

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.131/2023/EZ

**IN THE MATTER OF:**

Debi Prasad Banerjee,  
S/o Late Biswanath Banerjee,  
R/o 46/8 Bidhan Park R.H.E. Banamalipur,  
Barasat, Kolkata, District-North 24 Parganas,  
Pin – 700124,

...Applicant(s)

Versus

1. Ministry of Environment, Forest & Climate Change,  
Government of India,  
Through its Secretary,  
Paryabaran Bhawan, Jorbagh Road,  
New Delhi – 110003,
2. The Principal Secretary,  
Department of Environment,  
Government of West Bengal,  
Pranisampad Bhawan, Block-LB-II,  
5<sup>th</sup> Floor, Salt Lake City, Sector-III,  
Kolkata – 700106,
3. The West Bengal Pollution Control Board,  
Represented by Member Secretary,  
Paribesh Bhawan, 10A, Block-LA, Sector-III,  
Salt Lake City, Kolkata,  
Pin – 700106,
4. The District Magistrate, North 24 Parganas,  
Barasat, Katgola Bonamalipur, Barasat,  
Kolkata – 700124,
5. The Officer-in-Charge, Barasat Police Station,  
KNC Road, near Barasat Government College,  
Kolkata – 700124,
6. The Chairman,  
Barasat Municipality,  
Rishi Bankim Chandra Road,  
Milan Pally, Gupta Colony, Barasat,  
Kolkata – 700124,

7. The Executive Officer,  
Barasat Municipality,  
Rishi Bankim Chandra Road,  
Milan Pally, Gupta Colony, Barasat,  
Kolkata – 700124,

8. The Medical Superintendent,  
Barasat Government Medical College & Hospital,  
Barasat, Kolkata, District-North 24 Parganas,

9. M/s Simplex Infrastructures Limited,  
Simplex House 27, Shakespeare Sarani,  
Kolkata – 700017,

...Respondent(s)

Date of hearing: 22.04.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s): Mr. D. N. Ray, Adv. for R-1, (in Virtual Mode)  
Mr. Sibojyoti Chakraborty, Advocate for R. 2, 4 & 5,  
Mr. Dipanjan Ghosh, Advocate for R-3,  
Mr. Sankar Ghosh, Adv. for R-6, (in Virtual Mode)  
Mr. Sudip Kr. Dutta, Adv. for R-8, (in Virtual Mode)  
Mr. Avijit Baran Das, Adv. for R-9, (in Virtual Mode)

### **ORDER**

1. Case called out. No one is present on behalf of the Applicant. On previous dates 28.02.2024 and 19.04.2024, also no one was present for the Applicant.
2. This Original Application has been filed by the Applicant alleging that the Respondent No.8, Barasat Government Medical College & Hospital, Barasat has dug an open hole beside the boundary of the Applicant and is dumping human waste therein.
3. It is further alleged that construction work is going on in the Barasat Government Medical College & Hospital just behind the house of the Applicant and there are about fifty workers staying there and they are dumping wastes behind the house of the Applicant.

4. It is further alleged that bad smell is emanating from human excreta being dumped by the workers near the house of the Applicant which is making the whole atmosphere unbearable. There is stagnancy of waste water near the Applicant's house which has become a breeding ground of mosquitoes.
5. It is also stated that though bleaching powder is being spread at the site but there has been no improvement and the quality of the water in the area is also getting degraded.
6. The Applicant is stated to have submitted a complaint to the Chairman, Barasat Municipality; District Magistrate, North 24 Parganas, Barasat; Officer-in-Charge, Barasat Police Station, and the Member Secretary, West Bengal Pollution Control Board, and others in this regard but there has been no improvement till date.
7. Copies of the representations have been filed with the Original Application.
8. Photographs have also been filed with the Original Application in support of the allegations made.
9. At the time of admission, the Tribunal constituted a Committee comprising of the following Members:-
  - i) *Senior Scientist, West Bengal Pollution Control Board;*
  - ii) *District Magistrate, North 24 Parganas or his representative not below the rank of Additional District Magistrate (A.D.M.);*  
*and*
  - iii) *The Executive Officer, Barasat Municipality,*
10. The Committee was required to visit the site in question and submit its Report with regard to the allegations made in the Original Application. The Committee was also directed that in case

violations are found, it shall recommend penalty as well as Environmental Compensation and also suggest remedial measures, if any.

