

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

M.A. NO.02/2022/EZ

IN

ORIGINAL APPLICATION NO. 23/2018/EZ

TRIBUNAL ON ITS OWN MOTION APPLICANT(S)

VERSUS

WEST BENGAL POLLUTION CONTROL BOARD & ORS.

RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 01, 02,03 THE
WEST BENGAL POLLUTION CONTROL BOARD.

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Filed by

Sibojyoti Chakrabarti
SIBOJYOTI CHAKRABARTI
ADVOCATE
W.B.P.C.B

Email:- subho.advocate@gmail.com
(M):- 9007035534

- 9 APR 2022





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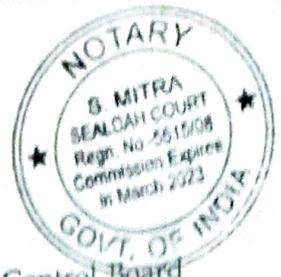
**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 01, 02,03 THE
WEST BENGAL POLLUTION CONTROL BOARD.**

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 01, 02 & 03,
THE WEST BENGAL POLLUTION CONTROL BOARD.**

Most Respectfully Sheweth

I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 58 years, by faith-Hindu, by Occupation- Service, residing at Narkelbagan, Gorosthan, Chinsurah, District - Hooghly, do hereby solemnly declare and say as follows

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01. That, I am the Chief Engineer, West Bengal Pollution Control Board (hereinafter will be referred to as the 'State Board') and 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 Respondent No. 01 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 04.04.2022.

03. That, The Hon'ble Tribunal vide its order dated 30.09.2020, was pleased to disposed of the original application being no OA 23/2018(Subir Adhikari Vs West Bengal Pollution Control Board & Ors) observing and directing that :-

"4. In view of the above, we find the unit appears to be compliant except that it should operate within the prescribed parameters and the Environmental Compensation assessed against requires to be recovered. The State PCB shall take appropriate action for compliance of this.

5. A report of compliance shall be filed before the registry on or before 05.12.2020 by e-mail at judicial-ngt@gov.in.

04. That when the matter was taken up by the Hon'ble National Green Tribunal in this instant application, the Hon'ble Tribunal was pleased to direct the West Bengal Pollution Control Board to file the compliance report.

04. That before dealing the matter the deponent seek leave state the actions taken by the State Board against the unit, which are as follows :-

- (i) The unit is operating in the name & style M/s. Hindustan Engineering & Industries, Located at PO- Jagacha, PS - Santragachi, Howrah 711 111
- (ii) The applicant has lodged a complain before the board. On the basis of complaint a hearing was hold by the Public Grievance Cell of West Bengal Pollution Control Board.
- (iii) A Record of Proceedings was issued to the industry from the Public Grievance Cell of WBPCB vide no. 2014-5L/WPB-2015/H-0001 on 11/03/2015. It was recorded therein that industry had expanded its shed/structure and activities without obtaining Consent to Establish from the State Board and also operating the machinery in the expanded portion without valid Consent to Operate of the Board.
- (iv) A technical hearing was held on 17/12/2015 by WBPCB and subsequently Direction was issued to the industry vide no. 367-PCB/HOW/108-97 dt.13/01/2016 with a Bank Guarantee (BG) of Rs.5 Lakhs.



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- (v) Industry duly submitted the BG vide their letter dt.08/02/2016.
- (vi) Complaint lodged on 16/03/2016 against the industry by complainant Mr. Subir Adhikary for unauthorized expansion.
- (vii) Subsequently industry submitted a letter on 06/04/2016 informing about modernizing their plant and steps taken to reduce noise.
- (viii) Industry submitted Consent to Establish application for addition, alteration of existing factory shed and upgradation of existing paint booth on 23/05/2016. NOC (NO. 126395) for upgradation / modernization of paint booth and shed was granted by WBPCB vide memo no. 98-PCB-HOW-108-97 dt.29/09/2016.
- (ix) During inspection of industry on 21/03/2017, it was learnt from Mr. Subrata Adhikary, brother of complainant that noise level generated from the unit had reduced compared to previous occasions. No adverse comments were made in the inspection report. Hence BG (Ref Sl. 3 above) was duly released in April 2017.
- (x) Several RTI applications were filed by complainant Mr. Subir Adhikary seeking various information about the industry from time to

time. RTI application was also filed by Smt. Aishwarya Roy seeking details about industry. Replies were sent for all RTI queries to the applicants.

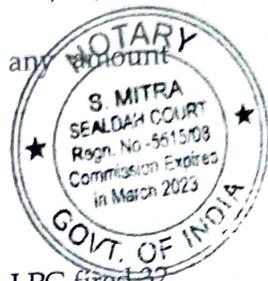


(xi) Industry submitted Consent to Operate application on 19/05/2017. Industry also submitted a letter on 27/11/2018 informing that NOC application for the new 32 MT Heat Treatment Furnace (installed as a replacement of earlier oil-fired furnaces - 5 nos.) shall be applied shortly. Installation of such HTF requires prior Consent to Establish of the Board especially since industry is located within HMC and attracts Siting Policy of the Board.

(xii) Consent to Operate (CO.113726) was thereafter granted by WBPCB on 30/11/2018 vide memo no. 171-PCB-HOW-108-97 with a condition that LPG fired 32 MT capacity Heat Treatment Furnace (installed as a replacement of earlier oil-fired furnaces - 5 nos.) shall not be operated without obtaining permission from State Board.

(xiii) O.A. No. 23/2018/EZ was filed by Mr. Subir Adhkary before Hon'ble NGT and order was issued by the Hon'ble NGT after hearing on 21/07/2020. Accordingly industry was inspected on 07/08/2020 by WBPCB. During inspection, no significant noise was recorded, the heat treatment furnace was seen to be idle and not in operation. The unit was in partial operation with reduced staff due to ongoing Covid-19

(xviii) An affidavit was filed before the Hon'ble NGT on 05/12/2020 as per earlier direction of Hon'ble NGT on 30/09/2020 mentioning that industry had till then not submitted any amount towards EC.



