

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

O.A. No. 08/2015/EZ

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M.A. 524/2015/EZ

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M.A. 847/2016/EZ

Subhas Datta

Vs

STATE OF WEST BENGAL & ORS

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

PRESENT: Original Applicant : Mr. Subhas Datta, In person
Applicant of MA 524/2015/EZ : Mr. Supriyo Chattopadhyay, Advocate
Respondent No. 1 & 2 : Mr. Bikas Kargupta, Advocate
Respondent No. 3 : Mrs. Arpita Chowdhury, Advocate
Respondent No. 4 : Mr. Dipak R. Mukherjee, Advocate
Respondent No. 9 : Mr. Sanjib Kr. Mukhopadhyay, Advocate
Respondent No. 7 : Ms. Ashok Prasad, Advocate
Respondent No.8 : Ms Paushali Banerjee, Advocate
Respondent No.11 : Mr. Achintya Kr. Bannerjee, Advocate
Mr. Gopal Ch. Das, Advocate
Respondent No. 10 : Mr. N.C. Bihani, Advocate
Ms. Papiya Banerjee Bihani, Advocate
Ms. Amrita Pandey, Advocate
Respondents No.5,6,12&13: None.

Date & Remarks	Orders of the Tribunal
Item No. 09 13 th May, 2016.	By order dated 09.03.2016 we had constituted a committee consisting of Dr. Kalyan Rudra, Chairman, WBPCB, and one expert from the Hydrology Deptt, Jadavpur University, to be nominated by the Head of Department, of the Department of Hydrology, Jadavpur University to undertake the inspection of the area and to submit a report on the four aspects as pointed out in the said order. We had also directed that a Senior Environmental Engineer of State Pollution Control

Board, to be nominated by the Member Secretary, shall be the convenor of the expert team.

Ms. Arpita Chowdhury, Id. Advocate for State PCB submits that the committee could not be constituted as Jadavpur University does not have Hydrology Department.

In view of such submission we re-constitute the committee and direct that in place of expert from the Hydrology Deptt, Jadavpur University, an expert from the School of Water Resources Engineering, Jadavpur University, Calcutta be nominated by the Vice-Chancellor. Apart from these two members, the Chairman, PCB and nominated member of JU, the following two members be also included in the committee:-

1. A senior level officer from the "Hydraulic Study Department" of the Kolkata Port Trust to be nominated by the Chairman of Kolkata Port Trust.
2. A senior level official from the "Inland Water Authority of India" to be nominated by the Director of Inland Water Authority of India, Kolkata Regional Office, P-78 Garden Reach Road, Andaman Dock, Khidirpur, Kolkata-700043.

The Registry will transmit a copy of the order to the Chairman, State Pollution Control Board, Vice-Chancellor, Jadavpur University, Chairman, Kolkata Port Trust and Director, Inland Water Authority of India urgently. Other terms and order dated 09.03.2016 remain unchanged.

We direct the report to be filed within four weeks. We also direct the Kolkata Port Trust (KPT) and KMDA to submit a report on methods to be adopted for preventing erosion on the stretch of river Ganga falling within the Port Trust area and the measures to maintain its bio-diversity.

Mr. Dipak Ranjan Mukherjee, Id. Counsel for the KPT submits that it may not be possible for the KPT to file such a report as they do not have an in-house expert on the subject.

KMDA, on the other hand, does not at all appear to be aware of the direction which is apparent from the submission of Mr. Sanjib Kumar Mukhopadhyay, their counsel. It is with a sense of disappointment that we notice their approach to be casual and indifferent when the issue involved in the case is quite serious deserving greater attention from all concerned. Mr. Mukhopadhyay shall ensure that necessary report is filed on or before the next date failing which coercive orders may have to be passed. Let the report be filed on or before the next date.

Mr. Bikas Kargupta, Id. Govt. Counsel prays for leave to file affidavit on behalf of the Principal Secretary, Department of Environment, in pursuance of our direction contained in the order dated 09.03.2016.

Prayer is considered and allowed.

The affidavit is ordered to be taken on record.

In their affidavit, it is stated by the Department of Environment, Govt. of West Bengal that the competent department which deals with the subject involved in the case is the Irrigation & Water Ways Department as they possess the domain knowledge, expertise and infrastructure to decide on the technologies for arresting erosion of the banks of river Ganga and that they have the in-house capacity to take necessary steps for execution of the order.

In view of the averments contained in the affidavit we would direct that the order dated 09.03.2016 be modified to the extent that the Secretary, Department of Environment be substituted by the Secretary, Irrigation and Waterways Department. The said department be impleaded as Respondent No. 28 who shall file necessary affidavit on the issue indicating the mechanism and procedure for arresting the erosion of river Ganga in the area in question. Mr. Bikas Kargupta who accepts notice on behalf of the Department shall ensure compliance of this direction on or before the next date.

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We dispose of this application directing the applicant and the Kolkata Port Trust that as and when the conditions laid down in the order of the Marine department dated 24.09.2015 and paragraphs 4 & 5 of

the letter dated 21.05.2015 issued by Kolkata Port Trust are fulfilled by the applicant, the case of the applicant/petitioner in the M.A. shall be cleared and disposed of. The applicant may approach the Kolkata Port Trust with all relevant documents upon which he would rely for the purpose. The decision shall be taken by the Kolkata Port Trust within a period not later than one month.

With this direction **the M.A. stands disposed off.**

M.A. 847/2016/EZ

Considering the fact contained in the M.A. and the immense public interest involved in the matter and also that it does not have much impact on the Environment, the Miscellaneous application stands allowed. Mr. Subhas Datta, applicant appearing in person in O.A. also has no objection.

List on 19.07.2016.

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Justice S.P.Wangdi, JM

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