

THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

O.A. 136/2015/EZ
&
M.A. 191/2017/EZ
WITH

M.A. NO. 327/2017/EZ & M.A. 328/2017/EZ
M.A. NO.332-2017/EZ & M.A. 333/2017/EZ

SUBHAS DATTA

VS

STATE OF WEST BENGAL & ORS

&

O.A. NO. 134/2017/PB/50/2017/EZ

TRIBUNAL ON ITS OWN MOTION

VS

STATE OF WEST BENGAL & ORS

CORAM: Hon'ble Mr. Justice S.P.Wangdi, Judicial Member

PRESENT:

Applicant	: Mr. Subhas Datta, Advocate
Respondent Nos.1-4 & 6 & 7 10-13	: Mr. Bikas Kargupta, Advocate
Respondent No. 5	: Mr. Avijit Dey, Advocate
Respondent No. 8	: Mr. Dipanjan Ghosh, Advocate
Respondent No. 9	: Mr. Gora Chand Roy Chowdhury, Advocate Mrs. S. Roy, Advocate
Respondent No. 24	: Ms. Shampa Sarkar, Advocate
KIT	: Mrs. Poushali Banerjee, Advocate
Siliguri Jalpaiguri Dev. Authority	: Mrs. Arpita Chowdhury, Advocate
Respondent No. 15	: Mr. Somnath Roy Chowdhury, Advocate
Applicant in MA 327-328/2017/EZ	: Ms. Sayanti Sengupta, Advocate
Applicant in MA 332-333/2017/EZ	: Mr. Victor Chatterjee, Advocate : Mr. Anupam Mookherji, Advocate Mr. Anujit Mookherjee, Advocate Mr. Arup Bhattacharya, Advocate Mr. Priyabrata Thakur, Advocate
Other Respondents	: None

Date & Remarks	Orders of the Tribunal
Items No. 2 - 5 22 nd November, 2017.	Report filed on behalf of the Chief Secretary, the

Respondent No. 1, in compliance of our order dated 31.8.2017, by Mr. Bikas Kargupta, Ld. Govt. Advocate, is ordered to be taken on record.

As per the affidavit, the District Magistrate, Darjeeling, vide letter dated 12th October, 2017 has informed that notices have been issued by the Dy. Field Director, Buxa Tiger Reserve (East and West), Alipurduar to all the owners of hotels, lodges and restaurants located in Buxa Tiger Reserve Forest Area to wind up and that as many as 67 commercial establishment as per the list provided with the letter have been closed down.

The affidavit is ordered to be taken on record.

The competent authority shall continue to take steps for ensuring that the Buxa Tiger Reserve Forest is made free from all encroachments. We also direct that the measures be taken to prevent settlement of any person and to prohibit any commercial activity to be undertaken within the protected area.

We are aware that provision has been made for the purpose but large scale encroachments demonstrated from the affidavit filed today on behalf of the Chief Secretary amply reveals that the implementation of the provision of law for protecting the reserve forest has thus far been a failure. We may remind the State Govt. of the decision of the Hon'ble Supreme Court in **Sariska Tiger Park** where

direction for banning operation of 400 marble mines around the Sariska Tiger Park in Alwar district of Rajasthan was issued. Reference may be made to ***Tarun Bharat Sangha, Alwar –vs- UOI & Ors. :1992 Supp (2) Supreme Court Cases 448.***

Let further report on the status of the action being taken be filed before the next date.

Mr. Subhas Datta, the Applicant, has categorically stated that there are several Govt. establishments also existing within the reserve forest area.

Let this be examined by the State and appropriate affidavit be filed dealing with this aspect in their report.

M.A. 191/2017/EZ : Reply filed on behalf of the District Magistrate, Darjeeling pursuant to our order dated 13.10.2017 is ordered to be taken on record.

Since copy has been served upon the Applicant, ARK Nirman, Respondent No. 15, they are at liberty to file reply. We, however, note that everything is not right in respect of the crushing unit of the applicant in the MA, as has been claimed by them.

We, therefore, do not intend to modify our order prohibiting the applicant from operating the unit until the parties are heard. In any case, it is reported that the unit is presently not in operation.

Let reply be filed before the next date.

Leave sought for by Mr. Abhijit Dey, Ld. Advocate

for the Respondent No. 5 i.e. Deptt. of Tourism, to file affidavit and, compliance report on behalf of the SMC, Respondent No. 24, by Ms. Shampa Sarkar, Ld. Advocate, are allowed. Let those be taken on record.

M.A. 327/2017/EZ & MA 328/2017/EZ :

Heard.

Notice stand dispensed with as the respondents are present through their Id. Advocates.

Let the Applicant, Mr. Subhas Datta, State Respondents and, most importantly, the MOEF file their affidavits on the aspects necessary to be dealt with by them in the MAs.

Questions that arise for our consideration is as to whether "home stay" falls within the meaning of commercial activity and whether home stay can be permitted in a cluster and would such home stay be permitted to be run in a reserved forest declared as a Tiger Reserve.

Let the affidavits be filed within the next date giving appropriate clarification.

List on 3.1.2017.

MA NO. 333/2017/EZ :

This MA was filed for modification of our order before commencement of the Chhat Puja, 2017. Since the Puja has already been completed, the MA stands

rendered infructuous and accordingly stands dismissed as such.

M.A. NO. 332/2017/EZ : We do not find any reason as to why this MA should be allowed as we do not find the Applicants to be necessary parties in whose absence the case cannot be effectively adjudicated upon.

The MA thus stands dismissed.

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Justice S.P.Wangdi, JM
22-11-2017

