

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. NO. 1 OF 2025
IN
ORIGINAL APPLICATION NO. 82 OF 2023

IN THE MATTER OF:

SANTOSHPUR MITALI SANGHA APPLICANT

VERSUS

STATE OF WEST BENGAL AND ORS. RESPONDENTS

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THROUGH



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Date: 16.01.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. No. ____ OF 2025
IN
ORIGINAL APPLICATION NO. 82 OF 2023**

IN THE MATTER OF:

SANTOSHPUR MITALI SANGHA

.... APPLICANT

VERSUS

STATE OF WEST BENGAL AND ORS.

.... RESPONDENTS

SYNOPSIS

That the present Execution Application is filed under Section 25 of the National Green Tribunal Act, 2010, seeking execution and compliance of order dated 12.08.2024 passed by this Hon'ble Tribunal in the matter of *Santoshpur Mitali Sangha vs. State of West Bengal & Ors.* (Original Application 82 of 2023). This Hon'ble Tribunal vide order dated 12.08.2024 was pleased to pass an Order directing the:

- i. West Bengal Pollution Control Board to compute Environmental Compensation against the Suravi Sadan Gaushala strictly as per law by issuing a show cause notice and giving an opportunity of showing cause and filing reply within two months i.e., 12.10.2024. **(Para No. 69 of Order dated 12.08.2024);**
- ii. West Bengal Pollution Control Board to inspect the Suravi Sadan Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee i.e., 12.10.2024. **(Para No. 70 of Order dated 12.08.2024);**
- iii. District Magistrate, North 24 Parganas to take appropriate action against the Suravi Sadan Gauhsala in accordance with law within a period of two months for restoration of the land in question as Doba and Pukur i.e., 12.10.2024. **(Para No. 71 of Order dated 12.08.2024);**

The Applicant herein reproduces the relevant extracts of the order dated 12.08.2025:

"69. We accordingly dispose of this Original Application as well as Execution Application with a direction to the West Bengal Pollution Control Board, Respondent No.2, to compute Environmental Compensation against the Respondents, Project Proponent, strictly as per law by issuing the Project Proponent a show cause notice and giving an opportunity of showing cause and filing reply to the same. Let this exercise be carried out within a period of two months.

70. We further direct the West Bengal Pollution Control Board to inspect the Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee.

71. So far as illegal conversion of land use by the Respondents, Project Proponent, converting 'Doba' and 'Pukur' land is concerned, the District Magistrate, North 24 Parganas, is directed to take appropriate action against the Project Proponent in accordance with law within a period of two months for restoration of the land in question as Doba and Pukur".

Despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of October 10, 2024, West Bengal Pollution Control Board has conspicuously failed to comply and Gushala is persistently operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. This clearly shows the deliberate nature of the contemptuous conduct of the State Respondents as well as the Suravi Sadan Gaushala.

Despite Representations filed by the Applicant no action taken by the West Bengal Pollution Control Board:

It is pertinent to note that even after passage of four months from the order dated 12.08.2024 passed by this Hon'ble Tribunal, no action has been taken by the West Bengal Pollution Control Board within the stipulated timeframe of 12.10.2024. In this regard, looking at the persistent non-compliance of the orders of this Hon'ble Tribunal, the Applicant has filed a legal representation

before the West Bengal Pollution Control Board dated 31.12.2024. However, till date neither any computation of environmental compensation nor any restoration measures have been taken by the West Bengal Pollution Control Board.

Consequences resulting from the failure to comply with the directives issued by this Hon'ble Tribunal:

The pits storing this dung is not only leading to contamination of soil and water sources but also contamination of groundwater as the same will percolate and seep deep into the groundwater thereby contaminating the same. Additionally, the decomposition of organic waste dumped into the adjacent agricultural land since 2010 produces extreme foul odors, posing health hazards to both animals and nearby communities, living adjacent to the Gaushala. The clogging of the wastes due to inadequate drainage system leads to breeding ground for mosquitoes and thus creates extreme unhygienic conditions and is thus prone to health hazards. The foul smell from the dairy creates severe nuisance to the people living in the adjacent area as they have no option but to inhale the impure-foul air present in the atmosphere. The cattle dung and urinal waste water which has yet not been removed from the adjacent land produces various toxic gases like methane, ammonia, and nitrogen oxides etc. which are emitted into the atmosphere and is majorly responsible for odour issues inviting incurable diseases.

Thus, the Applicant who is directly affected due to such absolute non-compliance of the Hon'ble Tribunal's order and is also concerned about the social and environmental issues in his region is seeking execution and compliance of the order dated 12.08.2024 in Original Application 82 of 2023.

Hence, the present Execution Application.

LIST OF DATES

25.07.2023	<p>The Applicant of the present Application had filed an Original Application No. 82 of 2023 before this Hon'ble Tribunal on the grounds that the Survi Sadan Gaushala has been operating illegally and unscientifically without obtaining any valid CTO and CTE from the West Bengal Pollution Control Board in complete violation of the Water Act and Air Act and also in complete violation of several provisions of the 'Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the CPCB, July, 2021. It is pertinent to note here that an application for post facto CTO was submitted by the Gaushala on 28.08.2023 only after the filing of the Original Application No. 82 of 2023 before this Hon'ble Tribunal on 25.07.2023 and the post facto CTO has been granted on 21.09.2023 despite being fully conscious of the fact that the unit is operating in complete violation of several provisions of the Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the CPCB. Despite being aware of all the illegalities, CTO has been granted by the PCB.</p>
02.04.2024	<p>This Hon'ble Tribunal vide order dated 02.04.2024 was pleased to pass an Order directing the following:</p> <ol style="list-style-type: none"> <li data-bbox="596 1563 1254 1906">i. A boundary wall of adequate height along the periphery of the Suravai Sadan Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, and wastewater into the adjoining areas within two months i.e., by 31.05.2024. <li data-bbox="596 1939 1254 2029">ii. A proper drainage/garland drain to be constructed to contain the flow of sewage/slush/bovine urine

and bovine waste etc. within two months i.e., by 31.05.2024.

- iii. Immediate steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala within one month i.e., 02.05.2024.

The Applicant herein reproduces the relevant extracts of the order dated 02.04.2024:

"6.Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage/garland drain is also constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc.

*7.We, therefore, allow the I.A. No.12/2024/EZ and **direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage / slush / bovine urine / bovine waste from flowing to the outside.** The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.*

8.Let the said construction of boundary wall and garland drain be constructed within two months i.e. by 31.05.2024.

15.Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out

	<p><i>into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing."</i></p>
<p>22.09.2023</p>	<p>The Joint Committee Report dated 22.09.2023 which was accepted by this Hon'ble Tribunal listed out the following remedial measures:</p> <p><i>"Environmental Compensation (EC) is not calculated in this report considering that:</i></p> <ol style="list-style-type: none"> <i>a. Gaushala and Dairy Farms was brought into the ambit of environmental legislation since July, 2020, however, this particular unit is operating since, 2012. The field visit revealed that the unit has violated land uses and even damaged agricultural land by discharging untreated effluent.</i> <i>b. One day site visit is not sufficient to assess the extent of damage of agricultural land and subsequent loss in crop production already done by the unit. Therefore, the opinion of experts from Agricultural Department for detail damage assessment may be proposed before imposing the EC.</i> <p><u>Remedial Measures:</u></p> <ul style="list-style-type: none"> <i>• Industry has to comply with all applicable environmental legislator requirements including permission for ground water extraction;</i> <i>• Drainage inside the premises shall be redesigned ensuring collection and diversion of waste water to ETP;</i> <i>• Entire boundary wall shall be ensured as leak proof. All the intentional discharge holes in wall shall be sealed immediately;</i> <i>• The capacity of ETP as stated by unit is seemed to under-capacity considering the quantity of waste water generation;</i> <i>• Cow dung is to be removed frequently to minimize the chances of mixing of cow dung with waste water;</i>

	<ul style="list-style-type: none"> • <i>Capacity of bio-gas plant is to be increased and the unit may explore to provide the Compressed Bio-Gas filling system;</i> • <i>Scientific cow dung composting plant is to be adopted and the product is to be disposed of in regular interval;</i> • <i>Bio-medical waste is to be disposed in compliance with the Bio-Medical Waste Management Rules, 2016;</i> • <i>Good housekeeping and cleanliness are to be maintained."</i> <p>It is crucial to note that vide order dated 12.08.2024, this Tribunal in Paragraphs no. 69 and 70 has categorically directed that all the suggested remedial measures listed by the Joint Committee has to be complied by the project proponent. But in complete disregard for the reasons best known, the Respondents Nos. 7 & 8 has deliberately did not comply the directions time and again despite given multiple opportunities by this Hon'ble Tribunal.</p>
22.05.2024	<p>Despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of May 2, 2024, and May 31, 2024, respectively, Respondent Nos. 7 and 8 have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. Hence the Applicant has also filed Execution Application No.03/2024/EZ alleging non-compliance of the order of the Tribunal dated 02.04.2024</p>
12.08.2024	<p>This Hon'ble Tribunal vide order dated 12.08.2024 was pleased to pass an Order directing the:</p> <ol style="list-style-type: none"> i. West Bengal Pollution Control Board to compute Environmental Compensation against

	<p>the Suravi Sadan Gaushala strictly as per law by issuing a show cause notice and giving an opportunity of showing cause and filing reply to the within two months i.e., 12.10.2024;</p> <p>ii. West Bengal Pollution Control Board to inspect the Suravi Sadan Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee i.e., 12.10.2024;</p> <p>iii. District Magistrate, North 24 Parganas to take appropriate action against the Suravi Sadan Gauhsala in accordance with law within a period of two months for restoration of the land in question as Doba and Pukur i.e., 12.10.2024.</p> <p>Despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of October 10, 2024, West Bengal Pollution Control Board and the Suravi Sadan Gaushala have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. This clearly shows the deliberate nature of the contemptuous conduct of the State Respondents as well as the Suravi Sadan Gaushala.</p>
31.12.2024	<p>It is pertinent to note that even after passage of four months from the order dated 12.08.2024 passed by this Hon'ble Tribunal, no action has been taken by the West Bengal Pollution Control Board within the stipulated timeframe of 12.10.2024. In this regard, looking at the persistent non-compliance of the orders of this Hon'ble Tribunal, the Applicant has filed a legal representation before the West</p>

	<p>Bengal Pollution Control Board vide letter dated 31.12.2024. However, till date neither any computation of environmental compensation nor any restoration measures have been taken by the West Bengal Pollution Control Board.</p>
<p>24.12.2024</p>	<p>The Applicants herein submit that the Respondent No.7, Suravi Sadan Gaushala has filed a petition on 24.12.2024 titled <i>Suravi Sadan Gaushala & Anr. vs. The State of West Bengal & Ors. (CO No. 4476 of 2024)</i> whereby the Hon'ble High Court <i>vide</i> order dated 08.01.2025 has granted a stay which is exclusively and only granted to Para No. 71 of the Order dated 12.08.2024 passed by this Hon'ble Tribunal i.e., pertaining to the directions given to the District Magistrate, North 24 Parganas to take appropriate action against the Suravi Sadan Gauhsala in accordance with law for restoration/conversion of the land in question to its original form i.e., as 'Doba' and 'Pukur'. The relevant extracts of the Hon'ble High Court's order dated 08.01.2025 is reproduced herein:</p> <p style="text-align: center;"><i>"9. Pending hearing of this application there shall be stay of the direction contained in paragraph 71 of the order dated 12th August, 2024 passed by the learned National Green Tribunal which was uploaded on 11th September, 2024 for a period upto the end of February, 2025 or until further order, whichever is earlier".</i></p> <p>It is important to emphasize that the Hon'ble High Court, through its order dated 08.01.2025, has specifically addressed only Paragraph 71 of the Tribunal's order dated 12.08.2024. The stay granted by the Hon'ble High Court is explicitly confined to the scope of Paragraph 71 and does not extend to any other portions of the order. Notably, the High Court has neither addressed nor issued any stay concerning</p>

	<p>Paragraphs 69 and 70 of the same order. This clarification underscores that the proceedings or directives outlined in Paragraphs 69 and 70 remain unaffected and continue to hold their full force and effect. Despite the clear and unequivocal directions issued by this Hon'ble Tribunal, which remain unaffected by the stay granted by the Hon'ble High Court, the West Bengal Pollution Control Board has failed to fulfill its obligations in a manner that is both diligent and effective. Specifically, the Board has not taken the necessary steps to compute the environmental compensation as mandated. Furthermore, it has not implemented the remedial measures recommended by the Joint Committee, as explicitly directed in Paragraphs 69 and 70 of the Tribunal's order dated 12.08.2024. This failure reflects a serious lapse in adherence to the Tribunal's directives, undermining the intended efforts to address environmental concerns and ensure accountability for ecological harm.</p>
16.01.2025	Hence, the Execution Application.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. NO. _____ OF 2024
IN
ORIGINAL APPLICATION NO. 82 OF 2023**

IN THE MATTER OF:

SANTOSHPUR MITALI SANGHA

Through its authorized signatory

Shri Avi Bag, Secretary.

Banerjee Para, Village - Santoshpur, P.O. – Adi Kashimpur,

P.S. Duttapukur, North 24 Parganas – 743248.

Email: bagavi.1983@gmail.com Ph: +91 9830557087

.... APPLICANT

VERSUS

1. STATE OF WEST BENGAL

Through the Chief Secretary,

Department of Environment,

5th Floor, Pranisampad Bhawan,

Block LB-II, Salt Lake, Sector-III,

Bidhannagar, Kolkata – 700106.

Email: cs-westbengal@nic.in Ph: 03322535130

2. WEST BENGAL STATE POLLUTION CONTROL BOARD

Through its Member Secretary,

Paribesh Bhawan, 10A, Block-LA,

Sector-III, Bidhannagar,

Kolkata – 700106

Email: ms@wbpcb.gov.in Ph: 03323358213

3. CENTRAL POLLUTION CONTROL BOARD

Through the Member Secretary,

Parivesh Bhawan, CBD-cum-Office Complex,

East Arjun Nagar, Delhi -110 032.

Email: ajayaggarwal.cpcb@nic.in Ph: +91-11-22391025

4. DISTRICT MAGISTRATE

North 24 Parganas, New Administrative Building

Barasat, Kolkata-700124.

Email: dm-bar-wb@nic.in Ph: 03325523662.

5. PRADHAN, KASHIMPUR GRAM PANCHAYAT

Bamunpara, Digha,

North 24 Parganas, West Bengal 743248.

Email and Contact;- NIL

6. BLOCK DEVELOPMENT OFFICER

Barasat-I Development Block,

Chhota Jagulia, North 24 Parganas.

West Bengal 700124.

Ph: +91 33 2552 3344, Email :- NIL

7. SURAVI SADAN GAUSHALA

Through the President of Rajasthan Gokalyan Trust,

Santoshpur, Barasat. North 24 Parganas.

West Bengal – 743248.

Ph: +91 6359-4569. Email :- NIL

8. RAJASTHAN GOKALYAN TRUST

Through its President

Santoshpur, Barasat. North 24 Parganas.

West Bengal – 743248.

Ph: +91 6359-4569. Email :- NIL

.... RESPONDENTS

**EXECUTION APPLICATION U/S 25 OF THE NATIONAL GREEN
TRIBUNAL ACT, 2010 FOR EXECUTION OF ORDER DATED 12.08.2024
IN O.A. NO. 82 OF 2023:**

MOST RESPECTFULLY SHOWETH:

1. That the present Execution Application has been filed under Section 25 of the National Green Tribunal Act, 2010, seeking execution and compliance of order dated 12.08.2024 passed by this Honble Tribunal in the matter of *Santoshpur Mitali Sangha vs. State of West Bengal & Ors.* (Original Application 82 of 2023). This Hon'ble Tribunal vide order dated 12.08.2024 was pleased to pass an Order directing the:

- i. West Bengal Pollution Control Board to compute Environmental Compensation against the Suravi Sadan Gaushala strictly as per law by issuing a show cause notice and giving an opportunity of showing cause and filing reply to the within two months i.e., 12.10.2024. (Para No. 69 of Order dated 12.08.2024);
 - ii. West Bengal Pollution Control Board to inspect the Suravi Sadan Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee i.e., 12.10.2024. (Para No. 70 of Order dated 12.08.2024);
 - iii. District Magistrate, North 24 Parganas to take appropriate action against the Suravi Sadan Gauhsala in accordance with law within a period of two months for restoration of the land in question as Doba and Pukur i.e., 12.10.2024. (Para No. 71 of Order dated 12.08.2024);
2. The Applicant herein reproduces the relevant extracts of the order dated 12.08.2025:

"69. We accordingly dispose of this Original Application as well as Execution Application with a direction to the West Bengal Pollution Control Board, Respondent No.2, to compute Environmental Compensation against the Respondents, Project Proponent, strictly as per law by issuing the Project Proponent a show cause notice and giving an opportunity of showing cause and filing reply to the same. Let this exercise be carried out within a period of two months.

70. We further direct the West Bengal Pollution Control Board to inspect the Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee.

71. So far as illegal conversion of land use by the Respondents, Project Proponent, converting 'Doba' and 'Pukur' land is concerned, the District Magistrate, North 24 Parganas, is directed to take appropriate action against the Project Proponent in

accordance with law within a period of two months for restoration of the land in question as Doba and Pukur”.

3. Despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of October 10, 2024, West Bengal Pollution Control Board, District Magistrate, North 24 Parganas and the Suravi Sadan Gaushala have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. This clearly shows the deliberate nature of the contemptuous conduct of the State Respondents as well as the Suravi Sadan Gaushala.

Copy of the Order dated 12.08.2024 passed by this Hon'ble Tribunal is annexed herewith as **ANNEXURE A/1**.

I. STAY GRANTED BY THE HON'BLE HIGH COURT OF CALCUTTA EXCLUSIVELY LIMITED TO PARAGRAPH 71 OF THE TRIBUNAL'S ORDER DATED 12.08.2024:

4. The Applicants herein submit that the Respondent No.7, Suravi Sadan Gaushala has filed a petition on 24.12.2024 titled ***Suravi Sadan Gaushala & Anr. vs. The State of West Bengal & Ors. (CO No. 4476 of 2024)*** whereby the Hon'ble High Court *vide* order dated 08.01.2025 has granted a stay which is exclusively and only granted to Para No. 71 of the Order dated 12.08.2024 passed by this Hon'ble Tribunal i.e., pertaining to the directions given to the District Magistrate, North 24 Parganas to take appropriate action against the Suravi Sadan Gauhsala in accordance with law for restoration/conversion of the land in question to its original form i.e., as 'Doba' and 'Pukur'. The relevant extracts of the Hon'ble High Court's order dated 08.01.2025 is reproduced herein:

"9. Pending hearing of this application there shall be stay of the direction contained in paragraph 71 of the order

dated 12th August, 2024 passed by the learned National Green Tribunal which was uploaded on 11th September, 2024 for a period upto the end of February, 2025 or until further order, whichever is earlier”.

5. It is important to emphasize that the Hon'ble High Court, through its order dated 08.01.2025, has specifically addressed only Paragraph 71 of the Tribunal's order dated 12.08.2024. The stay granted by the Hon'ble High Court is explicitly confined to the scope of Paragraph 71 and does not extend to any other directions of the order. Notably, the Hon'ble High Court has not issued any stay concerning Paragraphs 69 and 70 of the same order. This clarification underscores that the proceedings or directives outlined in Paragraphs 69 and 70 remain unaffected and continue to hold their full force and effect. It is thus pertinent to note that the stay is only with respect to conversion of legal status of the land to 'Doba' and 'Pukur'.

6. Despite the clear and unequivocal directions issued by this Hon'ble Tribunal, which remain unaffected by the stay (except Para No. 71) granted by the Hon'ble High Court, the West Bengal Pollution Control Board has failed to fulfill its obligations in a manner that is both diligent and effective. Specifically, the Board has not taken the necessary steps to compute the environmental compensation as mandated. Furthermore, it has not implemented the remedial measures recommended by the Joint Committee, as explicitly directed in Paragraphs 69 and 70 of the Tribunal's order dated 12.08.2024. This failure reflects a serious lapse in adherence to the Tribunal's directives, undermining the intended efforts to address environmental concerns and ensure accountability for ecological harm.

Copy of the Hon'ble High Court order dated 08.01.2025 in the matter titled Suravi Sadan Gaushala & Anr. vs. The State of West Bengal & Ors. (CO No. 4476 of 2024) is annexed herewith as **ANNEXURE A/2.**

II. ABSOLUTE NON-COMPLIANCE OF THE DIRECTIONS PASSED BY THIS HON'BLE TRIBUNAL VIDE ORDER DATED 02.04.2024:

7. The Applicants herein submit that this Hon'ble Tribunal vide interim order dated 02.04.2024 was pleased to pass an Order directing the following:

- i. A boundary wall of adequate height along the periphery of the Suravai Sadan Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, and wastewater into the adjoining areas within two months i.e., by 31.05.2024. (Para No. 7 & 8 of Order dated 02.04.2024);
- ii. A proper drainage/garland drain to be constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc. within two months i.e., by 31.05.2024. (Para No. 7 & 8 of Order dated 02.04.2024);
- iii. Immediate steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala within one month i.e., 02.05.2024. (Para No. 16 of Order dated 02.04.2024);

8. The Applicant herein reproduces the relevant extracts of the order dated 02.04.2024:

"6.Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage / garland drain is also constructed to contain the flow of sewage /slush /bovine urine and bovine waste etc.

7. We, therefore, allow the I.A. No.12/2024/EZ and direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage / slush / bovine urine / bovine waste from flowing to the outside. The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.

8. Let the said construction of boundary wall and garland drain be constructed within two months i.e. by 31.05.2024.

15. Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing."

9. Despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of May 2, 2024, and May 31, 2024, respectively, Respondent Nos. 7 and 8 have conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation. This clearly shows the deliberate nature of the contemptuous conduct of the Respondent Nos. 7 and 8.

