Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 06/2016/EZ

Subhas Datta

Applicant

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 04.07.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Subhas Datta, in person
Respondent(s): Mr. Prithwish Basu, Advocate for R-1,2,4&13,
Mr. Sandipan Banerjee, Advocate a/w Ms. Amrita Pandey,
Advocate for R-3,
Mr. Somir Kumar Daskar, Advocate a/w Mr. Pramod Kumar
Drolia, Advocate for R-5,8,9,10&11,
Mr. Dipanjan Ghosh, Advocate for R-6,
Ms. Paushali Banerjee, Advocate for R-12,

ORDER

The Issue

1. Grievance in this application is against failure of Municipal Corporation Howrah, the Railway Administration and the State PCB to prevent damage to Santragachi Jheel, Kolkata, which is a notified Bird Sanctuary. Damage to the lake is taking place *inter-alia* by discharge of untreated sewage, from area falling under Municipal Corporation Howrah,

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and other waste. Damage to the lake is also due to encroachment for commercial purposes.

2. The Applicant has stated that pollution of the lake is resulting in disturbing the migratory birds requiring protection under the Wildlife Protection Act, 1972. The lake is within the jurisdiction of Railways.

Procedural History

3. The application was filed on 12.01.2016 and first came up for hearing on 20.01.2016. The Tribunal issued notice to the Respondents with the observation that Municipal Corporation, Howrah and Forest Department may take remedial action to seal the outlets of pollution and against illegal constructions. The State PCB was required to furnish a status report about the compliance of environmental norms. Thereafter, directions have been issued from time to time and compliance status examined. It will suffice to refer to orders dated 15.09.2017, 01.06.2020, 30.09.2021 and 01.12.2021.

Order dated 15.09.2017 - sewage generation by Railways and by Howrah Municipal Corporation and State Authorities.

4. Relevant extract of the order dated 15.09.2017 reads as under:-

“On the question of share of the railway authorities i.e. respondent No. 5, towards the cost of the project, the Dy. Chief Engineer (Works) S.E. Railway in his affidavit filed today on behalf of the respondent No. 5 has averred as follows :-

“3. That regarding sharing the project cost by the respondent no.5 i.e., the Railways the attention of this Ld. Tribunal is drawn towards the following facts:

a) The final DPR submitted by the respondent no.7 Mackintosh Burn Ltd. on 15.03.2017 in Chapter 2, Page 7 of 57 at Para 2.1 mentions that:

Considered population on HMC site = 5973 heads

Considered Population on Railway Site = 1318 heads

Waste water generation is @ 135 lts./day per person

Thus, out of the total sewage generation of 9,84,285 ltrs./ day.

The quantity of sewage generated on HMC site = $135 \times 5973 = 8,06,355$ ltrs./day
And that on Railway site = $135 \times 1318 = 1,77,930$ ltrs./day
Hence from the above findings and/or observations it is humbly stated that the area under the HMC generates $806355/984285 \times 100 = 81.93\%$ sewage while the Railway side area generates $177930/984285 \times 100 = 18.07\%$ sewage."

Although Ms. Amrita Pandey, ld. counsel for the respondent No. 3, Howrah Municipal Corporation has expressed her doubt on figure arrived at by the Railways, the facts stated in para 3(a) of their affidavit extracted above, are explicit. It clearly reflects that the figure of 18% offered by the Railways towards cost of the project has been worked out reasonably based on the rates quoted in the DPR and not in an arbitrary manner. We are, therefore, inclined to accept the offer."

