

1/3/2025
SL. NO.....

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA, WEST BENGAL

Original Application No.84/2025/EZ

In the matter of :

Ravi Shankar Yadav

...Applicant

Versus

West Bengal State Pollution Control Board & Ors.

...Respondents

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BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH

Original Application No.84/2025/EZ

Ravi Shankar Yadav

...Applicant

Versus

West Bengal State Pollution
Control Board & Ors.

...Respondents



REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.5

I, Mahendra Kumar Jalan, son of Late Jugal Kishore Jalan, aged about 77 years, by occupation – business, residing at “Shree Ram Gardens”, 15, Belvedere Road, Kolkata – 700 027, do hereby solemnly affirm and say as follows:-

1. I am the respondent No.5 herein and am conversant with the facts and circumstances of the instant case. I am competent to affirm this affidavit.

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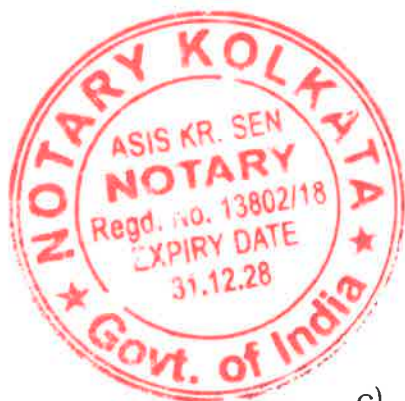
2. A copy of the instant Original Application No.84/2025/EZ (hereafter the “instant OA”) has been served upon me.
3. I have perused the instant OA and understood the contents and purport thereof.
4. I have been advised to traverse and/or to deal with only those statements and/or allegations contained in the instant OA and to refer to such facts as may be material and/or relevant for the disposal of the same.
5. As such, save what would be borne out by the admitted records or what may be specifically admitted by me hereinafter, all statements and/or allegations contained in the instant OA should be deemed to have been denied and disputed by me as if each one has been set out hereunder and denied in seriatim.



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6. Before dealing with the statements and/or allegations contained in the instant OA, I beg to place the following facts and contentions on record:-

- a) I say that the instant OA is not maintainable in its present form and/or in law.
- b) I say that I am not the builder of the real estate project at 25, Netaji Subhas Road, Kolkata in my personal capacity. The builder of the said project is a separate legal entity, details of which are in the public domain. I say that the instant OA is bad for non-joinder of necessary parties and misjoinder of parties.
- c) I say that the instant OA has been filed for collateral purposes and in abuse of the process of law.
- d) I say that the applicant has no locus standi to file the instant OA and has no cause of action for the same.
- e) I say that the applicant, though alleging to be a local inhabitant within the vicinity of Netaji



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Subhas Road, P.S. Hare Street, Kolkata – 700 001, in paragraph 1 of the instant OA, and alleging to be a resident of 22, Strand Road, Kolkata – 700 001, has not disclosed any material particulars to prove or demonstrate his place of alleged residence.

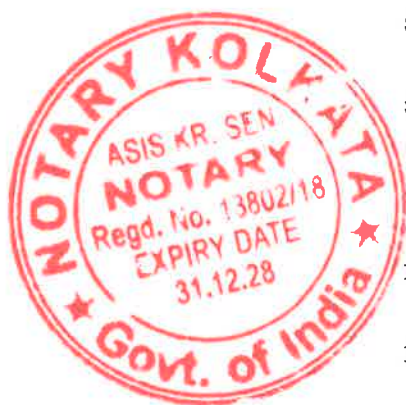
- f) I say that the applicant is a close associate of Mr. Santosh Kumar Pathak, the councillor of Ward No.45 of the Kolkata Municipal Corporation, within which the property in question is situated. It clearly appears that the applicant has been set up by the said Mr. Santosh Kumar Pathak. Mr. Santosh Kumar Pathak, out of malice (the malice being generated by non- fulfilment of some of his unlawful demands), filed a Writ Petition in the form of Public Interest Litigation (PIL) against the State of West Bengal and the Municipal respondents amongst others before the Hon'ble High Court at Calcutta. In the said Writ Petition being WPO(P) NO.4 of 2025, the said Mr.



