

S.L. No. 98



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A. No. 122/2024/PB

In
ORIGINAL APPLICATION NO. 258/2024/PB

In The Matter of
Banibrata Mukherjee

...Applicant

Versus

State of West Bengal & Ors.



... Respondents

COMPLIANCE REPORT IN THE FORM OF AFFIDAVIT ON BEHALF OF
THE DISTRICT MAGISTRATE & COLLECTOR, SOUTH 24 PARGANAS
DISTRICT.

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06 JAN 2025

	the E & H, Department under section 53 of the West Bengal Town and Country (Planning & Development) Act, 1979 are collectively annexed herewith and marked as		
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Filed by

Sibojyoti Chakrabarti

SIBOJYOTI CHAKRABARTI
Advocate

For The State of West Bengal

Email:

subho.advocate@gmail.com

(M): 9007035534



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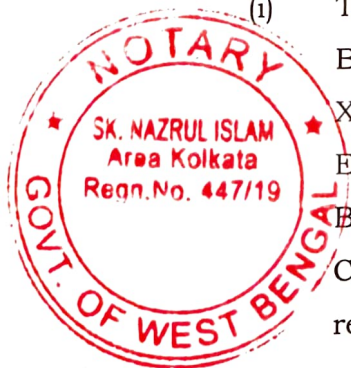
COMPLIANCE REPORT IN THE FORM OF AFFIDAVIT ON BEHALF OF THE,
DISTRICT MAGISTRATE & COLLECTOR, SOUTH 24 PARGANAS DISTRICT

I, Saddam Navas, son of Badarudeen. M, aged 35 years by faith Islam and by occupation- Government Service, presently posted as Additional District Magistrate & District Land & Land Reforms Officer, South 24 Parganas district having office at Office of the Additional District Magistrate & District Land & Land Reforms Officer, South 24 Parganas, New Treasury Building, 8th & 9th Floor, Alipore, Kolkata: 700027, West Bengal, do hereby solemnly affirm and submit as follows:-

1. That I am presently posted as the Additional District Magistrate & District Land & Land Reforms Officer, South 24 Parganas, having Office at Office of the Additional District Magistrate & District Land & Land Reforms Officer, South 24 Parganas, New Treasury Building, 8th & 9th Floor, Alipore, Kolkata: 700027, I am competent to swear and affirm this affidavit for and on behalf of myself and on behalf of the District Magistrate & District Collector, South 24 Parganas.



2. That this Compliance Report in the form of Affidavit is being filed in compliance to the Solemn Order dated 29.11.2024 passed by the Hon'ble National Green Tribunal, Principal Bench, and New Delhi. That in the said Solemn Order the Hon'ble Tribunal has been inter alia pleased to direct the respondents including the District Magistrate to file the compliance report as per Solemn Judgment dated 16.05.2024, passed in O. A. No. 258/2024/PB by the Hon'ble Tribunal.
3. That in compliance and obedience to the above mentioned order it is submitted that the Environment & Heritage department and Building Department of the Kolkata Municipal Corporation respectively had submitted an Action Taken Report regarding restoration of L.R. Plot No. 13845, in Mouza- Behala, J. L. No. 102, classified as Pukur (Pond), which is situated at 321, Diamond Harbour Road, near to Behala Diamond Club, Ward Number 119, Borough Number XIII.
4. That in the Action Taken Report submitted by the Environment & Heritage department, Kolkata Municipal Corporation the following observations have been made:
 - (i) The site in question i.e. 321, Diamond Harbour Road, near to Behala Diamond Club, Ward Number 119, Borough Number XIII was inspected on 09.07.2024 by the officials of the Environment & Heritage department, Building department of Borough 13, Kolkata Municipal Corporation, Municipal Commissioner, Kolkata Municipal Corporation and representative of the West Bengal Pollution Control Board.
 - (ii) After receiving the complaint of illegal filling of the above mentioned water body this department inspected the site on 03.08.2021 and it was found that a portion of the water body



