

S.L. No. 139

1

Before the Hon'ble National Green Tribunal, Eastern Zone
Bench at Kolkata

MEMORANDUM OF APPLICATION

[Under Section 18(1) read with sections 14 & 15 and under
Section 18 (2) of the National Green Tribunal Act, 2010]

Original Application No. 101 /2025/EZ

Ankur Sharma

..... Applicant

-Versus-

The State of West Bengal & Ors.

..... Respondents



Compilation – I

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Ankur Sharma

Ankur Sharma

(Applicant-in-person)

Mobile No. 9433883322

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23 MAY 2025

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Compilation – II

Sl	Particulars	Annexures and page no.
1.	Copy of complaint vide email sent to the authorities.	'P-1' (31)
2.	Copy of complaint sent to the Chief Secretary, GoWB.	'P-2'(32)
3.	Photocopy of the application and reply of the SPIO.	'P-3'(33-36)
4.	Copy of relevant page of minutes of meeting of SEIAA, West Bengal.	'P-4'(37-38)
5.	Photocopy of the said email dated 08.04.2025.	'P-5' (39-40)
6.	Copy of the said solemn order.	'P-6' (41-65)
7.	Some photographs of the site.	'P-7'(66-73)



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Original Application No. /2025/EZ

IN THE MATTER OF :

Ankur Sharma son of Shri
Ambooj Sharma, resident of
13/3, Dr. P. K. Banerjee Road,
P.O., P.S. & District – Howrah,
West Bengal, PIN – 711101.

.....Applicant

-VERSUS -

1. The State of West Bengal represented by the Chief Secretary, Government of West Bengal having office at NABANNA (13th Floor), 325, Sarat Chatterjee Road, Shibpur, Howrah - 711102. Email : cs-westbengal@nic.in
2. Ministry of Environment, Forest and Climate Change, Government of India through its Secretary having office at



Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi -
110003. Email : secy-
moef@nic.in

3. Central Pollution Control
Board through by its Member
Secretary having office at
PARIVESH BHAWAN, East
Arjun Nagar, Delhi - 110032.

Email : mscb.cpcb@nic.in

4. The Additional Chief
Secretary, Department of
Environment, Government of
West Bengal having office at
PRANISAMPAD BHAWAN,
Block (5th floor), LB-II, Salt
Lake, Sector-III, Bidhannagar,
Kolkata – 700 106.

Email : acsenvwb@gmail.com

5. State Environment Impact
Assessment Authority, West
Bengal through its Member
Secretary having office at
PRANISAMPAD BHAWAN,
Block (5th floor), LB-II, Salt
Lake, Sector-III, Bidhannagar,



Kolkata - 700 106. Email :
environmentwb@gmail.com

6. West Bengal Pollution Control Board represented by its Member Secretary having office at PARIBESH BHAVAN, 10A, Block - L.A., Sector - III, Salt Lake City, Kolkata - 700 106. Email :
ms.wbpcb-wb@bangla.gov.in

7. Department of Irrigation & Waterways Department, Government of West Bengal through its Principal Secretary having office at JALASAMPAD BHAWAN, 1st floor, Bidhannagar, Saltlake, Kolkata - 700091. Email: iwd.prsecy@gmail.com

8. State Water Investigation Directorate, West Bengal through its Director having office at Nirman Bhavan, DF Block, Sector-I, Bidhannagar, West Bengal, PIN - 700091. Email:directorswid@gmail.com

9. The District Magistrate, South 24 Parganas having



office at 25, Belvedere Road,
Alipore, Kolkata, West Bengal,
PIN - 700027

Email : dm-ali@nic.in

10. South 24 Parganas Zilla
Parishad through its Executive
Officer having office at New
Administrative Building, 2nd
floor, Biplabi Kanai
Bhattacharya Sarani, Alipore,
Kolkata, PIN – 700027.

Email : dm-ali@nic.in

11. Pawanputra Tradecom
Private Limited through one of
its Directors Ms. Seema Jain
having office at Shrachi
Tower, 686 Anandapur,
Eastern Metropolitan Bypass,
R. B. Connector Junction, P.O.
– Madurdaha, P.S. –
Anandpur, South 24 Parganas,
PIN – 700107. Email:
companysecretary@shrachi.com



12. Gagan Tradelink Private
Limited through one of its
Directors Ms. Seema Jain
having office at Shrachi

Tower, 686 Anandapur,
 Eastern Metropolitan Bypass,
 R. B. Connector Junction, P.O.
 – Madurdaha, P.S. –
 Anandpur, South 24 Parganas,
 PIN – 700107. Email:
 companysecretary@shrachi.com

13. Shrachi Keventer Abasan
 Private Limited through one of
 its Directors Shri Sashank
 Shah having office at Shrachi
 Tower, 686 Anandapur,
 Eastern Metropolitan Bypass,
 R. B. Connector Junction, P.O.
 – Madurdaha, P.S. –
 Anandpur, South 24 Parganas,
 PIN – 700107. Email:
 companysecretary@shrachi.com

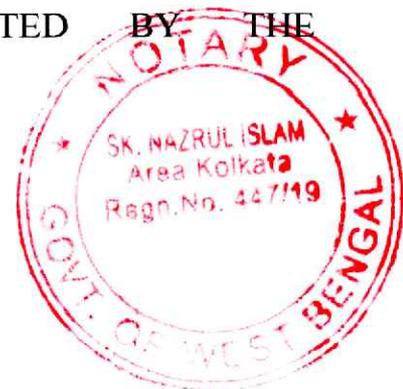
.....Respondents

TO

THE HON'BLE CHAIRMAN AND HIS COMPANION
 MEMBERS OF THE NATIONAL GREEN TRIBUNAL.

Synopsis

HUMBLE APPLICATION SUBMITTED BY THE
 APPLICANT ABOVE NAMED



The Applicant is an Advocate by profession and has been working, amongst others, for protection of environment and water bodies in the state of West Bengal.

The instant Application has been filed by the Applicant against the construction of a massive housing complex without obtaining prior environmental clearance from the SEIAA, West Bengal in close proximity of the East Kolkata Wetlands in the name of 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza – Chanda Kanthalberia, J. L. No. 8, Block – Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN – 743502. The Respondent No. 11 to 13 herein, the owners and promoter/developer are constructing the said complex in violation of environmental norms and laws.

It is submitted that the present Application has been made seeking for appropriate directions to stop all construction activities, demolition of all buildings/concrete structures/constructions already raised without prior Environmental Clearance (EC), Consent to Establish/Operate from West Bengal Pollution Control Board, imposition of hefty environmental compensation and penalty upon the erring owners and developers.

The project proponents attempted to divide a single project into four in guise of identifying each with a separate and different phase number to escape compliance of EIA, Notification 2006.

This Hon'ble Tribunal had earlier passed orders in a similar type Application filed by the Applicant being O.A. no. 32 of 2021 (EZ (Ankur Sharma vs. The State of West Bengal & Ors.).



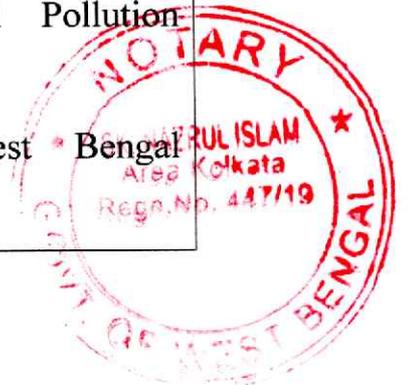
It has become common practice in the State of West Bengal that project proponents attempt to divide a single project into various phases to evade falling under the provisions of EIA, Notification, 2006 that has already been countermand by this Hon'ble Tribunal.

The impugned project is situated near East Kolkata Wetlands and any kind of pollution has severe impact on ecology of the East Kolkata Wetlands – a Ramsar Site. The owners and developers have also constructed a pathway upon a canal/channel which is blocking the flow of the canal/channel. The said canal/channel passes along the East Kolkata Wetlands and any pollutant released into the said canal/channel causes irreparable damage to the East Kolkata Wetlands.

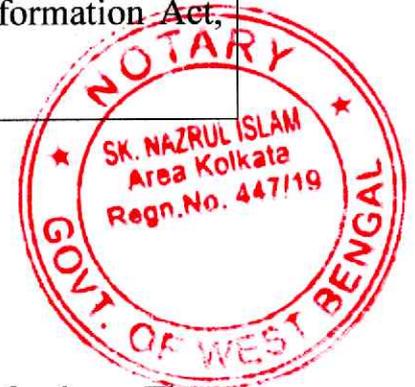
Your Applicant lodged complaints with the authorities but in spite of repeated complaints no effective step was taken by the Respondent Authorities, and finding no alternatives the Applicant has been compelled to approach this Hon'ble Tribunal for justice.

List of Dates

30/12/2024	<p>Email to :</p> <p>(i) The Member Secretary, State Environment Impact Assessment Authority, (SEIAA), West Bengal ;</p> <p>(ii) The Chairman, West Bengal Pollution Control Board ;</p> <p>(iii) The Member Secretary, West Bengal Pollution Control Board</p>
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31/12/2024	Email to the Chief Secretary, Government of West Bengal.
17/01/2025	SEIAA, West Bengal discussed the complaint of the Applicant against Newtown Villas in its meeting 59 th dated 17.01.2025 and decided to seek explanation from the project developers regarding the allegation made in the complaint without stipulating any time period.
07/04/2025	The Applicant made an Application under section 6 of the Right to Information Act, 2005 with the SPIO, State Environment Impact Assessment Authority, (SEIAA), West Bengal ;
08/04/2025	The Applicant lodged another complaint with SEIAA, West Bengal and West Bengal Pollution Control Board.
22/04/2025	The SPIO, SEIAA, West Bengal provided information to the Applicant in connection with the Application u/s 6 of the Right to Information Act, 2005.



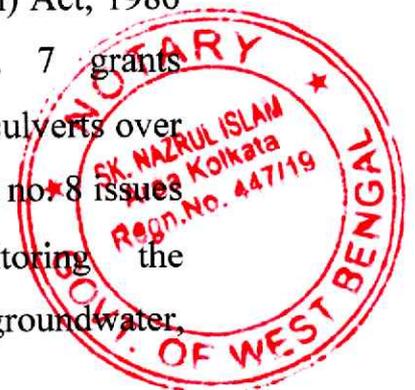
FACTS IN BRIEF

MOST RESPECTFULLY SHEWETH :

1. That the Applicant is an Advocate by profession. The Applicant is working, amongst others, for protection of the environment and water bodies and protection of the right to a clean environment for every citizen guaranteed under Article 21 of the Constitution of India, 1950 and in discharge of his duty under Article 51A he raised his voice in past against

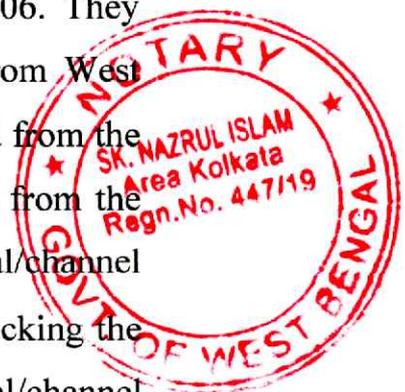
many other illegalities throughout State of West Bengal, particularly against air pollution, filling of water bodies, pollution by fish markets, conversion of the cities into concrete jungles, pollution of river Hooghly, devastation of East Kolkata Wetlands, pollution by crematoriums etc. The Applicant is filing the instant application under Section 14 and 15 read with section 18 of the National Green Tribunal Act, 2010.

2. That the Respondent no. 1 herein is the head of all other State Respondents. The Respondent no. 2 introduced the EIA Notification, 2006. The Respondent no. 3 provides technical assistance and guidance to the State Pollution Control Boards, carries out and sponsors investigation and research relating to problems of water and air pollution, and for their prevention, control or abatement. The Respondent no. 4 herein is responsible for preservation of environment and ecology in the State of West Bengal. The Respondent no. 5 is responsible for implementing the EIA Notification, 2006 and granting prior Environmental Clearance (EC) in West Bengal. The Respondent no. 6 herein is the regulatory authority for implementation of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and Rules thereunder. The Respondent no. 7 grants permission for discharging sewage, constructing culverts over canals/channels maintained by it. The Respondent no. 8 issues permit for groundwater extraction, monitoring the groundwater Level and carries assessment of groundwater.



etc. The Respondent no. 9 is the head of the district administration. The Respondent no. 10 is the local civic body. The Respondent nos. 11 to 13 are the project proponents.

3. That the Applicant is filing this Application against gross pollution and environmental damages being caused due to illegal construction of a housing complex without obtaining prior Environmental Clearance (EC) from SEIAA, West Bengal and Consent to Establish/Operate from West Bengal Pollution Control Board in the name of 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza – Chanda Kanthalberia, J.L. No. 8, Block – Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502 in close proximity of East Kolkata Wetlands – a Ramsar Site (hereinafter for the sake of brevity referred to as the 'said project').
4. The Respondent Nos. 11 to 13 are the owners and promoter/developer of the project who have been carrying construction activities without obtaining Environmental Clearance (EC) from the SEIAA, West Bengal which is a gross violation of the Environment (Protection) Act, 1986 and Environmental Impact Assessment Notification, 2006. They have also not obtained any Consent to Establish from West Bengal Pollution Control Board. It has been revealed from the site that a huge means of ingress and egress to and from the project site has been constructed over a natural canal/channel forming part of East Kolkata Wetlands which is blocking the flow of the said canal/channel. Further, the said canal/channel

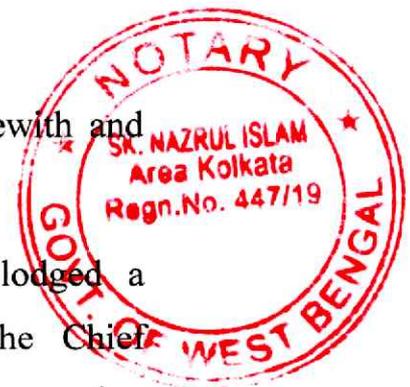


passes along the East Kolkata Wetlands and any pollutant released into the said canal/channel causes irreparable damage to the East Kolkata Wetlands.

