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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 92/2025/EZ

In The Matter of:

Ankur Sharma

... APPLICANT

VERSUS

State of West Bengal & Ors.

... RESPONDENT(S)

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 06,
 DISTRICT MAGISTRATE & COLLECTOR, HOWRAH.

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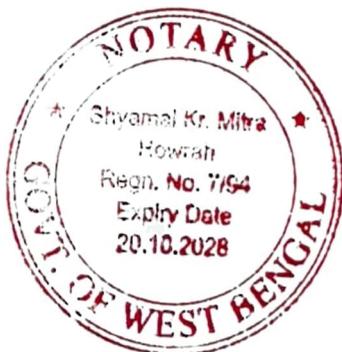


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Filed by

Sri Rajib Ray
Advocate
For The State of West Bengal


13 AUG 2025



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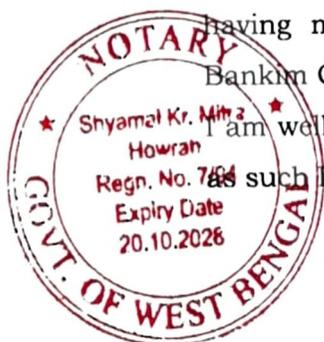
... RESPONDENT(S)

H-425/2025
SI. No.

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 06,
DISTRICT MAGISTRATE & COLLECTOR, HOWRAH.

I, Deepap Priya, D/o Sri I. Palraj, by faith- Hindu, by occupation-service, presently posted as District Magistrate & Collector, Howrah, having office at New Collectorate Building, 3rd Floor, 6, Rishi Bankim Chandra Road, P.O & P.S & District: Howrah, Pin: 711101, do hereby solemnly affirm and declare as follows: -

1. That, I am working as District Magistrate & Collector, Howrah district, having my office at New Collectorate Building, 3rd Floor, 6, Rishi Bankim Chandra Road, P.O & P.S & District: Howrah, Pin: 711101, and I am well acquainted with the facts and circumstances of the case and as such I am competent to swear, sign and affirm this Counter affidavit.



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2. That this Counter affidavit is filed in compliance to the Solemn Order dated 15.07.2025, passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata.
3. That the present original application has been taken up by the Hon'ble Tribunal on the basis of an Affidavit along with a supplementary Affidavit submitted by Mr. Ankur Sharma, the applicant alleging gross pollution and environmental damage being caused due to the operation of the Hot Mix Plant by the PWD and the Howrah Municipal Corporation in the process of construction and repairing of G.T. Road (South) by PWD and N.S. Road by the Howrah Municipal Corporation.
4. That the concerned authorities in the Public Works Department and the Howrah Municipal Corporation that is the Executive Engineer, PWD, Howrah Division and the Commissioner of Howrah Municipal Corporation were requested to submit report vide letter no. 166(2)/Env./Howrah dated 28-07-2025 regarding the allegations made by the applicant.

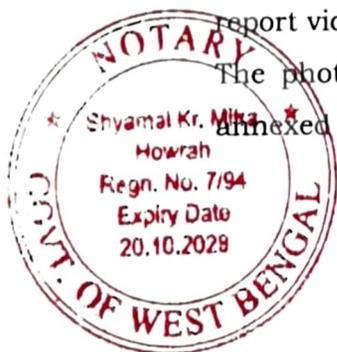
The photocopy of the said letter is annexed herewith and marked as **"R-1"**.

5. That the Commissioner of Howrah Municipal Corporation has submitted a report vide her letter no. 027/Gen (SC Cell)/Commr./2025-26 dated 06-08-2025.

The photocopy of the said report of the Howrah Municipal Corporation is annexed herewith and marked as **"R-2"**.

6. That the Executive Engineer of Howrah Division, PWD has submitted a report vide his letter no. 1971 dated 08-08-2025.

The photocopy of the said report of the Public Works Department is annexed herewith and marked as **"R-3"**.



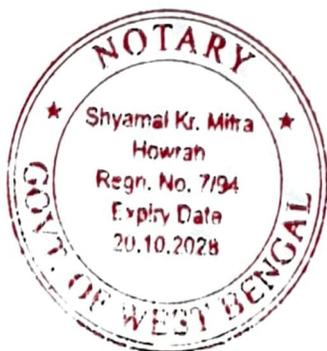
7. That it is therefore respectfully prayed that Hon'ble Tribunal may pass such order/orders as it deems fit and proper in the interest of justice.

