

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO.126/2023/EZ

In The Matter of:

Mujibar Rahaman Mallk ... Applicant

Versus

The State of West Bengal & Ors. ... Respondents

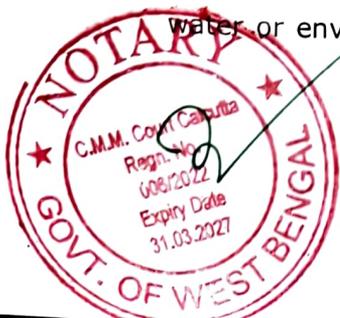
AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 4, DEPARTMENT OF IRRIGATION & WATERWAYS, GOVERNMENT OF WEST BENGAL.

I, Sri Rajat Nath, S/o Late Ramgopal Nath, aged about 53 years, by faith-Hindu, by occupation-service, and presently posted as Executive Engineer & Technical Assistant to Superintending Engineer, Western Circle-I, having office at Jalasampad Bhawan, 8th Floor, Salt Lake City, Kolkata: 700091, do hereby solemnly affirm and declare as follows:-

1. That, I am presently posted as Executive Engineer & Technical Assistant to Superintending Engineer, Western Circle-I, Department of Irrigation & Waterways, Government of West Bengal, having office at Jalasampad Bhawan, 8th Floor, Salt Lake City, Kolkata:700091 and I am well acquainted with the facts and circumstances of the case and as such I am competent to swear, sign and affirm this report in the form of affidavit.
2. That the Hon'ble National Green Tribunal , Eastern Zone Bench has directed vide order dated 22-11-2023 "to implead the Irrigation & Waterways De partment , Govt. Of West Bengal, in the array of respondents as respondent No. 4 through it's Principal Secretary."
3. That the Janai Basin Khal is originated from a low land area under Baksa GP of Chanditala - II Block of Hooghly District and passes its discharge to Rajapur khal. (Photo copy plan of is attached as **Annexure-I**).



4. That Rajapur canal starts at Vedo -Kanaldanga at Hooghly District and flows up to Siezberia and outfalls in the river Hooghly through 20-vented sluice gate at Siezberia in the district of Howrah. Total length of Rajapur canal from origin to outfall is 24.75 Km.
5. That Rajapur canal is a drainage canal draining of storm water run-off and domestic effluents of adjoining areas within Block Jagatballavpur , Domjur , Panchla, Uluberia-II & Uluberia Municipality. Due to recent industrial development in the adjoining areas industrial effluents also passes through Rajapur canal.
6. That Tidal Irrigation is done through Rajapur canal by operating sluice gate at Siezberia, Howrah and clearing and removing of water hyacinth from Rajapur canal is done regularly through Annual Maintenance works for smooth and uninterrupted passage of drainage discharge.
7. That the permission for disposal of industrial effluents into channels/ canals owned by the Irrigation & Waterways Department, Govt. of West Bengal, is accorded only after proper treatment of the same in accordance with the norms prescribed by WBPCB as per provision of consent to establish issued by WBPCB for that industry. In the present case, the industrial effluents are discharged into Irrigation and Waterways Department's canal namely Rajapur Khal from the Janai Basin khal.
8. That monitoring of Pollution level at canals and out falling rivers and taking remedial measures against pollution like establishment of ETP/STP, are generally carried out by the Urban Development & Municipal Affairs Department.
9. Those proper treatments are necessary before discharging the domestic sewage into the water bodies and the U.D.M.A usually sets up STP/ETP for ensuring the quality of treated domestic sewage into the canals/rivers. Irrigation and Waterways Department, ensures that the added swage is drained out smoothly without spilling.
10. That it is submitted that as per the Notification no. 59 dated 16.09.2015 of Irrigation & Waterways Department, Govt. of West Bengal, monitoring pollution level at the water bodies like canal/river and taking appropriate measure to control the quality of water or environment pollution comes within the norms as prescribed by WBPCB as



per the Provision of Consent to Establishment. Permission for disposal of industrial effluents is accorded by the Irrigation and Waterways Department only after such norms are adhered to. In this particular case, Irrigation and Waterways Department had not accorded any such permission. Apart from flood management and drainage improvement schemes the Irrigation & Waterways Department carries out, any particular work as advised by West Bengal Pollution Control Board to check water pollution. (Copy of the said Notification is annexed herewith and marked as **Annexure-II**).