5. That the ecology of the said area is being devastated due to construction of said housing complex without proper environmental impact assessment. Cement, sand etc. are lying scattered openly within the project site in uncovered condition, no screen covers are provided for the blocks under construction. Thus, polluting the air grossly. It is further gathered from the locale that ground water is being illegally extracted by the unit to further worsen the situation.
6. That the Applicant lodged a complaint vide email dated 30.12.2024 with (i) the Member Secretary, SEIAA, West Bengal (ii) the Chairman, West Bengal Pollution Control Board, (iii) the Member Secretary, West Bengal Pollution Control Board, inter alia, requesting to cause an inspection at site, and take stern steps as may be warranted including stopping all construction activities at the site besides imposing exemplary environmental compensation upon the violators/polluters.

A photocopy of the said email is annexed herewith and marked by the letter and figure 'P-1'.

7. Your Applicant states that the Applicant also lodged a complaint vide email dated 31.12.2024 with the Chief Secretary, Government of West Bengal, inter alia, requesting to direct the Member Secretary, State Environment Impact Assessment Authority (SEIAA), West Bengal and the Member Secretary, West Bengal Pollution Control Board to



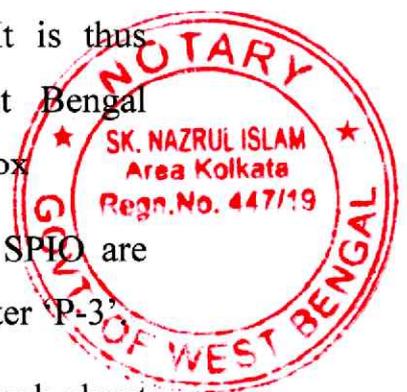
cause an inspection at site and take stern steps as may be warranted including stopping all construction activities at the site besides imposing exemplary environmental compensation upon the violators/polluters.

A photocopy of the said email is annexed herewith and marked by the letter and figure 'P-2'.

8. Your Applicant states that the Applicant on 07.04.2025 made an Application u/s 6 of the Right to Information Act, 2005 to the State Public Information Officer, SEIAA, West Bengal, inter alia, sought a copy of action taken report, inspection report and copy of any stop work notice issued against the project in connection with the Applicant's complaint vide email dated 30.12.2024. The SPIO vide letter dated 22.04.2025, inter alia, informed the Applicant that the Applicant's complaint against Newtown Villas was discussed by SEIAA, West Bengal in its meeting 59th dated 17.01.2025 and SEIAA, West Bengal decided to seek explanation from the project developers regarding the allegation made in the complaint without stipulating any time period. It is thus capable of being construed that SEIAA, West Bengal conspicuously threw the matter into a cold storage box

Photocopy of the application and reply of the SPIO are annexed herewith and collectively marked by the letter 'P-3'

9. That it is very alarming that SEIAA, West Bengal took about five months to simply discuss the complaint in one of its meetings and seek explanation from the violator of law rather than causing inspection at the site and directing the violator to stop all construction activities. This shows the apathy and



undue favours extended by SEIAA, West Bengal towards the flouters of law thereby allowing them to continue flouting environmental norms and laws continuously.

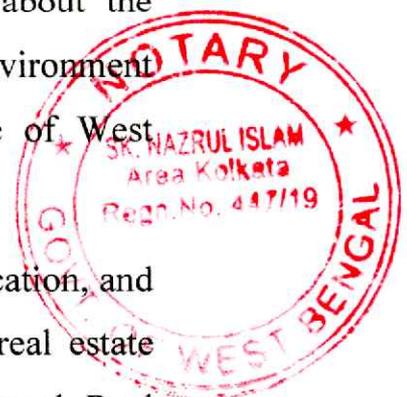
A photocopy of the front page and other relevant page of the minutes of meeting of SEIAA, West Bengal are annexed herewith and marked by the letter and figure 'P-4'.

10. Your Applicant states that upon finding conspicuous inaction of the SEIAA, West Bengal and West Bengal Pollution Control Board the Applicant lodged another complaint with them vide email dated 08.04.2025 and, inter alia, prayed for taking steps as prayed for in the Applicant's earlier email dated 30.12.2024.

A copy of the said email dated 08.04.2025 is annexed herewith and marked by the letter and figure 'P-5'.

11. Your Applicant states that even after repeated complaints and explanation sought by SEIAA, West Bengal construction activities continued which reveals how the Private Respondents showed a thumb to the rule of law and to the statutory authorities. It also laid an impression about the incompetence of the authorities in protecting the environment amidst rule of promoters prevailing in the State of West Bengal.

12. Your Applicant states that before filling this Application, and while gathering more information about the said real estate project he came across the website of West Bengal Real Estate Regulatory Authority (WBRERA) wherein he was even more surprised to find that total built-up area of the

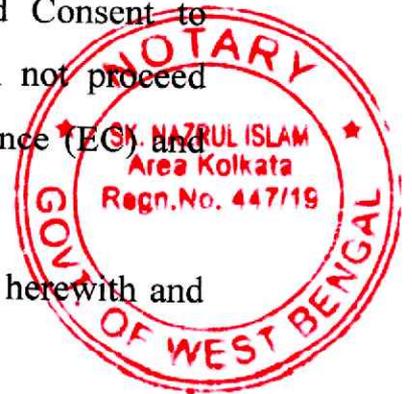


project is 24,316 sq. m. in aggregate where the promoter/developer submitted one single development agreement with the land owners in respect of the project Newtown Villas.

13. That in order to escape from complying with the EIA, Notification 2006 the project proponents attempted to divide a single project into four parts and using separate indicative number attached to those different parts. Similar fraudulent method was adopted by the project proponents of Swayam City. The Applicant filed O.A. no. 32 of 2021/EZ against the said project Swayam City and this Hon'ble Tribunal was pleased, inter alia, to direct the project proponents to pay penalty amount of Rs. 44,48,663/- (Rupees Forty Four Lakhs Forty Eight Thousand Six Hundred Sixty Three only) and Environmental Compensation of Rs. 50,00,000/- (Fifty Lakhs only) amounting to a total sum of Rs. 94,48,663/- (Rupees Ninety Four Lakhs Forty Eight Thousand Six Hundred Sixty Three only) only within one month from passing of the order, and to apply for grant of Environmental Clearance (EC) within one month further directing the project proponents to apply for grant of Consent to Establish and Consent to Operate, and that the project proponents shall not proceed with construction till the Environmental Clearance (EC) and Consent are granted by the authorities.

A copy of the said solemn order is annexed herewith and marked by the letter and figure 'P-6'.

14. In the present case the project proponents have similarly attempted to divide a single project into four in guise of

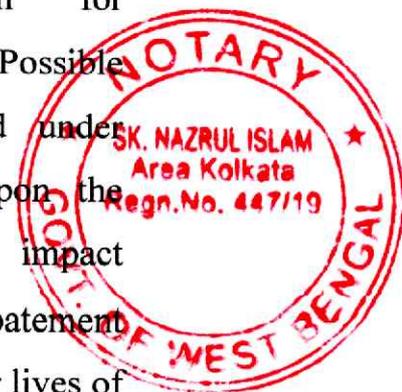


“phases” constructed in contiguous plots within the same project, and did not even make any application for grant of Environmental Clearance (EC). The only difference between the present O.A. and O.A. no. 32 of 2021/EZ is that there is serious and conspicuous inaction of the SEIAA, West Bengal and West Bengal Pollution Control Board in the present case.

15. Your Applicant lastly visited the site on 17.04.2025 and found that construction activities were still continuing and that cement, sand etc. were lying openly at the construction site without bothering for obtaining prior Environmental Clearance.

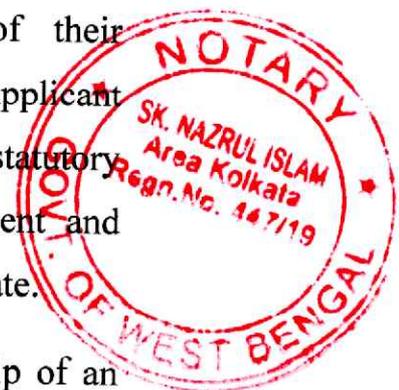
Some photographs of the site are annexed herewith and marked by the letter and figure ‘P-7’.

16. That the project proponents evaded EIA Notification 2006 desperately and conspicuously only aiming at flouting mandatory conditions as ought to have been stipulated by SEIAA, West Bengal upon proper environmental impact assessment. The project is situated in a panchayet area where there is no water supply or drainage facilities. The project proponents have thus drawn groundwater at their whims without making adequate safe provision for drainage/discharge of sewage from the project site. Possible large influx of population within the proposed under construction complex will cause huge burden upon the environment since no proper environmental impact assessment has been carried on nor any pollution abatement measures are being undertaken that will also endanger lives of nearby population. The above canvasses the desperate



approach of the project proponents towards mandatory statutory requirements that needs to be countermand with an iron hand.

17. That the owners and developers have also constructed a pathway upon a canal/channel which is blocking the flow of the canal/channel. The said canal/channel passes along the East Kolkata Wetlands and any pollutant released into the said canal/channel causes irreparable damage to the East Kolkata Wetlands. The Department of Irrigation & Waterways Department, Government of West Bengal ought to have ensured that construction of the pathway upon the canal/channel does not restrict the natural flow of water before granting any permission, if any, at all granted.
18. The statutory authorities that are entrusted with the duty to prevent any illegal and unauthorised construction activities must monitor and take actions where they find any breach of law. In this present case, however, it is observed that even after repeated complaints, the authorities did not take any legal steps as a result of which the illegal construction activity is continuing by polluting the environment as if indulged and patronised by the state authorities by each of their conspicuous inaction towards the violators. Your Applicant wonders that there is barely any seriousness of the statutory authorities of the state in protecting the environment and upholding the sanctity of environmental laws in the state.
19. The Applicant states that the said project is just a tip of an iceberg. Several projects are being constructed throughout the state without having prior Environmental Clearance (EC) and



in violation of environmental norms and laws only due to sheer apathy extended by SEIAA, West Bengal and West Bengal Pollution Control Board that require the attention of the Hon'ble Tribunal with strongest ever exemplary directions to end the menace once for all including against the erring higher ups of the state administration.

20. Appropriate directions of varied dimensions and of serious consequences in accordance with the law are required to be passed by this Hon'ble Tribunal to protect the environment in and around 'Newtown Villas' at L. R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza – Chanda Kanthalberia, J.L. No. 8, Block – Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502 and such other or further orders to penalize the polluters, demolition of all structures raised without prior Environmental Clearance (EC), and execution of remedial measures for recovering the damages already caused to the environment. The Hon'ble Tribunal may kindly like also to issue stern directions upon the SEIAA, West Bengal and West Bengal Pollution Control Board for not taking any steps against the violators of law thereby enabling them to continue their illegal constructions activities and pollute the environment.

21. It can hardly be disputed that a major part of the State of West Bengal is eco-sensitive and geologically fragile. Indiscriminate, unauthorised constructions all around in guise of development will be opposed to the geographical and ecological characteristics of the State, particularly when such



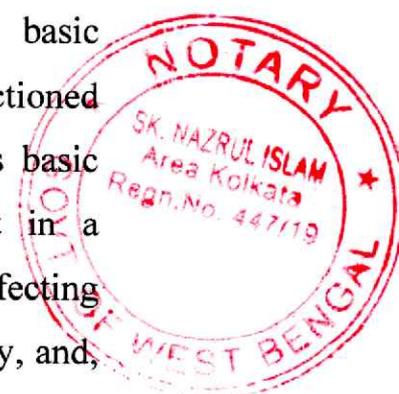
construction activities, projects and developments are carried out in areas which are ecologically sensitive. Such development would be completely opposed to the expected norms of 'Sustainable Development' which finds a statutory expression in the provisions of Section 20 of the National Green Tribunal Act, 2010. Every area has to be developed keeping in mind the limitation expressed by nature itself, and environmental and ecological status of that area. In the present case such unauthorised illegal activities are being carried out in close proximity of the East Kolkata Wetlands – a Ramsar Site of international importance and fame.

22. It is submitted that the conducts of the Respondent Authorities are contrary to every environmental legislation and every principle of environmental protection. In spite of getting knowledge about the damages being done to the nature by the Private Respondents, the authorities chose to sit tight over the issue for their own reasons.
23. The property on which the said housing complex being constructed is originally comprised of green verge and its vicinity is still covered with acres of greenery. The area which was once covered with green verge is now transforming into a concrete jungle. Mushroomisation of illegal constructions is now a common plague spreading throughout the State of West Bengal that too at the instance of a few public authorities.
24. It is submitted that due to rapid growth of the area in terms of development vis-à-vis population explosion around the said project, the environment of the said area is getting highly deteriorated in every aspect. Excessive construction activities



including illegal ones by destroying greenery and without obtaining Environmental Clearance (EC) is causing huge damage to the environment.

25. Your Applicant states that construction of any project having built-up area over 20,000 requires prior Environmental Clearance (EC) as per EIA, Notification 2006 to safeguard the environment from damages.
26. That urbanisation is essential for the development of a state in which the real estate sector plays a very important role. However, such development and urbanisation must be carried on with a sense of responsibility towards the environment.
27. That due to construction of the said complex without proper environmental impact assessment the demography of the entire area changes, and environment is compromised.
28. That numerous complexes/projects are being constructed in the vicinity of the subject unit falling under rural area having no provision of municipal water supply, sewerage, solid waste management, traffic & transportation and other basic infrastructure. The local civic authority has sanctioned building plan without considering that the area lacks basic infrastructural facilities. This will ultimately result in a massive environmental overload in the area affecting groundwater, noise levels, ambient air and water quality, and, lastly, the population residing in and around the project area.
29. It is submitted that the respondents are oblivious to the fact that rampant construction activities without proper environmental impact assessment and without obtaining



Environmental Clearance (EC) is a grave environmental concern.

