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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA, WEST BENGAL
ORIGINAL APPLICATION No. 111/ 2024/EZ

In The Matter of:

Subhas Datta

... Applicant

Versus

State of West Bengal & Ors.

... Respondents

COUNTER AFFIDAVITON BEHALF OF THE RESPONDENT NUMBER 09,
M/S AARPEE MINERALS & AGGREGATES

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Filed by

Krishnendu Bera

KRISHNENDU BERA

Advocate

For Respondent Number 09

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19 MAR 2025

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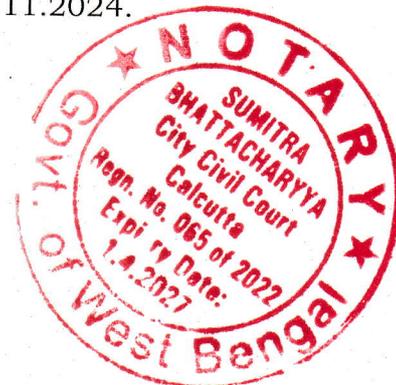
**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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In The Matter of:
Subhas Datta
... .. Applicant
Versus
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..... Respondents

SECOND SUPPLEMENTARY AFFIDAVIT ON BEHALF OF THE
RESPONDENT NUMBER 09, M/S AARPEE MINERALS & AGGREGATES

I, Madan Sharma, s/o Laxmi Prashad Sharma, aged 52 years, by faith- Hindu and by occupation-business, presently residing at, oaks, Rose Bank, Near Shiva Mandir, Darjeeling, P.O&P.S- Darjeeling, west Bengal, do hereby solemnly affirm, and submit as follows:

1. That I am one of the partner's of M/s Aarpee Minerals & Aggregates, a partnership firm having its registered office at Premises No. 883/N/282/883, Ashram Para, P.O & P.S- Siliguri, Pin: 734001, Siliguri, District: Darjeeling, West Bengal, I am competent to swear and affirm this affidavit for and on behalf of the partnership firm namely M/s Aarpee Minerals & Aggregates.
2. That this respondent was impleaded as a party respondent as per I.A. No. 61 /2024 /EZ preferred by this respondent.
3. That thereafter this respondent had already filed affidavit dated 07.11.2024 and the same has also been taken on record by the Hon'ble Tribunal vide Solemn Order 22.11.2024.



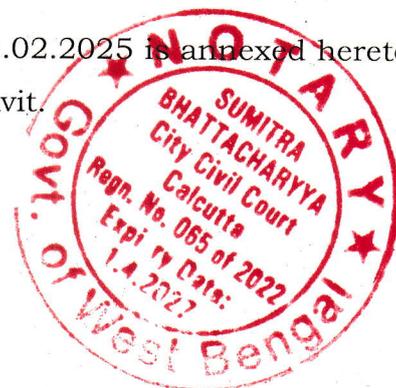
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4. It is pertinent to mention at this juncture certain subsequent events which happened during the pendency of the instant original application and required to be placed before this Hon'ble Tribunal for the proper adjudication of the instant original application as stated in the instant supplementary affidavit for this respondent craves leave of the Hon'ble Tribunal to file this supplementary affidavit.
5. That in the supplementary affidavit dated 21st January, 2025 the applicant stated that one Mr. Raja Gupta had already filed an application being W.P.A No 02 /2023 before the Hon'ble High Court at Calcutta and subsequently two Orders have been passed in the said writ petition vide solemn orders dated 09.01.2023 and 03.04.2023 and finally vide Order dated 03.04.2023 the matter has been withdrawn by the writ petitioner.
6. That on the basis of complaint lodged by Shri Subhas Dutta, CA & Environment Activist an inspection was held on 15.07.2024 and pursuant to the certain observations were made by the inspecting officials and a directions were issued vide Memo dated 06.09.2024.

Copy of the said Memo dated 06.09.2024 is annexed hereto and marked with the letter 'A' to this affidavit.

7. That once again a similar complaint is lodged by one Mr. Ratan Lakhotia of Chunnabhatthi, Bagrakote, Dargeeling- 734501 who is not residing in the vicinity of the unit of the private respondent and for the same once again the instant respondent was directed to appear on 17th February, 2025 before the Environmental Engineer (O&E) & Member & Convenor, West Bengal Pollution Control Board. That the private respondent duly attended the said hearing and duly submitted his written statements.

Copy of the said Memo dated 12.02.2025 is annexed hereto and marked with the letter 'B' to this affidavit.



