

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION NO. 185/2023/EZ



Shiyarketiya Yubashakti Seba Samiti

... Applicant

-Vs-

The State of West Bengal & Ors.

.. Respondents

AFFIDAVIT-IN-REPLY ON BEHALF OF THE RESPONDENT NO. 4  
DEVEN ENTERPRISE

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Mr. Rahul Ganguly  
Advocate

Bar Association, Room No. 5  
High Court, Calcutta.]

Mob : 9163494609

Email: rganguly.advocate@rediffmail.com

11 MAR 2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL EASTERN ZONE  
BENCH, KOLKATA

In the matter of :

Original Application No.  
185/2023/EZ

-and-

In the matter of :

Shiyarketia Yubashakti Seba  
Samiti

.... Applicant

-Vs-

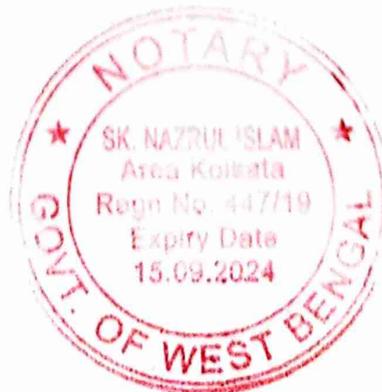
The State of West Bengal & Ors.

... Respondents

**AFFIDAVIT-IN-REPLY ON BEHALF OF THE RESPONDENT NO. 4**  
**DEVEN ENTERPRISE**

I, Smt. Asha Agarwal, wife of \_\_\_\_\_, aged about....  
years, by faith Hindu, by occupation business, residing at 2<sup>nd</sup> Floor, Flat  
No. 21/5, Plot No. 67, Sahapur Colony New Alipore, Kolkata, West  
Bengal 700-053 do hereby solemnly affirm and state as follows :-

1. That I am a partner of the respondent no. 4 namely Deven  
Enterprise and as such I am well conversant with the facts and  
circumstances of the instant case. I have been duly authorized by the  
respondent no. 4 company to affirm this affidavit on its behalf and I am  
competent to do so.



2. That I have been served with a copy of the Affidavit filed on behalf of the Applicant. I have made myself acquainted with the facts and circumstances and affirming this affidavit on my behalf.

3. That I have gone through the aforesaid copy of the aforesaid Affidavit as also the contents of the said Affidavit have been explained to me by my Learned Advocate. I have understood the meaning and purport thereof.

4. That before dealing with the allegations and/or accusations/statements made in the said Affidavit specifically, I deny and dispute the same, save and except those which are matters of record. Any of the allegations and/or contentions which have been specifically denied by me hereinafter shall be deemed to have been denied.

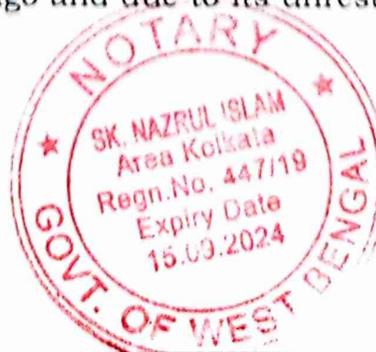
5. That with regard to the statements made in paragraphs 1, 2 and 3 of the said Affidavit, I have no comments to make.

6. That with regard to the statements made in paragraph 4 of the said Affidavit save and except what are matters of record, the rest of the allegations are denied and disputed and the applicant/complainant is put strict proof thereof. That the Inspection Report as annexed with the Affidavit on behalf of the respondent no.2 categorically under column (F) observation and comments of performance of treatment facility for gaseous emission states that during inspection the unit was found not in operation which is absolutely correct and seconded by the respondents herein. That the Column (I) wherein status of consent to establish, it is stated that it is yet to obtain the same is not disputed but the statement made thereafter that the unit is in operation for the last 5 to 6 months (as informed) is disputed. That no such evidence is forthcoming as to the period for which the disputed factory in question was operational as no