30. It is submitted that due to aforesaid illegal activities of the Private Respondents the environment in vicinity of the complex including East Kolkata Wetlands and vast stretches of low lying green verges are under threat and getting polluted immensely due to continuous construction activities without complying with pollution abatement measures.
31. It is submitted that the Respondent Authorities have turned a blind eye to the illegal construction activities of the private respondents and flouting of environmental laws and norms as a matter of traditional apathy for their own reasons.
32. It is submitted that numerous construction and other activities in violation of EIA, Notification, 2006 are going throughout West Bengal only due to sheer apathy of the statutory authorities which needs to be countermand. The instant case is only a tip of an iceberg. If similar types of activities are allowed to continue then the environment of West Bengal will turn hostile towards its citizens. In the present case, not just the private respondents are guilty of flouting environmental norms and laws but also all authorities concerned turning blind eyes towards such illegal acts are similarly responsible and ought to be held accountable. The instant case, amongst thousand similar others, of functionaries of the state themselves sabotaging the environment is a glaring example of State itself is sabotaging the Constitution of India that not only calls for environmental compensation even of some crores of rupees imposed upon private respondents but also



requires concerned state authorities guilty of victimising the country's constitution be booked and dealt with exemplary strongest hands of the judiciary, as the case may be. The Applicant is constrained to make this submission as there is no likelihood of any possible change in the circumstances without booking the higher ups of the State whose conspicuous and sustained apathy towards violators of various laws has been leading whole of the State towards permanent destruction obviously for their private reasons.

33. It is submitted that despite of the complaints no actions were taken by the Respondent Authorities. As a result, construction activities are rampantly going on at 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza – Chanda Kanthalberia, J.L. No. 8, Block – Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502 without Environmental Clearance (EC) and Consent. The Respondent Authorities have miserably failed in performance of their duties.

34. It is submitted that the detrimental effects of rampant construction activities without proper environmental impact assessment and without obtaining Environmental Clearance (EC) is a grave concern which needs no elaboration.

35. It is submitted that any stern order in this case will send a strong message to other wrong doers as the Respondents herein do not believe that the orders of the statutory authorities have any meaning and that they can continue to



flout them at will. Time has come that they must learn that it is entirely wrong.

36. The Respondents are in violation of several environmental laws and norms in so far as the manner in which the construction activities of 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza - Chanda Kanthalberia, J.L. No. 8, Block - Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502 is concerned.

37. That the Applicant having felt it necessary to protect the environment, ecology of the area and to uphold the dignity of environmental norms and laws which are being turned into a hoax by the Respondents and other wrong doers spread over throughout the state, your Applicant begs to move the present Application on the following amongst other grounds :

GROUNDS

A. For that the Respondent Nos. 11 to 13 have knowingly devastated the ecology of the area by way of carrying construction activities without obtaining prior Environmental Clearance (EC) from SEIAA, West Bengal for construction of 'Newtown Villas' at L. R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza - Chanda Kanthalberia, J.L. No. 8, Block - Bhangar - II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502.



B. For that the Applicant has informed the government authorities on different occasions vide emails to awaken their conscience which are enclosed for kind consideration of this Hon'ble Tribunal. But to no effect.

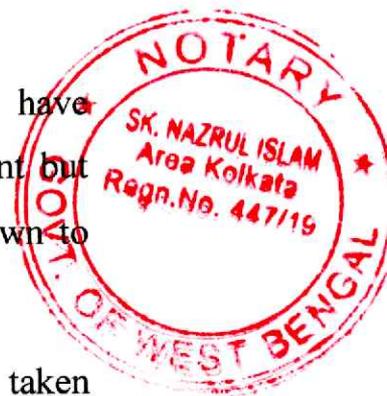
C. For that government authorities ought to have taken stern legal actions against the private respondents who are carrying on illegal construction activities without obtaining prior Environmental Clearance (EC) and Consent from West Bengal Pollution Control Board for construction of the subject project.

D. For that the Respondent Authorities have a duty under the law to ensure that the environment is not polluted due to construction activities without prior Environmental Clearance (EC) or otherwise.

E. For that inaction vis-à-vis failure of the Respondent Authorities to perform their duties has resulted in the present predicament and violation of several environmental laws.

F. For that the Respondent Authorities ought to have prevented the wrong doers from polluting the environment but they kept their hands stayed for private reasons best known to them.

G. For that the Respondent Authorities ought to have taken stern lawful steps against the perpetrators to prevent the ecology of the entire area from devastation and steps to prevent construction and demolish all illegal construction, and impose exemplary environmental compensation and penalty with due process of law, and set an example for other wrongdoers as well.



H. For that the Respondent Authorities ought to have been more vigilant in monitoring the activities around East Kolkata Wetlands, and not sitting tight even after receiving repetitive information of violations.

I. For that the failure of the respondents is violative of several environmental laws. It is also against the concept of sustainable development.

J. For that section 18(1) read with section 14 & 15 of the National Green Tribunal Act, 2010, the Hon'ble Court has ample jurisdiction to adjudicate this matter.

K. For that under section 18(2) of the National Green Tribunal Act, 2010, your Applicant is competent to file this Application before the Hon'ble Tribunal.

LIMITATION:

The Applicant declares that as per the National Green Tribunal Act 2010 this application is well within the prescribed time. The first cause of action arose on 30.12.2024, the last cause of action arose on 17.04.2025 when the Applicant again noticed continuing illegal constructions, and since then the cause of action is continuing daily.



INTERIM RELIEF :

Pending disposal of the Application, the Applicant prays that this Hon'ble Tribunal be pleased to :

A. Constitute a committee comprising of officials from Ministry of Environment Forest & Climate Change, Government of India, Central Pollution Control Board, West Bengal Pollution

Control Board, Department of Environment, Government of West Bengal to visit the site in question and submit a report before this Hon'ble Tribunal along with calculation of environmental compensation, remedial measures for recovering the damages already caused due to illegal construction of 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza - Chanda Kanthalberia, J.L. No. 8, Block - Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502 ;

B. Direct the Respondents to immediately stop all construction activities at 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza - Chanda Kanthalberia, J.L. No. 8, Block - Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN - 743502 ;

C. Direct the Respondents not to permit open dumping of construction debris or any kind of waste, in the canal/channel abutting the said project ;

D. Direct the Respondent Authorities to submit remedial measures for recovering the damages already caused to the environment due to violation of environmental norms and laws, and due to construction of the subject complex ;

E. Direct the Private Respondents to refrain from creating any third party interest over any inch of space within the project 'Newtown Villas' at L.R. Dag nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza - Chanda Kanthalberia, J.L. No. 8, Block -



Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas,
PIN – 743502 till disposal of this Application ;

And pass any such further order or orders as this Hon'ble
Tribunal may deem fit proper and necessary up on considering
the facts and circumstances of the case.

PRAYER

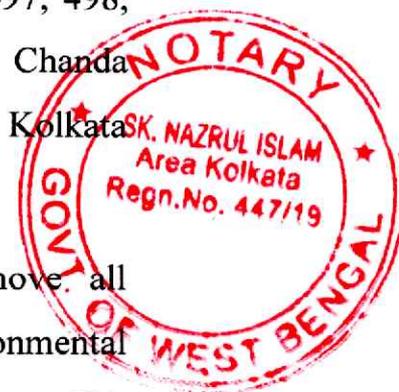
For the reasons stated above, it is humbly prayed that this
Hon'ble Tribunal may be pleased to :

A. Admit the Application and issue notice upon the
Respondents ;

B. Direct the Respondents to immediately stop all
construction and other activities at 'Newtown Villas' at L.R. Dag
nos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498,
508, 511(p), 513(p), 519(p), and 520(p) of Mouza – Chanda
Kanthalberia, J.L. No. 8, Block – Bhangar-II, P.S. Kolkata
Leather Complex, South 24 Parganas, PIN – 743502 ;

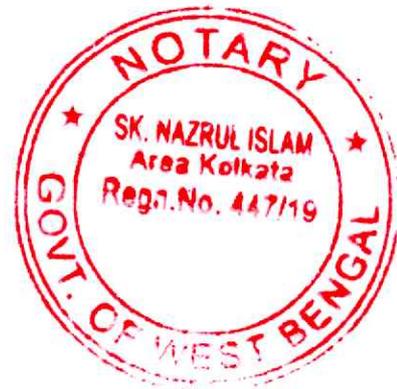
C. Direct the Respondents to demolish and remove all
structures illegally constructed without obtaining Environmental
Clearance (EC) at 'Newtown Villas' at L.R. Dag nos. 404,
488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p),
513(p), 519(p), and 520(p) of Mouza – Chanda Kanthalberia, J.L.
No. 8, Block – Bhangar-II, P.S. Kolkata Leather Complex, South
24 Parganas, PIN - 743502 as a penal measure ;

D. Direct the Private Respondents to demolish the pathway
constructed upon the canal/channel abutting the project which is
hampering the flow of water ;



- E. Direct the Private Respondents not to draw any groundwater without installing water metres and without obtaining permission from the State Water Investigation Directorate, West Bengal ;
- F. Impose exemplary penalty upon the perpetrators in regards to the concept of “Polluter pays Principal” ;
- G. Pass necessary strictures against all Respondent Authorities who kept their eye blind in spite of being aware and being repeatedly informed about serious violation of environmental norms and laws at ‘Newtown Villas’ at L.R. Dagnos. 404, 488(p), 489, 490, 491, 493, 494, 495, 496, 497, 498, 508, 511(p), 513(p), 519(p), and 520(p) of Mouza – Chanda Kanthalberia, J.L. No. 8, Block – Bhangar-II, P.S. Kolkata Leather Complex, South 24 Parganas, PIN – 743502 ;
- H. Direct the Respondent Authorities to take all steps to ensure that the ecology of the impugned area is restored ;
- I. Issue an order to constitute a high level committee to monitor the demolition of the illegally constructed structures/building as penal measure and execution of remedial measures, and submit periodical reports to this Hon’ble Tribunal;

And pass any such further order or orders as this Hon’ble Tribunal may deem fit proper and necessary upon considering the facts and circumstances of the case.



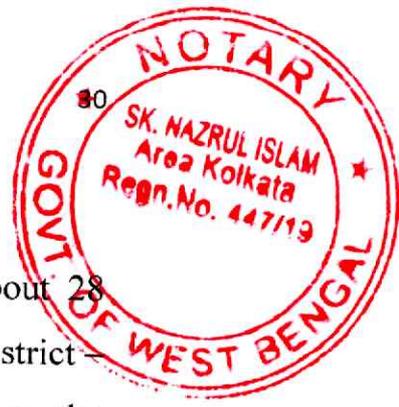
VERIFICATION

I, Ankur Sharma son of Shri Ambooj Sharma, aged about 28 years, residing at 13/3, Dr. P. K. Banerjee Road, P.S. & District – Howrah, West Bengal, PIN – 711101 state that I am the Applicant of this Application. I do hereby verify the contents of paragraphs no. 1 to 15, and the rest are true to the best of my knowledge, and are my humble prayers before your Lordship and I have not suppressed any material facts herein.

Date: 23/05/2025

Place : Kolkata

Ankur Sharma
Applicant



AFFIDAVIT

I, Ankur Sharma son of Shri Ambooj Sharma, aged about 28 years, residing at 13/3, Dr. P. K. Banerjee Road, P.S. & District – Howrah, West Bengal, PIN – 711101 state that I am the Applicant of this Application and I am well conversant with the facts and circumstances of the instant Original Application and I am competent to swear and affirm this Affidavit. I do hereby verify the contents of paragraphs no. 1 to 15, and the rest are true to the best of my knowledge, and are my humble prayers before your Lordship and I have not suppressed any material facts herein.

Date : 23/05/2025

Place: Kolkata

**Forenally Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CRPC**

Notary

SK, Nazrul Islam
Notary, Govt. of W.B.
Regn. No. 447/19
City Civil Court, Calcutta

Ankur Sharma
Applicant
IDENTIFIED BY NIL

Ayushi Kakasania
ADVOCATE
14/05/2025

23 MAY 2025

Annexure - 'P-1'
-31-

Ankur Sharma <adv.ankursharma9@gmail.com>

RE : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza- Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

Ankur Sharma <adv.ankursharma9@gmail.com>

Mon, Dec 30, 2024 at 11:59 PM

To: environmentwb@gmail.com, chrnm.wbpcb-wb@bangla.gov.in, ms.wbpcb-wb@bangla.gov.in

The Member Secretary
State Environment Impact Assessment Authority
(SEIAA), West Bengal

The Chairman
West Bengal Pollution Control Board

The Member Secretary
West Bengal Pollution Control Board

Sub : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza- Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

Sir(s),

I am constrained to bring to your kind notice that construction of a huge housing complex is being carried at above site in gross violation of norms and laws pertaining to the environment.

I gathered information from the locale and found from the website of the Department of Environment, Government of West Bengal that the developers of the project have not obtained Environmental Clearance (EC) from the SEIAA, West Bengal prior to commencement of construction activities though the built up area of the project exceeds 20,000 square meters.

Cement, sand, stone chips, soil, etc. are lying scattered openly. No screen cover is provided for the buildings at construction site thereby polluting the air grossly.

In spite of not having Environmental Clearance (EC), the developers are carrying on construction activities at the site rampantly by showing thumb to the rule of law.

The construction is going on rampantly in gross violation of the EIA Notification, 2006 amongst others. The project proponents have not taken any steps to contain pollution generated by their construction activities. They have violated several environmental norms as a result of which the environment is getting polluted at the cost of rights guaranteed under Article 21 of the Constitution of India, 1950.

In view of the above, you are requested to cause an inspection at site and take stern steps as may be warranted including stopping all construction activities at the site besides imposing exemplary environmental compensation upon the violators/polluters.

Thanking you,
Yours faithfully,

Ankur Sharma
13/3, Dr. P.K. Banerjee Road
Howrah - 711101
Mob: 9433883322





Ankur Sharma <adv.ankursharma9@gmail.com>

RE : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza - Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

Ankur Sharma <adv.ankursharma9@gmail.com>

Tue, Dec 31, 2024 at 1:40 PM

To: cs-westbengal@nic.in

The Chief Secretary
Government of West Bengal

Sub : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza - Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

Sir(s),

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Cement, sand, stone chips, soil, etc. are lying scattered openly. No screen cover is provided for the buildings at construction site thereby polluting the air grossly.

In spite of not having Environmental Clearance (EC), the developers are carrying on construction activities at the site rampantly by showing thumb to the rule of law.

The construction is going on rampantly in gross violation of the EIA Notification, 2006 amongst others. The project proponents have not taken any steps to contain pollution generated by their construction activities. They have violated several environmental norms as a result of which the environment is getting polluted at the cost of rights guaranteed under Article 21 of the Constitution of India, 1950.

