

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

Original Application No.139/2023/EZ
(Earlier OA No. 542/2023)

In Re.: News Report published in
'The Hindu' dated 28.08.2023 titled
"Eight killed in blast at illegal
fireworks unit in West Bengal"

...Applicant(s)

Versus

1. Petroleum and Explosives Safety Organization (PESO),
8, Esplanade East, 1st Floor, Esplanade East,
Chowringhee North, Bow Barracks, Kolkata,
Pin – 700069,
2. Member Secretary,
West Bengal Pollution Control Board,
Paribesh Bhawan, Sector-III, Salt Lake,
Bidhannagar, Kolkata,
Pin – 700106,
3. Central Pollution Control Board,
Through its Chairman,
Parivesh Bhawan, East Arjun Nagar,
Delhi – 110032,
4. District Magistrate, North 24 Parganas,
PFCP+XFC, Katgola, Banamalipur,
Barasat, Kolkata, West Bengal,
Pin – 700124,

...Respondent(s)

Date of hearing: 13.05.2024

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

For Applicant(s) : *Suo Motu*,

For Respondent(s) : Mr. Ashok Prasad, Adv. for R-1, (in Virtual Mode)
 Mr. Dipanjan Ghosh, Advocate for R-2,
 Mr. Surendra Kumar, Adv. for R-3, (in Virtual Mode)
 Ms. Madhumita Bhattacharjee, Adv. (in Virtual Mode) a/w
 Mr. Sibojyoti Chakraborty, Advocate for R-4

ORDER

1. The Original Application No.542/2023/PB was registered as a *suo motu* case by the New Delhi Bench of the National Green Tribunal on the basis of a newspaper report published in 'The Hindu' on 28.08.2023 titled **“Eight killed in blast at illegal fireworks unit in West Bengal”**. The news report discloses that eight persons had been killed in a blast at an illegal fireworks Unit in Mochpol area in Duttapukur Police Station, West Bengal. The news further discloses that a two storeyed house where the fireworks were allegedly being manufactured crashed to the ground due to the impact of the blast; the report also reveals violation of environmental laws, especially regulations relating to handling of hazardous substances under 'The Manufacture, Storage and Import of Hazardous Chemical Rules, 1980, ('MSIHC Rules, 1989' for short) issued under the Environment (Protection) Act, 1986.
2. The New Delhi Bench of the Tribunal constituted a Committee comprising of the following Members:-
 - (i) *Chief Fire Officer, Petroleum and Explosives Safety Organization (PESO),*
 - (ii) *Member Secretary, West Bengal Pollution Control Board,*
 - (iii) *Member Secretary, Central Pollution Control Board, and*
 - (iv) *District Magistrate, North 24 Parganas,*
3. The Committee was directed to visit the site in question and ascertain the cause of accident and violation of environmental laws, especially the MSIHC Rules, 1989, and submit a Report.
4. Thereafter, the said Original Application was transferred to the Eastern Bench of the Tribunal at Kolkata by order dated

05.09.2023 and was re-numbered as Original Application No.139/2023/EZ.

5. The District Magistrate & Collector, North 24 Parganas, has filed affidavit dated 17.01.2024 bringing on record an Inspection Report of the Joint Committee constituted by the Tribunal as Annexure-R-2, which reads as under:-

“REPORT OF THE JOINT COMMITTEE

***In Compliance with the Order dated 05.09.2023 of the
HON’BLE NATIONAL GREEN TRIBUNAL***

***“In re: news report published in The Hindu dated 28.08.2023
titled “Eight Killed in blast at illegal fireworks unit in West
Bengal”***

In

OA No.542/2023 (now OA No.139/2023(EZ)

.....***xxx***.....***xxx***.....***xxx***.....

1. Background

There was an accident on 27.8.2023 in an alleged illegal firework manufacturing unit located at Mochpol area under the jurisdiction of Duttapukur Police Station, North 24 Parganas District, West Bengal. According to the newspaper articles published in "The Hindu" dated 28.08.2023 eight (08) persons were killed in that accident / blast. In view of the published article, an Original Application has been registered in Suo moto exercise of power of Hon'ble National Green Tribunal (NGT).

In this regard, Hon'ble NGT vide its order dated 05.09.2023 directed as reproduced below:

"4. Having regard to aforesaid, we form a joint Committee comprising of Petroleum and Explosives Safety Organization (PESO), Chief Fire Officer, the Member Secretary, State Pollution Control Board (SPCB), Member Secretary, Central Pollution Control Board (CPCB) and District Magistrate, North 24 Parganas District, West Bengal. The District Magistrate will act as nodal agency for coordination and compliance. The Committee will visit the site, ascertain the cause of

accident and violation of environmental laws especially the MSIHC Rules, 1989 noted above and submit a report before the Tribunal within six weeks".

2. Constitution of Committee

In connection to Hon'ble NGT Order, the Joint Committee consists of following members:

- 1. Petroleum and Explosives Safety Organization (PESO),*
- 2. Chief Fire Officer,*
- 3. Member Secretary, State Pollution Control Board (SPCB),*
- 4. Member Secretary, Central Pollution Control Board (CPCB) and*
- 5. District Magistrate, North 24 Parganas District, West Bengal (**Nodal Agency**).*

Mandate (Terms of reference) of the Committee:

- 1. Visit the site,*
- 2. ascertain the cause of accident and violation of environmental laws especially the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 (MSIHC Rules, 1989), and*
- 3. submit a report before the Hon'ble Tribunal within six weeks*

2.1 First Joint Committee Meeting

*In compliance to the Hon'ble NGT order, the joint Committee held its first meeting on **06th October 2023**, through virtual mode.*

The meeting was attended by all the Joint Committee members and other concerned officials as follows:

- 1. Shri Bharat Kumar Sharma, Member Secretary, Central Pollution Control Board (CPCB)*
- 2. Dr. Rajesh Kumar, Member Secretary, West Bengal Pollution Control Board (WBPCB)*
- 3. Shri Sharad Kumar Dwivedi, IAS, District Magistrate, North 24 Parganas District, West Bengal (**Nodal Officer**)*
- 4. Shri Ajoy Singh, Deputy Chief Controller of Explosive, Office of Jt. Chief Controller, Petroleum and Explosive Safety Organization (PESO)*
- 5. Shri Mrinal Kanti Biswas, Regional Director, CPCB, Regional Directorate (RD), Kolkata*
- 6. Shri Saroj Bag, Divisional Fire Officer, North 24 Parganas WB Fire & Emergency Department*

The joint Committee discussed about the steps to be taken to ensure the compliance of the Order of Hon'ble NGT as well as requested the Nodal Agency (District Magistrate) to provide the documents/information required for ascertaining the cause of accident and preparation of the report to be submitted before Hon'ble NGT. Apart from this, site visit by the representative officials of all concerned departments was also scheduled on 10-October-2023.