11. That this department is continuously taking best possible measures to keep the canal system in good condition. A scheme has already been taken up for improvement of discharge through Rajapur Khal: The work "Improvement of Rajapur khal by re-excavation (length-10.652 km) and Rajapur Link khal (length- 3.877 km), bank strengthening (length-3.727 km) and construction of inspection path (length -2.50 km in Blocks and PS Jagatballavpur, Panchla , Dist- Howrah" amounting to Rs.552.94 Lakh will commence shortly. LOA has already been issued vide Memo No. 1414-CI(W)/BDN/2023 dated 13-12-2023 (Copy of LOA is attached as **Annexure-III**).

12. The said work will be completed within a period of 1 (one) year from date of commencement and it will immensely improve drainage system through Rajapur canal.

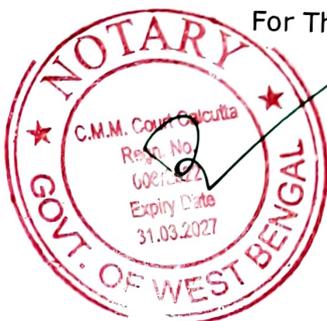
That it is therefore respectfully prayed that Hon'ble Tribunal may pass such order/orders as it deems fit and proper in the interest of justice.

Identified by me



Advocate

For The State of West Bengal




 Dependent
 Executive Engineer &
 T.A. To The S.E./Western Circle
 (I&W Dte.), Govt. of W.B.
 Jalsampad Bhawan, 8th Floor,
 Salt Lake, Kolkata-91

VERIFICATION

Verified at Kolkata by the deponent above named on this the.....^{3rd}Day of January....., 2023 and say that the contents of this affidavit made in paragraph nos. 1 is true to my knowledge and those made in paragraphs no. 2 to 12 are true to my information derived from records and rest are my respectful submission before this Hon'ble Tribunal.

Identified by me

Advocate
For The State of West Bengal

Print Name
Deponent

Executive Engineer &
T.A. To The S.E./Western Circle-1
(I&W Div.), Govt. of W.B.
Jalaaampad Bhawan, 8th Floor,
Salt Lake, Kolkata-91

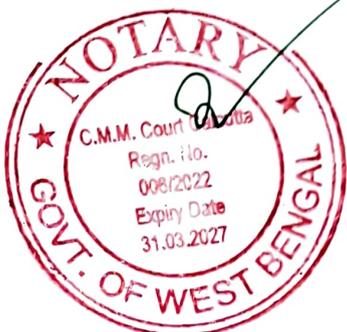
SOLEMNLY AFFIRMED
&
Declared Before me
on Identification Adv.