11. The West Bengal Pollution Control Board, Respondent No.3, has filed affidavit dated 30.11.2023 bringing on record the Committee Report constituted by the Tribunal, which reads as under:-

**“Report in the matter of Original Application No.131/2023/EZ vide Hon’ble NGT order (Eastern Zone Bench, Kolkata) dated 04.10.2023.”**

*The Hon’ble National Green Tribunal, Eastern Zone Bench constituted a Committee, comprising Senior Scientist, West Bengal Pollution Control Board, District Magistrate, North 24 Parganas or his representative not below the rank of Additional District Magistrate, and Executive Officer, Barasat Municipality. The West Bengal Pollution Control Board was to act as the nodal agency for all logistic purpose.*

*Pursuant to the order of the Hon’ble NGT, the Committee comprising of the following members was constituted as per nominations received from the participating departments/officers.*

- 1. Additional District Magistrate and District Land & Land Reforms Officer, North 24 Parganas*
- 2. Smt. Rita Datta, Environment Engineer, Barackpore Regional Office, WBPCB*
- 3. Sri Subhas Biswas, Executive Officer, Barasat Municipality*

*Accordingly, the members of the committee accompanied by Smt. Nibedita Mishra, Deputy Superintendent (Non-Medical) Barasat Medical College, and ors visited the area on 17.10.2023 at 13:00 hrs.*

***The observations of the constituted Committee are as follows:***

- 1. The site is located within the Barasat Medical College & Hospital at Jessore Road, P.O.-&P.S.-Barasat, 24 Pgs (N)- 700124.*
- 2. The work for construction of G+9 storied buildings has been undertaken within the premises and as informed by representative of the executing agency M/s. Simplex*

*Infrastructures Ltd. during different phases of the construction work temporary toilets have been set up at various locations within the premises from time to time for the labourers working in the project.*

3. *At present the toilet structures are located adjacent to the boundary wall and consist of 7 to 8 temporary toilets made of brick walls with metal sheet roof.*
4. *The temporary toilets are not connected to any septic tank and is connected to temporary storage wells/pits dug in the ground.*
5. *The wells were found to be filled with human excreta and were not properly covered. Foul smell was felt around the walls.*
6. *No overflow from the wells was observed at the time of inspection but might occur at the time of heavy rains.*

*Based on the observations during inspection by the committee, the Barasat Medical College & Hospital should immediately clean the temporary wells to avoid any overflow of human excreta and shift the temporary toilets to a place so as to bring back the area in question to a healthy condition. Further no unscientific method of disposal of human excreta should be adopted.*

*The entire work of clean up, shifting and restoration may be undertaken by the Barasat Medical College & Hospital and may be overseen by Barasat Municipality.”*

12. The Respondent No.8, Barasat Government Medical College & Hospital, has also filed affidavit dated 29.11.2023 stating that M/s Simplex Infrastructures Limited, Respondent No.9 herein, is the nodal agency of the Medical College Construction Project on behalf of the Department of Health and Family Welfare, Government of West Bengal. It is further stated that the Respondent No.9 has informed that they have taken necessary steps to clean up the environment caused due to the ongoing construction work as well as engagement of labour for the said purpose.
13. The District Magistrate & Collector, North 24 Parganas, Respondent No.4, has also filed affidavit dated 18.12.2023 referring to the

observations of the Inspection Committee constituted by the Tribunal, which have already been extracted hereinabove.

14. The Inspector-in-Charge, Barasat Police Station, Respondent No.5, has also filed affidavit dated 08.01.2024 referring to the allegations of the Applicant that during construction made at the Barasat Government Medical College & Hospital Campus behind the residence of the Applicant, and it is stated that the workers staying there were dumping waste behind the house of the Applicant creating a very unhygienic atmosphere leading to degradation of environment.
15. The affidavit, however, mentions that when the matter was inspected by the Sub-Inspector, Barasat Police Station, there was no garbage and same had already been removed a few days ago by the Hospital authorities.
16. The Barasat Municipality, Respondent No.6, has also filed affidavit dated 04.01.2024 stating that a complaint had been received from the Applicant on 16.08.2023 with regard to dumping of waste behind his house upon which the officials of the Municipality conducted an enquiry on 11.09.2023 and it was found that the place around the temporary shed of the construction workers was deplorable and vulnerable causing environmental hazard as well as breeding mosquitoes.
17. The Respondent No.9, Simplex Infrastructures Limited, has also filed affidavit dated 16.04.2024 denying the allegations made in the Original Application and stating that no substantial question relating to environment has been set out in the present Original Application. It is also stated that *'filing frivolous application before this Hon'ble Tribunal not only consumes the precious judicial time of*

*this Hon'ble Tribunal but also hampers the construction work of a Medical College being carried out by the Answering Respondent for the good of public at large*'. It is not denied that work is undertaken for construction of G+9 storeyed building within the premises by M/s Simplex Infrastructures Limited.