Order dated 1.6.2020 - agreement on construction of STP and removing of encroachments

5. Vide order dated 01.06.2020, the Tribunal noted the agreement reached before it about providing of land by the Railways for setting up STP, cost of the project being shared by the Howrah Municipal Corporation (HMC) and the Railways in the ratio of contribution of sewage and encroachments being removed. The relevant extract from the order is reproduced below:-

" 3. Without going into various events that transpired during the past proceedings, suffice it to note that **it had been agreed that (i) the Railway would provide for the land for setting up STP for treatment of the sewage diverted away from the 'Jheel'; (ii) the cost of the project would be shared between the Howrah Municipal Corporation (HMC) and the Railways in the ratio of the contribution of sewage and, (iii) encroachments from the 'Jheel' would be removed.** The records would reveal that construction of the project was to be undertaken by the Respondent No. 7, M/s Mackintosh Burn Ltd. Inordinate delay had been caused both by the Howrah Municipal Corporation (HMC) and the Railway Authorities on the question of the lease of the land, the release of funds towards cost of the projects and removal of encroachers, The last one having been caused primarily on account of the inept handling by the HMC."

Order dated 30.9.2021 - progress on steps as per order dated 01.6.2020

6. Vide order dated 30.09.2021, the Tribunal reviewed the progress about the remedial measures with regard to encroachments and preventing pollution and constituted a Committee to examine the Detailed Project Report prepared by the Kolkata Metropolitan Development Authority as well as comments raised by Railways and to resolve the pending issues and furnish a report to this Tribunal. Relevant discussion in the said order is as follows:-

"12. In the affidavit which has been filed by the Respondent No.5, South Eastern Railway, it is stated that the Railways had never objected to the construction of Sewage Treatment Plant (STP) (now garland drain) and Waste Stabilization Pond. The Howrah Municipal Corporation has cited three reasons for not constructing the STP and the garland drain which are as under:-

- (i) Removal of encroachments in the surroundings of Santragachi Jheel**
- (ii) Non-reduction of land cost by Railway**
- (iii) Railways not agreeing to change the cost sharing of STP.**

13. The above cited reasons given by the Howrah Municipal Corporation has been contested by the Railways on the following grounds:

- (i) *As directed by Hon'ble NGT vide order dated 02.11.2017, South Eastern Railway has already conducted individual hearing of each case and passed eviction orders and thereafter District Magistrate has been requested by the Divisional Railway Manager (Engg.), Kharagpur vide letter No. W/L-CELL/SRC-Jheel dated 23.03.2021 to take suitable action on behalf of State Govt. so that Railways can implement the eviction order against the unauthorized occupants beside Santragachi Jheel which is still awaited. Therefore, citing the non-removal of encroachments as a reason by HMC for not constructing STP and for adopting alternative scheme in their affidavit is not correct and proper. Photocopy of the said letter has been annexed herewith and marked with the letter R/1.*
- (ii) *Land cost is furnished by Land Revenue Department of State Govt. based on which the Land Lease charges are calculated. So if at all the land cost was to be reduced considering the purpose of the project in hand it was to be reduced by Land Revenue Department of Sate Govt. Railway had got no role to play in this."*

In this regard, it is submitted that State Government has already reduced the land cost by around 1/3rd considering the project to be for public purpose. This is evident by the letter of Assistant Secretary to Govt. of W.B. LLR and RR department communicated vide letter No. 2410-LP/242/16-1S dated 05.07.2018. As per this letter the commercial market value is Rs. 3.63 Lakh per decimal whereas the commercial market value of land was Rs. 11.0 Lakh per decimal (as per WB Govt. Website).

This fact was also recorded in the order dated 02.11.2017 of Hon'ble NGT and it was duly submitted by South Eastern Railway during the hearing that due to the reduced cost of land, the project cost would be substantially reduced from initially Rs. 30.00 Cr. to about Rs. 20.00 Cr. Photocopy of the letter dated 02.11.2017 is annexed herewith and marked with the letter R/2.