Identified by me

Advocate

For The State of West Bengal


District Magistrate
&
Collector, Howrah
Deponent




13 AUG 2025

VERIFICATION

Verified at Kolkata by the deponent above named on this the day of August 2025 and say that the contents of this affidavit made in paragraph nos. 1 is true to my knowledge and those made in paragraphs no. 2 to 6, are true to my information derived from the office records and rest are my respectful submission before this Hon'ble Tribunal.

Identified by me

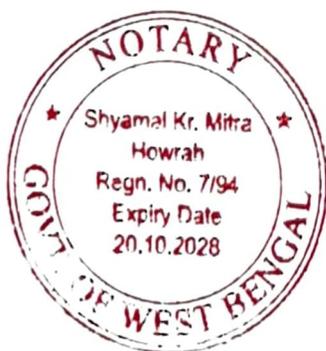
[Signature]
District Magistrate
&
Collector, Howrah
Deponent

Advocate
For The State of West Bengal

SOLEMNLY AFFIRMED & DECLARED
BEFORE ME ON IDENTIFICATION

[Signature]
SHYAMAL KR. MITRA
NOTARY HOWRAH

13 AUG 2025



R-1



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE & DISTRICT COLLECTOR
HOWRAH
(ENVIRONMENT CELL)

Memo No.: 166 (2)/Env./Howrah

Date: 28/07/2025

To: (1) The Commissioner
Howrah Municipal Corporation

(2) The Executive Engineer
Howrah Division, PWD.

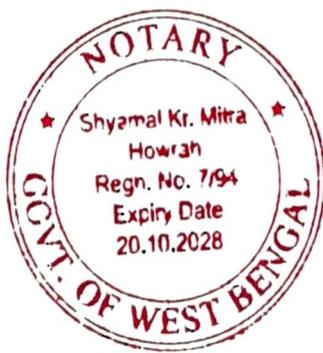
Sub: - Seeking para-wise statement of facts in connection with the solemn order dated 15-07-2025 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in OA No. 92 /2025/EZ.

Please find enclosed the copies of the solemn order dated 15-07-2025 passed by Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 92/2025/EZ and the Original Application along with Supplementary Affidavit dated 08-07-2025 filed by Mr. Ankur Sharma, the applicant in the instant O.A.

You are requested to submit the para-wise statement of facts with regards to the Original Application and the Supplementary Affidavit to this end (environmentcellhowrah@gmail.com) **within 08-08-2025** to enable this office to file para-wise counter affidavit within four weeks from the date of order passed by the Hon'ble Tribunal in this regard.

This is for your kind information and taking necessary action.

Encl: as stated.



13 AUG 2025


District Magistrate
Howrah



HOWRAH MUNICIPAL CORPORATION

4, MAHATMA GANDHI ROAD, HOWRAH - 711 101
Tel: (+91-33) 2638-3211-13, 2641-5218; Fax: (+91-33) 2641-5218/2214

No. 027/Gen (S.C. Cell)/Commr./2025-26

Dated : August 06, 2025.

To,
The District Magistrate,
Howrah.

Sub : Submission of an up-dated Action Taken Report in connection with the solemn order dated 15.07.2025 passed by the Hon'ble NGT in OA 92/2025/EZ — Reg.

Madam,

This has reference to your letter communicated vide Memo No. 166(2)/Env./Howrah, dated 28.07.2025 on the captioned subject.

In this connection, enclosed please find herewith an up-dated Action Taken Report of the HMC with regard to the instant O.A. on the basis of which counter Affidavit would be filed and averments would be made by the HMC being respondent No. 5 for your kind perusal and further required action please.

Thanking you,

Yours faithfully

Commissioner
Howrah Municipal Corporation
Encls : As stated above.