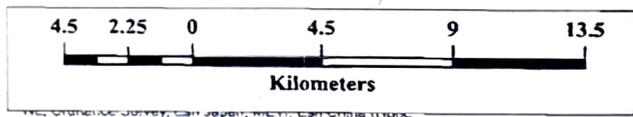
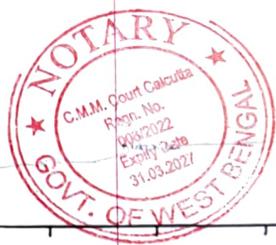
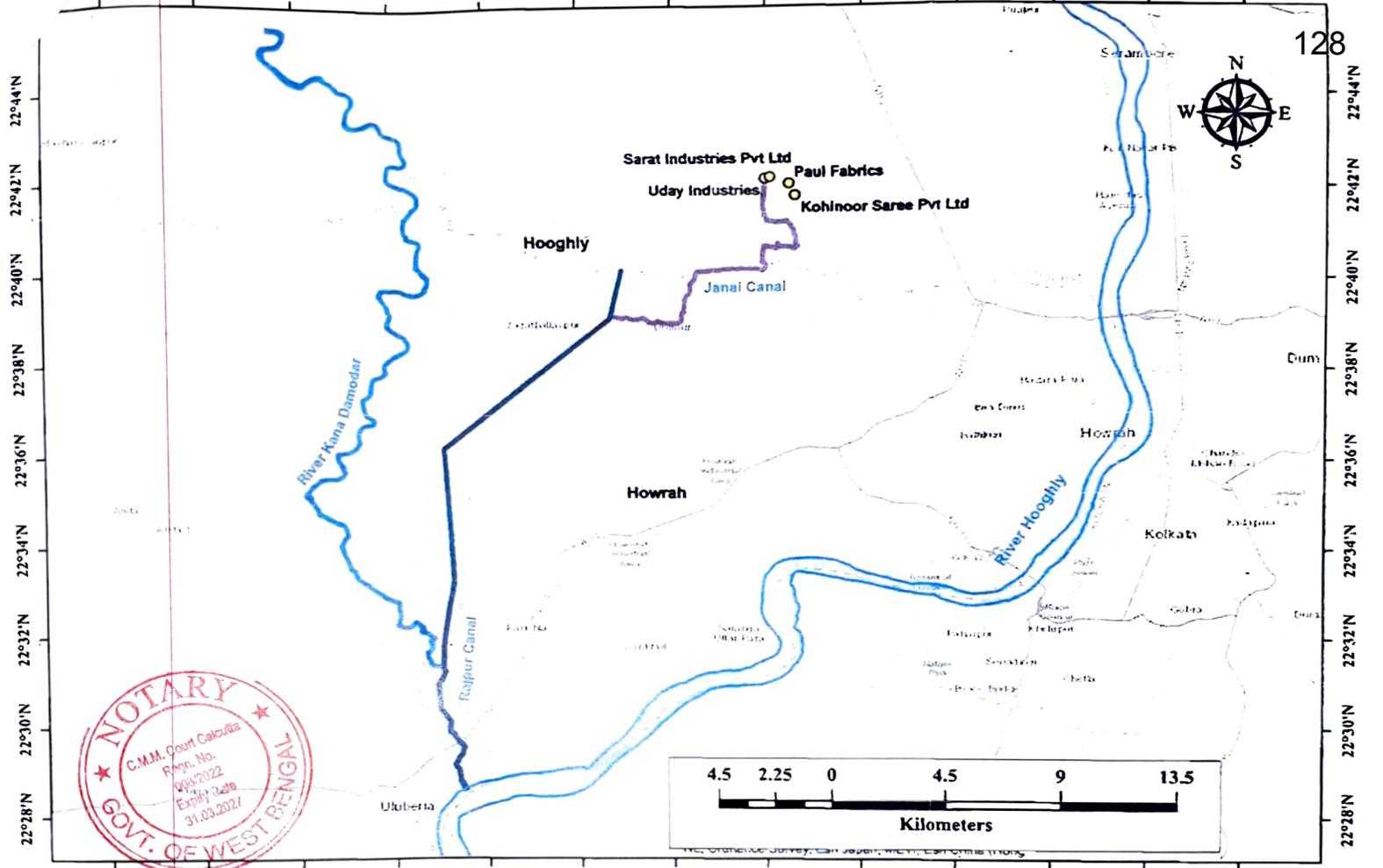
N. Das Gupta
NOTARY
N. DAS GUPTA
C.M.M. Court
Govt W.B

N. Das Gupta
N. DASGUPTA
Notary

Regn. No. 006/2022
3, Bankshal Street
Calcutta-700001

03 JAN 2024





U/C



Government of West Bengal
Irrigation & Waterways Department
Jalasangrad Bhavan, 1st Floor, Western Block
Bidhannagar, Salt Lake City, Kolkata 700 091

No. 59

Dated, 16th September, 2015

NOTIFICATION

Whereas applications are being received manually from upcoming and existing industries, for allowing them to dispose off treated industrial effluent and domestic sewage directly into rivers / drainage channels / irrigation canals, maintained by the Irrigation & Waterways Department.