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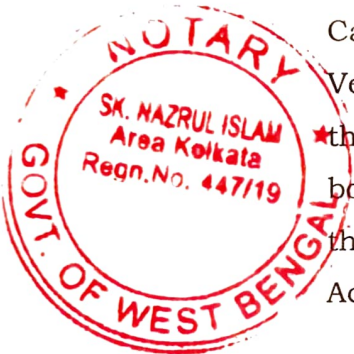
filled up in comparison with NRSA (Aerial) map. As per the NRSA Aerial map the area of the water body is 875.6399 sq. mt. out of which approximately 5 sq. mt. in southern portion has been filled up.

(iii) Accordingly notice under section 53 of the West Bengal Town and Country (Planning & Development) Act, 1979 was issued vide E & H/27/2021-22 dated 03.09.2021 and an F.I.R was lodged in Behala Police Station vide E&H/FIR/42/2021-22 dated 08.10.2021.

(iv) Then as per Solemn Order passed by Hon'ble High Court, Calcutta in WPA (P) 230/2022 Smt Sumitra Mondal & Ors Versus Kolkata Municipal Corporation & Ors dated 28.11.2023 this department again issued notice for restoration of the water body at 139, Diamond Harbour Road, under section 53 of the of the West Bengal Town and Country (Planning & Development) Act, 1979

(v) As the Owners namely Banibrata Mukherjee and Parthobrata Mukherjee did not restore the water body another F.I.R has been lodged by the E & H, Department, KMC vide E & H, FIR/66/2023-24 dated 21.03.2024 against its owners.

Photocopy of the Action Taken Report submitted by the Environment & Heritage department, Kolkata Municipal Corporation along with written complaints vide E&H/FIR/42/2021-22 dated 08.10.2021 and E & H, FIR/66/2023-24 dated 21.03.2024 and Notices issued by the E & H, Department under section 53 of the West Bengal Town and Country (Planning & Development) Act, 1979 are collectively annexed herewith and marked with the letter 'R-1'.



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5. That the Building department of the Kolkata Municipal Corporation has also inspected the site in question and has made the following observations :

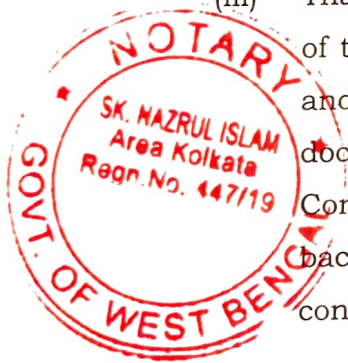
(i) During inspection it was observed that there exists a two storied residential building at the Eastern Side and another two storied residential building sat the Southern Side of the pond at 321, Diamond Harbour Road, Ward number 119, Borough-XIII.

(ii) That on the Southern Side of the pond in a small portion of a vacant land by the side of the road there is Behala Diamond Club in a ramshackle condition with 4 iron posts in 4 corners and few rusted tins and already Building department of Kolkata Municipal Corporation has issued notice Under section 400(1) of Kolkata Municipal Corporation Act, 1980 against Behala Diamond Club.

(iii) That with regard to the other two residential houses the owner of the Southern side house submitted sanctioned building plan and the owner of the Eastern Side did not submit relevant documents and Building department, Kolkata Municipal Corporation issued notice to submit the same but it returned back and during inspection it was found that the premises was constructed 20 (Twenty) years back.

Photocopies of the Sketch map and Inspection Report of the Building department, Kolkata Municipal Corporation are collectively annexed herewith and marked with the letter 'R-2'.

6. That recently as on 23.11.2024 photographs and sketch map have been submitted to the office of the District Magistrate, South (24) Parganas showing that the filled up portion of the pond in question has been removed and the same has been restored by the Kolkata Municipal Corporation.