(xix) The EC had been imposed since the industry set up a LPG fired 32 MT capacity Heat Treatment Furnace as a replacement of earlier 5 nos. oil-fired furnaces. Setting up any new machinery without Consent to Establish is considered as non-compliance.

(xx) Be it mentioned that as per provisions of siting policy of the State Board, any diversification/modification/modernization/expansion of existing Red category within Kolkata Metropolitan Area, like this industry is located in HMC area, is allowed in only after reviewing its pollution potential. As such it falls within consent mechanism.

Copy of the relevant documents are annexed herewith and marked as Annexure -R1.

05 That, as the unit has failed to submit Environmental Compensation. The State Board has requested the District Magistrate Howrah to initiate the proceeding under provision of " Bengal Public Demands Recovery Act, 1913."

Copy of the letter is annexed herewith and marked as Annexure -R2.

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06. Be it mentioned that a large no of proceedings have been initiated under provisions of " Bengal Public Demands Recovery Act, 1913." For recovery of Environmental compensations before the Certificate Officers of different district, which are still pending.

07. the deponent humbly state that the West Bengal Pollution Control Board is committed to implement the provisions of the environmental norms as well as the direction of the Hon'ble Tribunal passed from time to time in it true spirit.

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



Subrata Ghosh
DEPONENT

VERIFICATION

I, Sri Subrata Ghosh, son of Shri Biswanath Ghosh, aged about 58 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.

- 9 APR 2022

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 6 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.

Sarbani Mitra
DEPONENT

Identified by me

S. Sankar

Advocate

WBPCB



Solemnly Affirmed &
Declared Before me
on Identification by...
S. Mitra
SARBANI MITRA
NOTARY
Regd. No.-5515/08

- 9 APR 2022

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Annexure - R/1

Date: 08/12/2014

To
The Chairman
West Bengal Pollution Control Board
Paribesh Bhavan
10A, Block - LA, Sec - III
Salt Lake City
Kolkata - 700 098

WEST BENGAL POLLUTION CONTROL BOARD
KOLKATA
- 8 DEC 2014

NOTARY
S. MITRA
SEALDAH COURT
Regn. No. - 5515/38
Commission Expires
in March 2023
GOVT. OF INDIA

Re: Complaints about Noise Pollution and Air Pollution from an industrial unit at Santragachi known as 'Hindusthan Engineering & Industries Ltd'

Respected Sir,

I recently learned about the mechanism of 'Redressal of public grievances' being followed by WBPCB and so I felt the need to bring to your kind notice about Noise and Air Pollution that we are facing at our own residence from an industrial unit whose details are as follows:

Name of the industrial unit: -
Hindusthan Engineering & Industries Ltd. (HE&I Ltd)
Engineering Unit:
Santragachi Plant
P.O. Jagacha,
P.S. Howrah
District: Howrah

Head office of the industrial unit: -
Hindusthan Engineering & Industries Ltd. (HE&I Ltd)
Modi Building
27, R.N. Mukherjee Road,
Kolkata - 700 001

Aforesaid company is a private sector company belongs to Hindusthan Group and it's their engineering unit that manufacture rolling products like freight bogies, flat wagon, goods wagon, side frames, bolsters. Originally erstwhile there was an old closed wagon factory in Santragachi and after acquiring the factory in the year 1988 this company is operating the factory. Its location was far from our land and residence when the company had commenced the operation of the factory.

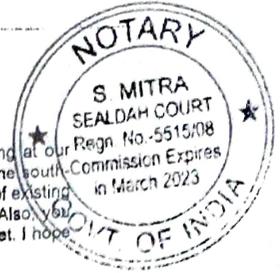
It is been noticed in recent times by us over the last 2 - 3 years that the company has undertaken a big expansion of its workshop by acquiring few plots of private open lands and houses. The threshold of the expansion is so large that it has erected a new workshop just beside to our house virtually covering the vacant land it had in possession long years back. Now, we are facing noise pollution from the sounds that are being generated from heavy machining operation as well as sounds from other activities inside the workshop. In order to register our problems and seek solutions I have made following communications:-

- > Email communication being sent on 05/11/2014 to the company's plant administration and followed by a registered post on 11/11/2014 (copy enclosed for reference).
- > Letter submitted on 25/11/2014 to the company's head office (copy enclosed for reference).
- > Letter submitted on 28/11/2014 to the District Magistrate, Howrah and Commissioner of Police, Howrah (copy enclosed for reference)

Contd.....P/2

S. Mitra

SAMIR BHATTACHARYA
Regd No. 940/87
Govt. of India
NOTARY, CALCUTTA



All my aforesaid communications are self-explanatory of the problems that we are facing at our residence and as such needs no repetition. Further I have also drawn up rough map of the south end (backside) of the factory just to make it convenient to view at first sight of the location of existing and new workshops as well as the surroundings besides it where our house is situated. Also, you will find a pictorial indication of the problems that has been highlighted, in the attached sheet. I hope that both will facilitate you to understand the complaints easily.

I herewith express my doubt whether the company has actually obtained necessary consent of expansion before undertaking the expansion of its workshop. We feel that our right to live in peace, comfort and quiet at our residence is very much vulnerable to get disturbed from industrial pollution. Hence, we feel it is very much important for a fresh physical investigation by your engineer particularly to the backside (i.e south-end) of the factory. It would definitely establish the problems that I have now submitted to your goodself.

I would now seek your help and involvement in issuing necessary instruction to the company in accordance to your findings in this matter. I hope you will understand our problems and will take up prompt action towards speedy redressal of our grievances.

Please acknowledge the receipt of the letter along with its all enclosure.

