

THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

O.A. 136/2015/EZ
&
M.A. 1199/2016/EZ

SUBHAS DATTA

VS

STATE OF WEST BENGAL & ORS

CORAM: Hon'ble Mr. Justice S.P.Wangdi, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: **Applicant** : In person
Respondents No.1-7 &10-13 : Mr. Bikas Kargupta, Advocate
Respondent No. 8 : Mr. Dipanjan Ghosh, Advocate
Respondent No. 9 : Mr. Gora Chand Roy Chowdhury, Advocate
Mrs. S. Roy, Advocate
Respondent No.15 : Mr. Ajit Kumar Mishra, Advocate
Mr. Amritam Mondal, Advocate
KIT : Mr. Achintya Kr. Banerjee, Advocate
Mrs. Poushali Banerjee, Advocate
Kolkata Municipal Corporation : Mr. Achintya Kr. Banerjee, Advocate
Mr. Sibojyoti Chakraborty, Advocate
Commissioner of Police,Kolkata : Mr. Rajib Ray, Advocate
Siliguri Jalpaiguri Development Authority : Mrs. Arpita Chowdhury, Advocate
Bharat Kshatriya Samaj : Mr. Monoj Malhotra, Advocate
Mr. Ravi Kumar Dubey, advocate
Other Respondents : None

| Date & Remarks | Orders of the Tribunal |
|---|---|
| Item No. 6 29 th November, 2016. | Affidavits of compliance filed today by Mr. Achintya Kr. Banerjee, Id. Advocate and Mr. Dipanjan Ghosh, for Kolkata Municipal Corporation (KMC) & W.B. State PCB respectively, in terms of our order dated 3.11.2016 are ordered to be taken on record. Further time to file compliance reports by Ms. Arpita Chowdhury, Id. Counsel appearing of Siliguri |

Jalpaiguri Development Authority, added Respondent, and Mr. Achintya Kumar Banerjee, Ld. Counsel for the KIT, are considered and allowed. Let the compliance reports be filed on or before the next date.

We are deeply perturbed by the condition of the river Mahananda as evident from the photographs placed by Mr. Subhas Datta, the applicant, indicating the situation after Chhat Puja, 2016. By order dated 1.11.2016 we had issued the following directions:-

“ The photographs at pages 49,50 and 51 of the paper book show that temporary bamboo bridges have been constructed across the river Mahananda to facilitate performance of the rituals connected with the Chhat Puja. Such facility, in our view, would not be necessary as one of the requirements associated with the rituals is the necessity of being near the river bed and not within. Although we are informed that even offering of flowers is not a part of the rituals, the photographs clearly indicate otherwise.

In this view of the matter, we are of the considered opinion that while performance of the rituals may continue, construction of bridges across the river certainly cannot be allowed.

For the convenience of the devotees it is suggested that barricades either in the form of nets or split bamboos could be laid upto 3 ft. into the river making it possible for the devotees to have access to water. The area for laying such barricades may be at identified

stretches along with the river to a desired length sufficient to accommodate large number of devotees.

The above directions shall be strictly complied with by the Siliguri Municipal Corporation, Siliguri Jalpaiguri Development Authority and the District Magistrate, Darjeeling district (Respondent No. 10) who shall supervise the entire operation. After the rituals are over the puja wastes collected along the barricades shall be lifted and removed by the Siliguri Municipal Corporation or any other authority responsible for the work.

Compliance reports shall be filed by the District Magistrate, Darjeeling, Siliguri Municipal Corporation and Siliguri Jalpaiguri Development Authority within a period of three weeks from hence."

The authorities, viz., Siliguri Municipal Corporation, Siliguri Jalpaiguri Development Authority and the District Magistrate, Darjeeling, have not filed reports as directed by us. The Photographs clearly reflect gross violation of the aforesaid directions.

We would direct Mr. Datta to place the photographs duly affirmed by an affidavit in order to enable us to pass appropriate directions.

In the meanwhile, the authorities named above shall file affidavits explaining the position appearing in the photographs, the copies of which have been handed over to the Mr. Bikas Kargupta, Id. Govt. Counsel and Ms. Arpita Chowdhury.

In our view, the fact that the order appears to have been violated brazenly clearly calls for coercive

orders which we shall reserve until the affidavit is filed by Mr. Datta.

List on 16.01.2017

M.A. 1199/2016/EZ

By filing this M.A. the applicant seeks for direction to allow the applicant (Respondent No.15 in O.A. 136/2015/EZ) to carry on its stone crushing unit as it does not fall within the ambit of the order dated 24.02.2016. It is stated that the applicant possesses necessary consent and clearances and, therefore, is not an illegal crushing unit, but the DL&LRO has, without consideration of this aspect, directed its closure.

In our view, we need not go into the details of the facts and circumstances except to direct the DM, Darjeeling to consider the case of the applicant and verify on the veracity of the claims made by them in the application. Upon such consideration, the DM shall dispose of the case of the applicant in the M.A. expeditiously which shall not be later than 30 days from hence.

Mr. Bikas Kargupta, Id. Govt. Counsel representing the DM& DL&LRO, assures us that appropriate action as directed shall be taken.

Report on the action taken shall be filed on or

before the next date.

In view of the above, **M.A. stands disposed off.**

List the M.A. on 16.01.2017 only for submission of action taken report by the D.M., Darjeeling.

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Justice S.P.Wangdi, JM
29.11.2016

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Prof. (Dr.) P. C. Mishra, EM
29.11.2016

