

To: *Rajib Ray*
By: *Rajib Ray*
Advocate

Before the National Green Tribunal, Eastern Zone Bench,
Kolkata

Original Application No – 19/2023/EZ

Alep Mondal & Ors.

...Applicant.

-Versus-

The State of West Bengal & ors.

....Respondents.

INDEX

Sl. No.	Particulars	Pages
1.	Affidavit	
2.	Annexure- "A"	
3.	Annexure- "B"	

Filed by:

Rajib Ray

Mr. Rajib Ray,
Advocate,

Bar Association Room No. 13,
High Court, Calcutta
Mob-9830132729/7980422764
Email: rajib.ray23@gmail.com



SERIAL 2736.24 MAR 2023

Before the National Green Tribunal, Eastern Zone Bench,
Kolkata

Original Application No - 19/2023/EZ

Alep Mondal & Ors.

...Applicant.

-Versus-

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....Respondents.

AFFIDAVIT IN COMPLIANCE ON BEHALF OF THE RESPONDENT
NO. 5 i.e. DISTRICT MAGISTRATE, MURSHIDABAD.

I, Shri Dibyendu Sarkar, son of Shri Dilip Kumar Sarkar, aged about 32 years, by faith: Hindu, working for gain as the Deputy Magistrate and Deputy Collector, Murshidabad of West Bengal, having office at Berhampore, Murshidabad, do hereby solemnly verify and say as follows :-

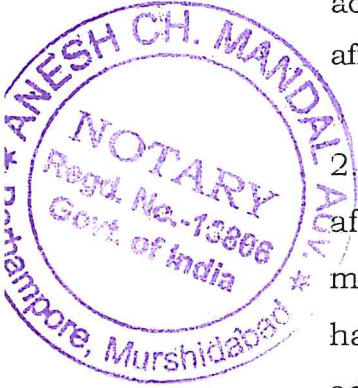
A.C. Mandal
24 MAR 2023
ANESH CH. MANDAL
Notary Public
Govt. of India
Regd. No.- 13806
Berhampore, Murshidabad

1. That I am the Deputy Magistrate and Deputy Collector, Murshidabad of West Bengal and have been duly authorized by the respondent no.5 to affirm this affidavit on his behalf. I have made myself acquainted with the facts and circumstances of this case and competent to affirm this affidavit.

2. That I have read a copy of the application purported to have affirmed by Alep Mondal, the applicant no. 1 herein (hereinafter mentioned as the "said application") and on perusal of the same, I have understood the purports and contents thereof. I have been advised to deal with and/or traverse only those allegations of the said application which are material for proper adjudication of the case, which I hereby do, save and except what are specifically admitted herein all the statements made in paragraphs of the said applications are denied and as if they have been traversed in seriatim.

3. That this affidavit is being affirmed in pursuant to the solemn order dated 10.02.2023 passed by the Hon'ble Tribunal, whereby the Hon'ble Tribunal was pleased to direct all the respondents to file counter affidavit within four weeks.

4. That in pursuance of the order dated 10.02.2023 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, the District Magistrate of Murshidabad by letter vide Memo No --108/HC/RM/En dated 24.02.2023 and also by letter vide Memo No-109/HC/RM/En dated 24.02.2023 directed the Environmental Engineer, Malda Regional Office, West Bengal Pollution Control Board, the General Manager, District Industries Centre, Murshidabad and the Sub

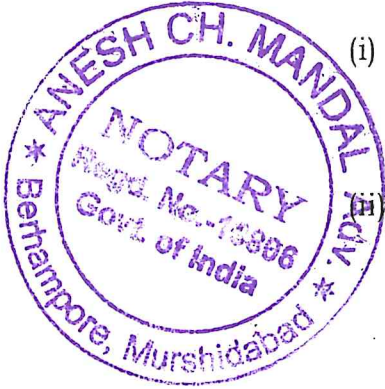


A.C. Mandal
24 MAR 2023
ANESH CH. MANDAL
Notary Public
Govt. of India
Regd. No.- 13806
Berhampore, Murshidabad

divisional Officer, Domkal Sub-Division to send report regarding the power loom unit in question and relevant environmental compliance.

The photocopies of the said letters are enclosed herewith and marked as annexure "A".

5. That on 09.03.2023 a joint inspection was conducted by Sub-Divisional Officer, Domkal, Murshidabad alongwith the Senior Environmental Engineer , West Bengal pollution Control Board and other officials and following observations were made during the site inquiry :



- (i) The units cannot operate without valid consent to operate from WBPCB for Power loom operation.

