

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

Original Application No. 20/2014/EZ
With
M.A. 83/2015/EZ

**Tribunal On Its Own Motion
Reg. Sunderban Forest
Vs
Union of India & Ors.**

CORAM: **Hon'ble Mr. Justice Pratap Kumar Ray, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member**

PRESENT: **Applicant : Mr. Subhas Datta, Advocate (Amicus Curiae)
Respondent No. 1 : None
Respondent No. 2 to 4 : Mr. Bikash Kar Gupta, Advocate
Respondents 5 & 6 : Ms. Arpita Chowdhury, Advocate
Respondents No.7 & 8 : Mr. Pinaki Ranjan Chakraborty, Advocate**

Date & Remarks	Orders of the Tribunal
Item No. 5 1 st July, 2015.	<p style="text-align: center;"><u>M.A. 83/2015/EZ</u></p> <p>This is an application filed by the added parties i.e. respondents 7 and 8 praying for an interim order. Ms. Arpita Chowdhury, Id. Adv. appearing for State PCB has filed objection to such prayer. Copy served. Let it be kept with the record. Mr. Pinaki Ranjan Chakraborty, Id. Adv. appearing for the MA applicants prays for some time to file rejoinder to the objection so filed by Ms. Chowdhury. Considering the prayer, time is granted for two weeks to file such rejoinder. Let the MA be listed for consideration on 16.7.2015.</p> <p><u>O.A. 20/2014/EZ :</u></p> <p>Mr. Subhas Datta, Id. Adv. who has been appointed as Amicus Curiae in this matter, on the basis of affidavit filed by him, submits that so many motor boats are operating in the area in question using adulterated fuel and thus polluting the Sunderban atmosphere. Under the MV Act, there is no provision for extending permission for operating the motor boats by the competent authority and in that process those motor boats are polluting the air due to use of adulterated fuel which means mixture of diesel and kerosene as well as mixture of petrol with diesel. The boats also generate a lot of noise.</p> <p>Rebutting such contention, it is submitted by Mr. Bikas Kar Gupta, Id. Adv. for the official respondents, by reading from the affidavit filed by the Chief Secretary that meeting was held with the Motor Boat Owners Association and warning was issued to them not</p>

to use adulterated fuel failing which appropriate action will be taken against the defaulter. We are surprised that without taking any action against such illegal use of adulterated fuel to operate the motor boats, the State Govt. has taken the matter very leniently and only verbal warning was whispered, which, in fact, has not yielded any result. Mr. Datta submits that motor boat owners are still using adulterated fuels and polluting the environment without any proper measure being taken by the local police authorities.

Having regard to such contention, Zila Parishad, South 24 Parganas is directed to submit an action taken report in respect of the motor boat operators and the user of adulterated fuel, as reflected in the affidavit of Mr. Dutta. At the same time, the WB Pollution Control Board is also directed to make surprise visit to identify the boats and boat owners who are using adulterated fuel and thereby polluting the environment therein. The report on such surprise visits detailing the list of boats and boat owners using adulterated fuel be submitted by the State Pollution control Board within four weeks. Copy of such report to be served to Mr. Datta and other respondents. The Superintendent of Police, South 24 Parganas and of North 24 Parganas and Dist. Magistrate, South 24 Parganas and of North 24 Parganas are also directed to take appropriate steps against those motor boat owners who are polluting the air by using adulterated fuel which is commonly known as 'Kanta Tel' and will submit an action taken report on 29.7.15.

Mr. Datta further submits that there are many illegal constructions in the Sunderban Area violating CRZ notification, details of which are available at para 29 of the affidavit affirmed on 6.1.15. Photographs have also been annexed as evidence thereof. In reply to such affidavit, the Environmental Secretary, Govt. of West Bengal has simply stated that State Coastal Regulatory Zonal Authority has no information about it.

MoEFCC is directed to take immediate measure about such illegal construction and demolish all such constructions forthwith only if there is any violation of CRZ notification. The Secretary, MOEFCC shall take appropriate action to that effect and will submit an action taken report on 29.7.2015.

Since State Coastal Regulatory Zone Authority is headed by the State Environment Secretary, we direct him to take all steps and measures so that no unauthorised construction comes up within the CRZ area in violation of CRZ notification and if any such construction

has been made the same may be demolished immediately. Since in the affidavit filed it is submitted that State Coastal Regulatory Zone Authority has no information regarding illegal construction, they have now got all the information including photographs from the affidavit filed by Mr. Datta. Therefore, there will be all materials available before them to take appropriate measure and proper steps according to law. Action taken report be filed by the said Secretary on the date fixed.

However, after having considered the matter from all angles and since there is dispute, we are of the view that it is a fit case where a team of learned advocates as commissioners of Court should be appointed to inspect the area in question to ascertain the real state of affairs, the nature of construction, number of construction and the motor boats operating in the respective areas and use of adulterated fuel in operating the boats. Hence we appoint the following learned advocates to make an on the spot inspection and submit a report before us:-

1. Mr. Surajit Samanta, Advocate
2. Mr. Supratim Dhar, advocate
3. Mr. Saurav Chaudhuri, Advocate.

The afore-named Id. Advocates are present before us and have consented to act as advocate commissioners. Along with them, Mr. Subhash Datta, Amicus Curiae, Mr. Bikash Kar Gupta, Govt. Advocate and Ms. Arprita Chowdhury, Ld. Adv. for Pollution Control Board will also accompany. Technical persons from PCB will also accompany Ms. Chowdhury for technical support. Ms. Ajanta De, Environmentalist, and Head of one NGO who has vast experience in Sunderban area shall also accompany the team and assist the members.

Since environmental issue is of vital importance and protection of the same is the duty of all citizens including State Govt and Central Govt. under Art. 48A read with Art. 51(A)(g) of the Constitution of India, we are of the view the State Govt. will cooperate and will provide all facilities and amenities like conveyance, lodging and food to the visiting team including the fees of three advocate commissioners, which we for the time being fix at Rs. 50,000/- each for the entire job, which shall be paid by cheque to their respective bank account. The State Govt. shall release necessary fund and issue necessary instruction to all concerned to cooperate with the team. Necessary police protection shall also be provided to the team members.

Ms. Ajanta De, Environmentalist and head of an NGO submits that there is consistent depletion of mangroves and no protective action is being taken by the State Govt.. If this situation continues, there will be serious environmental problem. The team of Id. Advocates will also consider that aspect and will submit a report as to how to resist such depletion of mangrove trees and protection of the world heritage. The Chief Secretary of the State Govt. shall pass appropriate direction to the respective official to take all measures to protect the mangroves and submit an action taken report.

Mr. Datta has pointed out that a committee was constituted headed by the Chief Secretary in which Mr. Datta is a Member, as per direction of the Tribunal vide order dt. 22.2.15 and notification has already been published by the Governor but as yet no meeting has been held. We are surprised that during the last four months no meeting has been held by the committee and practically the committee has remained only in paper. The chief Secretary, who is the Chairman of the Committee is directed to convene the meeting within two weeks and discuss steps and measures for the purpose for which the committee was constituted.

The OA is posted to 29.7.2015. All affidavits and action taken reports by respective authorities as indicated above be submitted before us by that date.

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Justice Pratap Kumar Ray, JM

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

