

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

Original Application No. 27/2015/EZ
With
MA No. 120/2015/EZ

**Dwaipayan Sengupta
Vs
Union of India & Ors.**

CORAM: Hon'ble Mr. Justice Pratap Kumar Ray, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT:

Applicant	: Mr. Anindya Lahiri, Advocate Ms. Poushali Banerjee, Advocate Mr. Mainak Ganguly, Advocate
Respondent No. 2,4 & 10	: Mr. Bikas Kar Gupta, Advocate
Respondent No. 1	: Mr. Gora Chand Roy Chowdhury, Advocate
Respondent Nos. 5,6, & 7	: Mr. Srijan Nayak, Advocate Ms. Rituparna Maitra, Advocate Mr. Raja Saha, Advocate
Respondent No.3	: Mr. Sibojyoti Chakraborty, Advocate
Respondent No. 8	: Mr. Amares Roy, Advocate Mr. Deborishi Dhar, Advocate
Respondent No.9	: Mr. Ajay Datta, Advocate
Respondent No. 11	: Mr. Sanjib Kr. Mukhopadhyay, Advocate

Date & Remarks	Orders of the Tribunal
Item No. 4 1st September, 2015.	<p style="text-align: center;">Mr. Kapoor, Id. Sr. Advocate intends to file an application seeking addition of parties, who are stated to be local residents of the area in question. The applicants are at liberty to file the same in the Registry and copy to be served to the respective co-respondents and the applicant. The Registry will put the matter to the Bench after filing of the application, if any.</p> <p style="text-align: center;">Heard the Id. Advocates appearing for respective parties in the OA. It appears that after hearing the submission of State respondents, made by Mr. Bikas Kar Gupta, Id. advocate and recording his submission that the Govt. is also inclined to restore the water body to its earlier position, we directed the Principal Secretary, PWD, Govt. of West Bengal to formulate a scheme in consultation with his engineers</p>

for free flow of water by removing the obstruction in three points viz. Golaghata, Lake Town and Bangur. We also directed that the scheme to be framed for free passage of flow of water without obstruction by way of construction of bridge or installation of hume pipes in those three points and the said scheme to be filed before this Tribunal by today. But no such scheme has been filed today save and except an affidavit on behalf respondents 5,6 and 7 which has been affirmed by one Mr. S. Basu, Executive Engineer, Barasat High Way Division.

Having regard to the affidavit as filed, we are not satisfied with the same as it was not in terms of our earlier order dt. 10.8.2015. Accordingly, we are not entertaining this affidavit and the same stands rejected. Furthermore, we directed the Principal Secretary, PWD to take immediate steps and measures either to construct over bridge or fixing big hume pipes in these three points under the existing pathways in order to restore easy flow of water in the Nayanjuli throughout the entire stretch from Ultadanga to Kestopur bridge and find out ways and means in what manner the flow of water can be restored throughout the entire stretch and at the same time the access point to the areas of three points may also be kept open for the local people. We directed that a scheme in this regard may be prepared with a time frame to complete the work, within three weeks and be produced before us positively for our consideration.

Mr. Srijan Nayak, Id. Adv. leading Mr. Kar Gupta, Id. Adv. appearing for respondents 5 to 7 prays for 10 days' time to submit the proper affidavit as also the scheme before this Tribunal.

Considering the prayer, time to file the scheme and the affidavit is extended by ten days. Affidavit to be filed by the Principal Secretary, PWD.

However, extension of time to file the scheme by PWD, will not be deemed as variation or modification of our earlier order dt. 10.8.2015 whereby and whereunder the Chief Secretary, Govt. of West Bengal was directed to take all measures through respective departments viz.

PWD, Irrigation & Water Ways Deptt. Municipality and Urban Development and Police Administration for demolishing all those illegal pathways and construction after identifying them in order to restore free flow of water in the entire stretch of Nayanjuli as indicated earlier. The Executive Officer of South Dum Dum Municipality was also directed to identify the illegal construction and submit a report to the Chief Secretary within a week and on that basis demolition work will be undertaken and a compliance report will be submitted within four weeks.

It is submitted by Mr. Amalesh Roy, Id. Adv. appearing on behalf of South Dum Dum Municipality that they have submitted a report to the Chief Secretary identifying the illegal constructions as directed by us. He has filed the said report before this Tribunal. Let it be kept with the record. The Chief Secretary, Govt. of West Bengal is directed to submit the compliance report by 10th Sept, 2015. The direction passed upon PWD respondents will not stand as a hindrance to the Chief Secretary to formulate the scheme in consultation with the Engineers from respective departments under him on issue of removal of obstruction of water flow in those three points referred above.

It appears from the affidavit which has been scrapped by us today, that PWD is making correspondence with the Irrigation and Waterways Deptt. about feasibility of the matter. Prima facie, it appears that it is in violation of order about the implementation of direction given by this Tribunal. In that view of the matter, the Chief Secretary, Govt. of West Bengal is directed to intervene into the matter and take action for implementing the order of the Tribunal.

Mr. Kar Gupta, Id. Adv. appearing for the State respondents submits a copy of the letter dt. 27.8.2015 by which the report of South Dum Dum Municipality was forwarded to the Chief Secretary. Let it be kept with the record.

Mr. Sanjib Kr. Mukhopadhyaya, Id. Adv. appears for Respondent No. 11 i.e. KMDA and files his vakalatnama. Let it be kept with the record. Mr. Gora Chand Roy Chowdhury, Id. Adv. has filed his vakalatnama on behalf of MoEF.

The matter is posted to 11.9.2015 for filing of scheme and affidavit by Principal Secretary, PWD and compliance report by Chief Secretary.

M.A. 120/2015/EZ : This is an application filed by the applicant alleging violation of our order dt. 21.4.15 by the respondents named herein. He has also filed a supplementary application.

On prayer of the Id. Adv. for the applicant, this matter **will stand over till 11.9.2015.**

Registry is directed to serve this order to the Chief Secretary, Govt. of West Bengal, forthwith.

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Justice Pratap Kumar Ray, JM

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Prof. (Dr.) P. C. Mishra, EM

