

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

Original Application No.143/2023/EZ

IN THE MATTER OF:

Sudhen Ghosh,
S/o Late Sarada Prasad Ghosh,
R/o College Para, P.O. & P.S.-Beliatore,
District-Bankura,
Pin – 722203

...Applicant(s)

Versus

- 1. The West Bengal Pollution Control Board,**
Through the Member Secretary,
Paribesh Bhawan, Plot No.10A, Block-LA,
Sector-III, Bidhannagar, Kolkata,
Pin – 700106;
- 2. District Magistrate and Collector, Bankura,**
Administrative Building, Bankura Collectorate,
Bankura, West Bengal,
Pin – 722101;
- 3. Block Development Officer, Barjora,**
Barjora Main Road, Bankura,
Pin – 72202;
- 4. Superintendent of Police, Bankura,**
Rabindra Sarani, Bankura,
Pin – 722101;
- 5. The Officer-in-Charge, Beliatore,**
Village and P.O.-Beliatore, District-Bankura,
Pin – 722203,
- 6. Pradhan, Beliatore Gram Panchayat,**
Village-Beliatore, P.O. & P.S.-Beliatore,
District-Bankura,
Pin – 722203;
- 7. Central Ground Water Board (CGWB),**
Ministry of Jal Sakti, Department of Water Resources, River Development
and Ganga Rejuvenation, Government of India,
Through the Chairman,
Bhujal Bhawan, NH-IV, Faridabad,
Pin – 121001;

8. Subhendu Mukherjee,
S/o Khemonkar Mukherjee,
Proprietor of M/s KMT Industries,
R/o College Para, P.O. & P.S.-Beliatore,
District-Bankura,
Pin – 722203

...Respondent(s)

Date of hearing: 15.04.2024

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

For Applicant(s) : Mr. Kallol Basu, Advocate (in Virtual Mode) a/w
Mr. Nilanjan Pal, Advocate (in Virtual Mode)

For Respondent(s): Mr. Dipanjan Ghosh, Advocate for R-1,
Mr. Sibojyoti Chakraborty, Advocate for R-2-5,
Mr. Indradeep Ghosh, Advocate for R-6,
Ms. Paushali Banerjee, Advocate for R-8

ORDER

1. This Original Application has been filed by the Applicant alleging that a Transformer Repairing Unit namely M/s KMT Industries, Respondent No.8, is carrying on its business in a congested residential area adjacent to the house of the Applicant. It is stated that the house of the Applicant was constructed in 1988 whereas the Unit was set up in 2006. This Unit is stated to fall within the 'Orange Category' of the Siting Guidelines issued by the West Bengal State Pollution Control Board. The allegations are that there is an open bathroom and/or Khatal just adjacent to the house of the Applicant used by the workers of the Unit and which has been constructed by the Respondent No.8. It is alleged that there is no Sewage Treatment Plant (STP) in the said Unit. There is also allegations of oil seepage and storage of used oil in the open area causing pollution to the extent that the Well of the Applicant may become unfit for drinking and usage due to seepage of oil into the nearby ponds, waterbodies, nullahs and agricultural fields. It is alleged that the organic and inorganic compounds present in the

effluents are causing eutrophication of the waterways jeopardizing the aquatic eco system.

2. It is also alleged that the Panchayat Development Officer, Barjora, inspected the Unit and submitted his Report copy of which has been filed as Annexure-‘E’ to the Original Application findings of which have been quoted in paragraph 8 of the Original Application. It is stated that the Environmental Engineer, Durgapur Regional Office of the West Bengal Pollution Control Board had also issued notice dated 12.08.2008 but nothing happened thereafter though the Applicant was present during the hearing of the matter before the State Pollution Control Board on 02.09.2008 i.e. the date fixed but no one appeared on behalf of the Unit and no hearing took place on that date. Thereafter, the Applicant is stated to have filed M. P. Case No.727 of 2017 under Section 144 of Code of Criminal Procedure, 1973 and the West Bengal Pollution Control Board was directed to submit a Report by the Executive Magistrate, Bankura. The Inspection Report has been filed at page 47 of the paper book.
3. It is stated that Officer-in-Charge, Public Grievance Cell, Office of the District Magistrate and Collector, Bankura has intimated the grievance of the Applicant to the Superintendent of Police, Bankura as well as to the Assistant Environment Engineer/In-Charge, West Bengal Pollution Control Board, Durgapur Regional Office vide his letter dated 26.09.2022 after which an Inspection of the Unit was conducted by the West Bengal Pollution Control Board on 02.01.2023 and the observations have been extracted in paragraph 18 of the Original Application but thereafter no action has been taken till date.

