

IN THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION No. 04/2023/EZ

IN THE MATTER OF :

SUBHAS DUTTA

... APPLICANT(s)

VERSUS

MOEFCC & ORS.

... RESPONDENT(s)

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S. No. 18 DT 23.3.2023

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SUBHAS DATTA

...APPLICANT (s)

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COUNTER AFFIDAVIT/ REPLY ON BEHALF OF RESPONDENT

No. 2 & 3/ MINISTRY OF JAL SHAKTI & CENTRAL WATER

COMMISSION

I, Sudipta Sarkar, S/o Late Bijoy Pada Sarkar, aged about 57 years, employed as Deputy Director, Monitoring & Appraisal Directorate, Central Water Commission, Kolkata, functioning at Kolkata, do hereby solemnly affirm and declare as under:

1. That I am duly authorized and competent to swear this affidavit on behalf of Ministry of Jal Shakti and Central Water Commission, in the above matter.
2. That I have read and understood the order passed by the Hon'ble NGT dated 17.01.2023 and filing this Counter Affidavit in compliance of direction passed by the Hon'ble Tribunal.
3. That the contents of the Appeal that have not been specifically admitted hereunder or are matter of record be deemed denied.
4. That the deponent craves liberty to raise additional submission or file additional affidavits in case need arises during the course of arguments.

BRIEF SUBMISSIONS:



5. That the Applicant under this O.A. has requested specific actions to be initiated by the concerned Respondents on a war-footing basis on the issues of massive soil erosion and breaches of embankment of river Ganga (Hooghly) at the Eastern side of the Indian Botanic Garden, Howrah causing damages to many grown-up tall trees of the garden. According to him this botanic garden is the best oxygen spot of the city of Calcutta/Howrah and with the reduction of the green cover of the garden there will be more environmental imbalances.

6. That in term of Entry 17 in the State List, water is a State subject. Thus water resources projects for flood management and control are planned, funded, executed and maintained by the State Government themselves as per their own resources and priorities. Role of Government of India is limited to being catalytic, providing technical support and in some cases partial financial assistance in accordance with the existing schemes being implemented by Ministry of Jal Shakti, Government of India. Central Water Commission being an attached body of the Ministry of Jal Shakti functions as per directive/guidelines provided by the said Ministry in this regard.

7. It is submitted that Indian Botanic Garden, Howrah referred to in the O.A No. 04/2023/EZ by the Petitioner, is not being provided financial assistance under the scheme 'Flood Management and Border Area Programme' (FMBAP) of Department of Water Resources, River Development and Ganga Rejuvenation (DoWR, RD & GR), Ministry of Jal Shakti (MoJS) which is a Centrally Sponsored Scheme of MoJS, since no such proposal had been submitted by the State Government (Govt. of West Bengal) as intimated by the Senior Joint Commissioner-II (Flood Management), DoWR, RD & GR, MoJS vide its letter dated 10.02.2023 (Copy marked as Annexure-R1) as



also intimated by Director, Flood Management Planning Directorate, Central Water Commission (CWC) vide its letter dated 03.02.2023 (Copy marked as Annexure-R2) .

8. That it is, therefore, most respectfully submitted that the issues raised in the present petition are outside the purview of Respondents No. 2 & 3 (i.e. MoJS & CWC).

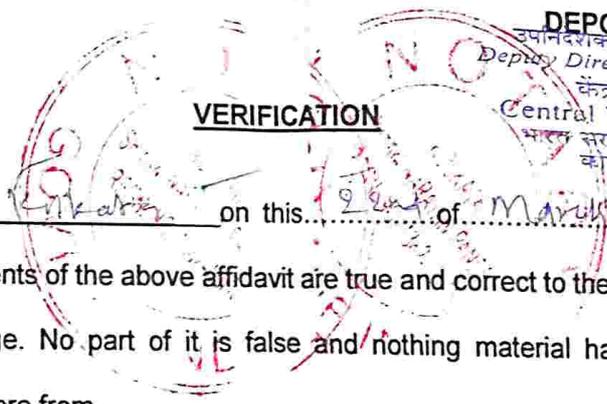
PARA WISE REPLY:

9. The contents of Para 1 to 16 are matter of record and does not warrant any reply from the answering respondents (i.e. MoJS & CWC).

PRAYER:

It is respectfully submitted that the Respondent nos. 2 & 3, being not connected with the present matter, may be deleted from the array of parties along with any other orders that the Hon'ble Tribunal finds fit & proper in the light of facts & circumstances of this case.