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Santosh Kumar Pathak levelled identical allegations as those levelled by the applicant in the instant OA. The said writ petition was dismissed in limine by an order dated 22nd May, 2025 and none of the reliefs claimed therein was granted.

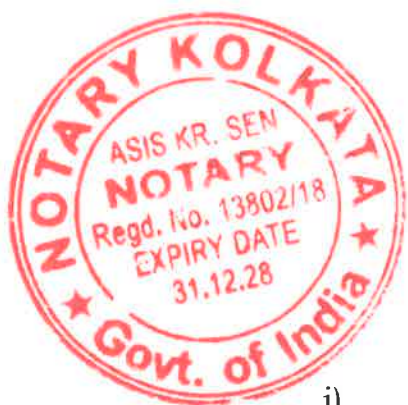
- g) The applicant in the instant OA being an agent and associate of the said Mr. Santosh Kumar Pathak, has filed the instant OA with substantially similar allegations as that of the said PIL, thereby resorting to gross forum shopping with the object of vexing the persons making the said construction. The claim made in the instant OA is barred by constructive res judicata, in view of dismissal of the said PIL filed by the principal of the present OA-applicant. The instant writ petition (PIL) having been dismissed, the effect of the said dismissal and of constructive res judicata has arisen from the said PIL proceeding, cannot be subverted by



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contrary orders in the instant OA. This is precisely what the instant OA-applicant is seeking to achieve by continuing to prosecute the instant OA despite the dismissal of the said PIL filed by his principal.

- h) I say that the applicant is neither a social activist nor an environmental activist. I say that absolutely no material has been disclosed by the applicant to show any act or action on his part justifying his claim as social and environmental activist.
- i) I say that the applicant appears to have been set up by persons inimical to the said project for collateral purposes.
- j) I say that the allegations made in the instant OA are vague and lacking in material particulars.
- k) I say that the applicant appears to have submitted a representation dated 30th January, 2025 before the Municipal authorities. The allegations contained in the said representation



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are as vague and ambiguous as those contained in the instant OA.

- l) I say that the allegations contained in the said representation being Annexure-A to the instant OA as well as the instant OA are false and untrue.
- m) I say that there is no dust or sound pollution, far less actionable dust or sound pollution, in connection with construction of the project. I say that there is no question of anyone being affected by any noise or sound emanating from the project.
- n) I say that the roads in the vicinity have not been affected in any manner by the said construction. I say that it is false and untrue and false and untrue on the part of the applicant to allege that mud from the piling work has made roads muddy. I say that there is no question of roads having become muddy owing to the construction work or owing to transportation of construction



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materials. I say that there has not been any bike accident, far less any fatal bike accident.

- o) I say that usage of water for the project is in accordance with the law and appropriate permission has been obtained.
- p) Pertinently, the situation in the said project is in the spirit of orders made by the Hon'ble Supreme Court of India in connection with litigation relating to the KMC. All sanctions, permits and permissions of the same have been duly obtained and are in tune with the spirit of the enabling orders of the Hon'ble Supreme Court in the aforesaid litigation.



In this connection, I crave leave to refer to and rely upon the said order at the hearing of the instant OA, if necessary.

- q) I say that the instant OA is liable to be dismissed.
- r) It appears that by an order of 14th May, 2025 passed by this Hon'ble Tribunal, a joint

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committee was constituted, directing it to file on affidavit a fact-finding report.

In this connection, a copy of the said order dated 14th May, 2025 is annexed hereto and marked as Annexure "R/1".

- s) I say that the said report was not filed by the said joint committee on 27th May, 2025. On the said date, this Hon'ble Tribunal was pleased to grant an extension of a month to the joint committee to submit its report.

In this connection, a copy of the said order dated 27th May, 2025 granting such extension is annexed hereto and marked as Annexure "R/2".

- t) Accordingly, at the time of preparation of this reply, I have not had the opportunity to peruse or consider the said report.