*The minutes of first meeting of the joint Committee meeting held on 06.10.2023 is enclosed as **Annexure 1**.*

2.2. Site visits

*A team comprising of following officials deputed by respective organizations of the joint Committee along with officers from other departments visited the site on **10/10/2023**;*

- 1. Sh. Saroj Bag, Divisional Fire Officer, North 24 Parganas WB Fire & Emergency Department*
- 2. Sh. Asis Ghosh, Station Officer, WB Fire & Emergency Department*
- 3. Sh. Sudip Barua, Assistant Environmental Engineer, (WBPCB)*
- 4. Sh. Suman Garai, Assistant Environmental Engineer, (WBPCB)*
- 5. Sh. Abhijit Pathak, Scientist 'D', CPCB- RD Kolkata*
- 6. Sh. Sandeep Roy, Scientist 'D', CPCB- RD Kolkata*
- 7. Smt. Soma Shaw, SDO, Barasat Sadar*
- 8. Sh. Animesh Roy, WBPS, SDPO, Barasat*
- 9. Sh. Ravindra Jain Beruly, Deputy Controller of Explosives, Office of Joint Chief Controller, PESO*
- 10. Sh. Suresh Kumar, OS, PESO*

The members of the joint Committee along with officials of all concerned departments conducted a physical meeting at the office of District Magistrate, Barasat, on 19/11/2023 followed by a visit of the accident site.

The following officials attended the meeting and visited the site:

- 1. Shri Bharat Kumar Sharma, Member Secretary, CPCB*
- 2. Dr. Rajesh Kumar, IPS. Member Secretary, WBPCB*
- 3. Shri Shared K. Dwivedi, IAS, District Magistrate, North 24 Parganas (Nodal Officer)*
- 4. Shri Bhaskar Mukherjee, IPS, Superintendent of Police, Barasat Police District*
- 5. Shri Mrinal Kanti Biswas, Regional Director, CPCB, RD-Kolkata*
- 6. Shri Rabindra Jain Beruly, Dy Controller of Explosives, East Circle, PESO*

7. Sri Saroj Kr. Bag, Divisional Fire Officer, North 24 Parganas
8. Shri Biswa Chand Thakur, Addl. SP, Barasat
9. Shri Amar Nath Goswami, Sr. Law Officer, WBPCB
10. Shri Abhijit Pathak, Sc. D, CPCB, RD-Kolkata
11. Shri Sandeep Roy, Sc. D, CPCB, RD-Kolkata.
12. Smt. Rita Datta, Env. Engr. & In- Charge, Barrackpore R.O.,
WBPCB
13. Smt. Manjira Biswas Asst. Env. Engr, WBPCB

Minutes of the 2nd meeting of the joint Committee held on 19/11/2023 is attached as **Annexure 2**.

2.2.1 The observations of site visits:

The accident site is situated in residential area, at Mochpole village, Nilganj Gram Panchyat, under Duttapukur (PS) Police Station, Dist: North 24 Parganas, West Bengal.

As informed by Office of the DM, PESO and WBPCB, no Permission/License, or CTO etc. was issued to Site Owner/Operator to run any industrial/commercial activities at the said premises.

- I. During the visit it was reported by the local residents and Shri Saroj Bag, Divisional Fire Officer, North 24 Parganas WB Fire & Emergency Department, that there was a massive explosion in the illegal fireworks manufacturing and storing Unit occurred in morning hours. The two-storied building collapsed in the blast including the illegal fireworks manufacturing and storing Unit. The roof of the illegal fireworks manufacturing and storing Unit was torn off by the force of the blast, and the building was completely destroyed. The entire area was practically turned into rubble as a result of the blast. Buildings around the illegal fireworks manufacturing and storing Unit were also sustained considerable damage (Fig. 1).
- II. As informed by the local residents that there was an occurrence of a single loud blast, audible from a considerable distance. The incident took place on 27/08/2023 morning around 10 am.
- III. As a consequence of the blast, the alleged building was completely destroyed and houses adjacent to the alleged site (building) sustained significant damages, including the rupture of iron grills/shutters. damage to walls, roof parapet walls, roof landing, rooftop, etc. Fig 2 & Fig. 3).
- IV. The alleged building was situated in Residential area but being utilized for commercial purpose (illegal fireworks manufacturing and storage).

2.2.1.1. Site Visits on 10.10.2023



Devastation at accident site (photo taken on 10.10.2023)



Fig. 1. Alleged Site where incident occurred (photo taken on 10.10.2023)

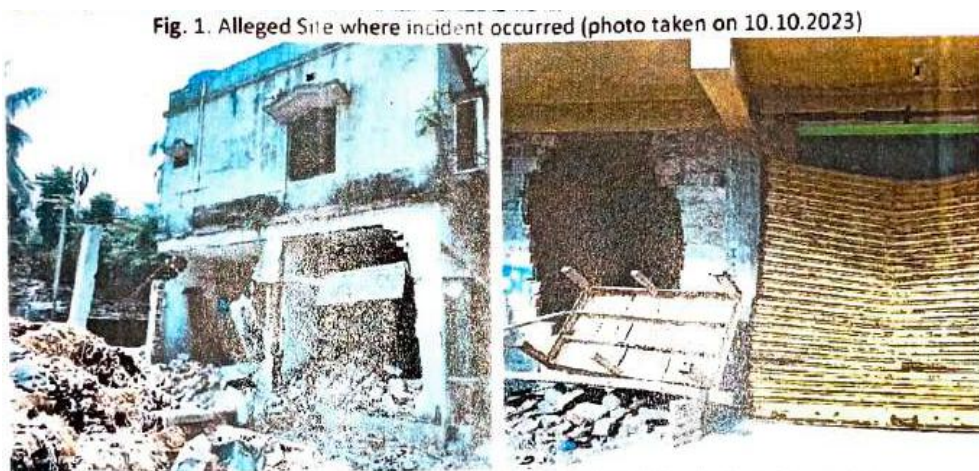


Fig. 1. Alleged Site where incident occurred (photo taken on 10.10.2023)

