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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 145/2025/EZ

M/S CALSTAR SPONGE LIMITED

.....APPLICANT(S)

VERSUS

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
CHANGE & ORS.

.....RESPONDENT(S)

AFFIDAVIT FILED BY RESPONDENT NO. 02, THE WEST
BENGAL POLLUTION CONTROL BOARD.

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Filed by

DIPANJAN GHOSH
ADVOCATE
HIGH COURT AT CALCUTTA

SL. NO. 46 Dt.- ~~17~~ **17 OCT 2025**



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EASTERN ZONE BENCH, KOLKATA

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**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
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.....RESPONDENT(S)

**AFFIDAVIT FILED BY RESPONDENT NO. 02, THE WEST
BENGAL POLLUTION CONTROL BOARD.**

Most Respectfully Sheweth

I, Sri Debashis Sarkar, son of Late Pabitra Kumar Sarkar, aged about 56 years, by Religion - Hindu, by Occupation-Service, working for gain at West Bengal Pollution Control Board, having office at 10A, Block- LA, Sector- III, Bidhannagar, Kolkata - 700 106, do hereby solemnly declare and say as follows:-

17 OCT 2025

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01. That, I am the Chief Engineer, West Bengal Pollution Control Board (hereinafter will be referred to as the 'State Board') and I am well acquainted with the facts and circumstances of the case.

I have been duly authorized by the Respondent No. 02, to affirm this Affidavit on its behalf and as such, I am competent to do so.



02. That, this affidavit is being affirmed in pursuant to the orders passed by this Hon'ble Tribunal dated 19.08.2025 and 22.09.2025.

03. That, the Ministry of Environment, Forest and Climate Change (MOEF&CC) vide Memo No. F.No.IA-J-11011/655/2009-IA-II (1) dated 06.09.2024 requested the Member Secretary, West Bengal Pollution Control Board to initiate action by invoking powers under section 15 read with section 19 of the Environment (Protection) Act, 1986 against M/s Calstar Sponge Limited involving installation of Sponge Iron Plant with 2x200 TPD DRI Kilns, 4x15 T Induction Furnaces, 400 TPD Rolling Mill and 8 MW capacity WHRB based Captive Power Plant at Jamuria, Mouza- Ikra, Jamuria Industrial Estate, Dist.- Burdwan, West Bengal during the violation period of the unit for which the unit has been

17 OCT 2025

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established and operating without Environmental Clearance (EC). Further no Consent to Operate shall be issued in respect of the project till grant of EC under the provisions of EIA Notification, 2006

Copy of the letter of MoEFCC dated 06.09.2024 is annexed herewith and marked with letter "R1".



04. That, clarification was sought by the State Board vide Memo No.378-6L/WPB/2002 dated 05.11.2024 to MoEF&CC, requesting to clarify that whether action could be initiated under Section 15 read with Section 19 of the Environment (Protection) Act, 1986 for proposed expansion project of M/s Calstar Sponge Limited when amended Environment (Protection) Act, 1986 under Jan Viswas (Amendment of Provisions) Act, 2023 is already in force.

Copy of the letter of the State Board dated 05.11.2024 is annexed herewith and marked with letter "R2".

17 OCT 2025

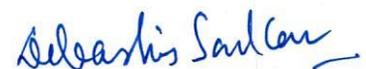
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05. That MoEF&CC vide Memo No. IA-J-11011/655/2009-IA-II(1) dated 10.09.2025 has stated that for proposed expansion project of M/s Calstar Sponge Limited action to be taken as per provisions of Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024 notified by MOEF&CC on 04.11.2024.

Copy of the letter of MoEF&CC dated 10.09.2025 is annexed herewith and marked with letter "R3".

06. The State Board is in the process of taking necessary action as per provisions of Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024.

07. 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.



DEPONENT

17 OCT 2025



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VERIFICATION

I, Sri Debashis Sarkar, son of Late Pabitra Kumar Sarkar, aged about 56 years, by Religion - Hindu, by Occupation-Service, working for gain at West Bengal Pollution Control Board, having office at 10A, Block- LA, Sector- III, Bidhannagar, Kolkata - 700 106, do hereby solemnly declare and say as follows:-

1. That, I am the Chief Engineer, West Bengal Pollution Control Board and I am well acquainted with the facts and circumstances of the instant Original Application.
2. That, the statements made in paragraph 1 of this affidavit is true to my knowledge and belief.
3. That, the statements made in paragraphs 2 to 7 of this affidavit are my information derived from the records available in the office of the State Board which I verily believe to be true and the rest are my respectful submission before this Hon'ble Tribunal.