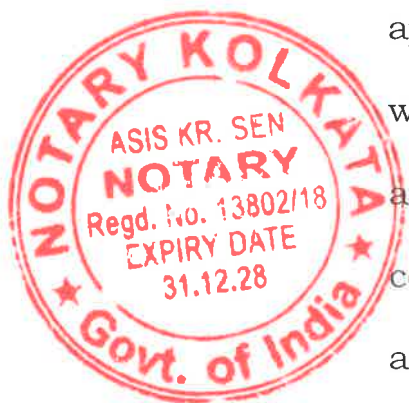
- u) I, therefore, reserve my right to file an appropriate affidavit and/or pleading reacting to the said report of the aforesaid joint committee, prior to commencement of final hearing of the



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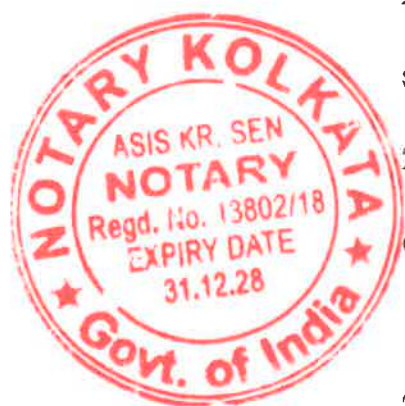
matter and pray that such opportunity may kindly be given by this Hon'ble Tribunal.

7. Without prejudice to the aforesaid, I say that the instant OA is bad and illegal and is liable to be dismissed.
8. Without waiving the aforesaid, but fully relying thereon, I now deal with the statements and/or allegations contained in the instant OA as under.
9. With reference to the statements and/or allegations contained in paragraphs 1 to 3 of the said application, I deny and dispute the same. I do not admit that the applicant is a citizen of India or a local inhabitant within the vicinity of Netaji Subhas Road or that the applicant is in any manner affected by the construction at 25, Netaji Subhas Road. I say that the applicant has not produced any material to show his status as an alleged citizen and an alleged local



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inhabitant. I say that the area in question is predominantly commercial and it is highly unlikely that any person would be residing at 22, Strand Road. I put the applicant to strict proof of his assertions at paragraph 1 of the instant OA. I say that the instant OA has been filed for collateral purposes. I say that the applicant appears to have been set up by persons having vested interest. It is evident, the local councillor of the jurisdictional ward of the Corporation has been unnecessarily causing trouble in the matter. The said local councillor also filed a misconceived Public Interest Litigation (PIL) being WPO (P) No.4 of 2025 before the Hon'ble High Court at Calcutta. The said PIL was summarily disposed of by order dated 22nd May, 2025 passed by an Hon'ble Division Bench of the Hon'ble High Court at Calcutta.



In this connection, a copy of the said order dated 22nd May, 2025 is annexed hereto and marked as Annexure "R/3".

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Further in this connection, I crave leave to produce and refer to a copy of the said PIL at the hearing of the instant OA, if necessary.

I say that I have reasons to believe that the present applicant has been set up by the said local councillor and/or by his men and associate only for the purpose of vexing and harassing me and disrupting the construction work of the said project which has been proceeding in accordance with law.

I deny that there is any noise pollution or dust pollution by the construction of the said project or that groundwater is being used in violation of the existing laws or without any permission.

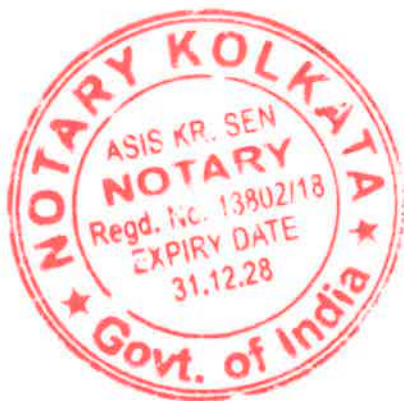
I crave leave to produce and rely upon copies of relevant permissions in this regard at the hearing of the instant OA, if necessary.

In this connection, I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.



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10. With reference to the statements and/or allegations contained in Clauses I to VI of paragraph 4 of the instant OA, I deny and dispute the same as if each one has been set out hereunder and denied in seriatim. I deny that there is any dust (air) pollution or sound (noise) pollution or that any nuisance is being created by either dust pollution or noise pollution, as alleged or at all. I say that since there is no sound pollution, the question of the same being unbearable does not and/or cannot arise. I deny that the roads in the vicinity have become muddy owing to mud generated as a result of the piling work, as alleged or at all. I deny that roads become muddy during the transportation of construction material in relation to the project, as alleged or at all. I deny that any bike accident has been caused owing to the said project or the said alleged muddy roads, as alleged or at all.