Wreckage of adjacent properties at opposite site of the road due to blast (photo taken on 10.10.2023)



*Fig.2 Damage of adjacent nearest Household/Building due to blast
(photo taken on 10.10.2023)*



Fig. 3 Debris at Site (photo taken on 10.10.2023)

2.2.1.2 Site Visit on 19.11.2023 by the Joint Committee

The Members of the joint Committee, comprising Member Secretary CPCB, Member Secretary WBPCB, District Magistrate -North 24 Parganas, SP Presidency Division-Barasat and District Fire Officer-North 24 Parganas visited the accident site on 19.11.2023 along with officers from other departments.





Fig 4. Joint Committee members at accident site on 19.11.2023

2.2.2 Extent of damage to Life

As per the report from the Police (SP Barasat & OC Duttapukur), due to the incident, nine (09) Nos. of casualties were registered by Police Department among them two persons reported to be minor. The details are furnished herewith. As reported, in addition to the causalities at least eight (08) persons have suffered from injuries due to the accident.

Sl. No	Name of the deceased person	Resident of
1	Masam Sk. S/o Jirat Sk	Suti, Murshidabad
2	Keramat Ali S/o Ayedali	Berunanpukhuria, Duttapukur, 24 Pgs (North)
3	Roni Sk S/o Esha Sk	Suti, Murshidabad
4	Andaz Sk S/o Jirat Sk	Suti, Murshidabad
5	Sahabaz Alam S/o Selim Khan	Sahebganj, Jharkhand
6	Jirat Sk S/o Hanif Sk	Suti, Murshidabad
7	Rabiyul Ali S/o Keramat Ali	Berunanpukhuria, Duttapukur, 24 Pgs (North)
8	Samsul Ali	Mochpole, Duttapukur, 24 Pgs (North)
9	College Sk.	Suti, Murshidabad

The aforesaid, eight injured persons were treated in hospitals & released afterwards.

During the site visit, local residents informed that one (01) No. of Animal (Cow) was also succumbed to death due to the Blast or building collapse.

The report from Superintendent of Police, Barasat dated 9/10/2023 is placed at Annexure -3.

2.2.3. Extent of damage to Environment

I. The alleged unit is illegal as no license, authorization and or consent, were issued by any Government Department. (Ref. Report from DM dated 13.10. 2023, Annexure -4).

II. As informed by local residents, police officials and officers from fire department who reached the site within half an hour of the accident, there was only one blast without any fire incident. No evidence of fire accident was observed by the team and the same was also confirmed by the officer of fire department Govt. of West Bengal, who reached the site within half an hour. The police and fire fighters were rather engaged in recovering the victims and injured personnel.

Therefore, there might be an instant sound pressure and dusty cloud in and around the site due to sudden demolition/collapse of buildings. As the C & D waste got settled within the vicinity very rapidly and the incident had no smoke, the environmental impact in air and water was not significant.

2.2.4 Extent of damage of Properties

As observed by the officials visited the site on 10.10.2023, following properties were found damaged:

- I. A two-storied building (including the illegal fireworks manufacturing and storing Unit)*
- II. Atleast 4 more buildings around the illegal fireworks manufacturing and storing Unit.*

3. Sequence of Events and Measures taken

As per the report of Superintendent of Police, Barasat, and Officer in-charge, Duttapukur Police Station, the sequence of the events and measures taken by the local authorities are as follows:

- i. As informed by local people, a single blast (very Loud in nature, audible from long distance) was heard around 10 AM on 27/08/2023 and on receipt of the information IC, Duttapukur, PS rushed to the spot along with available officers and force.*
- ii. Reaching the site, it came to light that the house of one Samsur Ali, who rented it to one Keramat Ali of Berunanpukhuria, Duttapukur, PS. Keramat Ali deployed some labourers from outside to run illegal manufacturing and storage of firecrackers where the blast happened.*

- iii. Fire Brigade was b' police, injured and dead bodies were sent to hospital, the area of incident was cordoned
- iv. A requisition was sent to :AD BDDS team and Forensic Science Laboratory (FSL) to examine further.
- v. Team of FSL, CID BDDS visited the spot on 27.08.2023 and collected few samples for examination. Director of Department of Physics also visited the spot on 28.08.2023.
- vi. The visit/ analysis report of the samples, collected by FSL, is awaited till 19' November, 2023
- vii. The Superintendent of Police, Barasat Police District vide his Office Memo No. 1071/SP, dated: 17.11.2023 has informed that I.O. SI Aftarul Saikh collected the FSL field visit report of Assistant Director, Department of Chemistry, FSL, Dr. Debashis Saha where he reported that "we could trace out the existence of single type of sound cracker by examining the entire blast site and adjacent manufacturing units; a wickless cracker which does not require fire to crack, although it cracks in presence of fire. This cracker is mainly cracked under the effect of mechanical force like pressure or friction. Blown out scene, type of large quantity of cracker lying in the scene and nearby manufacturing units, damage pattern, degree of damage of the houses present around the epicentre, depression of epicentre's concrete floor by about 2 ft. etc. Indicating that the two-room house was stocked with huge quantity of sound crackers."
- viii. The Superintendent of Police, Barasat Police District, vide his office Memo No. 1071/SP dated: 17.11.2023 has Informed that regarding chemicals identified reports are awaited and D.O. letter was also submitted for quick collection of Central Forensic Science Laboratory (CFSL) report.
- ix. The Superintendent of Police, Barasat Police District vide his Office Memo No. 1071/SP dated: 17.11.2023 has Informed that reports are awaited and D.O. letter was also submitted for quick collection of CFSL report.
- x. The seized samples which were sent to CFSL, Kolkata for examination, the report of which is awaited till 19th November, 2023.

(Ref: Police report dated 9/10/2023 (Annexure -3) & DM report dated 13/10/2023 (Annexure 4).

