

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

Original Application No. 138/2017/EZ

KRISHNA ROY CHOUDHURY

VS

**THE SECRETARY, IRRIGATION & WATERWAYS
DEPTT. GOVT.OF WEST BENGAL & ORS**

CORAM: Hon'ble Mr. Justice S.P.Wangdi, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: **Applicant** : Mr. Kallol Basu, Advocate
Mr. Nilanjan Pal, Advocate
Mr. Krishnendu Bera, Advocate

Respondents : None

Date & Remarks	Orders of the Tribunal
<p>Item No. 3 11th September, 2017.</p>	<p>This OA, which is the second one filed by the applicant on the same subject matter and essentially seeking the same relief as in OA 110/2017/EZ which was disposed of vide order dated 7.7.2017 as being not maintainable but with leave granted to the applicant to file a afresh one on any other ground that would fall within the jurisdiction of this Tribunal other than what had been set out in the OA.</p> <p>Upon hearing Mr. Kallol Basu, Id. advocate for the applicant and on perusal of the application, we do not find any substantial alteration in the facts and circumstances as set out in OA 110/2017/EZ except that there is a Hydro geological Study Report containing</p>

recommendation that the area in question in the Damodar river sand bed is fit for sustainable sand mining. The other distinction in this OA, if it can be called a distinction, is for issuing a direction upon the respondent authority to take a decision regarding the environmental condition of the river bed of Damodar relating to Hydro geological condition of the river which in essence appears to be for issuance of a mandamus directing the respondents No. 1,2,4 and 5 to grant short term lease to the applicant for sand mining in respect of the stretch as per clause 43 (i) & (ii) of the West Bengal Minor Minerals (Concession) Rules, 2016.

In our view, it would not be within our jurisdiction to grant such prayer as it does not fall within the ambit of the National Green Tribunal Act, 2010 and the schedule appended thereto rendering the OA as being not maintainable.

However, considering the fervent plea of Mr. Kallol Basu, Id. advocate for the applicant, we dispose of this application with a direction upon the respondent No. 1, the Secretary, Irrigation & Waterways Deptt. Govt. of West Bengal, to consider the prayers of the applicant inter alia taking into consideration the Hydrogeological Study Report prepared by Kalyani Laboratories Private Ltd. subject to its verification and if the Laboratory is a recognised one.

With these observations, this OA stands disposed of.

There will be no order as to costs.

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Justice S.P.Wangdi, JM

11-9-2017

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Prof. (Dr.) P. C. Mishra, EM

11-9-2017

