

SL NO. 15/22

-562-

Through:  
Sonal Sinha  
Adv.

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 97 OF 2017/EZ

BETWEEN

TAPAN KUMAR

MANDAL

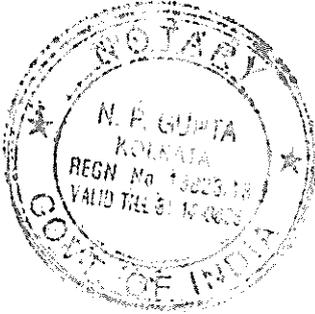
.....APPLICANT

VERSUS

THE STATE OF WEST

BENGAL & ORS.

.....RESPONDENTS



RESPONSE TO THE AFFIDAVIT DATED 09.11.2021 FILED  
BY THE APPLICANT ON BEHALF OF THE RESPONDENT  
NO. 5

Most Respectfully Sheweth:

I, Biswajit Das, son of Sri Santosh Das, aged about 48 years, by faith Hindu, by occupation Business, residing at Village — Bahargram, Ward No. 10, Panskura Municipality, P.O. & P.S. — Panskura, District — Purba Midnapore, Pin Code: 721 152, do hereby solemnly affirm on oath and say as follows:

1. That I am the respondent no. 5 of the original application filed by the applicant as such I am well aware of the facts and circumstances of this case.
2. That consequent to my filing of the Affidavit-in-Opposition dated 23.09.2021 to the Supplementary Affidavit affirmed by

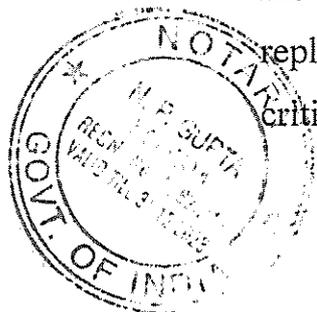
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Through:  
Sanal Sinha  
Adv.

been attested by the Director, State Water Investigation Directorate (SWID), Government of West Bengal on the basis of the field enquiry done on 12.08.2021 in paragraph no. 10(b) of his Affidavit dated 25.08.2021.

6. That I have read the contents of the Affidavit-in-Reply and understood the purport thereof. I deny and dispute each and every statement made by the applicant in his reply except what are matters of records and/or what are admitted herein below.
7. That in response to the statements in paragraph nos. 1, 2 and 3 of the said reply I say that I do not accept anything contrary to and/or inconsistent with the records.
8. That I deny and dispute the statements made by the applicant in paragraph no. 4 of the said reply. I say that I have submitted the copy of reports categorising the Panskura - I Block as semi-critical as far as exploitation of groundwater is concerned. These reports have been published by the Central Ground Water Board (CGWB), Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, Government of India on its website <http://cgwb.gov.in/GWresource.html> for information of all concerned. Even the applicant is free to verify these reports. Instead the petitioner has submitted a false and fabricated reply to some RTI petition which claims that the area is critical. I reiterate that even in critical areas there is no blanket



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Through:  
Ronal Singh  
Adv.

ban on running of bottled water plants based on groundwater. The applicant has utterly failed to cite the relevant provisions of the applicable acts and/or rules which specifically prohibit this activity. I say that unless any particular activity is specifically prohibited and/or there are laws prohibiting the same laid down by this Hon'ble Court or other Hon'ble Superior Courts of this country I cannot be denied to undertake that activity for my vocation and livelihood on the whims and fancies of a private applicant or for that matter even any public authority. Further, I have already stated in paragraph no. 5 above that the officers of SWID (State Water Investigation Directorate) had sealed the pump of Deep Aqua Industries Mineral Water Plant just after the passing of the solemn order of this Hon'ble Court dated 05.08.2021 so that no further extraction of groundwater could be done. Hence, there is no question of drawing any groundwater in violation of the solemn order of this Hon'ble Court. This fact is also in the knowledge to the local police and, therefore, they did not take any action on the false and frivolous complaints filed by the applicant. I humbly submit that apart from using the groundwater to produce bottled water, which has been stopped by this Hon'ble Tribunal, there are several other activities carried out by the answering respondent in the same premises with the due approval of authorities and which are not prohibited under the aforesaid solemn order of this Hon'ble Court. The applicant has annexed some photographs of bottled water being taken out of his water-plant. It is stated



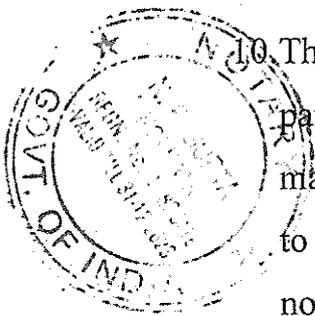
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Through:  
Sonali Singh  
Adv.

that these were produced before closure of the mineral water plant on the basis of this Hon'ble Court's Order dated 05.08.2021. As these bottles have a fixed expiry date they had to be sold out to minimise the losses sustained by the answering respondent due to the order of closure passed by this Hon'ble Court.

