

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO.91/2022/EZ

IN THE MATTER OF :

Asif Iqbal

.... Applicant

Versus

The State of West Bengal & Ors.

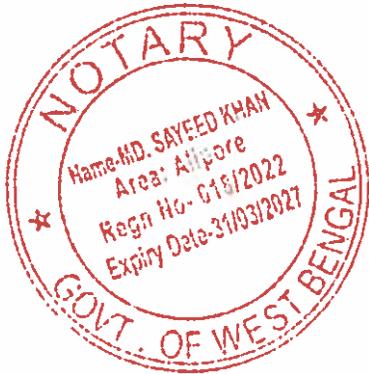
... Respondents

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Filed by


Advocate



SL NO. 16 --- 2.6 SEP 2022
Dt.....

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
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IN THE MATTER OF:

Asif Iqbal

.... Applicant

Versus

The State of West Bengal & Ors.

... Respondents

INSPECTION REPORT IN THE FORM OF AFFIDAVIT FILED ON
BEHALF OF THE RESPONDENT NO.10 BEING THE BERHAMPORE
MUNICIPALITY

I, Santi Kumar Roychowdhury, son of Brishbhanu Roychowdhury, aged about 62 years, by faith Hindu, by occupation service, working for gain as the Executive Officer, at the Berhampore Municipality, Berhampore, Murshidabad, West Bengal, do hereby solemnly affirm and say as follows :-

1. That I am working for gain at the Executive Officer, at the office of Berhampore Municipality, Berhampore, Murshidabad, West Bengal - 742101, state that an application being O.A. No.91 of 2022 has been served upon my Advocate and an order was passed on 07.09.2022 by the National Green Tribunal, Eastern Zone, Kolkata

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directing the respondent No.10 being the Berhampore Municipality to file an inspection report.

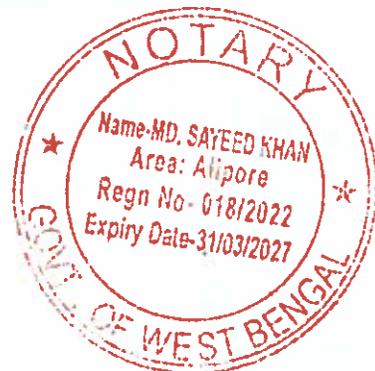
2. That I am filing this report in terms of the order dated 07.09.2022 in terms of the solemn order passed by this Hon'ble Court.

3. I beg to place the following facts for proper adjudication of the present application:-

a) That one Public Interest Litigation regarding the same scheduled property for illegal filling up of pond was filed by one Babusona Debnath being W.P.A. (P) No.300 of 2022 which was taken up for hearing an order was passed directing the authorities to ensure that no illegal filling up of the pond or illegal raising of construction is done till next date of hearing.

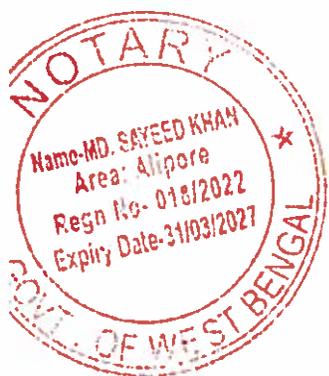
A copy of the order dated 19.07.2022 is annexed hereto and marked as Annexure "R-1".

b) That it was also stated that there was no construction being made by the Berhampore Municipality.



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- c) That in the Hon'ble High Court at Calcutta also directed the municipality to file a report after enquiry at the spot of Mollagere.
- d) That the Berhampore Municipality pursuant to the solemn order dated 19.07.2022 passed by Their Lordships the Hon'ble Prakash Shrivastava, Chief Justice and the Hon'ble Justice Rajarshi Bharadwaj made an enquiry in presence of the Berhampore Police Station and representation of BLRO on 30.07.2022 at 11.30 A.M.
- e) That in the meantime Berhampore Municipality was served with this application being O.A. No.91 of 2022 filed before the National Green Tribunal, Eastern Zone Bench, Kolkata.
- f) It is stated on behalf of the Berhampore Municipality that in course of enquiry it revealed that several old shops which were already in existence will renovated and the said shop rooms were situated 5 to 6 feet away from the pond in question.
- g) It is stated that during enquiry the shop owners of the adjacent pond produced trade license which were issued 30-50 ago along with electric connection records. It revealed that the said pond was also cleaned up, the shop rooms. During physical enquiry it was seen that renovation to the



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old structure was made and no new construction has been built up at the said place.

