

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

ORIGINAL APPLICATION NO.159/2022/EZ

IN THE MATTER OF:-

1. Sahidul Mallick,
Son of Yeasin Mallick,

2. Faruk Mallick,
Son of Yeasin Mallick,

3. Kawsar Mallick,
Son of Yeasin Mallick,

All are R/o Village-Raipur,
Post Office-Paglachandi,
Police Station-Kaligunj,
Dist-Nadia, PIN-741181

.....Applicant(s)

Versus

1. State of West Bengal,
Service through the Principal Secretary,
Department of Environment,
Government of West Bengal,
Pranisampad Bhavan,
5th Floor, LB, Sector-III, Salt Lake,
Kolkata-700098,

2. The West Bengal Pollution Control Board,
Service through the Chairman,
Paribes Bhawan, 10A,
Block-LA, Sector-III, Bidhan Nagar,
Kolkata-700105,

3. The Member Secretary,
West Bengal Pollution Control Board,
Paribesh Bhawan, 10A, Block-LA,
Sector-III, Bidhan Nagar,
Kolkata-700105,

4. The Environmental Engineer,
West Bengal Pollution Control Board,
Regional Office, Post Office-Narayanpur,
Panpur More, District-North 24-Parganas,
PIN-743126,

5. District Magistrate,
Nadia, Post Office-Krishnanagar,
District-Nadia,
PIN-741101,

6. The Block Development Officer,
Kaliganj Block, Post Office-Debagram,
District-Nadia, Pin-741137,
7. The Officer-in-Charge,
Kaliganj Police Station,
Post Office-Debagram, District-Nadia,
PIN-741137,
8. Tunu Bibi Sk.,
Wife of Anwar Sk.,
R/o Village – Raipur, Post Office-Paglachandi,
Police Station-Kaligunj, District-Nadia,
PIN-741181,
9. Anwar Sheikh,
Son of Haferuddin Sk.,
R/o Village-Raipur, Post Office-Paglachandi,
Police Station-Kaligunj, District-Nadia,
PIN-741181,

.....Respondent(s)

Date of hearing: 10.05.2023

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

For Applicant(s) : None

For Respondent(s) : Mr. Sibojyoti Chakraborty, Adv. for 1,5-7, (in Virtual Mode),
Mr. Prithwish Basu, Adv. for R-2,3 & 4,
Mr. Maidul Islam Kayal, Adv. for R-8 & 9,

ORDER

1. Case called out. No one is present for the Applicants.
2. On the previous date i.e., 04.05.2023 also, no one was present on behalf of the Applicant.
3. Mr. Sibojyoti Chakraborty, learned Counsel is present in Virtual Mode for the State Respondents, Government of West Bengal and the Counsel for the other Respondents are present in Court.
4. This Original Application has been filed by the Applicants on the allegation that the Respondent Nos. 8 & 9, Private Respondents, are running an illegal 'Paper Cup' and 'Paper Plate' making factory in the name and style of "Sabura Industry" situated in Village-Raipur, Post Office - Paglachandi, Police Station-Kaligunj, District-Nadia,

which is producing tremendous noise thereby causing 24 hours noise pollution.

5. It is also alleged that the residents of the area have also made complaints to the West Bengal Pollution Control Board, Kolkata, in this regard but no action has been taken. It is stated that all that has been done by the West Bengal Pollution Control Board is that they have addressed a letter to the Officer-in-Charge, Kaliganj Police Station, requesting them to ensure that the Paper Cup Unit of Tunu Bibi Sekh runs only after obtaining necessary statutory licenses including valid trade license and Consent to Operate of the State Board.
6. Since the residents of the area had complained to the West Bengal Pollution Control Board, we had expected the Pollution Control Board to have immediately caused an inspection of the site and taken action/suggested remedial measures to the Respondent Nos. 8 & 9.
7. In our opinion, the Pollution Control Board being the regulatory authority could have itself verified whether the Consent to Operate and other Consents had been granted by the Board or not instead of requesting the Officer-in-Charge of Kaliganj Police Station, to enquire about the same from Respondent Nos. 8 & 9 Unit, moreso, when the allegation is that the Unit is being operated causing tremendous noise pollution in the area.
8. However, considering the allegations made in the Original Application, at the time of admission the West Bengal Pollution Control Board was directed to inspect the site in question and submits its report on affidavit with regard to the noise pollution

and other environmental violations as may appear to it to be existing.