4. 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) District Magistrate and Collector, Bankura or his representative Officer not below the rank of Additional District Magistrate (A.D.M.)
5. The Committee was directed to inspect the site in question and submit its Inspection Report.
6. Supplementary affidavit dated 29.11.2023 has been filed by the Applicant stating that a technical hearing was conducted on 17.08.2023 and directions were issued to the Respondent No.8 vide West Bengal Pollution Control Board letter dated 11.10.2023 (page nos.82-83 of the paper book) as under:-
 - a. The unit shall immediately construct a proper shed with side over and proper ventilation for carrying out its entire work activity. Any activity of the unit is not permitted in an open place. Empty drums should also be kept under shed on bounded concrete floor.
 - b. The unit shall mount permanent sound absorbing materials on the wall of the workshop and also arrange the same on the ground of the workshop so that no sound will be produced due to its activity.
 - c. The unit shall immediately obtain Hazardous Waste Authorization from the State Board.
 - d. The unit shall carry out its activity in a proper manner so that any nuisance will be created to the people in the locality regarding environmental pollution.

- e. The unit shall strictly comply with the direction issued by the State Board vide Memo No.652-WPBD-06(94)/15 dated 07.03.2018.
 - f. The unit is allowed a time period upto 31.10.2023 to comply with the above mentioned direction.
7. Affidavit dated 30.11.2023 has been filed by Respondent No.8 stating that the Respondent No.8 is a micro industry registered with the Ministry of Micro, Small and Medium Industry. It is also stated that the house of the Applicant is adjacent to the plot of the Respondent No.8 and the Applicant has constructed a toilet adjacent to the common wall of the Respondent No.8 and sewerage from this toilet is being directly discharged into the open space at the backyard of the Respondent No.8 to which the said respondent objected and hence the allegations in the Original Application. It is denied that there is any Khatal in the area or near the window of the Applicant. It is further stated that the Unit does not require any Sewerage Treatment Plant (STP); there is no draining of waste oil and pouring of oil is done by the said respondent and as such there is no spillage of oil or storage of oil in the open area of the premises of Respondent No.8.
8. It is stated that the Report of the Panchayat Development Officer, Barjora, Bankura, Annexure-E to the Original Application, is a report of an untrained officer who has no expertise in the subject matter of environment or environmental pollution. It is also stated that the Respondent No.8 is a transformer repairing Unit which does not require any Environmental Clearance nor any Sewerage Treatment Plant (STP). It is further stated that the entire process of operation of the plant is a dry process and does not produce any

hazardous waste and only empty barrels of oil containers are stored. Photographs have been filed with this affidavit showing storage of empty barrels/containers of oil and sound absorbing boards mounted at the workshop of the Respondent No.8.

9. The District Magistrate & Collector, Bankura, has filed affidavit dated 30.11.2023 and it is stated that the Respondent No.8-Unit, is an enlisted transformer repairer of M/s WBSEDCL. It is also stated that on the complaint of the Applicant who is the neighbour the State Board issued a direction vide its memo dated 11.10.2023 based on the inspection carried out on 02.01.2023 followed by a technical hearing conducted on 17.08.2023. Along with this affidavit, the Inspection Report of the Committee has also been filed.
10. The West Bengal Pollution Control Board has been filed affidavit dated 30.11.2023. Along with this affidavit, an Inspection Report of an inspection carried out on 17.10.2023 has been filed which reads as under:-

**“INSPECTION REPORT OF THE COMMITTEE CONSTITUTED BY
THE HON’BLE NGT, EZ BENCH, KOLKATA IN CONNECTION
WITH O.A. NO.143/2023/EZ**

