

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
Original Application No. 155/2024/EZ

Salboni Apartment Owners' Association
... Applicant

-versus-

State of West Bengal & Ors.
... Respondents

WRITTEN ARGUMENTS ON BEHALF OF RESPONDENT NOS. 1, 5 & 6

I. Preliminary submissions

1. The answering Respondents, the State of West Bengal (R-1), the Deputy Commissioner of Police, Eastern Suburban Division (R-5), and the West Bengal State Wetlands Authority (R-6) submit that the present Application, seeking restoration of the 'Salboni lake/pond' at Premises Nos. 3, 3/1 and 3/1/1, Jiban Krishna Ghosh Road, near 64/99 Khudiram Bose Sarani, Belgachia Milk Colony, Ward No. 3, Kolkata-700037, on allegations of illegal filling and encroachment, is wholly misconceived. The allegations have been conclusively dislodged by the sworn records of three independent statutory authorities filed before this Hon'ble Tribunal.

II. Three independent authorities found no filling and no encroachment

2. The West Bengal Pollution Control Board (R-3) conducted a formal site inspection on 08.05.2025, wherein its officers A. Dasgupta (Executive Engineer) and L.K. Haldar (Senior Scientist) found: (a) the lake is entirely filled with aquatic plants and dense wild vegetation; (b) no sign of any construction or encroachment was noted inside or around the lake; and (c) the complainants themselves admitted they became aware of the upcoming housing project only from media reports not from actual observation of any construction. A parallel KMC plan for restoration and beautification of the Salboni Lake was also noted.
3. The Kolkata Municipal Corporation (R-2), in its Status Report sworn on 30.06.2025, deposed that: (a) during its own survey, no specific water body was visible and the

entire land was found covered with jungle and bushes; (b) the proposed Banglar Bari Project is restricted to only 7 Bigha 15 Chatak 17 Sq.ft. out of the total area of 31 Bigha 10 Cottah, entirely on land parcels without touching any water body; and (c) restoration of Salboni Jheel has already commenced. The KMC revenue records (Annexure R-2) confirm that only a portion of Premises No. 3 carries a “land + tank” character (9 Bigha in total), while Premises 3/1 (1 Bigha 10 Cottah) and 3/1/1 (21 Bigha) are classified purely as “land” demolishing the Applicant’s claim of a singular 32-bigha water body.

4. Independently, the Ultadanga Police Station (under R-5) found in its local enquiry that the water body had almost dried out, was covered with grasses and weeds, with no construction or sign of illegal filling. Three independent statutory authorities thus reached concurrent findings: no filling, no construction, no encroachment.

III. Reply to Applicant’s Rejoinder dated 10.09.2025

5. The Rejoinder raises three contentions, each of which is untenable. First, the photographs filed as Annexure B are of poor resolution, do not show any identifiable water body, filled area, or identifiable machinery, and cannot override the formal sworn inspection report of the WBPCB prepared by technical officers with GPS-tagged photographs. Second, the claim that the water body “meets the definition of wetlands” by virtue of being less than five metres deep is an unverified, unscientific assertion unsupported by any bathymetric survey or expert data. Third, KMC’s December 2017 Notice Inviting Tender (Serial No. 78 listing 26,218 sq.m.) was an administrative estimate for pisciculture lease purposes and cannot override the official KMC revenue records filed on oath before this Hon’ble Tribunal, which confirm the composite land-and-tank character of the area and negate any claim of a 32-bigha water body.

IV. RESPONDENT NO. 6: No Jurisdiction, No Role, entitled to discharge

- 6.** The West Bengal State Wetlands Authority (R-6) is a statutory body constituted under the Wetlands (Conservation and Management) Rules, 2017. Its jurisdiction is strictly notification-driven: Rule 3 of the 2017 Rules confines the regulatory regime exclusively to wetlands identified in Schedule I or notified by the Central or State Government through the prescribed statutory process. The subject premises in Belgachia, Ward No. 3 are not notified as a wetland under the 2017 Rules, do not appear in Schedule I, and have never been classified or recognised by any competent authority as a notified wetland. In the absence of a statutory notification, the 2017 Rules are simply inapplicable; and no act, omission, or decision of R-6 is under challenge in the Original Application.
- 7.** The Applicant's contention in the Rejoinder that the water body "meets the definition of wetland" by depth is legally unsound. The definitional provision in Rule 2(m) of the 2017 Rules does not, by itself, attract the regulatory jurisdiction of R-6. The jurisdiction arises only upon statutory notification, not merely upon satisfying a definitional criterion. If this argument were accepted, every pond, seasonal water body, or low-lying area in West Bengal would automatically fall under wetland regulation, which is manifestly not the scheme of the Rules. Moreover, the Applicant has produced no scientific data, bathymetric measurement, or expert report to establish the claimed depth. It is additionally relevant that the communications by the police authorities were addressed to the East Kolkata Wetlands Management Authority (EKWMA), a distinct body managing the Ramsar-designated East Kolkata Wetlands.
- 8.** In view of the foregoing, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss OA No. 155/2024/EZ as wholly devoid of factual and legal merit

And for this act of kindness, the answering respondents shall ever pray.