Debashis Sarkar

DEPONENT

Identified and corrected by me
Advocate *Dipankar*
WBPCB

Solemnly Affirmed &
Declared Before Me
On Identification By.....

Sarbani Mitra
SARBANI MITRA
NOTARY
Regd. No.- 5515/08
Mob.- 8777303277

17 OCT 2025

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Annexure - 'R1' 502

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Annexure-I

F. No. IA-J-11011/655/2009-IA-II(I)
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Vayu Wing, 3rd Floor,
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 06th September, 2024

To

The Member Secretary,
West Bengal State Pollution Control Board,
Paribesh Bhawan, 10A- Block LA, Sector -III,
Salt Lake City, Kolkata - 700 098.
Email: ms.wbpcb-wb@bangla.gov.in



Subject : Request to initiate credible action on the violation by invoking powers under section 15 read with section 19 of the Environment (Protection) Act, 1986 in respect of proposed expansion project of M/s Calstar Sponge Limited (located at Jamuria, Mouza Ikra, Jamuria Industrial Estate, Dist. Burdwan, West Bengal) submitted to the Ministry vide proposal no. IA/WB/IND1/453340/2023 - reg.

Sir,

This refers to the online application made by M/s Calstar Sponge Limited vide proposal no. IA/WB/IND1/453340/2023 dated 05.04.2024 along with copy of EIA report and Forms (Part A, B and C) and certified compliance report seeking Environment Clearance (EC) under the provisions of the EIA Notification, 2006 for the project mentioned above.

2. Based on the examination of the proposal in the Ministry, in consultation with IA(Policy) and Legal Monitoring Cell, and subsequent approval to place the case before EAC for appraisal, the proposal was appraised by the EAC Industry-I sector in its 64th meeting for held on 21st - 23rd August 2024. The deliberations and recommendations of EAC in 64th meeting for held on 21st - 23rd August 2024 are as follows:

- i. The EAC was informed that comments from the Policy Sector of the IA Division and the Legal Monitoring Cell have been obtained for this case. It was clarified that the appraisal of this proposal will follow the action under section 19 of Environment (Protection) Act, 1986 as prevailing that time. The EAC acknowledged these comments and emphasized that compliance with same is essential for this proposal.
- ii. Accordingly, as per one of the Terms of Reference (ToR) conditions, the project proponent must comply with the directions or orders issued by the Competent Authority, body, or Court regarding violations that occurred between 01/07/2007 and 06/08/2009, including actions initiated under Section 19 of the Environment (Protection) Act, 1986. The PP/Consultant informed the EAC that they have approached the concerned authority to initiate action under Section 19 of the

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- Environment (Protection) Act, 1986, but no action has been taken yet.*
- iii. The EAC opined that compliance with this requirement is crucial for the consideration of the EC proposal in this case. Therefore, the proposal should only be listed once the necessary action has been initiated by the concerned authority. To expedite this process, the EAC advised the Ministry to write a letter to the SPCB, requesting them to initiate the action as soon as possible.
- iv. The EAC agreed to the PP/Consultant's request to reappear after the required compliance has been achieved.

The EAC proceedings of the said meeting can be seen using the following web link: https://parivesh.nic.in/utildoc/99100440_1725278051945.pdf

3. In view of the foregoing, the undersigned is hereby directed to request you to initiate legal action against the company (i.e. owner of the unit having full control over the affairs of the company) during the violation period by invoking powers under section 15, read with section 19 of the Environment (Protection) Act, 1986 for the period for which the unit has been established and operating without prior Environment Clearance. Further, no consent to operate, shall be issued in respect of the project/ facilities/ unit under reference till the project is granted EC under the provision of the EIA Notification 2006. The details of the action taken shall be sent to this Ministry, along with relevant supporting document(s), for taking further course of action in the matter.

4. This issues with the approval of the Competent Authority.

Yours faithfully,



(Dinesh Runiwal)
Scientist 'F'/Director
Tel: 011-20819346
Email-d.runiwal@gov.in

Copy for information to:

- The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Shahdara - 110032
- M/S. Calstar Sponge Limited, 18, R. N. Mukherjee Road, Kolkata-700001, Email: avranil.calspring@gmail.com



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Annexure - 'R2504'



LIFE

Lifestyle for
Environment

WEST BENGAL POLLUTION CONTROL BOARD

(Department of Environment, Government of West Bengal)

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

Kolkata - 700 106, Ph.: 2335-9088/8861/7428, Fax : 2335-2813

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

Memo No. 378 -6L/WPB/2002

Dated: 05/11/2024

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To
Shri Dinesh Runiwal,
Scientist 'F'/Director,
Ministry of Environment Forest and Climate Change,
Indira Paryavaran Bhawan,
Vayu Wing, 3rd Floor, Jor Bagh Road, Aliganj,
New Delhi - 110003.