Thanking you,

Yours faithfully,

Subir Adhikari
(A family member of Late Shri Sushil Kumar Adhikari)

Residence Address:
Village - Sultanpur,
P.O. Jagacha
P.S. Santragachi
Dist.: Howrah
Pin - 711 111
Tel: 8274986814, 9038463000
Email: subiradhikari.kol@gmail.com

Encl.:

- 1) Copy of email communication dated 05/11/20014 sent to the company's plant administration.
- 2) Copy of letter dated 25/11/2014, submitted to company's head office
- 3) Copy of letter dated 28/11/2014 submitted to the District Magistrate, Howrah
- 4) Copy of letter dated 28/11/2014 submitted to the Commissioner of Police, Howrah
- 5) Un-scaled map of south-end (backside) of HEI factory showing its location and surroundings.
- 6) Highlights of the problems at the back-side of HEI Factory shown by pictorial indication in a sheet

P.S: I am following up with the office of District Magistrate as well as Commissioner of Police, Howrah and it is under process for conducting an inquiry by respective offices on this matter.

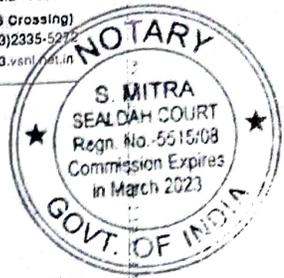


All Communication
to State Board
Should be
Addressed with
Number, Date and
Subject



WEST BENGAL POLLUTION CONTROL BOARD

(Department of Environment, Government of West Bengal)
Paribesh Bhawan, 10A, Block - LA, Sector III, Bidhannagar, Kolkata - 700098
(Near Beliaghata & E.M. By-Pass Crossing)
Ph.: (033)2335-8212, Fax: (033)2335-5212
Internet: www.wbpcb.gov.in, Email: wbpcbnet@cal3.vsnl.net.in



Memo No: 0124 5L/WPB/2015/H-0001

Dated: 27/01/2015

To:

Hindusthan Engineering & Industries Ltd.

Village/Town- Sultanpur, PO- Jagacha, PS-
Santragachi, Dist.-Howrah PIN: 711111

Sub. : Complaint related to environmental pollution

Take notice that a complaint has been lodged against you/your unit/ Establishment for causing environmental problem.

Therefore, you are hereby informed to appear before the hearing Officer of the State Board on 12/02/2015 at 12:50 Hours at Paribesh Bhawan, 4th Floor, Bldg. 10A, Block-LA, Sector-III, Bidhannagar, Kolkata- 700 098, along with all statutory licenses, including Consent of the State Board, if any and status of Pollution Control system.

In case of non appearance, the State Board will issue necessary regulatory order and take legal step against your unit/ Establishment considering the records kept and maintained by the State Board, without any further reference.

A copy of complaint petition is enclosed herewith for necessary reference.

Yours faithfully,

Sd/-
Sr. Environment Engineer,
Public Grievance Cell

Memo No: 0124 5L/WPB/2015/H-0001

Dated: 27/01/2015

Copy Forwarded to:

Subir Adhikari, S/o: Lt. Sushil Kumar Adhikari

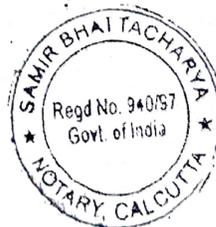
Village/Town: Sultanpur, PO- Jagacha, PS- Santragachi, Dist.:
Howrah PIN: 711111

(He/She/They is/are requested to remain present in the hearing on the date and time mentioned above or send some authorized representative for that purpose)

Amman 27.01.2015
Sr. Environment Engineer,
Public Grievance Cell

Visiting time to meet the officers of the Public Grievance Cell of the West Bengal Pollution Control Board at Paribesh Bhawan Bidhannagar, Kolkata-700098.

For any correspondence if any should be mentioned.
For any complaint may Public Grievance Cell, Paribesh Bhawan, 4th Floor, From 1600 Hrs. to 1700 Hrs.
For any complaint, for any monitoring success may kindly be mentioned by the complainant.



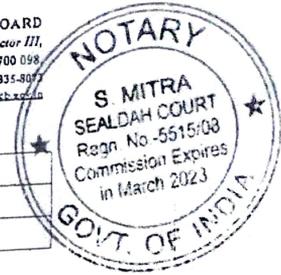
All communication to State Board should be addressed with Number, Date and Subject



WEST BENGAL POLLUTION CONTROL BOARD
Paribesh Bhawan, 10A, Block - LA, Sector III,
Salt Lake City, Kolkata - 700 098
Ph.: (033)2335-9088/9913, Fax: (033)2335-8977
Website: www.wbpcb.gov.in

PUBLIC GRIEVANCE CELL

Complainant(s)	Respondent(s)
Subir Adhikar.	Hindusthan Engineering & Ind. Ltd.,
Date : 12-02-2015	Time : 12-50 Hrs.



RECORD OF PROCEEDINGS

Sri Subir Adhikary, Sri Amitava Chatterjee appeared on behalf of the complainant. Sri A. Maitra, Sr. Manager - Personal, appeared on behalf of the respondent unit.

It is a public complaint against one engineering workshop allegedly causing air pollution, noise pollution and other hazards.

Both the complainants have submitted that they are suffering tremendously from noise pollution, air pollution and other environmental hazards due to activities of the respondent unit. They are specially suffering from fabrication job and painting activities of the unit.

Representative of the unit failed to produce the valid 'Consent to Operate' of the State Board during hearing.

An inspection was caused on 27-01-2015 by the State Board official.

It reveals from the inspection report that the unit which is large one has expanded its shed/structure and activities without obtaining 'Consent to Establish' from the State Board.

Considering the overall scenario and as the unit is operating machineries in the expanded portion without valid 'Consent to Operate' of the State Board, the unit is directed not to operate any activities in the expanded area with immediate effect.