1. And whereas after careful scrutiny and field verification, permissions are being accorded by this Department for such disposal into rivers / drainage channels / irrigation canals, maintained by Irrigation & Waterways Department in accordance with norms prescribed by West Bengal Pollution Control Board.

2. And whereas, with a view to facilitate easy and faster disposal of accordance of such permission to the applicants, Irrigation & Waterways Department has decided to facilitate online submission of applications through departmental website.

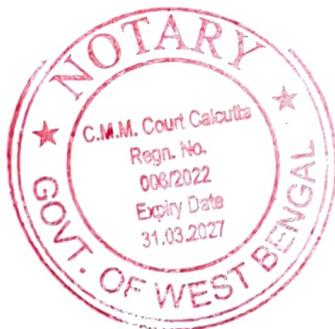
3. Now, therefore the Governor is pleased to specify, with immediate effect –

a. That the under mentioned Standard Operating Procedure (SOP) (Page- 3 & 4) is to be followed by the applicants in submitting online applications to the department and also by the departmental officers in processing the permission on case to case basis.

b. That the following application format (Page 5 & 6) is to be adopted by the applicants to submit their online applications at the departmental website.

c. That the following guidelines (Page-2) are to be followed by the applicants in submitting online applications and submission of requisite fees for undertaking construction of outfall structure by Irrigation & Waterways Department.

Naveen Prakash
Principal Secretary to the
Government of West Bengal



Guidelines for according NoC / Permission for
disposal of discharge by Industries directly
Into rivers / channels / canals

1. Permission for disposal of industrial effluents, domestic sewage directly into rivers / channels / canals maintained by the Irrigation & Waterways Department would be accorded only after proper treatment of the same in accordance with norms prescribed by WBPCB and as per provisions of consent to establishment given by WBPCB.
2. Permission would be valid only for disposal of discharge direct to rivers / channels / canals maintained by the Irrigation & Waterways Department and in case of disposal of discharge into drains maintained by Urban / Rural Local Bodies, prior consent of these bodies will be required. However, even in these cases, Irrigation & Waterways Department reserves the right to ask for consent to establish, issued by WBPCB, if such drains have their ultimate outfall in rivers / channels / canals.
3. Permission for direct disposal of discharge in irrigation canals would be allowed subject to following conditions in addition to adherence of norms of WBPCB regarding treatment:
 - a. The canal has been excavated only by earth cutting and no filling has been done during commissioning of the canal.
 - b. There should be no outlet / offtake of further branching within 200m of upstream and 500m downstream of the disposal point.
 - c. Total discharge to be disposed is within 10% of designed discharge capacity of the canal.
4. No permission would be accorded for discharge in case of rivers and drainage channels, if any intake structure / River Lift Irrigation System for drawal of water is located within 100m upstream and 200m downstream of the disposal point.
5. Permission of Irrigation & Waterways Department will be subject to:
 - a. Monitoring to provisions of 'consent to operate' by WBPCB.
 - b. Monitoring ground water quality by SWID for checking any contamination in the nearby zone due to disposal of industrial effluent.
6. Outfall structures would always be constructed by the Irrigation & Waterways Department, cost of which will have to be borne by the applicant.
7. Estimated cost of such outfall structures including 3% contingent charges would have to be deposited in favour of the concerned Executive Engineer through Demand Draft / Banker's Cheque. The Departmental charge amounting to 10% of the total estimated cost stated above would have to be deposited separately, preferably online using GRIPS Portal, chargeable head of account being

