

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

(Under Section 18(1) read with Sections 14 of the National Green
Tribunal Act, 2010)

O.A. No. 215 of 2025 / EZ

BETWEEN

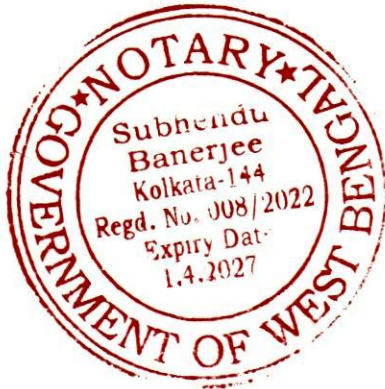
PRABIR ROY CHOWDHURY

..... Applicant

- Vs. -

**THE WEST BENGAL POLLUTION
CONTROL BOARD & Ors.**

..... Respondents



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26 APR 2026

**BEFORE THE NATIONAL GREEN TRIBUNAL,
(EASTERN ZONE BENCH), KOLKATA
ORIGINAL APPLICATION NO. 215 OF 2015/EZ**

BETWEEN

PRABIR ROY CHOWDHURY

.....APPLICANT

- Vs. -

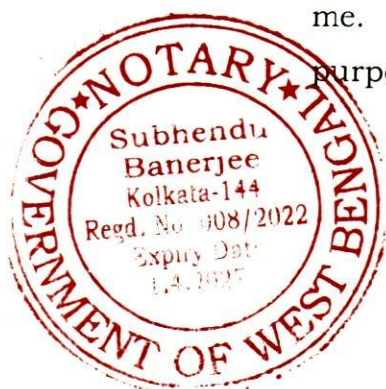
THE WEST BENGAL POLLUTION CONTROL BOARD & ORS.

.....RESPONDENTS

Reply to the Report filed by the West Bengal Pollution Control Board, i.e.
Respondent No. 1

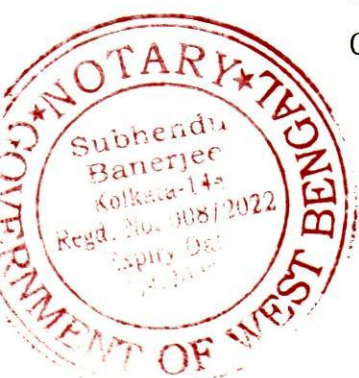
I, Prabir Roy Chowdhury, son of Late Bhupatish Roy Chowdhury, aged about 77 years, by faith : Hindu, by occupation: Business, residing at 16/4/1, Purna Das Road, Police Station : Gariahat, Kolkata – 700029, do hereby solemnly affirm and say as follows:

1. That I am the applicant herein and I am also well acquainted with the facts and circumstances of the instant case. I am competent to verify the instant affidavit on behalf of me.
2. A copy of the aforesaid Report (hereinafter referred to as the “said report”) purported to have been affirmed by one Swarup Kumar Mandal, the Chief Engineer, West Bengal Pollution Control Board for and on behalf of the Respondent No. 1, has been served upon me. I have perused the said report and have understood the purported, contents and/or tenor thereof.



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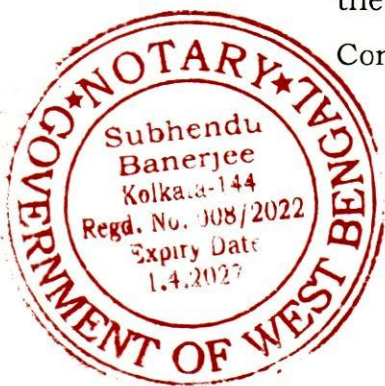
3. Before dealing with the allegations and/or statements and/or averments made in the various paragraphs of the said report, I say and submit that the said report contains incorrect allegations and/or averments and/or statements which are carefully and tactfully put in-between the facts of the case only with the ulterior motive to mislead this Hon'ble Tribunal. It is made clear herein that the allegations and/or averments and/or statements which are not specifically dealt with by me hereinafter are deemed to be set out hereafter and traversed ad-seriatim.
4. With reference to the statement made in paragraph nos. 1 to 3 of the said affidavit, I offer no comment as the same are all matters of record and deny anything which is inconsistent and/or contrary to the facts borne out from the records.
5. With reference to the statement made in paragraph nos. 4(a) to 4(d) of the said report, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records. I say that I, by way of a letter dated 12.06.2025, requested the West Bengal Pollution Control Board to take necessary action against the said unit of the private respondent herein for continuous noise, air and environment pollution causing foul smell generated from the said unit. By notice dated 30.06.2025, I and the private respondents were called for a hearing before the hearing officer of the public grievance cell of the state board of the West Bengal Pollution Control Board on 09.07.2025. On 09.07.2025, although I along with my Learned



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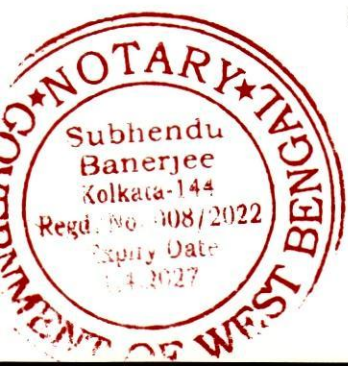
Advocate were present, none appeared on behalf of the private respondent.