Inspection reference	Order of the Hon’ble NGT, EZ Bench dated 12/10/2023 in connection with O.A. No.143/2023/EZ
Name & address of the unit	M/s. KMT Industries College Para, P.O.-Beliatore, Bankura-722203
Police Station	Beliatore
Local Body	Beliatore GP
Electricity Authority	WBSEDCL
Date & Time of inspection	17/10/2023, 12:20 hrs. onwards
Inspected by	Shri P. Raychaudhuri, WBCS (Exe.), ADM (G), Bankura Shri A.K. Dey, Environmental Engineer, Durgapur Regional Office, WBPCB.
Persons met during inspection	Sri Subhendu Mukherjee, Proprietor Sri Sudhen Ghosh, Complainant

<i>Industrial category</i>	<i>Orange (Transformer repairing)</i>
<i>Status of CFE/CFO</i>	<i>CFO is valid upto 30/6/2024</i>
<i>Background</i>	<i>The unit under scrutiny is an enlisted transformer repairer of M/s. WBSEDCL. Location/Route Map is enclosed. There has been a long drawn complaint against the unit from its adjacent household for creating environmental hazard.</i> <i>The State Board issued a direction vide memo no. 1455-dr-co-o/19/0205 dated 11/10/2023 based on the inspection carried out on 02/01/2023 followed by technical hearing conducted on 17/8/2023.</i> <i>The present inspection has been conducted by the Committee formed by the Hon'ble NGT, EZ Bench in connection with O.A. No.143/2023/EZ.</i>
<i>Observation</i>	<i>1. The unit was in operation during inspection.</i> <i>2. The unit possesses the following machinery/equipment:-</i> <i>LT winding m/c-01 no. (with 1 HP motor)</i> <i>HT winding m/c-02 nos. (with 0.5 Hp motor each)</i> <i>Electrical Heat chamber-01 no. (rated power-6KW)</i> <i>Chain pulley block-02 nos., and</i> <i>Various testing sets (analyser, variac, ratio meter, resistance meter, megger, etc.)</i> <i>3. The unit has constructed a shed with side cover for carrying out its entire work activities. The side cover of the workshop falling towards the complainant's residence has been erected by keeping a distance of approximately 4 feet from the boundary wall.</i> <i>Unit receives usually dry transformers (oil drained) from M/s. WBSEDCL. Necessary repairing work of the said transformers is done by the unit with filling of fresh oil supplied by M/s. WBSEDCL. Collection system for Oil spillage, if any, exists. Empty oil drums were seen to be kept under covered shed with concrete floor.</i> <i>Winding machines, electrical heat</i>

	chamber & various testing sets are housed in different rooms within its premises. Chain pulley block is placed under the newly constructed covered shed. 4. The noise levels measured within the unit's premises & the complainant's residence while the unit was in operation with all its activities (like running the winding machines, operating the chain pulley block, etc.) are as follows:- (i) Within unit's premises-69.59 dBA Leq. (ii) At complainant's premises near common boundary wall-65.16 dBA Leq. (iii) Ambient noise level-57.23 dBA Leq. 5. Seepage of oil from the unit into nearby ponds, water bodies, nullahs and agricultural fields was not evident. 6. No industrial effluent is generated from the unit. Only domestic type of effluent is generated due to sanitation activities. Unit has constructed some soakpits without any septic tank (for the sewage generated from the WC of the workshop) near the common boundary wall between its premises & complainant's premises.
Other relevant information	1. The unit has been allowed time upto 31/10/2023 to comply with the direction of the State Board issued vide memo no.1455-dr-co-o/19/0205 dated 11/10/2023. However, the compliance status of the unit as observed during inspection is as follows:- (i) The unit has constructed a shed with side cover for carrying out its entire work activities. Empty oil drums were seen to be kept under covered shed with concrete floor. (ii) The unit has yet to mount permanent sound absorbing materials on the walls & ground of the workshop. (iii) The unit has applied for the Hazardous Waste Authorization to the State Board (application no.4284483). 2. As per Udyam Aadhar registration