The Officer in Charge, Sentragachi Police Station is requested to oversee that the unit should not operate its activities without valid 'Consent to Operate' of the State Board.

Sd/-
(Dr. D. Chakraborty)
Sr. Scientist, P.G. Cell.

Sd/-
(A.K. Bhunia, WBHS)
Dist. Judge (Retd.)



No. ^{11/3} SL/WPB-2015/H-0001

Dated: -02-2015.
11/3

Copy forwarded to :-

1. M/s. Hindusthan Engineering & Ind. Ltd., Santragachi Plant, P.O. Jagacha, P.S. Santragachi, Howrah-711111.
2. Sri Subir Adhikari, S/o. Lt. Sushil Kumar Adhikari, ^{L.O/S.} Sultanpur, P.O. Jagacha, P.S. Santragachi, Howrah-711111.
3. The Officer in Charge, Santragachi Police Station, Santragachi, Dist: Howrah.
4. The General Manager, District Industries Centre, Dist: Howrah.
5. The Senior Environmental Engineer, Camac Street Circle Office, WBPCB.
6. The Sr. Environmental Engineer, Howrah Regional Office, WBPCB.
(Sl. Nos. 5 & 6 are requested to mail the follow up action within fortnight positively to debasarkar@wbpcb.gov.in with a copy to chairman@wbpcb.gov.in).

[Signature]
 Sr. Environmental Engineer, P.C. Cell,
 W.B. Pollution Control Board.

Visiting time to meet the Officers of the Public Grievance Cell of the West Bengal Pollution Control Board at "Paribesh Bhawan", Salt Lake, Kolkata-700098.
 • Every working day - Public Grievance Cell, "Paribesh Bhawan", 4th Floor, From 15.00 Hrs., to 17.00 Hrs.
 • At the time of submitting a complaint, the name, address and telephone no., (if any) of the person or organization against whom the complaint is filed, should be given.





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West Bengal Pollution Control Board
(Department of Environment, Govt. of W.B.)
Howrah Regional Office
7, Haradev Bhattacharjee Lane,
P.O. & P.S. Shibpur, Howrah-711 102
Phone: 2678-4677

Inspection Report

Name & address of the unit : M/s. Hindustan Engineering & Ind. Ltd.
Santragachi Plant, P.O. Jagacha, P.S. Santragachi,
Howrah - 711 111.

Local Body : Howrah Municipal Corporation, (Ward no. 46)

Electricity Supply Authority : CESC.

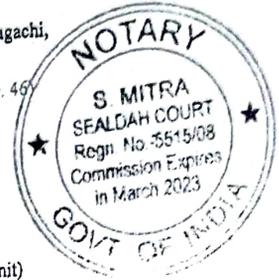
Date of Inspection : 27/01/2015.

Inspection Officers(s) : S. Mardi, SEE & In-charge, How. R.O.
D. Chattopadhyay, AEE, How. R.O.

Person(s) meet during Inspection : Sri Subir Adhikari, Complainant
Sri A. Maitra, Sr. Manager - Personnel, (Unit)
(M/s. Hindustan Engineering & Ind. Ltd.)

Status of Consent : Valid up to 31/01/2017

Ref. of Inspection : 0124 5L/WPB/2015/H-0001 dated 27/01/2015



Observation:

The unit concerned (against whom the complaint is lodged) is a large Engineering work shop engaged in fabrication job for mfg. / production of Railway wagon and its' component. Activity includes, cutting of metal sheets, Welding, riveting, shot blasting, spray painting etc.

The unit is situated (main gate) aside Santragachi Jheel, comprising of vast area, having 40 Acres of land approx. Activity area of the unit is shedded and the remaining position is vacant in the back.

Complainant's house is situated adjacent to the boundary of the unit. The unit is having open land also beyond the complainant house. In fact, there is pocket of residential establishment (7-8 houses) exists at the rear portion of the existing activity area of the unit. Complainant house is one of that. It is learnt 2(two) more properties/ establishment were there in that cluster. However, the unit purchased those and acquired / included the land within their property.

It is apparent that the unit has made some expansion of their shed and structure and increased its' activity area, towards complainant residence. Besides, fabrication activity is also noted in the open area adjacent to the complainant's residence.

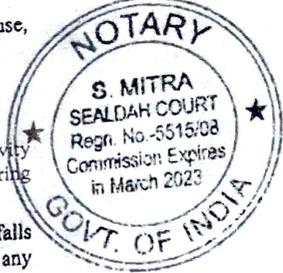
Intermittent sound level generated due to its' activity was noted to be high enough as compare to the background sound level and sometimes it is as high as 82.7 dB(A) as it

1 of 2



... be measured from complainant's terrace, whereas, back ground sound level was observed as 59 - 60 dB(A) maximum.

The unit has also constructed a new shed beyond (a bit away) Sri Adhikari's house, stated to be for setting up a new power house of the unit.



Remarks:

This is the fact that the unit has expanded its' shed/ structure and increased its' activity area. A portion of land is also included with their property, as it could be learnt during inspection.

The unit is situated within the ward no. 46 of Howrah Municipal Corporation, falls under the purview of Orange Category industry. However the unit has not taken any permission from WBPCB for their expansion.

This is the fact that the activity of the unit is noise generating in nature and considerable effort/ pre-caution is required to maintain the environmental norms for such a big unit engaged in heavy fabrication job.

It may be mentioned that the State Board has subsequently received another complaint of same nature from one Sri Amitava Chatterjee and it is obvious that the adjacent neighbour will have to face the same consequence due to the activity of the unit.