In view of the above, you are requested to direct the Member Secretary, State Environment Impact Assessment Authority (SEIAA), West Bengal and the Member Secretary, West Bengal Pollution Control Board to cause an inspection at site and take stern steps as may be warranted including stopping all construction activities at the site besides imposing exemplary environmental compensation upon the violators/polluters.

Thanking you,
Yours faithfully,Ankur Sharma
13/3, Dr. P.K. Banerjee Road
Howrah - 711101
Mob: 9433883322



The Right to Information Act 2005

Application for obtaining information

From :

Ankur Sharma

13/3, Dr. P. K. Banerjee Road, Howrah, PIN - 711101

To :

The State Public Information Officer (under the Right to Information Act, 2005)

State Environment Impact Assessment Authority

Department of Environment, Government of West Bengal

5th floor, Pranisampad Bhawan

Block LB-II, Salt Lake, Sector - III

Bidhannagar, Kolkata, PIN - 700106

SUB : Application under the Right to Information Act, 2005.

Dear State Public Information Officer,

Under Section 6 of The Right to Information Act 2005, I need some information. The details of the information are as follows:

1. Details of the Applicant :

Name : Ankur Sharma

Email : adv.ankursharma9@gmail.com

Address : 13/3, Dr. P. K. Banerjee Road, Howrah, PIN

Mobile number : 9433883322

2. Period to which the information relates : Latest

3. Details of Information sought :

Please provide the following information :

- a) Supply me copy of action taken report in connection with my complaint vide email dated 30.12.2024 with the subject "Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza - Chanda Kathalberia, J.L. No. 8, P.S. - Kolkata Leather Complex,



EW1626639451N IVR:6967162003
 SP HOWRAH BPC (711101)
 Counter No:4.07/04/2025.18:13
 To:THE SPIO ,PRANISAMPAD BHAWAN
 PIN:700106, Bidhan Nagar IB Market SO
 From:ANKUR SHARMA ,HOWRAH
 WB-400ms
 Amt:41.30, Tax:6.30, Amt. Paid:41.00 (Cash)
 (Track on www.indiapost.gov.in)
 No. 18002666860 (Near mask -Stay safe)

South 24-Parganas, PIN – 743502” addressed to the Member Secretary, State Environment Impact Assessment Authority, Department of Environment, Government of West Bengal and others (a photocopy of the said complaint is attached herewith for ready reference) ;

- b) Provide copy of inspection report in pursuance to my stated complaint ;
- c) Provide copy of any stop work notice issued against the impugned project.

4. Application fee details : Enclosed Application Fee of Rs. 10/-

5. Below Items are for your kind information and consideration :

a. As per section 6(3) of the RTI Act 2005, In case, the requested information is held by another public authority, I request the SPIO to transfer the application or part of it within **FIVE** days and immediately inform me about such transfer.

b. As per section 7(3) of the RTI Act 2005, In case, there are further fee required to provide the requested information, I request the SPIO to inform me of the additional fee amount along with the calculations made to arrive at the amount.

c. As per section 7(8)(iii) and 7(3)(ii) of the RTI Act 2005, I request the SPIO to inform me of the particulars of First Appellate Authority.

d. I State that the information sought does not fall within the restriction contained in section 8 and 9 of the Act and to the best of my knowledge pertains to your office.

6. Declaration :

I declare that I am a citizen of India

Yours faithfully,



Monday, April 7th, 2025





Ankur Sharma <adv.ankursharma9@gmail.com>

RE : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza- Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

Ankur Sharma <adv.ankursharma9@gmail.com>

Mon, Dec 30, 2024 at 11:59 PM

To: environmentwb@gmail.com, chrnm.wbpcb-wb@bangla.gov.in, ms.wbpcb-wb@bangla.gov.in

The Member Secretary
State Environment Impact Assessment Authority
(SEIAA), West Bengal

The Chairman
West Bengal Pollution Control Board

The Member Secretary
West Bengal Pollution Control Board

Sub : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza- Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

Sir(s),

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I gathered information from the locale and found from the website of the Department of Environment, Government of West Bengal that the developers of the project have not obtained Environmental Clearance (EC) from the SEIAA, West Bengal prior to commencement of construction activities though the built up area of the project exceeds 20,000 square meters.

Cement, sand, stone chips, soil, etc. are lying scattered openly. No screen cover is provided for the buildings at construction site thereby polluting the air grossly.

In spite of not having Environmental Clearance (EC), the developers are carrying on construction activities at the site rampantly by showing thumb to the rule of law.

The construction is going on rampantly in gross violation of the EIA Notification, 2006 amongst others. The project proponents have not taken any steps to contain pollution generated by their construction activities. They have violated several environmental norms as a result of which the environment is getting polluted at the cost of rights guaranteed under Article 21 of the Constitution of India, 1950.

In view of the above, you are requested to cause an inspection at site and take stern steps as may be warranted including stopping all construction activities at the site besides imposing exemplary environmental compensation upon the violators/polluters.

Thanking you,
Yours faithfully,

Ankur Sharma
13/3, Dr. P.K. Banerjee Road
Howrah - 711101
Mob: 9433883322



**Government of West Bengal
Department of Environment**

Pranisampad Bhawan, 5th Floor, LB-2, Sector-III, Salt Lake, Kolkata-700106

No. EN/784/RTI/13/2024

Dated, Kolkata 22th April, 2025

From: Pausali Mukherjee, WBLS
Spl. Law Officer & SPIO

To : Ankur Sharma
13/3 Dr. P.K Banerjee
Howrah, Pin-711101

Sub: Information under RTI Act, 2005

Sir

With regard to your RTI application, received in this office dated 16.04.25 under section 6 (1) of the RTI Act, 2005. It is informed that the complain letter regarding 'Newtown Villas' at KLC was discussed by SEIAA in its meeting held on 17.01.25. SEIAA decided to seek explanation from the project developers regarding the allegation made in the complaint .



Yours faithfully

Spl. Law Officer &
SPIO



Government of India
Ministry of Environment, Forest and Climate Change
 (Issued by the State Environment Impact Assessment
 Authority (SEIAA),
 WEST BENGAL)



Minutes of 59th meeting of SEIAA (Reconstituted on 17.05.2023) State Environment Impact Assessment Authority meeting held from 17/01/2025 to 17/01/2025 Date: 20/01/2025

MoM ID: EC/MOM/SEIAA/251738/1/2025
Agenda ID: EC/AGENDA/SEIAA/251738/1/2025
Meeting Venue: Conference Room of Environment Department, Prani Sampad Bhavan, 5th Floor, LB Block, Sector III, Salt Lake, Kolkata 700106.
Meeting Mode: Hybrid
Date & Time:

17/01/2025	02:00 PM	06:00 PM
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1. Opening remarks

SEIAA members greeted each other and started discussion point wise as per the agenda.

2. Confirmation of the minutes of previous meeting

Minutes of 58th Meeting of SEIAA, WB is uploaded in the PARIVESH Portal.

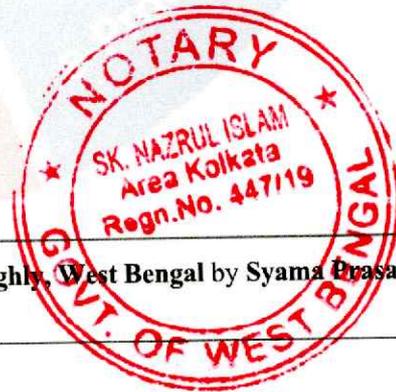
3. Details of proposals considered by the committee

Day 1 -17/01/2025

3.1. Agenda Item No 1:

3.1.1. Details of the proposal

Development of an extended Port Gate System at Balagarh, Dist. Hooghly, West Bengal by Syama Prasad Mookerjee Port Kolkata located at HOOGLHY, WEST BENGAL			
Proposal For		Fresh EC	
Proposal No	File No	Submission Date	Activity (Schedule Item)
SIA/WB/INFRA1/457197/2023	2N-02/2022(E)	07/02/2024	Ports, harbors, breakwaters, dredging (7(c))



MISCELLANEOUS

A. Presentation on six monthly compliance report of the following project :-

- i. Proposed expansion of **Peerless Hospitex Hospital and Research Center Ltd.** at Premises No. 360, Panchasayar, Mouza-Chakgaria, J.L. No. 26, Khatian No. 10, Dag No.01, P.S. Purba Jadavpur, under Ward No. 109 & Borough-XII of Kolkata Municipal Corporation (K.M.C.), Kolkata – 700094.

[EC Identification No. - EC22B038WB178976 dated 12.04.2022, File No. - EN/T-II-1/164/2021]

The PP was absent for presentation. Till date the PP has not uploaded the six-monthly compliance report in the PARIVESH portal and five six-monthly compliance report are pending for uploading. SEIAA decided to visit the project site.

B. Complaint received from Mr. Ankur Sharma for the following projects:-

- i. Against devastation of environment by the developers of **“Newtown Villas”** at Mouza- Chanda Kathalberia, J.L. No.8, P.S. - Kolkata Leather Complex, South 24-Parganas, PIN – 743502.

SEIAA decided to seek explanation from the developers of the ‘Newtown Villas’.

- ii. Against filling of water body and devastation of environment by the developers of **“Manor Freshia”** at SRCM Road, Narendranagar, Narayanpur, Gopalpur - I, P.S. - Airport, Rajarhat, West Bengal, PIN - 700136.

SEIAA decided to seek explanation from the developers of the ‘Newtown Villas’. SEIAA also decided to inform NKDA to take necessary action as per West Bengal Inland Fisheries Act, 1984.

- iii. Against devastation of environment by the developers of **“Lumia Luxuria”** at Plot-B, Uttorayon Township, Matigara, Siliguri, Dist. - Darjeeling, PIN - 734010.

SEIAA decided to seek explanation from the developers of the ‘Lumia Luxuria’.

C. Request received through email from CCSOD WB ccsod2019@gmail.com, for Cancellation of Environmental Clearance for the **Deocha Panchami Basalt Mining Project due to Concealment of Facts and Submission of Fabricated Data.**

[EC Identification No. - EC24C0108WB5990156N dated 09.10.2024, File No. - EN/T-II-I/148/2024]

SEIAA decided to forward the complaint to the project proponent with a request to provide point-wise detailed reply to the SEIAA.





Ankur Sharma <adv.ankursharma9@gmail.com>

RE : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza - Chanda Kathalberia, J.L. No. 8, P.S. - Kolkata Leather Complex, South 24 Parganas, PIN – 743502.

Ankur Sharma <adv.ankursharma9@gmail.com>

Tue, Apr 8, 2025 at 11:14 AM

To: environmentwb@gmail.com, chrnmn.wbpcb-wb@bangla.gov.in, ms.wbpcb-wb@bangla.gov.in

Cc: cs-westbengal@nic.in

The Member Secretary
State Environment Impact Assessment Authority
(SEIAA), West Bengal

The Chairman
West Bengal Pollution Control Board

The Member Secretary
West Bengal Pollution Control Board

Ref : Complaint against devastation of environment by the developers of "Newtown Villas" at Mouza - Chanda Kathalberia, J.L. No. 8, P.S. - Kolkata Leather Complex, South 24 Parganas, PIN – 743502.

Sir(s),

I remind you afresh that large scale act of devastating the environment is on the go by the developers of Newtown Villas at the above mentioned site. On 30th December 2024 while passing along the area abutting the project, I noticed that construction activities were going on rampantly by polluting the environment. I gathered from the website of SEIAA, West Bengal that the project proponents have not obtained prior Environmental Clearance (EC) for the impugned project.

The said project is situated in close proximity of the East Kolkata Wetlands. You will certainly appreciate that construction activities at the site without prior Environmental Clearance (EC) is a serious threat to the environment and ecology of the area as well as internationally recognized East Kolkata Wetlands. I lodged a complaint with your office vide email dated 30.12.2024, inter alia, requesting to cause an inspection at site and take stern steps as may be warranted including stopping all construction activities at the site, besides imposing exemplary environmental compensation upon the violators/polluters (copy of the said email is attached herewith for ready reference).

My complaint was taken up for consideration in the 59th meeting of SEIAA, West Bengal on 17.01.2025. The SEIAA, West Bengal decided to seek explanation from the developers of Newtown Villas on the matter. I was not made conversant of any development in the matter thereafter.

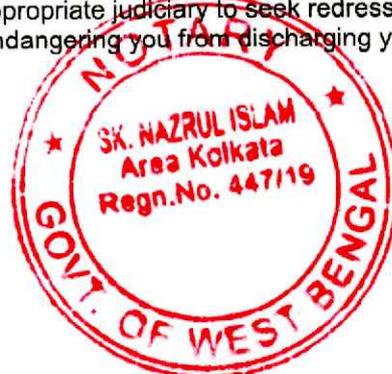
The construction activities are rampantly going on as observed during my last occasion to visit near the project site on 27.03.2025 which reflects conspicuous inaction of SEIAA, West Bengal and West Bengal Pollution Control Board, may be joining hands with each other. Even after elapse of three months, any steps have been taken by SEIAA, West Bengal and West Bengal Pollution Control Board. As a result, the environment is being devastated in recent days due to conspicuous inaction of SEIAA, West Bengal and West Bengal Pollution Control Board which canvasses an order of the day. The authorities in spite of receiving complaints sit tight allowing concerned project proponents / polluters scot free to flout environmental laws and norms all over the state, and complete their commercial activities.

In the view of the above, I request your good office to take steps as prayed for in my earlier email dated 30.12.2024 or may like to advise me if it will be in order for me to approach the appropriate judiciary to seek redressal in case your office is reeling under pressure/threat from the polluters which is endangering you from discharging your constitutional and statutory duties.