Copy of the interim order dated 02.04.2024 passed by this Hon'ble Tribunal is annexed herewith as **ANNEXURE A/3.**

10. In this regards, due to the non-compliance of the Order dated 02.04.2024 passed by this Hon'ble Tribunal, the Applicant had filed an Execution Application No. 03 of 2024 on 22.05.2024 on the ground that

the monsoon was not far off and hence the increased Rainfall would exacerbate the challenges of waste management in the Gaushala. The excessive water would lead to the runoff of bovine waste into nearby adjacent agricultural lands and water bodies, causing pollution and environmental degradation. That there would be absolute overflow of bovine wastes which are accumulated in the adjacent land.

11. However, the Suravi Sadan Gaushala being a habitual offender once again has deliberately failed to comply with directions passed by this Hon'ble Tribunal in order dated 02.04.2024. It is crucial to note that the Respondent No. 7 & 8 in Para No. 5 of its affidavit dated 29.07.2024 has falsely stated that:

"5. It is stated that the adjoining areas where initially a very small quantity of bovine waste may have scattered, had already been restored"

12. The Applicants submit that the Respondents no. 7 & 8 filed such an incorrect and misleading submission on Affidavit before this Hon'ble Tribunal which is nothing but an assault of Rule of Law and also a gross violation of the directions of the Hon'ble Supreme Court in the matter titled **Suo-Motu Contempt Petition In Re: Perry Kansagra 2022 SCC OnLine SC 858** vide order dated 11.07.2022 has observed that tendering false affidavits and undertakings containing false statements amounts to contempt of court:

"17. It is thus well settled that a person who makes a false statement before the Court and makes an attempt to deceive the Court, interferes with the administration of justice and is guilty of contempt of Court. The extracted portion above clearly shows that in such circumstances, the Court not only has the inherent power but it would be failing in its duty if the alleged contemnor is not dealt with in contempt jurisdiction for abusing the process of the Court."

13. Thus, major question arises regarding the correctness and truthfulness of the information provided by the Respondents no. 7 & 8 on Affidavit as the reality on ground Starks a complete different picture.

III. ABSOLUTE NON-COMPLIANCE OF THE DIRECTIONS PASSED BY THIS HON'BLE TRIBUNAL VIDE ORDER DATED 12.08.2024:

14. Despite the clear and unequivocal directions issued by the Hon'ble Tribunal there has been absolute non-compliance by the Suravi Sadan Gaushala and the West Bengal Pollution Control Board. This Hon'ble Tribunal has directed the WBPCB to compute environmental compensation against the Gaushala by issuing a show-cause notice and ensuring due process within two months. Additionally, the WBPCB was mandated to inspect the Gaushala to verify compliance with the remedial measures suggested by the Committee. That the Joint Committee Report dated 22.09.2023 which was accepted by this Hon'ble Tribunal listed out the following remedial measures:

"Environmental Compensation (EC) is not calculated in this report considering that:

- c. Gaushala and Dairy Farms was brought into the ambit of environmental legislation since July, 2020, however, this particular unit is operating since, 2012. The field visit revealed that the unit has violated land uses and even damaged agricultural land by discharging untreated effluent.*
- d. One day site visit is not sufficient to assess the extent of damage of agricultural land and subsequent loss in crop production already done by the unit. Therefore, the opinion of experts from Agricultural Department for detail damage assessment may be proposed before imposing the EC.*

Remedial Measures:

- *Industry has to comply with all applicable environmental legislator requirements including permission for ground water extraction;*

- *Drainage inside the premises shall be redesigned ensuring collection and diversion of waste water to ETP;*
- *Entire boundary wall shall be ensured as leak proof. All the intentional discharge holes in wall shall be sealed immediately;*
- *The capacity of ETP as stated by unit is seemed to under-capacity considering the quantity of waste water generation;*
- *Cow dung is to be removed frequently to minimize the chances of mixing of cow dung with waste water;*
- *Capacity of bio-gas plant is to be increased and the unit may explore to provide the Compressed Bio-Gas filling system;*
- *Scientific cow dung composting plant is to be adopted and the product is to be disposed of in regular interval;*
- *Bio-medical waste is to be disposed in compliance with the Bio-Medical Waste Management Rules, 2016;*
- *Good housekeeping and cleanliness are to be maintained."*

15. It is crucial to note that vide order dated 12.08.2024, this Tribunal in Paragraphs no. 69 and 70 has categorically directed that all the suggested remedial measures listed by the Joint Committee has to be complied by the project proponent. But in complete disregard for the reasons best known, the Respondents Nos. 7 & 8 has deliberately did not comply the directions time and again despite given multiple opportunities by this Hon'ble Tribunal.

Copy of the Joint Committee Report dated 22.09.2023 is annexed herewith as **ANNEXURE A/4.**

16. **The Applicants respectfully submit that the Hon'ble High Court has granted a stay exclusively with respect to Paragraph 71 of the order dated 12.08.2024. It is pertinent to note that the interim order passed by this Hon'ble Tribunal on 02.04.2024 has not been stayed, nor have Paragraphs 69 and 70 of the order dated 12.08.2024 been stayed by the Hon'ble High Court. Consequently, there is no legal impediment preventing the**

project proponent and the West Bengal Pollution Control Board from fulfilling their obligations under the Hon'ble Tribunal's directives listed out in Paragraphs 69 and 70 of the order dated 12.08.2024.

17. These directives include the computation of environmental compensation for the damage caused and the complete removal of bovine waste that has been indiscriminately dumped onto adjacent agricultural land since 2012. The failure to act on these measures not only violates the Tribunal's clear instructions but also exacerbates the environmental degradation in the area. Therefore, it is imperative for both the project proponent and the Pollution Control Board to take immediate and effective steps to ensure compliance with these directives without further delay.
18. The photographs captured by the Applicant on May 21, 2024, as well as the photographs captured by the Applicant on 07.01.2025 both depicts exactly similar picture thereby indicating that the bovine waste from the nearby agricultural land remains uncleared. The images unmistakably reveal the continued presence of huge amount of cow dung in the adjacent agricultural field.

Copy of the images taken by the Applicant showing the huge amount of bovine wastes are still lying in the adjacent agricultural land in complete violation of order dated 12.08.2024 are annexed herewith as **ANNEXURE A/5.**

IV. ABSENCE OF REQUIRED PERMISSIONS FOR EXTRACTION OF GROUNDWATER:

19. That the Joint Committee Report dated 22.09.2023 in Para No. 3 has categorically stated the unit uses submersible pumps to extract groundwater without permission from State Water Investigation

Directorate (SWID) and Central Groundwater Authority of India (CGWA). That the Joint Committee further, in the remedial measures directed the Gaushala to obtain requisite permission for extraction of Groundwater.

"3. Violation of the provisions of Guidelines for Environmental Management of Dairy Farms and Gaushalas published by the Central Pollution Control Board in July, 2021 including CTE/CTO, Sewage Disposal and Locational Hazard:

The unit uses submersible pumps to extract groundwater without permission from SWID or CGWA.

"Remedial Measures:

- ***Industry has to comply with all applicable environmental legislator requirements including permission for ground water extraction;***

20. Furthermore, the Affidavit dated 28.06.2024 filed by the West Bengal Pollution Control Board, the inspection report also states that despite the direction of the Joint Committee Report, the unit has yet not obtained any permission and continues to extract groundwater illegally:

"9. The unit is yet to obtain permission for extraction of groundwater as stated by the unit representative".

21. Thus, there is absolute deliberate and persistent non-compliance as on till date the unit is illegally extracting groundwater without obtaining any permission from the Despite Central Groundwater Authority of India (CGWA). Despite, repeated directions by this Hon'ble Tribunal and the Joint Committee, the illegal extraction of groundwater persists. This blatant disregard for the Tribunal's orders raises serious questions about their commitment to addressing the environmental damage caused and complying with the law.

V. **PERSISTENT AND WILFUL NON-COMPLIANCE BY SURAVI SADAN GAUSHALA IN ADHERING TO THE ORDERS OF THIS HON'BLE TRIBUNAL:**

22. The Applicant in this regard submits that such an act of persistent non-compliance of the Hon'ble Tribunal's directions are in complete violation of the judgment passed by the Hon'ble Supreme Court in the matter titled **Sushil Raghav vs. Union of India and Others (Civil Appeal No 1629 of 2022)** vide order dated 20.02.2023 whereby the Hon'ble Supreme Court has categorically stated that this Hon'ble Tribunal has powers to execute its orders as decrees of civil court under Section 25 of the NGT Act. It further held that this Hon'ble Tribunal is entrusted with the power to ensure that its orders are complied with:

*"We are of the considered view that the observation of the Tribunal that there was no case for executing the earlier order under Section 25 is misconceived. **The Tribunal is entrusted with the wholesome power to ensure that its orders are complied with. The absence of sewerage facilities is an important aspect which would merit the exercise of powers by the Tribunal under Section 25. The invocation of the power to levy a penalty under Section 26 will not necessarily sub-serve the purpose**".*

23. Further the Applicant submits that in the matter titled **State of Madhya Pradesh vs. Centre for Environment Protection Research and Development & Ors. (2020) 9 SCC 781**, the Hon'ble Supreme Court had declared that an Order of National Green Tribunal are binding and enforceable on governmental authorities. It was held:

*"59. The order passed by the learned Tribunal are binding on and enforceable against the appellant State. As observed above, the learned Tribunal had the power, authority and jurisdiction to direct the appellant State to strictly implement compliance with Rules 115 and 116. **An order of the***

Tribunal under the National Green Tribunal Act is enforceable in the manner provided in Section 25 of the NGT Act."

VI. NO ACTION TAKEN BY THE INACTION BY THE WEST BENGAL POLLUTION CONTROL BOARD DESPITE REPRESENTATIONS FILED BY THE APPLICANT:

24. It is pertinent to note that even after passage of four months from the order dated 12.08.2024 passed by this Hon'ble Tribunal, no action has been taken by the West Bengal Pollution Control Board nor the Suravi Sadan Gushala within the stipulated timeframe of 12.10.2024. In this regard, looking at the persistent non-compliance of the orders of this Hon'ble Tribunal, the Applicant has filed a legal representation before West Bengal Pollution Control Board dated 31.12.2024. However, till date neither any computation of environmental compensation nor any restoration measures have been taken by the West Bengal Pollution Control Board.

Copy of the legal representation dated 31.12.2024 filed by the Applicant before the West Bengal Pollution Control Board is annexed herewith as **ANNEXURE A/6.**

25. Thus, the Applicant who is directly affected due to such absolute non-compliance of the Hon'ble Tribunal's order and is also concerned about the social and environmental issues in his region is seeking execution and compliance of the order dated 12.08.2024 in Original Application 82 of 2023.

GROUND

26. That the Applicant is filing the present execution application on following amongst other grounds which he may take at the time of hearing of the Application:

- A. Because the Applicant is approaching this Hon'ble Tribunal under Section 25 of the NGT Act seeking execution of the directions contained in order dated 12.08.2024 as this Hon'ble Tribunal has all the powers of Civil Court to execute its own order;
- B. Because West Bengal Pollution Control Board has till date not initiated any work and has miserably failed to take steps to clear all the bovine waste which have poured out into the adjoining area outside the boundary of Gaushala and restore the same within the stipulated timeframe of two month i.e., 12.10.2024;
- C. Because West Bengal Pollution Control Board has till date not initiated any computation with regard to the environmental compensation as directed by this Hon'ble Tribunal within the stipulated timeframe of two month i.e., 12.10.2024;
- D. Because despite the clear directives issued by this Hon'ble Tribunal to be adhered to within the specified time frame of 12.04.2024, the West Bengal Pollution Control Board conspicuously failed to comply and is operating in complete violation of laws and directions of the Hon'ble Tribunal, causing progressive environment degradation;
- E. Because the Suravi Sadan Gaushala has established itself as a habitual offender, consistently operating in violation of environmental and legal standards. Since its inception in 2012, the Gaushala has been running illegally and in an unscientific manner, with no regard for the regulations governing its operations. Despite numerous warnings and directives from this Hon'ble Tribunal, it continues to flout the law, disregarding the necessary environmental safeguards, waste management practices, and other operational protocols that are essential for the lawful and responsible functioning of such facilities;
- F. Because the Hon'ble High Court of Calcutta has granted a stay exclusively on Paragraph 71 of the order dated 12.08.2024. It is

pertinent to note that the interim order passed by this Hon'ble Tribunal on 02.04.2024 has not been stayed, nor have Paragraphs 69 and 70 of the order dated 12.08.2024 been stayed by the Hon'ble High Court. Consequently, there is no legal impediment preventing the project proponent and the West Bengal Pollution Control Board from fulfilling their obligations under the Tribunal's directives;

- G. Because this Hon'ble Tribunal in the matter titled **Social Action for Forest and Environment (SAFE) v. Union of India & Ors. (2019 SCC Online NGT 392)**, has held that this Hon'ble Tribunal has the powers, right as well as the duty of getting its Orders executed:

*"21. 'Polluter Pays' principle can be applied by every regulatory authority and compensation can be and must be recovered from every polluter and the amount which is to be recovered spent for the restoration of the environment. **Mere passing of orders by the Tribunal is of no value unless the same are faithfully executed. Execution is in the hands of the authority. As executing court, it is not only the right but also the duty of this Tribunal to take such measures as may ensure compliance.** Mode of execution is laid down in CPC (Section 51), i.e., arrest and detention, appointment of a receiver or in such manner as nature of relief may require. There are provisions for prosecution, including of heads of departments of the Government. On 'Polluter Pays' principle, damages can be recovered not only from the polluters but also from the State functionaries who collude with the polluters. The authorities have not been fully successful in their performance of duties to protect environment."*

- H. Because this Hon'ble Tribunal's Principal Bench in **Rayons-Enlighting Humanity & Anr vs. MoEF & Ors. Original**

Application No. 186 of 2013 has held on the issue of application of Section 25 of the NGT Act, 2010 that this Hon'ble Tribunal has been granted the powers of a Civil Court to execute the orders/directions of the Tribunal. Therefore, this Hon'ble Tribunal has the power and jurisdiction to consider the instant Execution Application. In paragraph 39 of the said Judgment the NGT held that:

"39. In relation to the orders of the Tribunal, Section 25 of the NGT Act vests it with the powers of a 'civil court' and the order or decision of the Tribunal shall be executed as a decree of a civil court, that is, to say that all powers of execution under the CPC are specifically vested in the Tribunal for execution of its award, order or decision. In relation to execution of a decree, the civil court is vested with the power of attachment of property, arrest and detention in the civil prison and to deal with the question of resistance to execution of a decree. As such, all these powers could be deemed to be vested with the Tribunal. In the present case, both the orders dated 28th May, 2013 and 18th July, 2013 were passed in the court in the presence of the learned counsel appearing for the parties and in fact even the officers of the Respondent-authority. The respondents have not raised any question, and rightly so, with regard to knowledge or contents of the orders of the Tribunal. The flouting of an order which has the effect or consequence of an injunction will touch the jurisdiction of the Court of the Tribunal for application under Order XXXIX Rule 2-A of the CPC. The Tribunal has to ensure that the orders passed by it must be effectively and fruitfully implemented and should not be permitted to be frustrated by any party as all these relate to the matters of environmental significance and public health at large. The Courts have also taken a view that the provisions of Order XXXIX, Rule 2A would be given effect to even in preference to the Contempt of Court Act, 19. Once an

*order is passed by the Tribunal, it is not open to a party to go behind the order either by looking into the pleadings of the Tribunal or the mind of the Presiding Officer. **The order must be construed on its plain language and all concerned are under an obligation to ensure implementation of the order in question.** It is equally true that the object of passing such an order is not to punish a person for disobedience of injunction order but to ensure the enforcement and compel the party to act according to the injunction. An application under Order XXXIX, Rule 2A of the CPC is maintainable only when there is disobedience of any injunction granted or other order passed under Order XXXIX, Rule 1 or 2 or breach of any terms on which injunction was granted or order was made [(Food Corporation of India v. Sukh Deo Prasad 2009(4) SCALE 38; Sarkar Code of Civil Procedure, 11th Ed.)]*"

- I. Because this Hon'ble Tribunal in the matter titled **Asim Sarode & Anr. vs. MPCB & Ors., 2014 SCC OnLine NGT 1880** while issuing ad-interim orders directing respondents to ensure that there shall be no incident of burning of tyres, particularly bulk of tyres at the public places like public road, in the locality surrounded by the residential houses directed that:-

*"By way of Ad-interim measure, we direct that the respondents and if necessary, on information given by the Activists or the Applicants, as the case may be, the local police through the State of Maharashtra, Gujarat and Goa, shall ensure that there shall be no incident of burning of tyres, particularly bulk of tyres at the public places like public road, in the locality surrounded by the residential houses, which is likely to cause smoke and health hazard. **Any dereliction in this directions, may entail penal consequences as enumerated in Section 26 of the National Green Tribunal Act, 2010, if the same is brought to the notice of this Tribunal. The Applicants may separately furnish copy of this order to the concerned Police***

Authorities, including the Director General of Police of all the States, Inspector General of Police, the Commissioners of Police etc. for due compliances and the MPCB also to do its part for proper compliance of the order."

- J. Because as held by the Hon'ble Supreme Court in **Indian Council for Enviro Legal Action vs. Union of India (1996)**
5 SCC 281:

*"26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. **It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a***

lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations."

- K. Because the Hon'ble Supreme Court in the case of **M.C. Mehta (Stubble Burning & Air Quality) v. Union of India, (2020) 7 SCC 573** had held that the every agency is responsible for ensuring compliance with environmental laws and any inaction is clearly tortious and punishable under statutory provisions. The relevant paragraph reads:

"6. Everybody has to be answerable including the top State machinery percolating down to the level of gram panchayat. The very purpose of giving administration power up to the panchayat level is that there has to be proper administration and there is no room for such activities. The action is clearly tortious one and is clearly punishable under statutory provisions, besides the violation of the Court's order. In the circumstances, as widespread stubble burning has taken place, we direct the States of Punjab and Haryana and adjoining State of Uttar Pradesh where there is blatant violation which has taken place, to halt it. We direct the Chief Secretaries of the States of Punjab, Haryana and Uttar Pradesh to be present in this Court on 6- 11-2019 including Chief Secretary of the Government of NCT of Delhi."

- L. Because it is the duty of every citizen under Article 51-A(g) of the Constitution of India to protect and improve the natural environment including plants, species, forests, lakes, rivers and

wildlife, and to have compassion for living creatures. Therefore, the Applicant owing the duty to protect environment has filed the present Application before this Hon'ble Tribunal;

- M. Because Article 48-A of the Constitution of India mandates that the State is under a Constitutional obligation to protect and improve the environment and to safeguard the forest and wild life in the country and despite such mandate the statutory regulators have miserably failed in their duties.

LIMITATION

This Execution Application, seeking the execution of Order dated 12.08.2024 is being filed within the period of limitation. As till date neither restoration of the adjacent land is taken place which was supposed to be complied by 12.10.2024 nor the environmental compensation has been computed by the West Bengal Pollution Control Board. Therefore, the Applicant is filing the present Execution Application before this Hon'ble Tribunal.

PRAYER

In light of the above stated facts and circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to:

- I. Direct strict compliance of the directions issued by this Hon'ble Tribunal in its orders dated 12.08.2024 and 02.04.2024, respectively, in Original Application No. 82 of 2023, concerning the calculation of environmental compensation under the Polluter Pays Principle and the removal of bovine waste and cow dung from the adjoining agricultural land;
- II. Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

III. Pass any other order deemed fit by this Hon'ble Tribunal in the interest of justice, equity and good conscience.

Avi Bag
APPLICANT

THROUGH

Ritwick Dutta *Rahul Choudhary* *Kaustav Dhar*

RITWICK DUTTA RAHUL CHOUDHARY KAUSTAV DHAR

ADVOCATES

N-73, LOWER GROUND FLOOR,
GREATER KAILASH-I, NEW DELHI-110048
MOBILE NO: 9312407881
Email: litigation@dclawchambers.com

Place: Kolkata/Delhi

Date: 16.01.2025

VERIFICATION

I, Avi Bag, S/o Late Dulal Bag, aged about 44 years, R/o Santoshpur, Banerjee Para, P.O. Adi Kashimpur, P.S. Duttapukur, North 24 Parganas – 743248, do hereby verify that the contents of paragraphs 1 to 26 are true to the best of my knowledge and I have not suppressed any material fact.

Avi Bag
APPLICANT



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
E.A. NO. ____ OF 2025
IN
ORIGINAL APPLICATION NO. 82 OF 2023

IN THE MATTER OF:

SANTOSH PUR MITALI SANGHA

VERSUS

STATE OF WEST BENGAL AND ORS.

....APPLICANT

...RESPONDENTS



AFFIDAVIT

I, Avi Bag, S/o Late Dulal Bag, aged about 44 years, R/o Santoshpur, Banerjee Para, P.O. Adi Kashimpur, P.S. Duttapukur, North 24 Parganas – 743248, do hereby solemnly affirm and state as follows:

1. I am the person authorized by the Applicant Organisation in the above titled execution application and conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That the contents of the accompanying application are true and correct and nothing material has been concealed therefrom.

Avi Bag
DEPONENT

Bishwanath Mukherjee
BISHWANATH MUKHERJEE
NOTARY
Govt. of India
Regd. No. 13783

VERIFICATION

Verified at Kolkata on this 8th day of January, 2025 that the contents of the above mentioned Affidavit are true and correct and nothing material has been concealed therefrom.