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Coloured Photographs along with sketch Map showing the condition of the pond before and after restoration are collectively annexed herewith and marked with the letter 'R-3'.

7. That it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice and that the deponent has high regard to the Order/Orders as passed by this Hon'ble Tribunal.

Identified by me

Sipoyati Chakrabarti

Advocate

06.01.2025

State of West Bengal

S. Nazrul Islam
Deponent



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

S. Nazrul Islam
Notary

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

06 JAN 2025



VERIFICATION:

I, the deponent within named, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the 6th Day of January, 2025

Identified by me

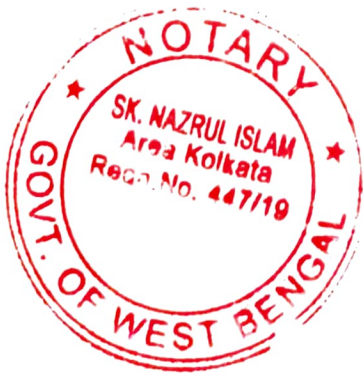
Subjoyat Chakrabarti

Advocate

State of West Bengal

06.01.2025

Subjoyat Chakrabarti
Deponent



7
Annexure - R-1 -9-

Re : Report regarding illegal filling of water body(Premises no. 139, Diamond Harbour Road near Premises no. 321, Diamond Harbour Road (Near Behala Diamond Club), Ward-119, Br.-XIII.

As per order of Hon'ble NGT dated 16/05/2024(Original Application no. 258/2024) a joint inspection was held on 09/07/2024 in the above-mentioned site. The following officials were present at the time of joint inspection.

- 1) Municipal Commissioner
- 2) Representative of West Bengal Pollution Control Board.
- 3) Representatives of Building Dept. of KMC
- 4) Representative of Environment & Heritage Department of KMC

ATR of E&H Dept. of KMC

After receiving the complaint of illegal filling of above-mentioned waterbody, this dept. inspected the site on 03/08/2021 and it was found that a portion of the waterbody filled up in comparison with NRSA(Aerial) map. As per NRSA(Aerial) map, the area of the waterbody is 875.6399 Sqm. out of which approximately 5 Sqm in southern portion is filled up. Hence, a notice u/s 53 of WBTC(P&D) act 1979 was issued vide E&H/27/2021-22 dated 03/09/2021 and an FIR was lodged in Behala PS vide E&H/FIR/42/2021-22 dated 08/01/2022. Later on, as per order of Hon'ble High Court (WPA(P)/230/2022 SMT. SUMITRA MONDAL AND ORS.VS THE KOLKATA MUNICIPAL CORPORATION AND ORS) dated 28/11/2023 this dept. again issued a notice to restore the waterbody(139, Diamond Harbour Road) within 30 days u/s 53 of WBTC(P&D) act 1979 vide E&H/87/2023-24 dated 30/01/2024 against its owners(Banibrata Mukherjee and Parthobroto Mukherjee, s/o Late Debabrata Mukherjee of 321, Diamond Harbour Road). As the owner didn't restore the waterbody within stipulated time, an FIR was lodged in Behala PS vide E&H/FIR/66/2023-24 dated 21/03/2024 against its owners. Now if required, KMC may restore the waterbody by excavating the filled up portion (approx. 5 Sqm) and recover the cost from its owner.

Submitted please.

Adesh
SAE(0)/E 211
27/11/2024

-10-

Annexure R-2

Environment & Heritage Department
The Kolkata Municipal Corporation
48, Market Street, Kolkata: 700 087

Memo No.: E&H/FIR/42/2021-22


Dated: 08/10/2021

To,
The Officer-in-Charge,
Behala Police Station,
311, Diamond Harbour Road,
Gholeshapur, Behala,
Kolkata: 700 034

Sub: FIR AGAINST ILLEGAL FILLING OF WATER BODY NEAR 321, DIAMOND
HARBOUR ROAD IN WARD NO. 119 UNDER BOROUGH XIV.