9. That I deny and dispute the statements made by the petitioner in paragraph nos. 5 and 6 of his reply. I state that the applicant has tried to impress this Hon'ble Court by citing unsubstantiated newspaper reports and irrelevant data. I reiterate that the Panskura-I Block is categorised as semi-critical and there is no impediment in running a bottled water plant in that area as per the extant laws of this country. I humbly submit that the answering respondent has obtained all the required licenses/NOCs/permits for running his business named and styled as "Deep Aqua Industries Mineral Water Plant". This fact has already been reported by all the statutory authorities which are a party to this case and have been taken on record by this Hon'ble Court. I crave leave of this Hon'ble Court to rely on these documents at the time of hearing, if necessary.



10. That the statements made by the applicant in the rest of the paragraphs of his reply are mere repetitions of his statements made in the earlier paragraphs which have been duly replied to herein above. The applicant has denied the fact that there is no blanket ban on running a bottled water plant in semi-

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critical and even in critical areas, however, he has failed to cite any act, law or rule to this effect which prohibits this activity. In paragraph no. 7 and also in earlier paragraphs the applicant has alleged that respondent no. 5 has failed to provide the permission or no objection certificate for extracting groundwater in his affidavit. I humbly submit that either the applicant does not read the affidavits filed in this Hon'ble Court or fails to understand the contents and purport thereof. The attention of this Hon'ble Court is drawn to page numbers 47, 48 and 49 of the records of this case where detailed list of all documents filed by this answering respondent in his affidavit dated 04.09.2017 is available. For the sake of brevity I am not appending these documents again, but, for the sake of completeness and to refresh the memory of this Hon'ble Court I will list out the copy of documents filed by me:

- (A) Deed of Purchase of Land on which Factory is setup
- (B) Certificate of Mutation of Land in the name of Biswajit Das
- (C) L.R. Record of Rights
- (D) Rent Receipts from the Land & Land Reforms Department, Govt. of West Bengal
- (E) Conversion of Record of Rights from L&LR Department, Govt. of West Bengal
- (F) Site Clearance Certificate issued by Pradhan, Raghunathbari G.P., Panskura - I Block, Purba Medinipur



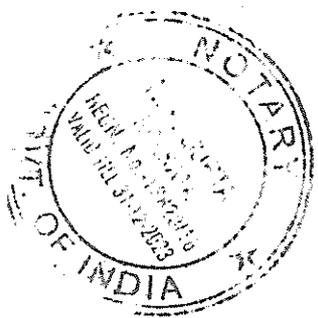
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Through :-  
Sonal Sinha  
Adv.

- (G) Approval for Construction of Factory issued by G.P. Pradhan
- (H) Certificate and NOC of Pradhan Raghunathbari G.P. for Drinking Water Plant
- (I) Consent of Gram Committee Members
- (J) Fee Receipt for the Approval of Building Plan issued by G.P. Pradhan
- (K) Certificate of Entrepreneurship Registration and Fee Receipt thereof issued by G.P. Pradhan
- (L) Certificate as issued by General Manager District Industries Center (GM, DIC) dated 7.3.2015 in the form of Consent to Establish the Project (CoE).
- (M) Certificate from Geologist & Member Secretary D.L.A. (District Level Authority), Tamruk dated 28.12.2015 for Sinking a Tube-Well
- (N) Certificate from D.I.C. Purba Medinipur dated 4.2.2017 regarding filing of Memorandum expressing Intent to Setup Deep Aqua Industries
- (O) Fire Licence & Fees Deposited therein
- (P) Entrepreneur Memorandum for Setting Up Micro, Small & Medium Enterprises as filed before Directorate of Micro, Small & Medium Enterprises filed before D.I.C. Puba Medinipur
- (Q) Credited Challan of Rs.1000/- at Tamruk Treasury dated 4.8.2016 to be submitted in the office of Geologist, Tamruk, Purba Medinipur



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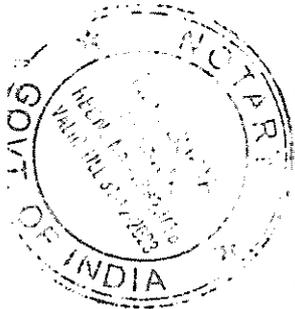
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Through:  
Lonal Sinha  
Adv.