Avi Bag
DEPONENT

08 JAN 2025

Item Nos.10&11

Court No.1

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

Original Application No.82/2023/EZ
With
Execution Application No.03/2024/EZ
In
Original Application No.82/2023/EZ

IN THE MATTER OF:

Santoshpur Mitali Sangha,
Through its authorized Signatory,
Shri Avi Bag, Secretary,
Banerjee Para, Village – Santoshpur,
P.O. – Adi Kashimpur, P.S. Duttapukur,
North 24 Parganas,
Pin – 743248,

.... Applicant(s)

Versus

- 1. State of West Bengal,**
Through the Chief Secretary,
Department of Environment,
5th Floor, Pranisampad Bhawan,
Block LB-II, Salt Lake, Sector-III,
Bidhannagar, Kolkata,
Pin – 700106,
- 2. West Bengal State Pollution Control Board,**
Through its Member Secretary,
Paribesh Bhawan, 10A, Block-LA,
Sector-III, Bidhannagar,
Kolkata – 700106,
- 3. Central Pollution Control Board,**
Through the Member Secretary,
Parivesh Bhawan, CBD-cum-Office Complex,
East Arjun Nagar,
Delhi – 110032,
- 4. District Magistrate, North 24 Parganas,**
New Administrative Building,
Barasat, Kolkata,
Pin – 700124,
- 5. Pradhan, Kashimpur Gram Panchayat,**
Bamunpara, Digha,

North 24 Parganas,
West Bengal – 743248,

6. Block Development Officer

Barasat-I Development Block,
Chhota Jagulia, North 24 Parganas,
West Bengal,
Pin – 700124,

7. Suravi Sadan Gaushala,

Through the President of Rajasthan Gokalyan Trust,
Santoshpur, Barasat, North 24 Parganas,
West Bengal – 743248,

8. Rajasthan Gokalyan Trust,

Through its President,
Santoshpur, Barasat,
North 24 Parganas, West Bengal
Pin – 743248,

.... Respondent(s)

Date of hearing and reserving of order: 12.08.2024

Date of uploading of order in NGT Website: 11.09.2024

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

For Applicant(s) : Mr. Ritwick Dutta, Advocate (in Virtual Mode) a/w
Mr. Kaustav Dhar, Advocate

For Respondent(s): Mr. Rajib Ray, Adv. for R-1, 4 & 6, (in Virtual Mode)
Mr. Ayush Kumar Dadhich, Advocate for R-2,
Mr. Dipanjan Ghosh, Advocate for R-3,
Mr. Amritam Mandal, Advocate a/w
Ms. Shipra Naskar & Mr. Sanjay Sadhu, Advs. for R-7 & 8,

ORDER

1. The allegation of the Applicant in the present Original Application is that the Respondent No.7 is illegally operating a 'Gaushala' in the name and style of 'Suravi Sadan Gaushala' under the Rajasthan Gokalyan Trust, Respondent No.8.
2. It is alleged that the said Gaushala Unit of Respondent No.7 operated by Respondent No.8, both hereinafter referred to as the Project Proponent, is operating for several years without a valid

Consent to Establish and Consent to Operate from the West Bengal Pollution Control Board.

3. It is also alleged that the Respondent No.7 Unit is operating in violation of the provisions of 'Guidelines for Environmental Management of Dairy Farms and Gaushalas' published by the Central Pollution Control Board in July, 2021 (hereinafter referred to as the Guidelines, 2021).
4. It is further alleged that the Respondent No.7 Gaushala is located within 60 meters and 80 meters from residential dwellings and schools instead of being located beyond 100 meters from the residential areas and, therefore, its siting is in violation of the Guidelines, 2021.
5. The allegation of the Applicant further is that dung and fodder residue are washed into the drains leading to clogging of the drains. It is stated that as per the Central Pollution Control Board Notification dated 07.03.2016, 'Dairy Farm' is listed under 'Orange' category and the requirement of obtaining Consent to Establish and Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974, are mandatory for Red, Orange and Green category industries.
6. It is further stated that the Applicant had moved a RTI application before the West Bengal Pollution Control Board vide his letter dated 12.05.2023, seeking information regarding Consent to Establish and Consent to Operate granted to the Respondent No.7, Suravi Sadan Goshala, but the reply in response thereto dated 23.06.2023 merely states that 'no information is available regarding the matter'.

7. At the time of admission, this Tribunal constituted a fact finding Committee comprising of the following Members:-
 - (i) *Senior Scientist, West Bengal Pollution Control Board,*
 - (ii) *Senior Scientist, Central Pollution Control Board, and*
 - (iii) *District Magistrate, North 24 Parganas, or his nominee not below the rank of Additional District Magistrate,*
8. The Committee was required to visit the site in question and submit its report with regard to the allegations made in the Original Application and in case violations were found, the Committee was also required to suggest remedial measures as well as determine Environmental Compensation.
9. Along with the Original Application, the Applicant has filed photographs (Annexure-A/2), showing extremely filthy and unhygienic condition existing in the Suravi Sadan Gaushala, Respondent No.7, and the waste discharged therefrom.
10. Along with the Original Application, copy of the Central Pollution Control Board directions dated 07.03.2016 (Annexure-A/3) in the nature of 'Final Document on Revised Classification of Industrial Sectors under Red, Orange, Green and White Categories (February 29, 2016)' has been filed. Table G-3 thereof which is the Final List of Orange Category of Industrial Sectors has been issued and dairy and dairy products (small scale) have been included in the 'Orange' category at Item No.24 thereof and under the heading 'Remarks' it is characterized as 'water and air polluting both'.
11. Further guidelines have been issued by the Central Pollution Control Board known as 'Guidelines for Environmental Management of Dairy Farms and Gaushalas', (July, 2021), copy of

which has been filed from page 66 onwards of the paper book, already referred to hereinabove as 'Guidelines, 2021'.

12. Para 2 of the Guidelines, 2021, categorizes Dairy Farms and Gaushalas on the basis of number of bovine animals in a Dairy/Gaushala located in urban, peri-urban and rural area. Para 2.2 of the Guidelines, 2021, deals with Gaushalas having upto 100 animals, 1,000 animals and more than 1,000 animals which can be categorized as small, medium and large Gaushalas respectively. Para 2.2 of the Guidelines, 2021, reads as under:-

"2. Categorization of Dairy Farms and Gaushalas

.....X.....X.....X.....

2.2 Gaushalas

Similarly, inventory received from SPCBs/PCCs for Gaushalas and it is analysed that 15-20 % Gaushalas having upto 100 animals and 80-85% Gaushalas having more than 100 animals. Therefore, Gaushala having upto 100 animals, 1000 animals & more than 1000 animals can be categorized as small, medium & large Gaushala, respectively. It has been analysed that 50-55%, 5-10% and 35-45% Gaushalas located in urban, peri-urban & rural area, respectively."

13. Para 3 of the Guidelines, 2021, deals with 'Environmental Issues in Dairy Farms and Gaushalas' and notes that major environmental issues of Dairy Farms and Gaushalas are related to disposal of dung and urinal waste water. It is stated that a bovine animal, on an average, weighs 400 kilograms and discharges 15-20 kilograms/day of dung and 12-14 litres/day of urine. It is also stated that solid wastes produced from Dairy Farms and Gaushalas are bovine dung, feed residue etc. which are organic and non-hazardous in nature but requires proper handling and disposal. Para 3 of the Guidelines, 2021, reads as under:-

“3. Environmental Issues in Dairy Farms and Gaushalas

Major environmental issues of Dairy farms and Gaushalas are related to disposal of dung and urinal wastewater. Poor handling & disposal of dung and wastewater causes water pollution & odour problem. A Bovine animal, on an average, weigh 400 kg and discharges 15-20 kg/day of dung and 12-14 litres/day of urine. Solid wastes produced from Dairy farms and Gaushalas are bovine dung, feed residue, etc. which are organic and non-hazardous in nature but requires proper handling and disposal.”

14. Para 3.1.1 of the Guidelines, 2021, deals with Urban & Peri-Urban Area and notes that the issue of disposal of dung and waste water from Dairy farms is predominant in urban and peri-urban area where it is discharged in drains, leading to clogging, which ultimately reach to and pollute rivers; these clogged drains become breeding ground for mosquitoes thereby creating health hazards and odour nuisance; waste water is generated from floor cleaning, bathing of animals, urine etc. and disposed of without treatment into drains; dung produces many gases/compounds such as – Carbon Dioxide, Ammonia, Hydrogen Sulphide, Methane etc. which are emitted into the atmosphere and are responsible for odour. Para 3.1.1 of the Guidelines, 2021, reads as under:-

“3.1.1 Urban & Peri-urban Area

Majority of Dairy Farms are in clusters. Issue of disposal of dung & wastewater from Dairy farms is predominant in urban & peri-urban area where it is discharged in drains, leading to clogging, which ultimately reach to and pollute rivers. These clogged drains become breeding ground for mosquitoes creating health hazards and odour nuisance. Wastewater is generated from floor cleaning, bathing of animals, urine, etc. and disposed of without treatment into drains. Dung produces many gases/compounds such as carbon dioxide, ammonia, hydrogen sulphide, methane, etc. which emitted into atmosphere and responsible for odour.”

15. Para 3.2 of the Guidelines, 2021, deals with Gaushalas in Urban & Peri-urban Area and Rural Area.
16. Para 4 of the Guidelines deals with Methods for Disposal/Utilisation of Dung which reads as under:-

“4. Methods for Disposal/Utilisation of Dung

Majority Disposal of bovine dung is biggest challenge in dairy farms and gaushalas. However, bovine dung, if effectively utilised, can be a resource of manure & energy. Bovine dung may be used for many purposes i.e. for combustion (dung wood) or for producing biogas or as soil conditioner or as fertilizers or as material for wall plastering, etc. Following methods for disposal/utilisation of solid wastes (dung) may be adopted:

- a. *Composting/Vermicomposting: Composting is a manure management practice to reduce impact on the environment. Composting is biological decomposition and stabilization of organic material. The process produces a final product that is stable, free of pathogens, reduced odours and can be applied on land as manure. Vermicomposting is method of preparing compost with use of earthworms that enriches soil quality by improving its physicochemical and biological properties. It is becoming popular as a major component of organic farming system.*
- b. *Biogas/Compressed biogas (CBG) production: Biogas plants are best way to handle dung waste. Biogas is generated in process of biodegradation of organic materials under anaerobic conditions which may be utilised for cooking and power generation. Biogas plant generated digested organic manure for crops. Biogas can be processed and filled in cylinders. Biogas may be further purified to remove hydrogen sulphide (H₂S), carbon dioxide (CO₂) & water vapour and compressed (known as Compressed Bio Gas, CBG) which has methane (CH₄) content of more than 90% as per BIS standard IS 16087:2016. CBG has calorific value and other properties similar to CNG and hence can be utilized as green renewable fuel as replacement of CNG in automotive, industrial and commercial areas.*
- c. *Manufacture of dung wood or dung cake to be used as fuel:
Bovine dung can be used as*

fuel as a replacement of firewood. Bovine dung can be dewatered and converted to value added products such as logs, powder etc. by mechanized/semi-mechanized machines.

Following options for disposal/utilization of dung may be adopted by Dairy Farms and Gaushalas:

Sl. No.	Dairy Farms/ Gaushalas	Methods for Disposal/Utilization of Dung
1.	Small Dairy Farms	<ul style="list-style-type: none"> • Composting/vermicomposting, or • Manufacture of dung wood/dung cake, or • Combination of both
2.	Medium Dairy Farms	<ul style="list-style-type: none"> • Combination of any of three methods for disposal/utilization of dung
3.	Large Dairy Farms	<ul style="list-style-type: none"> • Biogas/compressed biogas production or • Combination with any of remaining method
4.	Dairy Farms in Rural Area	<ul style="list-style-type: none"> • Composting/vermicomposting, or • Manufacture of dung wood/dung cake
5.	Dairy Farms in Cluster	<ul style="list-style-type: none"> • Common Biogas/compressed biogas production, and • Any of remaining method at individual level
6.	Small & Medium Gaushalas	<ul style="list-style-type: none"> • Combination of any of three methods for disposal/utilization of dung
7.	Large Gaushalas	<ul style="list-style-type: none"> • Biogas/compressed biogas production or • Combination with any of remaining method

17. Para 5 of the Guidelines, 2021, lays down the guidelines for Waste Management in Dairy Farms. Para 5.1 lays down guidelines for Waste Management in Dairy Farms located in Urban & Peri-urban Area. Para 5.1 and its sub-paras 5.1.1, 5.1.2, 5.1.3 & 5.1.4, deal with Solid Waste Management, Wastewater Management, Air Quality Management and Siting Policy respectively, which read as under:-

“5. Guidelines for Waste Management in Dairy Farms

.....X.....X.....X.....

5.1 Guidelines for Waste Management in Dairy Farms located in Urban & Peri-urban Area

5.1.1 Solid Waste Management

Guidelines to be followed for management of solid wastes are as under:-

- i. *Dung from floor of shed should be collected at regular interval, so as to keep floor clean. Surrounding areas should also be cleaned regularly to prevent obnoxious smell in area.*
- ii. *Premises and its surrounding areas should be properly sanitized and disinfected, e.g. by sprinkling crushed lime.*
- iii. *Dung & fodder residue etc. should not be washed into drains in order to avoid clogging of drains. Local bodies/corporations/SPCBs should ensure that untreated wastes are not discharged outside premises.*
- iv. *Collected solid wastes should be stored properly for its utilization.*
- v. *Small Dairy Farms may adopt dung for manufacture of dung wood/dung cake or composting/vermicomposting or combination of both methods for disposal/utilization of solid wastes. In case of cluster, biogas/compressed biogas production may be adopted for disposal/utilization of solid wastes in association with entrepreneurs or local dairy farmers association. Local bodies/corporations/SPCBs should facilitate Dairy farmers/entrepreneurs/NGOs in setting up of individual or common utilization facilities.*
- vi. *Medium & Large Dairy Farms may adopt a combination of disposal/utilization methods like manufacturing of dung wood or biogas generation or vermicomposting. However, Large Dairy Farms may setup biogas/compressed biogas production facility either by themselves or in association with entrepreneurs.*
- vii. *Domestic hazardous wastes (vaccines, vials, medicines, syringes, etc.) should be disposed as per provisions of "Solid Waste Management Rules, 2016". If they have their own medical facilities then wastes should be disposed as per provisions of "Bio-medical Waste Management Rules, 2016.*

5.1.2 Wastewater Management

Guidelines for management of wastewater are as follows:-

- i. *Water should be judiciously used for bathing of bovines and other services including floor cleaning to contain wastewater quantity to 100 litres/day/bovine.*
- ii. *Adequate infrastructure should be provided to ensure proper handling, treatment and disposal of wastewater. They may set-up individual or common treatment facilities where in cluster. Local bodies/corporations/SPCBs should facilitate Dairy farmers/ entrepreneurs/NGOs in setting up of individual or common treatment facilities.*
- iii. *Wastewater should be adequately treated so as to meet standards as prescribed by SPCBs/PCCs.*
- iv. *Flooring of shed should be properly paved (impervious) with a wastewater collection system. However, floor should not be slippery in order to ensure safety of animals.*

5.1.3 Air Quality Management

Guidelines for management of air quality/emissions are as follows:-

- i. *Animal housing should be ventilated allowing sufficient supply of fresh air to remove humidity, dissipate heat and prevent build-up of gases such as methane, carbon dioxide, ammonia, etc.*
- ii. *Good housekeeping practices like maintaining proper sanitary conditions, protecting dung from unwanted pests/insects should be followed in order to minimize odour nuisance.*
- iii. *Floor, feeding, water and air spaces available for each animal should be adequate for standing, resting, loafing, movement, feeding, watering and ventilation. Space requirements should be provided as per Bureau of Indian Standards (BIS) (refer BIS: 12237-1987 given at Annexure-I).*
- iv. *It is suggested to obtain ration advisory for improving/modifying quality and dosage of feed/forage/supplements from any of agricultural institutes/departments like Krishi Vigyan Kendra, State Dairy Department, Animal Husbandry Department, NDRI, NDDB, etc. in order to reduce enteric methane generations from livestock. It is beneficial to animal health/nutrition and reduced impact on environment.*

- v. *Plantation of trees or green belts, wherever feasible, to provide a barrier against the spread of foul smell or noise originating from them.*

5.1.4 Siting Policy

Siting criteria will be applicable for new establishment. Existing establishments should take appropriate environmental friendly practices as per Guidelines. Dairy farm shall be setup as per siting policy/guidelines of local administration and may follow criteria as below:

- i. It should be located in area wherever permissible and atleast 100 meters away from residential dwellings, health centres/hospitals & schools in order to avoid odour problem,*
- ii. At least 200 meters away from water spread area of major watercourses like Lake, canal and major drinking water sources,*
- iii. Away from flood plain area of River and areas having shallow groundwater.*
- iv. At least 5 meters of inter-se distance between two establishments (each establishment should provide 2.5 meters from each side) for ventilation should be provided and developed green belt.*

18. Para 5.2 of the Guidelines, 2021, lays down guidelines for Waste Management in Dairy Farms located in Rural Area. Para 5.2 and its sub-paras 5.2.1, 5.2.2, 5.2.3 & 5.2.4, deal with Solid Waste Management, Wastewater Management, Air Quality Management and Siting Policy respectively, which read as under:-

5.2 Guidelines for Waste Management in Dairy Farms located in Rural Area

5.2.1 Solid Waste Management

- i. Dung should be collected & stored properly for its utilization. It should be used as compost in field or in making dung wood or vermi-compost. Biogas production may be practiced wherein cluster as a source of energy for rural area.*

- ii. *Dung & fodder residue should not be washed into drains in order to avoid clogging of drains and surrounding areas should also be cleaned regularly to prevent obnoxious smell in area.*
- iii. *Provisions of "Solid Waste Management Rules, 2016" should be followed for disposal of domestic hazardous wastes (vaccines, vials, medicines, syringes, etc.).*

5.2.2 Wastewater Management

- i. *Water should be judiciously used to contain wastewater quantity to 100 litres/day/ bovine.*
- ii. *Floor should be paved and wastewater should be collected and utilized for agriculture purpose. Floor should not be slippery in order to ensure safety of animals.*
- iii. *Wastewater should be adequately treated so as to meet standards as prescribed by SPCBs/PCCs.*

5.2.3 Air Quality Management

- i. *Animal housing should be ventilated allowing sufficient supply of fresh air to remove humidity, dissipate heat and prevent build-up of gases.*
- ii. *Good housekeeping practices should be followed in order to minimize odour nuisance.*
- iii. *Floor, feeding, water and air spaces available for each animal should be adequate for standing, resting, loafing, movement, feeding, watering and ventilation. Space requirements should be provided as per Bureau of Indian Standards (BIS) (refer BIS: 11799-2005 given at Annexure-II).*
- iv. *It is suggested to obtain Ration advisory for improving/modifying quality and dosage of feed/forage/supplements from any of agricultural institutes/departments like Krishi Vigyan Kendra, State Dairy Department, Animal Husbandry Department, NDRI, NDDDB, etc. to reduce enteric methane generations from livestock.*
- v. *Plantation of trees or green belts, wherever feasible, to provide a barrier against spread of foul smell or noise originating from them.*

5.2.4 Siting Policy

Siting criteria will be applicable for new establishment. Existing establishments should take appropriate environmental friendly

practices as per Guidelines. Dairy farm shall be setup as per siting policy/guidelines of local administration.

These should be located away from residential dwellings/hospitals/schools in order to avoid odour issue as per siting norms of local administration. It should be atleast 100 meters away from water spread area of major drinking water sources in order to avoid contamination of water bodies. These should be away from flood plain areas of River and areas having shallow groundwater.

Atleast 5 meters of inter-se distance between two establishments for ventilation, this space of 5 meters (2.5 meters from each side from each unit) shall be developed for green belt."

19. Para 6 of the Guidelines, 2021, lays down guidelines for Waste Management in Gaushalas. Para 6.1 deals with Solid Waste Management, para 6.2 deals with Water Management, para 6.3 deals with Air Quality Management, and para 6.4 deals with Siting Policy. Para 6 and its sub-paras read as under:-

"6. Guidelines for Waste Management in Gaushalas

Following guidelines are framed for management of wastes from Gaushalas located in urban, peri-urban & rural area. These guidelines are applicable to establishment which are discharging their wastes into environment. These establishments shall also follow existing laws, rules, guidelines, directions and standard operating procedures issued by different organizations.

6.1 Solid Waste Management

Guidelines to be followed for management of solid wastes are as under:-

- i. Dung from floor of shed should be collected at regular interval, so as to keep floor clean. Surrounding areas should also be cleaned regularly to prevent obnoxious smell in area.*
- ii. Premises and its surrounding areas should be properly sanitized and disinfected, e.g. by sprinkling crushed lime.*
- iii. Dung & fodder residue etc. should not be washed into drains in order to avoid clogging of drains. Local bodies/corporations/SPCBs should ensure that untreated wastes are not discharged outside premises.*

- iv. *Solid wastes should be stored properly for its utilization in dung wood manufacturing or biogas generation or vermicomposting. In case of small & medium scale Gaushalas, a combination any of methods may be adopted for utilization of dung wherein large scale Gaushalas may setup biogas generation facility at its own or in partnership with entrepreneurs.*
- v. *Domestic hazardous wastes (vaccines, vials, medicines, syringes, etc.) should be disposed as per provisions of "Solid Waste Management Rules, 2016". If they have their own medical facilities then the wastes should be disposed as per provisions of "Bio-medical Waste Management Rules, 2016".*

6.2 Wastewater Management

Guidelines for management of wastewater are as follows:-

- i. *Dung Water should be judiciously used for bathing of bovines and other services to contain wastewater quantity to 50 litres/day/bovine. (As water utilized by Gaushala is less in comparison to Dairy Farm due to occasional bathing & mechanized floor cleaning).*
- ii. *Adequate infrastructure should be set-up to ensure proper handling, treatment and disposal of wastewater. Local bodies/corporations/SPCBs should facilitate Gaushala owners/ entrepreneurs/NGOs in setting up of treatment facilities.*
- iii. *Wastewater should be adequately treated so as to meet standards as prescribed by SPCBs/PCCs or utilized for various medicinal purpose.*
- iv. *Flooring of shed should be properly paved (impervious) with a wastewater collection system. However, floor should not be slippery in order to ensure safety of animals.*

6.3 Air Quality Management

Guidelines for management of air quality/emissions are as follows:-

- i. *Animal housing should be ventilated allowing sufficient supply of fresh air to remove humidity, dissipate heat and prevent build-up of gases.*
- ii. *Good housekeeping practices like maintaining proper sanitary conditions, protecting dung from unwanted pests/insects should be followed in order to minimize odour nuisance.*
- iii. *Floor, feeding, water and air spaces available for each animal should be adequate for standing, resting, loafing, movement, feeding, watering and ventilation. Space*

requirements should be provided as per Bureau of Indian Standards (BIS) (refer BIS: 11942-1986 given at Annexure-III).

