

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No. 108/2021/EZ

Rasulpur Dana Welfare Society

Applicant(s)

Versus

West Bengal Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 22.03.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

For Applicant(s) : Ms. Paushali Banerjee, Advocate

For Respondent(s): Mr. Dipanjan Ghosh, Advocate for R-1,
Mr. Sibojoyti Chakraborty, Advocate for R-3, 5 & 6,
Mr. Rajib Ray, Advocate for R-4,
Ms. Supriya Dutta, Advocate for R-7

ORDER

1. Ms. Paushali Banerjee, learned Counsel is present for the Applicant.
2. Mr. Sibojoyti Chakraborty, learned Counsel files Vakalatnama on behalf of the State Respondents, Govt. of West Bengal; the same is taken on record.
3. Mr. Rajib Ray, learned Counsel files Vakalatnama on behalf of the Respondent No.4, Central Pollution Control Board; the same is taken on record.
4. One counter-affidavit dated 05.01.2022 has been filed on behalf of the Respondent No.7, Private Respondent; the same is taken on record.
5. One para-wise reply affidavit dated 07.02.2022 has been filed on behalf of the Respondent No.4, Central Pollution Control Board; the same is taken on record.
6. Mr. Dipanjan Ghosh, learned Counsel appearing for the Respondent No.1, West Bengal Pollution Control Board, on

instructions received from the West Bengal PCB informs the Court that the West Bengal PCB shall adopt the counter-affidavit filed by the State Respondents and they do not intend to file separate counter-affidavit.

7. The report of the Block Land and Land Reforms Officer, Purba Bardhaman dated 10.12.2021 filed as Annexure R-2 (page no. 63 of the paper book) along with the affidavit in opposition filed by the Respondent No.6, Additional District Magistrate & District Land and Land Reforms Officer, Purba Bardhaman dated 14.12.2021, addressed to the Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman, confirms that eight persons had tried to fill up the Plot No. 463 of Mouza-Baidyadanga, J.L. No. 135 and FIR's have been lodged against them. It is also noted in the report that on enquiry of Plot No. 25 of Mouza-Baidyadanga, J. L. No. 135, it has been found that one Ankul Biswas was attempting to fill the western side of the pond and he has been issued a notice on 04.07.2016 to stop such work. There is a Kancha Road on the western side of the pond and remaining area has been filled with garbage and bushes. This confirms the allegations made by the Applicant. However, the report of the Block Land and Land Reforms Officer, Purba Bardhaman, is scanty in information; so far as the area of the pond is concerned, how much of the area has been filled up with garbage and bushes and how much area has been utilized for construction of Kancha Road. The area encroached is not clearly mentioned. This report does not mention as to what action has been taken for removal of the Kancha Road which appears to have been constructed after filling up of the pond/water body. It also does not indicate as to whether

any steps have been taken besides FIR against these eight persons plus Ankul Biswas and whether any penalty/fine has been imposed on them. The report also does not disclose what restoration measures have been taken to restore the pond/water body to its original form.

8. We, therefore, direct the State Respondents to file a fresh affidavit sworn by the District Magistrate, Purba Bardhaman, within two weeks answering the queries of the Court.
9. In the meantime, Ms. Paushali Banerjee, learned Counsel for the Applicant shall file her rejoinder affidavit to the affidavits already taken on record.
10. Learned Counsel for the parties shall exchange the copies of the affidavit already taken on record at least one week before the next date fixed.
11. **List on 26.04.2022.**

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

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Dr. Vijay Kulkarni, EM

March 22, 2022
Original Application No. 108/2021/EZ
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