4. Causes of Failure and Persons/Authorities Responsible

A. Possible cause of incident may be due to:

- a) Mixing up of non-compatible chemicals*
- b) Use or storage of chemicals banned for bursting firecrackers manufacturing.*
- c) Auto-heat generation due to mal-handling of explosive (if non compatible chemicals are mixed illegally or stored in closeness without proper safety and precaution).*
- d) Negligence in handling of chemicals by the workers due to lack of knowledge, training etc.*

Near actual root cause may be assessed only after obtaining the post incident chemical seizure list and forensic report.

B. Responsibility of failure

- a) The accident was caused by a single blast (very loud in nature, audible from a long distance), as reported by local residents.*
- b) The house of one Samsur Ali, who rented it to one Keramat Ali of Berunanpukhuria, Duttapukur, PS. Keramat Ali deployed some labourers from outside to run illegal manufacturing and storage of firecrackers where the blast happened.*
- c) An FIR was lodged in the Police Department against four individuals held responsible for the blast. However, as informed by the police on-site, three persons (Keramat Ali, Samsul Ali and Rabiylul Ali) had already died due to injuries, and one person (Ramjan Ali) is in custody (jail) (Ref. Police report dated 17/11/2023, Annexure- 5).*
- d) The unit, as indicated by the Office of the DM, PESO and WBPCB, does not have any type of permission, license, CTO, etc., to conduct such activities. Therefore, as an illegal unit, it may be assumed that no safety measures/proper training of the workers/on-site emergency plan were implemented in the unit.*

5. Violation of the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and as amended thereof

- I. Under the Environment (Protection) Act, 1986, Govt. of India has notified "The Manufacture, Storage and Import of Hazardous*

Chemicals Rules, 1989 (MSIHC)". The MSIHC Rules, further amended in October, 1994 and January, 2000 to widen the scope and for stricter controls. The main objectives of the MSIHC rule are:

- (i) To prevent major accidents arising from industrial activities*
- (ii) Limiting the effects of such accidents*

As per the rules amended in October, 1994, to achieve these objectives by having a quantity-based approach, this rule provided 3 level of controls:

- a. Low Level Control: Proof of safe operation, reporting major accident, Preparation of MSDS Proper labelling of container, Information regarding imports.*
- b. Medium Level Control: Low level control and Notification of site, Preparation of On-site/Off —site Emergency Plan, informing public likely to be affected*
- c. High Level Control: Medium level control, and Safety report, Safety audit*

II. Violation as per the MSIH rules in this case, being illegal unit:

- a. Rules 4 (1b) which stipulates about, "Isolated storage of a hazardous chemical.*
- b. Rules 4 (2) which stipulates about, "Occupier who has to take adequate steps to- (i) prevent such major accidents and to limit their consequences to persons and the environment; (ii) provide to the persons working on the site with the information, training and equipment including antidotes necessary to ensure their safety.*
- c. Rules 7 which stipulates about, "An occupier shall not undertake any industrial activity unless he has submitted a written report to the concerned authority containing the particulars specified in **Schedule 7 (notification of sites) at least 3 months before commencing that activity.***
- d. Rules 10 which stipulates about, "Have to prepare a safely report on that industrial activity containing the information specified in **Schedule 8 and has sent a copy of that report to the concerned authority at least 90 days before commencing that activity.***

- e. Rules 13 which stipulates about, "Preparation of on-site emergency plan by the occupier.
- f. Rules 13(4) which stipulates about, "The occupier shall ensure that a mock drill of the on-site emergency plan is concluded every six months.
- g. Rules 15 which stipulates about, "Information to be given to persons liable to be affected by a major accident with the nature and safety measures and the "Dos" and "Don'ts" which should be adopted in the event of a major accident.
- h. Rules 17 which stipulates about, "Every container of a hazardous chemical shall be clearly labelled or marked.
- i. Non implementation of 3 level of safety control as per the rule.

As this unit does not have any permission/ license, consent to operate (CTO), etc. from respective Government Departments to run such activities thus may be considered as illegal unit and the accident causing loss of life is a criminal offence.

As per report from the police, Samsur Ali, the owner of the property, rented to Keramat Ali of Berunanpukhuria, Duttapukur, PS. Keramat Ali, who also died in the accident.

6. Violation of the Explosives Rules, 2008

PESO has summarized the possible violations in this case as under: **(Ref: para 11 of Annexure # 7)** as under:

- a. The persons involved in the manufacturing, possession for sale has no authorization or license under the Explosives Rules-2008, constitutes a violation of Rule-07 of the said Rules.
- b. The premises was not licensed under Explosives Rules and not have manufacturing process approved by licensing authority, constitutes a violation of Rule-10(1)(a) of the Explosives Rules 2008.
- c. The building used to manufacture explosives not complying with the specifications laid down in Schedule-VII annexed to said Rules, constitutes, a violation of Rule-10(1)(c) of Explosives Rules-2008.

- d. The throw downs are not an authorized explosives and no person can manufacture, possess, sale any explosives unless it is declared as an authorized explosives by the Chief Controller of Explosives, this constitutes violation of Rule-6 of Explosives Rules-2008.
- e. Coarse sand/ gravels are being mixed with the ingredients, constitutes violation of Rule-33 of Explosives Rules-2008.
- f. The untrained persons are being used in manufacturing explosives, constitutes violation of Rule-35 of Explosives Rules-2008.
- g. Since the premises was an unauthorized premises and manufacturing un authorized explosives, constitutes violations of other provisions i.e. Rule - 26, Rule - 27, Rule - 28, Rule - 29, Rure - 31, Rule - 32, Rule - 33 of Explosives Rules 2008.

In addition to the above, the detail of Rule provisions and possible violation in this case of an illegal activities is attached as Annexure 8 (as suggested by PESO)

All these Rules got violated as the alleged unit is illegal, however; there is essentiality to ensure compliance to these for any industries having legitimate approval and license to operate firecracker industry. The Explosives Act, 1884 and the Explosives Rules, 2008 are meant/ framed to reduce the accidents and minimize the loss of public life and property & essentially needed by the industry to comply with.

