

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

Original Application No.03/2023/EZ

Caesar Sen

Applicant(s)

Versus

West Bengal Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 12.01.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Santanu Chakraborty, Advocate

ORDER

1. Heard Mr. Santanu Chakraborty, learned Counsel for the Applicant.
2. The allegation in the Original Application is that the Respondent No.5, M/s Tibetan Delight, Private Respondent, has established a restaurant, having a seating capacity of about 16 persons and the smoke from this restaurant is polluting the entire atmosphere.
3. The allegation further is that the said Unit started its operation on 1st March, 2020 but on an RTI query made by the Applicant of which he was given a reply on 03.06.2022 informing that the Respondent No.5 had applied for a Consent to Operate on 15.07.2022 and for a Consent to Establish on 15.07.2022, both dates being subsequent to the RTI reply dated 03.06.2022, and thereafter the applications of the Respondent No.5 were processed and the Consent to Operate was granted on 26.07.2022 and the Consent to Establish was also granted on 26.07.2022.
4. The question that arises is that when the Respondent's No.5 own submission is that the Unit had commenced its production on 01.03.2020, as would be evident from his application (page no. 32 of the paper book), why no action was taken by the West Bengal Pollution Control Board determining environmental compensation, being the

Regulatory Authority, against the Respondent No.5 before granting Consent to Establish and Consent to Operate in July, 2022. Question also is how could a violator be granted Consent to Operate and Consent to Establish without taking an inspection report first?

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, accepts notice on behalf of the Respondent No.1, West Bengal Pollution Control Board.
8. Mr. Surendra Kumar, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.2, Central Pollution Control Board.
9. Mr. Sudip Kumar Dutta, learned Counsel who is present in Court, accepts notice on behalf of the Respondent Nos.3, Officer-in-Charge, Bhowanipur Police Station.
10. Mr. Prithwish Basu, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.4, Kolkata Municipal Corporation.
11. Issue notice to Respondent No.5, M/s Tibetan Delight, returnable within four weeks.
12. All the Respondents shall file their counter-affidavits within four weeks.
13. Mr. Santanu Chakraborty, learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexurs upon Mr. Dipanjan Ghosh, Mr. Surendra Kumar, Mr. Sudip Kumar Dutta and Mr. Prithwish Basu, learned Counsel for the Respondents within 24 hours.
14. **List on 14.02.2023.**

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

January 12, 2023
Original Application No.03/2023/EZ
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