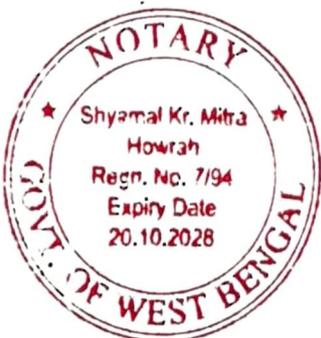
Endt. No. 027/1/(5) /Gen (S.C. Cell)/Commr./2025-26

Copy forwarded for information together with a copy of the ATR ibid with all enclosures to :

1. The Member Secretary, WBPCB, Paribesh Bhavan, Building 10A, Block LA, Sector III, Bidhannagar, Kolkata - 700106;
2. The Secretary, HMC;
3. The E.E. (Roads), HMC ;
4. The OSD (Law), HMC - with request for necessary co-ordination with our Ld. Counsel in the instant OA for preparation & filing of the Affidavit-in-Opposition plz;
5. Dept. Guard File.

Dated : August 06, 2025.

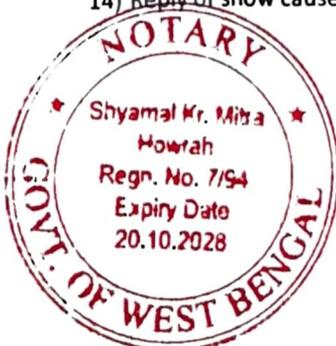
Commissioner
Howrah Municipal Corporation



13 AUG 2025

REPORT

- 1) HMC has taken up up gradation / renovation of road for 32.0207 km during the period from July/2024 to July'2025. Out of this length 27.44 km concrete road has been constructed.
- 2) It may be mentioned that to reduce pollution & to follow NGT guidelines 10.48 km out of above 27.44 km bituminous road has been converted to concrete road during this period.
- 3) Most of the patch repairing on the existing bituminous road has been executed by paver blocks and remaining by cement concrete. For upcoming schemes estimates has been considering non bituminous work.
- 4) In case of Netaji Subhas Road the renovation work had been taken up as per public grievance (Sorasoni Mukhyomntri)
- 5) The condition of a stretch of the said road was damaged & became accident prone. During vehicle movement the area was used to be dusty as the road surface was damaged & rough. It was essential to take up the road work urgently. Considering existing utilities and considering its busy nature & upcoming festivals like Ram Thakur Bisorjan, Durga Puja etc. bituminous road was considered with a terms & condition to follow NGT guideline specifically mentioned in the work order.
- 6) Further, to control air pollution HMC has taken initiatives and created green area within its jurisdiction.
- 7) However for future this road will also be converted to concrete road / Paver block road.
- 8) Work Order for Improvement of N.S. Road work issued vide Memo No. – Ed-35/EE-II/Rds/25-26 Dt.06.05.2025.
- 9) A complain through mail was received on 14.05.2025 regarding hot-mix plant.
- 10) After receiving the complain the contractor was called & instructed verbally to follow the NGT guidelines mentioned in the work order.
- 11) A letter dated 25.05.2025 has been received from contractor where he has requested for site visit.
- 12) The site was visited on 03.06.2025 & it has found that the agency had completed the work partly. On spot verbally instruction was given to the agency & also a letter was issued vide memo no ED/42/Roads/2025-26, dated:- 13.06.2025 with a direction for rectification work & complete balance work following NGT guidelines.
- 13) A show cause notice has been issued vide Memo No. – ED-114/EE-II/Rds/2025-26 Dt. – 24.07.2025 to the agency Central Co-operative Engineer's Society Ltd with a direction to explain cause of violation of N.G.T. guidelines.
- 14) Reply of show cause notice yet to be received.



13 AUG 2025

- * -



HOWRAH MUNICIPAL CORPORATION

4, MAHATMA GANDHI ROAD, HOWRAH-711 101
 ● 033 2638 3211/12/13 ● 033 2641 0830

Visit us www.hmc.org.in
 Engineering Department

No.- ED- 36/E.E-II/Rds/2025-26

Date:- 06.05.2025

From:- Executive Engineer (Roads)
 Howrah Municipal Corporation

To
Central Co-Operative Engineers Society Limited
 34/2, Halder Para Lane
 Howrah- 711101.

Sub:- L.O.I cum work order of "Improvement of road by Mastic Asphalt at Netaji Subhas Road from Peoples Meditrate to Vidyasagar statue under ward no-24,25,26 & 43 of HMC".

Ref NIT No:- WB-HMC/NIT/ED/27/EE-II/24-25 Date:- 21.03.2025 SL No:- 13.