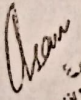
In reference to the complaint lodged before DG/E&H of KMC, this is to inform you that an illegal filling up of water body at the above mentioned premises is going on in violation of Section 53 of W.B. T & C (P&D) Act 1979 & 22 of West Bengal Inland Fisheries Act, 1993 (Amended).

Therefore, you are requested to take immediate action considering this as an FIR and provide us a Case Reference for further necessary action in this matter.


EE (C)/E&H

Exo Engg (C)
Environment & Heritage
Copy to: M.C.

1. Hon'ble Member Administrator (Environment) for kind information.
2. Dy. Director, Fisheries Department, 9A, Esplanade East, Kolkata - 700 069 - for information and necessary action please.
3. Executive Engineer (C)/Borough XIV - for information and necessary action please.
4. Addl. CP III, Kolkata Police Directorate, Lalbazar, Kolkata - 700 001 with a request to direct the local Police Station to take immediate measures as filling work is still going on.
5. DC, South-West Division, Tollygunge EF Lines, 555/557, D.P.S. Road, Kolkata-700033, with a request to direct the local Police Station to take immediate measures as filling work is still going on.


Exo Engg (C)
Environment & Heritage
Copy to: M.C.

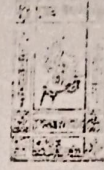
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- 11 - "Anupur - R-1"

Environment & Heritage Department
The Kolkata Municipal Corporation
48, Market Street, 3rd Floor,
Kolkata: 700 087

o/c



Memo No.: E&H/FIR/66/2023-24


Date: 21/03/2024

The Officer-in-Charge,
Behala Police Station,
311, Diamond Harbour Road,
Gholeshapur, Behala,
Kolkata: 700 034

**Sub: FIR AGAINST ILLEGAL FILLING OF WATERBODY AT PREMISES NO. 139,
DIAMOND HARBOUR ROAD IN WARD NO. 119 UNDER BOROUGH XIII**


In reference to the complaint lodged before DG/E&H of KMC, this is to inform you that an illegal filling up of water body at the above mentioned premises is going on in violation of Section 22 of West Bengal Inland Fisheries Act 1993 (Amended).

Therefore, you are requested to take immediate action considering this as an FIR and provide us a Case Reference for further necessary action in this matter.


ARUP SARKAR
EE(C)/E&H
Exec. Engineer (C)
E & H Department
K.M.C.

Copy to:

1. PA to Hon'ble MIC (Environment & Bustee), KMC - for kind information please,
2. DC, South-West Division, Tollygunge EF Lines, 555/557, D.P.S. Road, Kolkata: 700 033 - for kind information please,
3. Addl. CP III, Kolkata Police Directorate, Lalbazar, Kolkata: 700 001 - for kind information please,
4. Dy. Director, Fisheries Department, 9A, Esplanade East, Kolkata: 700 069 - for kind information please,
5. DG/Environment & Heritage Department - for kind information please,
6. Dy. CE(C)/Environment & Heritage Department - for kind information please,
7. Executive Engineer (Building)/Borough XIII - for kind information and necessary action please,
8. Executive Engineer (C)/Borough XIII - for kind information and necessary action please.


EE(C)/E&H
Exec. Engineer (C)
E & H Department
K.M.C.

-12-

4
Annexure-R-1

OFFICE OF THE ENVIRONMENT & HERITAGE DEPARTMENT
THE KOLKATA MUNICIPAL CORPORATION
48, MARKET STREET, KOLKATA: 700 087

Notice: E&H/27/2021-22
From: Executive Engineer (C)
Environment & Heritage Department

Date: 03/09/2021

To,
Person Responsible

Sir/Madam

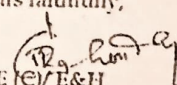
Sub: ILLEGAL FILLING OF WATERBODY NEAR 321, DIAMOND HARBOUR ROAD IN WARD NO. 119
UNDER BOROUGH XIII, IN CONTRAVENTION TO THE NOTIFICATION MADE UNDER THE
WEST BENGAL TOWN & COUNTRY (PLANNING & DEVELOPMENT) ACT, 1979.