[Signature]
10/02/15

(D.Chattopadhyay)
Asst. Env. Engineer, W.B.P.C.B
Howrah Regional Office

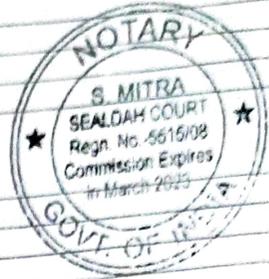
[Signature]
10/02/15

Sr. Env. Engineer, W.B.P.C.B &
In-charge, Howrah Regional Office



Inspection Report cum Check List

Inspection reference	Letter of the CE (O&E) dt. 27/7/2020 following Hon'ble NGT order dt. 21/7/2020 in connection with O.A. no. 23/2018/EZ.
Name of the industry	M/s. Hindusthan Engineering & Industries Ltd., Engineering unit-Saunragachi Plant.
Address	Jagacha
P.O. & Pin code	Jagacha, 711111
P.S	Saunragachi
District	Howrah
Local Body / Authority	HMC
Power supply authority	CESC
Category of industry	Red (Heavy Engineering) > Rs. 10 crores)
Date & Time of inspection	07/8/2020; 16:00 hrs. to 17:00 hrs.
Date of previous visit	15/04/2018
Inspecting officers	Sri C. Dawn, AEE
Persons met during inspection	Sri Nikhil Ganguly, Manager (Personnel)
Observation	None
[A] Sources of generation of liquid waste	
[B] Facilities available for treatment	NA
[C] Generation of sewage and its treatment/disposal	Sewage (generated from WC) goes to soakpit (via septic tank). Other domestic type wash water goes to HMC drain.
[D] Observation & comments on performance of treatment facility of liquid waste	-----
[E] Sources of generation of gaseous emission	(i) Heat treatment furnace (HTF)- 1 no. (capacity-32 MT, LPG-fired) (ii) Shot blasting m/c- 1 no. (iii) Paint booth with electrical drying oven- 1 unit. (iv) DG set- 2 nos. (500 KVA each)
[F] Facility available for treatment of gaseous emission	(i) The HTF is provided with a stack-18m GL. (ii) The shot blasting m/c is provided with bag-filter followed by stack-18m GL. (iii) Paint booth is provided with an integrated filter system and is connected to a stack- 20m GL. (i) The DG sets are of 'Green' type & provided with stacks of adequate height.
[G] Observation & comments on performance of treatment facility for gaseous emission	During visit, none of the emission sources were in operation.
[H] Observation on noise pollution generated from industrial process along with measured levels (if measurement required)	-----
[I] Information regarding solid waste generation and disposal/storing facility	(i) Steel scrap- stored in a designated area of the plant and sold out from time to time. (ii) APC dust (of shot blasting)- used in landfilling, after storing in bags.
[J] Information regarding Hazardous waste generation and onsite storing facility	(i) Used DG filters- kept in store room, yet to be disposed. (ii) Used oil- stored in MS drums under shed and disposed to reprocessors, as informed. (iii) Empty paint containers/drums- kept in store room, yet to be disposed. (iv) Oil/paint contaminated jute/cloth- kept in store room, yet to be disposed.
[K] Status of Hazardous Waste Authorisation	Applied online (no. hw0000000002757 dt. 18/9/2018). Feedback given by WBPCB on 29/11/2018. The unit did not respond on EMIS thereafter.
[L] Storing of Hazardous Chemicals under MSHC rules	-----



<p>[M] Status of consent to establish</p>	<p>Possess valid NOC</p> <p>At present whether NOC required If yes, whether applied for NOC</p> <p>If yes, NOC applied on</p>	<p>Yes (NO126395 dt. 29/9/2016 to paint drying oven & two 500 x sets)</p> <p>Yes [for the LPG fired HTF (capacity-32 MT) through its letter dt. 27/11/2016 mentioned that NOC application would be submitted for the LPG-fired HTF (capacity-32 MT) and that it will not be operated without permission]</p> <p>Not applied till date</p>
<p>[N] Status of consent to operate</p>	<p>Possesses valid consent to operate</p> <p>If yes, validity upto</p> <p>If no, whether applied for consent</p> <p>If yes, applied on</p>	<p>Yes [excluding the LPG-fired HTF (capacity-32 MT)]</p> <p>31/01/2021</p> <p>----</p> <p>----</p>
<p>[O] Status of water cess</p>	<p>Water cess paid upto 30/6/2017 in full.</p>	

Any other relevant information:

The unit, engaged in manufacturing of railway wagons, was in partial operation during visit. It was observed that only in some small part of the workshed fabrication activities were going on. The activities also included some hammering (manual) and grinding operations.

It was informed that the unit is presently operating with reduced staff due to COVID-19 pandemic. No heat treatment & forging operations are carried out in the unit as such operations are all done through the Dankuni plant as reported by the unit personnel. The forging shop of the unit has been converted to a store. The LPG-fired HTF (capacity-32 MT) was seen to be idle.

Earlier, as per consent to operate application dated 18/3/2009, the unit was granted permission to operate 5 nos. oil-fired furnaces (0.3 MT/hr each). None of these furnaces exists at present. It was informed that the present LPG-fired HTF (capacity-32 MT) has been installed in place of the earlier 5 nos. oil-fired furnaces (0.3 MT/hr each).

Noise due to activities of the unit was measured outside the unit on the Western side where there is a locality. Noise levels obtained were:

- Inside the workshed and in the vicinity of the activity area- 74 dBA L_{eq}
- In the locality falling on the Western side and adjacent to the unit- 56 dBA L_{eq}
- Ambient noise level- 48 dBA L_{eq}

No dust & fumes were being emitted during the time of visit as no source of emission was in operation.

Remarks/recommendation:

- (i) Noise level in the work area was found to be 74 dBA L_{eq} & that found adjacent to the unit was 56 dBA L_{eq}. Unit was in partial operation condition due to COVID-19 pandemic.
- (ii) The unit has installed the LPG-fired HTF (capacity-32 MT) without any CFE/CFO of the State Board.
- (iii) The unit is located in HMC area where modification/expansion of existing Red category industry is allowed on a case to case basis by the Board depending on relevant factors. However, the unit has not applied for NOC & CFO for its LPG-fired HTF (capacity-32 MT).
- (iv) The unit is liable to obtain Hazardous Waste Authorization from the State Board.
- (iv) Decision as deemed fit & proper may be taken.