"0701 - 80 - 800 - 003 - 27"

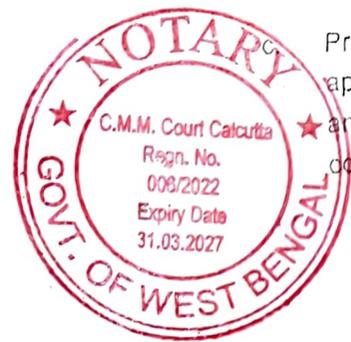
The concerned e-Challan with BRN number would have to be submitted to the concerned Executive Engineer as a documentary evidence of payment.

**Standard Operating Procedure (SoP) for obtaining NoC /
Permission for disposal of discharge by Industries
directly into rivers / channels / canals**

The following are the stepwise details to be implemented in the Irrigation & Waterways Department for according permission regarding disposal of discharge of Industries, directly into rivers / channels / canals, maintained by the Irrigation & Waterways Department.

1. The applicants may down load the guidelines for e-filing, SOPs and format for e-file from the official website of Irrigation & Waterways Department i.e www.wbiwd.gov.in. The applicants can e-file application along with necessary documents on accessing "Online Single window Clearing System (OSWICS)", being launched by Commerce & Industries Department or at the departmental web link mentioned above till operationalization of the web link of OSWICS. If the online application and the documents are not found not in order by the State Level Nodal Officers (SLNOs) then the applicant would be informed within 2 (Two) working days requesting re-submission, else, if the application is prima-facie found to be in order then the following procedure would be followed. The two Officers of the Irrigation & Waterways Department functioning as SLNOs are:
 1. Sri Manash Chakraborty
Superintending Engineer & PA to Chief Engineer (South)
Irrigation & Waterways Directorate
Tel. 94335 09291 (Mobile) / (033) 2321 5749 (Landline)
e-Mail: sepa-southdud@wbiwd.gov.in
 2. Sri Raj Kapoor Sharma
Executive Engineer, DVC Study Cell &
Nodal Officer, e-Governance
Irrigation & Waterways Directorate
Tel. 94331 41749 (Mobile) / (033) 2337 6816 (Landline)
e-Mail: no-egov@wbiwd.gov.in
2. Downloading of the application and documents by the SLNOs and sending it within 2 (Two) working days through mail / push mail to the concerned Superintending Engineer for further processing of the case by him and the concerned Executive Engineer.
3. The concerned Executive Engineer, in consultation with the Applicant and in consideration of the prevailing bed level and ruling level of water (including tidal fluctuation, if any) in the river / channel / canal will ascertain the following and submit a report to his Superintending Engineer, within 15 (Fifteen) working days:
 - a. Whether the quantum discharge is accommodable in the river / channel / canal.
 - b. The sill level and tentative depth of flow of the outfall structure, which should be befitting with the starting bed level and section of drain offtaking from the premises of the unit.

Preliminary design and rough cost estimate of the outfall structure, including appurtenant bank protection works, if any. Departmental charge of 10% towards design and construction supervision fees should be considered, over and above 3% contingency.