18. In para 14 of the affidavit, it is also stated by the Respondent No.9 that on the basis of the enquiry conducted by the Barasat Municipality, a notice was issued to the said Respondent to take initiative to clean and demolish the labour toilet area and discharge of slush for which seven days time was given. Along with the affidavit, photographs have also been filed.
19. We have heard the learned Counsel for the parties present and perused the documents on record.
20. From the averments made in the Original Application that construction of Barasat Government Medical College & Hospital building had commenced which is behind the house of the Applicant and the construction workers between 9-50 were staying there and dumping waste behind the house of the Applicant creating unhygienic atmosphere and serious sanitation problem due to non-clearance of human excreta and debri being dumped besides the house of the Applicant resulting in foul smell, it cannot be said that no substantial question relating to environment had been made out in the present Original Application.
21. We may also refer to the Inspection Report of the Committee constituted by the Tribunal, which has already been extracted hereinabove, which clearly mentions that construction work of G+9 storeyed building has been undertaken within the premises of the Barasat Government Medical College & Hospital at Jessore Road,

Barasat, and that Respondent No.9, M/s Simplex Infrastructures Limited, is the executing agency of the said construction work and temporary toilets have been set-up by it at various locations within the premises for labourers working on the project.

22. In the Report It is also stated 7-8 temporary toilets made of brick walls with metal sheet roof are located adjacent to the boundary wall. It is stated that temporary toilets are not connected to any septic tank and are connected to temporary storage wells/pits dug in the ground.
23. The Report clearly mentions wells during inspection were found to be with human excreta and were not properly covered; foul smell was felt around the wall. Therefore, the Committee recommended that wells be immediately be cleaned to avoid any overflow of human excreta and to shift the toilets to some other place so as to bring back the area in question to a healthy condition. The Report clearly directs that no unscientific method of disposal of human excreta should be adopted.
24. The Respondent No.8, Barasat Government Medical College & Hospital, in its affidavit dated 29.11.2023 has also clearly stated that Respondent No.9, M/s Simplex Infrastructures Limited, is the nodal agency of the Medical College Construction Project. Along with the affidavit, the Medical College has also filed photographs showing levelling of toilet surrounding area by mechanical means and removal of waste/slush from wells being cleared by mechanical means. The photographs also show demolition of temporary toilets using mechanical means.
25. The affidavit dated 08.01.2024 filed by the Inspector-in-Charge, Barasat Police Station, Respondent No.5, also mentions that for



construction work of the Medical College & Hospital Campus workers were staying there and dumping waste behind the house of the Applicant creating a very unhygienic atmosphere resulting in environmental degradation.

26. The affidavit of the Barasat Municipality, Respondent No.6, dated 04.01.2024 also mentions that it conducted an enquiry on 11.09.2023 and it was found that temporary shed of the construction workers was in a deplorable condition for which a notice dated 17.10.2023 was issued to the Respondent No.9, M/s Simplex Infrastructures Limited, and it was informed by the Respondent No.9 vide its letter dated 18.10.2023 that they were initiated cleaning/removing of slush/levelling of toilet surrounding area/relocation of labourers' toilet and that they would complete such work within the stipulated time frame.
27. From the averments of these affidavits and the Inspection Report, we find that the allegations made in the Original Application are substantiated, though subsequently the Respondent No.9 may have cleaned up the area. In fact, the Respondent No.9 has itself filed coloured photographs to show removal of waste/slush from swears well clearing by mechanical means and removal of toilets surrounding area by mechanical means.
28. The documents on record clearly point of degradation of environment and creation of deplorable conditions by the Respondent No.9, though the same may have been cleaned up by them subsequent to the notice of the Barasat Municipality dated 17.10.2023 and, therefore, the Respondent No.9 is liable for payment of Environmental Compensation for violation of environmental norms as well as Municipal Solid Waste

(Management & Handling) Rules, 2016, as referred to in the affidavit of the Ministry of Environment, Forests and Climate Change, Respondent No.1 affidavit dated 16.11.2023.

29. In view of the above, we dispose of the present Original Application with a direction to the Respondent No.3, West Bengal Pollution Control Board, to compute Environmental Compensation against the Respondent No.9 for violation of environmental norms as well as Municipal Solid Waste Management Rules, 2016, for creating a deplorable and unhygienic condition at the site in question and recover the same from the Respondent No.9 after giving him an opportunity of being heard in accordance with law within a period of two months.
30. I.As. if any, stands disposed of accordingly.
31. There shall be no order as to costs.

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**B. Amit Sthalekar, JM**

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**Dr. Arun Kumar Verma, EM**

April 22, 2024,  
Original Application No.131/2023/EZ  
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