Chiranjit Das 13/9/20
(signature of visiting official)

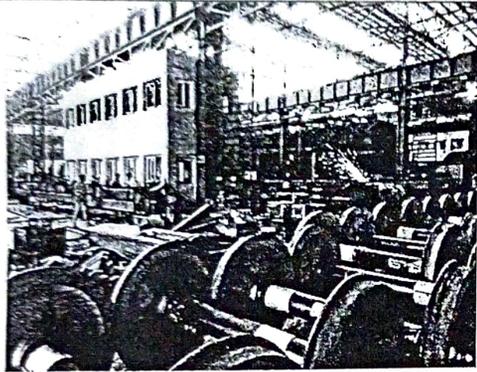




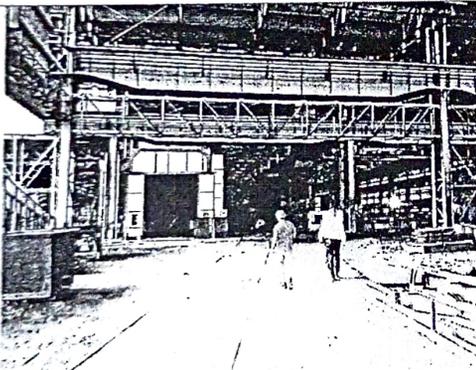
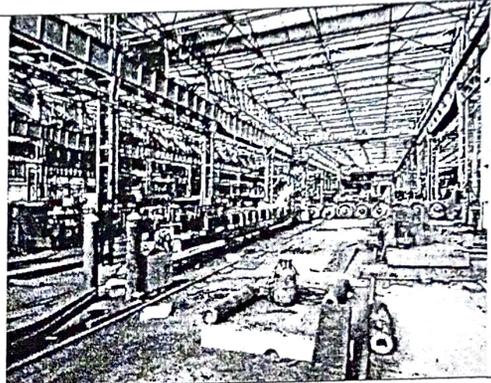
The earlier forging shop converted to store



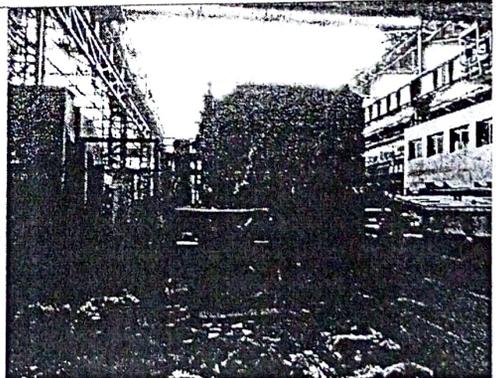
The 'Green' DGs on the right & finished wagon bases on rails on the left



Activity areas within the workshop



Paint booth entrance as viewed from the rear of workshop



Dryer exit as viewed from inside workshop





WEST BENGAL POLLUTION CONTROL BOARD
(Department of Environment, Govt. of West Bengal)
Paribesh Bhawan, Bldg. No. 10A, LA Block,
Sector-III, Bidhannagar, Kolkata-700 098
Tel: 2335-9088, 2335-7428, 2335-8211, 2335-8073, 2335-6731
Fax: (0091) (033) 2335-2813

Memo No.

-PCB/HOW/108-97

Date: /10/2020

To
M/s. Hindusthan Engineering & Industries Ltd.
Santragachi Plant, P.O.- Jagacha, P.S.- Santragachi
Howrah - 711 111

Sub: Show cause Notice for failure to submit Environmental Compensation (EC)

Ref: State Board's Direction vide No. 1177-PCB/HOW/108-97 dated 26/08/2020

It is observed from the available office record that you have not yet submitted the Environmental Compensation (EC) amounting to Rs. 10,00,000/- (Rupees Ten Lakhs). Hon'ble NGT, Principal Bench, New Delhi has also issued an order vide dated 30.09.2020 directing the State Board to recover the EC amount from the industry. You are therefore directed to immediately submit the Environmental Compensation (EC) amounting to Rs. 10,00,000/- (Rupees Ten Lakhs) and to explain the reason for non-submission of the same.

Sd/-
Chief Engineer (O&E)

Memo No. 1309(2) - -PCB/HOW/108-97

Date: 16/10/2020

Copy to:

- 1) The Environmental Engineer, In-charge of Howrah Regional Office, WBPCB
- 2) The Senior Law Officer, WBPCB

Chief Engineer (O&E)





WEST BENGAL POLLUTION CONTROL BOARD

(Department of Environment, Government of West Bengal)

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

Salt Lake City, Kolkata - 700 106

Ph.: (033)2335-9088/8212, Fax : (033)2335-8073

Website : www.wbpcb.gov.in E-mail : net.wbpcb-wb@bangla.gov.in

Memo No. 97/3L/WPB-C(11) 2020

Dated: 08/04/2022

To
The District Magistrate, Howrah
Dist. Howrah, West Bengal.

Sub: Initiation of Certificate Proceeding in terms of the direction of the
Hon'ble National Green Tribunal passed in M.A.NO. 2 OF 2022.

The National Green Tribunal is a body constituted under National Green Tribunal Act, 2010 having power of Civil Court. The National Green Tribunal has its Eastern Zonal Bench at Kolkata who has jurisdiction over the environmental matters in West Bengal.

In compliance to the order of the Hon'ble National Green Tribunal, the State Board issued a direction upon the respondent unit (M/s. Hindusthan Engineering and Industries) having factory at P.O. - Jagacha, P.S.- Santragachi, Howrah - 711111, for payment of Environmental Compensation of Rs. 10,00,000/- (Rupees Ten Lakh) only. The unit is yet to deposit the amount to the State Board.

