

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.105/2023/EZ

In the matter of:

Sanjoy Kumar Ghosh,
S/o Late Manmatha Nath Ghosh,
19, Town Shend Road, (also known as 19,
Sakharam Ganesh Dauskar Sarani), Bhawanipur,
Ward No.72, Police Station-Bhawanipur, Kolkata,
Pin – 700025,

...Applicant(s)

Versus

1. The Chairman, West Bengal Pollution Control Board,
Paribesh Bhawan, 10A, Block-1A, Sector-III,
Bidhan Nagar, Kolkata,
Pin – 700106,
2. The Senior Scientist of In-Charge Public Grievance Cell,
West Bengal Pollution Control Board (Department of Environment
Government of West Bengal),
Mani Square, Block/Space-SIT 8th Floor, 164/1,
Maniktalla Main Road, Kolkata,
Pin – 700054,
3. Senior Environment Engineer, Public Grievance Cell,
Paribesh Bhawan, 10A, Block-LA, Sector-III,
Bidhannagar, Kolkata,
Pin – 700106, ... (deleted vide order dt.11.09.2023)
4. The Principal Secretary, (Department of Environment),
Prani Sampad Bhawan, 5th Floor,
LB-2, Sector-III, Salt Lake Koklata,
Pin – 700106,
5. The Councillor, Ward No.72,
Kolkata Municipal Corporation,
Pin – 700020,
6. The Officer-in-Charge, Bhawanipur Police Station,
42, S.P. Mukherjee Road, Kolkata,
Pin – 700026,
7. The Executive Engineer Borough-VIII, Kolkata Municipal Corporation,
104, Rash Behari Avenue, Lake, Terrace, Kalighat, Kolkata,
Pin – 700029,
8. The Director General of Fire Services, Fire and Emergency Department,
Government of West Bengal,

13D, Mirza Galib Street, Kolkata,
Pin – 700016,

9. Municipal Commissioner,
Ward No.72, Kolkata Municipal Corporation,
Kolkata – 700020,
10. The Environmental Engineer,
West Bengal Pollution Control Board,
Kolkata Regional Office, Mani Square Block No.81T,
Western Side, 8th Floor, 164/1, Maniktala Main Road,
Kolkata – 700054, ...(deleted vide order dt.11.09.2023)
11. The Superintendent of Police, 24 Parganas South, Alipore,
District-South 24 Parganas,
Pin – 700027,
12. Abhoy Ghosh,
19 Town Shend Road (also known as 19, Sakharam Ganesh
Dauskar Sarani), Bhawanipur, (Ward No.72), Police Station,
Bhawanipur, Kolkata,
Pin – 700025,

...Respondent(s)

Date of hearing: 07.12.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Shyama Prasad Parkait, Advocate a/w
Ms. Kavita Rani, Advocate

For Respondent(s) : Mr. Dipanjan Ghosh, Advocate for R-1&2,
Mr. Rajib Ray, Adv. for R-4,6,8&11, (in Virtual Mode)
Mr. Sibojyoti Chakraborty, Adv. for R-5,7&9, (in Virtual Mode)
Mr. Sobhan Majumder, Advocate for R-12,

ORDER

1. We have heard Mr. Shyama Prasad Parkait, learned Counsel assisted by Ms. Kavita Rani, learned Counsel appearing for the Applicant as well as Mr. Dipanjan Ghosh, learned Counsel appearing for Respondent Nos.1&2, West Bengal Pollution Control Board, Mr. Rajib Ray, learned Counsel appearing (in Virtual Mode) for Respondent Nos.4,6,8 and 11, State Respondents, Government of West Bengal, Mr. Sibojyoti Chakraborty, learned Counsel appearing (in Virtual Mode) for Respondent Nos.5,7 and 9, Kolkata

Municipal Corporation, and Mr. Sobhan Majumdar, learned Counsel appearing for Respondent No.12, Private Respondent.

2. The Applicant in the present Original Application is alleging that Respondent No.12, Abhoy Ghosh, is carrying on welding activities in his workshop illegally in a residential area without obtaining clearance/certificates from the West Bengal Pollution Control Board.
3. It is alleged that the Respondent No.12 is running gas welding cutting, fitting and motor repairing workshop including other operations in the said residential area causing rampant environmental and noise pollution.
4. The allegation is that the activity of welding, cutting emits fumes that are hazardous to health since gases such as Carbon Monoxide and Carbon Dioxide, Nitrogen monoxide and Nitrogen Dioxide, ozone and other organic gases are being used.
5. At the time of admission, the Tribunal constituted a Committee comprising of the following Members:-
 - i) *Senior Scientist / Environmental Engineer, West Bengal Pollution Control Board;*
 - ii) *Representative of the Municipal Commissioner, Kolkata Municipal Corporation of Senior rank*
6. The Committee was directed to visit the site in question and submit its reports within three weeks.
7. Affidavit dated 09.10.2023 has been filed on behalf of the Respondent No.6, Officer-in-Charge, Bhowanipore Police Station, mentioning that General Diary Entry Number 2138, dated 28.02.2021, General Diary Entry Number 1675, dated 20.08.2021

and General Diary Entry Number 1419, dated 20.10.2021 have been indexed in the Bhowanipore Police Station.