- (iii) **The share of cost of STP to be borne by Railway had already been decided as 18% (Eighteen Percent) by Hon'ble NGT in its order dated 15.09.2017. Therefore, the question of changing the cost sharing does not arise and citing this as a reason by HMC for adopting alternative scheme is also not correct and proper. Photocopy of the letter dated 15.09.2017 is annexed herewith and marked with the letter R/3."**

14. The Railway Respondents have prayed for some more time and it is also stated that **they have no objection to the new proposed scheme of garland drain and waste stabilization pond which is to be executed on Railway land and within the Railway premises and cost of the project is also to be shared by the Railways, therefore, before accepting the Detailed Project Report (DPR), the Railway would like to scrutinize the proposal/ DPR to examine the following issues:-**

- (i) **Environmental impact of the project,**
- (ii) **Cost sharing of the project by the Railways.**

15. Ms. Paushali Banerjee, learned Counsel, on the other hand, has referred to paragraph 2 of the affidavit of KMDA dated 23.08.2021 which reads as under:

"2. I say that in compliance of the orders of this Hon'ble Tribunal I say the followings:-

- (i) Garland drain to be constructed around all sides of the Jheel including interception and diversion of all outfalls to convey the untreated effluents into the STP.
- (ii) Provisions will be made for a low-cost sanitation treatment process by providing a WSP (Waste Stabilization Pond) STP and two pumping stations one is for incoming and another is for discharging the treated effluent at the outfall point at Kaziranga Khal.
- (iii) There is a small pond belongs to the S.R. Rly. On the opposite side of the road adjacent to the Jhel and it has been discussed that the pond will be converted into WSP. by 'dividing the pond into three parts as required in the process design for treating the waste water by Waste Stabilization Pond (WSP).
- (iv) Accordingly KMDA has already engaged Consultant by floating e N.I.T as per GoWB norms and Work Order has been issued vide memo no. SE (GAP)/W & S/2W-1/2021-22/56 dated 05.07.2021 (Flat-A) for preparation of DPR. The DPR is now final and submitted for approval."

16. Ms. Banerjee also submits that the **Detailed Project Report (DPR) has been prepared by the Kolkata Metropolitan Development Authority on the recommendations which have been duly vetted by Professor Amit Dutta, Department of Civil Engineering, Jadavpur University. She further informs that on this Detailed Project Report, the Railways have given lengthy comments and, therefore, she prays that a Committee may be constituted by the Tribunal to examine this matter SO that the matter can be resolved expeditiously.**

17. **We, therefore, constitute a Committee comprising of the following Members:**

- (i) **Chief Engineer, Kolkata Metropolitan Development Authority;**
- (ii) **Chief Engineer, South Eastern Railways;**
- (iii) **Municipal Commissioner, Howrah Municipal Corporation;**
- (iv) **Professor Amit Datta, Civil Engineer, Jadavpur University; and**
- (v) **District Magistrate, Howrah.**

18. **This Committee shall examine the Detailed Project Report prepared by the KMDA as well as the comments raised by the Railways and thrash out all the issues and file its report before this Tribunal within two months."**

Further consideration vide order dated 1.12.2021

7. The last order which we find it necessary to refer is order dated 01.12.2021 which discusses the latest stand of the authorities of the State of West Bengal as well as Railways as follows:-

4. The paragraphs 9, 10, 11 & 12 of the affidavit are reproduced herein below:-

"9. Until arrangement is made for re-location of the encroachments, **the Government of West Bengal is duty bound to take steps for prevention of pollution of the Santragachi Jheel.** Under the circumstances, it has been decided that:

- i) Bio-Toilets would be set up in the area, along with bins for the use of residents
- ii) Regular waste and garbage removal would be undertaken by Howrah Municipal Corporation.
- iii) Information Communication & Education boards would be placed and awareness generation programmes will be conducted to not pollute the jheel water.
- iv) A dedicated agency will be engaged by the West Bengal Bio diversity Board for bio-diversity management of Santragachi Jheel.
- v) Prevention of periodic reports will be undertaken by the West Bengal Pollution Control Board regarding water quality of Santragachi Jheel.