9. Accordingly, the West Bengal Pollution Control Board, Respondent Nos. 2,3&4, has filed affidavit dated 03.03.2023, bringing on record an Inspection Report of inspection carried out on 24.01.2023. Observations and Remarks in the Report read as under:-

“Observation

This is a small scale industry engaged in manufacturing of paper plate and paper cups. The industry is located at the south side of Paglachandi Panighata Road. Complainant’s residence is located at the east side of the industry. There is a gap of around 6 feet between industry shed and the complainant’s residence.

Customized paper of specific shape and size is procured from the market and paper cups and paper plates are manufactured by seven machines. Out of the seven machines, one machine is used for manufacturing paper plates and other six machines are used for manufacturing paper cups. These machines are operated electrically and are of less than one H.P. power (as per power ratings of motors attached to each machine). Production capacity of individual machine is 2700 cups per hour and total production capacity of the unit is 50,000 cups per day. The shed of the unit is broadly divided into two rooms, one room is used for housing all the six paper cup manufacturing machines and other room is used for storing raw materials, finished products, entrance, office space and paper plate manufacturing machine. Machine room is away from the complainant’s house and is fully enclosed. Entire activity is carried out inside the covered shed. Total 10 (ten) workers are engaged in this unit. Six workers work during the day time while four workers work at night time. During inspection, complainant was not present but complainant’s wife alleged high noise pollution due to activity of the industry. She also mentioned that the unit operates throughout the day and night and they could not sleep because of this.

During both the inspections, the unit was in operation and five paper cup manufacturing machines were running. Paper plate manufacturing machine was out of order and was not operational. Due to malfunction of the noise measuring

instrument noise samples could not be collected during the first inspection on 24/01/2023. Noise level as measured during the second inspection on 01/02/2023 is tabulated below:-

Sl. No.	Place of measuring noise level	Value of noise level in dB (A) Leq
1	Machine shop	64.77
2	Road side of the industry	63.85
3	Complainant's residence	50.89

Remarks:-

The unit may be directed to take necessary measures to keep the noise level within permissible limits during the night time. As the noise level measured at complainant's residence is beyond the permissible limit for residential area during night time i.e. 45 dB(A) Leq."

10. The Block Development Officer, Kaliganj Block, Nadia, has filed affidavit dated 10.04.2023 bringing on record an Enquiry Report dated 'nil' which reads as under:-

- "1. Sabura Industries is a paper cup& paper plate making factory. Business activity of Sabura Industries does not fall under offensive trade.*
- 2. Sabura Industries got "Consent to Operate" Certificate on 24.12.2020 vide memo no. 263/P-III for a period from 24/03/2018 to 18/12/2027.*
- 3. Sabura Industries got No Objection Certificate from Panighata Gram Panchayat on 09/06/2022 vide memo no.- 216/Pani/2022.*
- 4. Sabura Industries got Trade Registration Certificate from Panighata Gram Panchayat upto 2024-2025.*
- 5. During conducting enquiry some neighbors named 1) Sadul Mallick, S/O- Yasin &MahakulMallick, S/O- Abu Mallick claimed that the sound is very loud when factory is running at night. But on the other hand another neighbors named 1) Abdul Rauf, S/O- Obed Ali &MajidurRahaman, S/O- Obed Ali claimed that the sound is not loud when factory is running at night."*