4. Synopsis of the report including indication of rough estimated cost would be forwarded by the Superintending Engineer along with his recommendation / views to the Secretary, Irrigation & Waterways Department with a copy to the concerned Chief Engineer within 7 (Seven) working days.
5. The Irrigation & Waterways Department would accord provisional "No Objection Certificate" (NoC) to the applicant within 7 (Seven) working days, with the advice of entering into an Agreement with the concerned Executive Engineer, regarding payment of cost involved for the work.
6. The applicant should intimate his acceptance to the Executive Engineer regarding payment of such cost within 7 (Seven) days of receipt of provisional NoC, otherwise said NoC would be deemed to have been revoked.
7. The Executive Engineer, in the meantime, would undertake detailed design and estimate for the work, considering the Departmental charge of 10% stated at Clause-3 above, and request the applicant to deposit the total cost within the prescribed time limit stated below,
 - a. In case of discharge less than 3.0 cumec, design and estimate to be done by the Executive Engineer himself, and the prescribed time limit is 15 (Fifteen) days from the date of submission of his first report to the Superintending Engineer, stated in Clause-3 above.
 - b. In case of discharge more than 3.0 cumec, design might be required to be done by the Central Design Office and the prescribed time limit to complete the activities stated at (a) above would be 45 (Forty five) days, provided soil investigation reports of the worksite are readily available and 5 (Seventy five) days, if soil investigation is required to be done afresh.
8. The applicant, on receipt of intimation from the Executive Engineer, would deposit the sum and make agreement with the Executive Engineer, within 7 (Seven) days.
9. The Executive Engineer would thereafter invite tender and execute the work, time line of which would depend on the volume of work, prevailing working season, etc. and to be decided by the Executive Engineer and the Applicant on mutual basis.

Online application format for disposal of discharge of Industries
including treated effluent directly through drain / conduit
made by own arrangement into rivers / channels /
canals without using municipal / local Govt.'s
drainage / sewerage network

1. *Name of the Organization seeking permission for disposal of discharge with Registered Office address, land line and mobile numbers & e-Mail address.

2. *Location Mouza, Block, Police Station & District of the proposed industrial unit (Scanned copy of mouza map / Google Earth map showing location of the unit and its latitude and longitude to be uploaded in the upload documents section).

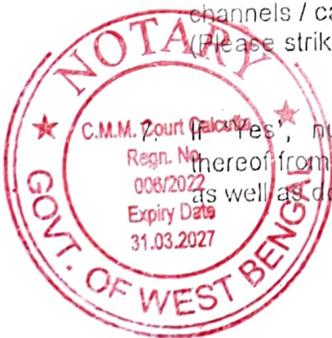
3. *Name of river / channel / canal in which the discharge is proposed to be disposed, and approximate length of drain in metre) from boundary of the proposed unit to the river / channel / canal. (A4 size Index Map showing lay out of the proposed drain from the boundary of the proposed unit up to the river / channel/ canal to be uploaded in the upload documents section).

4. *Ultimate total quantum of discharge to be disposed considering future expansion of the unit (in cumec), including any one or all of the following:
a) Treated effluent and domestic sewage discharge
b) Run-off discharge within the premises of the unit

5. *Whether NoC / clearance from WBPCB certifying the quantum of discharge has been obtained. (Please strike out the inappropriate) (If 'Yes', attach scanned copies of consent to establish) Yes / No

6. *Existence of intake structures / outlet of field channels / offtake of branch canals for drawal of water within 500 metre in the upstream and 1000 metre in the downstream of the proposed outfall point on rivers / channels / canals. (Please strike out the inappropriate) Yes / No

If 'Yes', number of such structures and distance thereof from the proposed outfall point, in the upstream as well as downstream.



8. Undertaking

- I / We undertake to bear the cost of outfall structure and appurtenant bank protection and/or embankment improvement works to be designed and constructed by the Irrigation & Waterways Department and sign Agreement with the concerned field level Officers of the Department on payment of such cost.
- I / We also undertake the responsibility of construction of drain / conduit from the premises of the unit up to the outfall structure, as per suggestion / guidance of the Irrigation & Waterways Department, so as to make it befitting with the outfall structure.

Documents to Upload

Please read the following information carefully:

1. Select documents from the document list and upload respective files.
2. Please do not upload any file of size greater than 1 MB.
3. Please upload JPEG / PDF files only.

(e-Signature)
Authorized Signatory

Document List

1. Recommendation of West Bengal Pollution Control Board (WBPCB) in the prescribed format for 'consent to operate'.
2. Scanned copy of Mouza Map/ Google Earth Map showing location of the unit and its latitude and longitude.
3. Scanned copy of A4 size Index Map showing layout of the proposal drain from the boundary of the proposed unit up to the river / channel / canal.
4. Filled up application form with necessary attachments.