	certificate of Govt. of India, date of commencement of production/business of the unit is 01/04/1994. 3. The unit possesses current trade license for the activity (transformer repairing) from the local authority and land conversion certificate. 4. The complainant alleged that the unit creates environmental hazard, mainly in the form of noise, while in operation. He also stated that as the unit has constructed authorized soakpits, his well water has the chance to get contaminated. As far as construction of the shed by the unit is concerned, the complainant wanted to know whether it has the permission of the State Board and expressed his concern about the unit's activities in the locality. He provided documents of submitting his complaints against the unit & its owner to the DM, Bankura, S.P., Bankura and related letters addressed to the OC, Beliatore PS and the Sanitary Officer, Barjora, Bankura.
Remarks/ recommendation	1. Noise levels measured while the unit was in operation do not imply any significant impact at the complainant's residence. 2. The concerned block office may be asked to look into the matter of above mentioned soakpit construction by the unit. 3. As per the order of the State Board vide memo no.1455-dr-co-o/19/0205 dated 11/10/2023 the unit is required to carry out its activities/operations under shed and the unit has acted accordingly. The unit has yet to mount permanent sound absorbing materials on the walls & ground of the workshop as per the said order. 4. The unit should comply with the State Board's direction vide memo no. 1455-dr-co-o/19/0205 dated 11/10/2023.

11. Affidavit dated 28.04.2023 has been filed by Respondent No.5, Officer-in-Charge, Beliatore Police Station, stating that the Applicant of the Original Application filed complaints several times

at the Beliatore Police Station to close down the repairing center and, therefore, an enquiry was held and on enquiry, it was found that the dispute was purely a civil dispute between the parties and to avoid any untoward incident and to maintain peace and tranquility in the area and after the enquiry, the Assistant Sub-Inspector (ASI) submitted a prosecution against both the parties under Section 107 Code of Criminal Procedure, 1973 being NCR No.555/2022 dated 09.09.2022.

12. Affidavit dated 04.12.2023 has been filed by Respondent No.6, Pradhan, Beliatore Gram Panchayat, mentioning that the Unit has the statutory permissions and licenses as under:-

- (i) Land Record Challans (Khajna);
- (ii) Land Conversion Certificate;
- (iii) MSME Registration Certificate;
- (iv) GST Registration Certificate;
- (v) Profession Tax Payment Certificate;
- (vi) Rate Contract order issued by WBSEDCL (West Bengal State Electricity Distribution Company Limited).

13. The Applicant has filed four rejoinder affidavits dated 09.01.2024. In the rejoinder affidavit, he has denied that sewerage from his toilet is being directly discharged into the open space at the backyard of the Respondent No.8. It is reiterated that there is spillage of oil and storage of oil in the open area. He has also alleged that chain pulley block was placed in the open area; necessary repair work of transformers was being carried out by the Respondent No.8-Unit by filling up fresh oil in the open area; permanent sound absorbing materials on the walls and ground of the workshop has not been installed. It is also stated that the

prescribed noise level in a residential area is 55 db(A) L_{eq} . in the day time and 45 db(A) L_{eq} . at night and, therefore, in view of the Inspection Report the Respondent No.8 was in clear violation of the permissible sound parameters.

14. It is also stated that the Unit has constructed some soakpits without any septic tank for the sewage generated from the workshop of the Respondent No.8.
15. We have heard Mr. Kallol Basu, learned Counsel assisted by Mr. Nilanjan Pal, learned Counsel appearing for the Applicant as well as Mr. Dipanjan Ghosh, Mr. Sibojyoti Chakraborty, Mr. Indradeep Ghosh and Ms. Paushali Banerjee, learned Counsel for the Respondents.
16. A perusal of the Inspection Report of the inspection carried out on 17.10.2023 would clearly show that the Unit has constructed a shed with side cover for carrying out its entire work activities falling towards the complainant's residence which is at a distance of approximately 4 feet from the boundary wall. It is stated that the Respondent No.8, Unit, receives dry transformers (oil drained) from M/s WBSEDCL; Necessary repairing work of the said transformers is done by the Unit with filling of fresh oil supplied by M/s WBSEDCL; Collection system for oil spillage, if any, **exists**; Empty oil drums were seen kept under covered shed with concrete floor; Winding machines, electrical heat chamber and various testing sets are housed in different rooms within its premises; Chain Pulley Block is placed under the newly constructed covered shed; Seepage of oil from the Unit into the nearby ponds, water bodies, nullahs and agricultural fields was not noticed; No industrial effluent was generated from the Unit; only domestic type of effluent is generated

due to sanitation activities for which the Unit has constructed soakpits without any septic tanks between the Respondent No.8 and complaint's premises.

