

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 107/2023/EZ

IN THE MATTER OF:

Soumen Chakraborty

..... Applicant

- VERSUS -

The Principal Secretary, Environment
Department, Government of West Bengal
& Ors.

..... Respondents

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SL NO. 15/26 2/7/2026

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 107/2023/EZ

IN THE MATTER OF:

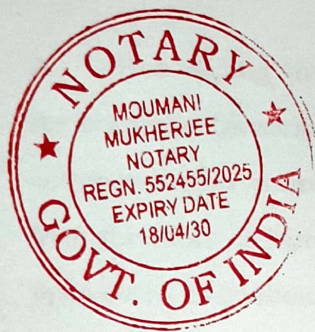
Soumen Chakraborty

..... Applicant

- VERSUS -

The Principal Secretary, Environment
Department, Government of West
Bengal & Ors.

..... Respondents



AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NOS. 14 to 16

I, Debanshu Shaw, son of Dilip Shaw, aged about 27 years, by faith-Hindu, by Nationality-Indian, by occupation-Business, residing at Beniapur, Guskara, Guskara (M), Bardhaman, West Bengal, PIN-713128, presently functioning as the Director of KM Agrotech Pvt. Limited, having office at Vill - Gopinathbati, P.O. - Gonna Dariapur, Dist. - Purba Bardhaman, Pin - 713128, do hereby solemnly affirm and say as follows : -

1. That I am the Director of Respondent No. 14 Company and I am duly authorized to swear and affirm this affidavit on behalf of the Company. I am fully conversant with the facts and circumstances of the present case and I am competent to depose to the matters stated herein.

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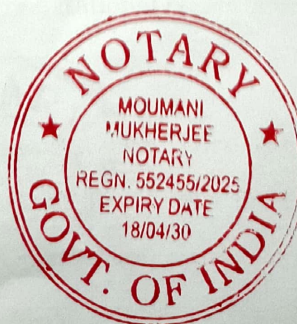
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2. That the Original Applicants instituted the instant Original Application before this Hon'ble Tribunal, inter alia, seeking cessation of the operations of the fly ash manufacturing unit owned and managed by Respondent No. 14 Company. In the said Original Application, the then Directors of Respondent No. 14 Company were impleaded as Respondent Nos. 15 and 16.

3. That during the pendency of the aforesaid Original Application, the erstwhile Directors of Respondent No. 14 Company, owing to their emergent and deteriorating health conditions, tendered their resignations from the office of Director in the month of January, 2025. Consequent upon such resignations, the present Directors were duly appointed to the Board of Respondent No. 14 Company and have since been managing and administering the affairs of the Company.

4. That in view of the aforesaid change in the Board of Directors, Respondent Nos. 15 and 16 were constrained to file Interlocutory Application being I.A. No. 61/2025/EZ seeking their impleadment in Original Application No. 107/2023/EZ in substitution of the erstwhile Directors who had ceased to hold office.

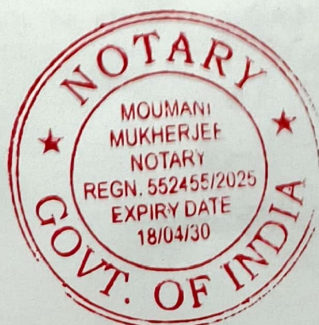
5. That upon the said Interlocutory Application being taken up for consideration on 18.07.2025, this Hon'ble Tribunal was pleased to allow the same, subject to the condition that Respondent Nos. 14 to 16 deposit a sum of Rs.5,000/- with the Registrar, National Green Tribunal, Eastern Zone, towards costs.



6. That, in the meantime, owing to an inadvertent miscommunication and misunderstanding between Respondent Nos. 14 to 16 and their then Learned Advocate, the aforesaid cost of Rs.5,000/- could not be deposited with the Registrar within the stipulated period. Consequently, when the matter was taken up on 19.11.2025, Respondent No. 14 Company remained unrepresented before this Hon'ble Tribunal. In the absence of any representation on behalf of Respondent No. 14 Company, this Hon'ble Tribunal was pleased to direct that the operation of the fly ash manufacturing unit owned and managed by Respondent No. 14 Company shall remain suspended until further orders.