6. At the time of hearing, I came to know that a physical inspection was conducted by the officials of the Public Grievance Cell in the unit of the private respondent herein and at the time of inspection, the said officials observed that the kitchen was equipped with suction arrangement followed by exhaust duct line where the outlet vent of the duct line was observed to be situated towards the road side, located just above my main entrance, for discharging of smoke as well as food/foul smell instead of installing chimney up to the top atmosphere. The aspect of probable injury and the probable damages caused by such action has not been assessed. The continuous operation of a chimney of a restaurant open every day of the week has a certain potential to cause damage to the environment. It is also pertinent to mention that the burden of proof lies upon the project proponent to show that the project is not environmentally benign not malignant. In this case the authority ought to have considered the aspect of precautionary principle. It is pertinent to mention that no inspection notice was served upon me which amounts to a blatant violation of principle of natural justice.
7. Accordingly, after the aforesaid inspection, the said officials of the Public Grievance Cell, West Bengal Pollution Control Board had issued the remark that the restaurant should install stack and increase it up to the height of the 3.5 meters above the roof level of the nearest tallest building as per norms of CPCB (Central Pollution Control Board) in order to minimize food smell.



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8. Upon hearing the complainant and upon considering the aforesaid inspection report, the Public Grievance Cell, West Bengal Pollution Control Board issued the direction in the Record of Proceedings dated 16.07.2025 under Memo No. 1018(2)-5L/WPB-2025/C-6714 that install appropriate Air Pollution Control System (APDC) for controlling emissions or use a cleaner fuel, so that people living in the neighborhood may not be inconvenienced due to emissions generated from its operation and ventilate emissions through a stack of adequate height (as per Emission Regulations Part III of the CPCB) and inter alia directed that Fugitive emission shall be avoided.
9. It is respectfully submitted that the Air Pollution Control System (APDC) for controlling emissionsought to be installed by increasing it up to the height of 3.5 metersabove the roof level of the nearest tallest building as per norms of CPCB (Central Pollution Control Board) in order to minimize foul smell, which has not been installed by the private respondent herein,thereby blatantly violating the direction dated 16.07.2025 passed by the respondent no. 1. In spite of that the respondent no. 1 has bestowed blessings upon the private respondent herein by issuing the Certificate of Consent to Establish (CTE) dated 14.10.2025 and Consent to Operate (CTO) dated 31.10.2025 in the name of the private respondent herein without compliance of the aforesaid directions of the respondent no.1.
10. It is pertinent to mention that the respondent no. 1 has failed to observe that 4(Four) LPG fired ovens and 1(One) Pizza Ovenare



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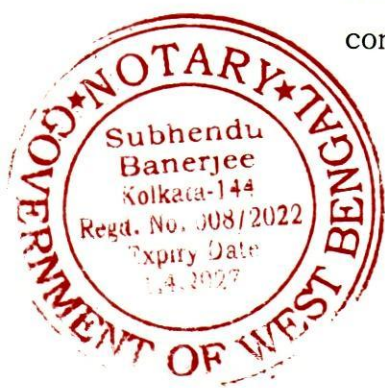
being operated by using both wood and LPG. Therefore, large carbon dioxide emissions are being generated. Apart from that the kitchen was equipped with suction arrangement followed by exhaust duct line where the outlet vent of the duct line was observed towards the road side, located just above my main entrance, for discharge of smoke as well as food/foul smell and the emissions from the kitchen continue to be emitted from the vent situated on the first floor near the window of my room.

A photograph of the said outlet vent is annexed hereto and marked as "Annexure A".

11. It is also pertinent to mention that the building is about more or less 75 years old and the said building is totally constructed by bricks. Therefore, the construction of the said Air Pollution Control System (APDC) attached to the said building would jeopardize the structural stability of the said building. In this regard I sought for an independent opinion of a certified structural engineer who has in no uncertain terms stated in his report inter alia that the building is not fit to take any further load and/or withstand any mechanical or civil construction work and/or any kind of addition or alternation to the construction work.