7. Recommendations of the Committee

A. Identifying and Shutting Down Illegal Activity:

To effectively combat illegal activities in the firecracker industry, a multi-pronged approach is crucial. These efforts require:

SI. No.	Actionable Points	Responsible Agencies
1.	Increase Frequency and Coverage of Inspections: Conduct regular, thorough inspections of high-risk locations based on intelligence and community tip-offs, prioritizing areas with documented illegal activity during high demand period.	Local Administration, District Authority, Police, Licensing Authority

2.	Establish a Multi-agency Task Force: Form a permanent multi- agency task force comprising police, PESO, district administration, and fire services to conduct joint raids and shutdowns of illegal operations based on coordinated intelligence gathering.	Multi-agency Task Force (Police, PESO, District Administration, Fire Services)
3.	Encourage Public Participation: Develop user-friendly reporting systems and incentivize community participation through hotlines and mobile apps to report suspicious activity and provide valuable leads.	Local Administration, Police

B. Controlling Illegal Transport of Raw Materials:

Streaming the flow of illegal raw materials is essential for curbing unsafe firecracker production. This necessitates:

SI. No.	Actionable Points	Responsible Agencies
1.	Conduct Strategic Checkpoints: Set up checkpoints at key transport routes indemnified through risk assessments and historical data on illegal transport patterns.	Police, Traffic Police
2.	Enhance Personnel Training: Provide comprehensive training for enforcement personnel on identifying and handling hazardous materials safely, including proper protocols for stopping and inspecting vehicles suspected carrying illegal FWS.	Training facilitates PESO & other training institutes
3.	Strengthen Inter-agency Coordination: Implement efficient joint operations involving police, Traffic Police, PESO, Border Security Forces, and intelligence agencies to share information, track suspicious vehicles, and conduct coordinated interceptions of FWS.	Police, Traffic Police, Border Security Forces, Intelligence Agencies

C. Enforcing Licenses:

Ensuring responsible manufacturing practices demands rigorous enforcement of licensing and consent procedures. This involves:

SI. No.	Actionable Points	Responsible Agencies
1.	Streamlining of all statutory licencing mechanism: Simplify and streamline the application processes for licences from the authorities as per applicable norms.	Licensing Authority (Central/ State Government)

2.	Conduct Surprise Audits: Implement surprise audits and inspections of licensed firecracker manufacturing units by a joint inspectors to ensure adherence to regulations and identify violations.	Factory Inspectorate
3.	Implement Compliance Tracking: Development work check list for compliance system to track violations, impose graduated penalties (including license suspension or revocation for repeat offenders), and publicly publish compliance rpt for transparency.	Licensing Authority, Factory Inspectorate
4.	Group insurance providing for higher compensation of not less than Rs. 5,00,000.	Licensing Authority (Central/State Government), District Administration.

D. Implementing Required Safety Measures:

Prioritizing safety at every stage of production is paramount. To achieve this, the following measures are vital:

Sl. No.	Actionable Points	Responsible Agencies
1.	Develop Standardized Training: Create and implement standardized safety training modules and certification programs for all personnel involved in firecracker manufacturing, storage, and handling.	Training facilities (PESO & other institutes)
2.	Public Best Practices: Disseminate best practices and guidelines for safe firecracker handling, storage, and transportation to all stakeholders in the industry, ensuring adherence to safety standards.	Licensing Authority/ Fire Services/ Factory Inspector
3.	Invest in Modern Equipment: Encourage or mandate investments in modern safety equipment, fire protection systems, and personal protective gear (PPEs) for workers in firecrackers manufacturing units to mitigate risks.	Licensee (with supervision from Licensing Authority/ Fire Services/ Factory Inspector)
4.	Conduct Regular Safety Audits: Conduct regular safety audits of manufacturing units by qualified professionals to identify potential hazards, recommend corrective actions, and ensure compliance with safety regulations.	Fire Services, Factory Inspectors, Licensing Authority
5.	Occupational Health Surveillance: Periodical health check-up of the employees	Factory Inspectors

6.	District Disaster Management Authority (DDMA) and Coordination Committee constituted shall meet periodically and review effective monitoring mechanism and suggest measures for prevention and recurrence of such accidents.	District Administration, Fire Services, DDMA
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E. Promoting Public Awareness:

Enhancing public awareness about safety firecrackers use and the dangers of illegal practices is critical for fostering responsible behaviour. This can be achieved through:

SI. No.	Actionable Points	Responsible Agencies
1.	Secure Media Partnerships: Partner with media outlets, social media platforms, and influences to reach wider audiences through newspaper, engaging campaigns, public service announcements, and educational content special during high demand period.	State Government Agencies
2.	Implement Reward Programs: Design and implement reward programs to incentivize reporting of illegal activity, promoting responsible behaviour and discouraging unsafe practices.	District Administration, NGOs

F. Harmonizing Licenses and Consents Across Agencies:

To ensure consistent and effective regulation, streamlining and unifying the licensing and consent process across all involved agencies is essential. This necessitates:

Sl. No.	Actional Points	Responsible Agencies
1.	Streamline Online Applications: Develop and implement online application and approval systems for licenses and consents across all agencies to enhance efficiency and transparency.	State Licensing Authorities
2.	Standardize Training Programs: Develop and implement standardized training programs for all officials involved in firecracker regulation and enforcement to ensure consistent application of rules and procedures.	Licensing authority through training institute
3.	Development of a centralized database to track licenses,	MOCI

	inspections, compliance records, and incident reports.	
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MOCI: Ministry of Commerce and Industry;

G. *Construction and demolition waste (C&D waste) generated due to the accident be assessed that the same are falling under the Hazardous waste or not. Thereafter, such waste be disposed as per Construction and Demolition Waste Management Rules, 2016 or Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as applicable.*

8. Concluding Remarks

This untoward Incident of fatal accident in illegal firecracker storage and manufacturing industries has been taken very seriously by the State government. Several initiatives have been undertaken which includes;

- Issuance of order by the WBPCB vide No. 377-432L/WPB/23 dated 17.10.2023 related to noise level limits in the State of West Bengal for the sound emitting green firecrackers shall be within 125 dB and the light emitting green firecrackers shall be within 90 dB measured at a distance of 4 meters from the point of bursting as per the formulation of CSIR-NEERI.*
- If the any manufacturer wants to test the samples of their green firecrackers may get it tested at the laboratory of Haldia Regional Office, WBPCB after duly applying to the CSIR-NEETRI instead of sending to same to Nagpur.*

An online portal has also been prepared to apply and approve applications for setting up manufacturing and temporary green fire cracker units in the State. Willing applications have been imparted training on how to apply for such licences.