10. In fact the West Bengal Bio-diversity Board has engaged Nature Mates-Nature Club an agency for vegetation management in 10. Santragachi Wetland. Accordingly, Rs. 8, 10,000/- (Rupees Eight Lakh Ten Thousand only) has been allotted to the said organization. The scope of the work is as follows:

- (i) Removal of water hyacinth retaining 30% of the total area of the Jheel (33 acre);
- (ii) Removal of water hyacinth has to done twice - once during the monsoon and again during winters, before the expected arrival time of migratory birds;
- (iii) Retained vegetation corner should be distributed and managed properly;
- (iv) To create at least 10 floating islands of various sizes (minimum 300 sq ft) with water hyacinth and other bio-materials, keeping conducive conditions for the birds;

- (v) Monitoring and management of the vegetation has to be done upto 31st March, 2022.

Copy of the approval letter issued to Nature Mates along with some photographs, are collectively annexed and marked with letter-R/2.

11. That Howrah Municipal Corporation is also taking steps for removal of solid waste every day, so that no pollutants reach the water body.

Some photographs of regular garbage cleaning drives are annexed herewith and marked as Annexure - R/3.

12. That I have directed the District Magistrate, Howrah to hold another joint inspection with Railways authorities to identify the spots for setting up waste bins and bio-toilets. On 23.09.2021, an inspection was held. But during the inspection the Railway authority refused to assist for setting up of bio-toilets and placing of waste bins without express order of the Hon'ble NGT. District Magistrate, Howrah has been instructed to give a detailed report of the inspection in her affidavit.

It is respectfully submitted that the Government of West Bengal is taking all possible measures to keep the Santragachi Jheel pollution free. Pending removal of encroachments in the way suggested above, the Railways authority may be directed to cooperate with District Magistrate and other State Government Agencies/Departments to allow setting up of bio-toilets and placing of waste bins in the area and to cooperate with the Department of Urban Development & Municipal Affairs for setting up of Sewerage Treatment Plant. Further, the Railways authority may also be directed to provide alternative land for the re-settlement of the encroachers. The State Government is committed to taking all measures as per the solemn directions passed by Hon'ble NGT from time to time."

5. It is stated in paragraph 12 of the affidavit that during the inspection on 23.09.2021, the Railway Authorities have refused to assist for setting up of bio-toilets and placing of waste bins without express order of the NGT.
6. We, therefore, direct the Respondent No.5, South Eastern Railway, to file its affidavit particularly in reply to the, paragraph 12 of the affidavit dated 23.09.2021 filed by the Chief Secretary, Govt. of West Bengal. The Railway Authorities shall also indicate what action has been taken by them to assist the District Magistrate Howrah.

7. One affidavit dated 29.09.2021 has been filed on behalf of the District Magistrate, Howrah; the same is taken on record.
8. In the affidavit of District Magistrate, Howrah, it is stated in paragraph 4 that in the meeting with the representatives of the Railway Authorities, **it was disclosed that 128 number of shops were allotted under a system known as TAHBAZARI, wherein the Railway Authorities have allowed the shopkeepers to run their shops from morning till evening on payment of a daily fee collected by the Inspector of Works. It is also stated that later it was discovered by the Railway Authorities that 160 number of families had made permanent constructions against whom eviction order was later issued. It is also stated that the Urban Development and Municipal Affairs Department, Govt. of West Bengal, has informed that the Detailed Project Report (in short DPR) of the proposed Sewerage Treatment Plant (in short 'STP) at Santragachi has been prepared and the cost of the project will be about 28.82 crores excluding the cost of the land which shall be shared by the State and the Railway Authorities on the basis of the sewerage generation. It is also stated that the proposed STP in the nature of Waste Stabilization Pond is to be constructed belonging in a small pond to the South-Eastern Railways which is situated adjacent to the Santraganchi Jheel.**
9. The affidavit of the Urban Development and Municipal Affairs Department, Govt. of West Bengal, also discloses that the Ministry has confirmed that the encroachment will not cause any hindrance to the laying of the proposed STP channels and the pond as required land is neither encroached nor falls under the encroached area.
10. In our previous order dated 15.09.2017, it has been mentioned that the **Howrah Municipal Corporation generates about 81.93% of sewerage while the Railways generates about 18.07% sewerage. In this view of the matter, the cost as per the DPR is to be borne by the Railway Authorities and by the State Authorities in this ratio.**
11. In paragraph 17 of our order dated 30.09.2021, we had constituted a Committee and the Committee was required to examine the DPR prepared by the Respondent No.12, Kolkata Metropolitan Development Authority (KMDA), as well as the comments raised by the Railways and thresh out all the issues.
12. Ms. Paushali Banerjee, learned Counsel submits that the Committee has inspected the site on 09.10.2021 and the inspection report is almost complete and will be filed within one week.
13. **Let the Committee report along with the copy of the DPR be filed within one week and the e-copy/ soft copy of the**