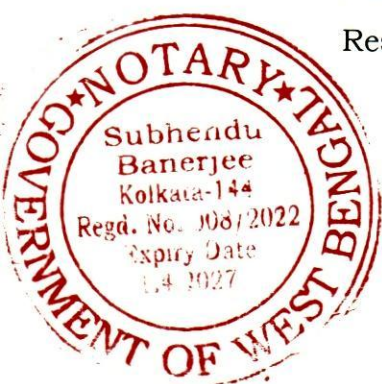
Photocopy of the report of the Structural Engineer in annexed hereto and marked as "Annexure B".

12. With reference to the statement made in paragraph nos. 4(e) to 4(h) of the said report, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records.



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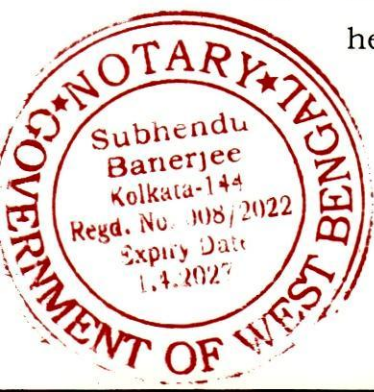
13. With reference to the statement made in paragraph no. 4(i) of the said report, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records. I say that in the said report it is has been admitted that all ovens are equipped with a common fume extraction system connected to a single duct that opens on the eastern side of the kitchen and no stack was observed at the time of the visit.
14. It is further stated that at the time inspection, it was also found that liquid effluent generated from kitchen activities is discharged into the KMC drain vis a settling chamber. On western side of the kitchen, 3(Three) tubular structures (One large and two small) were observed connected to one another and these appear to be components of an Effluent Treatment Plant (ETP) and were found in a defunct condition.
15. I say that in the earlier physical inspection, which was conducted by the officials of the Public Grievance Cell in the unit of the private respondent herein, it was observed that the Coffee shop in question was found open and the said Coffee shop discharges its liquid raw effluent generated from the kitchen to the outside KMC drain without any treatment and accordingly, the said officials had issued the remark that the restaurant should install proper Effluent Treatment Systems to treat its waste water before discharging to outside Municipal drain. Therefore, the Public Grievance Cell, Respondent no. 1 herein issued the direction in the said Record of



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Proceedings dated 16.07.2025 directing installation of Effluent Treatment Plant (ETP) immediately for treatment of the effluent generated from the unit of the private respondent herein. It is needless to mention that there is also blatant violation of the said direction of the Respondent No. 1 and the respondent no. 1 has overlooked such violation at the time of issuing the Certificates in favour of the private respondent herein.

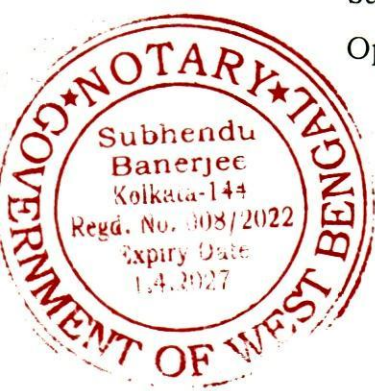
16. It is pertinent to mention and most surprising to note that the respondent no. 1 has mentioned in the said report that it has reached the conclusion that the private respondent herein has partially complied the said direction dated 16.07.2025 by constructing settling chamber instead of Effluent Treatment Plant (ETP) without conducting any scientific test of the discharged water from the settling chamber to the municipal drain. Such favoritism of the West Bengal Pollution Control Board toward the private respondent smacks of malafide and cannot be countenanced in Environment Jurisprudence.
17. With reference to the statement made in paragraph no. 4(j) of the said report, I offer no comment as the same are all matters of record and deny anything which is inconsistent with and/or contrary to the facts borne out from the records. I say that in the said report, it is further stated that during the visit, the State Board officials measured a noise level of 53.25 dB(A) inside the unit and the ambient noise level was 80.41 dB(A).
18. It is respectfully submitted that the unit of the private respondent herein has been operating in the residential area and no other



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similar activities has been operating in and around the unit premises of the private respondent herein. As per the provisions of the Noise Pollution (Regulation and Control) Rules, 2000, the noise level should be within the limits of 55 dB(A) during day time and 45 dB(A) at night in residential areas. Therefore, in terms of the said report, severe noise pollution is being generated from the unit of the private respondent herein. In spite of that the respondent no. 1 has maintained silence in this regard.

19. I respectfully submit that I and my wife are senior citizens being septuagenarians, both aged about 77 years and are continuously suffering unbearably due to the continuous air pollution and the noise pollution from the exhaust vent/fan connected by a duct line situated on the 1st floor level of the building and also due to the foul smell caused by the untreated liquid raw effluent generated from the kitchen of the unit of the private respondent herein. It is pertinent to mention that I am a cardiac patient having been advised the implant of a pacemaker and my wife is partially deaf having completely lost hearing in one ear and has lost 80 percent hearing in another. We are continuously suffering gravely at the evening of our lives due to the blatant violations of law by the private respondents.
20. With reference to the statement made in paragraph nos. 5 to 8 of the said report, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records. I respectfully submit that at the time of issuing the Certificate of Consent to Operate, no inspection was conducted by the respondent no. 1 and



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the private respondent no. 1 is operating the unit by violating the conditions of the said Certificate.