- iv. It is suggested to obtain Ration advisory for improving/modifying quality and dosage of feed/forage/supplements from any of agricultural institutes/departments like Krishi Vigyan Kendra, State Dairy Department, Animal Husbandry Department, NDRI, NDDB, etc. to reduce enteric methane generations from livestock.
- v. Plantation of trees or green belts, wherever feasible, to provide a barrier against spread of foul smell or noise originating from them.

6.4 Siting Policy

Siting criteria will be applicable for new establishment. Existing establishments should take appropriate environmental friendly practices as per Guidelines. Gaushala shall be setup as per siting policy/guidelines of local administration.

These should be located atleast 100 meters away from residential dwellings/schools/hospitals in order to avoid odour issue and away from the water spread area of major drinking water sources. These should be away from flood plain areas of River and areas having shallow groundwater. Atleast 5 meters of inter-se distance between two establishments for ventilation, this space of 5 meters (atleast 2.5 meters from each side from each unit) shall be developed for green belt.”

20. Para 7 of the Guidelines, 2021, lays down the Regulatory/Monitoring Mechanism for Dairy Farms & Gaushalas, which reads as under:-

“7. Regulatory/Monitoring Mechanism for Dairy Farms & Gaushalas

- i. Local authorities/corporations should carry out inventory of Dairy farms and Gaushalas located in their jurisdiction in inventory performa given at Annexure-IV and same should be updated & shared with concerned SPCB/PCC on annual basis (calendar year wise).
- ii. Local bodies/municipal corporations shall publish a public notice in newspapers and on their website for registration of

Dairy farms and Gaushalas as per municipal laws. Registration may be done preferably through online mode and same may be displayed at their websites.

- iii. *SPCBs/PCCs shall publish a public notice for Dairy farms & Gaushalas to obtain consent to establish and consent to operate under Water Act, 1974 as well as Air Act, 1981 as per the categorization of industries in Orange and Green Category, respectively.*
- iv. *SPCBs/PCCs/local bodies/municipal corporations shall upload Environmental Guidelines on their website and also circulate to all Dairy farms and Gaushalas.*
- v. *Concerned SPCBs/PCCs/local bodies/corporations should monitor dairy farms and gaushalas on regular basis to ensure proper disposal of bovine dung and wastewater to check compliance of environmental norms. SPCBs/PCCs will consider carrying capacity of surroundings while allowing a new establishment and laying down environmental norms.*
- vi. *SPCBs/PCCs shall carry out environmental audit of atleast 2 Dairy farms and 2 Gaushalas, randomly selected from each district of State/UT and submit compliance and action taken report to CPCB on half yearly basis.*
- vii. *SPCBs/PCCs shall submit status of compliance of guidelines by Dairy farms and Gaushalas located in their jurisdiction in form of report once in six months to CPCB for Audit purpose.*
- viii. *CPCB shall carry out environmental auditing of 4 Dairy farms and 4 Gaushalas in each State/UT, randomly selected based on information received from SPCBs/PCCs on annual basis.*
- ix. *In case of any violation of environmental norms under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environmental (Protect) Act, 1986 by Dairy farms and Gaushalas, concerned SPCBs/PCCs should impose environmental compensation as per CPCB methodology for "Environmental Compensation to be levied on Industrial Units", for damaging the environment and in order to stop polluting activity and initiate prosecution for repeatedly polluting units.*
- x. *SPCBs/PCCs should provide training and consultation to Gram Panchayat for implementation of guidelines in their jurisdiction. Gram Panchayat should ensure implementation*

of guidelines by Dairy farms and Gaushalas falling under their jurisdiction for handling and management of wastes.

- xi. Hands on practical trainings on environment/waste management & treatment technologies, scientific feeding for enteric methane reduction, waste to wealth management programme, etc. should be provided to Dairy & Gaushala workers/entrepreneurs by local bodies/ SPCBs/PCCs on regular interval."*

21. As per the contents of the Original Application, the Respondent No.7, Suravi Sadan Gaushala, Rajasthan Gokalyan, is located at Village-Santosphpur, Barasat, North 24 Parganas. It is alleged that the Respondent No.7 Gaushala is located just about 80 meters away from the residential dwellings, 33 meters away from a Primary School (Kindergarten School) and 80 meters away from a Government School thereby grossly violating the Siting Policy as mandated in the 2021 Central Pollution Control Board's Guidelines.
22. It is also alleged that solid wastes generated from the Gaushala in question are discharged in complete violation of the Guidelines; the surrounding areas are not periodically cleaned as a result leading to tremendous obnoxious smell in the adjacent residential area; all urinal and bathing wastewaters are washed into the adjacent agricultural fields leading to clogging of drains; there is absolutely no adequate infrastructure for handling/treating and disposal of wastewater; no treatment facilities have been installed despite it being a large category Gaushala.
23. It is also alleged that an RTI application was filed by the Applicant before the West Bengal Pollution Control Board, vide his letter dated 12.05.2023, seeking information with regard to grant of Consent to Establish and Consent to Operate to the Respondent

No.7 Gaushala but the information provided by the West Bengal Pollution Control Board vide its reply letter dated 23.06.2023 is that:-

“As per records kept with the State Board, there is no information available regarding this matter”

It is, therefore, alleged that the Gaushala Unit of Respondent No.7 has not obtained any valid Consent to Establish or Consent to Operate from the West Bengal Pollution Control Board and is illegally operating the said Gaushala.

24. In para 17 of the Original Application, the Applicant has filed the Laboratory Test Report of the wastewater effluents discharged from the Respondent No.7 Gaushala which shows that the level of Total Suspended Solids (TSS), Biochemical Oxygen Demand (BOD), and Chemical Oxygen Demand (COD) are beyond the permissible limits as prescribed and permitted under the Environment (Protection) Rules, 1986. The Test Report as quoted in para 17 of the Original Application reads as under:-

Wastewater Effluents	Test Results Observed	Standards as per EPR, 1986
Total Suspended Solids (TSS)	882	150
Biochemical Oxygen Demand (BOD)	382	100
Chemical Oxygen Demand (COD)	733	250

25. The West Bengal Pollution Control Board, Respondent No.2, has filed affidavit dated 22.09.2023 bringing on record the Enquiry Report of the Committee constituted by the Tribunal of an enquiry

conducted on 29.08.2023 of M/s Survi Sadan Gaushala, Respondent No.7, located at Village-Santoshpur, P.S.-Duttapukur, District-North 24 Parganas, under Kashimpur Gram Panchayat. The Enquiry Report reads as under:-

“Enquiry report conducted in compliance of the directions contained in the solemn order of the Hon’ble NGT dated 04.08.2023 in connection with Original Application No. 82/2023/EZ

In compliance of the subject solemn order of the Hon’ble National Green Tribunal and in furtherance of your reference communication an enquiry has been conducted on 29.08.2023 M/s. Survi Sadan Gaushala, is located at Vill.-Santoshpur, P.S.-Duttapukur, Dist.-North 24 Parganas, under Kashimpur Gram Panchayat (Lat 22.77°N, Long 88.51°E),

Inspecting Officials:

1. Smt. Shama Parveen, A.D.M. North 24 Parganas nominated by District Magistrate North 24 Parganas.
2. Shri Abhijit Pathak, Scientist – D, CPCB.
3. Shri Bimalendu Mal, Environmental Engineer, WBPCB.

Person met during inspection:

On behalf of the Unit

1. Shri B.K. Newatia, Trustee of Rajasthan Gokalyan
2. Shri Prakash Kedia, Doner of the trustee and others

On behalf of the complainant

1. Shri Avi Bag, Secretary of Santoshpur Mitali Sangha
2. Swami Santirupa Nanda and others

That the following facts have surfaced during the enquiry:

1. **Land records, possession and related matters:**
 - a) It has been found during the enquiry that the concerned Gauushala is situated within a well demarcated boundary comprising mostly of concrete brick walls leaving a very few portions of tin-sheet boundary towards the northern, north-western and north-eastern periphery of the Gaushala project

compound. The entire land area may be stated to be comprised within the Gaushala.

b) The Gaushala project compound appears to be comprised of the following schedule of land, elucidated in tabular form:

Sl. No.	Mouza & J.L. No.	Involved Plots No.	Classification as per R.O.R.	Present Use
1.	Santoshpur, 89	233	Danga	Goushala
2.	Santoshpur, 89	234	Danga	Goushala
3.	Santoshpur, 89	235	Doba	Goushala
4.	Santoshpur, 89	236	Danga	Goushala
5.	Santoshpur, 89	237	Danga	Goushala
6.	Santoshpur, 89	238	Pukur	Goushala
7.	Santoshpur, 89	238/421	Pukur par	Goushala
8.	Santoshpur, 89	239	Bagan	Goushala
9.	Santoshpur, 89	240	Danga	Goushala
10.	Santoshpur, 89	242	Pukur	Goushala
11.	Santoshpur, 89	242/422	Pukur par	Goushala
12.	Santoshpur, 89	276	Danga	Goushala
13.	Santoshpur, 89	277	Doba	Goushala
14.	Santoshpur, 89	278	Bastu	Goushala

c) The above schedules of plot are not recorded either in the name of the instant respondent no.7 or in the name of the instant respondent no.8 of the subject Original Application filed before, NGT.

They have not applied till date for recording their name and hence they are not raiyats in terms of section of W.B.L.R Act, 1955. Since as per the provisions of W.B.L.R. Act, 1955 and rules made there under, except a recorded raiyat none can apply for change of recorded classification (Conversion) of land, which also implies to the present case. The Respondents have neither applied for mutation nor conversion.

Remedial measures-The Respondents have been asked to apply for mutation forthwith and which may be done online. After mutation if allowed they have been asked to apply for conversion as per provisions of WBLR Act, 1955.

- d) The above schedule of lands has been recorded in the name of different raiyats. Copies of the plot information are enclosed herewith.*
- e) During the physical enquiry it has been observed that the nature of the plot nos. 277, 242, 238 and 282 bearing 'Doba', 'Pukur', 'Pukur' and 'Doba' as recorded classifications, have been physically altered by filling up of the same, which is in violation of Section 4 (C) of the W.B.L.R Act, 1955.*
- f) Notice/s as envisaged U/s 4 (C)(5) of the W.B.L.R Act, 1955 have been issued on directing the concerned raiyat/s to restore the recorded classification of the said water-body within a period of 7 days from issuance/receipt of said notice/s.*

Remedial measures- The Respondents will have to restore the waterbody. For waterbody the Act does not allow post facto conversion. Since as submitted by the respondents that the Goushala was constructed prior to 07.11.2017 and so as per the Act there is scope of allowing post facto conversion for the rest of the plots. So after mutation of all the plots and restoration of waterbody the respondents may apply for conversion through Form 1D as prescribed.

- g) It has been observed during the physical enquiry that boundary walls of concerned gaushala compound are bounded by locality, virtually leaving no gap between the gaushala and locality on the Western and Eastern side and leaves only a gap of 20 feet of a concrete/pucca road on the southern side. On the Northern, North-Western and North-Eastern side the compound boundary is adjacent to agricultural lands. It has also been observed that there are holes in the boundary walls which allows the overflowing waste water to pass over to the adjacent plots and which is the cause of public resentment.*

Remedial measures-The Respondents have been asked to close down all the holes in the boundary wall and take steps such that the waste does not flow over to adjacent agricultural tract.

The gradient of the compound is such that water flow will not be smooth if pumps are placed therein.

The respondents were asked to submit a concrete plan to the authorities of pollution control board and get it vetted. The team as has been formed will visit again after such plan is implemented in the field by the Respondents.

2. *Trade license issued: Description of trade "cow-farm", as documented in the trade licenses issued from Kashimpur G.P., which contradicts their verbal declaration that the gaushala is for charitable purpose and for looking after the deserted/disabled cows.*
3. *Violation of the provisions of Guidelines for Environmental Management of Dairy Farms and Gaushalas published by the Central Pollution Control Board in July, 2021 including CTE/CTO, Sewage disposal and locational hazard:*

The alleged site is a Gaushala namely M/s. Survi Gaushala, owned by Rajasthan Gokalyan, a charitable trust. The unit is engaged in taking care of old / sick / abandoned including milking and fertile cows. The unit is rearing the cows under shed. But many cows are being kept under the open sky in the fenced area. The unit has no valid Consent to Operate on the day of visit. As informed, the unit has submitted on line Consent to Operate application on 28/08/2023 just before the day of inspection. The unit uses submersible pump to extract ground water without permission from SWID or CGWA. Over all requirement of water is more than 150 KLD, as per CPCB guide line.

The unit is operating since the year 2012 (as stated) located beside the Nilgunj Dutta Pukur Road. The land area of the unit is about 3.56 acre. Sri Ramkrishna Sarada Aashram is situated adjacent to eastern side of the unit which was established in 1999. A school having student capacity 70 is run by the Aashram. Distance between the Ashram Canteen and cow shade is merely about 10ft. Mitali Sangha and Santoshpur Primary school is situated at a distance of about 70m from the unit at the South-West side. Northern side and western side of the unit is agricultural / vacant land. Some portion of the unit is butted and bounded by brick wall but some major portion of the land is fenced with corrugated tin. At present, there are about 1500nos. of livestock (cows) [Bufflow-01, Calf- 220, Ox-280, Cow-1059] out of which milking cows are 120 in number.

The main source of generation of waste water is floor washing, bathing of livestock and urine output of livestock. As per CPCB guide line estimated solid waste and waste water generation for this unit rearing 1500 bovines are as under:

Cow dung: 22500 Kg/day; Maximum 30000 Kg/day.

The unit has installed an ETP (Effluent Treatment Plant) (which is under commissioning) for treatment of this waste water claimed to have a capacity of 40KLD, but the representative of the unit could not explain / show the drainage network by which the waste water leads to ETP. Gradient of most of the drainage system is opposite to the ETP. No such collection pit or transfer pit for transfer of waste water to ETP was found. No garland drain was observed to arrest surface generated waste water. However, the direct discharge of effluent into the outside farming land / pond was observed along the East to West boundary wall of cow shed. Majority of existing drains inside the premises was found clogged with slurry of cow dung and fodder waste. The unit has made unlawful provision to discharge of untreated waste water outside the boundary wall (North-East side and western side) through openings in the boundary wall.

At the part of fencing made by corrugated tin sheet there is ample scope to spill surface run off to adjacent farm land owned by villagers.

The industry claimed to produce Bio-gas from cow dung which is consumed in house. First hand observation in and around Bio-gas plant it appears that the plant is not designed properly and the operation of the same was discontinuous. The operator and management could not explain the mode of disposal of sludge from dung storage pit and mixer. The Bio-gas is stored in storage balloons which has safety issues too.

Very less quantity of dung is used for making cow dung cakes, which is solely manual. The residue of bio-gas plant and some cow dung is claimed to be utilized used for production of organic manure. However, no scientific composting or Vermi composting facility was observed. The cow dung is kept in heaves within the industry premises.

The unit generates Bio-Medical Waste during treatment of the livestock. The Bio-Medical Waste is not segregated and disposed in

compliance with the Bio-Medical Waste Management Rules, 2016. During inspection, unsegregated Bio-Medical Waste was found stored in plastic bags. It was also informed that these collected unsegregated waste are simply handed over to unauthorized collector without even crushing or cutting the injection niddle. The unit has one DG set of capacity 63 KVA.

The unit has two chillers of capacity 500L each to store milk. As reported nearly 400L of milk is produced per day. Milk is distributed to the trustee members by single use plastic bottles. During inspection, it was observed that the unit has developed the low land inside the premises by depositing cow dung and other waste.

No records or diary for dead animals is maintained as informed.

Dumping / accumulation of cow dung slurry and waste water of the unit were found outside the boundary wall of the unit as well as in the open field of the complainant's agricultural / low lying land. An odour quite characteristic to such firm was smelt from the adjacent localities also.

It was observed that, the gaushala is not having adequate tree coverage.

Environmental Compensation (EC) is not calculated in this report considering that

- a) Gaushala and Dairy farms was brought into the ambit of environmental legislation since July, 2020, however this particular unit is operating since, 2012. The field visit revealed that the unit has violated land uses and even damaged agricultural land by discharging untreated effluent.
- b) One day site visit is not sufficient to assess the extent of damage of agricultural land and subsequent loss in crop production already done by the unit.
Therefore, opinion of experts from Agricultural Department for detail damage assessment may be proposed before imposing the EC.

Remedial Measures:

Industry has to comply with all applicable Environmental legislation requirements, including permission for ground water extraction.

Drainage inside the premises shall be redesigned ensuring collection and diversion of the waste water to ETP.

Entire boundary wall shall be ensured as leak proof. All the intentional discharge holes in wall shall be sealed immediately.

The capacity of ETP as stated by unit is seemed to under-capacity considering the quantity of waste water generation.

Cow dung is to be removed frequently to minimize the chances of mixing of cow dung with waste water.

Capacity of bio-gas plant is to be increased and the unit may explore to provide the CBG (Compressed Bio Gas) filling system.

Scientific cow dung composting plant is to be adopted and the product is to be disposed of in regular interval.

Bio-Medical Waste is to be disposed in compliance with Bio Medical Waste Management Rules, 2016.

Good housekeeping and cleanliness are to be maintained.”

26. Along with this affidavit, the West Bengal Pollution Control Board has filed copy of the Consent to Operate dated 21.09.2023 (Annexure-R2), granted to the Respondent No.7, M/s Survi Sadan Gaushala, Village-Santoshpur, North 24 Parganas.
27. The Respondent No.8, Rajasthan Gokalyan Trust, has filed affidavit dated 08.12.2023 stating that it is a charitable trust registered under the Income Tax Act, 1961. It is stated that the Rajasthan Gokalyan Trust does not exist by that name and that the name of the entity is 'Rajasthan Gokalyan'. It is also stated that one of the objectives of the Trust is to serve and look after cows to arrange for their hay and grass and spread awareness of cow protection. It is also stated that to open a Gaushala, the Trust purchased land

measuring about 1.0745 acres situated at Mouza-Santoshpur, P.S. Barasat, District-North 24 Parganas, within Kashimpur Gram Panchayat, by a registered Deed of Conveyance dated 20.11.2010. It is stated that the said Gaushala was initially started with 16 cows and currently the total area of the Gaushala is about 3.06 acres and the number of cows rehabilitated thereafter is about 1600 including calves and ox. It is stated that solid waste of the Gaushala is converted into cow dung cakes and distributed among the patrons for their use in havans etc. It is also stated that a Bio-gas Plant was installed within the premises of the Gaushala and is running for the last six years and the solid waste of the cows as raw material is used to generate bio-gas and electricity in the Bio-gas Plant. It is stated that the excess solid waste is converted into manure through vermi-compost process, and for manufacturing of cow dung cakes and cow dung logs. It is also stated that for handling wastewater generated in the Gaushala, an Effluent Treatment Plant has been set-up and with the increase in the number of cows, the capacity of the Effluent Treatment Plant has also been increased from time to time and the present Plant has the capacity to treat 40,000 litres of wastewater. It is also stated that after receipt of the Original Application, the Trust for the first time came to know that Consent to Operate is required for a Gaushala in accordance with the 2021 Guidelines and accordingly the Trust applied for Consent to Operate with the West Bengal Pollution Control Board on August 28, 2023, and has also deposited Rs.2,98,000/- (Rupees Two Lakhs Ninety Eight Thousand only) towards fee and on 21.09.2023 Consent to Operate was granted in the name of the Gaushala of the Trust.

28. We may at the outset observe that ignorance of law is no defence.
29. It is a well settled principle of jurisprudence that ignorance of law cannot be set up as a defence. In (1975) 4 SCC 378, (The Swdeshi Cotton Mills Co. Ltd. Vs. The Government of U.P. & Ors.), the Hon'ble Supreme Court in para 3 thereof held as under:-

"3. We do not think that in this case it is necessary for us to consider whether Article 226 can be used for challenging the validity of the orders passed prior to January 26, 1950. But we are in agreement with the High Court on the other two grounds. As mentioned earlier, the impugned assessments were made in 1949. The writ petition was filed in 1956. The explanation given by the petitioner for this long delay is that he did not know the correct legal position and he came to know about the same after the decision of the Allahabad High Court in the Commissioner of Sales Tax, U.P. v. Modi Food Products Ltd. Every individual is deemed to know the law of the land. The courts merely interpret the law and do not make law. Ignorance of law is not an excuse for not taking appropriate steps within limitation. Therefore the argument that the appellant did not know the true legal position is not one that can be accepted in law. That part, even after the High Court rendered its decision in Modi Food Products' case the petitioner did not move the High Court for over several months. There is no satisfactory explanation for that delay. That being so, the High Court was fully justified in refusing to exercise its discretion under Article 2226 of the Constitution in favour of the appellant."

30. In (2005) 4 SCC 295, (Bharat Electronics Ltd. Vs. Dy. Commissioner of Commercial Taxes (Assets) & Anr.), the Hon'ble Supreme Court in para 8 held as under:-

"8. We see no substance in these submissions. Ignorance of law is no excuse. Once the notifications stood quashed, the dealers were found to collect tax @ 6%. Even otherwise, it is difficult to believe that parties in the trade do not know the prevailing rate of tax."