Sub : Request to initiate credible action on the violation by invoking powers under section 15 read with section 19 of the Environment (Protection) Act, 1986 in respect of proposed expansion project of M/s Calstar Sponge Limited (located at Jamuria, Mouza - Ikra, Jamuria Industrial Estate, Dist - Burdwan, West Bengal) submitted to the Ministry vide proposal No. IA/WB/IND1/453340/2023 - reg.).

Ref : F. No. IA-J-11011/655/2009-IA-II(I) dated 06/09/2024.

Sir,

With reference to the above, this is for your information that your request to initiate legal action against the company (i.e. owner of the unit having full control over the affairs of the company) during the violation period by invoking powers under section 15 read with section 19 of the Environment (Protection) Act, 1986 for the period for which the unit has been established and operating without prior environmental clearance, can not be complied with as you will appreciate that the Notification issued by MoEF vide dated 11/08/2023 on Environment Protection Act, 1986 under Jan Vishwas (Amendment of Provisions) Act, 2023 clearly mandated that :

- '15. Penalty for contravention of provisions of Act, rules, orders and directions.—(1) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.
- (2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

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15A. Penalty for contravention by companies.—(1) Where any company contravenes any of the provisions of this Act, the company shall be liable to penalty for each such contravention which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.

(2) Where any company continues contravention under sub-section (1), the company shall be liable to additional penalty of one lakh rupees for every day during which such contravention continues.

15B. Penalty for contravention by Government Department.—(1) Where contravention of any of the provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary: Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

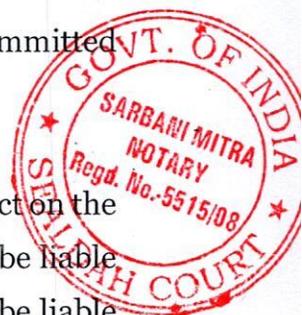
(2) Where any contravention under sub-section (1) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary: Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

15C. Adjudicating officer.—(1) The Central Government, for the purposes of determining the penalties under this Act, may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose penalty in the manner, as may be prescribed: Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may— (a) call upon any person alleged to have contravened or not complied with the provisions of this Act and the rules made thereunder or having the knowledge of the facts and circumstances of the case;

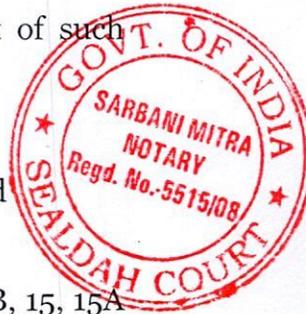
(b) require such person to produce any record, register or other document in his possession or any other document, which in the opinion of the adjudicating officer may be relevant to the subject-matter.

(3) The adjudicating officer shall, after giving the person a reasonable opportunity of being heard in the matter, and if, on such inquiry, he is satisfied that the person concerned has contravened or has not complied with the provisions of this Act or the rules made thereunder, he may impose such penalty as he thinks fit in accordance with the provisions of sections 14A, 14B, 15, 15A or section 15B, as the case may be.



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- (4) The adjudicating officer, while adjudicating the quantum of penalty under sub-section (3), shall have due regard to the following, namely:— (a) the population and the area impacted or affected due to such contravention or non-compliance;
- (b) the frequency and duration of such contravention or non-compliance;
- (c) the vulnerability of the class of persons likely to be adversely affected by such contravention or non-compliance;
- (d) the damage caused or likely to be caused to any person, as a result of such contravention or non-compliance, if any;
- (e) the undue gain derived out of such contravention or non-compliance; and
- (f) such other factor, as may be prescribed.
- (5) The amount of penalty imposed under the provisions of sections 14A, 14B, 15, 15A or 15B, as the case may be, shall be in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).