- (R) Permit for Sinking of New Well issued by the Appropriate Authority, i.e., The Geologist & Member Secretary, DLA, Tamluk, Purba Medinipur
- (S) Quotation for Connection of Power Line to be taken from W.B.S.E.D.C.L dated 29.2.2016.
- (T) Deposit Money Receipts of W.B.S.E.D.C.L.
- (U) Testing of Raw Water at the lab S.G.S. India Pvt. Ltd.
- (V) Agreement for the Supply of Electrical Energy between S.E. and Regional Manager W.B.S.E.D.C.L. and Sri Biswajit Das.
- (W) Prayer dated 2.8.2017 before D.I.C. Purba Medinipur for Final Clearance in the form of Consent to Operate and Deposit Slip thereof
- (X) Certificate for 'Consent to Operate' issued by the Manager W.B. Pollution control Board dated 30.8.2017.

11. That it is humbly submitted that the applicant has filed this OA only with the ulterior motive to harass the respondent no. 5 and waste the most valuable and precious time of this Hon'ble Tribunal. He has no cause of action to file this OA and its subsequent applications. As amply clear from the above paragraph that the respondent no. 5 has set up Deep Aqua Industries Mineral Water Plant after obtaining all the necessary clearances as required from the appropriate authorities. There is no 'substantial question relating to environment (including enforcement of any legal right relating to environment) involved' and there is no violation in



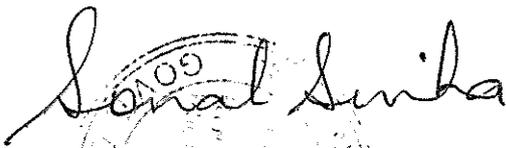
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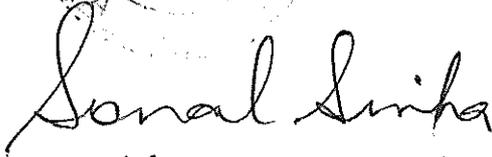
the implementation of any of the enactments specified in Schedule I of the National Green Tribunal Act, 2010 requiring interference by this Hon'ble Court.

12.I reiterate that the applicant has not approached this Hon'ble Tribunal with clean hands. His nefarious agenda is to get the business of the answering respondent closed and take away his bread & butter by hook or by crook. The Hon'ble Tribunal is earnestly requested to see through the design of the applicant and dismiss this application on this ground alone.

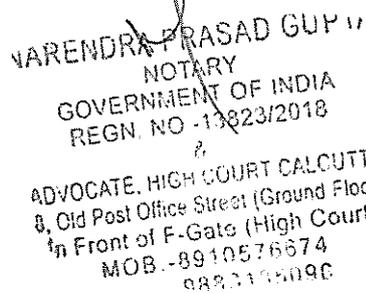
13.The statements made in paragraphs 4, 5, 6, 7, 8, 9 and 10 are true to my knowledge and rest are my humble submission before this Hon'ble Tribunal.

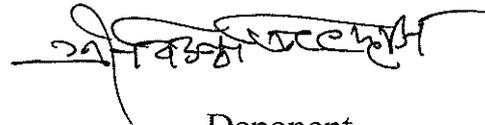


Prepared in my office



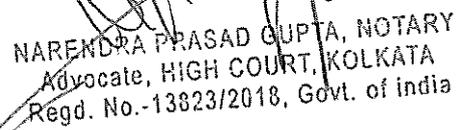
Advocate

  
NARENDRA PRASAD GUPTA  
NOTARY  
GOVERNMENT OF INDIA  
REGN. NO -13823/2018  
ADVOCATE, HIGH COURT CALCUTTA  
8, Old Post Office Street (Ground Floor)  
In Front of F-Gate (High Court)  
MOB.-8910576674  
9823105090



Deponent

L.T.I.(s) Signatures(s) of the  
Executant/s attested by me/on Identification

  
NARENDRA PRASAD GUPTA, NOTARY  
Advocate, HIGH COURT, KOLKATA  
Regd. No.-13823/2018, Govt. of India

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