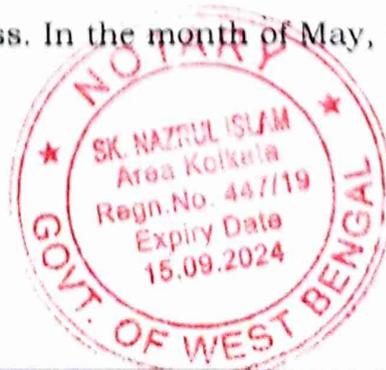


specific statements have been taken from independent witnesses other than the complainant/applicant. The Committee which went to the spot for inspection, did not detail in its report as to the incomplete nature of the factory in question and no statement or reasons were sought for from the respondent who was also present on site. Hence, such observation is clearly misguided and not borne on facts. It has also been stated in the report that no Emission Control System was observed attached with the kiln as well as no air pollution control system was found provided with the kiln which is accepted as the factory is an incomplete factor and no long term work has ever taken place in such factory due to the constant opposition and extortion of the applicant/complainant upon the partners due to which after the testing phase of five days in the month of May, 2023 the partners decided to shut down the factory as it was being a constant headache in terms of both operation as well as management. It is being categorically stated that the respondents herein were in pursuit of such compliances during the period of testing and only limited raw materials were brought for checking the utility and workability of the machinery and hence, the rest emission control systems were to be installed after a few days but such work was never completed due to the interference of the applicant/complainant and as such, the respondents were forced to take a drastic action of halting all testing in the factory.

7. That with regard to the statements made in paragraph 5 of the said Affidavit, I deny and dispute the allegations made therein except those which are matters of record. That the complainant/applicant namely Shiyarketia Yubashakti Seba Samiti (hereinafter referred to as the 'Applicant Samiti') wrote a complaint to the Registrar, National Green Tribunal, Eastern Zone Bench, where they have stated that a charcoal manufacturing factory without naming the enterprise had initiated its operation a couple of months ago and due to its unrestricted operation it



is emitting hazardous gases causing severe health concerns of the community. It is also stated I the complaint that the factory is near a school named Shishu Shiksha Kendra and as such it is violating norms of Ari Pollution. The said complaint was taken into consideration by the Learned Tribunal and was treated as an original application being No. 185/23/EZ on 21<sup>st</sup> November, 2023. That the complaint has been targeted with a malicious intent by the Applicant Samiti with a view to disrupt the economic impact of the village at large as employment was to be generated on a large scale for which several talks were also held with several villagers of the area and quite surprisingly the Samiti being part of the village could not specifically name and identify the proprietor or owner of the charcoal factory in question in the complaint. The respondents herein only got to know with intention to carry on business of such wood charcoal by taking all necessary compliances of departments, both of the Pollution Control Board as well as the Forest Department and in furtherance of such only established, a part of the factory including furnace and other equipments as a testing face during the month of May, 2023. The respondents applied for permission for Wood Charcoal Transit Pass before the Divisional Forest Officer, Jhargram Division by a specific application and also such application was processed and a detailed report was to be submitted after Field Verification. The intention of the respondents was to set up the factory with all necessary compliances including consent to operate as well as all licenses from land, forest and other departments and hence it was progressing for compliance through each department and was allocating wood for starting the furnace in the meantime. During such process, a part of the furnace was sued for testing whether the equipments installed were operational or not. During such time, the Applicant Samiti getting wind of the nature of industry, approached the partners with a condition for payment of 'chanda' / extortion to the tune of Rs.1,00,000/- if they wish to carry on with their business. In the month of May, 2023 itself the



respondent no. 4 realised that it was not possible to carry on with their business in such environment and hence, stopped all further work pending in the factory and as such, further applications for compliance which was to be processed was also halted by the respondents. I vehemently deny and dispute the fact as stated in the complaint the factor was running for several months and also no evidence in the nature of photographs and other statements have been annexed with the complaint itself showing that at the time of filing the instant complaint, the factory was still running and as such, all allegations of creating pollution for months are absurd and vague and the applicant / complainant is put to strict proof thereof.