Thanking you,
Yours faithfully,

Ankur Sharma
13/3, Dr. P. K. Banerjee Road
Howrah - 711101
Mob : 9433883322

Attachments : As stated above.



cc :

40-

The Chief Secretary
Government of West Bengal

- for kind necessary steps

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

.....
**ORIGINAL APPLICATION No. 32/2021/EZ
(I.A. No. 63/2021 & I.A. No. 86/2021)**

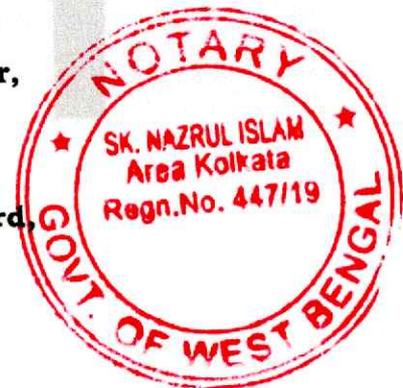
IN THE MATTER OF:

**Ankur Sharma,
S/o Shri Ambooj Sharma,
R/o 13/3, Dr. P.K. Banerjee Road,
P.O. & P.S. & District-Howrah,
Pin - 711101,**

....Applicant(s)

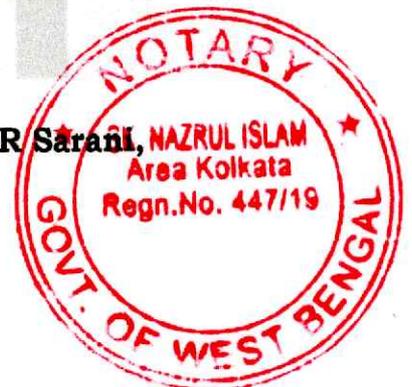
Versus

- 1. The State of West Bengal,
Through Chief Secretary,
Govt. of West Bengal,
Nabanna (13th Floor), 325,
Sarat Chatterjee Road, Shibpur,
Howrah - 711102,**
- 2. The Central Pollution Control Board,
Through Member Secretary,
Parivesh Bhawan, East Arjun Nagar,
Delhi - 110032,**
- 3. The Principal Secretary,
Department of Environment,
Govt. of West Bengal,
Pranisampad Bhawan, Block-(5th Floor),
LB-II, Salt Lake, Sector-III, Bidhannagar,
Kolkata - 700106,**
- 4. The West Bengal Pollution Control Board,
Through Member Secretary,
Paribesh Bhawan, 10A, Block-L.A.,**



Sector-III, Salt Lake City,
Kolkata - 700106,

5. **The Principal Secretary,
Department of Fisheries,
Govt. of West Bengal,
Benefish Tower (7th & 8th Floor), 31-GN Block,
Sector-V, Salt Lake,
Kolkata - 700091,**
6. **The District Magistrate, South 24 Parganas,
Administrative Building, Alipore,
Kolkata - 700027,**
7. **New Age Nirman LLP,
A limited liability partnership firm incorporated under the
Limited Liability Partnership Act, 2008,
Through Mr. Shrivatsa Khemka,
Office-103, Niharika, 17/1c,
Alipore Road, P.S. & P.O.-Alipore,
Kolkata - 700027,**
8. **Trimline Distributors and Management Private Limited,
A company incorporated under the Companies Act, 1956,
Through Director Mr. Asit Ghosh,
Office-6th Floor, SW Block, Vishwakarma Building,
86C Topsia Road (S), P.S.-Topsia & P.O.-Govinda Ghatik
Lane, Kolkata - 700046,**
9. **Bhatter Infrastructure Private Limited,
A company incorporated under the Companies Act, 1956,
Through Director Mr. Raj Kumar Bhatter,
Office-6, Bishop Lefroy Road, Flat 14/1,
Paul Mansion, P.S.-Bhawanipore & P.O.-L R Sarani,
Kolkata - 700020,**



10. **Ashiana Vinimay Private Limited,**
 A company incorporated under the Companies Act, 1956,
 Through Director Mr. Shiv Kumar Damani,
 Office-1/1A, Vasittart Row, 2nd Floor, Room No.8,
 P.S.-Hare Street, P.O.-GPO,
 Kolkata - 700001,
11. **Kailashdham Commercial Private Limited,**
 A Company incorporated under the Companies Act, 1956,
 Through Director Mr. Netra Thapa,
 Office-35A, Chetal Centrla Road,
 P.O. & P.S.-Alipore,
 Kolkata - 700027,
12. **Ministry of Environment, Forests and Climate Change,**
 Through its Secretary,
 Indira Paryavaran Bhawan,
 Jorbagh Road,
 New Delhi - 110003,

....Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Ankur Sharma, in person

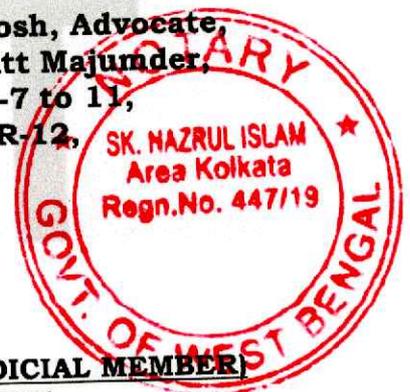
COUNSEL FOR RESPONDENTS :

Mr. Rajib Ray, Advocate for R-1, 3, 5 & 6,
Mr. Surendra Kumar, Advocate for R-2,
Mr. Prithwish Basu, Advocate for R-4,
Mr. Kallol Basu, Advocate a/w Mr. Debnath Ghosh, Advocate,
Mr. Sanjay Ginodia, Advocate, Ms. Sushovit Dutt Majumder,
Advocate, and Mr. Nilanjan Pal, Advocate for R-7 to 11,
Mr. Gora Chand Roy Choudhury, Advocate for R-12,

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)
HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)



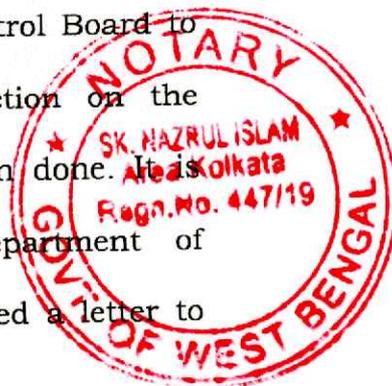
**Reserved On:- 23rd February, 2022
Pronounce On:- 14th March, 2022**

- 1. Whether the Judgment is allowed to be published on the net? **Yes**
- 2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**

JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

Heard Mr. Ankur Sharma, the Applicant in person as well as the learned Counsel for the Respondents and perused the documents on record.

2. This Original Application has been filed by the Applicant with the allegation that there are large water bodies in South 24 Parganas, P.S. Bishnupur, Mouza Bhasa, Touzi No. 14, South 24 Parganas where the 'Swayam City' project is being constructed over thousands of square meters of water bodies by dumping of waste and construction material. It is also stated that no Environmental Clearance or Consent to Operate has been granted for proceeding with the construction and development of the 'Swayam City' Project. It is stated that the Central Pollution Control Board has sent e-mail to the West Bengal Pollution Control Board on 13.01.2021 and 03.03.2021, directing the West Bengal Pollution Control Board to investigate the matter and initiate appropriate action on the Applicant's complaint but till date nothing has been done. It is stated that the Chief Environment Officer, Department of Environment, State Wetlands Authority has addressed a letter to

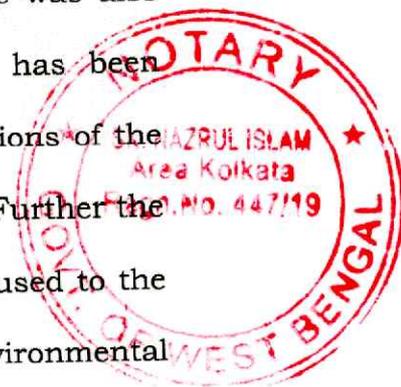


the District Magistrate, South 24 Parganas on 27.01.2021 directing the District Magistrate to enquire into the matter and take necessary action accordingly but till date nothing has been done. It is also stated that in spite of the directions issued on 25.01.2021 by the West Bengal Pollution Control Board, the promoters of the Project are still continuing with the construction activities at the site.

3. At the time of admission, the Tribunal constituted a Committee comprising of the following Members:-

- (i) Senior Scientist of Central Pollution Control Board (CPCB) Regional office, Kolkata;
- (ii) Senior Scientist of West Bengal Pollution Control Board (WBPCB), Kolkata;
- (iii) Member Secretary of State Environment Impact Assessment Authority (SEIAA), West Bengal; and
- (iv) District Magistrate, South 24 Parganas,

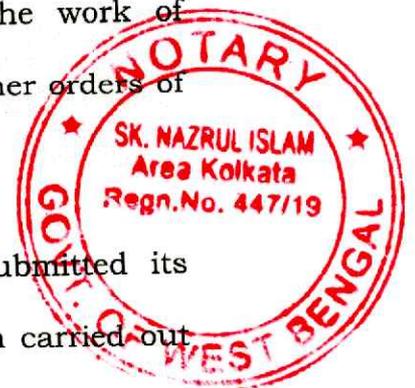
4. The Committee was entrusted with the task of visiting the site in question and carry out an inspection in the presence of the Respondent Nos. 7 to 11, (Private Respondents) as well as the Applicant, and submit a detailed report. The Committee was also directed to examine as to whether the construction has been continuing over the site in dispute in spite of the directions of the West Bengal Pollution Control Board dated 25.01.2021. Further the Committee was also directed to examine the damage caused to the environment and water body and assess the environmental



compensation as cost of such damage to the environment which will be recovered from the promoters/builders, if such violation is found. The Committee was also required to find out whether environmental rules as well as Construction & Demolition (C&D) Waste Management Rules, 2016 have been violated. The Committee was further required to state specifically what action has been taken against the defaulter promoters who are acting in violation of the directions of the West Bengal Pollution Control Board as well as the existing rules, if such violation is found. The Tribunal had further directed that by way of interim protection in respect of the construction over the site in dispute, there shall be *status-quo* with regard to any construction. Notices were also issued to the Respondents to file their counter-affidavits.

5. On 17.09.2021 Mr. Shreyashi Sanyal, learned Counsel appearing for Respondent Nos. 7 to 11 (Private Respondents), made a statement before the Tribunal that the work of "Swayam City" Project has been completely stopped since January 2021. Mr. Ankur Sharma, the Applicant, on the other hand, disputed this statement and stated that work was still going even on the date of inspection. The Tribunal accordingly, considering the statements of both Mr. Sanyal and Mr. Sharma, directed that the work of "Swayam City" Project shall remain suspended till further orders of the Tribunal.

6. The Committee constituted by the Tribunal submitted its report dated 16.07.2021 with respect to an inspection carried out



on 13.07.2021 in the presence of the Applicant and the Respondent Nos. 7 to 11. The observations, conclusion and recommendations of the Committee's Report may be reproduced herein for proper appreciation of the case which read as under:-

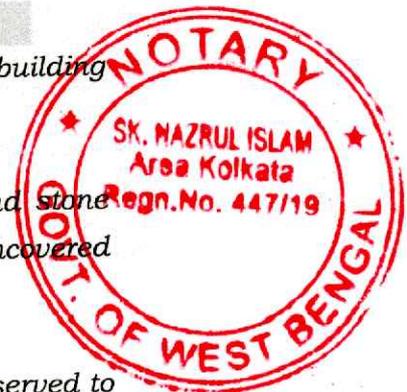
"B. Observation of the Committee during visit of project site on 13.07.2021.

1. *The applicant mentioned that there were some waterbodies within the project site, but during site visit he was unable to identify the exact locations of the waterbodies.*
2. *The Committee observed that the building blocks are in various stages of completion. However, no construction activity was going on during site visit.*
3. *The Block Land and Land Reforms Officer, Bishnupur-I at Bhasa, South 24 Parganas provided the information of Land Classification of the L.R. plots situated under the area of Swayam City Project as per Present L.R. ROR vide Memo no. Miscellaneous/377/BL&LRO/Bish-1/21 dated 13.07.2021. Conversion certificates were issued from 'Shali' to 'Housing Complex' (Bahutal Abasan) during the year 2015 to 2018.*
4. *The Enquiry Report provided by the Assistant Director of Fisheries vide Memo No. 352 dated 14.07.2021 mentions that no waterbody was found during inspection and the complainant was unable to provide any such plot no., Khatian no. The report also reveals that the alleged areas does not retain water for more than six months.*
5. *On examining the four sanctioned building plans it was revealed that the same "KEY PLAN" area for the entire project was shown in each of the four plans and has obtained separate phase wise sanction of*



building plans in contiguous plots within the said demarcated "KEY PLAN" area.

6. In this regard, the Committee sought clarification from Zila Parishad, South 24 Parganas vide memo No. 1286-3L/WPBC(III)/2021 dated 13.07.2021. The response from the ADM & AEO, South 24 Parganas Zila Parishad vide letter no. 493/ZP/BP/21 dated 14.07.2021 is enclosed.
7. The entire 'Swayam City' project site covering all the four phases of development has a single access road from the main abutting road (i.e. Diamond Harbour Road), opposite to Swami Narayan Temple. There is only one entrance gate on the access road for all the four phases. This is also indicated in the sanctioned plans.
8. The representatives of the Respondent No. 7 to 11 present failed to show necessary documentary evidence before the Committee regarding separate Service Plans for Sewage Treatment and Solid Waste Treatment for each of the four phases. They could not produce document regarding permission for water supply/groundwater extraction from the competent authority for the project.
9. During site visit, it was observed that there is no physical demarcation/boundary for the four phases within the project site.
10. No screen cover could be found in any of the building blocks during site visit.
11. Stockpiles of construction materials (sand and stone chips) were found to be lying on ground in uncovered condition.
12. No water sprinkling arrangement could be observed to arrest fugitive dust emission.



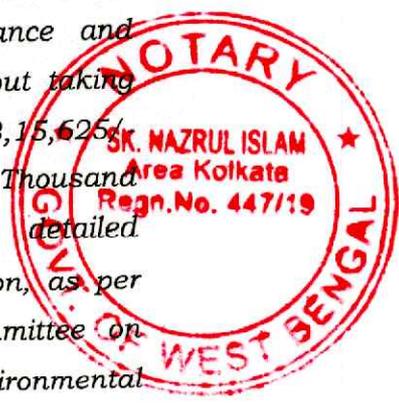
13. The project proponent also did not comply the direction of the WBPCB to submit an Environmental Compensation (EC) of Rs.10,00,000/- (Rupees Ten Lakhs) only within 15 days from the date of issue of the direction by the WBPCB.

C. Conclusion and Recommendations

After careful consideration of the available records and site inspection, the Committee concludes that the project should be considered as a single development project, being developed in four phases in contiguous plots without any separate boundary and having single access to the abutting road (i.e. Diamond Harbour Road), with cumulative total built up area of 47,741.81 sq.m. which is far above the threshold area (i.e. 20,000 sq.m.) for obtaining necessary Environment Clearance from the State Environment Impact Assessment Authority (SEIAA) and Consent to Establish from the WBPCB.