Estimated Amount:- 65,67,928.00

Tender Amount:- 65,67,928.00

Earnest Money:- 1,31,359.00

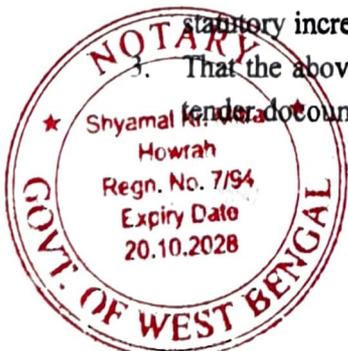
Project ID:- 2025_MAD_829839_13

AA&FS No:- GO2425022515UM Date:- 27.08.2024.

Dear Sir,

Your offer for the above mentioned Tender amounting to Rs 60,57,600.00 (Sixty lakh fifty seven thousand six hundred only) @ 7.77% Less on the departmental estimated cost put to Tender for Rs. 65,67,928.00 (Sixty five lakh sixty seven thousand nine hundred twenty eight only) has been accepted by the undersigned for and on behalf of Howrah Municipal Corporation strictly as per stipulation contained in the HMC tender documents and under the following terms and conditions:-

1. That you will carry out work strictly as per N.I.T, Special Terms and Conditions and Technical specifications laid down in the Tender Documents.
2. That the above accepted price shall remain firm and no price variation shall be allowed under any circumstances. The above prices are inclusive of all charges eg. Service tax, Income tax, local charges, GST for the project and all other charges are applicable. Nothing extra in regard to statutory increase in taxes and duties during the contractual period shall be paid.
3. That the above rate shall be inclusive of all costs for all components of the job as provided in the tender documents read with all clarifications confirmed by you.



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That you have to abide by all applicable clauses, rules, regulations, laws, acts/etc including environmental norms/standards as laid down by the Govt. for time to time & in force at present or any other applicable rules in force which are relevant in the context of this job or would be in force during the period of the contract.

- a. The bituminous Hot Mix plant (both Batch, Drum type & Mini hot-mix plant) should have appropriate pollution control unit (primary and/or, secondary, as the case may be) as per provision of IRC: 90-2010 to meet up prevailing guidelines of Central Pollution Control Board (C.P.C.B) in regard to Hot Mix Plant.
- b. In case of any dispute for confirmatory testing, the report of NABL accredited Laboratories/IIT/CRRRI/RBRI will govern.
5. That this letter shall be treated as **Letter of Intent cum Work Order** and shall constitute a part of the contract agreement.
6. That the Executive Engineer (Roads)/HMC will be the Engineer-In-Charge of the said work.
7. That you shall have to execute the formal Tender Agreement from the office of the Ex. Engineer (Roads)/HMC within 07 (Seven) days from the date of receiving of this order.
8. That time of completion for this work is 60 (Sixty) days from the date of issuance of work order, and please treat this work is very urgent in nature, so you are requested to start the work immediately, with written intimation to the E.E. (Rds).
9. That you have to install **requisite display board** as instructed by Engineer-In-Charge and have to maintain that board at his own cost. No payment shall be made in this regard from HMC.
10. That all necessary testing will have to be carried out at your own cost.
11. That you have to submit the **requisite nos of photos**, each of the road at the time of **work order, during execution and at the time of completion prescribed format as per the direction of the E.I.C.** The total work will be under HMC App monitoring protocol and you need to upload photographs during the work execution and completion.
12. That Defect Liability Period for the respective work is **5(five) years** from the actual date of completion of the said work.

Release of Security deposit:-

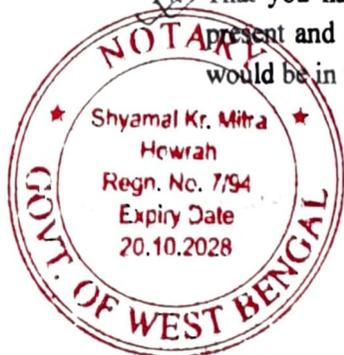
The security money (10% of executed value) will be released to the agency subject to proper maintenance of the work including all of its components for a period of 05 (five) years from the date of completion and handing over of the project to HMC in proper format.

The schedule for release would be as below:

- (i) **No security deposit shall be refunded for 1st to 3rd years from the date of completion of work.**
- (ii) **After 4th year from the date of completion of work- 30% of SD.**
- (iii) **After 5th year from the date of completion of work- 70% of SD.**

13. That as per new rules of GST necessary tax will be deducted from the progressive bill from time to time.

14. That you have to abide by all applicable clauses, rules, regulations, laws, acts etc. in force at present and or any other applicable rules in force which are relevant in the context of this job or would be in force during the period of the contract.