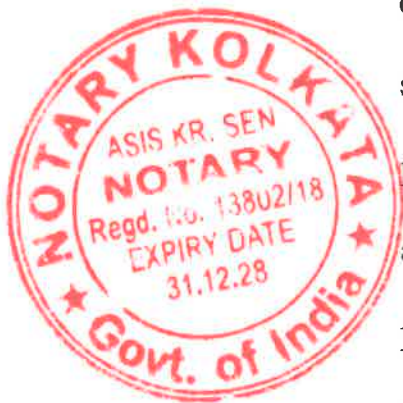
I deny that the construction is being carried out by using boring groundwater without permission or

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violation of the Act and the Rules mentioned in sub-paragraph VI of paragraph 4 under reply. I say that there are appropriate permissions and/or sanctions for every aspect of the said construction including user of water.

In this connection, I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.

11. With reference to the statements and/or allegations contained in Clauses VII to X of paragraph 4 of the instant OA, I deny and dispute the same as if each one has been set out hereunder and denied in seriatim. I say that there is no cause for anyone to protest. I deny that my men have verbally abused the applicant. I deny that there is any dust or sound pollution or that breathing is being affected or that the daily life of the applicant or his family members or residents of the local vicinity is being affected as a result thereof. I deny that there is any noise or that



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the studies of the children and students of the locality are being affected. I say that the representation being Annexure-'A' to the instant OA is replete with falsehood. I say that the said representation is, in any event, vague and unambiguous. I say that there is no cause for any of the respondents in the instant OA or any of the recipients of the said representation to have taken or to take any adverse steps or action in respect of the said project.

It is denied that the construction is being carried out in violation of the rules or that the construction has been causing noise pollution or disturbance in sleep, as alleged or at all. I say that there is no necessity of ensuring reduction of the alleged noise and alleged dust levels. I say that such levels are within the permissible limits, as would appear from expert evidence in the custody of the builder of the project. It is denied that there is any illegal inaction on the part of the respondent authorities. It is denied that there is any illegal act on the part of the

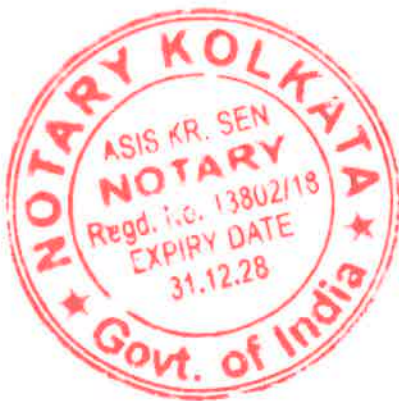


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respondent authorities. I say that there is absolutely no reason for the respondent authorities to stop construction or interfere with the said construction. I say that the construction is being carried out strictly in accordance with law and in pursuance of the spirit of the solemn order passed by the Hon'ble Supreme Court of India. I deny that there is any arbitrary or capricious or whimsical or bad action or inaction on the part of the respondents or any of them.

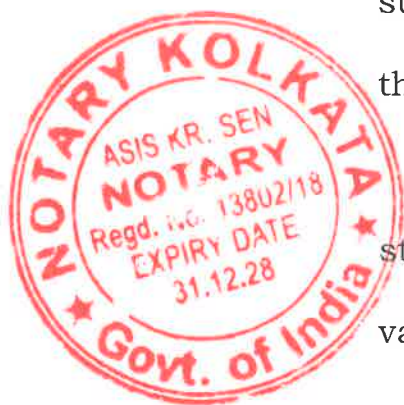
In this condition I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.

12. With reference to the statements and/or allegations contained in paragraph 5 and the various sub-paragraphs (being sub-paragraphs I to X) thereunder, I deny and dispute the same, as if each one has been set out hereunder and denied in seriatim. I say that the purported grounds contained in the said sub-paragraphs I to X are no grounds in the eye of law and



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they do not hold any water. I say that the said allegations couched in the form of grounds are identical to the alleged factual statements made in the sub-paragraphs I to X of paragraph 4 under reply and accordingly, for the sake of brevity and to avoid prolixity, I refrain from dealing with each and every purported ground and crave leave to rely upon my traverses to the sub-paragraphs of paragraph 4, in answer to the said purported grounds. I, however, reserve my right to deal with each and every purported ground sought to be canvassed in the said sub-paragraphs in order to indicate the hollowness thereof.

