

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

ORIGINAL APPLICATION NO. 143 OF 2023/EZ

BETWEEN
SUDHEN GHOSH
..... APPLICANT

-VS-
THE WEST BENGAL POLLUTION
CONTROL BOARD & ORS.
..... RESPONDENTS

I N D E X

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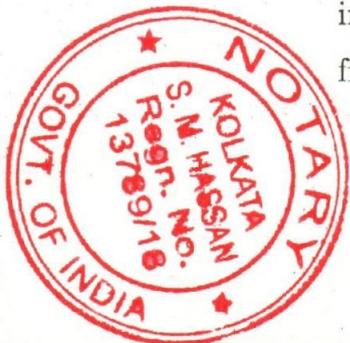
THE WEST BENGAL POLLUTION CONTROL BOARD & ORS.

..... RESPONDENTS

**Rejoinder on behalf of the applicant to the affidavit of reply filed
by the Respondent No. 8, the Private Respondent herein.**

I, Sudhen Ghosh, son of Late Sarada Prasad Ghosh, aged about 66 years, by faith : Hindu, by occupation : Retired, residing at College Para, P.O. and P.S. Beliatore, District: Bankura, Pin Code: 722203, do hereby solemnly affirm and say as follows:

1. That I am the applicant herein and that I am also well acquainted with the facts and circumstances of the instant case. I am also competent to make affirm and sign the instant affidavit on my behalf.
2. That a copy of an affidavit affirmed by one Subhendu Mukherjee, being the proprietor of the unit namely "M/S KMT Industries" on 30.11.2023 (hereinafter referred to as the "said affidavit") and intended to be used as reply to the instant Original Application filed by me. The said affidavit was served upon my Learned



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Advocate-on-record. I state that I have gone through the same and have understood the contents and purport thereof.

3. Now I shall proceed to deal with the various averments and/or statements made in various paragraphs of the said affidavit. The statements and/or averments which are not specifically dealt with hereinafter are to be deemed as denied.
4. With regard to the statements made in paragraph nos. 1 to 5 of the said affidavit, I offer no comment as the same are all matters of record and deny anything that is inconsistent and/or contrary to the facts borne out from the records.
5. With regard to the statements made in paragraphs no. 6 of the said affidavit, I repeat and reiterate the statements made in various paragraphs of the instant original application and the Supplementary Affidavit and also this instant affidavit and any of the statements and/or averments and/or allegation made in the said affidavit which are not borne out from the records and/or which are contrary thereto and/or inconsistent therewith shall be deemed to be denied and traversed in seriatim. I specifically deny that the sewerage from my toilet is directly discharged into the open space at the backyard of the respondent no. 8. I have categorically denied that I have filed the instant original application for expressing the objection by the private respondent herein regarding direct discharge from the toilet. I state that no sewerage has been discharged directly into the open space at the premises of the private respondent herein in any manner whatsoever.
6. With regard to the statements made in paragraphs nos. 7 to 13 of the said affidavit, I repeat and reiterate the statements made in



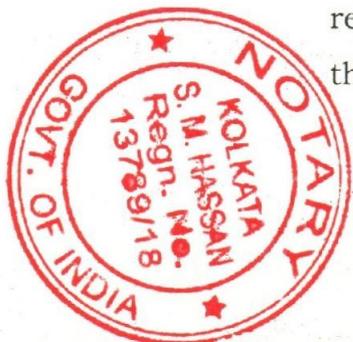
various paragraphs of the instant original application and the Supplementary Affidavit and also this instant affidavit and any of the statements and/or averments and/or allegation made in the said affidavit which are not borne out from the records and/or which are contrary thereto and/or inconsistent therewith shall be deemed to be denied and traversed in seriatim. I specifically deny that there can be no spillage of oil or storage of oil in the open area of the premises of respondent no. 8. I further deny that the full of oil drums and empty barrels are kept at the site office. I deny that I am a troublemaker or that the Panchayet Development Officer has no authority to file a report or that the private respondent has complied all directions and has covered the area of the unit with shed, sound absorbing materials which are mounted on the walls of workshop and the workshop operates from 9 am to 6pm. I state that the unit of the private respondents is operating from 9 am to 10 pm.

