

Serial no. 04/2023  
As per Register of Notary

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
O. A. No. 98/2022/EZ

Amitabh Kejriwal

...Applicant

Versus

State of West Bengal & Ors.

...Respondents



**AFFIDAVIT IN REPLY OF THE PETITIONER TO THE**  
**AFFIDAVIT FILED BY THE WEST BENGAL POLLUTION**  
**CONTROL BOARD DATED 3<sup>RD</sup> JANUARY, 2022**

I, Amitabh Kejriwal, son of Late Sudarshan Kumar Kejriwal, aged about 55 years, by faith Hindu, by occupation: Business, residing at premises no. 45 Fazlul Huq Sarani (Jhawtala Road), Kolkata – 700019, P.S. Karaya, do hereby solemnly affirm and state as follows:

13 JAN 2023

1. I am the applicant abovenamed and I am fully acquainted with the facts and circumstances of the present case. I am competent to make and affirm this affidavit.
2. I have read a copy of an affidavit purportedly affirmed by one Subrata Ghosh on 3<sup>rd</sup> January, 2023 (hereinafter referred to as the "said Affidavit") and I have understood the meaning, contents and purport thereof.
3. The said affidavit bristles with erroneous facts which would be evident from the paragraphs hereunder.
4. Inspection was carried out by a four-member team of WBPCB around 7:40 P.M. to 8:15 P.M. on 22<sup>nd</sup> December, (Thursday).
5. The petitioner has video recorded on his phone of the entire conversation with WBPCB Inspection team. The petitioner craves



leave of the Learned Tribunal to refer to such video recording at the time of hearing through a pen drive.

6. The petitioner had indicated to the WBPCB inspection team that the sound is usually louder after 10 P.M. and had requested the WBPCB team for a surprise Inspection after 10 P.M. on a Saturday, Sunday or any other holiday.
  
7. On the petitioner indicating such fact, the inspection team indicated that they had come for a surprise Inspection at a time when the Bar was open. It is, however, stated that at that time the music was not loud and they said they would go inside the bar and turn up the volume of the music and the petitioner can stand outside on the 2<sup>nd</sup> floor staircase lobby and hear if the music is loud or not and if the petitioner can feel any vibration. It is stated that neither the petitioner nor his men were allowed to go to the second floor during the said surprise inspection.



8. The petitioner has reasons to believe that music at the highest level was not played by the WBPCB inspection team, because the petitioner was not allowed to go to the second floor where Tram Deepo Bar/Disco is located during the said surprise inspection by the WBPCB inspection team, so the petitioner can't ascertain whether the music was played at the highest level or not. It is reiterated that the volume level was not increased in the presence of the petitioner.
9. The petitioner, therefore, humbly prays for an order of re-inspection in the presence of the petitioner, whereby the volume can be increased to ascertain the true state of affairs, after 10 P.M. on a Saturday or Sunday or a Holiday night.
10. I shall now proceed to deal the various averments contained in the said affidavit.



11. Save and except what are matters of record, allegations to the contrary contained in the various paragraphs of the said affidavit are denied and disputed as if in seriatim and specifically traversed.
12. With reference to the contents of paragraphs 1 and 2 of the said affidavit, save what are matters of record, allegations to the contrary are denied.
13. With reference to the contents of paragraph 3 of the said affidavit, I say that the inspection report bristles with erroneous recording.
14. With reference to the contents of paragraph 4 of the said affidavit, it is stated that the inspection was carried out at a juncture when the bar and the night club had just opened and usually music is not played at the highest level. Hit Wicket (Restaurant & Hookah parlor) is not there at the said building any more. They have left the premises in October 2022 and there is no longer any signboard



or any sign of Hit Wicket at the said premises. It is denied that the area is a commercial area and it is stated that there are several residential premises in and around the area and it is incorrect on the part of the WBPCB to contend that the area is predominantly a commercial area.

15. With reference to the contents of paragraph 5 of the said affidavit, save what are matters of record, allegations to the contrary are denied. It is stated that the music is at the loudest post 10 p.m.
  