The sound level is above day time permissible limit for residential area (i.e. 55 dB(A) considering the noise level as more than 10 dB (A) than the ambient noise level, the unit is recommended to take necessary steps for reducing the noise pollution.

- (iii) The consent to establish certificate issued by GM DIC suggests that the gross capital investment is 3.79 lakh only. Considering this size and scale of operation and also considering the prevailing noise level during power loom operation, which is just above the daytime commercial standers of 65 dB(A), the unit may be advised to take only basic steps for reduction of noise level, which shall include-

A.C. Mandal
24 MAR 2023
ANESH CH. MANDAL
Notary Public
Govt. of India
Regd. No.- 13806
Berhampore, Murshidabad

1. The shed should be converted either to a double walled room with 6 inches gap between outer and inner wall or inner surface of existing wall may be puss insulated. The current size of shed of power loom and approx. area available for making changes has been measured as approx. 5m x 5mx and approx x9m x 9m respectively by BL&LRO and his team. Use of noise insulation material like saw dust is preferred. Ventilation and adequate lighting should not be compromised.
2. Inside surface of swing door should be insulated with thermocol.
3. The roof should be covered with low cost sound insulation material like straw.
4. Use of noise absorbing plants is recommended as a long-term measure
5. Other actions may be taken as deemed fit and proper.



The photocopy of the said joint inspection report dated 09.03.2023 is enclosed herewith and marked as annexure "B".

6. It is therefore prayed that the Hon'ble Tribunal may pass necessary order or further orders as it deem fit and proper in the interest of justice.

A.C. Mandal
 24 MAR 2023
 ANESH CH. MANDAL
 Notary Public
 Govt. of India
 Regd. No.- 13806
 Berhampore, Murshidabad



6

7. The statements made in paragraph 1 to 5 are based on information derived from the record which are usually kept and maintained by the answering respondents in the ordinary course of business and which I believe to be true and rest thereof are my humble submission before this Hon'ble Tribunal.

Prepared in my office


Advocate


Deponent

Identified by me



SARIF SARKAR
ADVOCATE
Berhampore, Murshidabad
En. No.-F/1458/1258/2021

Solemnly affirmed before Me
the.....day of.....24 MAR 2023
by the Deponent Bhai
Bibiyendu Sarkar
Identified by.....S. Sarkar
.....Advocate/Self

A.C. Mandal
24 MAR 2023
ANESH CH. MANDAL
Notary Public
Govt. of India
Regd. No.- 13806
Berhampore, Murshidabad

OFFICE OF
THE DISTRICT MAGISTRATE
& COLLECTOR,
MURSHIDABAD
(HIGH COURT CELL)



-F- Annexure - 'A'

New Administrative Building,
Berhampore, Dist: Murshidaba
PIN: 742101, West Bengal
E-mail: highcourtcell.ms@gmail.com

Memo No: 108/Hc/RM/En

Court Matter Urgent

Dated: 24.02.2023

To: 1. The Environment Engineer,
Maldah Regional Office,
West Bengal Pollution Control Board,
Paribesh Bhavan
Vill: Abhirampur, P.O.: Mokdumpur,
P.S.: English Bazar, Dist: Malda
PIN: 732103, Email: net.wbpcb_wb@bangla.gov.in .

2. The General Manager,
District Industries Centre, Murshidabad,
20/1, C.R.Das Road, P.O.& P.S.: Berhampore, Pin:-742101
Mail: dic_murshidabad@yahoo.co.in
gmmurs.msse_wb@nic.in

Subject : Direction for sending report regarding the power loom unit and relevant environmental compliance in compliance with the Solemn Order dated 10-02-2023 of the National Green Tribunal Eastern Zone Bench, Kolkata, i.c.w. Original Application No. 19/2023/EZ, in the matter of Alep Mondal & Ors. -VS- The State of West Bengal & Ors.

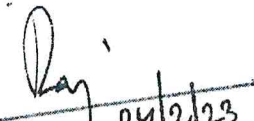
Enclosed please find herewith Solemn Order dated 10-02-2023 of the National Green Tribunal Eastern Zone Bench, Kolkata, i.c.w. Original Application No. 19/2023/EZ, in the matter of Alep Mondal & Ors. -VS- The State of West Bengal & Ors. which speaks of itself.

In connection he is directed to send report regarding the power loom unit and relevant environmental compliance to this office as well as directly to I.d. State Advocate Mr. Rajib Ray (Phone No. 7980422764, Email:- rajibray23@gmail.com) within Ten days of the receipt of this memo.

The General Manager, District Industries Centre, Murshidabad, is also directed to keep direct liaison with the I.d. State Advocate Mr. Rajib Ray, and solicit necessary instruction to him i.c.w. Original Application No. 19/2023/EZ, in the matter of Alep Mondal & Ors. -VS- The State of West Bengal & Ors.