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8. It is submitted that one after another similar complaints are lodged as well as writ petition also filed before the Hon'ble High Court at Calcutta by different unknown persons only with an intention to harras the instant respondent and later on said complaints and/or proceedings are withdrawn for some unknown reasons. That the W.B Pollution Control Board is fully aware that the Hon'ble Tribunal is in seize of the instant original application and even after knowledge of the same the said Pollution Control Board are entertaining this stereotype, tailormade complaints inspite of full knowledge of the same that similar issue is pending for final adjudication.
9. It is respectfully submitted and prayed before this Hon'ble Tribunal to direct the West Bengal Pollution Control Board not to entertain similar complaint further through unknown persons, particularly of the fact that similar proceeding is pending before this Hon'ble Tribunal for final adjudication and stay of all further proceedings pending before the West Bengal Pollution Control Board.
10. That it is most humbly submitted that this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice and that the deponent has high regard to the Order/Orders as passed by this Hon'ble Tribunal.

Identified by me

Krishmendu Bera
Advocate

Madam Shasmita

Deponent

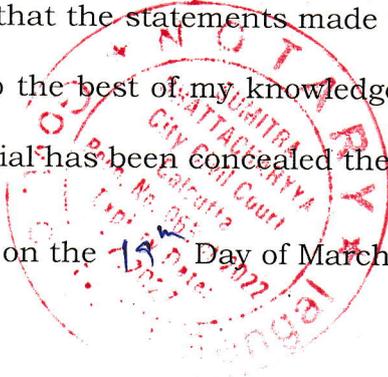


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VERIFICATION:

I, Madan Sharma, s/o Laxmi Prashad Sharma, the deponent 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 19th Day of March, 2025.



Madan Sharma
Deponent

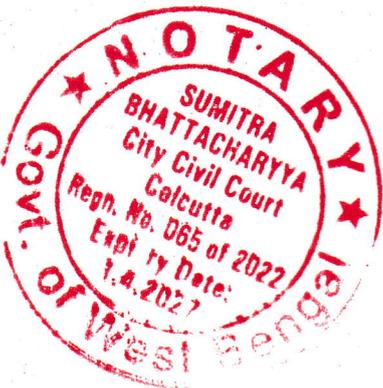
Identified by me
Krishmendu Bose
Advocate

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

Sumitra Bhattacharyya



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



19 MAR 2025



LIFE
Lifestyle for
Environment

WEST BENGAL POLLUTION CONTROL BOARD

(Department of Environment, Government of West Bengal)

Paribesh Bhawan, 10A, Block - LA, Sector III, Bidhannagar

Kolkata - 700 106, Ph. No.: 2202-3097/3096

Website: www.wbpcb.gov.in, Email: net.wbpcb-wb@bangla.gov.in

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5A

Memo No.

- IM-11/2009 (Part-XI)

Date: /09/2024

DIRECTION

WHEREAS, M/s. Aarpee Minerals & Aggregates (hereinafter referred to as the unit) located at Sevoke, JL no. 2, Mouza-Sevoke Forest, P.S.-Kurseong, Dist.-Darjeeling, Pin-734 320 was inspected by the West Bengal Pollution Control Board (hereinafter referred to as the State Board) official on 15/07/2024 following a complaint raised by Shri Subhas Dutta CA & Environmental Activist which was forwarded through Ministry of Environment, Forest & Climate Change, Govt. of India regarding illegal operation of stone crusher unit near Sevoke Rail crossing of NH-10 on the Teesta River as well as within Eco Sensitive Zone of Mahananda Wild Life Sanctuary violating all the environmental norms. During inspection the following observations were made by the inspecting official:-

- The unit is situated on the flood plain of the river Teesta near Sevoke Rail crossing of NH-10, Darjeeling. Unit premises is of triangular shape. Front portion is connected with main land of Sevoke Rail crossing of NH-10. Teesta River and Nandi Jhora (from Sukna Forest) pass away through the remaining two sides of the unit. Upstream of the Teesta River is diverted away from the unit side by stacking huge amount of river bed materials along with stone dust of the unit as observed during present inspection. There was no demarcation of the unit premises and the river bed. Unit premises is at slightly higher altitude than that of river bed.
- There was no boundary wall around the periphery of the unit.
- The unit was running with 02 nos. Primary Crusher, 02 nos. Secondary Crusher, 02 nos. Screen and 10 nos. Conveyor belts. No arrangement for covering these machineries was observed.
- Also, the unit has not installed any air pollution control device for primary crusher/secondary crusher/screen. The unit has not installed telescopic chute for drop down the products from final discharge point of each conveyor belt to ground level.
- Boulders, different sized stone chips (products) and stone dusts (by products) were found to be stored in open area within the unit premises.
- There was no concrete/metalled road for movement of vehicles within the unit.
- There was no water sprinkling arrangement at strategic location within unit premises.
- Locational geo-coordinates of the unit were measured. As per measured geo coordinates of the unit, it appears that the unit is located almost on the periphery of the protected boundary wall of Mahananda Wilf Life Sanctuary of West Bengal.

