

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

ORIGINAL APPLICATION NO.07/2023/EZ

IN THE MATTER OF:

VIJAY KUMAR BURMAN,

Son of Jawarharlal Burman,
Residing at 3, Punjabi Gali,
Subhash Pally, Post Office-Benachity,
Police Station-Durgaur, District-Paschim Bardhaman,
PIN-713213;

.....Applicant(s)

Versus

1. CENTRAL POLLUTION CONTROL BOARD,

represented by the Chairman,
Parivesh Bhawan, East Arjun Nagar,
New Delhi-110032;

2. THE WEST BENGAL POLLUTION CONTROL BOARD,

represented through the Chairman,
Having office at Paribesh Bhaban,
10A, Block-LA, Sector-III,
Bidhannagar, Kolkata-700106;

3. THE SENIOR ENVIRONMENT ENGINEER,

West Bengal Pollution Control Board,
Asansol Region, having office at Kalyanpur
Satellite Township Project (KSTP),
Dr. B. C. Roy Road, P.O.-Dakshin Dhdka,
Asansol, District Paschim Bardhaman,
PIN-713302;

4. THE ENVIRONMENTAL ENGINEER,

Durgapur Regional Office,
West Bengal Pollution Control Board,
having office at Sahid Kshudiram Sarani,
City Centre, Durgapur, Post Office-Durgapur,
District-Paschim Bardhaman, PIN-713216;

5. THE DISTRICT MAGISTRATE & COLLECTOR,

Paschim Bardhaman,
having office at ADDA Administrative Building,
Kanyapur, P.O.-Ramakrishna Mission,
Opposite DAV Public School,
District Paschim Bardhaman,
PIN-713305;

6. THE OFFICER-IN-CHARGE,

Durgapur Police Station,
Having office at Durgapur, Post Office-Benachity,

District Paschim Bardhaman,
PIN-713213,

7. RAJ KUMAR SHAW,

Son of Late Jaddu Shaw,
Proprietor, Laxmi Service Centre,
Office at Kada Road,
Near Shiv Mandir, G.T. Road,
Post Office-Durgapur,
District Paschim Bardhaman,
PIN-713203;

.....Respondent(s)

Date of hearing: 08.05.2023

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

For Applicant(s) : Mr. Raju Mondal, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Rajib Ray, Advocate for R-1, (in Virtual Mode)
Mr. Dipanjan Ghosh, Advocate for R-2 to 4,
Mr. Sudip Kumar Dutta, Adv. for R-5&6, (in Virtual Mode)
Ms. Anamika Pandey, Advocate for R-7, (in Virtual Mode)

ORDER

1. Mr. Raju Mondal, learned Counsel for the Applicant is present in Virtual Mode. Mr. Dipanjan Ghosh, learned Counsel for Respondent Nos. 2 to 4 is present in Court. Learned Counsel for the other Respondents are also present in Virtual Mode.
2. This Original Application was originally filed by the Applicant on the allegation that the Applicant is a resident of R.S. Plot No. 33, J.L. No. 63, Mouza-Sujara, Police Station – Faridpur, Durgapur, District-Bardhaman, and the Respondent No.7, Private Respondent, is in occupation of a plot which is contiguous to the plot of the Applicant where he has started a Service Centre in the name and style of 'Laxmi Service Centre' at Kada Road, near Shiv Mandir, G.T. Road, Durgapur – 713203, and has recently installed a Stone Crusher and he is operating the said Stone Crusher Unit at the said plot.

3. It is alleged that as a result of the operation of Stone Crusher, there is a vast quantity of emission of dust which is becoming a source of health hazard not only to the Applicant but also to the residents in the vicinity of this Stone Crushing Unit.
4. The Central Pollution Control Board, Respondent No.1, has filed counter-affidavit dated 30.03.2023, stating therein that the Stone Crushing Unit should not operate without obtaining Consent to Establish and Consent to Operate from the concerned State Pollution Control Board and since the matter pertains the State Pollution Control Board, they may reply to the same.
5. The District Magistrate, Paschim Bardhaman, Respondent No.5, has filed affidavit dated 20.04.2023, stating therein that the Respondent No.7, Shri Raj Kumar Shaw, is the proprietor of 'Laxmi Service Centre' having its office at Kada Road, near Shiv Mandir, G.T. Road, Post Office-Durgapur, District-Paschim Bardhaman – 713202. It is also stated that Crusher Unit exists in the name and style of 'Laxmi Service Centre'.
6. The West Bengal Pollution Control Board, Respondent Nos. 2 to 4, has filed affidavit dated 26.04.2023, bringing on record an Inspection Report of inspection carried out on 05.04.2023 which reads as under:-

“Inspection Report-cum-Check List

1.	<i>Name of the Industry</i>	<i>::</i>	<i>M/s. Shree Balajee Enterprise</i>
2.	<i>Address of the Unit</i>	<i>::</i>	<i>Kada Road, P.O.-Main Gate P.S. Durgapur, Dist. Paschim Bardhaman, PIN-713203</i>
3.	<i>Local Body</i>	<i>::</i>	<i>Durgapur Municipal Corporation</i>
4.	<i>Electric Supplying Agency</i>	<i>::</i>	<i>WBSEDCL</i>
5.	<i>Category of Industry</i>	<i>::</i>	<i>Orange, Slag Crushing Unit</i>
6.	<i>Date & Time of Inspection</i>	<i>::</i>	<i>05/04/2023, 4.40 p.m. onwards</i>
7.	<i>Name of the Inspecting Officer</i>	<i>::</i>	<i>Sri Sudipto Banerjee, AEE, DRO Sri Kalyan Modak, JEE, DRO</i>