The Hon'ble National Green Tribunal vide its order dated 04.04.2022 directed the State Board to take necessary steps for recovery of the same. The Direction of the Hon'ble Tribunal and State Board is enclosed herewith.

You are hereby requested to initiate the Certificate proceeding in terms of the order of the Hon'ble National Green Tribunal at the earliest for recovery of the compensation amount.

AJeh
8/4/2022
Member Secretary

West Bengal Pollution Control Board
Dated: /04/2022

Memo No.

Copy forwarded to :

1. C.E.(O & E), WBPCB - For information.
2. The In-charge, Howrah Regional Office, WBPCB-For information.
3. The Senior Law Officer, WBPCB -For information.

AJeh
8/4/2022
Member Secretary

West Bengal Pollution Control Board



Item No. 01

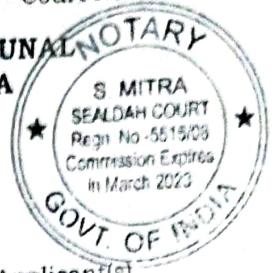
Court No. 1

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

M.A. No.02/2022/EZ

In

Original Application No. 23/2018/EZ



Tribunal on its own Motion

Versus

West Bengal Pollution Control Board & Ors.

Applicant(s)

Respondent(s)

Date of hearing: 04.04.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : *Suo motu*

For Respondent(s) : Mr. Sibojyoti Chakraborty, Adv. for WBPCB, (in Virtual Mode)
Mr. Sandipan Banerjee, Advocate a/w Ms. Amrita
Pandey, Advocate for HMC, (in Virtual Mode)

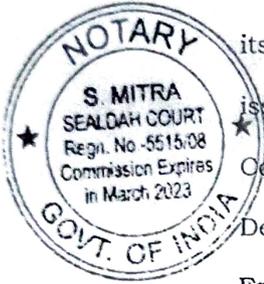
ORDER

1. The Tribunal in para 4 of its order dated 30.09.2020 had quoted the following directions given by the West Bengal State Pollution Control Board which are also being reproduced herein below:-

- a) That, the industry shall not operate LPG-fired HTF (capacity-32 MT) without obtaining "consent to operate/consent to establish" from the West Bengal State Pollution Control Board.
- b) That, the industry shall apply for hazardous waste authorization before the West Bengal Pollution Control Board.
- c) That, the industry shall take necessary acoustic measure and ensure that under no circumstances the noise level exceeds the permissible standard as per the observation of the Hon'ble National Green Tribunal.
- d) That, the industry shall submit an Environmental Compensation of Rs. 10,00,000/- (Rs. Ten Lacs Only) within 10 days from the date of issue of this letter, by Demand Draft in favour of West Bengal State Pollution Control Board payable at Kolkata for non compliance of environmental norms."

2. The West Bengal Pollution Control was also required to file a report of compliance on or before 05.12.2020.

3. An affidavit, purporting to be an affidavit of compliance, sworn on 04th December, 2020, by one Sri Amar Nath Goswami, claiming to be the Senior Law Officer, West Bengal Pollution Control Board has been filed on behalf of the West Bengal Pollution Control Board.
4. In this affidavit, all that has been stated is that the State Board imposed an Environmental Compensation of Rs. 10,00,000/- (Rupees Ten Lakhs only) upon M/s Hindustan Engineering & Industries Ltd., Kolkata, vide its order dated 26.08.2020 and thereafter a show cause notice was also issued on 16.10.2020 for non-submission of Environmental Compensation and one reminder was also issued but till date (i.e., till 4th December, 2020), the said unit had not submitted any amount towards Environmental Compensation.
5. The affidavit is absolutely silent as to what action has been taken for recovery of the amount of Rs. 10,00,000/- (Rupees Ten Lakhs only) towards Environmental Compensation against M/s Hindustan Engineering & Industries Ltd. The affidavit is also silent with regard to the directions given in para 4 (a), (b) & (c) of the order of the Tribunal dated 30.09.2020.
6. First and foremost, we may observe that Sri Amar Nath Goswami, Senior Law Officer, West Bengal State Pollution Control Board, is not authorized to swear the affidavit as per directions of the Hon'ble Supreme Court, affidavit in Judicial Proceedings should be filed by an officer not below the rank of Joint Secretary. Sri Amar Nath Goswami, as Senior Law Officer, ought to have been aware of the Hon'ble Supreme Court's directions. Secondly, the affidavit does not state whether the directions given in para 4 (a), (b) & (c) of the order of the Tribunal dated 30.09.2020 have been complied with or not, which means that deponent is guilty of non-filing of proper compliance report.



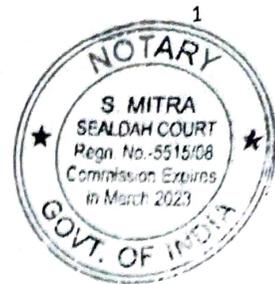
7. We, therefore, impose a personal cost of Rs. 25,000/- (Rupees Twenty Five Thousand) upon Sri Amar Nath Goswami, Senior Law Officer, West Bengal State Pollution Control Board, for withholding information from the Tribunal with regard to compliance of the directions given in para 4 (a), (b) & (c) of the order of the Tribunal dated 30.09.2020.
8. We regret to say that Mr. Sibojyoti Chakraborty, Counsel for West Bengal Pollution Control Board who is not 65 years of age or above is not present in the Court physical and is appearing through Virtual Court Proceedings.
9. We grant the West Bengal Pollution Control Board further one week time for filing affidavit. We also make it clear that if the affidavit is not filed on or by 11.04.2022, the Chairman, West Bengal Pollution Control Board as well as the Member Secretary, West Bengal Pollution Control Board, shall be physically present in the Court on the next date fixed with their personal affidavits and explanations.
10. **List on 12.04.2022.**

.....
B. Amit Sthalekar, JM

.....
Saibal Dasgupta, EM

April 04, 2022
M.A. No.02/2022/EZ
In
Original Application No.23/2018/EZ
AK





Item No. 02

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 23/2018/EZ

Subir Adhikari Applicant(s)

Versus

West Bengal Pollution Control Board & Ors. Respondent(s)

Date of hearing: 30.09.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant (s): Ms. Malabika Roy Dey, Advocate

For Respondent(s): Mr. Sibojyoti Chakraborty, Advocate for
WPPCB.
Mr. Sandipan Banerjee and Ms. Amrita
Pandey, Advocates for HMC.
Mr. Bikas Kargupta, Advocate for
Respondent No. 5.