7. That thereafter, being dissatisfied with the manner in which the proceedings were being conducted by their erstwhile Learned Advocate, Respondent Nos. 14 to 16 decided to disengage the said Learned Advocate and requested the issuance of a No Objection Certificate to facilitate engagement of another counsel. However, despite such request, the said No Objection Certificate was not issued.

8. That in order to ensure that Respondent Nos. 14 to 16 continued to be effectively represented before this Hon'ble Tribunal, they engaged the present Learned Advocates to conduct the instant proceedings on their behalf. Consequently, by an order dated 11.03.2026, this Hon'ble Tribunal was pleased to permit the newly engaged Learned Advocates appearing for Respondent Nos. 14 to 16 to file additional responses on behalf of the said respondents. Here it is pertinent to mention that the cost of Rs 5,000/- had been duly deposited by the Respondent Nos. 14 to 16 with the Ld. Registrar, National Green Tribunal, Eastern Zone.



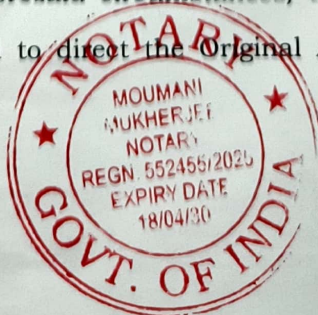
9. That despite their best efforts, Respondent Nos. 14 to 16 could not procure the requisite No Objection Certificate from their erstwhile Learned Advocate, nor were they provided with the complete case records and documents pertaining to Original Application No. 107/2023/EZ. In the absence of the said records and documents, the present Learned Advocates have been unable to obtain all the pleadings, affidavits, applications and other materials necessary for preparing and filing the additional responses as permitted by this Hon'ble Tribunal.

10. That Respondent Nos. 14 to 16 have at all material times been ready and willing to comply with the orders and directions passed by this Hon'ble Tribunal. The delay in filing the additional responses has occurred solely due to circumstances beyond their control and not on account of any deliberate or willful negligence or default on their part.

11. That Respondent Nos. 14 to 16 ought not to be made to suffer or be prejudiced merely on account of their remaining unrepresented during certain stages of the proceedings, particularly when such circumstances arose due to reasons beyond their control. The principles of natural justice require that they be afforded a fair and reasonable opportunity to place their defence and all relevant materials before this Hon'ble Tribunal.

Photocopy of the Judgment (ILR 2017 KAR 59) is annexed hereto and marked as Annexure "A-1".

12. That, in the aforesaid circumstances, this Hon'ble Tribunal may graciously be pleased to direct the Original Applicants as well as the



other contesting Respondents to furnish to the present Learned Advocates representing Respondent Nos. 14 to 16 complete sets of the pleadings, applications, affidavits, replies, documents, and all other records forming part of the instant proceedings, so as to enable the said Respondents to effectively prepare and file their additional response(s) in terms of the order dated 11.03.2026 passed by this Hon'ble Tribunal. It is further prayed that this Hon'ble Tribunal may be pleased to extend the time for filing such additional response(s) by Respondent Nos.14 to 16 until a reasonable period after the complete set of records and pleadings is furnished to their present Learned Advocates, in the interest of justice and to afford the said Respondents a fair and adequate opportunity to effectively contest the present proceedings.

13. That the statements made in paragraphs 1 to 9 of the foregoing Affidavit are true to my knowledge and the rest are my respectful submissions before this Hon'ble Tribunal.

Prepared in my office

Masum Tanappa

Advocate

F/1673/1931/2024.

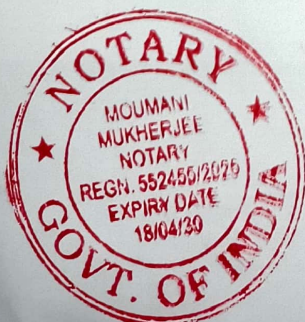
Date : 02.07.2026 .

Place : Kolkata .