17. So far as noise pollution was concerned, the Committee Report shows that the noise levels were measured within the Unit's and the Complainant's residence while the Unit was in operation with all its activities like running the winding machines, operating the chain pulley block etc. and the findings are as under:-

- (i) Within the Unit's premises-sound level was 69.59 dBA L_{eq} .
- (ii) At the complainant's premises near the common boundary wall-the noise level was 65.16 dBA L_{eq} .
- (iii) Ambient noise level was 57.23 dBA L_{eq} .

18. The observations in the Inspection Report is that the noise level measured while the Unit was in operation do not imply any significant impact at the Complainant's residence. However, the Committee has recommended that the Unit should carry out its activities/operations under the shed and the Unit has acted accordingly but the Unit has yet to mount permanent sound absorbing materials on the walls and ground of the workshop in terms of the previous order of the West Bengal Pollution Control Board dated 11.10.2023 (page no.153-154 of the paper book). Learned Counsel for the parties inform that the area is a semi residential-commercial area.

19. Be that as it may, ambient noise level required is 57.23 dBA L_{eq} ., whereas the sound level at the premises of the boundary wall of the complainant is 65.15 dBA L_{eq} . which is certainly higher than the prescribed ambient noise level.

20. The West Bengal Pollution Control Board in its previous order dated 11.10.2023 has also directed the Unit to mount permanent sound absorbing materials on the wall of the workshop and also arrange the same on the ground of the workshop so that no sound will be produced due to its activity. The Inspection Report of the inspection carried out on 17.10.2023 is to the same effect with regard to directions to mount permanent sound absorbing materials and the Report shows that after the order of 11.10.2023 the Unit was yet to mount permanent sound absorbing materials on the walls and ground of the workshop as per the said order.
21. The Respondent No.8 in his affidavit has not stated anywhere that he has complied with the order dated 11.10.2023 or the Inspection Report dated 17.10.2023. The Respondent No.8 in his affidavit has pointed out to the photographs filed with the affidavit to show that sound absorbing materials has been installed in the shed. This photograph is of 22.11.2023.
22. Question is as to whether the sound absorbing boards mounted at the workshop are sufficient to control the noise level to the ambient noise level is a matter for enquiry by the West Bengal Pollution Control Board for which the West Bengal Pollution Control Board will have to conduct a fresh enquiry to measure the sound level within the workshop and at the boundary wall of the complainant and Respondent No.8, Unit.
23. So far as the allegation in the Original Application that there is a Khatal, we find that the Applicant has not alluded to the said allegations in his subsequent affidavits and even in his Original Application, he has only alleged that “there is an open bathroom and/or Khatal”. Khatal is a cow shed. There is no reference to cow

shed in any Report of the West Bengal Pollution Control Board or even in the affidavit of the Beliatare Gram Panchayat and the nature of the allegations shows that the Applicant himself is not very clear with regard to the existence of the Khatal.

24. We, therefore, dispose of this Original Application with a direction to the West Bengal Pollution Control Board to carry out inspection of the Unit and ensure that its directions with regard to mounted permanent sound absorbing materials on the walls and ground of the workshop is fully complied with by the Respondent No.8 so as to bring the noise level to that of the ambient noise level of 57.23 dBA L_{eq} . Such inspection will be carried out within a period of one month in the presence of the complainant with notice to the Respondent No.8, Unit.
25. Interlocutory Applications if any, stand disposed of accordingly.
26. 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

April 15, 2024,
Original Application No.143/2023/EZ
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