

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

O.A. No. 18/2016/EZ

**BISHNU PADA PAKHIRA
VS
MEMBER SECRETARY, WEST
BENGAL POLLUTION CONTROL BOARD & ORS**

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

PRESENT:

Applicant	: Mr. S.K.Bhattacharya, Advocate Mrs. Leena Mukherjee, Advocate
Respondent No. 1	: Mr. Dipanjan Ghosh, Advocate
Respondent No. 2 &9	: Mr. Tapash Kr. Mondal, Advocate
Respondents No. 3, 4 & 6	: Mr. Bikas Kargupta, Advocate
Respondent No. 5	: Mr. Kamalesh Bhattacharyya, Advocate Mr. Tapan Kr. Manna, Advocate Mr. Amalels Ray, Advocate
Respondent No. 8	: Mr. Subrata Bhattacharyya, Advocate Mr. Souris Ghosal, Advocate

Date & Remarks	Orders of the Tribunal
Item No. 3 14th March, 2017.	<p>Original sanctioned plan of the questioned housing complex has been produced before us by the Id. Counsel for the respondent No. 5 which we have perused and is returned to him with the direction to produce it as and when directed to do so.</p> <p>Affidavit filed on behalf of the Principal Secretary, Land & Land Reforms Deptt, Govt. of West Bengal, respondent No. 3, by Mr. Bikas Kargupta, Ld. Govt. counsel, is ordered to be taken on record.</p> <p><i>Prima facie</i>, it appears that the Housing Complex in question was commenced with the sanctioned plan</p>

which was approved on 21.5.2004. However, such approval appears to be quite questionable in view of the fact that the relevant Rules under which the plan was stated to have been sanctioned i.e., the West Bengal Panchayat (GP) Administration Rules, 2004, came into force in November, 2004. Obviously, therefore, the concerned Pradhan of the Gram Panchayat would not have the authority to sanction the plan before that.

Be that as it may, the question that further arises is as to whether the actual construction work of the complex commenced before the law i.e. East Kolkata Wetlands (Conservation & Management) Act, 2006 was enforced. This question assumes signification in view of the fact that there is a criminal case going on against the respondent No. 5 in the competent criminal court under section 18 of the aforesaid Act.

The Ld. Advocate for the respondent No. 5 prays for leave to file an affidavit explaining the factual aspect relating to these questions.

Prayer is considered and allowed. Let the affidavit be filed before the next date with advance copies on the other side.

In order to determine the aforesaid questions, it would be relevant to consider the charge-sheet filed in the case against the respondent No. 5. We, therefore, direct the Superintendent of Police, South 24 Parganas

or the O/C Sonarpur PS to produce a copy of the charge-sheet containing entire documents under Section 173 IPC for our consideration.

Let it be done before the next date with copies to the applicant.

The BDO, Sonarpur, respondent No. 9 has put in appearance for the first time through Mr. Tapas Kr. Mondal, Ld. Adv., who prays for time to file affidavit-in-opposition.

The prayer is considered and allowed. Let the affidavit-in-opposition be filed before the next date with advance copies to the other side.

Mr. Souri Ghosal, Ld. Advocate for the respondent No. 8, the Pradhan, Keyadaha No. 2, Gram Panchayat, prays for leave to file affidavit-in-opposition on behalf of the said respondent.

Leave is granted. Affidavit-in-opposition is ordered to be taken on record.

List on 26.4.2017.

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Justice S.P.Wangdi, JM
14-3-2017

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Prof. (Dr.) P. C. Mishra, EM
14-3-2017

