

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 06/2016 (EZ)
(M.A. No. 297/2017)

Subhash Datta

Applicant(s)

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 01.06.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant (s): Mr. Subhash Datta (in person)

For Respondent(s): Mr. Bikas Kargupta, Advocate for State of West Bengal, Respondents No. 1-2 and 4.
Mr. Sandipan Banerjee, Advocate for Respondent No. 3.
Mr. Biswajit Samanta, Advocate for Respondent No. 5.
Mr. Dipanjan Ghosh, Advocate for Respondent No. 6.

ORDER

1. Case taken up by video conference on *Vidyo App*.
2. This case pertains to 'Santragachi Jheel' which is a notified 'Bird Sanctuary'. The case has been instituted on the allegation that the water body was being polluted due to dumping of municipal and plastic wastes and building waste materials. Besides that it has also been alleged that

constructions being undertaken in the northern side of the 'Jheel' by filling up portion of the water body and that there were encroachments and growth of hyacinth. During the course of the proceedings various parties were added in order to ensure effective adjudication of the case which included the Respondent No. 7, M/s Mackintosh Burn Ltd., the Respondent No. 8, Ministry of Railways, the Respondent No. 9, Railway Board, the Respondent No. 10, Executive Director, Land and Amenities-1, Railway Board and the Respondent No. 11, Executive Director, Civil Engineering/ Environment and Housing Keeping Management, Railway Board.

3. Without going into various events that transpired during the past proceedings, suffice it to note that it had been agreed that (i) the Railway would provide for the land for setting up STP for treatment of the sewage diverted away from the 'Jheel'; (ii) the cost of the project would be shared between the Howrah Municipal Corporation (HMC) and the Railways in the ratio of the contribution of sewage and, (iii) encroachments from the 'Jheel' would be removed. The records would reveal that construction of the project was to be undertaken by the Respondent No. 7, M/s Mackintosh

Burn Ltd. Inordinate delay had been caused both by the Howrah Municipal Corporation (HMC) and the Railway Authorities on the question of the lease of the land, the release of funds towards cost of the projects and removal of encroachers, The last one having been caused primarily on account of the inept handling by the HMC.

4. This case has been put up before us after almost 2½ years, the last date being 15.12.2017. By the order dated 02.11.2017, we had recorded the following:-

“Affidavits filed on behalf of the State Respondent, i.e., the Land and Land Reforms Officer, Govt. of West Bengal, by Mr. Bikas Kargupta, Ld. Govt. Counsel and, on behalf of the Respondent No.3, i.e., the Howrah Municipal Corporation (HMC), by Mr. N.C. Bihani, Advocate, are ordered to be taken on record.

It is submitted by both the Ld. Counsel that the rate of the land to be leased out to the South Eastern Railway, has been decided by reducing it by 1/3rd of the rate fixed earlier.

In view of this, Mr. S.K. Dubey, Deputy Chief Engineer (Works), S.E.R., informs us that the cost of the project would now be reduced substantially from the initial Rs.30 crores (approximately) to about Rs. 20 crores.

Mr. N.C. Bihani, ld. Counsel for the HMC, states that there are some issues pertaining to the cost sharing of the project. We expect the Municipal Corporation and the South Eastern Railway to resolve this expeditiously considering the public importance attached to the project and in the light of the fact that this aspect has been unambiguously dealt with in our order dated 15th September, 2017.

Let affidavits be filed before the next date by both the South Eastern Railway and the Howrah Municipal Corporation on the question.

We are informed that the illegal occupants in the area in question have not been provided with opportunities of individual hearing. Although it is stated on behalf of the Railway Authorities that orders of eviction had been issued on the basis of a common representation submitted by them, we are of the view that each of the illegal occupants ought to be heard separately and separate

orders passed against each of them as cause of action would arise in the case of each individual.

If, therefore, any order has been issued to the detriment of the encroachers, fresh notices be issued against each of them and heard individually before any order to be passed.

Report shall be filed in this regard by the Respondents on the next date.”

5. Considering the passage of time which is about 2½ years, we expect that the entire issues involved in the project has been resolved and the work completed. The State of West Bengal, the HMC, the M/s. Mackintosh Burn Ltd., the Executive Director, Land and Amenities-1, Railway Board and the Executive Director, Civil Engineering/ Environment and Housing Keeping Management, Railway Board, shall file reports on the present status of the work within a period of 30 days from hence with copy on the Applicant.

6. List on 21.07.2020.

S.P. Wangdi, JM

Siddhanta Das, EM

1st June, 2020
O.A. No. 06/2016 (EZ)
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