31. In (2008) 11 SCC 502, (*Board of Directors, Himachal Pradesh Transport Corporation & Anr. Vs. K. C. Rahu*), it was held in para 8 as under:-

"8. In the instant case we have been taken through various documents and also from the representation dated 19-10-1993 filed by the respondent himself it would clearly show that he knew that a departmental enquiry was initiated against him yet he chose not to participate in the enquiry proceedings at his own risk. In such event plea of principle of natural justice is deemed to have been waived and he is estopped from raising the question of non-compliance with principles of natural justice. In the representation submitted by him on 19-10-1993 the subject itself reads "DEPARTMENTAL ENQUIRIES". It is stated at the Bar that the respondent is a law graduate, therefore, he cannot take a plea of ignorance of law. Ignorance of law is no excuse much less by a person who is a law graduate himself."

32. In (2019) 3 ICC 762, 2019 SCC OnLine Cal 1870, (*Debabrata Dutta Vs. Joy Gopal Saha & Ors.*), the Hon'ble High Court of Calcutta held as under:-

"13. It is further argued that the only ground taken by the petitioner in his application for condonation of delay was ignorance of law, which is not a valid ground in law for condonation of delay. In this context, learned senior counsel cites a judgment reported at (1975) 4 SCC 378 [The Swadeshi Cotton Mills Co. Ltd. Vs. The Government of U.P.], wherein it was held that ignorance of law was not an excuse for not taking appropriate steps within limitation. The explanation given by the petitioner in the said case for the long delay was that he did not know the correct legal position and came to know about the same after a decision of the Allahabad High Court. The Supreme Court held that every individual is deemed to know the law of the land and courts merely interpret the law and do not make law. Therefore, the argument that the appellant did not know the true legal position, was not one that could be accepted in law."

14. Learned senior counsel next cites a judgment of a single bench of the Allahabad High Court reported at 1983 SCC OnLine All 254 [Ram Prasad v. D.D.C.], wherein a learned Single Judge held that ignorance of law was not excuse and the benefit of Section 5 of the Limitation Act was not available on the ground of ignorance of law. It was further held that if the appellant in that case did not know the law, it was necessary for him to communicate all the facts to his counsel so that he might take all the legal steps.

15. learned senior counsel next cites a judgment of the Punjab and Haryana High Court, reported at 2013 SCC OnLine P&H 22717 [Vijay Kumar v. Swarna Rani], for the same proposition, that ignorance of law is not an excuse for condoning delay. The petitioner in the said case was having the services of a lawyer at his disposal and the court held that it did not lie in his mouth that he was ignorant about the period of limitation.

16. Lastly, learned senior counsel cites the judgment of a co-ordinate bench of this court, reported at (2018) 3 CHN 461 [Mithun @ Akhtar Ali v. Sk. Aziz Haque], wherein it was reiterated that ignorance of law cannot be an excuse for the litigant. In the said case, it was further held that Section 5 of the Limitation Act had not applicability to Section 7(1) of the 1997 Act and the court was justified in striking out the defence under Section 7(3) of the said Act."

33. In the affidavit of the Respondent No.8, the allegations of environmental degradation have been denied. Allegations with regard to Siting Criteria being in violation of the Siting Policy has also been denied. It is also denied that the urine or bovine bathing wastewater is washed into any agricultural field or there is any ecological degradation of agricultural field. It is disputed that the cow dung of 22,500 kilograms/day for 1500 bovines is generated and it is stated that the cow dung being generated in the Gaushala varies from 10,000 kilograms to 12,000 kilograms per day for 1560 cattle (including cows, calves and ox). It is further stated that the estimated wastewater generated, as per the guidelines, is to the

tune of 1,68,000 litres per day which is also for the dairy farm whereas water usage in the Gaushala is in the range of 40,000 litres per day. Thus, the figure of wastewater generated being 1,68,000 litres per day is disputed. It is also stated that as per the daily meter reading, the maximum requirement of water is 40 KLD and 10 KLD of wastewater is recycled through the Effluent Treatment Plant and, therefore, the observation that overall requirement of water is more than 150 KLD as per the Inspection Report is disputed.

34. With regard to the remedial measures recommended by the Committee, the steps taken by the Gaushala in question have been outlined in para 28 of the affidavit which read as under:-

"28. x.....x.....x.....x.....

- a. Steps are being taken for required permissions for extraction of ground water. To the best of the knowledge of the respondent no 8, such permission is not required for domestic use, i.e. for cleaning, washing and consumption (including for cattle). The respondent no 8 shall seek necessary guidance on the matter, from the concerned authorities.
- b. The drainage inside the premises has been repaired whenever required and as morefully mentioned in paragraphs hereinabove the entire waste water is being collected and/or diverted to Effluent Treatment Plant (ETP).
- c. The entire boundary wall has been repaired and the holes in the boundary wall have been sealed. The said holes were not discharge holes but holes due to damage in the boundary wall.
- d. The capacity of ETP is 40 KLD. The total water requirement is 30 KLD from ground water and 10 KLD from recycled water aggregating to 40 KLD. Hence, the capacity of ETP is not under-capacity.
- e. Cow dung is being removed every hour. The report does not suggest as a frequency of removal. In case, the frequency needs to be increased, the answering respondent undertakes to increase the same as suggested by the committee in future.

- f. The answering respondent is in the process of installing an additional biogas plant. The vendor has already been selected and it is expected that the additional biogas plant will be operational by June 2024.*
- g. The answering respondent is in the process of installing a dewatering machine so that the slurry from the biogas plant can be dewatered and dried to form compost. The water separated from the dewatering plant will be in turn used again for the biogas plant. Since the entire cow dung will be used in the biogas plant after installation of the additional plant, cow dung composting plant would not be required. As a temporary measure, the answering respondent is installing a temporary vermicompost plant."*

35. During the pendency of the proceedings, the Tribunal by its order dated 02.04.2024 had directed the Respondent Nos.7&8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance. The order dated 02.04.2024 reads as under:-

"ORDER

1. Ms. Shipra Naskar, learned Counsel files Vakalatnama on behalf of the Respondent Nos. 7 & 8; the same is taken on record.
2. We have heard the learned Counsel for the parties in part.
3. Considering the Report of the Committee of an Inspection/Enquiry conducted on 29.08.2023, we are of the view that in the interregnum a boundary wall to the Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, sewage, waste water into the adjoining areas.

I.A. No.12/2024/EZ:-

4. This Interlocutory Application has been filed by Respondent No.8 with the prayer that he may be provided police assistance in the erection of the boundary wall along the periphery of the Suravi

Sadan Gaushala in Mouza-Santoshpur, P.S.-Barasat, District North 24 Parganas.

5. The allegation in his Interlocutory Application is that the local persons are preventing him from construction of the boundary wall with the result that some of the findings noted in the Committee Report are being rendered unimplementable.

6. Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage/garland drain is also constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc.

*7. We, therefore, allow the I.A. No.12/2024/EZ and direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage/slush/bovine urine/bovine waste from flowing to the outside. The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc. 8. Let the said construction of boundary wall and garland drain be constructed within two months i.e. **by 31.05.2024.***

9. I.A. No.12/2024/EZ is accordingly disposed of.

10. We also find that the Enquiry Committee had conducted enquiry on 29.08.2023 and thereafter, Consent to Operate (CTO) was granted to the Respondent Nos.7 & 8, Gaushala, on 21.09.2023. The Report clearly mentions that 150 KLD of water is being utilized by the Gaushala whereas the Consent to Operate (CTO) has been granted only for 40 KLD. We wonder whether the West Bengal Pollution Control Board had taken the Committee Report into consideration before granting Consent to Operate (CTO).

11. We are also of the view that since the Consent to Operate (CTO) was granted on 21.09.2023, a fresh Inspection Report is required from the West Bengal Pollution Control Board with regard to the compliance of the conditions mentioned in the Consent to Operate (CTO) particularly with reference to the findings of the Enquiry Committee of the enquiry dated 29.08.2023.

12. We, therefore, direct the West Bengal Pollution Control Board to carry out its fresh inspection by 07.06.2024 particularly bearing in mind the compliances of the conditions given in the Consent to Operate with reference to the CPCB guidelines dated July, 2021 and the Report should be submitted by the first week of July, 2024.

13. Mr. Suman Dutt, learned Counsel for the Respondent Nos.7 & 8 further submitted that since the Gaushala is located in a rural area there is no adequate drainage system and, therefore, disposal of the slush, slurry and bovine urine after treatment would still remain a problem for which suggestions have to be given by the West Bengal Pollution Control Board.

14. The submission Mr. Suman Dutt, learned Counsel for Respondent Nos.7 & 8 has been disputed by Mr. Ritwick Dutta, learned Counsel for the Applicant. Considering the same, we direct the West Bengal Pollution Control Board to consider this aspect of the matter while filing their additional affidavit along with fresh Inspection Report.

15. Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing.

17. List on 08.07.2024.

36. Accordingly, the Respondent Nos.7&8 have filed affidavit dated 29.07.2024 titled 'Compliance Affidavit' stating that the directions given by the Tribunal in its order dated 02.04.2024 have been complied with or are on the verge of completion and if compliance is

taking a long time it is because hinderances are being deliberately caused by the Applicant with the help of local persons of the area. It is also stated that the adjoining areas where initially a very small quantity of bovine waste may have scattered had already been restored and the boundary wall has also been constructed along the periphery of the Gaushala and the Garland Drain had also been fully executed and constructed by the said Respondents. Photographs have also been filed as Annexure-B (colly) in support of the averments.

37. In the affidavit, it is also stated that despite onset of rainy season, there is no pouring of bovine waste into the adjoining areas. The purported actions which are stated to have been taken by the Respondent Nos.7&8 have been outlined in para 7 of the affidavit which are as under:-

- "7.x.....x.....x.....x.....x.....*
- i) Reconstruction of the drainage network internally running through the Gaushala including the Garland Drain for maintaining the proper slope towards the effluent treatment plant for ensuring collection and diversion of waste water to effluent treatment plant has already been completed as per the order of the Hon'ble Tribunal and a very minimum portion of such construction work of the garland drain is remaining which could be completed within a very short period of time.*
- ii) The construction of the boundary wall of the entire boundary of the Gaushala had duly been constructed along with the drainage system in such a way that the waste water does not flow outside the boundary wall and do not pollute the adjoining land of the Gaushala and*

further extra efforts have been taken by the respondents No.7 & 8 to fill up all the holes in the boundary wall so that there arises no question what so ever for the waste water to flow outside the Gaushala under any circumstances and further the height of the boundary wall was raised to such an extent that under no situation and /or under no emergency condition during the monsoon no rain water could flow outside the Gaushala.

- iii) *The respondents No.7 & 8 had further constructed few underground collection sumps for holding the waste water and settling of the solid waste and after such waste water is settled, it is being sent to the effluent treatment plant for further treatment.*
- iv) *The external drainage line is yet to be laid down by the Local Panchayat Authority, though through external drainage, cow dung may not be permitted to be discharged, external drainage is required for discharge of overflow of rain water and filtered water from ETP. The respondents No.7 & 8 have deployed dedicated workers for removal of cow dung on a regular basis and that the slurry of Bio Gas Plant is collected by the local people and used as fertilizer.*
- v) *The respondents No.7 & 8 had already taken initiative to clear and restore the adjoining areas wherein minimal waste water and bovine waste may have poured and as of date, there is no waste water and/or bovine waste in the adjoining areas which would be evidenced from the latest photographs as being taken by the respondents No. 7 & 8 is annexed hereto as **Annexure "C"**.*

38. The Applicant has filed rejoinder affidavit dated 07.08.2024 in response to the compliance affidavit of the Respondent Nos.7&8 dated 29.07.2024, disputing the claim of the said Respondents that no bovine waste is poured out into the adjacent area. It is stated that despite passage of almost three months, since the order of the Tribunal dated 02.04.2024, no action has been taken by the said Respondents to clear all the bovine waste poured out into the adjacent agricultural land. In support of the contention that there is significant accumulation of cow dung in the adjacent agricultural field, photographs dated 26.07.2024 have also been filed as Annexure-A-1 (pages 286-287) to the affidavit.
39. It is stated that a 15 feet bamboo stick was inserted into the ground and the entire length of the stick was submerged in cow dung sludge and slurry as would be seen from the photographs which indicate that accumulation of bovine sludge and slurry reaches a depth of approximately 15 feet at the very least.
40. The stand of the Applicant further is that the compliance affidavit of the Respondent Nos.7&8 is silent with regard to the following crucial information:-

"a. The total quantity of cow dung and waste removed in terms of tonnage and truckloads;

b. The date on which necessary actions were taken to remove the cow dung from the adjacent land;

c. The details of the location where the removed cow dung is dumped;

d. The agency engaged to remove such huge amount of cow dung from the adjacent land;

e. Photographs showing the pre-removal and post removal status of the area."

41. The Applicant has also filed Execution Application No.03/2024/EZ alleging non-compliance of the order of the Tribunal dated 02.04.2024. In the said Execution Application, the West Bengal Pollution Control Board, Respondent No.2, has filed affidavit dated 28.06.2024 and along with this affidavit, an Inspection Report of an inspection of the premises in question, carried out on 03.06.2024, has been filed. The Inspection Report reads as under:-

**“WEST BENGAL POLLUTION CONTROL BOARD
Barrackpore Regional Office**

Inspection Report

Introduction: *With reference to the Order of the Hon'ble NGT, Eastern Zone Bench, Kolkata, in reparation to OA No. 82/2023/EZ and I.A. No. 12/2024/EZ, M/s Survi Sadan Gaushala, located at Vill- Santoshpur, P.O.- Adikashipur, P.S.- Duttapukur, 24 Pgs (N)- 743248, under Kashimpur Gram Panchayat, was inspected on 03.06.2024.*

Inspecting Officials:

1. Shri Arun Das, Asst. Environmental Engineer, WBPCB
2. Shri Suman Ghorai, Asst. Environmental Engineer, WBPCB

Person met during inspection:

On behalf of the Goshala.

1. Mr. Sanjoy Maskara, Donor of the Trust
2. Mr. Ashis Das, Manager

Introduction:

- This is a Gaushala namely M/s Survi Sadan Gaushala, owned by Rajasthan Gokalyan, a charitable trust. The unit is engaged in taking care of old/sick/abandoned including milking and fertile cows. The products of the unit are milk, cow dung cake and vermi-compost.

- Earlier there were 1500 nos. of livestock. It was informed by the unit representative that some cows have been sent to their unit located elsewhere. Presently, there are about 950 nos. of livestock out of which milking cows are less than 100 in number (as stated).
- The wastewater including the cattle urine and floor wash water of the unit is collected in multi-compartment underground collection sump which function as gravity settler through drains. The wastewater after settling is treated in Effluent Treatment Plant (ETP) comprising chemical dosing cum equalization tank, settling tank, multigrade filter and fabric filter. The treated water then is collected in an overhead tank.
- The treated water is reused for floor washing, animal bathing etc. The water after reuse is again treated in the same manner as described above.
- The unit consumes about 40 KL fresh water (as make up water) per day for drinking, cooking and washing purposes. This excludes the reused treated water.
- The cattle dung is used in the bio-gas plant and dung cake manufacturing. Bio gas generated from the bio-gas plant is used for cooking food of the staff and others. The unit has also purchased a de-watering plant to quickly remove the water content from the cattle dung.

Statutory compliance: The unit has obtained consent-to-operate of the Board which is valid up to 31.07.2030.

Compliance Status in lieu of the findings of the Enquiry Committee of the enquiry dated 29.08.2023 as well as compliance of the conditions of consent-to-operate of the State Board:

1. Major work for reconstruction/renovation of internal drainage network including garland drain for maintaining the proper slope towards the ETP for ensuring collection and diversion of waste water to ETP has been completed. Construction/renovation work of the remaining portion was going on.
2. Brick boundary wall with foundation has been constructed along with drainage system such that the waste water flows towards the ETP, thus reducing the possibility of any waste

water flowing outside the premises. No holes in the wall were observed.

- 3. The unit has constructed few underground collection sumps within the drainage line for holding of waste water and settling of the solid waste and the waste water after settling is sent to ETP for further treatment.*
- 4. The unit representative informed that they have deployed dedicated workers for removal of cow dung, regularly. The quality of housekeeping of cow shed has been improved.*
- 5. The capacity of the bio-gas plant is yet to be enhanced. The unit representative expressed that they have plan for increasing the capacity of bio-gas plant.*
- 6. The cattle dung is used in the bio-gas plant and dung cake manufacturing. The unit is in the process of installing de-watering plant to quickly remove the water content from the cattle dung.*
- 7. The unit is yet to install vermin-composting plant.*
- 8. Agreement has been made with common Bio-medical Waste Disposal facility for disposal of Bio-medical waste. The unit has not applied for Bio-medical Waste Authorization.*
- 9. The unit is yet to obtain permission for extraction of ground water as stated by the unit representative.*
- 10. The unit consumes approx. 40 KL fresh water per day. This is the make up water as the treated water is reused.*
- 11. The unit representative informed that the sludge of Bio-gas Plant is collected by the local people and used as a fertilizer.*
- 12. The unit representative informed that the housekeeping will further improve once the construction/renovation activities (boundary wall, drains etc.) are completed."*

42. Referring to this Inspection Report, the contention of the Applicant is that the Committee has recorded a finding that the Gaushala Unit is yet to obtain permission for extraction of ground water. It is

stated that the earlier Joint Committee Report has noted that the Unit uses submersible pumps to extract ground water as the overall requirement of water is more than 150 KLD. This clearly shows that the Respondent Nos.7&8 are extracting ground water of at least 150 KLD without obtaining any permission from the State Water Investigation Directorate or the Central Ground Water Authority. We find that the compliance affidavit of the Respondent Nos.7&8 is silent with regard to obtaining permission from the State Water Investigation Directorate or the Central Ground Water Authority, even though the said Respondents on their own admission show that their total water requirement is 30 KLD from ground water.

43. The Applicant has further submitted that the previous Joint Committee Report had given a categorical finding that the capacity of the Effluent Treatment Plant (ETP) is under capacity considering the quantity of waste water generation but the compliance affidavit of the Respondent Nos.7&8 is silent in this regard also and does not show anything with regard to upgradation of the ETP.
44. It is further stated that though the subsequent Inspection Report of 03.06.2024 mentions that the Unit has constructed few underground collection sumps within the drainage line for holding waste water and settling of the solid waste and settling of solid waste and waste water after settling is sent to ETP for further treatment but the photographs of 26.07.2024 show that the underground sumps constructed by the Respondent Project Proponent is insufficient. It is stated that though more than four months have passed after the order of the Tribunal dated 02.04.2024, no action has been taken by the Respondent Project

- Proponent to clear all the bovine waste poured out into the adjacent agricultural land.
45. The contention of the Applicant further is that as per findings of the Inspection Committee in its Report dated 03.06.2024, the Respondent Project Proponent have about 950 livestock cattle, out of which 100 are milking cows but the capacity of the Bio-gas Plant is yet to be enhanced. It is, therefore, clear that in the absence of enhancement of the Bio-gas Plant, the excess bovine waste/cow dung which is not processed is allowed to pour outside the premises i.e. into the adjacent agricultural land, and there is no inhouse capacity to process the said waste.
 46. We have heard the learned Counsel for the parties and perused the documents on record.
 47. The Inspection Report of the inspection carried out on 29.08.2023 under the orders of the Tribunal clearly records that the Gaushala in question is demarcated by a boundary of concrete brick walls 'leaving' a very few portions of tin-sheet boundary towards the Northern, North-Western and North-Eastern periphery of the Gaushala Project compound.
 48. The Inspection Report further shows that during physical enquiry, it was observed that nature of the Plot Nos.277, 242, 238 and 282 are 'Doba', 'Pukur', 'Pukur' and 'Doba', respectively and have been physically altered by filling-up of the same in violation of Section 4 (C) of the West Bengal Land Reform Act, 1955 ('the Act, 1955' for short). It is also noted that notices under Section 4 (C) (5) of the Act, 1955, have been issued directing the concerned raiyats to restore the recorded classification of the said water body within a period of 7 (seven) days from issuance/receipt of the said notice.

The Inspection Report clearly directs that the Respondents Project Proponent will have to restore the water body, since the Act, 1955, does not allow post-facto conversion, though according to the said Respondents the Gaushala in question was constructed prior to 07.11.2017 and, therefore, there may be scope for allowing of the post-facto conversion but steps in this regard have to be taken in terms of the provisions of the Act, 1955. We find that the compliance affidavit of the Respondent Project Proponent is silent in this regard.

49. The Inspection Committee further noted that while there is no gap between the Gaushala and the locality on the Western and Eastern sides but there is a 20 feet wide gap towards the concrete/pucca road on the Southern Side; on the Northern, North-Western and North-Eastern sides, the compound boundary is adjacent to agricultural land; there are holes in the boundary walls which allows the overflowing waste water to pass over the adjacent plots which is the cause of public resentment.
50. It is further noted by the Inspection Committee in its Inspection Report that many cows are being kept under the open sky in the fenced area; the Gaushala concerned has no valid Consent to Operate as on the day of visit (i.e., 29.08.2023); the Unit has submitted an online Consent to Operate application on 28.08.2023 just one day before the date of inspection; the Unit uses submersible pump to extract ground water without permission from the State Water Investigation Directorate or the Central Ground Water Authority and overall requirement of water is more than 150 KLD as per Central Pollution Control Board Guideline.