DEPONENT

Identified by me

Masum Tanappa
Advocate



Solemnly Affirmed & Declared
Before me on Identification
by the Ld. Advocate

Moumani Mukherjee
MOUMANI MUKHERJEE
NOTARY
GOVT. OF INDIA

MU
Moumani Mukherjee
NOTARY
GOVT. OF INDIA
High Court Calcutta
Reg. No.-552455/2025
Expiry-18/04/30

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H.G. RAMESH AND JOHN MICHAEL CUNHA, JJ

**Karnataka Power Transmission Corporation Ltd. vs.
M. Rajashekar and Others***

**ADVOCATES ACT, 1961 – SECTION 35 – Punishment of
Advocates for misconduct – Refuse to return the files to the
client amounts to misconduct – Advocate has no lien on
litigation papers of his client – Litigant has an absolute right
to appoint an Advocate of his choice – There is nothing
known as irrevocable *vakalatnama* – Requirement of
'no objection' of the Advocate on record to appoint a new
Advocate by a party –**

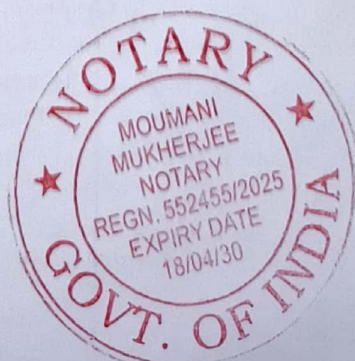
HELD,

Vakalatnama filed by a new Advocate is to be accepted
in the absence of 'no objection' of the Advocate already on
record. – A party to a litigation has an absolute right to
appoint an Advocate of his choice, to terminate his services,
and to appoint a new Advocate. A party has the freedom to
change his Advocate any time and for whatever reason.
However, fairness demands that the party should inform his
Advocate already on record, though this is not a condition
precedent to appoint a new Advocate. (Paras 1, 6)

*M.F.A. No. 6526/2013 (LAC), Dated: 2nd day of December, 2016.

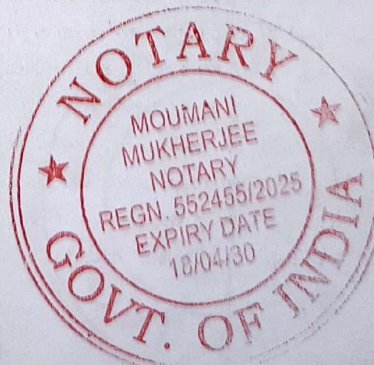
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FURTHER HELD,

- (a) There is nothing known as irrevocable *vakalatnama*. The right of a party to withdraw *vakalatnama* or authorization given to an Advocate is absolute. Hence, a party may discharge his Advocate any time, with or without cause by withdrawing his *vakalatnama* or authorization. On discharging the Advocate, the party has the right to have the case file returned to him from the Advocate, and any refusal by the Advocate to return the file amounts to misconduct under Section 35 of the Advocates Act, 1961. In any proceeding, including civil and criminal, a party has an absolute right to appoint a new Advocate. Under no circumstance, a party can be denied of his right to appoint a new Advocate of his choice. Therefore, it follows that any rule or law imposing restriction on the said right can't be construed as mandatory. Accordingly, Courts, Tribunals or other authorities shall not ask for 'no objection' of the Advocate already on record, to accept the *vakalatnama* filed by a new Advocate. (Para 7)
- (b) If an Advocate is discharged by his client and if he has any genuine claim against his client relating to the fee payable to him, the appropriate course for him is to return the brief and to agitate his claim in an appropriate forum, in accordance with law. – Under no circumstance, a party can be denied of his right to appoint a new Advocate of his choice. The right is absolute and not conditional. Hence, the objection raised by the Registry on the *vakalatnama* is overruled. Hereafter, the Registry shall not ask for 'no objection' of the Advocate



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already on record, to accept the *vakalatnama* filed by a new Advocate. (Pars 8, 9)

Office Objection is Overruled.

CASES REFERRED

AT PARA

1. AIR 2000 SC 2912
R.D. Saxena vs. Balaram Prasad Sharma (Ref) 3
2. AIR 2004 SC 311
New India Assurance Co. Ltd.
vs. A.K. Saxena (Ref) 3
3. ILR 2008 KAR 3983
Sri C.V. Sudhindra and Others vs.
M/s. Divine Light School for Blind and Others (Ref) 3

Sri Ajith Anand Shetty, Advocate for Appellant;
Sri C.M. Jagadeesh and Sri Veerabhadra Swamy, Advocates for
R1 to R3;
R4 is served and unrepresented.