This may be treated as most urgent.

Encl: As Stated

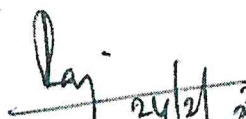

24/2/23
District Magistrate and Collector,
Murshidabad.

Memo No: 108/1(L)/Hc/RM

Copy forwarded for kind appraisal, information and taking necessary action to:

Dated: 24.02.2023

The P. A to Additional District Magistrate (General), Murshidabad.


24/2/23
District Magistrate and Collector,
Murshidabad

OFFICE OF
THE DISTRICT MAGISTRATE
& COLLECTOR,
MURSHIDABAD
(HIGH COURT CELL)



New Administrative Building,
Berhampore, Dist: Murshidabad,
PIN: 742101, West Bengal
E-mail: highcourtccll.ms@gmail.com

Memo No: 109/Hc/RM/E3

Court Matter Urgent

Dated: 24.02.2023

To: The Sub-Divisional Officer,
Domkal Sub-Division,
Domkal, Murshidabad.


Subject : Direction for sending report regarding the power loom unit and relevant environmental compliance in compliance with the Solemn Order dated 10-02-2023 of the National Green Tribunal Eastern Zone Bench, Kolkata, i.c.w. Original Application No. 19/2023/EZ, in the matter of Alep Mondal & Ors. --VS- The State of West Bengal & Ors.

Enclosed please find herewith Solemn Order dated 10-02-2023 of the National Green Tribunal Eastern Zone Bench, Kolkata, i.c.w. Original Application No. 19/2023/EZ, in the matter of Alep Mondal & Ors. --VS- The State of West Bengal & Ors. which speaks of itself.

In connection he is directed to send report regarding the power loom unit and relevant environmental compliance to this office, as the representative of the undersigned, at the earliest of the receipt of this memo.

This may be treated as most urgent.

Encl: As Stated



Additional/District Magistrate (General),
Murshidabad.

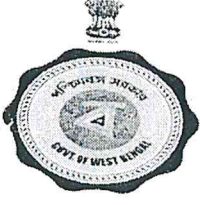
Memo No: 109/1(L)/Ac/RM

Dated: 24.02.2023

Copy forwarded for kind appraisal, information and taking necessary action to:

The P. A to District Magistrate & Collector, Murshidabad.


Additional District Magistrate (General),
Murshidabad



Annexure - 'B' - 9

Government of West Bengal
Office of the Sub-Divisional Officer
Domkal, Murshidabad
sdo-domkal@murshidabad.gov.in



Memo. No. 467/Dom/En

Date: 10/03/2023

To

To
The Additional District Magistrate (General),
Murshidabad.

Sub: Submission of report regarding the power loom unit and relevant environmental compliance in respect of solemn order dated 10.02.2023 of NGT icw OA case No 19/2023//EZ, in the matter of Alep Mondal & Ors VS State of WB & Ors.

Ref: Memo. No.109/HC/RM/En dated 24.02.2023 of Additional District Magistrate (General), Murshidabad

Sir,

In reference to the above subject and memo, I am furnishing herewith the report in respect of OA case No 19/2023//EZ, in the matter of Alep Mondal & Ors VS State of WB & Ors. for favour of your information and taking necessary action.

Encl: As stated.

Sd/-
10/03/23
Sub-Divisional Officer
Domkal, Murshidabad

-10-

INSPECTION REPORT

Name & Address of the unit	M/s Ansari Textile Prop: Abdul Mannan Biswas Vill-Ramna Etbarnagar, P.O-Basantapur, P.S.-Domkal, Dist: Murshidabad, PIN-742406
Name of the Inspecting Officer(s)	<ul style="list-style-type: none">• Dr.Dipanjana Maulik, Senior Environmental Engineer, WBPCB• Mr Sumit Kumar Rai, IAS, SDO Domkal
Date of inspection	09/03/2023
Electricity supply authority	WBSEDCL
Other officers who accompanied the inspecting officers	Mr. Sunil Bhushal, Executive Officer, Domkal Municipality Shri Debdas Naskar, WBCS (Exe) Dy. Magistrate and Dy. Collector, Domkal Shri Tanmay Brahma, GM, DIC, Mushidabad. Mr.Satyajit Ray, BL&LRO, Domkal
Name of the local body	Domkal Municipality.
Person met during inspection	<ol style="list-style-type: none">1) Mr Abdul Mannan Biswas (Proprietor of Ansari Textile, the alleged unit)2) Mr Alep Mondal (complainant) Mob:96095550943) Saiful Mandal, S/o Late Sirajul Islam4) Sabina Mondal W/o Saiful Mandal5) Sahaban Ansari, S/o Lutfar Ansari6) Mizajur Rahman (SI no 3 to SI no 7 are residents of the same area. An attendance sheet is attached to this inspection report.)
Nature of complaint	Sound pollution.
Nature of the area	Predominantly Residential
Status of CTE/CTO CTE: Consent to Establish CTO: Consent to Operate	During inspection the unit produced Consent to Establish obtained from DIC, Murshidabad vide Memo no.95/Poll/DIC/MSD dated 22/04/2022 for 'power loom without dyeing and bleaching'.
Reference of inspection	Order passed by Hon'ble NGT in matter of OA No 19/2023/EZ Correspondence dated 397/EN-9/2023 dated 27.02.2023 by Special Secretary, Environment Department Correspondence dated 430 (7)/HC-I/RM-V/Dom/En dated 02/03/2023 by SDO Domkal