ORDER

1. By this application expansion of the Respondent No. 6 industry has been challenged. It is stated that the Respondent No. 6 industry is engaged in the manufacture of rolling products like freight bodies, flat wagon, goods wagon, side frames, bolsters, etc. from its plant at village Sultanpur, Post Office Jagacha, Police Station Santragachi, District Howrah and is adjacent to the house of the Applicant. The expanded part of the industry is



stated to be engaged in operations such as manufacturing, welding, painting, etc., and while undertaking such activities exudes noise in excess of the permissible limit and, the paint fumes and dust emission arising therefrom causes severe air pollution. It is alleged that Consent to Establish and Consent to Operate have not been obtained by Respondent No. 6 for carrying out the activities in the expanded portion of the industry. Order of the State Pollution Control Board (PCB) dated 12.02.2015 not to undertake such activities in the expanded area without Consent to Operate have been ignored. Even trade licence for the expansion has not been obtained by the industry. Inspection carried out by the State PCB on 03.09.2015 against the complaint of violation of the order dated 12.02.2015, it found that the industry was still carrying on with its expanded activities. The hearing thus conducted by the Board had resulted in the Respondent No. 6 giving an undertaking that it shall not operate without taking mitigation measures and in furnishing bank guarantee of ₹5 lakhs directed. However, as per the Applicant, the illegal activity continued unabated despite the undertaking.



2. Vide order dated 16.03.2020, while noting that the unit had been issued with Consent to Operate on 30.01.2013, the State PCB was directed to inspect the unit in question and verify on the factual aspects and to submit a report. It was further directed that if the allegations were found to be correct, action in accordance with law be instituted against the Respondent No. 6 unit.
3. In our order dated 21.07.2020, it was observed that the unit has been issued with both the Consent to Establish and Consent to Operate by the State PCB. The report of the State PCB filed by way of an affidavit on 28.09.2020 states as follows:

"....
03. *That, in pursuance to the order of the Hon'ble National Green Tribunal dated 21.07.2020, the State Board Officials physically inspected the said unit, i.e., M/s. Hindusthan Engineering & Industries Santragachi Unit on 07.08.2020.*

Copy of the inspection report is annexed herewith and marked with letter 'R1'.

04. *That, in the said inspection it is recommended/ remarked following facts:-*

i) *Noise level in the work area was found to be 74dBALeq & that adjacent to the unit was 56dBALeq. It is pertinent to mention herein that the unit was partially functioning with less no. of staffs due to the Covid-19 pandemic situation at present.*

ii) *The unit has installed the LPG-fired HTF (capacity-32MT) without any CFE/CFO of the West Bengal State Pollution Control Board.*

iii) *The unit is located in Howrah Municipal Corporation Area, where modification/ expansion of existing red category industry is*



allowed on a case to case basis by the State Pollution Control Board depending on relevant factors. It is pertinent to mention again herein that the said unit has not applied for NOC & CFO for its LPG-fired HTF (capacity-32MT).

iv) The unit is liable to obtain Hazardous Waste Authorization from the State Board.

04. That, in pursuance of the said inspection the West Bengal State Pollution Control Board issued specific directions, vide memo no. 1177(05)-PCB/HOW/108-97 dated 26.08.2020 to the said unit herein, i.e. M/s. Hindusthan Engineering & Industries Limited, Santragachi Unit. The directions are prescribed below in the following manner:-

a) That, the industry shall not operate LPG-fired HTF (capacity-32MT) without obtaining "consent to operate/consent to establish" from the West Bengal State Pollution Control Board.

b) That, the industry shall apply for hazardous waste authorization before the West Bengal State Pollution Control Board.

c) That, the industry shall take necessary acoustic measure and ensure that under no circumstances the noise level exceeds the permissible standard as per the observation of the Hon'ble National Green Tribunal.

d) That, the industry shall submit an Environmental Compensation of Rs. 10,00,000/- (Rs. Ten Lacs Only) within 10 days from the date of issue of this letter, by Demand Draft in favour of West Bengal State Pollution Control Board payable at Kolkata for non compliance of environmental norms.

Copy of the said directions dated 26.08.2020 is annexed hereto and marked with the letter-R2. „

.....

4. In view of the above, we find the unit appears to be compliant except that it should operate within the prescribed parameters and the Environmental Compensation assessed against requires to be recovered.



The State PCB shall take appropriate action for compliance of this.

5. A report of compliance shall be filed before the registry on or before 05.12.2020 by e-mail at judicial-ngt@gov.in.
6. With this, the O.A. stands disposed off in terms of the above observations and directions.

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

30th September, 2020
O.A. No. 23/2018/EZ
avt

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE, KOLKATA**

ORIGINAL APPLICATION NO. 127/2015/EZ

RAM CHANDRA MARDI & ORS.

..... APPLICANT(S)

VERSUS

WEST BENGAL POLLUTION CONTROL BOARD & ORS.

..... RESPONDENT(S)

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 01, THE
WEST BENGAL POLLUTION CONTROL BOARD.**

Filed by

**SIBOJYOTI CHAKRABARTI
ADVOCATE
W.B.P.C.B**

Email:- subho.advocate@gmail.com

(M):- 9007035534