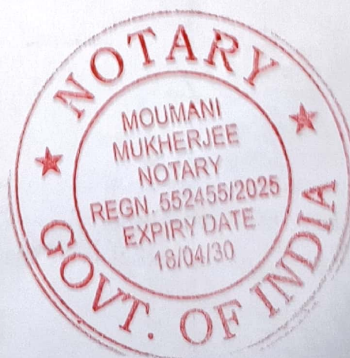
ORDER

Ramesh, J

1. Whether *vakalatnama* filed by a new Advocate is to be accepted in the absence of 'no objection' of the Advocate already on record, is the short question for consideration in this case.

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2. Registry has raised an objection on the *vakalatnama* of the appellant filed by Sri Ajith Anand Shetty, Advocate; objection is that the *vakalatnama* does not contain 'no objection' of the Advocate already on record for the appellant.

3. We have heard Sri Ajith Anand Shetty, Learned Counsel, on the objection raised by the Registry. The Learned Counsel submitted that a party to a litigation has an absolute right to appoint an Advocate of his choice, to terminate his services, and to appoint a new Advocate. Hence, a party cannot be compelled to obtain 'no objection' from the Advocate already on record. Insisting for 'no objection' from the previous Advocate will amount to putting a restriction on the right of a party to appoint an Advocate of his choice. He sought for overruling of the objection raised by the Registry. In support of his submission, he relied on two decisions of the Supreme Court in *R.D.SAXENA vs. BALARAM PRASAD SHARMA*¹, and in *NEW INDIA ASSURANCE CO. LTD. vs. A.K.SAXENA*², and also a Division Bench decision of this Court in *SRI C.V. SUDHINDRA & OTHERS. vs. M/s. DIVINE LIGHT SCHOOL FOR BLIND & OTHERS*³.

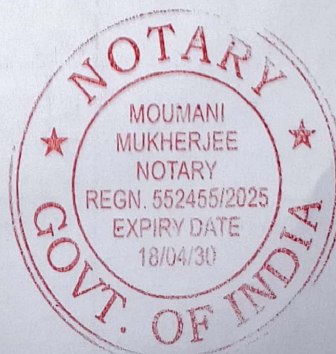
4. To examine the question raised, it is relevant to refer to the following observations made by the Supreme Court in *R.D.SAXENA vs. BALARAM PRASAD SHARMA* (*supra*):

1. AIR 2000 SC 2912

2. AIR 2004 SC 311

3. ILR 2008 KAR 3983

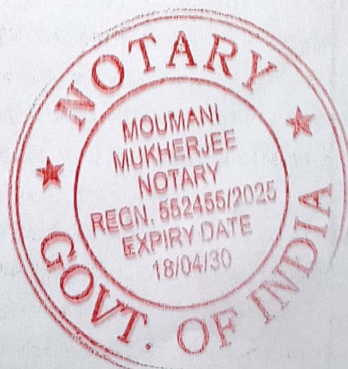
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“15. A litigant must have the freedom to change his advocate when he feels that the advocate engaged by him is not capable of espousing his cause efficiently or that his conduct is prejudicial to the interest involved in the lis, or for any other reason. **For whatever reason, if a client does not want to continue the engagement of a particular advocate it would be a professional requirement consistent with the dignity of the profession that he should return the brief to the client. It is time to hold that such obligation is not only a legal duty but a moral imperative.**

17. If a party terminates the engagement of an advocate before the culmination of the proceedings that party must have the entire file with him to engage another advocate. But if the advocate who is changed midway adopts the stand that he would not return the file until the fees claimed by him is paid, the situation perhaps may turn to dangerous proportion. There may be cases when a party has no resource to pay the huge amount claimed by the advocate as his remuneration. A party in a litigation may have a version that he has already paid the legitimate fee to the advocate. At any rate if the litigation is pending the party has the right to get the papers from the advocate whom he has changed so that the new counsel can be briefed by him

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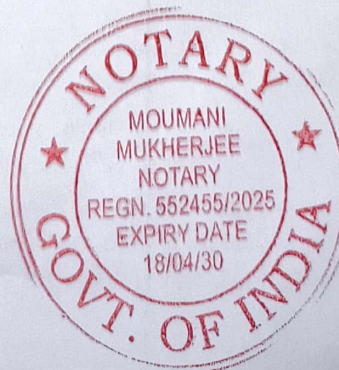
effectively. In either case it is impermissible for the erstwhile counsel to retain the case bundle on the premise that fees is yet to be paid.