The construction activities conducted till the date of site visit without obtaining prior Environmental Clearance and Consent to Establish is a serious non-compliance to the EIA Notification vide S.O. No. 1533 (E) dated 14.09.2006 issued by the MoEF&CC, Govt. of India and the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

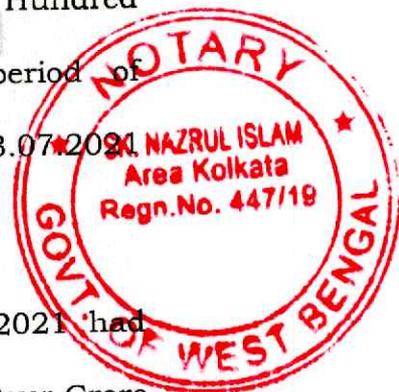
The Committee also assessed the Environmental Compensation for the above non-compliance and damage caused to the environment, without taking prior environmental clearance, as Rs. 4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only). The detailed assessment of Environmental Compensation, as per the "Report of the CPCB in-house Committee on Methodology for Assessing Environmental



Compensation and Action Plan to Utilize the Fund” in response to order of the Hon’ble NGT dated 03.08.2018 in OA No. 593/2017(PB).

Therefore, the Committee makes the following recommendations:

1. *All construction and development activities inside the entire ‘Swayam City’ project area at Mouza Bhasa, Touzi No.14, Opposite Swaminarayan Temple, P.S. Bishnupur, South 24 Parganas, PIN-743503 should remain completely suspended till they obtain Environmental Clearance and Consent to Establish.*
 2. *The project proponent should also submit an Environmental Compensation of Rs. 4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only) for causing damage to the environment.”*
7. The Committee has computed Environmental Compensation of Rs.4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only).
8. Mr. Kallol Basu, learned Counsel has objected to the methodology of computation of this amount of Rs. 4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only) on the ground that the total period of construction has been counted from 04.07.2017 up to 13.07.2021 i.e. 1469 days.
9. The Tribunal, however, by its order dated 21.12.2021 had directed that the payment of Rs. 4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only)



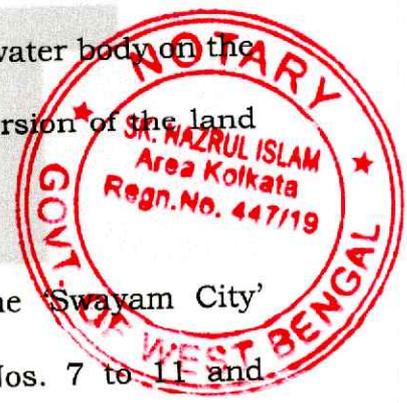
shall remain in abeyance till a decision is taken by the West Bengal Pollution Control Board upon a re-examination of the computation of Environmental Compensation in a scientific and practical manner.

10. One **I.A. No.40/2021/EZ** was filed on behalf of the Respondent Nos. 7 to 11, praying that the interim order of this Tribunal dated 10.06.2021 be recalled, rescinded, modified, varied or vacated and the present Original Application be dismissed. This I.A. was rejected by the Tribunal by its order dated 21.12.2021.

11. One objection has been filed by the Respondent Nos. 7 to 11 to the Committee's report and one affidavit has been filed by the Respondent No.12. One supplementary affidavit has been filed by the Respondent Nos. 7 to 11 and two affidavits along with one rejoinder have been filed by the Applicant and one para-wise reply has also been filed by the Respondent No.2.

12. One **I.A. No. 63/2021/EZ** has been filed by the Respondent No.7, New Age Nirman LLP, praying that the findings in the report of the Block Land & Land Reforms Officer and Directorate of Fisheries to the effect that there is no existence of water body on the land in question and that there is no illegal conversion of the land or damage to the ecology, be taken on record.

13. The contention of the Applicant is that the 'Swayam City' Project is being developed by the Respondent Nos. 7 to 11 and constructions are being carried out on Mouza-Bhasa, Touzi No. 14,



P.S. Bishnupur, District-South 24 Parganas. It is also stated that the land in question is a water body and as a result of construction of the Housing Colony, the said water body is being devastated and destroyed thereby affecting the ecology and environment of the area. It is also alleged that the Project in question does not have Environmental Clearance from the State Environment Impact Assessment Authority (SEIAA), West Bengal or Consent to Establish from the West Bengal Pollution Control Board and in this regard a reference has been made to the letter of the Chief Engineer, Operation and Execution Cell, West Bengal Pollution Control Board dated 25.01.2021 Annexure P-2 (page no.30) to the Original Application. This letter of the Chief Engineer restrains the Project Proponent from carrying on any further construction activities for their residential project at Bhasa, Diamond Harbour Road, P.S.-Bishnupur, District-South 24 Parganas, without obtaining Environmental Clearance from the State Environment Impact Assessment Authority (SEIAA), West Bengal and Consent to Establish from the West Bengal Pollution Control Board. The Project Proponent was also directed to immediately apply for obtaining Environmental Clearance for their ongoing project and to comply with the directions issued by the Department of Environment, Govt. of West Bengal in their letter dated 10.12.2009. The Project Proponent was also directed to submit Environmental Compensation of Rs. 10,00,000/- (Rupees Ten Lakhs only) within a period of 15 days from the date of this letter. Photographs by way of evidence have also been filed along with the Original Application to



show the constructions being made by the Respondent Nos. 7 to 11, Project Proponents. Satellite images have also been filed for the same purpose.

14. The Respondent Nos. 7 to 11 in their affidavit have, on the other hand, denied the allegations made in the Original Application and it is stated that the Project Proponent had applied for approval of the Gram Panchayat on the project building plans for each of the distinct and standalone real-estate projects. After finding no impediment to the Project, the Zila Parishad, District-South 24 Parganas, accorded sanction to the Building Plans for all the four projects of the Project Proponents i.e., Respondent Nos. 7 to 11, and these projects are also registered under the West Bengal Housing Industry Regulatory Act, 2017. It is also stated that the total built-up area of the G+4 buildings of each of the four distinct and standalone projects falls short of the threshold limit of 20,000 square meters as stipulated in Clause 8 (a) of the Schedule to the EIA Notification 2006.

It is also stated that in Memo dated 25.01.2021 Annexure R-17 to the reply, it is mentioned that the total built-up area of the overall project site for Stage-I development (including all four phases) is 41,741.71 square meters which would attract Environmental Clearance. The letter also mentions that the Project Proponent had at the time of submitting project details stated that their Residential Project comprised of four phases and each phase was below 20,000 square meters for which they have not obtained

Environmental Clearance and they have stated that the mistake was unintentional and that now they would obtain Environmental Clearance for Stage-I development. This letter dated 25.01.2021 is already filed as Annexure P-2 (page 30) to the Original Application. The Respondent No.7, M/s New Age Nirman LLP, was, therefore, directed not to undertake any construction activity without obtaining Environmental Clearance from the State Environment Impact Assessment Authority (SEIAA), West Bengal and Consent to Establish from the West Bengal Pollution Control Board, and initial Environmental Compensation of Rs. 10,00,000/- (Rupees Ten Lakhs) was also imposed upon the said Respondent.

15. Similar contention has been raised by the Respondent Nos. 7 to 11 in their objection to the Report of the Committee constituted by the Tribunal.

16. The Ministry of Environment, Forests and Climate Change in its affidavit has stated that as per EIA Notification 2006, matters falling under Category 'B' of the Schedule, shall require Environmental Clearance from the State Environment Impact Assessment Authority (SEIAA). It is also stated that as per para 8(a) of the Amended EIA Notification, building and construction projects exceeding 20,000 square meters but less than 1.5 lakhs square meters of built-up area, if the total built-up area is 20,000 square meters or more, prior Environmental Clearance is required to be obtained from the concerned State Environment Impact Assessment Authority.



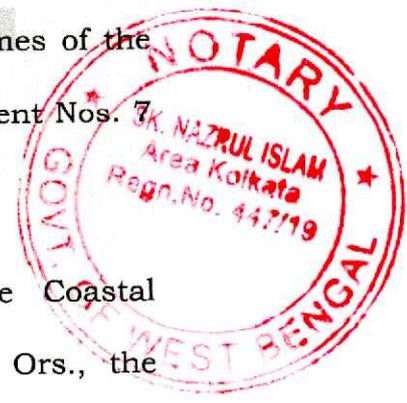
17. We may now refer to the observations of the Committee constituted by the Tribunal. The Committee has recorded a categorical finding that during the site visit it did not find the exact locations of the alleged water bodies nor could the Applicant, who was present during site inspection, point out the same. It is also noted that no construction activity was going on during site visit. The Committee also noted that as per L.R. RoR Memo No. Miscellaneous/377/BL&LRO/Bish-1/21 dated 13.07.2021, conversion certificates were issued from 'Shali' to 'Housing Complex' (Bahutal Abasan) during the year 2015 to 2018. The inquiry report prepared by the Assistant Director of Fisheries vide Memo No. 352 dated 14.07.2021 also mentions that no water body was found during inspection nor was the complainant, Applicant herein, able to point out the same. The Committee, however, noted that the representatives of the Respondent Nos. 7 to 11 who were present at the site, failed to show necessary documentary evidence before the Committee regarding separate Service Plans for sewage treatment and solid waste treatment for each of the four phases. They also could not produce any document regarding permission for water supply/ground water extraction from the competent authority for the project. No screen cover could be found in any of the building blocks during site inspection. Stock piles of construction material (sand and stone chips) were found lying on the ground uncovered. There was no water supply arrangement to arrest fugitive dust emission. The Committee also noted that the construction activities conducted till the date of the site visit without obtaining prior



Environmental Clearance and Consent to Establish is a serious non-compliance of the EIA Notification dated 14th September, 2006 and the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. The Committee accordingly computed the Environmental Compensation for non-compliance and damage to the environment at Rs. 4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only). This amount of Environmental Compensation has been disputed by the Respondent Nos. 7 to 11.

18. Mr. Kallol Basu, learned Counsel appearing for the Project Proponents, submitted that the total budgeted cost of construction is Rs. 1,00,49,55,266.55/- (Rupees One Hundred Crores Forty Nine Lakhs Fifty Five Thousand Two Hundred Sixty Six and Fifty Five Paisa) whereas the amount of expenditure incurred till date, as of 07.02.2022, is only Rs. 35,58,93,016.21 (Rupees Thirty Five Crores Fifty Eight Lakhs Ninety Three Thousands Sixteen and Twenty One Paisa). Mr. Basu, therefore, submitted that the imposition of Environmental Compensation of Rs. 4,13,15,625/- (Rupees Four Crore Thirteen Lakhs Fifteen Thousand Six Hundred Twenty Five only) is highly inflated irrational being more than 10 times of the amount of expenditure actually incurred by the Respondent Nos. 7 to 11 in their Housing Project till date.

19. In (2018) 2 SCC 203; Secretary, Kerala State Coastal Management Authority Vs. DLF Universal Limited & Ors., the Hon'ble Supreme Court has held that wherever permissions are



required and are to be obtained before commencement of construction, it would be no answer that activity can be carried on without obtaining the permissions. Para 51 of the judgment reads as under:-

“51. We also make it clear that in the future, wherever permissions are required to come and are to be obtained before commencement of construction, it would be no answer that activity can be carried on without obtaining the permissions. Simultaneously, the permissions itself are envisaged in a time-bound schedule and not through improvement of cases by authorities running into years. Thus, from the inception itself, there should be clarity on what is permissible and what is not.”

20. In that case the Project Proponent had the requisite Environmental Clearance but did not have the requisite CRZ-I Clearance for which fine of Rs. 1 Crore was imposed by the Hon'ble Supreme Court with direction for strict adherence to the norms in future and avoidance of contradictions by the authorities.

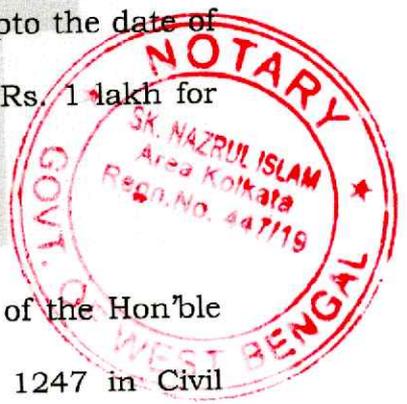
21. The Hon'ble Supreme Court in the case of DLF Universal Limited (Supra) has clearly held that for future whatever be the manner in which para 8 (3) of the Notification of 2006 is worded, it should imply henceforth a prior clearance and necessary clarifications should be issued by the authorities concerned in a time bound manner and procedure of deemed clearance is not to be followed in future. Para 66 of the judgment reads as under:-

“66. We are, thus, not in agreement with the findings of the courts below on the violations alleged against DLF except to the extent that there is a question mark on the issue of not having obtained prior clearance and



proceeding on the basis of a deemed clearance, which aspect, at least for the future we have clarified that whatever be the manner in which para 8(3) of Notification of 2006 is worded, it should imply henceforth a prior clearance and necessary clarifications should be issued by the authorities concerned in a time bound-bound manner to obviate such situations to arise in the future. We feel that the direction contained in the impugned order to deposit Rs. 1 crore (stated to be already deposited) can be treated as a fine for the said purpose."

