

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

O.A. No. 65(THC)/2016/EZ
With
M.A. 1096/2016/EZ
M.A. 1097/2016/EZ
M.A. 1271/2016/EZ

**PEOPLE UNITED FOR BETTER LIVING
IN CALCUTTA (PUBLIC) & ANR**

VS

UNION OF INDIA & ORS

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

PRESENT:

Applicants	: Mr. Santanu Chakraborty, Advocate
Respondents 1 & 2	: Mr. Gora Chand Roy Chowdhury, Advocate
Respondents No. 3,4,6-10	: Mr. Bikash Kargupta, Advocate
Respondent No. 5	: Mrs. Debanjana Ray Chaudhuri, Advocate
Respondent No. 11	: Mr. Rahul Ganguly, Advocate
Respondent No. 12	: None
Respondents No. 13	: Mr. Sourav Kumar Mukhejee, Advocate
Respondent No. 14	: Mr. B.C.Dhara, Advocate, Mr. Supratim Dhar, Advocate Ms. Mamoni Shaw, Advocate
Respondent No. 15	: Mr. Aniruddha Mitra, Advocate Mr. Meghnath Dutta, Advocate

Date & Remarks	Orders of the Tribunal
Item No. 3 6 th March, 2017.	<p style="text-align: center;">Although the matter is listed today for final hearing, we are of the view that the matter is not such that can be heard and disposed of as if it is a dispute between two contesting parties as in adversarial litigations.</p>

The original application has raised substantial questions of grave public importance with regard to identification, preservation and development of the water bodies in the State of West Bengal, more specifically, in Dankuni at Mollarber and Panchghara. We have perused the affidavits filed by the respondent No. 4, the Deptt. of Environment and the respondent No. 7, Deptt. of Fisheries, Govt. of West Bengal and we find that they have not specifically answered to the questions raised in the OA.

The most crucial responsibility charged upon the State Govt. is its obligation to comply with rule 6 of the Wetlands (Conservation and Management) Rules, 2010, which, as per the applicant, the State Government has failed to do.

The Rules were brought into force from 4.12.2010 and rule 6 thereof prescribes specific time frame for identification of wetlands under different categories which ought to have been followed immediately after the Rules were notified. It is to be

borne in mind that these Rules having been issued under Section 25(1) read with clause (v) of Sub-sec. (2) and Sub-section (3) of Section 3 of Environment (Protection) Act, 1986, are statutory in character and mandatory. A bare reading of rule 6, will reveal that the words used are peremptory leaving no room for exercise of any discretion by the State Govt. It may also be pertinent to note that even the High Power Committee constituted by the State Govt. under the orders of the Hon'ble Calcutta High Court, in its report, recommended inventorisation of wetlands and water bodies. Similarly, the Wetlands and Water Bodies Conservation Policy prepared by the Department of Environment in its very first recommendation envisaged taking of such step by the State.

We, therefore, direct the State Govt., more particularly, the respondent No. 4, the Deptt. of Environment, Govt. of West Bengal, to place on record as to whether rule 6 of the Wetlands (Conservation and Management) Rules 2010, has been complied with and

'brief document' prepared as mandated under sub-rule (3) of Rule 6 of the Rules.

Let this information be furnished with details on the next date.

After receipt of this information, we shall take up this question along with other issues which, in our view, require monitoring.

In the meanwhile, if parties are in the process of setting up or are undertaking any construction in the area in question, they shall be doing so at their own risk and peril and shall be subject to the outcome of this application.

List on 20.4.2017.

Justice S.P.Wangdi, JM
6-3-2017

Prof. (Dr.) P. C. Mishra, EM
6-3-2017