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same shall be served upon the Applicant as well as the learned Counsel for the other Respondents before filing it in the Tribunal."

Finding and further directions

8. We have heard Learned Counsel for the parties with a view to pass final order in the light of proceedings in the last more than six years. As noted earlier, main issues which call for decision are prevention of pollution of lake by preventing discharge of untreated sewage from the Howrah Municipal Corporation and Railway Colony and removal of encroachments from the buffer zones/periphery of the lake.
9. The earlier orders noted above show that the Municipal Corporation has to treat 82% sewage and Railways 18%. Land is to be given by Railways. Pending dispute is about terms. The Stand of the State Authorities is that they have prepared a rehabilitation housing scheme known as 'Banglar Bari' for resettlement of the encroachers but since the encroachment is on Railways land, the Railways must provide the land.
10. We are of the view that on account of pendency of above dispute, Municipal Corporation Howrah or the Railways cannot claim right to discharge untreated waste into the lake which is a criminal offence. Basic responsibility is of the Corporation to prevent such discharge. Giving land for settling encroacher is not the obligation of the Railways under any law. Thus, the Municipal Corporation Howrah must set up appropriate STP/pollution control mechanism to prevent raw sewage entering into lake as they are generating 82% of sewage. STP along with Garland Drain may be designed and operated so as to comply with standards of water quality of atleast " B " Class, as per orders of this Tribunal in respect of wetlands dated 25.11.2021 in OA No. 351/2019. All sources of sewage and its

carriage system may be properly intercepted and diverted to STP. No garbage be dumped in the lake or its peripheral boundaries.

11. Accordingly, in the interest of protection of lake and the Bird Sanctuary, leaving other pending issues to be resolved at any other appropriate forum as per law, we direct as follows:

- a) Municipal Corporation Howrah may take steps in the light of observations in para 10 above to set up necessary STP along with Garland Drain within four months to prevent discharge of untreated sewage into the lake by incurring cost from its own sources initially and sorting out its claim against the Railways separately.
- b) Cost of STP may be first borne by the State and its claim in respect to monetary liability of the Railway may be sorted out separately at appropriate forum in accordance with law.
- c) The Railway may provide land for the purpose of setting up of STP subject to the property remaining the Railway property without prejudice to its claim for user charges for the said land.
- d) Railways may take steps to remove encroachment within three months from the periphery of the lake to the extent of area falling in its jurisdiction in accordance with law.
- e) The District Administration may provide necessary assistance for such eviction as per law. If any dispute arises in this regard, it will be open to the concerned parties to remedy the same at appropriate forum in accordance with law.

The application is disposed of.

3)

The State PCB may also take action in accordance with the provision of the Water (Prevention and Control of Pollution) Act, 1974 to prevent and remedy pollution.