4. It is submitted on behalf of the Berhampore Municipality that the Municipal authorities has not given any permission or construction in the said schedule property nor filled up any part of the pond.

A copy of the enquiry report made after visiting the area on 30.07.2022 at 11.30 A.M. is annexed hereto and marked as Annexure "R-2".

5. That the above statements made in paragraphs 1 to 4 are true to my knowledge and facts.

Identified by me



Advocate

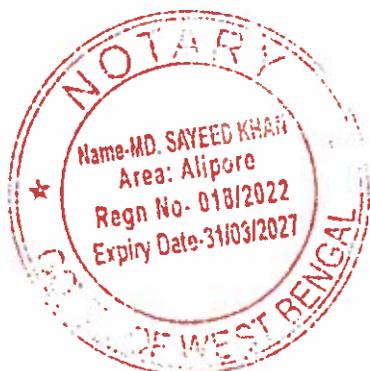
WB/580/2006

DEPONENT

Executive Officer
Berhampore Municipality

SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME U/S 179 CPC, IC' OR PC

MD. SAYEED KHAN
NOTARY
GOVT. OF WEST BENGAL
REGD. NO- 018/2022
4, K.S. ROY ROAD, KOL-1



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SL NO. 17 Dt. 12 6 SEP 2022 5

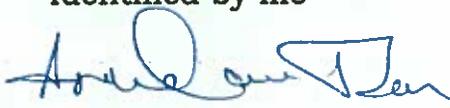
VERIFICATION

I, Santi Kumar Roychowdhury, son of Brishbhanu Roychowdhury, aged about 62 years, by faith Hindu, by occupation service, working for gain as the Executive Officer, at the Berhampore Municipality, Berhampore, Murshidabad, West Bengal, do hereby solemnly affirm and say as follows :-

1. That I am working for gain at the Executive Officer, at the office of Berhampore Municipality, Berhampore, Murshidabad, West Bengal and I am well acquainted with the facts and circumstances of this case.

2. That the above statements made in paragraphs 1 to 4 are true to my knowledge and facts.

Identified by me



Advocate

DEPONENT

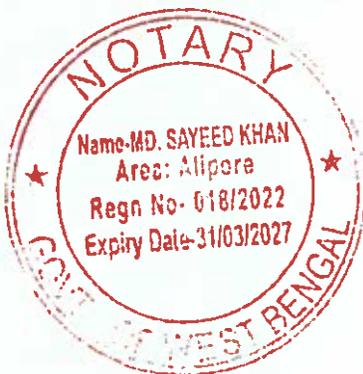
Executive Officer
Berhampore Municipality



SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME U/S 139 CPC, IC' CRPC

MD. SAYEED KHAN
NOTARY
GOVT. OF WEST BENGAL
REGD. NO. 018/2022
4.K.S. ROY ROAD, KOL-1

2 6 SEP 2022



- 6 -

ANNEXTURE

R/L

4
ss/jks

19.07.2022

WPA(P) 300 of 2022

Babusona Debnath
Vs.
The State of West Bengal & Ors.

Mr. Atarup Banerjee
Mr. Abdus Salam
Ms. Poulami Roy

... .. for the petitioner

Mr. Jahar Lal De
Mr. Shamim-ul-Bari

... .. for the State

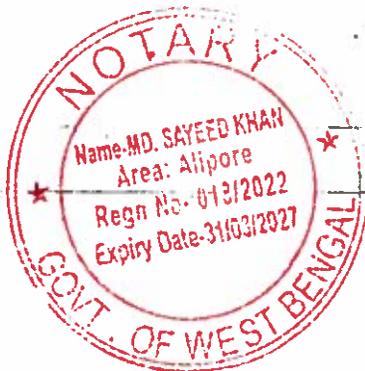
Mr. Arindam Das
Ms. Rumeli Sarkar

... .. for the respondent nos.5 & 6

Submission of learned counsel for the petitioner is that J. L. No.97, plot no.1700 of Mouza-Khagra is classified as Pukur and it is being illegally filled up by certain persons and a market is proposed to be constructed thereupon by the respondent no.5, Berhampore Municipality. Referring to the mouza map as also land record, he has submitted that the land in question is a water body, which has not been converted, therefore the recorded owners or respondent municipality has no right to fill it or raise any construction thereupon.