11. The Respondent No.8 has filed counter-affidavit dated 08.05.2023, stating therein that the industry was started after obtaining Trade License on 20.06.2019 from the concerned Gram Panchayat. It is stated that Consent to Operate dated 24.12.2020 has also been obtained from the West Bengal Pollution Control Board valid from 24.03.2018 to 18.12.2027. It is also stated that the local people held a 'Salishi Sava' on 11.03.2022 and expressed their 'No Objection' towards functioning of the industry of Respondent No.8 and the Applicants also agreed to the terms and conditions.
12. We have heard the learned Counsel for the parties and perused the documents on record.
13. The Inspection Report filed along with the affidavit of the West Bengal Pollution Control Board, mentions that the Respondent Nos. 8 & 9 are operating a 'Paper Cup' manufacturing Unit using machines. It is stated that out of seven machines, one machine is used for manufacturing 'Paper Plates' and the other six machines are used for manufacturing of 'Paper Cups'. These machines are operated electrically and are of less than one Horse-Power (H.P.) attached to each machine. The entire activity is being carried out inside a covered shed and the machine room is away from the complainants' house and is fully enclosed. It is also stated that during inspection the wife of the complainant mentioned that the Unit operates throughout the day and night causing huge disturbance.
14. The Report further mentions that during inspection the Unit was in operation and 5 Paper Cup manufacturing machines were running. The Paper Plate manufacturing machine was out of order and was not operational. The noise levels recorded during inspection are of

day time, since the inspection was carried out during the day time. These noise level results show; (1) 64.77 dB(A) Leq., at the Machine Shop, (2) 63.85 dB(A) Leq. at the Road side of the Industry, and (3) 50.89 dB(A) Leq. at the Complainant's residence. The noise level measured at the complainant's residence is beyond the permissible limit for residential area which during night time is 45 dB(A) Leq.

15. The standard noise level as per Schedule-III to the Environment (Protection) Rules, 1986, which lays down the Ambient Air Quality Standards in respect of Noise in residential area is 55 dB(A) at day time and 45 dB(A) at night time. Schedule-III to the Rules, 1986, reads as under:-

SCHEDULE-III
AMBIENT AIR QUALITY STANDARDS IN RESPECT OF NOISE

Area Code	Category of area	Limits in dB(A)	
		Day time	Night Time
(A)	Industrial area	75	70
(B)	Commercial area	65	55
(C)	Residential area	55	45
(D)	Silence Zone	50	40

16. In the present case we find that noise level near the complainant's residence during day time is shown to be within the prescribed standard but certainly exceeds the prescribed permissible standard during night time.
17. Mr. Prithwish Basu, learned Counsel appearing for the West Bengal Pollution Control Board, during the course of arguments submitted that the locals had complained that the Unit was carrying on its operations even during night time.

18. We find that the No Objection Certificate issued on 09.06.2022 by the Panighata Gram Panchayat, copy of which has been filed at page no. 82 of the paper book, permits the Respondent No. 8 & 9 to operate their manufacturing Unit in two shifts viz., (a) 1st Shift (Day) – 07.00 am to 07.00 pm, and (b) 2nd Shift (Night) – 07.00 pm to 07.00 am. There are seven machines of less than one H.P. attached to each machine which are operating 24 hours. Thus, the Respondent Nos. 8 & 9 are operating their manufacturing Unit with excess noise level as permissible in the night.
19. We may also note that the ambient noise readings which have been recorded by the West Bengal Pollution Control Board are based upon the operation of five machines only, since the Paper Plate machine and one other machine were not operational during inspection.
20. We, therefore, dispose of this Original Application with a direction to the Respondent Nos. 8 & 9 to ensure that their Paper Cup and Paper Plate manufacturing Unit is noise compliant as per permissible standards for day time and for night time operations.
21. The West Bengal Pollution Control Board, being the regulatory authority, is, therefore, directed to re-inspect the site and record noise levels with all seven machines running. The Pollution Control Board is also directed to ensure that the Unit in question takes all remedial steps to ensure that the noise levels of all seven machines being operated are noise compliant as per prescribed standards both for day and for night times and if the concerned Respondents disregard the directions given by this Tribunal and the directions given by the West Bengal Pollution Control Board in this regard, the

Board shall take steps to pass necessary orders to cease the operations of the Unit of Respondent Nos. 8 & 9 as per law.