Photographs of the incomplete factory along with the notice of the Divisional Forest Officer, Jhargram Division dated 7.6.2023 are annexed hereto and marked with the letter 'A'.

8. That with regard the statements made in paragraphs 17 and 18 of the said Affidavit-in-Opposition, I decline to make any comments.

9. That the statements made in paragraphs 2 and 3 are true to my knowledge while the rest are my respectful submissions before this Hon'ble Court.

Prepared in my office

**IDENTIFIED BY ME**  
  
 Advocate **ADVOCATE**  
 Enrolment No.

Solemnly affirmed before me

On this      day of February, 2023



  
 Deponent

Solemnly Affirmed and  
 Declared before me U/S 139  
 CPC, U/S 297 (C) CRPC

  
 Notary  
 SK, Nazrul Islam  
 Notary, Govt. of W.B.  
 Regn. No. 447/19  
 City Civil Court, Calcutta

11 MAR 2024



NOTARY  
★ SK. NAZRUL ISLAM ★  
Area - Kolkata  
Regn No. 447/19  
Expiry Date  
18.09.2024  
GOVT. OF WEST BENGAL



NOTARY  
★ SK. NAZRUL ISLAM ★  
Area Kolkata  
Regn.No. 447/19  
Expiry Date  
15.09.2024  
GOVT. OF WEST BENGAL



Government of West Bengal  
 Directorate of Forests  
 Office of the Divisional Forest Officer  
 Jhargram Division  
 Ghoradharn, Jhargram, Dist: Jhargram - 721507  
 Ph. No. & Fax No. 03221-255010, Mail - [dfjargram.frd-wb@bangla.gov.in](mailto:dfjargram.frd-wb@bangla.gov.in)

2023

No / dated, Jhargram the

From : Divisional Forest Officer  
 Jhargram Division

To : The Range Officer  
 Silda Range

Subject : Permission for wood charcoal Transit Pass.

With reference to above mentioned subject, it is to inform that an application received from Asha Agarwal (Phone no. 9830328866) of 2nd Floor Flat no. 21/5 Plot no. 67 Sahapur Colony New Alipore Kolkata West Bengal 700053 partner of DEVEN ENTERPRISE that is enclosed herewith which will speak for itself. It is instructed to do field verification into the matter and submit the detailed report at the earliest.

Encl. As stated above

Sd/- J. Sheik Fareed, I.F.S.  
 (J. Sheik Fareed, I.F.S.)  
 Divisional Forest officer,  
 Jhargram Division

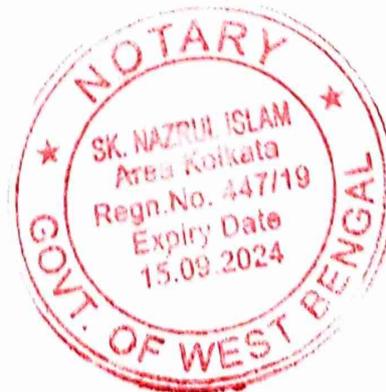
No 935 / 28-3 dated, Jhargram the

07/06/2023

Copy forwarded for information to :

- 1) Smt. Asha Agarwal : She is requested to contact the Forest Range Officer, Silda Range (Mobile No. 9614066493). He should produce all the necessary documents such as attested RoR copy, land sketch map, ownership details of land, Consent to operate from District Industries centre, Address proof, PAN Card, GST registration certificate, etc to the Forest Range Officer, Silda Range.

(J. Sheik Fareed, I.F.S.)  
 Divisional Forest officer,  
 Jhargram Division



BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL EASTERN ZONE BENCH, KOLKATA

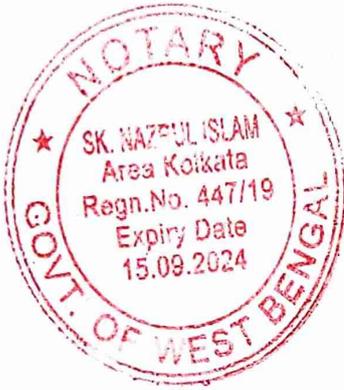
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Mr. Rahul Ganguly, Advocate