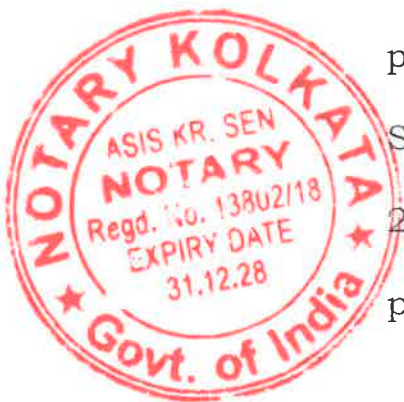


In this connection, I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.

13. With reference to the statements and/or allegations contained in paragraph 6 of the instant OA, I deny and dispute the same, as if each one has been set out

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hereunder and denied in seriatim. I deny that there is any cause of action in the instant case. I say that since there is no cause of action, the question of any cause of action having arisen on January 30, 2025 or the question of such alleged cause of action continuing on a day-to-day basis does not and/or cannot arise at all. Strictly without prejudice to the aforesaid, however, I submit that the instant OA appears to be hopelessly barred by the laws of limitation as specified in Section 14(3) of the National Green Tribunal Act, 2010. I say that the applicant's mentioning of "January 30, 2025" as the starting point of alleged cause of action is arbitrary and the said imaginary date has been incorporated only for the purposes of avoiding the limitational bar under Section 14(3) of the National Green Tribunal Act, 2010. I humbly submit that this Hon'ble Court will be pleased to dismiss the instant OA as time barred.



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In this connection, I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.

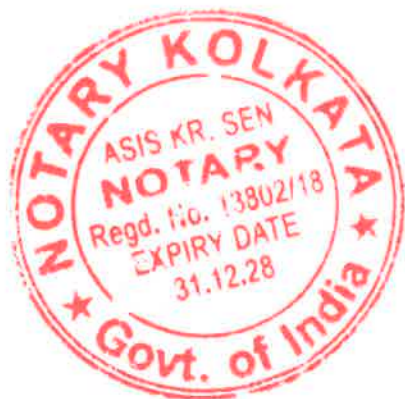
14. With reference to the statements and/or allegations contained in paragraphs 7 and 8 of the instant OA, I deny and dispute each of the interim, ad interim or final relief as contained in the instant OA. I say that the instant OA is an abuse of the process. I say that the applicant does not have the right to sue. I say that the applicant does not have any cause of action. I say that the applicant is not entitled to any relief in the instant OA either in the interim or final form. I say that the instant OA being an abuse of the process is liable to be dismissed with exemplary costs and an appropriate penal action against the applicant.



In this connection, I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.

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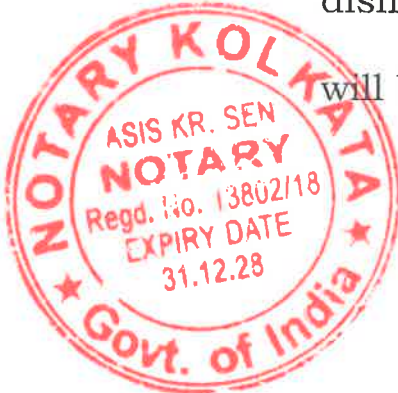
15. With reference to the verification clause of the instant OA, I strongly deny that the applicant in the instant OA is a social and environmental activist, as alleged or at all. I say that the said assertion of being a social and environmental activist is false and falls to the knowledge of the applicant. I say that the said assertion has been made only for the purpose of artificially creating locus to file the instant OA. I say that in reality, the applicant is a stooge and an associate of persons inimical to the said project and/or persons with vested interests. I humbly submit that this Hon'ble Tribunal will be pleased to take appropriate steps against the applicant for making a false and fraudulent assertion of being a social and environmental activist. As regards the affidavit in support of the instant OA, I say that the jurat portion thereof is ex facie incorrect, as a result whereof, the allegations and/or contentions raised by the applicant deserve no credence in the eye of law.



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In this connection, I repeat and reiterate the statements made in paragraph 6 above and the various sub-paragraphs thereunder.