AND WHEREAS, IRCON International Ltd., A Govt. of India Undertaking has allotted 2 acre of Railway land to set up crusher plant to the five executing agencies namely M/s. ITDCIL, M/s. GECPL, M/s. CS-Dhorajia JV, M/s. Patel Engineering Ltd. & M/s. Apco Infratech Ltd. and the request of all the above agencies to engage M/s. Aarpee Minerals & Aggregates, Sevoke, JL No. 2, Mouza-Sevoke Forest, Darjeeling to set up and operate a stone crusher plant for construction of Sevoke Rangpo New Broad Gauge Rail Line Project has been approved on 26.08.2022 by M/s. IRCON International Ltd.

AND WHEREAS, on 13.04.2022, Chief Conservator of Forests, Wildlife North, Directorate of Forests, Govt. of West Bengal granted NOC to M/s. Aarpee Minerals & Aggregates in public interest to set up a Stone Crusher Plant on the Teesta River bed on the existing railway land at Sevoke near Bridge no 52 along with permission for collection of stone boulders from the said river bed.

AND WHEREAS, on 10.03.2021, Sevoke Gram Samaj Sewa Samiti forwarded NOC of M/s. Aarpee Minerals & Aggregates for installation of stone crusher plant to the District Magistrate, Darjeeling. Subsequently Sittong III Gram Panchayet, Kurseong-Darjeeling granted trade license to the said unit.

AND WHEREAS, on 29.09.2022, Sub-Divisional Officer, Kurseong granted Consent to Establish with conditions to M/s. Aarpee Minerals & Aggregates at Sevoke, JL 02, Mouza-Sevoke Forest, Darjeeling and subsequently on 22.12.2022, the unit was granted Consent to Operate by the SDO, Kurseong for 5 years.

AND WHEREAS, M/s. Aarpee Minerals & Aggregates at Sevoke, JL 02, Mouza-Sevoke Forest, Darjeeling was called for a hearing on 23/07/2024 at the Head office of the Board. Shri Subhas Dutta, complainant was also requested to remain present during the hearing, but nobody on behalf of the complainant was present in the hearing. Shri Ratan Kr. Garg, Partner of the unit appeared in the hearing and submitted that it is a national project (railway project) and IRCON International Ltd., A Govt. of India Undertaking has given permission to them for setting up a stone crusher plant at the said location. They have also obtained permission from the SDO, Kurseong and they are carrying out mining activity with the permission of Directorate of Forests, Govt. of West Bengal.

AND WHEREAS, during the course of hearing, the unit was directed to submit an undertaking within seven days from the date of hearing regarding using/giving/selling of product materials to any other location/agency/person except only five executing and approved agencies by M/s. IRCON International Ltd., for construction of Sevoke Rangpo New BG Rail Line Project namely M/s. ITDCIL, M/s. GECPL, M/s. CS-Dhorajia JV, M/s. Patel Engineering Ltd. & M/s. Apco Infratech Ltd. including details of GST bills. But the unit did not submit the same.

AND WHEREAS, the technical committee opined that on the basis of the NOC granted by the Chief Conservator of Forests, Wildlife North, Directorate of Forests, Govt. of West Bengal on 13.04.2022 and Consent to Establish granted by the Sub-Divisional Officer, Kurseong on 29.09.2022 to M/s. Aarpee Minerals & Aggregates, the unit may be allowed to operate the stone crusher plant at the said location. The committee also opined that when the unit will have no valid permission of Directorate of Forests, Govt. of West Bengal, the State Board will not allow to operate the stone crusher unit at the said location.

NOW THEREFORE, considering the above, M/s. Aarpee Minerals & Aggregates located at Sevoke, JL no. 2, Mouza-Sevoke Forest, P.S.-Kurseong, Dist.-Darjeeling, Pin-734 320 is hereby directed as follows:-

1. **That**, the unit shall submit an undertaking at the earliest regarding using/giving/selling of crushed materials to any other location/agency/person except only five executing and approved agencies by M/s. IRCON International Ltd., for construction of Sevoke Rangpo New BG Rail Line Project namely M/s. ITDCIL, M/s. GECPL, M/s. CS-Dhorajia JV, M/s. Patel Engineering Ltd. & M/s. Apco Infratech Ltd. including details of GST bills.
2. **That**, the unit shall operate its stone crusher plant with strict compliance of the Environmental Guidelines (copy enclosed) published by the Central Pollution Control Board dated July, 2023.
3. **That**, the unit shall take necessary steps for minimization of dust pollution by installing dust suppression system. Air pollution control device for primary crusher/secondary crusher screen should be installed.
4. **That**, the unit shall install telescopic chutes to drop down the products from final discharge point of each conveyor belt to ground level.
5. **That**, the unit shall keep boulders, different sized stone chips and stone dusts under the shed covered with tarpaulin sheet within the unit premises.
6. **That**, the unit shall take necessary steps for concretization of roads for movement of vehicles within the unit.