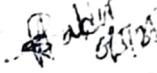
13 AUG 2025

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5. That you are to produce documents of labour license issued by the labour department, Govt. of West Bengal in your favour under the contract labour (Regulation & Abolition) Act, 1970 and West Bengal contract labour (Regulation & Abolition) Rules, 1972 as soon as possible failing which payment for the work executed by you may be held up.
16. That the offered rate will remain same till completion of the work.
17. That the work should not be executed beyond the permissible limit of the contract without prior approval in writing of the appropriate authority.
18. That any additional work, if required beyond the tender amount, should be taken up strictly with the concurrence of the EE/HMC, a site book will have to be maintained by the contractor for recording the observation/remarks of HMC Engineers during the course of execution.
19. The agency shall comply with all the rules and regulations regarding safety, security and other statutory obligations of its workers.

THIS MAY BE TREATED AS FORMAL 'Letter of Acceptance cum Work Order'

Yours faithfully

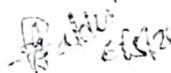

Executive Engineer (Roads)
Howrah Municipal Corporation

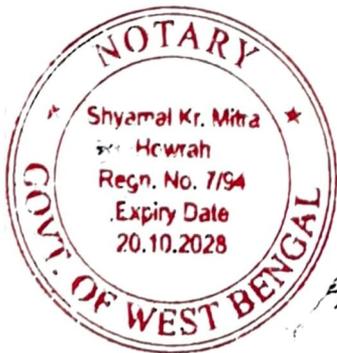
Date:- 06.05.2025

No.- ED- 36/1-9()/E.E-II/Rds/2025-26

Copy Forwarded for information to the:-

1. Hon'ble Chairman, B.O.A, HMC.
2. Commissioner, HMC.
3. C.O.F, HMC.
4. Asst. Labour Commissioner.
5. R.A.O, HMC.
6. Assistant Engineer (Roads), HMC.
7. O.S.D (Water Supply), HMC.
8. S.A.E (S.Paral), HMC.
9. Office Copy.


Executive Engineer (Roads)
Howrah Municipal Corporation




13 AUG 2025

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HOWRAH MUNICIPAL CORPORATION

4, MAHATMA GANDHI ROAD, HOWRAH-711 101

ROADS DEPARTMENT

● 033 2638 3211/12/13 ● 033 2641 0830

Memo No. :- ED/42/EE-II/Roads/2025-26

Date: -13.06.2025

From
Executive Engineer (Roads),
Howrah Municipal Corporation

To
Central Co-Operative Engineers Society Ltd.,
34/2, Halder Para Lane,
Howrah - 711 101

Sub: - Rectification of executed work

**Ref: - Work Order No. ED-36/E.E.-II/Rds/2025-26, Dated
06.05.2025**

This is to inform you that, the road mentioned above was visited jointly on 03.06.2025 with you and following observations were noted.

1. Manhole level is much bellow the road surface.
2. Road camber is not proper in different locations.

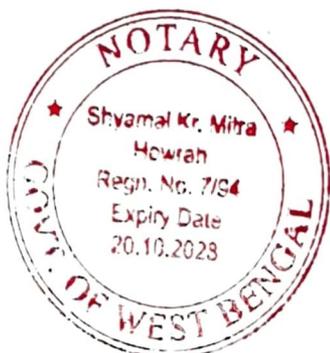
You are therefore requested to take up necessary rectification work. You are also requested to execute entire area of Mastic Work as considered in the estimate and complete balance work following N.G.T. guidelines.

Your early action in this regard is highly solicited.