The committee takes this precedence as an opportunity to have better and comprehensive management in fireworks industry. This guideline document may help to prevent such Incident in future the recommendations of the committee shall be implemented strictly by all concerned Departments. Cohesiveness among all concerned department, needs to be improved to avoid more fatalities and property loss by similar incidents in addition to protection of Environment as well.”

6. The Inspection Report discloses that during the visit it was reported by the local residents and the Divisional Fire Officer, North 24 Parganas, West Bengal Fire and Emergency Department, that there was a massive explosion in the illegal fireworks manufacturing and storing Unit in the morning hours so much so that in the blast a two storeyed building where the illegal fireworks were being manufactured and stored collapsed; the roof of the illegal fireworks manufacturing and storing Unit was torn off by the force of the blast and the building was completely destroyed; the entire area was practically turned into rubble as a result of the blast and the buildings around the said Unit also sustained considerable damage. It is also mentioned that iron grills, shutters, walls, roof parapet walls, roof landing, rooftop etc. of houses adjacent to the Unit also sustained significant damage. It is also mentioned that the building in question was situated in a residential area but being used for commercial purposes i.e., illegal fireworks manufacturing and storage. Photographs have also been filed with the Report which gave a telling picture of the damage caused in the accident.
7. The Report further mentions that the house belonged to one Samsur Ali (Samsul Ali) who rented it to one Keramat Ali of Berunanpukhuria, Duttapukur Police Station. The said Keramat Ali deployed some labourers from outside to run the illegal manufacturing and storage of firecrackers where the blast happened. It is also stated that FIR was lodged in the Police Department against four individuals held responsible for the blast, however, three persons i.e., Keramat Ali, Samsur Ali (Samsul Ali) and Rabiylul Ali died due to injuries and one person Ramjan Ali is in custody (jail), as per the Police Report dated 17.11.2023.

8. The Report also discloses that the Unit does not have any of permission, license or Consent to Operate (CTO) etc. to conduct such activities and no safety measures or proper training of workers or onsite emergency plan was implemented in the Unit, as indicated by the Office of the District Magistrate, Petroleum and Explosives Safety Organization and West Bengal Pollution Control Board.
9. The Joint Chief Controller of Explosive, Respondent No.1, has filed his affidavit dated 17.01.2024 stating therein the types of licenses issued for manufacturing or sale of fireworks or gun powder etc. The affidavit further mentions that in terms of the judgment of the Hon'ble Supreme Court dated 23.10.2018 passed in I.A. Nos.6 & 8 of 2016, I.A. Nos.10, 11, 80, 176, 69202, 109668, 109720 and 122778 of 2017, I.A. Nos.68888 and 68897 of 2018 in W.P.(C) No.728 of 2015, with regard to prohibition of use of compounds of Barium/ Lithium/ Arsenic/ Antimony/ Lead/ Mercury/ Strontium Chromate, all official respondents, particularly the Police, have been directed to ensure that there is no sale of banned fire crackers and if any violation is found, the Station House Officer (SHO) of the concerned Police Station of the area shall be held personally liable for such violations. It is also stated that under Rule 130 of the Explosives Rules, 2008, to the Explosives Act, 1884, whenever any report is made to the District Magistrate by the Chief Controller of Explosives of an infringement of the act or rules, the District Magistrate shall take immediate action and inform the Chief Controller or the Controller, as the case may be, of the action taken by him on such report.

10. The District Magistrate & Collector, North 24 Parganas, has filed another affidavit dated 24.04.2024. Along with this affidavit, a Note No.483-H (Law)/PE/14S-35/24 dated 13.04.2024 has been filed as Annexure-R-1 with regard to the initiatives taken on green firecracker manufacturing, sale and storage of MSME & Textile Department, Government of West Bengal. The scheme directs all District Magistrates to identify vacant government land for setting up of firecracker manufacturing/selling/storage clusters and land parcels which have been found suitable for setting up of manufacturing and selling of green firecrackers units have been selected for implementation of the facilities which reads as under:-

*“MSME& Textiles Department
Government of West Bengal*

Sl. No.	District	Location	Amount of land (in Acre)	Purpose
1.	Darjeeling	Loisipakuri	5.00	Setting up of manufacturing and selling units
2.	North 24 Parganas	Hanria Mouza in Habra I Dev. Block	5.07	Setting up of manufacturing units
3.	Paschim Medinipur	Panchkhuri	6.52	Setting up of manufacturing units
4.	Purba Medinipur	Ratyba, Panskura	6.00	Setting up of manufacturing and selling units
5.	Howrah	Kumirnora, Udaynarayanpur	0.20	Setting up of selling units
6.	Murshidabad	ChotoSatoi, Berhampur	0.99	Setting up of selling units
7.	South 24 Parganas	Begumpur, Baruipur	16.00	Setting up of selling units”

11. Along with the affidavit, further a Memo dated 16.04.2024 issued by the Additional District Magistrate (E), North 24 Parganas, addressed to the Special Secretary, Home & Hill Affairs Department, Government of West Bengal, has been filed as Annexure-R-2, mentioning the names of the deceased, reference of

the cases lodged, next of kin and contact number, remarks, account number and IFSC, which reads as under:-