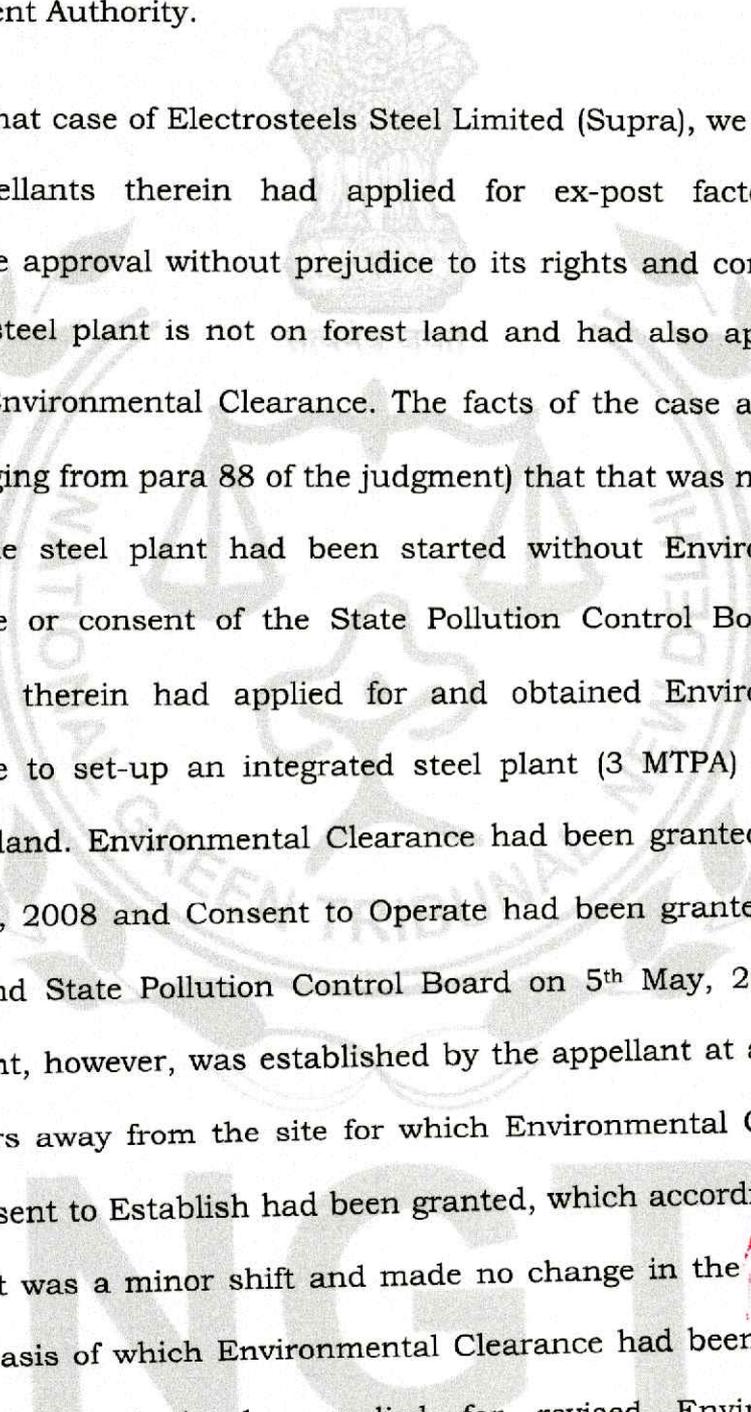
22. Mr. Basu has also referred to the affidavit filed by the West Bengal Pollution Control Board wherein a reference has been made to the Ministry of Environment, Forests and Climate Change Office Memorandum dated 07.07.2021 defining the Standard Operating Procedure (SOP) for identification and handling of violation cases under EIA Notification 2006 and referred to NGT order passed in O.A. 34 of 2020 (WZ) which was upheld by the Hon'ble Supreme Court vide its order dated 09.12.2021 in Civil Appeal Nos. 7576-7577 of 2021 in Electrosteel Steels Limited Vs. Union of India & Others, and the Ministry of Environment, Forests and Climate Change Office Memorandum dated 28.01.2022, which provides that for new projects where operation has not commenced, penalty be determined at 1% of the total project cost incurred upto the date of filing of application along with EIA/EMP report (ex. Rs. 1 lakh for project cost of Rs.1 crore).



23. Mr. Basu, therefore, referring to the judgment of the Hon'ble Supreme Court reported in 2021 SCC Online SC 1247 in Civil Appeal Nos. 7576-7577 of 2021 (Electrosteel Steels Limited Vs.

Union of India), and submitted that the project proponent may be permitted to continue with the construction work subject to grant of Environmental Clearance by the State Environment Impact Assessment Authority.

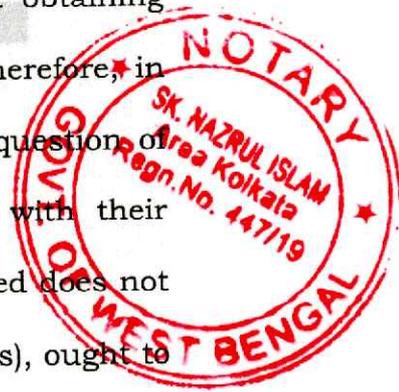
24. In that case of Electrosteels Steel Limited (Supra), we find that the Appellants therein had applied for ex-post facto Forest Clearance approval without prejudice to its rights and contentions that its steel plant is not on forest land and had also applied for revised Environmental Clearance. The facts of the case also show (as emerging from para 88 of the judgment) that that was not a case where the steel plant had been started without Environmental Clearance or consent of the State Pollution Control Board. The appellant therein had applied for and obtained Environmental Clearance to set-up an integrated steel plant (3 MTPA) on 1350 acres of land. Environmental Clearance had been granted on 21st February, 2008 and Consent to Operate had been granted by the Jharkhand State Pollution Control Board on 5th May, 2008. The steel plant, however, was established by the appellant at a site 5.3 kilometers away from the site for which Environmental Clearance and Consent to Establish had been granted, which according to the appellant was a minor shift and made no change in the EIA/EMP on the basis of which Environmental Clearance had been granted. The appellant had also applied for revised Environmental Clearance, Consent to Operate etc. The Hon'ble Supreme Court directed the Respondent No.1, Ministry of Environment, Forests and Climate Change, to take a decision on the application of the



appellant for revised Environmental Clearance in accordance with law within three months and pending such decision, it was directed that the operation of the steel plant shall not be interfered with on the ground of want of Environmental Clearance, Forest Clearance, Consent to Establish or Consent to Operate.

25. Mr. Basu, therefore, submitted that till such Environmental Clearance is granted, the Respondent Nos. 7 to 11, Project Proponent, be permitted to continue with their construction Project.

26. We have considered the submissions of the learned Counsel for the Respondent Nos. 7 to 11. We find that the judgment of the Hon'ble Supreme Court in the case of Electrosteel Steels Limited (supra) has no application to the present case in as much as in the present case admittedly the Respondent Nos. 7 to 11 had never applied for Environmental Clearance before commencement with their construction Project. Even now there is nothing on record to show that the Project Proponent has applied for grant of Environmental Clearance. The report of the Committee constituted by the Tribunal clearly records a finding that the construction activities are going on at the site in question without obtaining Environmental Clearance and Consent to Establish. Therefore, in the facts and circumstances of the present case, the question of permitting the Respondent Nos. 7 to 11 to proceed with their construction work till Environmental Clearance is granted does not arise. The Respondent Nos. 7 to 11, (Private Respondents), ought to have obtained necessary clearances i.e., Environmental Clearance,



prior to proceeding with their construction activities at the site in question.

27. The Chief Engineer, West Bengal Pollution Control Board, who has sworn the affidavit dated 15.02.2022 has completely misread the Ministry of Environment, Forests and Climate Change Office Memorandum dated 07.07.2021 and for reasons best known to him, interpreted the para 12 which speaks of 'Penalty' provisions for violation cases to read as 'Environmental Compensation'.

In the observations signed by the Environmental Engineer and Chief Engineer, West Bengal Pollution Control Board, which has been filed as Annexure - 'R' to the affidavit of the West Bengal Pollution Control Board dated 15.02.2022, they have wrongly interpreted the operation of the project of Respondent Nos. 7 to 11 to mean 'where operation has not commenced' though, in fact, in the present case the construction project of the Respondent Nos. 7 to 11 has commenced and is in actual operation which has not been by the Private Respondents themselves and, therefore, the case of the Private Respondent Nos. 7 to 11 for purposes of computing penalty under para 12 of the Ministry of Environment, Forests and Climate Change Office Memorandum dated 07.07.2021 would be covered by para 12 (a) (ii) and not by para 12 (a) (i). Para 12 of the Office Memorandum of the Ministry of Environment, Forests and Climate Change dated 07.07.2021 reads as under:-

12. Penalty provisions for violation cases and applications:



a. For new projects:

i. Where operation has not commenced: 1% of the total project cost incurred upto the date of filing of application along with EIA/EMP report; (Ex: Rs. 1 lakh for project cost of Rs. 1 Cr.)

ii. Where operations have commenced without EC: 1% of the total project cost incurred upto the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover during the period of violation. (Ex: For Rs. 100 cr project cost and Rs. 100 cr total turnover, the penalty shall be Rs. 1 Cr + Rs. 0.25 Cr = 1.25 Cr).

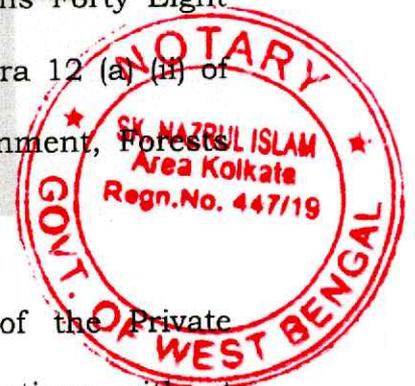
b. For expansion Projects:

i. Where operation/production with expanded capacity has not commenced: 1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.

ii. Where operation/production with expanded capacity have commenced: 1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation."

28. Hence, the Respondent Nos. 7 to 11 are liable to pay the amount of penalty at 1% + 0.25% of the total incurred cost which comes to Rs. 44,48,663/- (Rupees Forty Four Lakhs Forty Eight Thousand Six Hundred Sixty Three only) as per para 12 (a) (ii) of the Office Memorandum of the Ministry of Environment, Forests and Climate Change dated 07.07.2021.

29. In addition to the fact that the Project of the Private Respondent Nos. 7 to 11 had commenced operations without

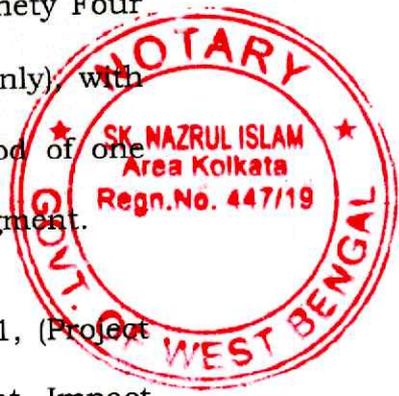


Environmental Clearance, the Committee constituted by the Tribunal had also noted several irregularities/violations of environmental norms in its inspection conducted on 13.07.2021 which is already reproduced by us hereinabove.

30. We are, therefore, of the view that payment of penalty alone does not absolve the Private Respondent Nos. 7 to 11 from paying Environmental Compensation for which we feel that Rs. 50,00,000/- (Rupees Fifty Lakhs only) would suffice for violations/irregularities which have been noted by the Committee. However, if the amount of Rs. 10,00,000/- (Rupees Ten Lakhs) has been deposited by the Private Respondent Nos. 7 to 11 as Environmental Compensation as claimed by them, then they may be entitled to a deduction of the same from the total Environmental Compensation amount of Rs. 50,00,000/- (Rupees Fifty Lakhs only).

31. We, therefore, direct the Private Respondent Nos. 7 to 11, to deposit the Penalty amount of Rs. 44,48,663/- (Rupees Forty Four Lakhs Forty Eight Thousand Six Hundred Sixty Three only) and Environmental Compensation of Rs. 50,00,000/- (Fifty Lakhs only) amounting to a total sum of Rs. 94,48,663/- (Rupees Ninety Four Lakhs Forty Eight Thousand Six Hundred Sixty Three only) with the West Bengal Pollution Control Board within a period of one month from the date of receipt of certified copy of this judgment.

32. We further direct that the Respondent Nos. 7 to 11, (Project Proponent), shall apply before the State Environment Impact



Assessment Authority (SEIAA), West Bengal for grant of Environmental Clearance as per rules within a period of one month. The State Environment Impact Assessment Authority (SEIAA), West Bengal, shall consider such application of the Respondent No. 7 to 11 for grant of Environmental Clearance and pass appropriate orders in accordance with law within a further period of three months thereafter from the date of receipt of such application and in case the Environmental Clearance is granted by the State Environment Impact Assessment Authority (SEIAA), West Bengal, the Respondent Nos. 7 to 11 shall also apply to the West Bengal Pollution Control Board for grant of Consent to Establish and Consent to Operate and on such application being submitted for grant of Consent to Establish and Consent to Operate by the Respondent Nos. 7 to 11, the West Bengal Pollution Control Board shall consider the same and pass appropriate orders in accordance with law within a further period of one month from the date of receipt of such applications.

33. We further direct that in view of the order passed in the preceding paragraphs, the Respondent Nos. 7 to 11 (Private Respondents) shall not proceed with the construction work till the Environmental Clearance as well as the Consent to Operate is granted by the respective authorities.

34. With the aforesaid directions, the Original Application is disposed of.



35. In view of above, the I.A. No. 63/2021/EZ and I.A. No. 86/2021/EZ is also stands disposed of.

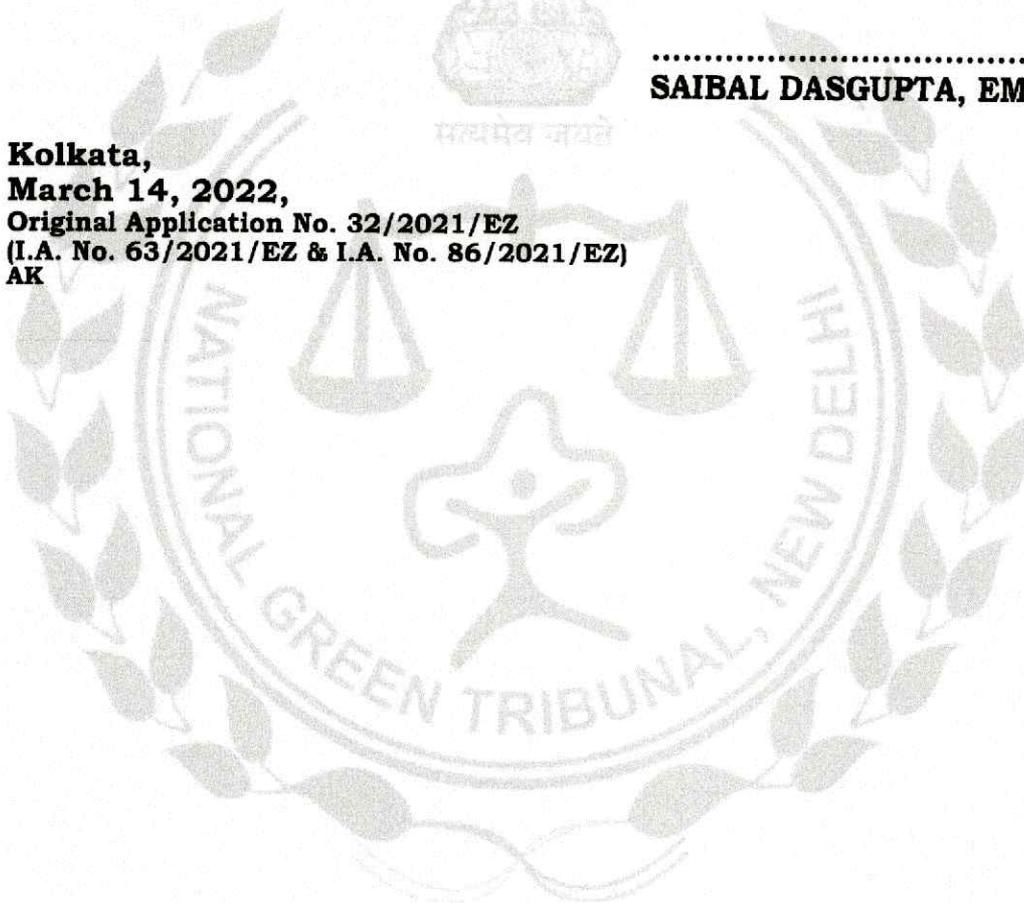
36. There shall be no order as to costs.