51. It is also noted by the Inspection Committee that the Unit has been operating since 2012 as per Respondents Project Proponent themselves; there is a Sri Ramkrishan Sarada Aashram situated adjacent to the Eastern side of the Unit which was established in 1999 and the distance between the Ashram Canteen and cowshed is merely 10 feet; Mitali Sangha and Santoshpur Primary School is situated at a distance of 70 meters from the Unit to the South-West side and Northern side and Western side of the Unit is agricultural/vacant land. The Committee also noted that at present there are about 1500 livestock (cows), [Bufflow-01, Calf-220, Ox-280, Cow-1059], out of which the number of milking cows is 120. The Project Proponent has itself admitted having 1560 heads of cattle, i.e., cows, calves and oxen.
52. The Inspection Committee has also noted that as per the Central Pollution Control Board's Guidelines, 2021, the estimated solid waste and waste water generation for this Unit rearing 1500 bovines is as under:-
Cow Dung: 22500 kg/day; Maximum 30000 kg/day,
Waste Water Generation: 168000 L/day; Maximum 171000 L/day,
53. It is also noted by the Inspection Committee that the Unit has installed Effluent Treatment Plant (ETP) (which is under commissioning) for treatment of this waste water claimed to have a capacity of 40 KLD but the Unit could not show any drainage network by which the waste water would lead to the said ETP; Gradient of most of the drainage system is opposite to the ETP; there is no collection pit or transfer pit for transfer of waste water to ETP; no Garland Drain was observed to arrest surface generated waste water; direct discharge of effluent to the outside farming

land/pond was observed along the East to West boundary wall of the cowshed; majority of the existing drains inside the premises was found clogged with slurry of cow dung and fodder waste; the Unit has made unlawful provision for discharge of untreated waste water outside the boundary (North-East side and Western side) through openings in the boundary wall.

54. The Committee in its Inspection Report has also noted that the Unit claimed to produce Bio-gas from cow dung which is consumed in house but on first hand observation in and around the Bio-gas Plant, it appeared that the Plant was not properly designed and the operation of the same was discontinued; the operator and management could not explain the mode of disposal of sludge from dung storage pit and mixer; the Bio-gas is stored in storage balloons which has safety issue too. It is also noted that there was no scientific composting or vermi-composting facility and the cow dung is kept in heaps within the premises.
55. The Committee has also noted that the Unit generates Bio-Medical waste during treatment of livestock but the bio-medical waste is not segregated and disposed of in compliance with the Bio-Medical Waste Management Rules, 2016; during visit unsegregated bio-medical waste was found stored in plastic bags; it was informed during inspection that this collected unsegregated waste is simply handed over to unauthorized collector without even crushing or cutting the injection needles and no records or diary has been maintained for recording dead animals.
56. The Inspection Committee has further noted that dumping/accumulation of cow dung slurry and waste water of the Gaushala was found outside the boundary wall of the Unit as well

as in the open field of the complainant's agricultural/low lying land; there was no adequate tree coverage in the Gaushala in question; the Unit has violated land use and even damaged agricultural land by discharging untreated effluent. The Inspection Committee has suggested remedial measures in its report, which have already been extracted hereinabove.

57. The subsequent Committee Report of an inspection carried out on 03.06.2024 has noted that the capacity of the Bio-gas Plant is yet to be enhanced; the Unit is in the process of installing dewatering plant to quickly remove the water content from the cattle dung; the Unit is yet to install vermi-composting plant; the Unit has not applied for Bio-Medical Waste Authorization and the Unit is yet to obtain permission for extraction of ground water as informed by the representative of the Unit.
58. Thus, the Inspection Reports clearly show that the Unit is in clear violation of the Guidelines for Environmental Management of Dairy Farms and Gaushalas as published by the Central Pollution Control Board in July, 2021. The compliance affidavit filed by the Respondent Project Proponent only mentions construction of Garland Drain to contain the outfall of bovine sewage, urine, cow dung etc. and though the Project Proponent, Respondent Nos.7&8, has filed photographs along with its compliance affidavit but the photographs filed by the Applicant which are all dated 26.07.2024 present a very different picture and the photographs of this land is adjacent to the corrugated boundary wall of the Gaushala as would be very clear from the photographs itself.
59. We may now advert to the Central Pollution Control Board Notification dated 07.03.2016. The Central Pollution Control Board

has issued Notification dated 07.03.2016, copy of which has also been filed with the Original Application, whereby industries have been categorized under the following heads – Red, Orange, Green and White, bringing on record the Final Document on Revised Classification of Industrial Sectors under Red, Orange, Green and White Categories dated 29.02.2016 and it mandates that all industries shall be categorized accordingly including industries to which Consent mechanism of the State Pollution Control Boards would be applicable. This classification would be used by the State Pollution Control Boards as also Pollution Control Committees for grant of Consents to industries. The Notification further provides that there shall be no necessity of obtaining Consent to Operate for White Category of industries implying thereby that industries falling in the Red, Orange and Green categories would be subject to the Consent mechanism of the State Pollution Control Board. As already noted hereinabove, Dairy and Dairy Products have been categorized as Orange Category industries and, therefore, are subject to Consent mechanism of the State Pollution Control Board and would require Consent to Establish and Consent to Operate from the State Pollution Control Board.

60. The stand of the Respondents, Project Proponent, in their affidavit that after receipt of the Original Application the Trust for the first time came to know that Consent to Operate is required for a Gaushala in accordance with the 2021 Guidelines, is no defence for not applying for and obtaining a Consent to Establish and Consent to Operate under the 2016 Guidelines.
61. We may note that the Consent mechanism for Dairy and Dairy Farms and Gaushalas did not come into existence for the first time

under the Central Pollution Control Board's Guidelines of July, 2021, and merely because the said Guidelines under the heading Regulatory/Monitoring mechanism for Dairy Farms and Gaushalas states that State Pollution Control Boards/Pollution Control Committees shall publish a notice for Dairy Farms and Gaushalas to obtain Consent to Establish and Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974, as well as Air (Prevention and Control of Pollution) Act, 1981, as per categorization of industries in the Orange and Green categories respectively, it merely reiterates the mandatory requirement of Consent to Establish and Consent to Operate under the Guidelines of 2016.

62. There is another aspect of the matter. The Project Proponent in the present case was expected to be aware that the Gaushala having more than 1560 heads of cattle would be a heavy polluter and, therefore, the Project Proponent was expected to have taken all remedial measures and necessary steps to check environmental pollution.
63. The Hon'ble Supreme Court in (1996) 5 SCC 647 (Vellore Citizens' Welfare Forum Vs. Union of India & Ors.) has held that the Precautionary Principle and Polluter Pays Principle have been accepted as part of the law of the land. Paras 13, 14, 15 & 16 of the judgment read as under:-

*"13. The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under:
 "47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—The State shall regard the raising of the level of nutrition and the standard of living of its people*

and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48-A. Protection and improvement of environment and safeguarding of forests and wildlife.—The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

51-A. (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.”

Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject but more relevant enactments for our purpose are : the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the Central Government and the constitution of the State Pollution Control Boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the latter part of this judgment.

14. *In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.*

15. *Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to Justice H.R. Khanna's opinion in A.D.M. v. Shivakant Shukla, Jolly George Varghese case and Gramophone Co. case.*

16. *The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (Commentaries on the Laws of England of Sir William Blackstone) Vol. III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words:*

"Also, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow-chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote' places; for the rule is, 'sic utere tuo, ut alienum non leadas'; this therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance.

... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a watercourse, by erecting a dye-house or a lime-pit, for the use of trade, in the upper part of the stream; to pollute a pond, from which another is entitled to water his cattle; to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of 'doing to others, as we would they should do unto ourselves'."

64. The Polluter Pays Principle was propounded by the Hon'ble Supreme Court in (1996) 3 SCC 212 (*Indian Council for Enviro-Legal Action & Ors. Vs. Union of India & Ors.*), to fasten liability for defraying the cost of remedial measures. The task of determining the amount required for carrying out remedial measures, its recovery/realization and task of undertaking the remedial measures was placed in this regard upon the Central Government. In para 65 of the judgment, the Hon'ble Supreme Court held that once the activity carried out is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. Para 65 of the judgment reads as under:-

"65. On consideration of the two lines of thought (one adopted by the English courts and the other by the Australian High Court), we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country. We are convinced that the law stated by this Court in Oleum Gas Leak case is by far the more appropriate one apart from the fact that it is binding upon us. (We have disagreed with the view that the law stated in the said decision is obiter.) According to this rule, once the activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on. In the words of the Constitution Bench, such an activity: (SCC p.421, para 31)

"...can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not".

The Constitution Bench has also assigned the reason for stating the law in the said terms. It is that the enterprise (carrying on the hazardous or inherently dangerous activity) alone has the resource to discover and guard against hazards or dangers-and not the person affected and the practical difficulty (on the part of the affected person) in establishing the absence of reasonable care or that the damage to him was foreseeable by the enterprise."

65. Further in para 67 of the judgment, the Hon'ble Supreme Court held that the responsibility for repairing the damage caused is that of the offending industry. Para 67 of the judgment reads as under:-

"67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" principle.

"The Polluter Pays principle demands that the financial costs of preventing and remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution. Under the principle it is not the role of Government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'Polluter Pays' principle was promoted by the Organisation for Economic Cooperation and Development (OECD) during the 1970s when there was great public interest in environmental issues. during this time there was demands on Government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialised society. Since then there has been considerable discussion of the nature of the Polluter Pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactorily agreed.

Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the

underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme [(1987) OJ C 328/1] makes it clear that 'the cost of preventing and eliminating nuisances must in principle be borne by the polluter', and the Polluter Pays principle has now been incorporated into the European Community Treaty as part of the new articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play in all the policies of the community, and that action is to be based on three principles: the need for preventing action; the need for environmental damage to be rectified at source; and that the polluter should pay."

Thus, according to this principle, the responsibility for repairing the damages is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realization and task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment (Protection) Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, RPCB or such other agency or authority, as they think fit."

66. In (2005) 13 SCC 186 (*Research Foundation For Science (18) Vs. Union of India & Anr.*), the Hon'ble Supreme Court held that producer of goods or other items should be responsible for cost of preventing or dealing with any pollution that the process causes. Para 29 of the judgment reads as under:-

"29. The polluter-pays principle basically means that the producer or goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately

*tangible. The principle also does not mean that the polluter can pollute any pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case.*⁹

67. The Respondents, Project Proponent, in the present case while establishing his Unit was expected to be fully aware of the environmental outfall of his Project and a duty was cast upon him to take all remedial measures before commencing the Project.
68. On a conspectus of facts and documents on record and the Guidelines laid down by the Central Pollution Control Board towards Environmental Management of Dairy Farms and Gaushalas, 2021, we are satisfied that the Respondents, Project Proponent, are in clear violation of the Guidelines, 2021, as well as of the prescribed environmental norms, such as, *inter-alia*, operating without a valid Consent to Operate which was applied for only after filing of the Original Application and obtained on 21.09.2023; extracting ground water without requisite permission; violating Siting Criteria, among others, and are, therefore, liable for payment of Environmental Compensation for present and past violations.
69. We accordingly dispose of this Original Application as well as Execution Application with a direction to the West Bengal Pollution Control Board, Respondent No.2, to compute Environmental Compensation against the Respondents, Project Proponent, strictly as per law by issuing the Project Proponent a show cause notice and giving an opportunity of showing cause and filing reply to the same. Let this exercise be carried out within a period of two months.

70. We further direct the West Bengal Pollution Control Board to inspect the Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee.
71. So far as illegal conversion of land use by the Respondents, Project Proponent, converting 'Doba' and 'Pukur' land is concerned, the District Magistrate, North 24 Parganas, is directed to take appropriate action against the Project Proponent in accordance with law within a period of two months for restoration of the land in question as Doba and Pukur.
72. I.As., if any, stand disposed of accordingly.
73. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

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

August 12, 2024,
Original Application No.82/2023/EZ
With
Execution Application No.03/2024/EZ
In
Original Application No.82/2023/EZ
AK

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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 4476 of 2024

Suravi Sadan Gaushala & Anr.
Versus
The State of West Bengal & Ors.

Mr. Saptansu Basu, Sr. Advocate,
Mr. Ankit Agarwal
Ms. Alotriya Mukherjee
... For the petitioners.

1. Challenging the order dated 12th August, 2024 passed by the learned National Green Tribunal, Eastern Zone, Kolkata, (in short the Tribunal), to the extent the same directs the District Magistrate to take appropriate action against the petitioners, being the project proponent, in accordance with law *qua* the alleged conversion of Doba and Pukur and the restoration thereof to Doba and Pukur, as morefully detailed in paragraph 71 of the said order, the instant revisional application has been filed.
2. Mr. Basu, learned senior advocate appearing for the petitioners at the time of argument has confined the challenge to the aforesaid direction only.
3. It is the petitioners' case that the complainant/ opposite party no.9 had been forum shopping and had filed a writ petition before this Hon'ble Court which was registered as WPA 3345 of 2024 with a specific allegation in paragraph 9 of such

petition that the petitioners had been carrying out unauthorized construction by filling up a water body and a detailed representation in that regard was made before the Superintendent of Police, Barasat, on 3rd January, 2024. In the prayer portion of the writ petition, the opposite party no.9 had sought for a writ in the nature of mandamus so as to direct the Pradhan, Kashimpur Gram Panchayat to issue stop work notice for the unauthorized construction at the concerned plots.

4. Mr. Basu, learned senior advocate by drawing attention of this Court to the order dated 23rd April, 2024 would submit that a Coordinate Bench of this Hon'ble Court had only directed the Pradhan of the concerned Gram Panchayat to consider and dispose of the representation made by the opposite party no.9 in accordance with law and no further order was passed by the Coordinate Bench. He would submit that admittedly the petitioners have already applied for change of character, conversion and alteration of mode of use of the land from the water body to homestead before the office of the District Land and Land Reforms Officer, Barasat. He would submit that the said application is still pending adjudication and the

same is yet to be disposed of. According to Mr. Basu, the issue of conversion is within the exclusive domain of the concerned Block Land & Land Reforms Officer, Barasat, who is authorized to exercise powers in terms of the provisions contained in Section 4C of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the "said Act"). Mr. Basu would submit that admittedly in this case, the factum of compliance of the petitioners with regard to the West Bengal Pollution Control norms has been taken note of by the learned Tribunal in the order dated 12th August, 2024 and in paragraph 69 thereof, it has been specifically recorded that the execution application filed by the opposite party no.9 was disposed of with a direction upon the West Bengal Pollution Control Board to compute environmental compensation against the petitioners strictly as per law by issuing the petitioners a show cause notice and giving an opportunity of showing cause and filing reply to the same. Such compensation has been directed to be computed for failing to comply with prescribed environmental norms laid down by Central Pollution Control Board toward Environmental Management of Dairy Farms and Gaushalas 2021. The West Bengal Pollution

Control Board was also directed to inspect the petitioners' Gaushala in question at the end of the two months to ensure compliance of the remedial measures. Having regard thereto he would submit that there was no reason for the Tribunal to pass any other direction especially with regard to the conversion of user of land as detailed in paragraph 71 of the said order. According to Mr. Basu, the aforesaid direction has been issued without being any basis thereof in the pleadings. In any event, the same is beyond the jurisdictional authority of the learned Tribunal vested under National Green Tribunal Act, 2010. Further in the light of the aforesaid direction, the petitioners' application for conversion is also likely to be jeopardized and unless appropriate protection is given by this Hon'ble Court, the petitioners will suffer irreparable loss and injury.

5. Having heard the learned advocate appearing for the petitioners and considering the fact that the direction issued on the District Magistrate directing him to ensure restoration of the land in question, as Doba and Pukur, during the pendency of the petitioners' application seeking conversion under Section 4C of the said Act,

seeks to interfere with the rights of the petitioners and the scope and/or jurisdiction to direct conversion of land also vests exclusively within the domain of the concerned Block Land & Land Reforms Officer exercising jurisdiction under the said Act, and having regard thereto, prima facie, the above direction appears to be without jurisdiction.

6. Having regard to the above, I am of the view that the instant application is required to be heard.
7. Let a copy of the revisional application be served on the opposite parties.
8. List this matter under the heading "Returnable Motion" in the Combined Monthly List of February, 2025.
9. Pending hearing of this application there shall be stay of the direction contained in paragraph 71 of the order dated 12th August, 2024 passed by the learned National Green Tribunal which was uploaded on 11th September, 2024 for a period upto the end of February, 2025 or until further order, whichever is earlier.

(Raja Basu Chowdhury, J.)

Item No.09

Court No.1

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

Original Application No.82/2023/EZ
(I.A. No.12/2024/EZ)

Santoshpur Mitali Sangha	Versus	Applicant(s)
State of West Bengal & Ors.		Respondent(s)

Date of hearing: 02.04.2024

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

For Applicant(s) : Mr. Ritwick Dutta, Advocate a/w
Mr. Kaustav Dhar, Advocate and
Mr. Mukut Biswas, Advocate

For Respondent(s): Mr. Rajib Ray, Advocate for R- 1,4 &6 (in Virtual Mode),
Mr. Ayush Kumar Dadhich, Advocate for R-2,
Mr. Dipanjan Ghosh, Advocate for R-3 (in Virtual Mode),
Mr. Suman Dutt, Advocate (in Virtual Mode) a/w
Ms. Shipra Naskar, Advocate for R- 7 & 8

ORDER

1. Ms. Shipra Naskar, learned Counsel files Vakalatnama on behalf of the Respondent Nos.7 & 8; the same is taken on record.
2. We have heard the learned Counsel for the parties in part.
3. Considering the Report of the Committee of an Inspection/Enquiry conducted on 29.08.2023, we are of the view that in the interregnum a boundary wall to the Gaushala needs to be constructed on an urgent basis to ensure that there is no outflow of cow dung, bovine urine, sewage, waste water into the adjoining areas.

I.A. No.12/2024/EZ:-

4. This Interlocutory Application has been filed by Respondent No.8 with the prayer that he may be provided police assistance in the erection of the boundary wall along the periphery of the Suravi

Sadan Gaushala in Mouza-Santoshpur, P.S.-Barasat, District-North 24 Parganas.

5. The allegation in his Interlocutory Application is that the local persons are preventing him from construction of the boundary wall with the result that some of the findings noted in the Committee Report are being rendered unimplementable.
6. Mr. Ritwick Dutta, learned Counsel for the Applicant of the Original Application states that the Applicant has no objection if boundary wall is permitted to be constructed in the interregnum. Learned Counsel also suggested that construction of boundary wall would not suffice unless a proper drainage/garland drain is also constructed to contain the flow of sewage/slush/bovine urine and bovine waste etc.
7. We, therefore, allow the I.A. No.12/2024/EZ and direct the Respondent Nos.7 & 8 to construct a boundary wall of adequate height ensuring impermeability of sewage/slush/bovine urine/bovine waste from flowing to the outside. The said respondents shall also construct a garland drain to contain the outflow of bovine sewage, urine, cow dung etc.
8. Let the said construction of boundary wall and garland drain be constructed within two months i.e. **by 31.05.2024.**
9. I.A. No.12/2024/EZ is accordingly disposed of.
10. We also find that the Enquiry Committee had conducted enquiry on 29.08.2023 and thereafter, Consent to Operate (CTO) was granted to the Respondent Nos.7 & 8, Gaushala, on 21.09.2023. The Report clearly mentions that 150 KLD of water is being utilized by the Gaushala whereas the Consent to Operate (CTO) has been granted only for 40 KLD. We wonder whether the West Bengal Pollution

Control Board had taken the Committee Report into consideration before granting Consent to Operate (CTO).

11. We are also of the view that since the Consent to Operate (CTO) was granted on 21.09.2023, a fresh Inspection Report is required from the West Bengal Pollution Control Board with regard to the compliance of the conditions mentioned in the Consent to Operate (CTO) particularly with reference to the findings of the Enquiry Committee of the enquiry dated 29.08.2023.
12. We, therefore, direct the West Bengal Pollution Control Board to carry out its fresh inspection by 07.06.2024 particularly bearing in mind the compliances of the conditions given in the Consent to Operate with reference to the CPCB guidelines dated July, 2021 and the Report should be submitted by the first week of July, 2024.
13. Mr. Suman Dutt, learned Counsel for the Respondent Nos.7 & 8 further submitted that since the Gaushala is located in a rural area there is no adequate drainage system and, therefore, disposal of the slush, slurry and bovine urine after treatment would still remain a problem for which suggestions have to be given by the West Bengal Pollution Control Board.
14. The submission Mr. Suman Dutt, learned Counsel for Respondent Nos.7 & 8 has been disputed by Mr. Ritwick Dutta, learned Counsel for the Applicant. Considering the same, we direct the West Bengal Pollution Control Board to consider this aspect of the matter while filing their additional affidavit along with fresh Inspection Report.
15. Mr. Ritwick Dutta, learned Counsel for the Applicant further submitted that all the slush, slurry, cow dung and bovine waste has already spread to the adjoining areas in the absence of a proper

boundary wall or through holes in the existing wall which need to be cleared immediately considering that monsoon is not far off.

16. We, therefore, direct the Respondent Nos.7 & 8 to take immediate steps to clear all the bovine waste which may have poured out into the adjoining area outside the boundary of the Gaushala within one month and file affidavit of compliance with photographs by the next date of listing.
17. **List on 08.07.2024.**

.....
B. Amit Sthalekar, JM

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

April 02, 2024,
Original Application No.82/2023/EZ
(I.A. No.12/2024/EZ)
MN

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 82/2023/EZ

SANTOSHPUR MITALI SANGHA

.....APPLICANT(S)

VERSUS

THE STATE OF WEST BENGAL & ORS.

..... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 02
i.e. THE WEST BENGAL POLLUTION CONTROL BOARD.

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3	Copy of the conditional Consent to Operate granted in favour of the unit	"R2"	15-17

Filed by

Prithwish Kumar Basu
PRITHWISH KUMAR BASU
ADVOCATE
HIGH COURT AT CALCUTTA

ATTESTED

Kazi Khalekujjaman
Notary, Govt. of W. B.
Regn. No. : 07/2010
Kolkata



22 SEP 2023

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 82/2023/EZ

SANTOSHPUR MITALI SANGHA

.....APPLICANT(S)

VERSUS

THE STATE OF WEST BENGAL & ORS.

..... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 02
i.e. THE WEST BENGAL POLLUTION CONTROL BOARD.

Most Respectfully Sheweth

I, Sri Subrata Ghosh, Occupation- Service, residing at Narkelbagan, Gorosthan, Chinsurah son of Shri Biswanath Ghosh, aged about 59 years, by faith-Hindu, by, District - Hooghly, do hereby solemnly declare and say as follows:-

01. That, I am the Chief Engineer, West Bengal Pollution Control Board (hereinafter will be referred to as the 'State Board') and look after this case and as such I am well acquainted with the facts and circumstances of the case. I have been duly authorized by the

ATTESTED

Kazi Khaleel Ujjainy
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Regn. No. 07/2016
Kolkata



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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 pursuance to the solemn orders passed by the Hon'ble Tribunal dated 04.08.2023.

03. That, the Committee visited M/s. Survi Sadan Gaushala, located at Vill.- Santoshpur, P.S-Duttapukur, North 24 Parganas under Kashimpur Gram Panchayat on 29.08.2023.

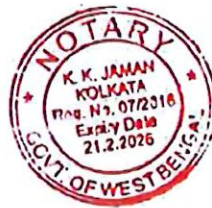
Copy of the inspection report of the State Board is annexed herewith and marked with letter "R1".

04. That, with regard to Compliance status to provisions of guidelines of Central Pollution Control Board for "environmental management of Dairy Farms and Gaushala's, the inspection report reveals as follows:-

- a) The Gaushala owned by Rajasthan Gokalyan, a charitable Trust.
- b) It is engaged in taking care of old/sick abandoned including milking and fertile Cows, total 1500 nos. of livestock's out of which milking cows are 120 in number.
- c) The total area of the unit is 3.56 acre and as reported, the unit is operating since 2012.

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- d) During inspection it has been found that the unit does not obtain valid 'Consent to Operate'. However it has been informed that unit has submitted Online 'Consent to Operate' application on 28.08.2023.
- e) Unit uses submersible pump to extract ground water, permission from SWID (State Water Investigation Directorate) is yet to be obtained. Overall requirement of water is more than 150 KLD.
- f) Unit has installed Effluent Treatment Plant having capacity 40 KLD (as informed by the representatives). However, drainage network for sending waste water to ETP is yet to be constructed. No garland drain was observed to arrest surface generated waste water.
- g) Unit claimed to produce Bio-gas from Cow dung, however the plant is not designed properly.
- h) Representative of the unit has informed that Bio-medical waste are collected in unsegregated way and handed over to the unauthorized collector to further disposal.

Considering the above, the Committee has recommended the following remedial measures in terms of the CPCB's guideline which are as follows:-

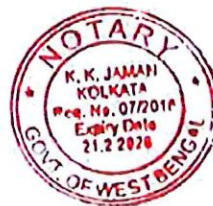
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Kazi Khalid Hujjaman
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Regn. No. : 07/2016
Kolkata



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- i. Industry has to comply with all applicable Environmental legislator requirements, including permission for ground water extraction.
 - ii. Drainage inside the premises shall be redesigned ensuring collection and diversion of the waste water to ETP.
 - iii. Entire boundary wall shall be ensured as leak proof. All the discharge holes in the wall shall be sealed immediately.
 - iv. The capacity of ETP as stated by unit seemed to under-capacity considering the quantity of waste water generation.
 - v. Cow dung is to be removed frequently to minimize the chances of mixing of cow dung with waste water.
 - vi. Capacity of bio-gas plant is to be increased and the unit may explore to provide the CBG (Compressed Bio Gas) filling system.
 - vii. Scientific cow dung composting plant is to be adopted and the product is to be disposed of in regular interval.
05. That, with regard to other recommendations of the committee, the respondent unit also need to comply the same and submit their compliance report to the concerned authorities.
06. With regard to Environmental Compensation, the Committee is yet to calculate as they felt that the opinion of experts from Agriculture Department is required for detailed damage assessment, which is one of the prime component for assessing the Environmental Compensation.

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07. That the State Board has issued conditional Consent to Operate for the unit vide order dated 21.09.2023.

Copy of the conditional consent is annexed herewith and marked with letter "R2".

08. 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.

[Handwritten Signature]
DEPONENT

ATTESTED

[Handwritten Signature]
Kazi Khalidujjaman
Notary, Govt of W. B.
Regn. No. 072016
Kolkata



22 SEP 2023

VERIFICATION

I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 59 years, by Religion - Hindu, by Occupation- Service, residing at Narkelbagan, Gorosthan, Chinsurah, District-Hooghly, 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.

Subrata Ghosh
DEPONENT

Identified and Settled by me

Pritish Kumar Bose

Advocate

WBPCB

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Regn. No. 101/2015
Kolkata



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Enquiry report conducted in compliance of the directions contained in the solemn order of the Hon'ble NGT dated 04.08.2023 in connection with Original Application No. 82/2023/EZ

In compliance of the subject solemn order of the Hon'ble National Green Tribunal and in furtherance of your reference communication an enquiry has been conducted on 29.08.2023 M/s. Survi Sadan Gaushala, is located at Vill.-Santoshpur, P.S.-Duttapukur, Dist.-North 24 Parganas, under Kashimpur Gram Panchayat (Lat 22.77°N, Long 88.51°E).

Inspecting Officials:

1. Smt. Shama Parveen, A.D.M, North 24 Parganas nominated by District Magistrate North 24 Parganas.
2. Shri Abhijit Pathak, Scientist – D, CPCB.
3. Shri Binalendu Mal, Environmental Engineer. WBPCB.

Person met during inspection:

On behalf of the unit

1. Shri B. K. Newatia, Trustee of Rajasthan Gokalyan
2. Shri Prakash Kedia, Doner of the trustee and others

On behalf of the complainant

1. Shri Avi Bag, Secretary of Santoshpur Mitali Sangha
2. Swami Santirupa Nanda and others

That the following facts have surfaced during the enquiry:

1. Land records, possession and related matters:

- a) It has been found during the enquiry that the concerned Gauushala is situated within a well demarcated boundary comprising mostly of concrete brick walls leaving a very few portions of tin-sheet boundary towards the northern, north-western and north-

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eastern periphery of the Gaushala project compound. The entire land area may be stated to be comprised within the Gaushala.

b) The Gaushala project compound appears to be comprised of the following schedule of land, elucidated in tabular form:

Sl. No.	Mouza & J.L. No.	Involved Plots No.	Classification as per R.O.R	Present Use
1.	Santoshpur, 89	233	Danga	Goushala
2.	Santoshpur, 89	234	Danga	Goushala
3.	Santoshpur, 89	235	Doba	Goushala
4.	Santoshpur, 89	236	Danga	Goushala
5.	Santoshpur, 89	237	Danga	Goushala
6.	Santoshpur, 89	238	Pukur	Goushala
7.	Santoshpur, 89	238/421	Pukur par	Goushala
8.	Santoshpur, 89	239	Bagan	Goushala
9.	Santoshpur, 89	240	Danga	Goushala
10.	Santoshpur, 89	242	Pukur	Goushala
11.	Santoshpur, 89	242/422	Pukur Par	Goushala
12.	Santoshpur, 89	276	Danga	Goushala
13.	Santoshpur, 89	277	Doba	Goushala
14.	Santoshpur, 89	278	Bastu	Goushala

c) The above schedules of plot are not recorded either in the name of the instant respondent no. 7 or in the name of the instant respondent no. 8 of the subject Original Application filed before, NGT.

They have not applied till date for recording their name and hence they are not raiyats in terms of section of W.B.L.R Act, 1955. Since as per the provisions of W.B.L.R. Act,

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Regn. No. : 07/21116
Kolkata



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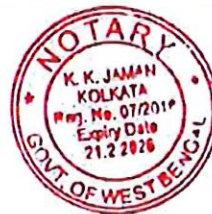
1955 and rules made there under, except a recorded raiyat none can apply for change of recorded classification (Conversion) of land, which also implies to the present case. The Respondents have neither applied for mutation nor conversion.

Remedial measures-The Respondents have been asked to apply for mutation forthwith and which may be done online. After mutation if allowed they have been asked to apply for conversion as per provisions of WBLR Act, 1955.

- d) The above schedule of lands has been recorded in the name of different raiyats. Copies of the plot information are enclosed herewith.
- e) During the physical enquiry it has been observed that the nature of the plot nos. 277, 242, 238 and 282 bearing 'Doba', 'Pukur', 'Pukur' and 'Doba' as recorded classifications, have been physically altered by filling up of the same, which is in violation of Section 4 (C) of the W.B.L.R. Act, 1955.
- f) Notice/s as envisaged U/s 4 (C)(5) of the W.B.L.R. Act, 1955 have been issued on directing the concerned raiyat/s to restore the recorded classification of the said waterbody within a period of 7 days from issuance/receipt of said notice/s.
- Remedial measures- The Respondents will have to restore the waterbody. For waterbody the Act does not allow post facto conversion. Since as submitted by the respondents that the Goushala was constructed prior to 07.11.2017 and so as per the Act there is scope of allowing postfacto conversion for the rest of the plots. So after mutation of all the plots and restoration of waterbody the respondents may apply for conversion through Form 1D as prescribed.
- g) It has been observed during the physical enquiry that boundary walls of concerned gaushala compound are bounded by locality, virtually leaving no gap between the gaushala and locality on the Western and Eastern side and leaves only a gap of 20 feet of a concrete/pucca road on the southern side. On the Northern, North-Western and North-Eastern side the compound boundary is adjacent to agricultural lands. It has also been observed that there are holes in the boundary walls which allows the overflowing waste water to pass over to the adjacent plots and which is the cause of public resentment.

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Remedial measures-The Respondents have been asked to close down all the holes in the boundary wall and take steps such that the waste does not flow over to adjacent agricultural tract.

The gradient of the compound is such that water flow will not be smooth if pumps are placed therein.

The respondents were asked to submit a concrete plan to the authorities of pollution control board and get it vetted. The team as has been formed will visit again after such plan is implemented in the field by the Respondents.

2. Trade license issued: Description of trade "cow-farm", as documented in the trade licenses issued from Kashimpur G.P., which contradicts their verbal declaration that the gaushala is for charitable purpose and for looking after the deserted/disabled cows.

3. Violation of the provisions of Guidelines for Environmental Management of Dairy Farms and Gaushalas published by the Central Pollution Control Board in July, 2021 including CTE/CTO, Sewage disposal and locational hazard:

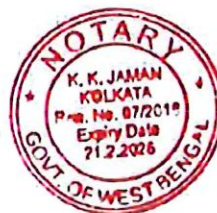
The alleged site is a Gaushala namely M/s. Survi Sadan Gaushala, owned by Rajasthan Gokalyan, a charitable trust. The unit is engaged in taking care of old / sick / abandoned including milking and fertile cows. The unit is rearing the cows under shed. But many cows are being kept under the open sky in the fenced area. The unit has no valid Consent to Operate on the day of visit. As informed, the unit has submitted on line Consent to Operate application on 28/08/2023 just before the day of inspection. The unit uses submersible pump to extract ground water without permission from SWID or CGWA. Over all requirement of water is more than 150KLD, as per CPCB guide line.

The unit is operating since the year 2012 (as stated) located beside the Nilgunj Dutta Pukur Road. The land area of the unit is about 3.56 acre. Sri Ramkrishna Sarada Aashram is situated adjacent to eastern side of the unit which was established in 1999. A school having student capacity 70 is run by the Aashram. Distance between the Ashram Cantcen and cow shade is merely about 10ft. Mitali Sangha and Santoshpur Primary school is situated at a distance of about 70m form the unit at the South-West side. Northern side and western side of the unit is agricultural / vacant land. Some portion of the unit is butted and bounded by brick wall but some major portion of the land is fenced with corrugated tin. At present, there are about 1500nos. of livestock (cows) [Bufflow-01, Calf- 220, Ox-280, Cow-1059] out of which milking cows are 120 in number.

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Kazi Khaleq Ujjaman
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The main source of generation of waste water is floor washing, bathing of livestock and urine output of livestock. As per CPCB guide line estimated solid waste and waste water generation for this unit rearing 1500 bovines are as under:

Cow dung: 22500 Kg/day; Maximum 30000 Kg/day.

Waste water generation: 168000 L/day; Maximum 171000 L/day

The unit has installed an ETP (Effluent Treatment Plant) (which is under commissioning) for treatment of this waste water claimed to have a capacity of 40KLD, but the representative of the unit could not explain / show the drainage network by which the waste water leads to ETP. Gradient of most of the drainage system is opposite to the ETP. No such collection pit or transfer pit for transfer of waste water to ETP was found. No garland drain was observed to arrest surface generated waste water. However, the direct discharge of effluent into the outside farming land / pond was observed along the East to West boundary wall of cow shed. Majority of existing drains inside the premises was found clogged with slurry of cow dung and fodder waste. The unit has made unlawful provision to discharge of untreated waste water outside the boundary wall (North - East side and western side) through openings in the boundary wall.

At the part of fencing made by corrugated tin sheet there is ample scope to spill surface run off to adjacent farm land owned by villagers.

The industry claimed to produce Bio-gas from cow dung which is consumed in house. First hand observation in and around Bio-gas plant it appears that the plant is not designed properly and the operation of the same was discontinuous. The operator and management could not explain the mode of disposal of sludge from dung storage pit and mixer. The Bio-gas is stored in storage balloons which has safety issues too.

Very less quantity of dung is used for making cow dung cakes, which is solely manual. The residue of bio-gas plant and some cow dung is claimed to be utilized used for production of organic manure. However, no scientific composting or Vermi composting facility was observed. The cow dung is kept in heaves within the industry premises.

The unit generates Bio-Medical Waste during treatment of the livestock. The Bio-Medical Waste is not segregated and disposed in compliance with the Bio-Medical Waste Management Rules, 2016. During inspection, unsegregated Bio-Medical Waste was found stored in plastic bags. It was also informed that these collected unsegregated waste are simply handed over to unauthorized collector without even crushing or cutting the injection niddle.

The unit has one D G set of capacity 63 KVA.

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Kolkata



22 SEP 2023

The unit has two chillers of capacity 500L each to store milk. As reported nearly 400L of milk is produced per day. Milk is distributed to the trustee members by single use plastic bottles.

During inspection, it was observed that the unit has developed the low land inside the premises by depositing cow dung and other waste.

No records or diary for dead animals is maintained as informed.

Dumping / accumulation of cow dung slurry and waste water of the unit were found outside the boundary wall of the unit as well as in the open field of the complainant's agricultural / low lying land.

An odour quite characteristic to such firm was smelt from the adjacent localities also.

It was observed that, the gaushala is not having adequate tree coverage.

Environmental Compensation (EC) is not calculated in this report considering that

- a) Gaushala and Dairy farms was brought into the ambit of environmental legislation since July, 2020, however this particular unit is operating since, 2012. The filed visit revealed that the unit has violated land uses and even damaged agricultural land by discharging untreated effluent.
- b) One day site visit is not sufficient to assess the extent of damage of agricultural land and subsequent loss in crop production already done by the unit.

Therefore, opinion of experts from Agricultural Department for detail damage assessment may be proposed before imposing the EC.

Remedial Measures:

Industry has to comply with all applicable Environmental legislator requirements, including permission for ground water extraction.

Drainage inside the premises shall be redesigned ensuring collection and diversion of the waste water to ETP.

Entire boundary wall shall be ensured as leak proof. All the intentional discharge holes in wall shall be sealed immediately.

The capacity of ETP as stated by unit is seemed to under-capacity considering the quantity of waste water generation.

Cow dung is to be removed frequently to minimize the chances of mixing of cow dung with waste water.

Capacity of bio-gas plant is to be increased and the unit may explore to provide the CBG (Compressed Bio Gas) filling system.

Scientific cow dung composting plant is to be adopted and the product is to be disposed of in regular interval.

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Kazi Khalekujjaman
Notary, Govt. of W. B.
Regn. No. : 07/2016
Kolkata



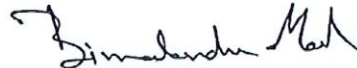
22 SEP 2023

Bio-Medical Waste is to be disposed in compliance with Bio-Medical Waste Management Rules, 2016.


Good housekeeping and cleanliness are to be maintained.


A.D.M. & D.L. & L.R.O.
North 24-Pgs.


Senior Scientist
C.P.C.B.


Environmental Engineer
W.B.P.C.B.

Additional District Magistrate-
District Land & Land Reforms Officer
North 24 Parganas, Barasat

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Kazi Khalekujjaman
Notary, Govt. of W. B.
Regn. No. : 07/2016
Kolkata



22 SEP 2023

(2)

07. This Applicant shall provide comprehensive pollution control equipment and operate and maintain the continuously to conform the quality of the final gaseous emission to the Standard as given below:

Stack No.	Stack height from G.L. (in mts.)	Stack attached to (sources and control system, if any)	Volume Nm ³ /hr	Velocity of gaseous emission (mg/seo)	Concentrations of parameters not to exceed			Frequency of sampling
					SPM (mg./Nm ³)	CO (% v/v)		
S-1								
S-2								
S-3								
S-4								

08. The Applicant shall maintain the generation and treatment/disposal of non-hazardous solid waste as specified below.

Type of waste	Quantity	Treatment	Disposal
Cow Dung	12000 kg/day	-	Re-used.

09. The Applicant shall take adequate measures for control of noise levels from its own sources within its premises to conform to

Time	Limit in dB (A) L _{eq}	Time	Limit in dB (A) L _{eq}
Day time (06 a.m. to 06 p.m.)	65	Night Time (06 p.m. to 06 a.m.)	55

10. The Applicant shall remain responsible for quantity and quality of liquid effluent and air emissions and shall furnish to the State Board all information in respect of quality, quantity, rate of discharge, place of discharge of liquid effluent and air emissions.

11. The Applicant shall at all times maintain good house-keeping, proper working order, control pollution (including fugitive emissions) from all sources to maintain clean environment in & around factory premises and to surrounding areas/inhabitants.

12. The Applicant shall bring about at least 33% of the available open land under the green coverage/ plantation.

13. The Applicant shall provide for sufficient alternate electric power source to operate all pollution control facilities. In absence of such alternate power source, the production should be stopped/reduced/controlled to conform the conditions of the Consent.

14. All the stacks connected to various sources of emissions must be painted/displayed to designate by numbers such as S-1, S-2 etc. and shall have ports, ladder, platform etc. for monitoring/sampling the air emissions and the same shall be made available for inspection and use by the State Board's staff as well as State Board's authorised agencies.

15. The Applicant shall install a separate energy meter showing the consumption of energy for operation of pollution control devices and shall install suitable device for measuring the volume of water consumed for different purposes as mentioned above giving correct result to the satisfaction of the State Board.

16. The Applicant shall allow the Officers of the State Board to enter into the premises of the unit at any reasonable time to inspect the pollution control systems and shall provide adequate and safe facility for collection of air, wastewater and solid waste samples for monitoring and measuring by the State Board's staff as well as State Board's authorised agencies.

17. The Applicant shall maintain an Inspection Book in the factory premises which shall be made available to inspecting officers of the State Board for inspection, review and to write down any direction or observation as is deemed necessary during the inspection.

18. The Applicant shall intimate to the State Board immediately of any occurrence or apprehension of occurrence of discharge of any pollutants in excess of quality and quantity as mentioned above to any receiving water body/system or to atmosphere owing to accident or other unforeseen incident/event including natural disaster and the Applicant shall take adequate steps to prevent such accidental event.

19. The Applicant shall apply for renewal of consent to State Board in prescribed form 60 (sixty) days before expiry of this Consent.

20. The Applicant shall not make any alteration/modification/expansion in the existing manufacturing process and equipment, pollution control system and shall not bring into any altered or new outlet/outfall or slack or change the place of discharge, without prior approval of the Board.

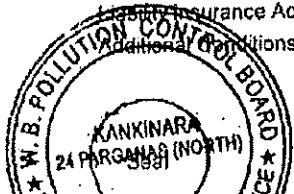
21. The Applicant shall comply with the conditions as laid down in the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989, Hazardous Wastes (Management & Handling) Rules, 1989 and 'Public Liability Insurance Act, 1991.

Additional conditions: Please see enclosed annexure.

For and on behalf of the Board

Bimalendu Mal
21/09/2023

(Member Secretary/Chief Exec. Secy./Exec. Secy./Env. Engr./Asst. Engr./Asst. Secy./Asst. Secy.)





LIFE
Lifestyle for
Environment

West Bengal Pollution Control Board
Barrackpore Regional Office
Panpur More, P.O.: Narayanpur, Kankinara
24-Pgs (N), Pin- 743 126
☎ : 2580 0573, 2502 1960, 2502 1189

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Annexure to Consent-to-Operate Sl. No. CO145359

Special Conditions issued to: **M/s Survi Sadan Goshala**
VIII - Santoshpur, Block - Halder Para,
Adi Kashipur Road
Dist- 24-Pgs (N) - 743248

1. The unit will have to take pollution control measures regarding air, water and noise to keep the parameters within the permissible limit as laid down by WBPCB.
2. The consent will be revoked at any time if there is any complaint against the unit for the violation of E.P. Act.
3. The unit shall maintain a clean & safe environment in and around its premises.
4. Proper & effective steps should be taken so as to ensure that activities do not affect the residents of the neighbourhood in any way.
5. No waste water shall be discharged outside the premises of the unit.
6. Land Conversion Certificate is to be obtained from competent authority.
7. Cow dung is to be removed frequently to minimize the chances of mixing of cow dung with waste water.
8. Any kind of solid waste should not be dumped outside the unit premises.
9. Bio-medical Waste Authorization is to be obtained from the State Board. Bio-medical Waste is to be disposed off in compliance with Bio-medical Waste Management Rules, 2016, as amended.
10. Bio gas plant is to be operated regularly.
11. Unit shall ensure that no waste water is discharged outside the unit premises through the holes in the boundary wall or in any other ways. In this regard, action taken/compliance report shall be submitted to this office within one month here off.
12. Good house keeping is to be maintained.