Thanking you,

Executive Engineer (Roads),
Howrah Municipal Corporation

Executive Engineer (Roads)
Howrah Municipal Corporation



13 AUG 2025



HOWRAH MUNICIPAL CORPORATION

4, MAHATMA GANDHI ROAD, HOWRAH-711 101

ROADS DEPARTMENT

● 033 2638 3211/12/13 ● 033 2641 0830

Memo No. :- ED/114/EE-II/Roads/2025-26

Date: -24.07.2025

From
Executive Engineer (Roads),
Howrah Municipal Corporation

To
Central Co-Operative Engineers Society Ltd.,
34/2, Halder Para Lane,
Howrah - 711 101

Sub: - Show Cause Notice for not following the CPCB Guidelines regarding Hot Mix Plant

Ref: - Work Order No. ED-36/E.E.-II/Rds/2025-26, Dated 06.05.2025

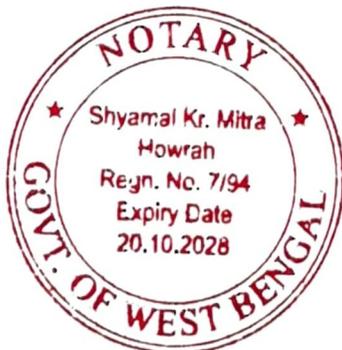
With reference to the above, you were directed to execute the bituminous work following CPCB guidelines mentioned in the work order. But it has been found that, you have failed to follow the terms & conditions of guidelines. The hot Mix Plant was not equipped with appropriate Air Pollution Control devices & other mandatory equipments.

Now, therefore you are directed to state the reason why legal action / penalty will be not imposed against you. Your written reply shall have to reach this end within 7 (seven) days from the receipt of this letter.

Thanking you,

[Signature]
24/07/2025
Executive Engineer (Roads),
Howrah Municipal Corporation

Executive Engineer (Road)
Howrah Municipal Corporation



13 AUG 2025

— ✕ —



Phone No. (033) 2688 - 0230
Email Id: ecpwdhowrahdivision@gmail.com

**GOVERNMENT OF WEST BENGAL
OFFICE OF THE EXECUTIVE ENGINEER
HOWRAH DIVISION, P.W.D.
ONKARMAL JETIA ROAD
NEAR NABANNA BUS STAND, HOWRAH 711 103**

Memo No. 1071

Date: 08/08/25

To
The District Magistrate
Howrah

Sub : Seeking parawise statement of facts in connection with the solemn order dated 15.07.2025 passed by the Hon'ble National Green Tribunal, Eastern Zone Branch, Kolkata in OA No. 92/2025/EZ.

Ref : Your memo No. 166 (2)/Env./Howrah dated 28.07.2025

Madam,

As requested vide your memo under reference, I am to submit the parawise statement of facts with regards to the Original Application in connection with the solemn order dated 15.07.2025 passed by the Hon'ble National Green Tribunal, Eastern Zone Branch, Kolkata in OA No. 92/2025/EZ for favour of your kind information and necessary action.

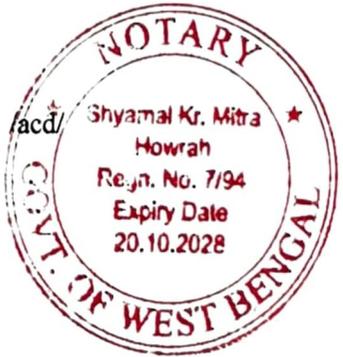
Yours faithfully,
Sanku
Executive Engineer
Howrah Division, PWD

Encl: As stated above

Memo No. _____ Date _____

Copy forwarded for information to:

- 1) The Sr. Superintending Engineer, Nabanna Circle, PWD.
- 2) The Assistant Engineer, Shibpur Sub-Division, PWD.



sd/
Executive Engineer
Howrah Division, PWD

[Signature]
13 AUG 2025

— ✕ —

SUBMISSION OF PARAWISE STATEMENT OF FACT IN CONNECTION WITH THE SOLEMN ORDER DATED 15.07.2025 PASSED BY THE HON'BLE NATIONAL GREEN TRIBUNAL, EASTERN - ZONE BRANCH, KOLKATA IN OA NO. 92/2025/EZ.