18. Even if there is no lien on the litigation papers of his client an advocate is not without remedies to realise the fee which he is legitimately entitled to. But if he has a duty to return the files to his client on being discharged the litigant too has a right to have the files returned to him, more so when the remaining part of the lis has to be fought in the court. This right of the litigant is to be read as the corresponding counterpart of the professional duty of the advocate.

23. We, therefore, hold that the refusal to return the files to the client when he demanded the same amounted to misconduct under Section 35 of the Act. Hence, the appellant in the present case is liable to punishment for such misconduct.

42. It is true that an advocate is competent to settle the terms of his engagement and his fee by private agreement with his client but it is equally true that if such fee is not paid he has no right to retain the case papers and other documents belonging to his client. Like any other citizen, an advocate has a right to recover the fee or other amounts payable to

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him by the litigant by way of legal proceedings but subject to such restrictions as may be imposed by law or the rules made in that behalf.”

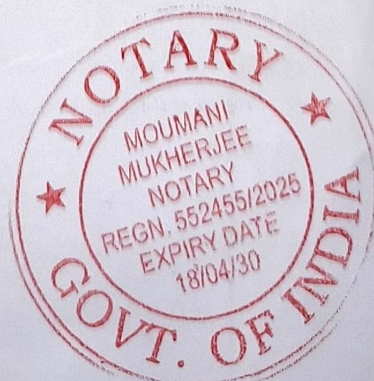
(Emphasis and underlining supplied)

5. In the context of the question raised, the following observations made by a Division Bench of this Court in **SRI C.V.SUDHINDRA & ORS. vs. M/s. DIVINE LIGHT SCHOOL FOR BLIND & ORS. (supra)** are also apposite:

“7. We are therefore of the considered opinion that the contract of vakalathnama can be withdrawn by the client at any time. There is nothing known as irrevocable vakalathnama. Precisely the same right has been exercised by respondent No.1 herein (defendant No.7 in the suit) who had earlier engaged the petitioners on their behalf as Advocates to represent them.”

8.if the Advocate feels that he has any genuine claim or grievance against his client, the appropriate course is to return the brief with endorsement of no objection and agitate such right in an appropriate forum, in accordance with law and not indulge in arm twisting methods by holding on to the brief.”

(Underlining supplied)



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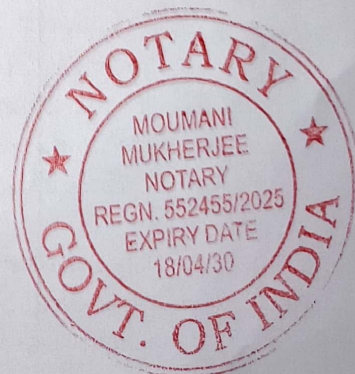
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6. As could be seen from the observations made in the two decisions extracted above, a party to a litigation has an absolute right to appoint an Advocate of his choice, to terminate his services, and to appoint a new Advocate. A party has the freedom to change his Advocate any time and for whatever reason. However, fairness demands that the party should inform his Advocate already on record, though this is not a condition precedent to appoint a new Advocate.

7. There is nothing known as irrevocable *vakalatnama*. The right of a party to withdraw *vakalatnama* or authorization given to an Advocate is absolute. Hence, a party may discharge his Advocate any time, with or without cause by withdrawing his *vakalatnama* or authorization. On discharging the Advocate, the party has the right to have the case file returned to him from the Advocate, and any refusal by the Advocate to return the file amounts to misconduct under Section 35 of the Advocates Act, 1961. In any proceeding, including civil and criminal, a party has an absolute right to appoint a new Advocate. Under no circumstance, a party can be denied of his right to appoint a new Advocate of his choice. Therefore, it follows that any rule or law imposing restriction on the said right can't be construed as mandatory. Accordingly, Courts, Tribunals or other authorities shall not ask for 'no objection' of the Advocate already on record, to accept the *vakalatnama* filed by a new Advocate.

8. As observed in the decisions referred to above, if an Advocate is discharged by his client and if he has any genuine claim against his client relating to the fee payable to him, the appropriate course for him

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is to return the brief and to agitate his claim in an appropriate forum, in accordance with law.