16. With reference to the contents of paragraph 6 of the said affidavit, it is stated that none of the measurements referred to in the paragraph under reply has been taken in the presence of the petitioner. The petitioner therefore humbly prays that there should be an order of re-inspection after 10PM on a Saturday, Sunday or holiday night in the presence of the Petitioner and the entire inspection be videographed. If going by the figure indicated in the



paragraph under reply are concerned, it would clearly show violation of the WBPCB guidelines.

17. With reference to the contents of paragraphs 7 and 8 of the said affidavit, it is denied that the noise level in front of the restaurant is lessor than the ambience noise level as alleged or at all. The petitioner has reasons to believe that volume was not turned to the highest level at the time of inspection and music was not played at the time of inspection. Inasmuch as none of the readings were taken in the presence of the petitioner and the volume levels were not increased in the presence of the petitioner, the petitioner prays that there should be an order for re-inspection in the presence of the petitioner. It is incorrect to contend that the petitioner did not allow the inspecting team to enter his flat to measure the noise level. The conversation happened on the Ground floor lobby of the building. I indicated to the inspection team that as per my complaint, inspection should be carried out after 10 P.M. at night



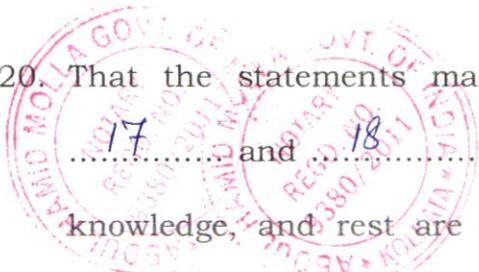
on a Saturday, Sunday or holiday night when music is loud. They asked me to wait on the stairs lobby of 2<sup>nd</sup> floor outside Tramdeepo. They indicated that they would go inside Tramdeepo and turn on very loud music and I should be able to hear if the music was loud or there was any vibration. If the petitioner is not allowed to go inside there is no way it could be ascertained whether the volume level was actually turned up. Thus, the inspection was a sham and thus the petitioner prays for an order of re-inspection with full video recording. I deny that I had misbehaved with inspecting officer or refused to cooperate with them as alleged or at all. I deny that I had obstructed the proceeding of inspection mid way or did not allow the inspecting officer to continue the inspection as alleged or at all. I deny that I had threatened the inspecting team as alleged or at all. I deny that I had sent any e-mail to mislead any authority as alleged or at all.



18. With reference to the contents of paragraphs 10 and 11 of the said affidavit, I deny that the inspection was carried out by putting the sound boxes in full blast as alleged or at all.

19. I say that the application filed by the petitioner is liable to be allowed. The petitioner, further humbly prays that the affidavit filed by the West Bengal pollution control board dated 3<sup>rd</sup> January, 2022 should not be looked into and it should not be considered by the Hon'ble Court

20. That the statements made in the paragraph Nos. 17 to 18 of the foregoing affidavit are true to my knowledge, and rest are our respectful submissions before this Hon'ble Court.



WITNESSED BY THE PERSONS IDENTIFIED BY ME WHO SIGN IN MY PRESENCE 13 JAN 2022

*Amrta*

Identified by me  
*Rajesh Upadhyay*  
Advocate

Deponent

*[Signature]*  
ABDUL HAMID MOLLA  
NOTARY  
Advocate, High Court, Calcutta  
Reged. No. 9380 / 2011  
Government of India  
High Court Calcutta  
Gate No. 'E'  
M:-9831104098

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

(Application under Section 14 r/w Section  
18 of The National Green Tribunal Act,  
2010)  
ORG. APPLICATION NO. 98 OF 2022

**BETWEEN:**

AMITABH KEJRIWAL

**...PETITIONER**

AND

STATE OF WEST BENGAL AND ORS.

**...RESPONDENTS**

**AFFIDAVIT IN REPLY TO THE AFFIDAVIT  
FILED BY THE WEST BENGAL  
POLLUTION CONTROL BOARD DATED  
3RD JANUARY, 2022**



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