21. Save and except matters of record and save what has been stated by me hereinbefore I do not admit any statement, averment, contention, submission as made/raised in the said report as if the same are expressly denied by me in seriatim and specifically traversed.
22. That the statements contained in paragraph nos. 1 to 8, 12 to 14, 16 and 19 of the foregoing affidavit are true to my knowledge and the statements contained in paragraph no. 11 is derived from record and the rests are my humble submissions before the Hon'ble Tribunal.

Identified by me -

Sanjukta Barik
Advocate.

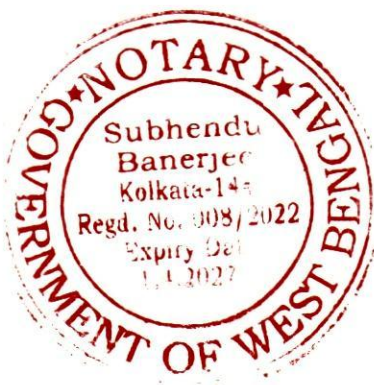
Prabin Roy Chowdhury
DEPONENT

**Solemnly Affirmed and
Declared before me u/s
139 CPC and u/s 333BNSS 2023**

Subhendu Banerjee
Notary
Govt. of West Bengal
28.04.2026

SUBHENDU BANERJEE
Notary, Govt. of W.B.
Regd. No. 008/2022
Advocate High Court, Calcutta

26 APR 2026



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Annexure - A

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Chinmoy Mukherjee

Civil Engineer - B.Tech

LBS of the Kolkata Municipal Corporation

Structural Engineer (ESE) of The Kolkata Municipal Corporation

Annexure - B

- H -

ADDRESS:

C-82, Rabindrapally

Brahmapur, Garia

Kolkata - 700096

Mobile : 9830258490

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Ref No... ..

Date: 12/02/2026.

TO WHOM IT MAY CONCERN

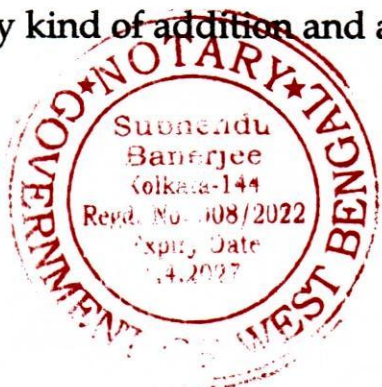
Ref: Premises No. P-16/4/1 Monohar Pukur Road, now Hemanta Mukhopadhyay Sarani, Ward No. 90, BR-VIII, P.S. Gariahat, under the Kolkata Municipal Corporation.

"Declaration of Structural Engineer"

This is to certify that the above reference building is about more or less 75 yrs old. That building plan Sanctioned on 31st March 1949, Sanctioned Plan No. 122 under Corporation of Calcutta now the Kolkata Municipal Corporation.

Presently that existing building partly three & partly four storied building. The main structure of construction of the above building is totally constructed by bricks, i.e. foundation & load bearing wall (except the lintel & chaja, stair & roof).

As per my opinion I suggest that the above mentioned building is not taken any further superimposed load (tensile load, compressive load, torsional load or any kind of newly superimposed load) and mechanical or civil construction work/ any kind of addition and alteration construction work.



Chinmoy Mukherjee
Chinmoy Mukherjee
Structural Engineer
E.S.E No.-564(II) of The
Kolkata Municipal Corporation

**BEFORE THE NATIONAL GREEN
TRIBUNAL,
(EASTERN ZONE BENCH),
KOLKATA
(Under Section 18(1) read with
Sections 14 of the National Green
Tribunal Act, 2010)**

O.A. No. 215 of 2025 / EZ

BETWEEN

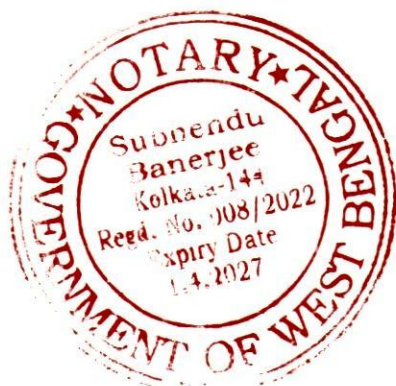
PRABIR ROY CHOWDHURY

..... Applicant

- Vs. -

**THE WEST BENGAL POLLUTION
CONTROL BOARD & Ors.**

..... Respondents



ORIGINAL APPLICATION

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Enrolment No.F/452/383/2016

26 APR 2026