Learned counsel appearing for the State has supported the submission and has referred to the show cause notice dated 27.06.2022 issued to the recorded owners who are responsible for changing the nature of the pond.

Learned counsel appearing for the respondent no.5, Berhampore municipality on instruction from Mr. Shanti Kumar Raychowdury, Executive Officer, Berhampore



Municipality has submitted that there is no change in the nature of the Pukur in plot no.1700 and no illegal construction has been raised thereupon.

This Court has made it clear to the learned counsel for the respondent no.5, Berhampore Municipality that if the above statement is found to be incorrect then the proper action against the concerned officer will be taken.

Having regard to the above, we direct the authorities to ensure that no illegal filling up of the pond or no illegal raising of the construction thereupon is done till the next date of hearing.

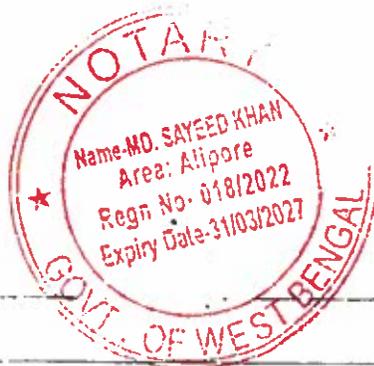
Learned counsel for the State as also for the respondent municipality are directed to file report in the form of affidavit within four weeks. Thereafter, exception, if any be filed within one week.

Meanwhile, it will be open to the learned counsel for the petitioner to implead the alleged private violators and serve them.

List on 19th September, 2022.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)





BERHAMPORE MUNICIPALITY

BERHAMPORE ◊ MURSHIDABAD ◊ WEST BENGAL

Memo No. 3077/30/Law/22/13m

Date 10-08-22.

To

From :

.....

Report In terms of
W.P.A (P) No. 300 of 2022
CAN No. 1&2 of 2022 of High Court, Calcutta
In the matter of
Babusona Debnath
Vs
The State of west Bengal & Ors.



In terms of judgment delivered by Hon'ble High Court, Calcutta dated 19/07/2022, an enquiry was made by me along with the officers and staffs of Berhampore Municipality at the spot of Mollagere on 30/07/2022 at 11-30 A.M.

On enquiry, in presence of Berhampore IC and representative of Berhampore BLRO, it is found that there are several shops which have been renovation the old structures. A pond at the back side of the occupied market area is also visible 5-6 feet away from the new renovation work.

From the records available some financially poor shopkeepers of that location assembled there and submitted their copy of the trade licenses and electric bill in support of their possession as shops of various types at the said disputed place.

They have also produced some paper from which it is revealed that there was actually some shops earlier which were almost dilapidated. On interrogation to those shopkeepers assembled there, in reply they pointed out that the old shops at the place were not in a position to run their business safely. They got the trade license from Municipality a long ago that is 30-50 years ago and electric connection at their shops from beginning of their shops. They expressed that as the shops were severely damaged, they had nothing to do but started renovation at the same place and informed the matter to the Municipal authority. They have said that they have cleaned the pond at the back side of the present structure.

From the evidences as seen, renovation area has been made by the old shopkeepers at the same place of their previous stalls at Mollagere without any filling of the pond rather they have cleaned the pond at the back to some extent. It is the fact that Municipality has not given any permission or sanction for the construction at that places.

It is also the fact that Municipality has not filled up the said existing pond or constructing any stall for these previous shop owners.


Executive Officer
Berhampore Municipality
Executive Officer
Berhampore Municipality



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ORIGINAL APPLICATION NO.91/2022/EZ

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Asif Iqbal

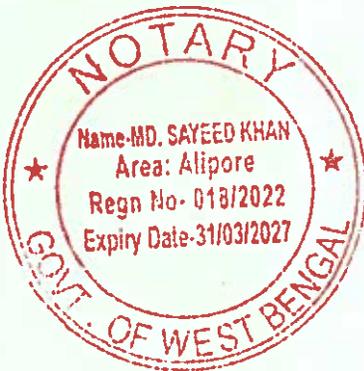
.... Applicant

Versus

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... Respondents

INSPECTION REPORT IN THE FORM OF
AFFIDAVIT FILED ON BEHALF OF THE
RESPONDENT NO.10 BEING THE
BERHAMPORE MUNICIPALITY



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