

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
KOLKATHA BENCH
MEMORANDUM OF APPLICATION /APPEAL NO.84 OF 2022**

IN THE MATTER OF:

T.V. GEORGE

....APPLICANT

VS.

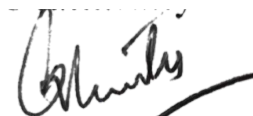
THE CHAIRMAN, RAILWAY BOARD
MINISTRY OF RAILWAY & ORS

.....RESPONDENTS

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Filed by:



Counsel for the Appellant
223, New Lawyers Chamber
Supreme Court of India
New Delhi – 110001
Mob.9811579561
Email:-tvassociates@gmail.com
Enr.No.D/586-G/1996

New Delhi

Dated:28.01.2023

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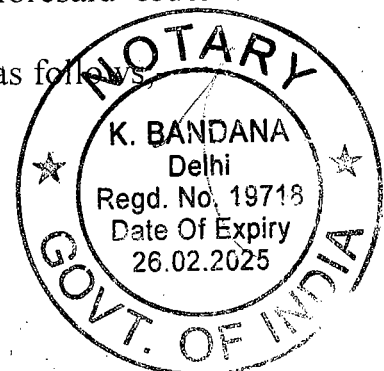
**REJOINDER TO AFFIDAVIT FILED BY RESP.NO.3, THE
WEST BENGAL POLLUTION CONTROL BOARD DATED
05.12.2022**

I, T.V. George, aged 52 years, S/o late Varkey Thomas, having Office at 223, M C Setalvad Chamber Block, Supreme Court, New Delhi, presently at New Delhi do hereby solemnly affirm and declare as under:

That I am the applicant in the aforementioned application, and as such I am competent to swear this rejoinder affidavit.

PRELIMINARY SUBMISSION

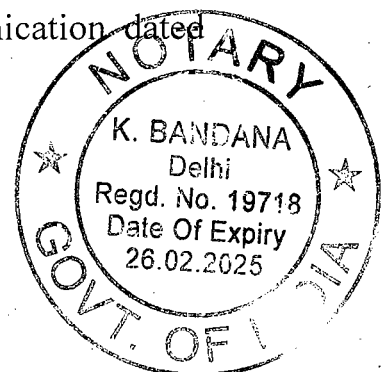
1. It is submitted at the outset that West Bengal Pollution Control Board Has not fully complied with the order passed by this Hon'ble Tribunal on 29.09.2022. In the aforesaid order dated 29.09.2022 this Hon'ble Court had directed as follows



“We, therefore, direct the West Bengal Pollution Control Board, Respondent No.3, to file a fresh affidavit bringing on record the air quality report of post monsoon and also compute Environmental Compensation for environmental violations”.

The West Bengal Pollution Control Board has not computed the environmental compensation for environmental violation as directed by this Hon'ble Tribunal. It is further submitted that inspection carried out on 02.11.2022 and 3.11.2022 cannot be considered as inspection carried out in post monsoon time. It is submitted that in recent years the monsoon rains continues in November and even to December and therefore an inspection conducted on 2.11.2022 and 03.11.2022 cannot be considered as post monsoon inspection and will not correctly reflected the extent of pollution faced by the residents of Birpara Township during most part of the year particularly during the summer months.

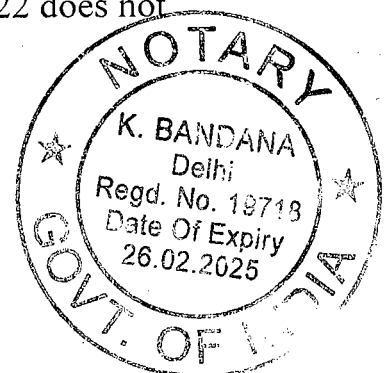
2. Secondly and more importantly, it is surprising that inspite of giving a categorical direction to the railway authorities not to operate the railway siding at Dalgaon without obtaining consent to operate from the state board vide its communication dated



04.08.2022, the West Bengal Pollution Control Board does not refer at all to this direction and the blatant violation of the aforesaid direction by the railway authorities which was going on in front of their officials during the inspections carried on at two occasions at the direction of this Hon'ble Tribunal. It is admitted by all the respondents that the said railway siding at Dalgaon is being operated since 2003 without the necessary consent to operate from the State Pollution Control Board. It is also on record that the volume and extent of operation has multiplied several times since then. Nevertheless the authorities concerned including the West Bengal Pollution Control Board has failed to take any punitive action against the persons responsible for carrying on the Dalgaon railway siding is a matter of great concern as it constitute a challenge to the principle of rule of law and also raises doubts about the bonafides of West Bengal Pollution Control Board.

Para wise reply

Para 1 – 3 The contents of para 1 to 3 of the affidavit filed on behalf of Resp.No.3 dated 05.12.2022 does not require any response.