16. I say and submit that the instant OA is bad, illegal, frivolous, misconceived, vexatious and clear abuse of the process of law and the same is liable to be dismissed. I say and submit that this Hon'ble Tribunal will be pleased to dismiss the instant OA with costs.



Identified by me

Mahendra Kumar Jais...

Deponent

Panshali Banerjee
Advocate

21 JUN 2025



Solemnly affirmed and declared
Before me on Identification

Asis Kumar Sen

ASIS KUMAR SEN
City Civil Court
Kolkata
Reg. No. 13802/18 Govt. of India

21 JUN 2025

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VERIFICATION :

I, Mahendra Kumar Jalan, son of Late Jugal Kishore Jalan, aged about 77 years, by occupation – business, residing at “Shree Ram Gardens”, 15, Belvedere Road, Kolkata – 700 027, do hereby verify and declare that the statements contained in paragraphs 1 to 15 of the instant reply affidavit are true to my knowledge and the rest are my humble submissions before this Hon’ble Tribunal.

Mahendra Kumar Jalan

Identified by me

Deponent

Panshali Banerjee

Advocate



ANNEXURE - "R/1"

23

Item No.02

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.84/2025/EZ

Ravi Shankar Yadav

Applicant(s)

Versus

West Bengal State Pollution
Control Board & Ors.

Respondent(s)

Date of hearing: 14.05.2025

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Manas Ajai Sonkar, Advocate (in Virtual Mode) a/w
Mr. Dipankar Thakur, Advocate

ORDER

1. Heard Mr. Manas Ajai Sonkar, learned Counsel assisted by Mr. Dipankar Thakur, learned Counsel for the Applicant.
2. The Applicant has filed this Original Application alleging that the Respondent No.5, Mahendra Kumar Jalan, private respondent, is constructing a Highrise Building at 25, Netaji Subhas Road, P.S-Hare Street, Kolkata in such a manner that it is causing nuisance to the local inhabitants of the vicinity including the applicant herein in addition adding to environmental pollution due to dust and noise.
3. It is alleged that the construction is going on both during day and night generating loud sounds and also producing extreme dust.
4. It is also alleged that groundwater is being pumped out through bore well without permission of the West Bengal Ground Water (Management, Control and Regulation) Act, 2005 and West Bengal Ground Water (Management, Control and Regulation) Rules, 2006



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thereunder. Photographs have been filed with the affidavit by way of evidence.

5. We find that the Applicant has placed representation before the Executive Engineer, Kolkata Municipal Corporation, copy of which has been filed at Annexure-'A' of the Original Application.
6. Matter requires consideration.
7. Issue notice to the Respondents, returnable within four weeks.
8. Mr. Dipanjan Ghosh, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.1, West Bengal Pollution Control Board.
9. Mr. Rajib Ray, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent Nos.2, Additional Chief Secretary, Department of Environment, State Respondent, Government of West Bengal.
10. Mr. Sibojyoti Chakrabarti, learned Counsel who is present in Court, accepts notice on behalf of the Respondent Nos.3 and 4, the Municipal Commissioner and Executive Engineer, Kolkata Municipal Corporation.
11. Issue notice to the Respondent No.5, Mahendra Kumar Jalan, private respondent, returnable within four weeks.
12. The Respondent Nos.3 and 4, Kolkata Municipal Corporation is directed to file its counter-affidavit with Action Taken Report by **27.05.2025**.
13. Considering the allegations made, we deem it appropriate to constitute a Fact Finding Committee comprising of the following Members:-



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- i. Senior Scientist, West Bengal Pollution Control Board;
 - ii. Municipal Commissioner, Kolkata Municipal Corporation, or his representative; and
 - iii. District Magistrate, District- Kolkata or his representative not below the rank of Additional District Magistrate (ADM).
14. The Committee shall visit the site in question and thereafter submit a Fact Finding Report on affidavit by **27.05.2025** with regard to the allegations made in the Original Application.
15. The District Magistrate, District – Kolkata shall be the Nodal office for all logistic purposes and for filing the Fact finding Report on affidavit.
16. The Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Dipanjan Ghosh, Mr. Rajib Ray and Mr. Sibojyoti Chakrabarti, learned Counsel for the Respondents, within 24 hours.
17. **List on 27.05.2025.**