12

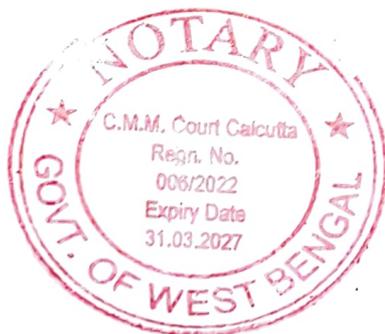
Memo No. 401/1(12)- IFC
IW/O/IFC/4M-17/2015

dated, 16th September, 2015

Copy forwarded for information and necessary action to:

1. The Principal Accountant General (A&E), West Bengal
 Treasury Building, 2, Government Place (West)
 Kolkata 700001.
2. The Principal Secretary to the
 Government of West Bengal
 Commerce & Industries Department
 Silpa Sadan (6th Floor)
 4, Abanindranath Tagore Sarani
 (Camac Street), Kolkata 700016.
3. The Principal Secretary to the,
 Micro, Small & Medium Enterprises Department,
 Government of West Bengal,
 Hemanta Basu Bhavan,
 12, B. B. D. Bag,
 Kolkata- 700 001.
4. The Chief Engineer (South)
 Irrigation & Waterways Directorate
5. The Director of Personnel & EOCE
 Irrigation & Waterways Directorate
6. The Chief Engineer (Design & Research)
 Irrigation & Waterways Directorate
7. The Chief Engineer (South West)
 Irrigation & Waterways Directorate
8. The Chief Engineer (North)
 Irrigation & Waterways Directorate
9. The Chief Engineer (West)
 Irrigation & Waterways Directorate
10. The Chief Engineer (North East)
 Irrigation & Waterways Directorate
11. The Chief Engineer, Teesta Barrage Project
 Irrigation & Waterways Directorate
12. The Executive Engineer
 DVC Study Cell
 &
 Nodal Officer, e-Governance
 Irrigation & Waterways Directorate

He is requested to do the needful to facilitate website by creating a dynamic page online submission in the departmental website by creating a dynamic page.



o/c

B.M. Mukherjee
 16.09.15
 Deputy Secretary to the
 Government of West Bengal
 Irrigation & Waterways Department

OFFICE OF THE CHIEF ENGINEER (WEST)
IRRIGATION & WATERWAYS DIRECTORATE
GOVERNMENT OF WEST BENGAL



KANAINATSAL, P.O. SRIPALLY
DIST. PURBA BARDHAMAN-713 103.
email: ce2iwd2007@gmail.com
ce-west@wbiwd.gov.in

Memo No. - 1414-CI(W)/BDN/2023

Dated: 13.12.2023

Ref e-NIT No:- WBIW /SE/ WC-I /NIT-7(e) /2023-24,Sl.1

e-Tender ID No:- 2023_IWD_590604_1

Name of Work: "Improvement of Rajapur Khal by re-excavation (length-10.652 km) and Rajapur Link Khal (length-3.877 km), bank strengthening (length- 3.727 km) and construction of inspection path (length - 2.50 km) in Blocks and PS- Jagatballavpur, Panchla, Dist - Howrah."

Amount Put to Tender - 5,36,24,311.00

Financial Bid opened on: 06 DEC-2023 at 03:31 PM

Acceptance of Tender for the work & Letter of Invitation (LOI) / Letter of Acceptance (LOA)

From: The Chief Engineer, West,
Irrigation & Waterways Directorate
Government of West Bengal