8.	Person mneet during inspection	::	Mr. Joy Sankar Singha, Manager Mobile No. 7601946077
9.	Introduction	::	The unit is engaged in crushing of blast furnace slag procured from authorized contractors of M/s. Durgapur Steel Plant. The unit is located under Durgapur Municipal Corporation area.
10.	Allegation of complainant	::	The complainant Sri Vijay Kumar Burman was not available at the time of inspection. However, complainant was contacted over phone. It was stated that they have been suffering a lot due to dust generated from the slag crushing activity of M/s. Shree Balajee Enterprise. The complainant submitted that his land (presently rented to M/s. Shyam Enterprise-*engaged in wholesaling and retailing of rods, tiles and grill items) is situated just beside the unit. It was further submitted that whenever the slag crusher operates, a huge dust engulfs the entire area and causes severe inconveniences to the people living in the surroundings.
11.	Submission of unit representative	::	It was submitted by the representative of the unit hat long back (around 15 years) an automobile servicing station was operating in the premises under question, in the name and style of M/s. Laxmi Service Station. The service centre was discontinued and in it's place M/s. Shree Balajee Enterprise – a slag crushing unit was set up. It was submitted by the representative of the unit that the crusher is owned by Smt Rita Shaw (wife of Raj Kumar Shaw) and has been operating since the last 15 years using two nos. workers. It was stated that till a couple of months back, the electricity connection was in the name of M/s. Laxmi Service Station, but recently the name in electric connection has been changed to M/s. Shree Balajee Enterprise. At present, the unit has been lying

			closed since the last three weeks. It was stated that blast furnace slag is procured from authorized contractors of MN/s. Durgapur Steel Plant. The crushed slag is sold in the market.
12.	Observation	::	1. During inspection it was observed that the activity of the unit is slag crushing and not stone crushing. 2. The unit has one no. slag crushing machine. The slag crushing machine was not operating at the time of inspection. 3. Blast furnace slag was found dumped all around the factory premises. 4. The unit has no dust suppression system to control fugitive dust generated from its' activity. 5. The unit has no dry fog system. 6. The conveyor of the crusher is not provided with canopies. 7. The unit has no water sprinkling arrangement. 8. The raw materials (blast furnace slag) and products (crushed slag) were found stored under open sky without any cover. 9. Internal roads were found not paved/concretized. 10. The unit could not show valid Consent to Operate of the Board.
13.	Recommendation	::	1. The unit has obtained Consent to Establish in the name of 'Shree Balaji Enterprise' from the General Manager, DIC, Paschim Bardhaman vide memo no. 1526 dated 21/01/2002 but the unit has not obtained Consent to Operate till date. Since the unit has been operating without valid Consent to Operate of the Board and

			<i>violating environmental norms, necessary regulatory action is recommended and the unit should immediately be directed by the Board to stop its' activity.</i> <i>2. It is hereby recommended before the Competent Authority of the Board that necessary Environmental Compensation may be imposed upon the unit (for operating without Consent to Operate and violating environmental norms).</i> <i>3. The activity of the unit falls under Orange category. As per existing siting policy of the Board, there is no restriction of setting up of any Orange category industry within Durgapur Municipal Corporation area. As such, the unit may be directed to operate only after obtaining valid Consent to Operate of the Board. Consent to Operate may be granted only after compliance of the following conditions:-</i> <i>a) The unit has to install dust suppression system to control fugitive dust generated from its' activity.</i> <i>b) The unit has to install proper dry fog system.</i> <i>c) The conveyor of the crusher should be provided with closed canopies.</i> <i>d) The unit has to install adequate number of water sprinklers all along the periphery.</i> <i>e) The raw materials (blast furnace slag) and products (crushed slag) should be stored under permanent sheds.</i>
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			f) Adequate water sprinkling should be carried out on raw materials prior to crushing. g) Green belt should be developed along the boundary wall. h) Internal roads should be paved/concretized. i) Vehicles to be used for transportation of crushed slag should not be overloaded.
14.	Remarks	::	Any other action may be taken by the Competent Authority of the Board as deemed to be appropriate.

7. It has emerged from the Inspection Report filed by the West Bengal Pollution Control Board that the Unit of Respondent No.7 was initially in the name of 'M/S Laxmi Service Station' but the Service Centre was discontinued and in its place 'M/S Shree Balajee Enterprise' has been set up in the same place. It is also stated that the Unit of Respondent No.7 is not a 'Stone Crusher' but a 'Slag Crushing Unit' owned by Smt. Rita Shaw wife of Raj Kumar Shaw; (the person who has been impleaded as Respondent No.7 in the O.A.)
8. In view of the wrong facts having been stated in the Original Application, we had permitted the Applicant to make necessary amendments in the Original Application vide order dated 27.04.2023. Till date, no such amendments have been incorporated in the Original Application and today Mr. Raju Mondal, learned Counsel for the Applicant is again seeking more time.
9. We are not inclined to grant further time to the Applicant, since the Original Application has been filed against presumably erroneous persons mentioning wrong facts.

10. The Original Application No. 07/2023/EZ is accordingly dismissed with liberty to the Applicant to file a fresh Original Application, if so advised.
11. I.As. if any, also stand disposed of.
12. 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 08, 2023,
Original Application No.07/2023/EZ
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NGT