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

May 14, 2025,
Original Application No.84/2025/EZ
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ANNEXURE - "R/2"

26

Item No.2

Court No. 2

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

(Through Physical Hearing with Hybrid Option)

Original Application No.84/2025/EZ

Ravi Shankar Yadav

Applicant(s)

Versus

West Bengal State Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 27.05.2025

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

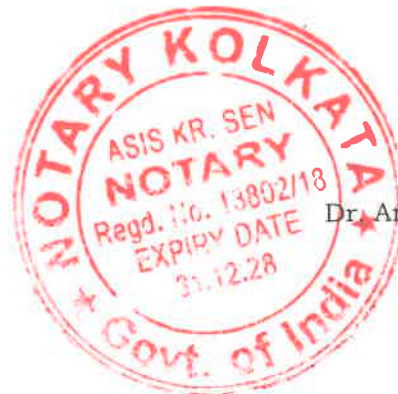
Applicant(s): Mr. Sayan Chattopadhyay, Advocate a/w Mr. Dipankar Thakur, Advocate for Applicant (in Virtual Mode)

Respondent(s): Mr. Dipanjan Ghosh, Advocate for R-1
Mr. Rajib Ray, Advocate for R-2 (in Virtual Mode)
Ms. Paushali Banerjee, Advocate a/w Mr. Biswajit Kumar, Advocate and Mr. Raja Paliyal, Advocate for R-5**ORDER**

1. Vide order dated 14.05.2025, a Joint Committee was constituted and Fact Finding Committee Report was required to be filed on affidavit by 27.05.2025 but no such Report has been filed.
2. Learned Counsel appearing for respondent 5 also stated that he may be granted a month's time to file its reply.
3. As a last opportunity, we grant one month's further time to Joint Committee to submit its Report.
4. Respondents may also file their responses within the same period.
5. List on 08.08.2025.

Sudhir Agarwal, JM

Dr. Arun Kumar Verma, EM

May 27, 2025
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OD - 5

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction

ORIGINAL SIDE

WPO(P)/4/2025
SANTOSH KUMAR PATHAK
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE :
THE HON'BLE JUSTICE SOUMEN SEN
And
THE HON'BLE JUSTICE SMITA DAS DE
Date : 22nd May, 2025

Appearance :
Mr. Prabir Kumar Mukherjee, Adv.
Mr. Pranay Mukherjee, Adv.
Mr. Pourush Bandopadhyay, Adv.
..for petitioner.

Mr. Arindam Banerjee, Sr. Adv.
Mr. Chayan Gupta, Adv.
Mr. Victor Chatterjee, Adv.
...for respondent no.4.

Mr. Alak Kumar Ghosh, Adv.
Mr. Suman Basu, Adv.
...for KMC.

Mr. Arindam Mondal, Adv.
..for State.



The Court : In a public interest litigation we cannot prevent the corporation from acting in accordance with law. However, it appears that by reason of certain letters alleged to have been written by the president of Chowrangee Mandal - 1, Bharatiya Janata Party, namely, Sri Kamleet Pandey, the petitioner has been defamed. If the petitioner is alleged to have been defamed by such communication, he has legal

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remedy. The petitioner cannot notify the Court in a public interest litigation to restrain the corporation or any statutory authority from acting in accordance with law. However, while disposing of the matter, we observe that the prayer (b) of the writ petition may be taken into consideration by the statutory authority.

In view of the above, the writ petition is, accordingly, disposed of.

Since no affidavit in opposition has been called for, all allegations contained in the petition are not deemed to have been admitted.

(SOUMEN SEN, J.)

(SMITA DAS DE, J.)

sd/



BEFORE THE NATIONAL GREEN
TRIBUNAL, EASTERN ZONE BENCH

Original Application No.84/2025/EZ



Ravi Shankar Yadav

...Applicant

Versus

West Bengal State Pollution Control
Board & Ors.

...Respondents

**REPLY AFFIDAVIT ON BEHALF OF
RESPONDENT NO.5**

Ms. Paushali Banerjee,
Advocate,
NPS Business Centre,
7A, Kiran Shankar Roy Rozad,
Kolkata - 700 001.