About the Unit: The unit is engaged in production of 'Gamchha' (a traditional thin coarse cotton towel of Bengal). The unit has boundary walls on four sides. Three separate sheds are located within this area of M/s Ansari Textile. Two power looms are located in one shed, which is situated at the furthest corner from the houses of the complainants. This shed of power loom has brick walls on three sides and is open on one side, which is facing the approach road). This shed is covered with roof tiles at the top (Photo 1).

Observation: The complainant resides at an adjacent house at the right side of the unit. The distance between the shed and house of the complainant is 10 meter (Photo 2) . There are other residences on the opposite side of 15 ft wide (approx.) approach road. There are two power looms in this industry (Photo 3). Working hour has been reported to be from 8 am to 7 pm by the unit. However, the complainants stated that operational hours at times are extended up to 9 pm.

The representatives of the said unit were asked to run two power looms simultaneously to check the sound level. The sound level produced during such operation were measured within the unit and were also monitored at the first floor of the house of the complainant (Photo 4) and also at the second floor of the house, which is in opposite side of the approach road but is facing the open side of the shed of power loom.

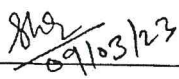
The noise level inside the shed of power loom varied between 80 dB to 92 dB during simultaneous operation of power loom.

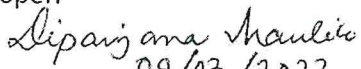
The noise level at the houses of the complainants during operation of power loom was 66.6 dB(A) with occasional spike in noise level recorded at 74.2 dB (A) and 81 dB (A). The noise level at the house in opposite side of the road was found to be 66 dB (A). The ambient noise was found to be at 54 dB (A). The information collected during inspection suggests that it is predominantly a residential area. The noise level during operation of power loom exceeds permissible limit set for residential area.

Remarks:

- 1) The unit cannot operate without valid Consent to Operate from WBPCB for power loom operation.
- 2) The sound level is above day time permissible limit for residential area (i.e 55 dB(A)). Considering the noise level as more than 10 dB (A) than the ambient noise level, the unit is recommended to take necessary steps for reducing the noise pollution.
- 3) The Consent to Establish certificate issued by GM DIC suggests that the gross capital investment is 3.79 lakh only. Considering this size and scale of operation and also considering the prevailing noise level during power loom operation, which is just above the daytime commercial standard of 65 dB (A), the unit may be advised to take only basic steps for reduction of noise level, which shall include:

- 1) The shed should be converted either to a double walled room with 6 inches gap between outer and inner wall or inner surface of existing wall may be puss insulated. The current size of shed of power loom and approx. area available for making changes has been measured as approx. 5m x 5m and approx 9m x 9m respectively by BL& LRO and his team). Use of noise insulation material like saw dust is preferred. Ventilation and adequate lighting should not be compromised.
- 2) Inside surface of swing door should be insulated with thermocol.
- 3) The roof should be covered with low cost sound insulation material like straw.
- 4) Use of noise absorbing plants is recommended as a long term measure
- 5) Other actions may be taken as deemed fit and proper.


09/03/23
(Sumit Kumar Rai)
SDO, Domkal


09/03/2023

(Dipanjana Maulik)
Senior Environmental Engineer, PCB

BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

O. A. NO. 19/2023/EZ

In The Matter of:

Alep Mondal & ors.

... Applicant

- Versus-

The State of West Bengal & ors.

... Respondents

**Affidavit on behalf of the
respondent nos. 05 and 07.**

RAJIB RAY

Advocate

Bar Association Room No.13,

High Court, Calcutta

Mob-9830132729/7980422764

Chamber: 28, Fakir Chand Mitra
Street, Kolkata- 700009.

Email: rajib.ray23@gmail.com