As per your request the case is to be initiated now post implementation of new Environment Protection Act, 1986 under Jan Vishwas (Amendment of Provisions) Act, 2023. As communicated by you that EAC will be able to take up the appraisal of the proposal for granting of EC to M/s Calstar Sponge Limited (located at Jamuria, Mouza – Ikra, Jamuria Industrial Estate, Dist – Burdwan, West Bengal), only after action u/s 19 of the Environment Protection Act, 1986 as prevailing that time is taken. However, it is not clear at our end whether any action can be initiated in the present date under the Environment Protection Act, 1986, when new Environment Protection Act, 1986 under Jan Vishwas (Amendment of Provisions) Act, 2023 come into force based upon the offence committed during the operation of the previous Act. For example can a case be started under the IPC post the introduction of Bharatiya Nagarik Suraksha Sanhita, 2023 from the 1st July, 2024.

A clarification in this regard may kindly be provided for taking necessary action from this end.

This is issued with the approval of the competent authority in the State Board.

[Handwritten Signature]

(Chief Engineer, EIM Cell)
West Bengal Pollution Control Board

Memo No. 378/2-6L/WPB/2002

Dated: 05/11/2024
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Copy for information to :

1. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Shahdara - 110032.
2. M/s. Calstar Sponge Limited, 18, R.N. Mukherjee Road, Kolkata - 700001.

[Handwritten Signature]

(Chief Engineer, EIM Cell)
West Bengal Pollution Control Board



o/c

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Annexure - R3 508

2022/MS
16/09/25

No. IA-J-11011/655/2009-IA-II(I)

Government of India

Ministry of Environment, Forest and Climate Change

(Impact Assessment Division)

West Bengal Pollution Control Board

EIM-A812
18/09/2025

10122C

Date: 16/9/25
Referred to: CE (EIM)
Remarks:

Indira Paryavaran Bhawan
Vayu Wing, 3rd Floor,
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 10th September, 2025

To:

Member Secretary,
Bengal State Pollution Control Board,
Indira Bhawan, 10A- Block LA, Sector -III,
Jor Bagh, Kolkata - 700 098.
E-mail: ms.wbpcb-wb@bangla.gov.in

Member Secretary



Subject: Proposed expansion project of M/s Calstar Sponge Limited involving installation of Sponge Iron Plant with 2x200 TPD DRI Kilns, 4x15 T Induction Furnaces, 400 TPD Rolling Mill & 8 MW capacity WHRB based Captive Power Plant at Jamuria, Mouza Ikra, Jamuria Industrial Estate, Dist. Burdwan, West Bengal- reg.

Ref: WBPCB letter 6L/WPB/2002 dated 05/11/2024

Sir,

This refers to the letter dated 5/11/2024 of West Bengal SPCB (referred as Board hereafter) related to initiation of legal action as per Section 15 and Section 19 of the Environment (Protection) Act, 1986. The Board had submitted that the request cannot be complied since MoEFCC has already issued a notification dated 11-08-2023 under Jan Vishwas (Amendment of Provisions) Act, 2023 through which Environment (Protection) Act, 1986 has been amended to include new provisions.

2. The matter was examined in the Ministry, in consultation with Policy Cell (IA) and Legal Cell, and based on such examination, it is held that further action on the proposal, for the past violation committed during 01.07.2007 to 06.08.2009, needs to be initiated under post-amendment provisions of Environment (Protection) Act, 1986 and the Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024.

3. In view of the foregoing, the undersigned is hereby directed to request you to initiate action against the company in line with the provisions of the above-referred Rules. It is further submitted that the Ministry has issued an OM dated 04-11-2024 regarding the 'Appointment of Adjudicating Officer under Section 15C of the Environment (Protection) Act, 1989' to facilitate action under the Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024 notified on 04-11-2024. The said Rules provide the detailed procedure for inquiry and imposition of penalty. Additionally, vide an OM dated 06-11-2024, the above referred OM and Rules were circulated to all the Principal Secretaries of State/ UTs for information and necessary action. The details of the action taken, in this regard, shall be sent to this Ministry along with relevant supporting document(s). A copy of the notification and OM is enclosed for kind reference and record.

SLD/EE(EIM)
18/09



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4. In this regard, it is further clarified that no further action for processing/grant of EC can be taken on the proposal submitted by the Project Proponent, in compliance with the judgment of Hon'ble Supreme Court dated 16.05.2025 in the matter of W.P.1394/2023, Vanshakti Vs. Union of India.

5. This issues with the approval of the Competent Authority.

Yours faithfully,

Sandeepan
10/09/2025

Dr. B. S. Sandeepan
Scientist 'C'

IA-II Division (Industry-I)

Copy to:-

M/S. Calstar Sponge Limited
18, R. N. Mukherjee Road, Kolkata-700001
Email: avranil.calspring@gmail.com



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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

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M/S CALSTAR SPONGE LIMITED

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