9. As stated above, under no circumstance, a party can be denied of his right to appoint a new Advocate of his choice. The right is absolute and not conditional. Hence, the objection raised by the Registry on the *vakalatnama* is overruled. Hereafter, the Registry shall not ask for 'no objection' of the Advocate already on record, to accept the *vakalatnama* filed by a new Advocate.



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Kmagrotech Pvt. Limited

Factory : Vill.: Gopinathbati, P.O.: Gonna Dariapur,
Purba Bardhaman, Pin - 713128

Mob.: 9475266482, 9475346128, 7063064225
E-mail : kmagrotechpvtlimited2012@gmail.com

GISTIN : 19AACCK9961B1ZD / CIN : U15135WB2006PTC112199

Date **27.06.2026**

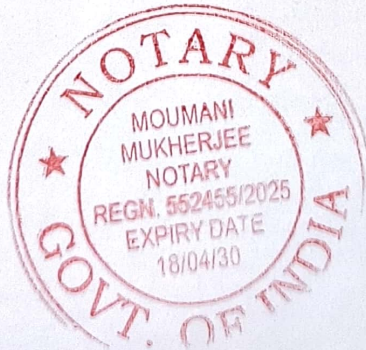
f. No.

Resolution

A meeting held on company register office at gopinathbati, gonna dwariapur, ausgram, Purba Bardhaman, on 27/06/2026 at 10 PM, wherein it has been resolved that the Managing Director of the company i.e., Debanshu shaw has been duly authorised to sign and affirm the affidavit filed before the Hon'ble National Green Tribunal in connection with the matter being O.A. no.107 of 2023.

For KM AGROTECH PVT. LTD.

Debanshu Shaw
DIRECTOR



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BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL
- EASTERN ZONE BENCH, KOLKATA
O.A No. 107/2023/EZ

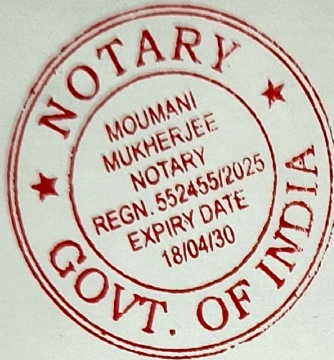
IN THE MATTER OF:
Soumen Chakraborty

..... Applicant

- VERSUS -

The Principal Secretary, Environment
Department, Government of West
Bengal & Ors

..... Respondents



Affidavit filed on behalf of the
Respondent Nos. 14 to 16.

Advocate on record:

Masum Tarafdar, Advocate.
Enrolment No.F/1673/1931/2024
Bar association room no. 6,
High Court, Calcutta.
(M) : 9330797671
Email:masumtarafdar007@gmail.com

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VAKALATNAMA

For KM AGROTECH PVT. LTD.

Debarshi
DIRECTOR

In the ~~N~~ National Green Tribunal, Eastern Zone.

Before Ld _____

Judge

Suit/Case No. OA 107 of 2023.

at 202

Signature

Soumen Chakraborty

Plaintiff
Application
Application

-Vs-

Principal Secretary, Environment
Department, Govt. of West Bengal for

Defendant
Opp. Party
Respondent

KNOWN ALL MEN by these that I/We do hereby in my/our name and my/(our behalf constitute and appoint Ms.

true and lawful Pleader/ Advocate & Attorneys to appear and act for me/us in the matter noted above to the suit written statement, conduct suit, appeal from original suit order etc. and for that purpose to do all acts and things, whatsoever in that connection including compromise of the above matter disposing in or withdrawing money from filling or taking out of appeal, document and payment order from court referring matters in dispute between the parties here to arbitration, withdrawing the above matters with liberty title fresh suit, sending properties released from attachment filling execution or Miscellaneous cases and other petitions, bidding at execution sale, obtaining payment from us our Court, Withdrawing custody and other fees and doing on my/our behalf such other acts in the above matters as are necessary and proper

I/We hereby agreeing to ratify and confirm all acts so done by the said Advocate or Attorneys as my/our own acts and as it done by me/us to all intents and purposes.

Masum Tarafdar
Advocate

High Court at Calcutta

Bar Association room no.-6

Enrollment no. - P/1673/1931/2024.

(M) : 9330797671.

Email : masumtarafdar-007@gmail.com.

Date. 2nd July, 2024

Received the vokatnama from client,
satisfied & accepted.

Masum Parafar.
Advocate

F/1673/1931/2024.