To: THE ROAD AND ROOF PROJECTS
BC-32, SALT LAKE CITY, SECTOR-I, KOLKATA-700064

Dear Sir,

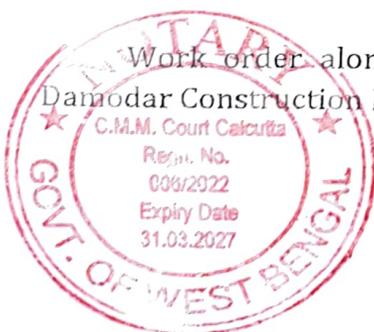
Apropos above, your e-tender for the above noted work quoted @ 17.99% (Seventeen Point Nine Nine Percent) below than the Schedule of Rate (SoR)/BOQ attached with the e-tender which has subsequently been recommended by the Superintending Engineer, Western Circle-I, I & W. Directorate, on 12/12/2023, is, hereby formally approved and accepted by the undersigned under conferred delegation of financial power.

The Financial Bid Evaluation (FBE) sheet has been accepted by the undersigned on 12/12/2023. The relevant FBE of this e-tender has been uploaded in the web portal www.wbtenders.gov.in on 12/12/2023.

You are, therefore, requested to contact the Executive Engineer-I, Lower Damodar Construction Division, I & W. Directorate, in connection with the above-noted work to obtain the entire set of tender contract documents in quadruplicate including the original one, free of cost, for executing the 'formal contract agreement' with the said Executive Engineer in his office within 15 (fifteen) working days from the date of issue of this LOA / LOI, on any working day during office hours.

Work order along with price schedule will be issued by the Executive Engineer-I, Lower Damodar Construction Division.

Contd...to P/2



No supplementary items outside the approved price schedule / approved BOQ should be executed without written permission of the undersigned subject to condition that gross value of the work shall strictly be restricted up to the tendered amount, i.e. the abated value of contractual amount after considering contractor's rate. Also, no payment will be made in your favour on any work done or otherwise in connection with this tender till 'formal contract agreement' is executed by you.

Time is the essence of contract and you should carry out the work with due diligence and complete the work within the time stipulated in the tender.

Payment of work will be made on availability of fund.

sd/—

(U. Ray)

Chief Engineer (West)
Irrigation & Waterways Directorate
Govt. of West Bengal

Memo No. 1414/1(2)-CI(W)/BDN/2023

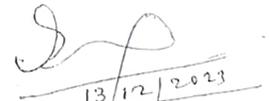
Date: 13/12/2023

Copy to:-

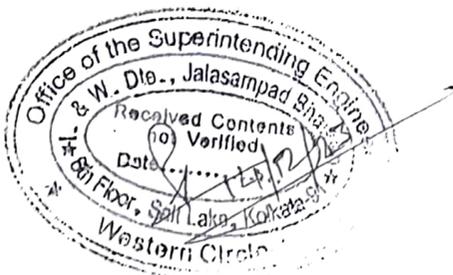
- 1) The Superintending Engineer, Western Circle-I, Irrigation & Waterways Directorate, Jhalasampad Bhawan, Bidhannagar, Kolkata – 700 091 for information & necessary action.
- 2) The Executive Engineer-I, Lower Damodar Construction Division for information & necessary action.

Detailed work order may be issued from his end after observing usual formalities. 4(four) copies of Contract Documents (including original) may please be issued to the contractor on free of cost early, for executing the 'formal contract' in his office in terms of memo no.-15(8)-Pr.Secy, I&W/2016 dated 11.07.2016 of I & W D. within 15 (fifteen) working days from the date of issue of this letter, failing which necessary action will be taken as per rules. One certified copy (duplicate one) of signed & completed formal contract agreement in this regard may please be sent to this office for record.

No supplementary / substitute supplementary items outside the approved price schedule / approved BOQ should be executed without written permission of the undersigned (Tender Accepting Authority) subject to condition that gross value of the work shall strictly be restricted up to the tendered amount, i.e. the abated value of contractual amount after considering contractor's rate. **No expenditure relating to contingency component should be incurred without prior approval of the undersigned.**


13/12/2023
(U. Ray)

Chief Engineer (West)
Irrigation & Waterways Directorate
Govt. of West Bengal



Received

13/12/23