A copy of this order be forwarded to the Howrah Municipal Corporation, Railway Administration, District Magistrate, Howrah and the State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Saibal Dasgupta, EM

Prof. A. Senthil Vel, EM

July 04, 2022
Original Application No. 06/2016/EZ
SN

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Gmail - I.A. in connection with M.A. No. 22/2023/EZ

Annexure P-3

Gmail

Rajdeep Pramanik <rajdeepramanik5@gmail.com>

I.A. in connection with M.A. No. 22/2023/EZ

1 message

Rajdeep Pramanik <rajdeepramanik5@gmail.com>

Thu, Feb 13, 2025 at 11:30 PM

To: Sibojyoti Chakrabarti <subho.advocate@gmail.com>, subhasdatta@rediffmail.com, ASHOK PRASAD <ashokadvhc@gmail.com>, Amrita Pandey <amritalegal@gmail.com>, Dipanjan Ghosh <dpnjnghsh@gmail.com>, "advocate.paushali@gmail.com" <advocate.paushali@gmail.com>

Sir/Madam(s)

Enclosed please find copies of four interlocutory applications along with all annexure which have been filed in connection with M.A. No. 22/2023/EZ.

You are requested to acknowledge the same.

Enclosed as above.

Regards,
Rajdeep Pramanik, Advocate

4 attachments

-  Adobe Scan 13-Feb-2025 (2).pdf
2672K
-  Adobe Scan 13-Feb-2025 (4).pdf
3346K
-  Adobe Scan 13-Feb-2025 (3).pdf
2639K
-  Adobe Scan 13-Feb-2025 (1).pdf
2802K

Pinku Choudhary

VAKALATNAMA

IN THE HIGH COURT AT CALCUTTA

Hon'ble NGT, EZB, Kolkata

DISTRICT: HOWRAH

Constitutional Writ Civil Criminal Revisional
Appellate Jurisdiction

I.A. No.

Of 2025/EZ

M.A. NO. 22/2023/EZ ⁱⁿ

O.A. NO. 06/2016/EZ ⁱⁿ

Appellant

Petitioner

Prem Hotel

-Versus-

Subhas Dutta & ors.

Respondent

Opposito party

Vakalatnama on behalf of Prem Hotel, through its Proprietor Pinku Choudhary Knows all

men be these presents that by this Vakalatnama I/We appoint the Advocates Pleaders noted below or any one of them as my/our lawful Advocate or Advocates for filing the memorandum of appeal or petition in the above matter for appearing and conducting and arguing the same for depositing or Withdrawing any money in connection therewith, for moving the Court in any matter connected therewith for preparing the Paper Book in the case and for putting in papers, petition etc. on my/our behalf for filing or taking back any documents for withdrawing suits or appeals or petitions with permission to institute fresh suits, appeals, petition etc. for signing and filing the petitions of compromise in connection with the said matter and for taking copies of paper from the Record and I/We further say that any act done by my/our said Advocate or Advocates or by any one of them after accepting this Vakalatnama, shall be considered as my/our own true and lawful act.

And I/We further hereby agree and undertake to pay the said Advocate or Advocates his or their fees as settled and all others sums that may be necessary to carry out the requisition of the Court and otherwise to enable the said Advocate or Advocate's to conduct the case properly, failing which the said Advocate or Advocates after notice to me/us will be at liberty to withdraw from the further conduct of the case.

IN WITNESS WHEREOF I/we sign and execute this vakalatnama, on this the 13th day of February 2025

NAME OF THE ADVOCATE

RAJDEEP PRAMANIK

ADVOCATE

C/o, ATARUP BANERJEE
HIGH COURT, CALCUTTA

Ph: 7044 771667

Enrolment No:- F/2117/2018/2022

Received from the executant
Satisfied & Accepted

Rajdeep Prantik
Advocate

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
I. A. No. of 2025/EZ

IN
M. A. No. 22/2023/EZ
IN
(Arising out of ORIGINAL APPLICATION
NO. 06/2016/EZ)

In The Matter of:

PREM HOTEL

... Applicant

Versus

Subhas Dutta & Ors.

... Respondents



13 FEB 2025

INTERLOCUTORY APPLICATION ON
BEHALF OF THE APPLICANT

Rajdeep Pramanik
Advocate
C/o Atarup Banerjee
Advocate
Bar Association, Room No.-1,
High Court, Calcutta
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