

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

<u>Item No.</u>	<u>M.A. No.</u>	<u>Name of B/F & Res. No.</u>
7.	M.A. No. 562/2015/EZ	M/S. Sujapur Brick Field (R.111)
8.	M.A. No. 577/2015/EZ	M/S Sabbir Brick Field (R.205)
9.	M.A. No. 585/2015/EZ	M/S Lucky Brick Field (R.304)
10.	M.A. No. 586/2015/EZ	M/S Mahatpur Brick Field (R.127)
11.	M.A. No. 587/2015/EZ	M/S Olympic Brick Field (R.38)
12.	M.A. No. 588/2015/EZ	M/S Nawab Brick Field (R.17)
13.	M.A. No. 589/2015/EZ	M/S Nishan Brick Field (R.272)
14.	M.A. No. 590/2015/EZ	M/S JALALUDIN & ORS BRICK FIELD (R 297)
15.	M.A. No. 595/2015/EZ	M/S Bhai Bhai Brick Field (R280)
16.	M.A. No. 596/2015/EZ	M/S Asma Brick Field (R47)
17.	M.A. No. 597/2015/EZ	M/S Rima Super Brick Field (R.308)
18.	M.A. No. 598/2015/EZ	M/S 6 Star Brick Field (R.285)
19.	M.A. No. 599/2015/EZ	M/S Joy Brick Field (R.35)
20.	M.A. No. 601/2015/EZ	M/S Ahmed Bricks

(R.23)

- 
21. M.A. No. 602/2015/EZ M/S India Brick Field
(R.1640)
22. M.A. No. 603/2015/EZ M/S Raja Brick Field
(R.46)
23. M.A. No. 604/2015/EZ M/S Dimond Brick Field
(R.330)
24. M.A. No. 605/2015/EZ M/S Pakiza Brick Field
(R.1600)
25. M.A. No. 606/2015/EZ M/S Sona Brick Field
(R.1620)
26. M.A. No. 607/2015/EZ M/S Smart Brick Field
(R.327)
27. M.A. No. 608/2015/EZ M/S Sony Brick Field
(R.236)
28. M.A. No. 609/2015/EZ M/S National Brick Field
(R.106)
29. M.A. No. 610/2015/EZ M/S Tiger Brick Field
(R.339)
30. M.A. No. 611/2015/EZ M/S Samrat Brick Field
(R.266)
31. M.A. No. 612/2015/EZ M/S Silver Brick Field
(R.99)
32. M.A. No. 613/2015/EZ M/S S.T. Brick Field
(R.1633)
33. M.A. No. 614/2015/EZ M/S Dream Brick Field
(R.1609)
34. M.A. No. 615/2015/EZ M/S Gold Brick Field
(R.148)
35. M.A. No. 616/2015/EZ M/S Sona Brick Field
(R.1619)
36. M.A. No. 617/2015/EZ M/S Pepsi Brick Field
(R.1725)

37. M.A. No. 618/2015/EZ M/S Samrat Brick Field
(R.221)
38. M.A. No. 619/2015/EZ M/S Titan Brick Field
(R.67)
39. M.A. No. 620/2015/EZ M/S P.N.Paul Brick
Field Unit-II (R.167)
40. M.A. No. 621/2015/EZ M/S Asha Brick Field
(R.348)
41. M.A. No. 622/2015/EZ M/S Nirma Brick Field
(R.298)
42. M.A. No. 623/2015/EZ M/S Rima Brick Field
(R.96)
43. M.A. No. 624/2015/EZ M/S Nirman Brick Field
(R.258)
44. M.A. No. 625/2015/EZ M/S Rolex Brick Field
(R.62)
45. M.A. No. 626/2015/EZ M/S 3 Star Brick Field
(R.288)
46. M.A. No. 627/2015/EZ M/S New United Brick
Field (R.365)
47. M.A. No. 628/2015/EZ M/S Halim Brick Field
(R.152)
48. M.A. No. 629/2015/EZ M/S Golden Brick Field
(R.95)

IN
OA 39/2014/EZ **VS**
JOYDEEP
MUKHERJEE & ORS

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

PRESENT: **Applicant** : **Mr. Joydeep Mukherjee, Advocate(in Person)**
Applicants of MAs : **Ms. Poushali Banerjee, Advocate**
Respondent No. 1 : **None**
Respondents 2 to 9 : **Mr. Bikas Kar Gupta, Advocate**
Respondents 10 to 12 : **None**