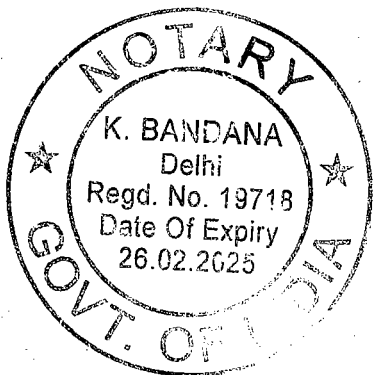


Para 4

In response to the contents of para 4 of the affidavit filed on behalf of Resp.No.3 dated 05.12.2022, it is submitted that this Hon'ble Tribunal had also directed the West Bengal Pollution Control Board to compute the compensation for the environmental violation committed by the illegal operation of railway siding by the respondents railway authorities. However the West Bengal Pollution Control Board has not complied with this part of the direction of this Hon'ble Tribunal dated 29.09.2022

Para 5

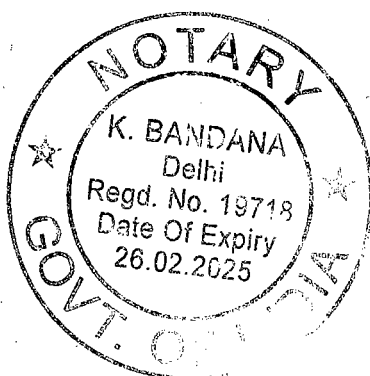
In response to the contents of para 5 of the affidavit filed on behalf of Resp.No.3 dated 05.12.2022, it is submitted that inspection carried out on 02.11.2022 and 3.11.2022 cannot be considered as post monsoon time. It is submitted that in recent years the monsoon rains continues in November and even to December and therefore an inspection conducted on 2.11.2022 and 03.11.2022 cannot be considered as post monsoon inspection and will not correctly reflect the extent of pollution faced by the residents of Birpara



Township during most part of the year particularly during the summer months. Moreover, it is important to emphasise West Bengal Pollution Control Board themselves have reported that the pollution control measures taken by the railway authorities are not adequate.

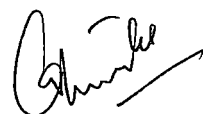
Para 6 In response to the contents of para 6 of the affidavit filed on behalf of Resp.No.3 dated 05.12.2022, it is emphasised that according to report of West Bengal Pollution Control Board, no ambient air quality monitoring system is installed by the railway authorities as on the date of inspection.

Para 7 In response to the contents of para 7 of the affidavit filed on behalf of Resp.No.3 dated 05.12.2022, it is submitted that an inspection carried out on the 1st and 2nd November, is not reflective of the ambient air quality during most of the year particularly during the summer months. Moreover since this inspection are carried out with prior knowledge of the railway



authorities, they can and do manage the ambient air quality for the purpose of inspection during these particular days. It is only a continuous monitoring over a period of time can actually disclose the ambient air quality on a realistic basis. Even in this inspection carried out under these circumstances the ambient air quality is admittedly is beyond the standard norms at least in one location

Para 9 – 10 No comments.



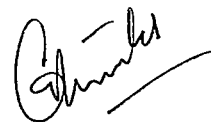
DEPONENT

VERIFICATION

Verified at New Delhi on 27th _ day of January, 2023 that the contents of the above affidavits are true and correct to my knowledge and nothing materials has been concealed therefrom.

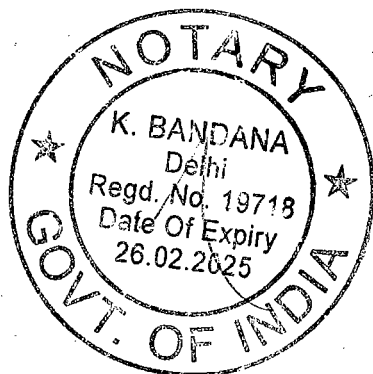
self

27 JAN 2023



DEPONENT

IDENTIFIED



ATTESTED

NOTARY PUBLIC, DELHI
GOVT. OF INDIA



T V George <tvgeorge2000@gmail.com>

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**O.A No.84 OF 2022 titled T.V. GEORGE VS. THE CHAIRMAN, RAILWAY BOARD
MINISTRY OF RAILWAY & ORS**

1 message

T V George <tvgeorge2000@gmail.com>
To: dpnjnghsh0@gmail.com, rajib.ray23@gmail.com

Sat, Jan 28, 2023 at 6:56 AM

Dear Sir,

Kindly find in the attachment a copy of the response to the affidavit filed by resp.no.3 the west Bengal Pollution Control Board dated 05.12.2022 in the aforementioned matter.

Regards,

T.V. GEORGE ADV.

 **REJOINDER NGT.pdf**
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