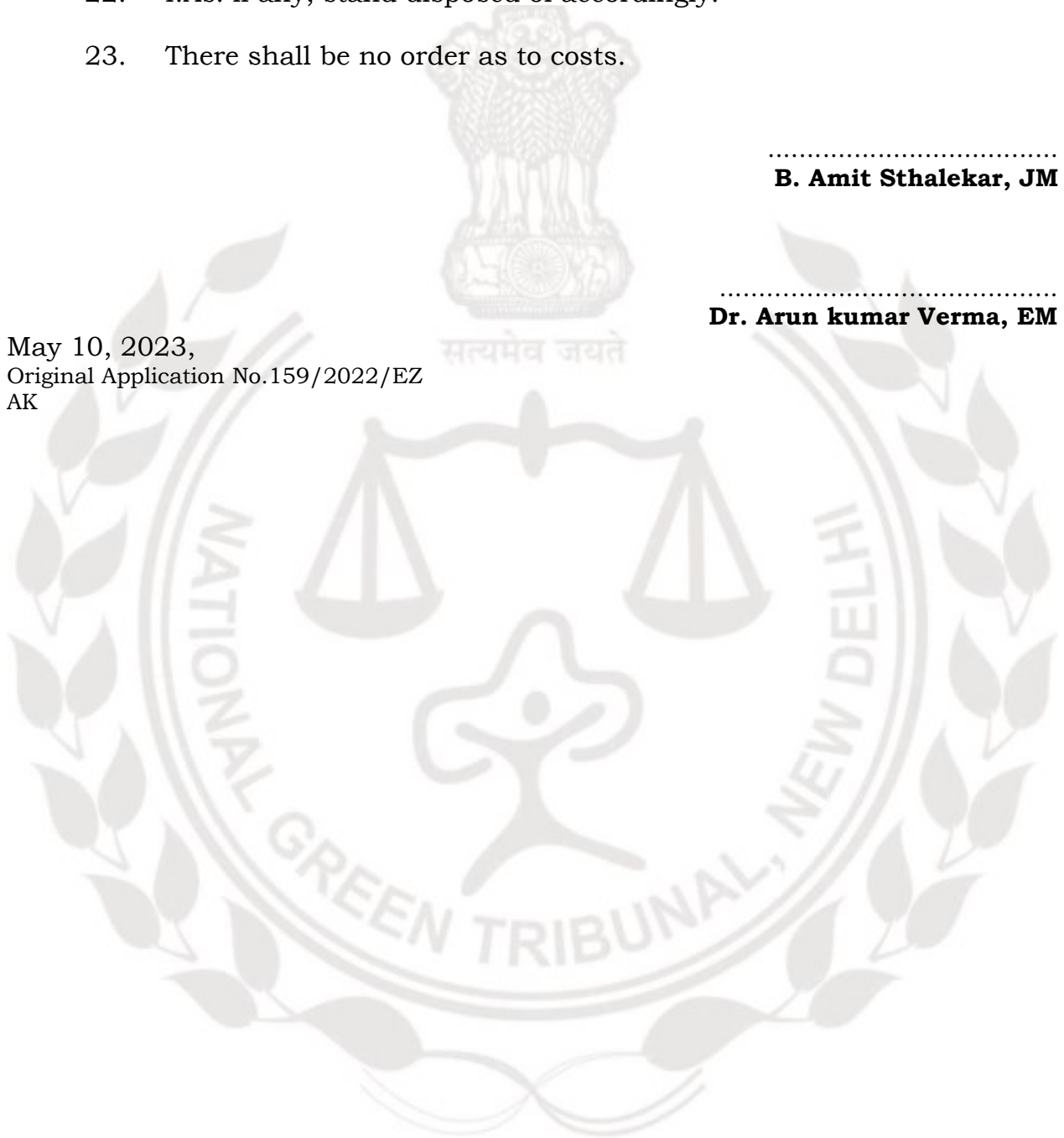
22. I.As. if any, stand disposed of accordingly.

23. 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 10, 2023,
Original Application No.159/2022/EZ
AK



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