Bimalendu Majumdar
21/09/2023
Environmental Engineer
Barrackpore Regional Office
Environmental Engineer
W.B. Pollution Control Board
Barrackpore Regional Office

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 82/2023/EZ

SANTOSH PUR MITALI SANGHA

.....APPLICANT(S)

VERSUS

THE STATE OF WEST BENGAL & ORS.

..... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 02
i.e. THE WEST BENGAL POLLUTION CONTROL BOARD.

PRITHWISH KUMAR BASU
ADVOCATE
HIGH COURT AT CALCUTTA

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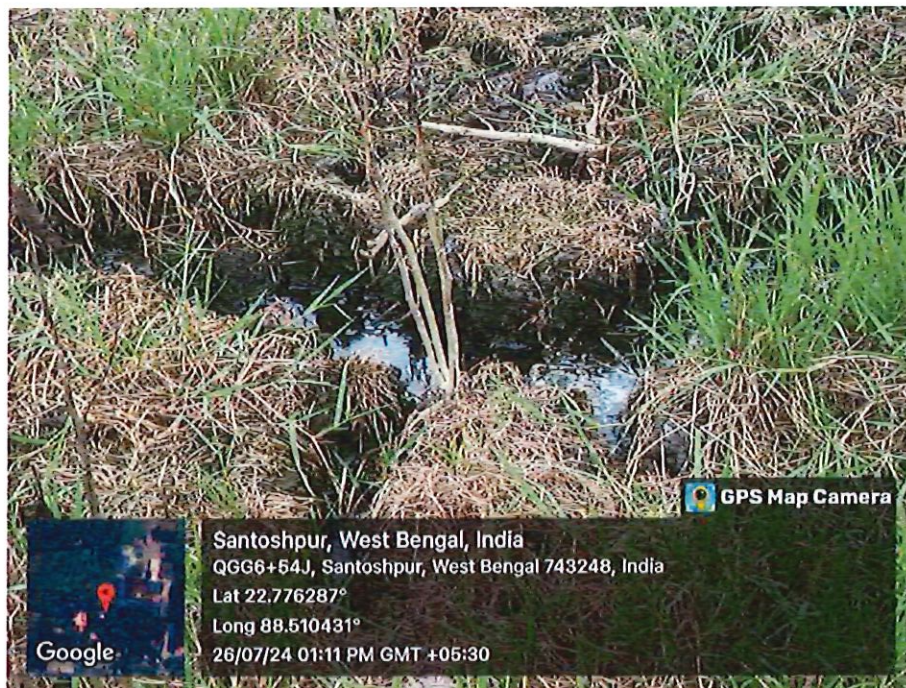

Kazi Khaleelujjaman
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Kolkata

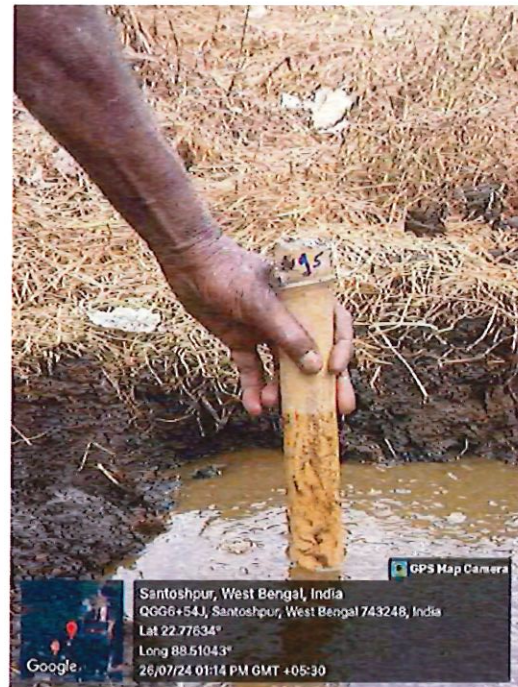


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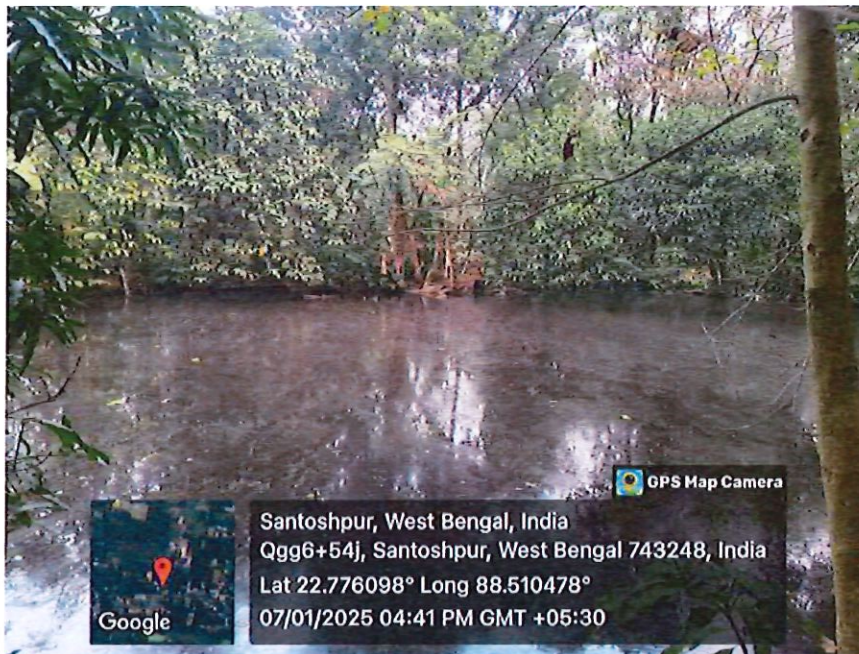
ANNEXURE A/5.

ON JULY 26, 2024, THE APPELLANTS TOOK PHOTOGRAPHS THAT REVEAL A SIGNIFICANT ACCUMULATION OF COW DUNG IN THE ADJACENT AGRICULTURAL FIELD. THE IMAGES DEMONSTRATE THAT WHEN A 15-FOOT BAMBOO STICK WAS INSERTED INTO THE GROUND, IT WAS COVERED ENTIRELY WITH COW DUNG SLUDGE AND SLURRY, INDICATING A DEPTH OF APPROXIMATELY 15 FEET.



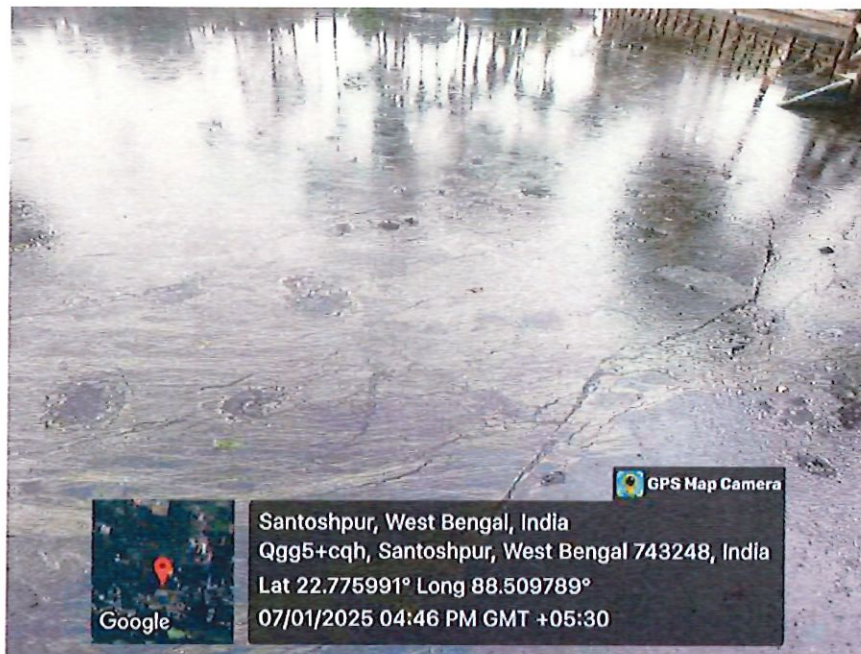


COPY OF THE IMAGES TAKEN BY THE APPLICANTS ON 07.01.2025 SHOWING THAT THE SITUATION IS STILL WORSE IN COMPLETE VIOLATION OF TRIBUNAL'S ORDER:









Fw: Fwd:

1 message

amitava guin <gnmtv@yahoo.co.in>
To: Kol Office <kol_office@dclawchambers.com>

Wed, Jan 8, 2025 at 4:12 PM

Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Wednesday, January 1, 2025, 6:11 pm, MITALI SANGHA SANTOSHPUR <1930mitalisangha@gmail.com> wrote:

----- Forwarded message -----

From: MITALI SANGHA SANTOSHPUR <1930mitalisangha@gmail.com>
Date: Tue, Dec 31, 2024 at 10:02 PM
Subject:
To: <ms@wbpcb.gov.in>

(Through e-mail/speed post)

Date: _.12.2024

TO

THE MEMBER SECRETARY

THE WEST BENGAL POLLUTION CONTROL BOARD

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

Bidhannagar,

Kolkata - 700106

Email: ms@wbpcb.gov.in Ph: 03323358213

Subject: - Legal Representation pertaining to the enforcement of the Hon'ble National Green Tribunal's order dated 11.09.2024 in Original Application No. 82/2024, directing the West Bengal Pollution Control Board to compute the Environmental Compensation against the Suravi Sadan Gaushala and ensure compliance of the remedial measures suggested by the Committee within two months.

Dear Sir/Madam,

1. That the undersigned is a resident of Village Santoshpur, and is the Secretary of the Organisation named Santoshpur Mitali Sangha located at Santoshpur, North 24 Parganas, and has been working for social cause and welfare of the villagers of Santoshpur and is writing this letter to bring to the notice of the concerned authority regarding the directions passed by the Hon'ble National Green Tribunal *vide* Order dated 11.09.2024 in the matter titled *Santoshpur Mitali Sangha vs. State of West Bengal (O.A. No. 82 of 2023)*.

2. An Original Application was filed on July 25, 2023, thereby highlighting the Suravi

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Sadan Gaushala's unregulated activities. The facility, functioning under Rajasthan Gokalyan, has been operating for more than 10 years without the required Consent to Establish and Consent to Operate from the West Bengal Pollution Control Board. These consents are mandatory under the Water (Prevention and Control of Pollution) Act, 1974 and also under the '**Guidelines for Environmental Management of Dairy Farms and Gaushalas**' issued by the Central Pollution Control Board in July 2021. Furthermore, the operation is reportedly in contravention of specific directives issued by the NGT in the *Nuggehalli*

Jayashima vs. Government of NCT of Delhi case (O.A. 46/2018). The Gaushala has been operating without valid permission since 2012, and only applied for a CTO on August 28, 2023-one day before the inspection of a Joint Committee constituted by the Tribunal after filing of the petition.

3. After hearing the matter, the Tribunal constituted a Joint Committee on August 4, 2023, comprising members from the WBPCB, CPCB, and the District Magistrate of North 24 Parganas. An inspection of the Gaushala conducted on August 29, 2023, uncovered several violations, including the absence of a proper garland drain, leading to the direct discharge of cow dung and bovine wastes into the adjacent agricultural land, and an inadequate effluent treatment plant and unauthorized groundwater extraction. Additionally, several plots of the Gaushala are classified as either Doba or Pukur which are not recorded in the name of Gaushala or Rajasthan Gokalyan and has been physically altered by filling up the ponds which is in absolute violation of West Bengal Land Reforms Act, 1955. The relevant extracts are reproduced hereby:

"e) During the physical enquiry it has been observed that the nature of the plot nos. 277, 242, 238 and 282 bearing 'Doba 'Pukur 'Pukur' and 'Doba' as recorded classifications have been physically altered by filling up the same which is in violation of Section 4{C} of the W.B.L.R. 1955.

f) Notice/s as envisaged U/s 4 (C)(5) of the W.B.L.R Act; 1955 have been

issued on directing the concerned raiyat/s to restore the recorded classification of the said water-body within a period of 7 days from issuance/receipt of saidnotice/s.

*Remedial measures- **The Respondents will have to restore the water body.** For water-body the Act does not allow post facto conversion. Since as submitted by the respondents that the Goushala was constructed prior to 07.11.2017 and so as per the Act there is scope of allowing post facto*

conversion for the rest of the plots._So after mutation of all the plots and restoration of water-body the respondents may apply for conversion through Form 1D as prescribed.."

4. The undersigned in this regard submits that the Joint Committee Report dated 22.09.2023 has specifically given its observations/findings:

"g)It has been observed during the physical enquiry that boundary walls of concerned gaushala compound are bounded by locality, virtually giving no gap between the gaushala and the locality on the Western and Eastern side and leaves a gap of 20 feet of a concrete road on the southern side. **On the northern, NorthWestern and North-Eastern side the compound boundary is adjacent to agricultural lands. It has also been observed that there are holes in the boundary walls which allows the overflowing waste water to pass over to the adjacent plots and which is the cause of public resentment.**

[..]

Sri Ramkrishna Sarada Ashram is situated adjacent to eastern side of the unit which was established in 1999. A school having student capacity 70 is run by ashram. Distance between the Ashraam Canteen and cow shade is merely about 10ft. Mitali Sangha and Santoshpur Primary School is situated at a distance of about 70 m from the unit at the South-West side. **Northern Side and Western Side of the unit is agricultural/vacant land.**

[..]

Nagarland drain was observed to arrest surface generated waste water. However, direct discharge of effluent into the outside farming land/pond was observed along East to West boundary wall of cow shed. Majority of existing drains inside the premises was found clogged of untreated waste water outside the boundary wall. There is ample scope to spill surface run off to adjacent farm land owned by villagers.

[..]

Dumping/accumulation of cow dung slurry and waste water of the unit were found outside the boundary wall of the unit as well as in the open field of the complaint's agricultural/low lying land."

5. Further, it is pertinent to note that the Joint Committee Report has accepted that there is a damage to the adjacent agricultural land due to the unscientific discharge of the untreated effluents from the Gaushala and in this regard has given the observation that:

"One day site visit is not sufficient to assess the extent of damage of agricultural land and subsequent loss in crop production already done by the unit. Therefore, opinion of experts from Agricultural Department for detail damage assessment may be proposed before imposing the EC."

Copy of the Joint Committee Report dated 22.09.2023 is annexed herewith as

ANNEXURE A/1.

6. In reply Affidavit dated 22.09.2023, the Gaushala claimed in its defence that it only became aware of the requirement for a Consent to Operate after receiving the petition, stating that this was the first time it learned that operating a Gaushala required a CTO under the Central Pollution Control Board's 2021 guidelines. The Tribunal vide judgment dated August 12, 2024 has completely rejected the defence and stated that *'ignorance of law is no defence'*. The Tribunal emphasized that the Gaushala, given the scale of its operations should have been aware of its potential as a major polluter and should have taken preventive measures in line with the Precautionary Principle.

7. In its August 12, 2024, judgment, the Tribunal held the Gaushala is liable for environmental violations and stated that the Gaushala had been operating without valid permission since 2012, and only applied for a CTO on August 28, 2023--one day before the inspection. It received the necessary permission only on September 21, 2023, after the petition was filed and thus directed the WBPCB to calculate environmental compensation for both present and past violations in view of Polluter's Principle, thereby issuing a show cause notice to the Gaushala, giving them two months' time to respond and also directed the WB PCB to ensure compliance of the remedial measures suggested by the Committee:

"69. We accordingly dispose of this Original Application as well as Execution

Application with a direction to the West Bengal Pollution Control Board, Respondent No.2, to compute Environmental Compensation against the Respondents, Project Proponent, strictly as per law by issuing the Project Proponent a show cause notice and giving an opportunity of showing cause and filing reply to the same. Let this exercise be carried out within a period of two months.

70. We further direct the West Bengal Pollution Control Board to inspect the Gaushala in question at the end of the two months to ensure compliance of the remedial measures suggested by the Committee....

Copy of the NGT Order dated 12.08.2024 is annexed herewith as ANNEXURE

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8. In this regards, the undersigned submits that in the matter titled **State of Madhya Pradesh v. Centre for Environment Protection Research and**

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Development & Ors. (2020) 9 SEC 781, the Hon'ble Supreme Court had

specifically stated that an Order of National Green Tribunal are binding and enforceable on governmental authorities. It was held:

"59. The order passed by the learned Tribunal are binding on and enforceable against the appellant State. As observed above, the learned Tribunal had the power, authority and jurisdiction to direct the appellant State to strictly implement compliance with Rules 115 and

116. An order of the Tribunal under the National Green Tribunal Act is enforceable in the manner provided in Section 25 of the NGT Act."

9. It is further important to note that in the matter titled **Asim Sarode & Anr. vs.**

MPCB & Ors., 2014 SEC Online NGT 1880 the Hon'ble Tribunal while issuing ad-interim orders directing respondents to ensure that there shall be no incident

of burning of tyres, particularly bulk of tyres at the public places like public road, in the locality surrounded by the residential houses directed that any failure to comply with the directions of the Tribunal may result in penal consequences as outlined in Section 26 of the National Green Tribunal Act, 2010, if brought to the attention of this Tribunal.:-

"Byway of Ad-interim measure, we direct that the respondents and if

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necessary, on information given by the Activists or the Applicants, as the case may be, the local police through the State of Maharashtra, Gujarat and Goa, shall ensure that there shall be no incident of burning of tyres, particularly bulk of tyres at the public places like public road, in the locality surrounded by the residential houses, which is likely to cause smoke and health hazard. Any dereliction in this directions, may entail penal consequences as enumerated in Section 26 of the National Green Tribunal Act, 2010, if the same is brought to the notice of this Tribunal. The Applicants may separately furnish copy of this order to the concerned Police Authorities, including the Director General of Police of all the States, Inspector General of Police, the Commissioners of Police etc. for due compliances and the MPCB also to do its part for proper compliance of the order."

10. The undersigned submits that, as of this date, the West Bengal Pollution Control Board has failed to take any action in compliance with the Hon'ble Tribunal's order

dated 12.08.2024. Specifically, no steps have been initiated towards the restoration of the environment, implementation of remedial measures, or the imposition of environmental compensation as directed. This persistent inaction not only contravenes the Tribunal's clear directives but also exacerbates ongoing environmental degradation, undermining the principles of environmental protection and justice.

11. Hence, the undersigned is sending the representation to you and humbly requesting you to take immediate following actions within a period of 15 days of receipt of this letter by your office, otherwise, the undersigned would be constrained to approach the appropriate forum or court:

- i. Compute the Environmental Compensation against the Suravi Sadan Gaushala thereby issuing a show cause notice (Para 69 of the NGT Order);
- ii. Ensure compliance of the remedial measures suggested by the Committee with regard to the restoration of the affected land (Para 70 of the NGT Order).

Yours Sincerely

Shri Avi Bag, Secretary, Santoshpur Mitali Sangha, Banerjee Para, Village -
Santoshpur, P.O. -Adi Kashimpur,
P.S. Duttapukur, North 24 Parganas - 743248. Email:
bagavi.1983@gmail.com Ph: +91 9830557087

Enclosed:

1. Copy of the Joint Committee Report dated 22.09.2023 filed by the West Bengal Pollution Control Board before the National Green Tribunal is hereby annexed as

ANNEXURE I.

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2. Copy of the Order dated 12.08.2024 passed by the Hon'ble National Green Tribunal is hereby annexed as ANNEXURE Af2.

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
 VAKALATNAMA

Santoshpur Mitali Sangha Appellant(s)/Petitioner(s)

VERSUS

State of West Bengal and Ors. Defendant(s)/Respondent(s)

KNOW ALL to whom these present shall come that I/We
Avi Bag the above named Applicant do
 hereby appoint (herein after called the advocate/s) to be my/our Advocate in
 the above noted case authorized him :-

Ritwick Dutta, Rahul Choudhary, Kaustav Dhar, Advocates.
N-73, Lower Ground Floor, Greater Kailash-I, New Delhi - 110048.

To act, appear and plead in the above-noted case in this Court or in any other
 Court in which the same may be tried or heard and also in the appellate Court
 including High Court subject to payment of fees separately for each Court by
 me/ us. To sign, file verify and present pleadings, appeals cross objections or
 petitions for execution review, revision, withdrawal, compromise or other
 petitions or affidavits or other documents as may be deemed necessary or
 proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of
 opposite party.

To withdraw or compromise the said case or submit to arbitration any
 differences or disputes that may arise touching or in any manner relating to
 the said case. To take execution proceedings. The deposit, draw and receive
 money, cheques, cash and grant receipts thereof and to do all other acts and
 things which may be necessary to be done for the progress and in the course
 of the prosecution of the said case. To appoint and instruct any other Legal
 Practitioner, authorizing him to exercise the power and authority hereby
 conferred upon the Advocate whenever he may think it to do so and to sign
 the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done
 by the Advocate or his substitute in the matter as my/our own acts, as if done
 by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would
 appear in the Court on all hearings and will inform the Advocates for
 appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his
 substitute responsible for the result of the said case. The adjournment costs
 whenever ordered by the Court shall be of the Advocate, which he shall receive
 and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or
 part of the fee agreed by me/us to be paid to the Advocate remaining unpaid
 he shall be entitled to withdraw from the prosecution of the said case until
 the same is paid up. The fee settled is only for the above case and above Court.
 I/We hereby agree that once the fee is paid, I /we will not be entitled for the
 refund of the same in any case whatsoever. If the case lasts for more than
 three years, the advocate shall be entitled for additional fee equivalent to half
 of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents
 the contents of which have been understood by me/us on this
8 day of January 2025.

Accepted subject to the terms of fees.



Ritwick Dutta

Rahul Choudhary

es Kaustav Dhar

Avi Bag
Client