7. I state that at the time of filing the instant original application, I have already annexed the photocopies of empty as well as full oil drums were kept in the open area. The Chain pulley block was also placed in the open area. Necessary repair work of the transformers was done by the unit of the private respondent by filling up fresh oil in the open area.
8. I state that the Committee constituted by the Hon'ble Tribunal had visited the unit on 17.10.2023 and after inspection it was found that the unit of the private respondent has not complied with the order dated 11.10.2023 passed by the West Bengal Pollution Control Board. The said unit has not mounted



permanent sound absorbing materials on the walls and ground of the workshop as per the said order.

9. It is stated that in terms of the provisions of Noise Pollution (Regulation and Control) Rules, 2000, the prescribed noise limit in residential areas is 55 db(A) Leq. in day time and 45 db(A) Leq. at night. At the time of inspection, the noise level measured by the committee at my premises near common boundary wall was 65.16 db(A) Leq., which was well beyond the prescribed limit.
10. With regard to the statements made in paragraphs no. 14 of the said affidavit, I repeat and reiterate the statements made in various paragraphs of the instant original application and the Supplementary Affidavit and also this instant affidavit and any of the statements and/or averments and/or allegation made in the said affidavit which are not borne out from the records and/or which are contrary thereto and/or inconsistent therewith shall be deemed to be denied and traversed in seriatim. I specifically deny that on 19.08.2017, the respondent filed a mass petition before the concerned police station stating the harassment caused by me and the said petition was signed by the people of the locality.
11. With regard to the statements made in paragraphs nos. 15 to 18 of the said affidavit, I repeat and reiterate the statements made in various paragraphs of the instant original application and the Supplementary Affidavit and also this instant affidavit and any of the statements and/or averments and/or allegation made in the said affidavit which are not borne out from the records and/or which are contrary thereto and/or inconsistent therewith shall be deemed to be denied and traversed in seriatim.



12. It is stated that the said committee had admitted my allegation in the original application that domestic type of effluent is being generated due to sanitation activities. The unit has constructed some soakpits without any septic tank (for the sewage generated from the WC of the workshop) near the common boundary wall between its premises and my premises. It was also recommended by the said Committee that the concerned Block Office may be asked to look into the matter of soakpit construction by the unit.
13. It is further submitted that the said unit has not obtained Hazardous Waste Authorization from the State Board till date in terms of the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. Despite such irregularities, the said Committee as well as the West Bengal Pollution Control Board has not taken any penal action against the said unit.
14. It is respectfully submitted that in the Certificate of "Consent to Operate" being No. CO123866 dated 12.07.2019, which will be valid upto 30.06.2024, it was specifically mentioned under the heading "Special Condition" that the unit shall not undertake any expansion, modification or alteration in respect of the existing processes or equipment without permission of the State Pollution Control Board. From the site plan dated 18.12.2020, it is revealed that the said unit has been expanded by the private respondent in the year 2020 without any permission from the State Board.



15. It is also submitted that the unit was established in the year 2006. The Conversion Certificate being Memo No. 1004/872/Conv./15 dated 15.07.2015 was issued by the Block Land and Land Reforms Officer, Barjora, Bankura in the name of the unit of the private respondent. Therefore, it is clearly stated that the unit is being operated by the private respondent without converting nature and character of the land of said unit from "Gor/Layek Patit" to "Workshop".
16. It is also submitted that the unit of the private respondent has also not complied with the direction issued by the State Board under Memo No. 652-WPBD-06(94)/15 dated 07.03.2018.
17. Save and except for matters of record and save what has been stated by me hereinbefore, I do not admit any statement, averment, contention, submission as made/raised in the said application as if the same are expressly denied by me in seriatim and specifically traversed.
18. That the statements contained in paragraphs 1 to 10, 13 to 16 of the foregoing affidavit are true to my knowledge and the rests are my humble submissions before this Hon'ble Tribunal.

Identified by me -

Milanjau Pat

Advocate

Sudhendu Ghosh
DEPONENT



SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME ON IDENTIFICATION

S. M. Hassan
S. M. HASSAN
NOTARY

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