

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

Original Application No. 11/2015/EZ

**Swapan Kumar Halder
Vs
West Bengal Pollution Control Board & Ors.**

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

**PRESENT: Applicant : Mr. Indrajit Bhattacharjee, Advocate.
Respondent No. 1 to 8 : None.**

Date & Remarks	Orders of the Tribunal
Item No. 1 04th March, 2015	<p>Heard Id. counsel appearing for the applicant. None appears for the respondents.</p> <p>The applicant has alleged in the pleading of the application that the Road Construction Company is causing air and noise pollution by operating their mixing machine for manufacturing of bitumen coated stone by its continuous hot mix plant. It appears that the Road Construction Company earlier faced a litigation in the High Court at Calcutta wherefrom direction was passed and thereafter State Pollution Control Board also made an inspection and directed the Respondent No. 2 viz. M/s S.P. Construction to take measure for controlling/arresting emission of pollution. The following measures were directed to be complied with:-</p> <p style="text-align: center;">“1. The unit should apply for NOC/Consent of State</p>

	<p>Board immediately;</p> <ol style="list-style-type: none">2. The unit should provide curtain towards complainant's residence upto a considerable height in order to arrest dust particles generated during unloading of stones from trucks and feeding stone to hoppers;3. Stone chips should be unloaded from trucks in wet condition;4. Water sprinklers should be provided at several points within the working site;5. Stack height of hot mix plant should be raised upto a minimum height of 15 metres from the ground level;6. Burning of old tyres in hot mix plant as a fuel during construction and repair of the roads for melting coal tar should be discarded." <p>There was a rider in this report dated 09th August 2014 of the said Board that for non-compliance of the aforesaid direction, Board would take stringent action in accordance with law. As there was non-compliance of the direction, the applicant brought the non-compliance issue to the notice of the said Board. Considering the issue of non-compliance, the State Pollution Control Board directed the Sub-Divisional Officer, 24, Parganas (S) and the Sub-Divisional Police Officer, 24 Parganas (S) to take steps so that the respondent Nos. 2 and 3 do not proceed with the construction work/job without following the direction passed on 19.08.2014 as quoted above. Subsequently on 15.12.2014 another decision was taken by the State Pollution Control Board which is annexed with the application wherefrom it appears that the unit was directed to continue the operation</p>
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till 31.01.2015 and to remove all building materials /construction materials including the machineries before that date.

It is the grievance of the applicant that despite such direction issued by State Pollution Control Board the Respondent No. 2 is still in operation of the unit violating the directions of Pollution Control Board.

Having regard to such and prima facie being satisfied that unit is polluting air, we are passing an interim order restraining the operation of the unit by Respondent No. 2 in any manner whatsoever and to comply with the direction of the State Pollution Control Board regarding removal of building materials/construction materials including the machineries within a week from this day.

The District Magistrate, 24 Pgs. South and the Superintendent of Police, 24 Parganas (South) both are directed to take necessary steps and measures so that the order is complied with by the respondent No. 2. The compliance report to be filed by the said District Magistrate on the next date of hearing.

Let notice be issued on usual terms by dasti/speed post and copies of the application be served to all the respondents.

Pollution Control Board is directed to submit a report on

the issue about the action taken against Respondent No. 2 for non-compliance of their latest direction dated 15.12.2014. The said Board is also directed to explain about their conduct that on one hand they are directing the respondent No. 2 to stop functioning of the machines emitting pollution without consent to operate obtained from State Pollution Control Board and on the other hand, they allowed respondent No. 2 to run their unit for a further period.

We fail to understand the stand of State Pollution Control Board. Hence they must explain in the affidavit corroborating the above stand failing which appropriate order could be passed against the Pollution Control Board itself.

Registry is directed to serve a copy of this order to the District Magistrate, South 24 Paganas, the Superintendent of Police, South 24 Paganas and the State Pollution Control Board.

Matter stands adjourned to 30.03.2015.

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Justice Pratap Kumar Ray, JM

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

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