Sudipta Sarkar



DEPONENT
उपनिदेशक (प्रवा. एवं मूल्यां. निदे.)
Deputy Director (Mon. & App. Dir.)
केंद्रीय जल आयोग
Central Water Commission
भारत सरकार/Govt. of India
कोलकाता/Kolkata

Verified at Kolkata on this 23rd of March, 2023,
that the contents of the above affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed there from.

Sudipta Sarkar

DEPONENT
उपनिदेशक (प्रवा. एवं मूल्यां. निदे.)
Deputy Director (Mon. & App. Dir.)
केंद्रीय जल आयोग
Central Water Commission
भारत सरकार/Govt. of India
कोलकाता/Kolkata

Identified by *Ashutosh Prasad*
Adv.

Solemnly Affirm & Declared
Before Me on Identification
of Ld. Advocate

Sudipta
SHYAM NARAYAN PANDEY
NOTARY, GOVT. OF INDIA
REGN. NO. 138242016
23.03.2023

23 MAR 2023



25323839(1)/2023/CORD-T&BDBO
1780611/2023

Z-20011/2/2023-FM Section-MOWR

Court Matter

Z-20011/2/2023-FM Section-MoWR
Government of India
Ministry of Jal Shakti
Department of Water Resources, RD & GR
(Flood Management Wing)

8th Floor, Block-11, CGO Complex
Lodhi Road, New Delhi
Dated: February, 2023

To,
The Director (M&A),
Central water Commission,
Monitoring & Appraisal Dte.,
10th floor, Jalasampad Bhawan,
Bidhan Nagar, Kolkata-700091
(directormonkol@yahoo.in)

Subject: NGT Eastern Zone Court Case: O.A. 04/2023/EZ
filed by Subhas Datta vs Ministry of Environment, Forest
and Climate Change and Ors - reg.

Sir,

Kindly refer to your Letter No. N/7/2019-TBO-Part(1) dated 02.02.2023 in relation to NGT Eastern Zone Court Case: O.A. 04/2023/EZ Subhas Datta Vs. Ministry of Environment, Forest & Climate Change and Others.

2. It is to be informed that no project under the scheme 'Flood Management and Border Area Programme' (FMBAP) of Department of Water Resources, River Development and Ganga Rejuvenation has ever been included for funding at the location specified in the aforementioned letter.

This issues with the approval of competent authority.

Yours faithfully,

Rakesh Toteja 10/2/2023
(Rakesh Toteja)

Senior Joint Commissioner - II (FM)



Copy to:

Superintending Engineer (Coord.), O/o the Chief Engineer (TBO),
CWC, Teesta campus, GE-2, Sec-III, Salt Lake, Kolkata-700106
(setbo-cwc@nic.in)



सेवा में,

The Director,
 Monitoring & Appraisal (M&A),
 T&BDBO, Kolkata
 Central Water Commission
 (Email: dirmonkolkata@nic.in)

दिनांक: 03/02/2023

विषय: NGT Eastern Zone Court Case: O.A. 04/2023/EZ Subhas Datta Vs. MOEF & CC and Ors.-reg

सन्दर्भ: T&BDBO office letter No.N/7/2019-TBO-Part(1) Dated: 02.02.2023

महोदय,

Kind attention is invited to letter of T&BDBO office under reference above on the cited subject through which copy of the Original Application along with NGT Court Order copy dated 17.01.2023 was forwarded to Chief Engineer, FMO, CWC. In this regard, information / inputs were sought regarding proposal(s) of State Government of West Bengal related to Anti Erosion, Bank Protection, Flood Embankment, etc. specifically for the specified location as indicated in the above Court case (approved / under approval / funded / under funding by GFCC/ CWC / DoWR, RD&GR).

In light of the above, it is to inform that Flood Management issues regarding structural measures of Ganga Basin States are dealt in GFCC, Patna. Further, no proposal of West Bengal on Flood management has been received in FMO, CWC.

This is for kind information and further necessary action please.

This issues with the approval of Chief Engineer (FMO), CWC.



भवदीय,

Signed by Piyush Kumar

Date: 03-02-2023 12:24:17

(पीयूष कुमार) Piyush Kumar
Reason: Approved

निदेशक/Director

Copy to for kind information:

1. Chief Engineer, T&BDBO, Kolkata, CWC
2. Director, TC Dte, CWC, New Delhi
3. Director, RMC Dte, CWC, New Delhi

पश्चिमी खंड-2 विंग-1(द्वितीय तल)

आर के पुरम नई दिल्ली

दूरभाष: 011-29583298

ईमेल:fmp-cwc@nic.in

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Conserve Water- Safe Future