

Item No. 03

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No.109/2022/EZ

Hemanta Kumar Ghosh,

Applicant(s)

Versus

The Union of India & Ors.

Respondent(s)

Date of hearing: 22.08.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. Pallav Chatterjee, Advocate

ORDER

1. Heard Mr. Pallav Chatterjee, learned Counsel appearing for the Applicant.
2. This Original Application has been filed by the Applicant seeking a direction to the Respondents to take a decision on the Applicant's application dated 31.03.2022, seeking prior Environmental Clearance with regard to sand mining in Damodar River in the District of Bankura.
3. The present Original Application has been filed by the Applicant on the similar facts. The Counsel for the Applicant has placed before us a decision of the Member Secretary, SEIAA, West Bengal, dated 18.11.2021 wherein a decision has been taken that due to non-availability of respective DSRs for the Environmental Clearance applications lying with the SEIAA, West Bengal, the SEIAA, West Bengal, will not process any sand mining applications for any individual or agency except West Bengal Mineral Development Trading Corporation Limited ('WBMDTCL' for short). The decision

taken by the SEIAA, West Bengal, in its meeting held on 20.10.2021 reads as under:-

“Due to non-availability of the respective DSRs for the EC applications lying with SEIAA as well as considering the new policy of Govt. of West Bengal for undertaking operation of all sand mining cases, it is decided to delist all the pending applications lying with SEIAA. Henceforth, SEIAA will not process any sand mining applications for any individual or agency except WBMDTCL.”

4. Considering the admitted position that there is no DSR approved/finalized for the District of Bankura, the question is as to how the SEIAA, West Bengal, can except the application of even WBMDTCL?
5. In our opinion, matter requires consideration.
6. Issue notice to the Respondents, returnable within four weeks.
7. Mr. Dipanjan Ghosh, learned Counsel who is present in Court in another matter, is directed to accept notice on behalf of the Respondent Nos. 2 & 3, SEIAA, West Bengal.
8. Mr. Sudip Kumar Dutta, learned Counsel who is present in Court in another matter, is directed to accept notice on behalf of the Respondent Nos. 4, 5, 6 & 7, State Respondents, Govt. of West Bengal.
9. All the Respondents shall file their counter-affidavits within four weeks.
10. We also find that similar matters have been coming to the Tribunal in which the various Departments of Govt. of West Bengal are not aware of the judgments/orders of the Tribunal or of the Hon'ble Supreme Court and in one Original Application No. 74/2022/EZ (*Shiv Dayal Singh Vs. West Bengal Mineral Development and Trading Corporation Limited*), the Tribunal has directed the Chief Secretary,

Govt. of West Bengal, to file his personal affidavit in this regard.

The said Original Application is fixed for 26.08.2022.

11. We, therefore, direct the Chief Secretary, Govt. of West Bengal, to file his personal affidavit in this Original Application also by 26.08.2022.
12. Mr. Pallav Chatterjee, learned Counsel shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Dipanjan Ghosh and Mr. Sudip Kumar Dutta, learned Counsel within 24 hours.
13. **We accordingly direct this matter to be listed on 26.08.2022.**

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

August 22, 2022,
Original Application No.109/2020/EZ
AK