8. The Kolkata Municipal Corporation has also filed affidavit dated 11.10.2023. Along with this affidavit, an Inspection Report of an inspection carried out on 09.10.2023 has been filed as Annexure-R-1, which reads as under:-

INSPECTION REPORT

<i>Name of the industry</i>	<i>M/s Ghosh's Gas Welding Cutting Fitting Shop</i>
<i>Address</i>	<i>19 Sakharam Ganesh Dauskar Sarani, Kolkata</i>
<i>P.O. & Pin Code</i>	<i>Bhawanipur, 700020</i>
<i>District</i>	<i>Kolkata</i>
<i>Local Body/Authority</i>	<i>KMC</i>
<i>Power Supply agency</i>	<i>CESC</i>
<i>Category of industry</i>	<i>White; Engineering and fabrication [dry process without any heat treatment/metal surface finishing operations/painting]</i>
<i>Date & Time of inspection</i>	<i>09/10/2021; 1:25 to 2:00 PM</i>
<i>Inspecting Officers</i>	<i>Sri Partha Sarathi Samanta, Dy Chief Engineer (Civil; E&H Department) Sri S Mardi, SEE, Kolkata RO Sri Sanjoy Ghosh, AEE, Kolkata RO</i>
<i>Persons met during inspection</i>	<i>Sri Avoy Ghosh, Proprietor of the unit Sri Sanjoy Ghosh, Complainant</i>
<i>Status of Consent to Establish</i>	<i>Consent to Establish is not required</i>
<i>Status of Consent to Operate</i>	<i>Consent to Operate is not required</i>
<i>Any other relevant information:</i> <i>This is a complain case against a gas welding, cutting fitting shop. The unit performs cutting and welding activity in a workshop located at the above mentioned address. The workshop is housed in an enclosure of approx.. 240 sq ft area with brick walls on three sides and tin roof. The frontal door was found open during the visit. A commercial oxygen cylinder and an acetylene producing cylinder (on reaction of Calcium carbide with water) of capacity 1/2 kg was found inside the unit. Initially welding operation was not going on during the visit: later the proprietor of the unit performed welding activity on request. He was not</i>	

wearing any welding accessories e.g., welding helmet, gloves, goggles etc. during welding. The representative of the unit stated that the unit is operating at the present address for the last 40 years. Complainant resides at the backside of the unit. Several other people and the owner of the unit also reside at the same premises at the backside of the unit. There is no opening of the unit towards the Complainant's side. Complainant complained that the activity of the unit is done on the frontal area of the workshop encroaching the pavement and the entrance of the premises. He also complained of odour generating from the activity of the unit. However, odour was felt inside the workshop and that too locally only when the Proprietor performed the welding activity on request. The area is mixed in nature. The unit produced trade licence, fire licence and a letter issued by West Bengal Pollution Control Board for its white category activity, during the visit.
Remarks: The activity of the unit falls under White category (Industry type : Engineering and fabrication units [dry process without any heat treatment / metal surface finishing operations painting]). There is no necessity of obtaining consent for White Category of industries and an intimation to WBPCB is sufficient.
Remedial measures recommended: The unit may be directed to (i) operate only inside the workshop area and not to encroach the pavement for its activity. (ii) perform welding activity only after taking precautionary measures using accessories e.g., welding helmet, gloves, goggles etc. (iii) operate after taking precautionary measures such that the activity of the unit does not affect the passers by passing through the area.

9. Photographs have also been filed along with this Inspection Report which show that welding activity is going on in the premises in question. Remedial measures have also been suggested.
10. In the Report, it is stated that the activity of the Unit of Respondent No.12 falls under 'White' category (industry type: Engineering and Fabrication Units [dry process without any heat treatment/metal surface finishing operations/painting]). It is also stated that there is no necessity of obtaining Consent for 'White' category of industries from the West Bengal Pollution Control Board and an intimation to

the State Board is sufficient. However, remedial measures have been recommended and the Unit has been directed to operate:-

- i) Only inside the workshop area and not to encroach the pavement for its activity;
- ii) Perform welding activity only after taking precautionary measures using accessories e.g., welding helmet, gloves, goggles etc.;
- iii) After taking precautionary measures such that the activity of the unit does not affect the passers by passing through the area,

- 11. The West Bengal Pollution Control Board has also filed its affidavit bringing on record the same Inspection Report, already referred to hereinabove.
- 12. The Respondent No.12, Unit in question, has also filed affidavit dated 11.10.2023.
- 13. We have heard the learned Counsel for the parties and gone through the documents on record. The Inspection Report discloses that the Unit in question operated by the Respondent No.12 is a 'White' category Unit which falls under the Industry type: Engineering and Fabrication Units [dry process without any heat treatment/metal surface finishing operations/painting]) and this is a permissible activity within the Municipal Corporation.
- 14. The Report further mentions that for carrying on activity of such a Unit, Consent to Establish and Consent to Operate is not required from the State Pollution Control Board. All that is required is an intimation of operation of the Unit to the State Board.
- 15. No doubt, having said that, we are of the view that the Unit in question must adopt precautionary measures to ensure that there

is no disturbance or irritation caused in the neighbourhood where the Unit is operating. It must ensure that gas/gases emanating from the industrial unit during its operations does not pollute the atmosphere so as to make the life of the inhabitants unbearable. The Inspection Report does not mention there is any leakage of gas from the Unit and we accept the Report. However, remedial measures suggested by the Inspecting Team must be observed in due letter and spirit by the operating Unit of Respondent No.12. Needless to say if the Unit of Respondent No.12 is found violating environmental norms, the West Bengal Pollution Control Board shall take appropriate action against it as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981.

16. With the above observations, the Original Application No.105/2023/EZ is accordingly disposed of.
17. I.As., if any, stand disposed of accordingly.
18. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

December 07, 2023,
Original Application No.105/2023/EZ
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