It has come to the notice of the Kolkata Municipal Corporation that some development work has been undertaken by P/R or his/her agent including filling up of the wet land / Tank at aforesaid locality without obtaining permission from the Kolkata Municipal Corporation and in contravention of the provisions of the West Bengal Town & Country (Planning & Development) Act, 1979 and the notification issued there-under by Kolkata Metropolitan Development Authority.

Under the provision of the act, character of the existing land use should not be changed without obtaining permission from K.M.C. Under the circumstances, when he/she is filling a tank/low land at the above mentioned site, there is chance of violation the legal parameters enforced by the State Government and the local authorities and hence and have made himself / herself liable to be prosecuted under the provisions of the Act and notification issued by the Kolkata Metropolitan Development Authority under the West Bengal Town and Country (Planning & Development) Act, 1979.

Please, therefore, take notice under Section 53 of the said Act that unless he/she take action to restore the land to it's condition before the said development work took place within a period of seven days from the date of receipt thereof, proceedings in accordance with law will be taken against him/her without any further reference to him/her which please note.

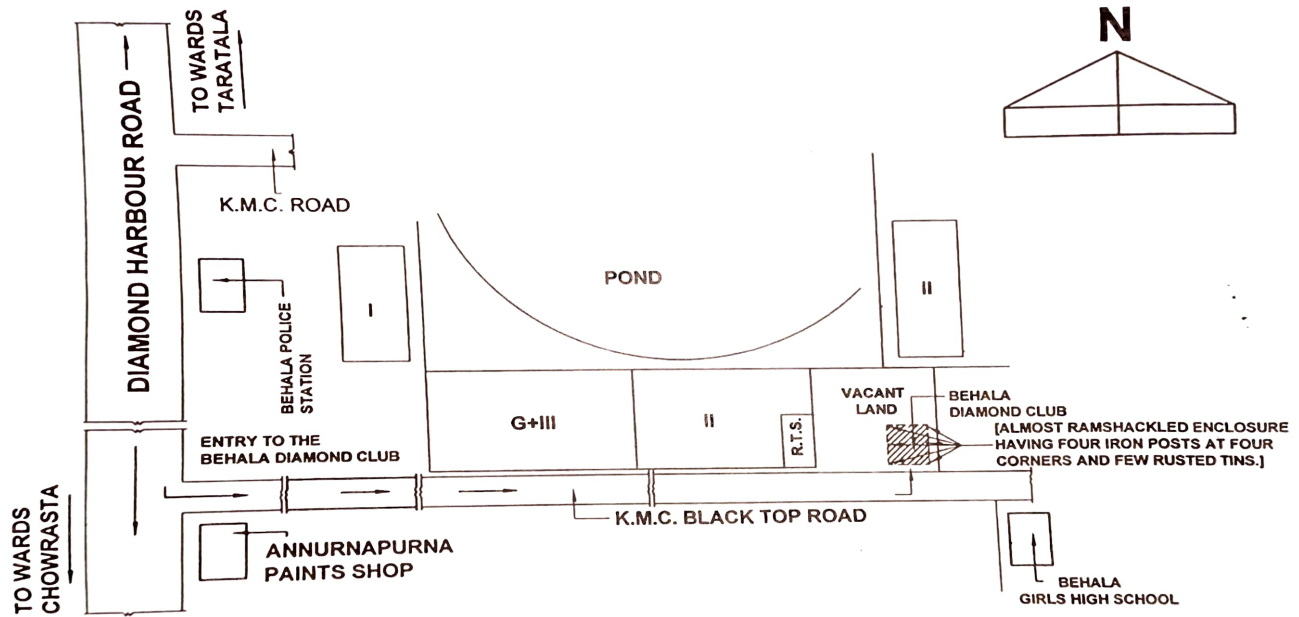
Yours faithfully,


EE (C)/E&H

Exo Engr (C,
Environment & H.
K M C

Copy forwarded to:

- i) PA to Chairperson, BOA, KMC,
- ii) P.A. to Mpl. Commissioner,
- iii) PA to Hon'ble Member Administrator (Environment),
- iv) DG (Building) for favour of information please,
- v) Executive Engineer (Br. XIII) for information and necessary action,
- vi) Chief Valuer & Surveyor, for information and necessary action,
- vii) Officer-in-Charge, Behala Police Station, Kolkata: 700 034, for information and necessary action,
- viii) DC/Environment & Heritage Department, for information and necessary action



LOCATION PLAN SHOWING RELATIVE POSITION OF
STRUCTURES/OBJECTS AROUND THE POND OBJECTS.
 (NOT TO SCALE)

- 14 - URGENT

Answer - R-2

Re: Inspection report of Building Department carried out with other officials regarding illegal filling of water body at 321, Diamond Harbour Road (Near Behala Diamond Club), Ward-119, Br-XIII on 09/07/2024.

DG (E&H)DG (B)

After receiving the copy of letter of Dy. Chief Engineer (Civil)/ E & H Department dated- 05/07/2024 duly forwarded by DG(B) (enclosed herewith), representatives of Building Department of Borough-XIII & XIV [EE(C), AE(C) ,SAEC]] were present at the time of joint inspection at the captioned premises on 09/07/2024.

The other officials present at the time of joint inspection were-

- 1) Municipal Commissioner of K.M.C
- 2) Representative of Environment & Heritage Department of K.M.C
- 3) Representative of West Bengal Pollution Control Board.

During Inspection a reconnaissance was done of the entire location and as decided a location plan of the area (not to scale) is drawn showing the salient features around the pond. There exist a two storied residential building at the eastern side and another two storied residential building at the southern side of the pond.

On the southern side of the pond in a small portion of a vacant land by the side of the road there is Behala Diamond Club, which is in a ramshackled condition having four iron posts at its four corners and few rusted tins. It may be noted that Building Department has already initiated proceedings U/S 400(1) of K.M.C Act 1980 against this Behala Diamond Club.

As decided at the time of inspection Building Department enquired about the legality of the above mentioned two buildings which were constructed by the side of the pond.

The owner of the southern side building has submitted the copy of a sanctioned building plan of a two storied building having B.P-2012130483, dt-08/12/12. But the owner of the eastern side building did not submit any relevant documents of the building, though building Department has issued letter to the owner to submit relevant documents, but the letter was returned back. At the time of joint inspection the owner/ occupier of this premises verbally informed that this building was constructed almost more than 20yrs back.

Now the report is placed for the perusal of higher authority.