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B. AMIT STHALEKAR , JM

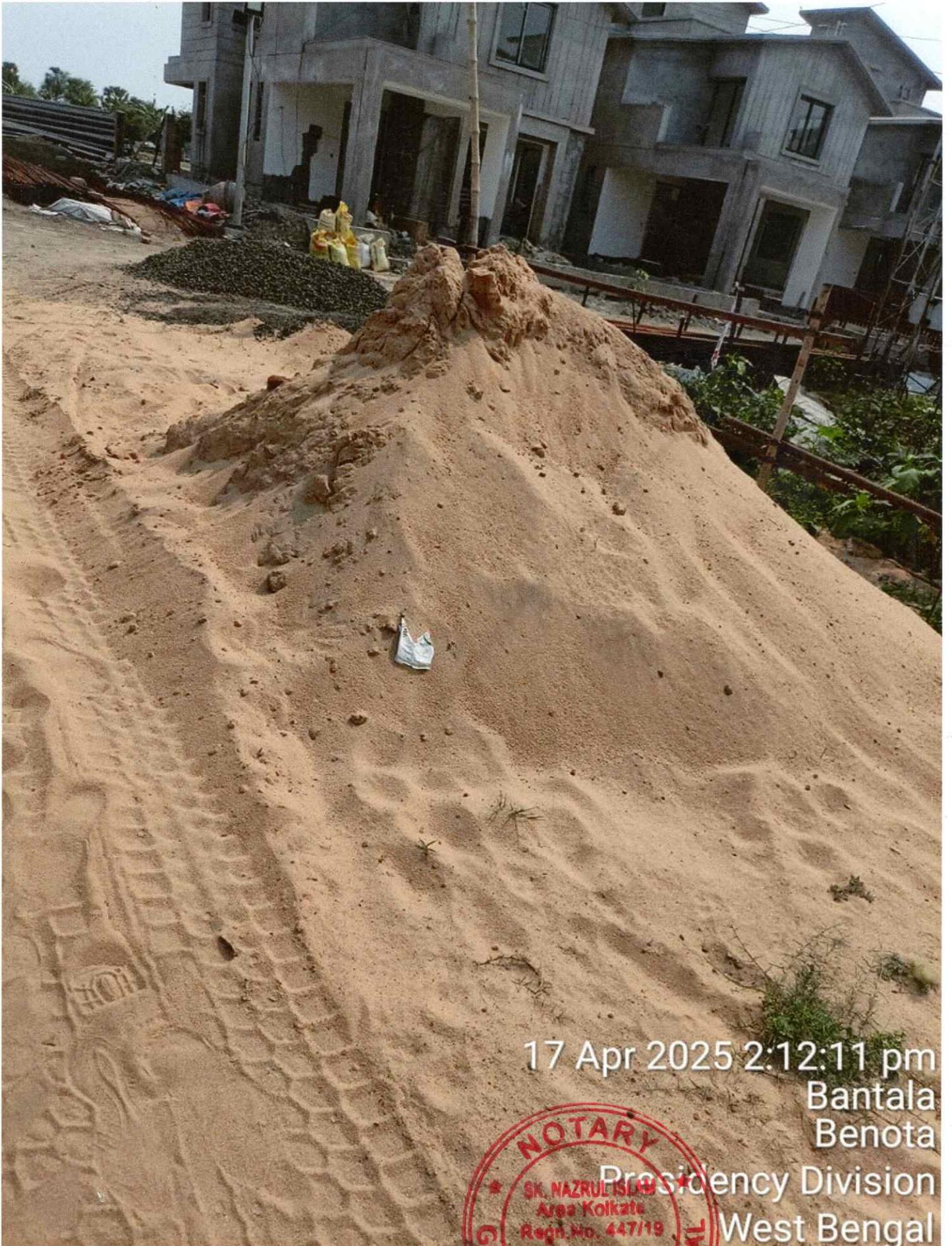
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SAIBAL DASGUPTA, EM

**Kolkata,
March 14, 2022,
Original Application No. 32/2021/EZ
(I.A. No. 63/2021/EZ & I.A. No. 86/2021/EZ)
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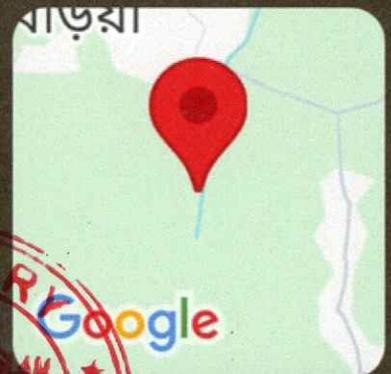
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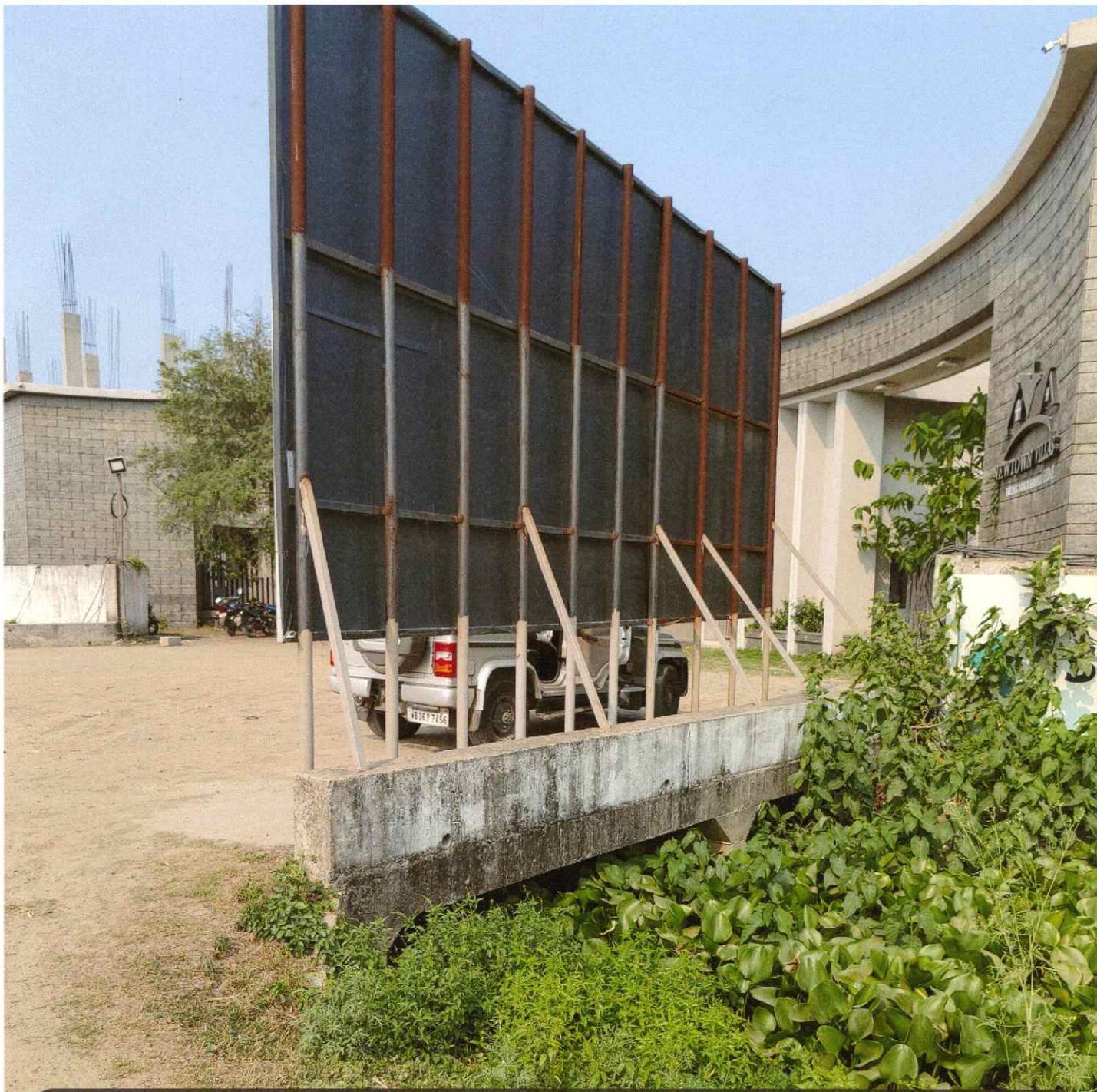




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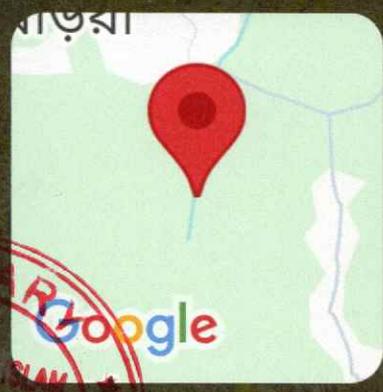
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Presidency Division
West Bengal

NOTARY
SK. NAZRUL ISLAM
Area Kolkata
Regn. No. 447719
WEST BENGAL



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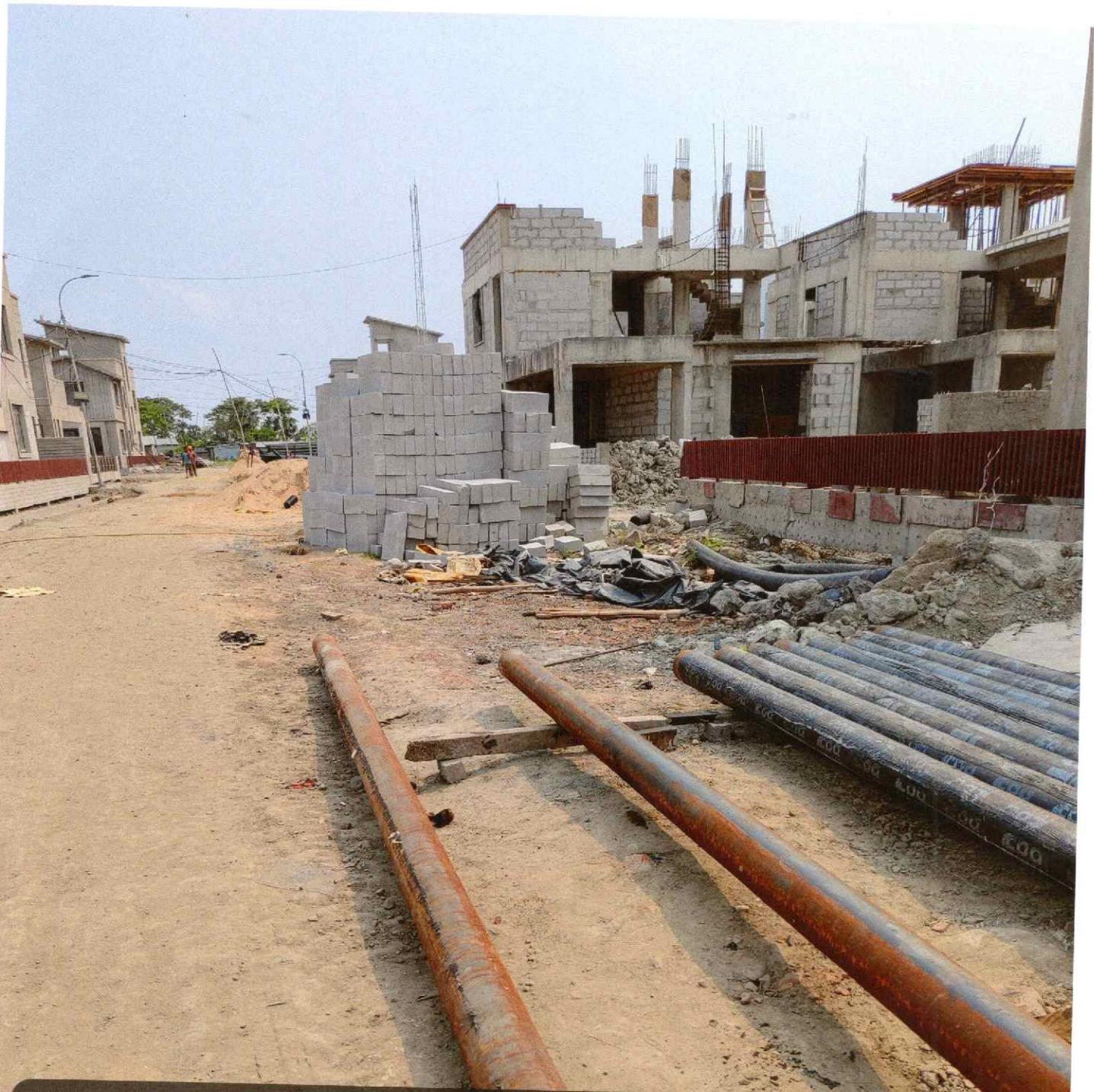
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