S N	Name of the deceased	Reference	Next of kin and contact number	Remarks	Account No	IFSC
1	Samsul Ali, (M/M-47 yrs.) S/o Late Jiyar Ali of Vill-Moch pole P.O.- Nabapally P.S.- Duttapukur, 24 Pgs, West Bengal, Pin - 700126	Barasat PS UD Case No: 459/ 2023 Dt: 28.08.2023	Sabir Ali, /So Lt. Samsul Ali (M-6290746939)	Son of FIR named accused	63058100001135	BARBOVJJPUR
2	Keramat Ali (M/M-39 yrs.) S/o Ayed Ali- Berunanpukuria, P.O.-Malikapur, P.S.-Duttapukur, 24 Pgs, West Bengal, Pin - 700126	Barasat PS UD Case No: 448/ 2023 Dt: 27.08.2023	Jobeda Bibi, W/o Keramat Ali of Berunanpukuria, P.O.-Malikapur, P.S.Duttapukur (M-9123819719)	Wife of FIR named accused	7615339717	IDBI000B648
3	Rabiul Ali, (M/M- 20yrs.) S/o Keramat Ali, Berunanpukuria, P.O.-Malikapur, P.S.-Duttapukur, 24 Pgs. West Bengal	Barasat PS UD Case No: 454/ 2023 Dt: 28.08.2023	Jobeda Bibi, W/o Keramat Ali of Berunanpukuria, P.O.-Malikapur, P.S.Duttapukur (M-9123819719)	Mother of FIR named accused	7615339717	IDBI000B648
4	Roni Sk, (M/M- 16yrs.according to Aadhar Card)	Barasat PS UD Case No: 449/	Khalida Parvin Bibi, W/o Esha S of Natun	Mother of the Victim	36475868516	SBIN0009173

	S/o Esha Sk of Natun Chandra, Suti 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal	2023 Dt: 27.08.2023	Chandra, Suti 2 Link Road, PO- Dafat, PS-Suti, Murshidabad, West Bengal, (M- 7501815193/ 8100178354)			
5	Masum Sk, (M/M-16 yrs. according to Aadhar Card) S/o Jerat Sk of Natun Chandra, Suti, 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal	Barasat PS UD Case No: 447/ 2023 Dt: 27.08.2023	Asha Bibi, W/o Jerat Sk of Natun Chandra, Suti, 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal (M- 8100178354)	Mother of the Victim	36027773951	SBIN0009173
6	Andaj Sk, (M/M- 20 yrs. according to Aadhar Card) S/o Jerat Sk of Natun Chandra, Suti, 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal	Barasat PS UD Case No: 450/ 2023 Dt: 27.08.2023	Asha Bibi, W/o Jerat Sk of Natun Chandra, Suti, 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal (M- 8100178354)	Mother of the Victim	36027773951	SBIN0009173
7	Sahbaj Alam, (M/M-24 yrs. according to Aadhar Card) S/o Salim Khan	Barasat PS UD Case No: 451/ 2023 Dt: 28.08.2023	Selim Khan, /So Jahiru Alam of Sreekund, Srikunth, Srikund,	Father of the Victim	84020452039	SBINORRVCGB

	of Sreekund, Srikunth, Srikund, Sahebganj, Jharkhand		Sahebganj, Jharkhand (M- 7979819889)			
8	College Sk, (M/M-35 yrs. according to Aadhar Card) S/o Mortuj Sk of Natun Chandra, PO-Dafahat, PS- Suti, Murshidabad, West Bengal	Barasat PS UD Case No: 463/ 2023 Dt: 28.08.2023	Lafani Bibi, W/o College Sk of Natun Chandra, PO-Dafahat, PS- Suti, Murshidabad, West Bengal (M- 9932751914)	Wife of the Victim	33119604788	SBIN0001299
9	Jerat Sk, (M/M- 50 yrs. according to Aadhar Card), S/o Lt. Hanif Ali of Natun Chandra, Suti 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal	Barasat PS UD Case No: 452/ 2023 Dt: 27.08.2023	Asha Bibi, W/o Jerat Sk of Natun Chandra, Suti 2 Link Road, PO- Dafahat, PS- Suti, Murshidabad, West Bengal (M- 8100178354)	Wife of the Victim	36027773951	SBIN0009173

12. This letter contains a proposal for payment of compensation of Rs.2 lakhs or as the case may be deemed fit to next of kin of the victims as mentioned above. This letter also mentions that it has the approval of the District Magistrate, North 24 Parganas.

13. Another letter of the Deputy Secretary to the Government of West Bengal dated 23.04.2024 has also been filed as Annexure-R-3 to the affidavit, directing that compensation may be provided following

the guideline of the department vide Memo No.2042-FR/4P-3/04 dated 23.06.2005 and 1684-FR(40)-FR/4P-3/04 dated 08.09.2009.

14. A further letter dated 23.04.2024 issued by the District Magistrate, North 24 Parganas, has been filed as Annexure-R-4 to the affidavit, mentioning that payment of ex-gratia grant has been made to all the next of kins of the 9 (nine) deceased persons due to accidental fire at Mochpole, Duttapukur within Barasat-I Development Block.
15. Another affidavit dated 07.05.2024 has been filed by the District Magistrate & Collector, North 24 Parganas, Respondent No.4, bringing on record the Government of West Bengal Memo No.2042.FR/4P-3/04 dated 23.06.2005 and Memo No.1684-FR(40)-FR/4P-3/04 dated 08.09.2009 as Annexures R-3 & R-2 respectively, in response to the queries raised by this Court vide its order dated 18.01.2024 as to how 'victim' has been identified for payment of ex-gratia, since as per letter of the Additional District Magistrate (E), North 24 Parganas, dated 16.04.2024, the names of Keramat Ali, Rabiul Ali, and Samsur Ali (Samsul Ali) have been mentioned as 'accused' under the heading 'Remarks' and as per the Inspection Report they were stated to be directly involved in manufacturing and storage of illegal firework, but the Additional District Magistrate (E) on the approval of the District Magistrate has proposed payment of ex-gratia to the son of Samsul Ali (Samsur Ali), wife of Keramat Ali and mother of Rabiul Ali. It is noteworthy that among the 9 deceased persons mentioned in the Memo dated 16.04.2024 only persons at item nos. 4 to 9 have been mentioned as 'victim' as they are stated to be the labourers hired by Keramat Ali.

16. The word ‘victim’ has been defined in Section 2 (wa) of the Code of Criminal Procedure, 1973, to *mean a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “Victim” includes his or her guardian or legal heir.* Section 2 (wa) of the Act, 1973, reads as under:-

“2. Definitions.-

.....XXX.....XXX.....XXX.....