7. **That**, the unit shall install sufficient water sprinkler at strategic location within the unit premises so as to mitigate dust pollution.
8. **That**, the unit shall take necessary steps for construction of high boundary wall/wind breaking wall around the periphery of the unit in order to restrict spreading of dust from the plant. An action taken report in regard to the above mentioned direction is to be submitted to the State Board at the earliest.

The Asst. Environmental Engineer & In-charge, Siliguri Regional Office is requested to oversee the compliance of Board's direction.

This direction is issued in exercise of the powers conferred under the provision of Section 33A of Water (Prevention & Control of Pollution) Act, 1974, Section 31A of Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and Rules made there under after being approved by the Competent Authority.

By Order,

Sd/-
Officer-on-Special Duty
(Operation & Execution)
West Bengal Pollution Control Board

Memo No. 10065(4) - IM-11/2009 (Part-XI)

Date: 06/09/2024

Copy forwarded for information and necessary action to:-

1. M/s. Aarpee Minerals & Aggregates, Sevoke, JL no. 2, Mouza-Sevoke Forest, P.S.-Kurseong, Dist.-Darjeeling, Pin-734 320
2. The Chief Engineer, Planning & EIM Cell, WBPCB
3. The Senior Law Officer, WBPCB
- ✓ 4. Smt. Paushali Mukherjee (Pahari), Sr. Law Officer, WBPCB
5. The Asst. Environmental Engineer & In-charge, Siliguri Regional Office, WBPCB
6. T.A. to the Member Secretary, WBPCB
7. P.A. to the Chairman, WBPCB
8. Shri Subhas Dutta, S.R. Dutta Associates, 17, Sagar Dutta Lane, Kolkata-700 073
9. Technical Cell, WBPCB for updating the website
- 10 Environment Officer- Communication, WBPCB – for circulation through float file
- 11 Guard file of O & E Cell

SM
Officer-on-Special Duty
(Operation & Execution)
West Bengal Pollution Control Board



LIFE
Lifestyle for
Environment

WEST BENGAL POLLUTION CONTROL BOARD
(Department of Environment, Government of West Bengal)
Paribesh Bhawan, 10A, Block - LA, Sector III, Bidhannagar
Kolkata - 700 106, Ph.: 2335-9088/8861/7428, Fax: 2335-2813
Website: www.wbpcb.gov.in, Email: net.wbpcb-wb@bangla.gov.in

Memo No

-IM-11/2009(Pt-XII)

Date:

/02/2025

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DIRECTION FOR APPEARANCE

Based on complaints, M/S Aarpee Minerals & Aggregates located at Sevoke, JI No.2, Mouza-Sevoke Forest, P.S.-Kurseong, Dist- Darjeeling is hereby directed to appear before the State Board on 17th February, 2025 (Monday), at 12.00 Hrs at "Paribesh Bhawan", 10A, Block - LA, Sector - III, Salt Lake City, Kolkata - 700106 for giving an another opportunity through a hearing as a means of natural justice..

The unit is requested to remain present on the said hearing through its Managing Director/Director/General Manager/Proprietor/Partner/occupier accompanied by concerned technical person along with all relevant papers including statutory licenses like copy of Environmental Clearance, the Consent to Establish & Consent to Operate etc. The unit may make a written submission during the hearing regarding non-compliances observed during inspection as mentioned above

Self
Environmental Engineer (O&E)
& Member & Convener - Technical Cell
West Bengal Pollution Control Board.

Memo No 10.616/1 -IM-11/2009(Pt-XII)

Date: 12/02/2025

Copy to:

- ✓ 1. M/S Aarpee Minerals & Aggregates located at Sevoke, JI No.2, Mouza-Sevoke Forest, P.S.-Kurseong, Dist- Darjeeling
2. Mr Ratan Lakhota, Chunaabhatthi, Bagrakote, D.F.I., Paringar, Khasmahal, Parbing Tar, Darjeeling-734501-is requested to remain present during hearing

[Signature]
12/02/25
Environmental Engineer (O&E)
& Member & Convener - Technical Cell
West Bengal Pollution Control Board.

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST
BENGAL**

O.A. No. 111/2024/EZ



In the matter of :

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.....Applicant

-Versus-

State of West Bengal & Ors.

....Respondents.

**SUPPLEMENTARY AFFIDAVIT ON
BEHALF OF RESPONDENT NO. 9**

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