Date & Remarks	Orders of the Tribunal
<p>Item Nos. 7 to 48 17th February, 2016.</p>	<p>Mrs. Poushali Banerjee, Id. adv. appearing for the applicants of all the MAs submits that the applicants of the following MAs are willing to pay the penalty as may decided by the Tribunal for operating their respective units without obtaining consent to operate certificate from the PCB. However, in respect of the applicants of other MAs, she prays for a week's time to obtain instruction in the matter of payment of penalty. Mr. Bikas Kargupta, Id. adv. for the State respondents has no objection.</p> <p><u>(Willing to Pay Penalty)</u></p> <p>M.A. NO. 605/2015/EZ (R. 1600) M.A. NO. 606/2015/EZ (R. 1620) M.A. NO. 611/2015/EZ (R. 266) M.A. NO. 612/2015/EZ (R. 99) M.A. NO. 613/2015/EZ (R. 1633) M.A. NO. 614/2015/EZ (R. 1609) M.A. NO. 615/2015/EZ (R. 148) M.A. NO. 616/2015/EZ (R. 1619) M.A. NO. 617/2015/EZ (R. 1725)</p> <p>In view of such submission made by the Id. adv. for the applicants/respondents we have examined the records of the above-noted respondents. We find that none of the respondents aforesaid, who are applicants of the respective MAs as indicated above, has ever taken any consent to establish or consent to operate certificate from the PCB and have been continuing to operate their respective brick fields illegally and thereby polluting the environment and degrading the soil of the locality. Thus, they have violated the statutory provisions of Air Act, 1981 and Water Act, 1974 and therefore, they are liable to pay penalty for such act of environment pollution.</p> <p>Following our earlier decisions on the subject, we impose of a penalty of Rs. 1.5. lakh upon each of the applicants of these MAs, who are respondents in the OA. The penalty amount is to be deposited with</p>

the PCB within four weeks.

Immediately after the deposit of penalty amount by these respondents, the PCB will intimate the concerned DL & LRO so that the DL & LRO may proceed to consider the applications of respective respondents seeking consent to operate in accordance with rules after being satisfied with the conditions stipulated in Govt. of West Bengal Memo No. 1250 dt. 29.5.2015 and/or Memo No. 1251 dated 29.5.2015, as the case may be.

We have fixed the penalty for the respective applicants by applying 'polluter pay' principle and having regard to judgements of the Apex Court passed in the case of **Research Foundation For Science (18) –vs- UOI & Ors (18)** reported in 2005 (13) SCC 186 (para 30), **Indian Council for Enviro-Legal Action –vs- Union of India** (1996) 3 SCC 212, **Karnataka Industrial Area Development Board –vs- C. Kenchappa** (2006) 6 SCC 371, **M.C.Mehta –vs- Union of India** (2006) 3 SCC 399 and **Hindustan Coca Cola Beverages Pvt. Ltd.-vs- West Bengal Pollution Control Board** vide judgement dt. 19.3.2012. In **Monoj Mishra –vs- Union of India**, the Principal Bench of NGT in their judgement dt. 22.7.2013 passed an order for application of 'polluter pays' principle for dumping the debris and construction wastes on the bank of the river Yamuna. Therefore, they are liable to pay penalty/compensation for polluting the locality by illegally operating the brick field without consent to establish or consent to operate.

We have also taken into consideration the fact that assailing the judgement and order dt. 8.4.2015 passed by this Tribunal in OA 41/2014/EZ, M/s Tapas Brick Works moved an appeal (being Civil Appeal No. 5718/2015) to the Hon'ble Supreme Court of India. The appeal and the MA for stay were taken up for hearing on 14.8.15 by the Bench comprising Hon'ble Chief Justice of India, Hon'ble Mr. Justice Arun Mishra and Hon'ble Mr. Justice Amitava Roy and upon hearing the Apex Court dismissed the appeal and the connected

application.

The penalty amount so collected be kept in a separate account which will be utilised for upgradation of environment of the locality concerned in the manner to be decided later.

As and when the consent to operate is granted, the DL & LRO concerned will inform the local police authorities and the Electricity authority to restore the electric connection so that the units may run without any hindrance.

The afore-noted nine MAs stand disposed of accordingly. There will be no order as to costs.

The rest of the MAs, as noted in the cause title, stand adjourned to 29.2.2016 as prayed for by the Id. adv. for these applicants.

.....
Justice Pratap Kumar Ray, JM

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