[(wa) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “Victim” includes his or her guardian or legal heir;]”

17. Ms. Madhumita Bhattacharjee, learned Counsel assisted by Mr. Sibojyoti Chakraborty, learned Counsel appearing for State Respondents, submitted that ex-gratia has been paid to the next of kins of Samsul Ali, Keramat Ali and Rabiul Ali, since the Memo Dated 23.06.2005 provides for payment of ex-gratia in case of death of sole bread-earner in the family due to natural calamity/accidental fire. Learned Counsel submitted that the explosion which was caused in the illegal manufacturing and storage firework Unit resulting in the death of Samsul Ali (owner of the premises), Keramat Ali (tenant), and Rabiul Ali, would be termed as an ‘accidental fire’. However, learned Counsel were not able to explain the principal query of the Court as to how the next of kin of the ‘accused’ would be deemed to be ‘victims’ within the definition of the term under Section 2 (wa) of CrPC 1973.

18. We also find that the Memo No.23.06.2005 provides for payment of ex-gratia only in circumstances when the District Magistrate concerned is ‘satisfied’ about the genuineness of the case of death

on obtaining necessary papers and documents mentioned in the Memo itself which includes Police Report stating in detail the exact cause and date of death with the seal of the officials of the concerned Police Station, attested copy of death certificate, attested copy of the post-mortem report with the opinion of the Autopsy Surgeon as to the cause of death.

19. The Report of the Inspector-in-Charge, Duttapukur Police Station, Barasat PD dated 17.11.2023, mentions that on reaching the spot it came to light that some firecrackers were illegally stored in the house of one Samsur Ali (Samsul Ali) of Mochpole who gave that building on rent to one Keramat Ali of Berunanpukuria, Police Station-Duttapukur. The Report further mentions that one Pravesh Chakraborty submitted a written complaint at the Duttapukur Police Station on 27.08.2023 at about 14:05 hours to the effect that one Samsur Ali (Samsul Ali), Keramat Ali and Rabiul Ali with the help of Ramjan Ali were running an illegal firecrackers business of manufacturing and stocking at Mochpole under Duttapukur Police Station.
20. The Inspection Report of the Joint Committee also under the heading 'Responsibility of failure' mentions that the house in question belonged to one Samsur Ali (Samsul Ali) who rented it to one Keramat Ali of Berunanpukhuria, Duttapukur Police Station, who had deployed some labourers from outside and was running the illegal manufacturing and storing of firecrackers where the blast happened.
21. Samsul Ali (Samsur Ali), Keramat Ali and Rabiul Ali, all have been shown as 'accused' in the Memo of the Additional District Magistrate (E), North 24 Parganas, dated 16.04.2024. There is

nothing on record to show what was the material before the Additional District Magistrate or the District Magistrate to satisfy themselves about the genuineness of the case of the death of these three persons for payment of ex-gratia of Rs.2 lakhs to their next of kin, particularly when the Memo dated 16.04.2024 clearly lists these three persons as ‘accused’ against whom Barasat PS UD Case No.459/2023 dated 28.08.2023, Barasat PS UD Case No.448/2023 dated 27.08.2023 and Barasat PS UD Case No.454/2023 dated 28.08.2023 have been filed.

22. We may advert to the Government of West Bengal Memo dated 23.06.2005 which contemplates payment of ex-gratia Grant in cases of death due to natural calamity/accidental fire. This Memo has explained Natural Calamity to mean “Flood, Cyclone, Earthquake, Tornado, Hailstorm, Lightning etc. and anything directly or indirectly resulting from Natural Calamity viz. House/Wall collapse, Drowning, Fall of tree, Electrocution, etc. or as a result of accidental fire.....”.
23. Question arises that if a person dies due to electrocution while committing theft of electricity, would his next of kin be entitled to payment of ex-gratia Grant? Question also would be that if a person is illegally cutting a tree and is killed when the tree falls down, would his next of kin also be entitled to receive ex-gratia grant?
24. Learned Counsel for the State Respondents could not answer the query of the Court. It is quite clear that ex-gratia Grant cannot be granted to persons who die as a result of their own illegal acts and such persons would not fall within the definition of the term ‘victim’ as defined in Section 2 (wa) of CrPC, 1973. We are satisfied that a

person dying as a result of or consequence of his own criminal act, cannot be defined as 'victim' as per Section 2 (wa) of the Act, 1973.

25. The Inspection Report of the Joint Committee also discloses that the building in question was situated in a Residential Area but was being utilized for commercial purposes i.e., illegal manufacturing and storage of firecrackers.
26. We are of the view that the District Magistrate, North 24 Parganas, has clearly misread and misinterpreted the Government of West Bengal Memo dated 23.06.2005 and recommended grant of ex-gratia payment to the next of kin of Samsul Ali (Samsur Ali), Keramat Ali and Rabiul Ali, in clear violation of the Government of West Bengal Memo dated 23.06.2005. The Government of West Bengal Memo dated 23.06.2005 does not contemplate distribution of Government largesse on underserving persons who do not qualify as next of kin as contemplated in the said Memo. Ex-gratia Grant contemplated under the Memo dated 23.06.2005 constitutes taxpayers money and the taxpayer has a right to question as to how it has been paid.
27. The State Respondents have also filed copy of the Government of West Bengal Memo dated 28.11.2019 (page no.96 of the paper book), which provides for ex-gratia to indigent families who live in miserable condition owing to unnatural death of the sole bread-earner. This Memo refers to the previous Government of West Bengal Memo dated 23.06.2005 and defines unnatural death as caused due to 'distress/disaster of the sole bread-earner' of an indigent family, wherein the prayer for ex-gratia includes recommendation of the appropriate Government authority'.

28. We have already held that the death of Samsul Ali (Samsur Ali), Keramat Ali and Rabiul Ali was caused as a result and consequence of their own illegal act while involved in illegal manufacturing and storage of firecrackers and they are also listed as ‘accused’ in the Memo dated 16.04.2024 against whom UD cases have been filed, such persons do not fall within the meaning of ‘victim’ as defined in Section 2 (wa) of CrPC, 1973. In the circumstances, the Memo dated 23.06.2005 and 28.11.2019 have no application in the present case to persons marked as ‘accused’.
29. We, therefore, dispose of the present Original Application with a direction to the Chief Secretary, Government of West Bengal, to take appropriate action for recovery of the ex-gratia Grant paid in the present case in violation of Government Memo dated 23.06.2005 and 28.11.2019.
30. I.As., if any, stand disposed of accordingly.
31. 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

May 13, 2024,
Original Application No.139/2023/EZ
(Earlier OA No. 542/2023)
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