1. That with regard to the statements made in paragraph no.1 of the said application, it is to mention that no comment is made and nothing is admitted which are not borne on record and calls upon the applicant to the strict proof of the same.
2. That with regard to statements made in the paragraph nos. 2 to 4 of the said application, it is to state that those are all matter of records and do not admit anything contained therein, contrary to or inconsistent with the record. The allegations that the PWD's pre-monsoon works with a hot mix plant are illegal, harmful to the environment, or unnecessary are wholly unfounded, misconceived, and contrary to facts. In response to the allegations made in Paragraph 2 to 4, following replies are made as under.
 - i) That the road stretches of G.T. Road in part stretches from 678.00 km to 678.32 km under Shibpur Sub Division under Howrah Division during the year 2024-25, have suffered significant distress such as potholes, rutting, and surface cracks due to wear and tear, traffic load, and seasonal effects and the work Pre monsoon road repairing was urgent in nature.
 - ii) The Department is mandated to undertake routine and preventive maintenance to reserve road assets and ensure public safety.
 - iii) That considering extremely vulnerable & accident prone road condition as well as the volume of work was also very small (amounting less than 5 lacks), the Mobile Hot Mix Plant was used for a very few days for making the road traffic worthy.
 - iv) That the said works are thus in overriding public interest, aimed at ensuring uninterrupted and safe transport for the general public, emergency services, and essential supply chain.
 - v) That after completion of the above work, the Mobile Hot Mix Plant was removed from the working site (i.e. nearby Shalimar 3 No Railway Gate) by the concerned agency.
 - vi) It can be stated that the gross pollution and environmental damage was not happened due to operation of Mobile Hot Mix Plant in connection with the pre-monsoon road repairing (in stretches at G.T. Road). The work was executed for a few days and the volume of work was very small (amounting less than 5.0 lakhs)

3. That with regard to the statements made in paragraph no.5 to 7 of the said application, it is to mention that these statements from paragraph no 5 to 7 do not belongs to PWD concerned.



13 AUG 2025

Contd.....P/2



:: 2 ::

4. That with regard to this statements made in paragraph no.8 where applicant has mentioned a tender notice in 'Annex P4 (Page 31)' and he likes to mention that Mobile Hot Mix Plant was used for execution of the works mentioned in the Annex P- 4, Page 31. But in this connection it is to mention here that no bituminous item of work was involved for the two Nos. of works as stipulated in the N.I.T. No. WBPWD/EE/HD/NleT-06/2025-26 (as mentioned by the Applicant in Annex P-4, Page 31). So, there is no question of using Mobile Hot Mix Pant for the said works. But actually the Pre-monsoon road repairing work at G.T. Road in stretches was executed vide N.I.T. No. WBPWD/EE/HD/NleT-109/2024-25 of EE, Howrah Division, PWD.
5. That with regard to the statements made in paragraph no.9 of the said application, it is to state that Mobile Hot Mix Plant was used for a very few days for making the road traffic worthy. After completion of the above work, the Mobile Hot Mix Plant was removed from the working site (i.e. nearby Shalimar 3 No. Railway Gate) by the concerned agency. This particular place where the Mobile Hot Mix Plant was set up during execution of the said work is less populated area in comparison with the other places.
6. That with regard to the statements made in paragraph no.10 to 16 of the said application, it is to state that no comment is made and nothing is admitted which are not borne on record and calls upon the applicant to the strict proof of the same. It is also to submit that the alleged question of law under replies framed by the Petitioner is baseless, misconceived and do not arise for consideration by the Hon'ble Court.
7. That with regard to the statements made in paragraph no.17 to 23 of the said application, it is to state that no comment is made as the works were undertaken within statutory mandates, with all required consents and no breach of norms.
8. That with regard to the statements made in paragraph no.24 to 26 of the said application, it is to mention that no comment is made and nothing is admitted which are not borne on record and calls upon the applicant to the strict proof of the same.
9. That with regard to the statements made in paragraph no.27 of the said application, no comment is made and nothing is admitted which are not borne on record and calls upon the applicant to the strict proof of the same. It is also to submit that the grounds mentioned therein have been replied specially in the paragraph therein before and the same are not repeated herein.
10. That with regard to the statements as contained in paragraph under heading "Limitation" of the said application related to limitation needs no comment from this end. It is also to submit that the Hon'ble Tribunal may pass the necessary order / orders on the issue of limitation as the Hon'ble Tribunal may deem fit.



15 AUG 2025

Self-
Executive Engineer
Howrah Division, PWD

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

O. A. NO. 92/2025/EZ

In The Matter of:

Ankur Sharma

... APPLICANT

VERSUS

The State of West Bengal & Ors.

... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE
RESPONDENT NUMBER 06, THE
DISTRICT MAGISTRATE &
COLLECTOR, HOWRAH

Sri Rajib Ray

Advocate

For The State of West Bengal