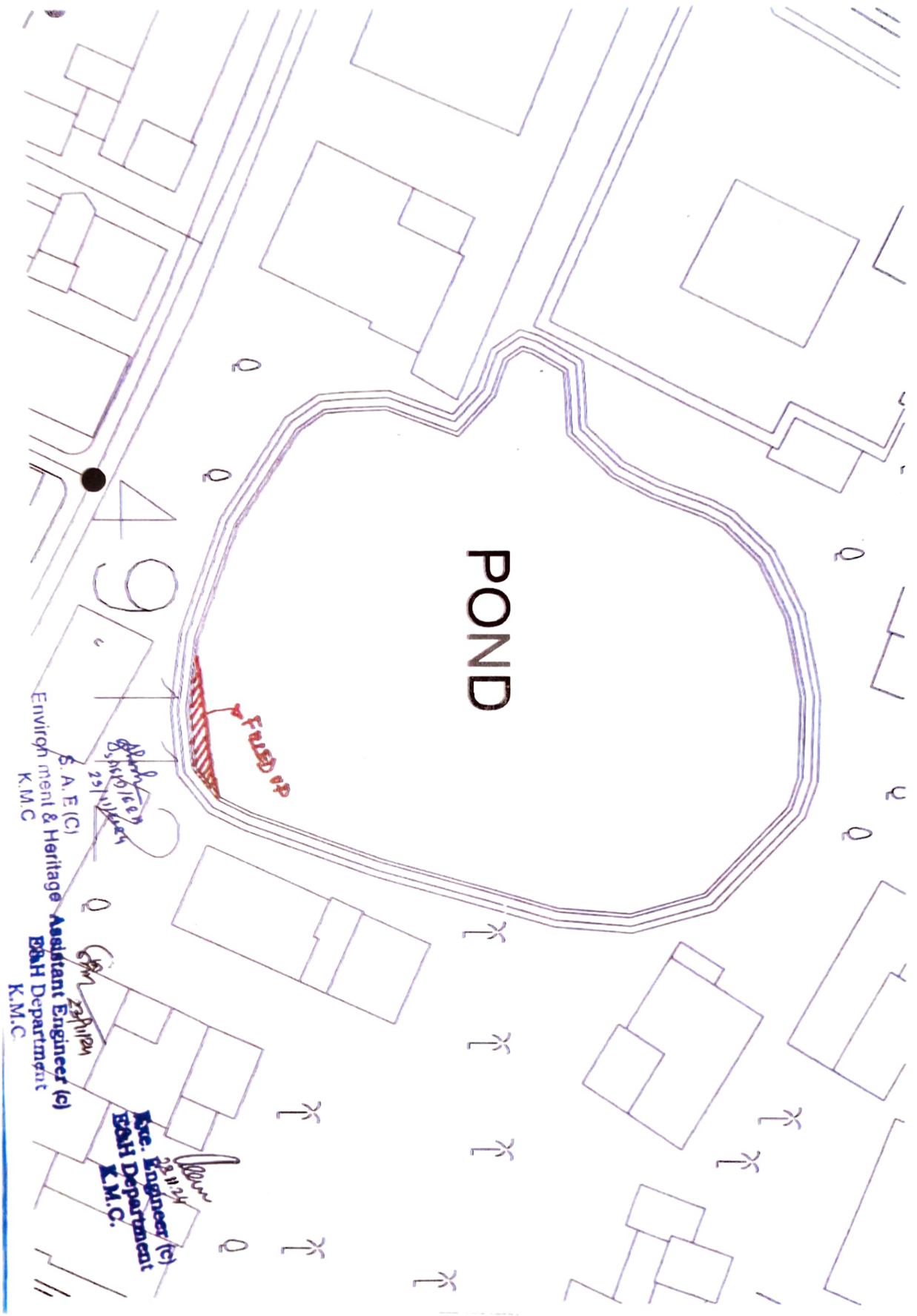
Enclosure:

- 1) Intimation letter of Dy. CE/E&H Department for joint site inspection.
- 2) Location Plan showing relative position of structures/ objects around the pond.
- 3) Copy of sanctioned plan submitted by the owner of the southern side premises and Copy of the letter issued to the eastern side building which is returned back.

U. Farmania
19/07/24.
Assistant Engineer(C)/B
Br- XIII & XIV

19/07/24
Executive Engineer(C)/B
Br- XIII & XIV

15- Annex P-3



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BEFORE

16 Area - R-3



me: 12-06-2024 12:45
ote: 321 diamond harbour rd 2

Powered by NoteCam

After

Answer for 3:

17

32





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PRINCIPAL BENCH, NEW DELHI

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MAGISTRATE & COLLECTOR,
SOUTH 24 PARGANAS DISTRICT.

SIBOJYOTI CHAKRABARTI
Advocate
For The State of West Bengal
Email: subho.advocate@gmail.com
(M): 9007035534.